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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION, et al.,
Plaintiffs,

Civ. No. 01-0640-RE (Lead Case)
CV 05-0023-RE
(Consolidated Cases)

and

STATE OF OREGON,

JOINT SCHEDULE PROPOSAL FOR
REVIEW OF THE 2008 FCRPS
BIOLOGICAL OPINION

Intervenor-Plaintiff,

v.

NATIONAL MARINE FISHERIES SERVICE, U.S.
ARMY CORPS OF ENGINEERS, and U.S. BUREAU
OF RECLAMATION,

Defendants,

and

NORTHWEST IRRIGATION UTILITIES, PUBLIC
POWER COUNCIL, WASHINGTON STATE FARM
BUREAU FEDERATION, FRANKLIN COUNTY
FARM BUREAU FEDERATION, GRANT COUNTY

JOINT SCHEDULE PROPOSAL FOR REVIEW
OF THE 2008 FCRPS BIOLOGICAL OPINION - 1 -

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FARM BUREAU FEDERATION, STATE OF
IDAHO, INLAND PORTS AND NAVIGATION
GROUP, and KOOTENAI TRIBE OF IDAHO,

Intervenor-Defendants.

COLUMBIA SNAKE RIVER IRRIGATORS
ASSOCIATION, and EASTERN OREGON
IRRIGATORS ASSOCIATION,

Plaintiffs,

v.

CARLOS M. GUTIERREZ, in his official capacity as
Secretary of Commerce, NOAA FISHERIES, and D.
ROBERT LOHN, in his official capacity as Regional
Director of NOAA Fisheries,

Defendants.

COME NOW plaintiffs, National Wildlife Federation et al. (“NWF”), plaintiff-intervenor, the State of Oregon, and federal defendant, National Marine Fisheries Service, (“NOAA Fisheries”), and propose the following schedule for proceedings regarding the 2008 FCRPS BiOp:

BACKGROUND

1. On May 5, 2008, NOAA Fisheries released its final Endangered Species Act – Section 7 Consultation Biological Opinion for the Consultation on Remand for Operation of the Columbia River Power System and 11 Bureau of Reclamation Projects in the Columbia Basin (the “2008 FCRPS BiOp”).

2. On June 17, 2008, NWF sought leave to file its Fourth Supplemental Complaint naming NOAA Fisheries as a defendant and seeking judicial review of the 2008 FCRPS BiOp for violations of the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 551 et seq.

3. On July 1, 2008, the Court granted NWF’s request and allowed the filing of NWF’s Fourth Supplemental Complaint, see Opinion and Order at 4 (July 1, 2008) (Docket #1446), and on July 14, 2008, NWF filed its supplemental complaint.

4. NWF, Oregon, and NOAA Fisheries now propose the following schedule for review of the 2008 FCRPS BiOp.

PROPOSED SCHEDULE

A. Any intervenor that wishes to file a supplemental or amended complaint must file on or before August 15, 2008.¹

¹ NOAA Fisheries may file its answer to the Fourth Supplemental Complaint within sixty days of July 14, 2008, and may file answers to any further supplemental or amended complaints herein within sixty days of the date on which the Court allows them to be filed if plaintiffs seek leave to make such further or supplemental filings.

B. NOAA Fisheries will file the administrative record for the 2008 FCRPS BiOp on or before September 2, 2008, but will make every effort to provide plaintiffs with an advance copy of the record on or before August 29, 2008.

C. Plaintiffs will file their motions for summary judgment (and all supporting materials) on their claims against the 2008 FCRPS BiOp on or before September 12, 2008.

D. Plaintiffs will file any motions for preliminary and/or permanent injunctive relief related to their claims against the 2008 FCRPS BiOp (and all supporting materials) on or before October 1, 2008.

E. NOAA Fisheries will file its cross-motion for summary judgment and its opposition to plaintiffs' motions for summary judgment (and all supporting materials) on or before October 17, 2008.

F. NOAA Fisheries will file its opposition to any motions for injunctive relief (and all supporting papers) on or before November 7, 2008.

G. Plaintiffs will file their replies in support of their motions for summary judgment and in opposition to NOAA Fisheries' motion for summary judgment (and all supporting papers) also on or before November 7, 2008.

H. NOAA Fisheries will file its reply in support of its motion for summary judgment (and all supporting papers) on or before November 26, 2008.

I. Plaintiffs will file replies in support of any motions for injunctive relief (and all supporting papers) also on or before November 26, 2008.

J. NWF, Oregon, and NOAA Fisheries suggest that the Court schedule argument on the cross-motions for summary judgment and on any motions for injunctive relief, concurrently or separately, on or after December 8, 2008, at the Court's convenience.