

WD 170 file  
2006



## Agreement in Principle

To address

Irrigation Diversions within the Sawtooth National Recreation Area

April, 2006

### Issue

There are numerous irrigation diversions on federal and private land within the Sawtooth National Recreation Area (Sawtooth NRA) in the upper Salmon River drainage. The diversions are owned and operated by private citizens who have rights to use the water for agricultural or domestic purposes. These private citizens operate their diversions subject to numerous state and federal laws, creating challenges and contradictions in meeting the purposes of each law while achieving their needs. The most significant of these challenges is meeting water use irrigation needs while conserving other water dependent natural resources, such as fish and wildlife habitat, especially as required for fish species protected under the federal Endangered Species Act (ESA). In some drainages the traditional use of water for irrigation may be impacting protected fish or encumbering their recovery.

Within the Sawtooth NRA authorizations for most existing diversions have expired, and ESA consultations between the Forest Service, the National Marine Fisheries Service and US Fish and Wildlife Service have proved difficult to resolve, due to the complexity of the issues, and legal uncertainty. Currently, many citizens are advocating for resolution of these conflicts between water use and fish conservation.

### Goal & Purpose

This Agreement In Principle (Agreement) recognizes the complexity of the existing situation and helps facilitate a working relationship between multiple parties where each can implement their respective responsibilities in a clear and visible fashion. The **goal** of this Agreement is to recognize the value of fish and wildlife resources and promote actions that will preserve or recover them while maintaining the other traditional uses of the water to the greatest extent possible. The **purpose** of this Agreement is to commit to achieving the goal in as focused, efficient and effective a

manner as possible, while maintaining full compliance with all appropriate laws and mandates.

### **Authorities**

The Sawtooth National Forest has responsibility for management of the Sawtooth NRA under general authorities of the National Forest Management Act. In addition, protecting the cultural and natural values is among the specific purposes for which the Sawtooth NRA was established (PL 92-400). Diversions and ditches on National Forest System Lands are authorized by either a Special Use Permit issued by the Forest Supervisor or Area Ranger, or by a Ditch Bill Easement (PL 99-545), issued by the Regional Forester.

Fish and Wildlife Service and the National Marine Fisheries Service are responsible for implementing the ESA, Magnuson Stevens Act and the Fish and Wildlife Coordination Act, among other acts. These mandates include conserving protected species sufficiently to remove threats to the species.

The Idaho State Department of Water Resources implements law regarding water rights (including minimum stream flow), water districts, water measurement and the SRBA decrees and negotiated settlements.

The State of Idaho through the Idaho Office of Species Conservation and other natural resource departments has responsibility to coordinate policies and programs related to the conservation of threatened, endangered, and candidate species within Idaho.

### **Agreed**

With regard to irrigation diversions within the Sawtooth NRA, it is the intent of the parties to this agreement that they will focus their efforts on actions that **contribute directly to species recovery**. To do so, they will strive to promote cooperation and creative-problem solving between government entities and landowners and leverage their collective resources to improve existing conditions. The parties will work cooperatively to efficiently and effectively complete necessary regulatory processes and meet all legal requirements in support of these actions, using the most current and updated information in an Action Plan developed by the parties. The parties seek comprehensive solutions that recognize and incorporate the larger scale needs of fish populations within the upper Salmon River, as well as the interests of the landowners/irrigators who live and operate within the basin.

### **Strategy**

The parties agree to cooperatively develop and implement an Action Plan that will facilitate the effective realization of this agreements goal. The

Action Plan will include a continuous process of refining understanding of habitat conservation needs and implementing actions to achieve conservation cooperatively with private citizens and others who are in a position to help. Initial identification of habitat conservation needs will be cursory, and will identify the most obvious places and ways to begin pursuing conservation. Subsequent efforts will refine the Action Plan with new or additional information, allowing continuous improvement in the focus and refinement of conservation efforts.

As conservation opportunities are identified and agreed upon by the parties, and potential cooperators are identified, everyone will work together to implement actions on the ground. Specific actions may include restoring water flows to streams, improving fish passage and habitat, reducing risk of entrainment of fish into diversions, and enhancements to water use administration. It is recognized that it will likely be impossible to achieve conservation goals with technical or mechanical approaches alone (e.g. pipes, screens, headgates, ladders). Efforts to permanently secure instream flows with water currently used for agriculture will likely be necessary in some cases.

The Action Plan will be designed and implemented in a manner that best reduces threats to species and habitats given available resources, ensuring and documenting consistency with appropriate laws and regulations, while working to meet the needs of private citizens. The Action Plan will facilitate fish and wildlife habitat conservation in the most rapid, effective and efficient manner possible. The parties will make every effort to recruit support from and participation by as many stakeholders as possible for the Action Plan as the best way to expeditiously achieve compliance with existing laws and mandates.

## **Parties**

Implementation of this Agreement involves a commitment by multiple entities, especially including state and federal agencies involved in land and water management, and implementation of the Endangered Species Act. Other key cooperators will include private citizens with water rights in the Sawtooth NRA, affected Native American Tribes, and others.

Parties signatory to the Agreement in Principle To address Irrigation Diversions within the Sawtooth National Recreation Area:

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Snake River FWO

Jim Caswell 4/4/06  
JIM CASWELL  
Idaho Office of Species Conservation  
Boise, Idaho

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Date

# **ACTION PLAN**

## **For implementing the Agreement in Principle**

### **To address**

#### **Irrigation Diversions within the Sawtooth National Recreation Area**

**April, 2006**

Eight steps to take to achieve the goal and purpose of the Agreement In Principle include:

- 1. Identify priority fish habitats and populations**
  - a. Technical staff use existing documents to identify the most important areas for fish
- 2. Identify areas impacted by diversions**
  - a. Technical staff use existing documents to identify areas important to fish that are most impacted by irrigation diversions
- 3. Identify levels of habitat conservation (i.e., flows) that may be needed in these areas to adequately conserve fish**
  - a. Technical staff develop an approach for identifying stream flows necessary to conserve fish
- 4. Identify other actions that may also be necessary to conserve fish**
  - a. Technical staff identify other habitat restoration actions (e.g., culvert replacement, riparian area protection, brook trout control)
- 5. Identify steps to be taken to work towards securing flows and other restoration**
  - a. Staff work to identify tools and opportunities to restore habitat
- 6. Identify steps needed to comply with existing laws and mandates**
  - a. Staff work to identify legal compliance needs, and begin addressing those needs (e.g., ESA, NFMA, SNRA Organic Act, CWA, State water law)
- 7. Identify all parties necessary to help implement the action plan successfully, and recruit them**
  - a. All involved parties work to engage the support and participation of other parties who can help implement the Agreement
- 8. Find money and implement**
  - a. All involved parties work together to secure funding to complete habitat restoration work, meet legal mandates, and achieve the goal of the Agreement