



Burns Paiute Tribe

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VIA ELECTRONIC FILING

Mr. Michael Carrier, State Supervisor
Idaho Fish and Wildlife Office
1387 S. Vinnell Way, Room 368
Boise, ID 83709
Michael_carrier@fws.gov

Re: Upper Snake Recovery Unit Implementation Plan and Recovery Criteria, Submission of Burns Paiute Tribe Comments

Dear Mr. Carrier,

On June 4, 2015 the U.S. Fish and Wildlife Service issued a solicitation for comments on the Recovery Unit Implementation Plans (“RUIPs”). As per email communication from you dated May 29, 2015 some tribes, including the Burns Paiute Tribe, were granted an extra four business days to review the RUIPs. Staff of the Burns Paiute Tribe Natural Resource Department has reviewed the Upper Snake RUIP and responds to the recent solicitation with the attached comments and with those included in this letter. Comments were submitted electronically to the Service’s Oregon RUIP leads on March 5, 2015 in effort to affect changes during RUIP development versus as comments to be addressed after publication; in adherence to the Service’s purported intent to conduct meaningful partnership; and subsequent to tribal participation in a one-day workshop engaged by the Service regarding RUIP development for the Malheur River core areas. A portion of these previously proposed changes were not incorporated into the draft RUIP prior to publication; therefore, we resubmit all previously proposed additions here for further consideration.

Tribally-proposed changes on the Recovery Plan framework, to which the currently reviewed RUIPs are supplemental, have not been incorporated to date despite comments submitted jointly by five tribes on July 1, 2014 and again on November 4, 2014; individual comments submitted by the tribe on December 3, 2014; and despite meetings by your office with staff of the five tribes on September 8, 2014 in Spokane; on February 17, 2015 in Boise; and April 17, 2015

in Boise. As a result, the expenditure of extensive time in drafting comments on the RUIPs, which are developed based on the Service's continued retention of the framework's flawed premises, did not appear to be an effective use of time. We continue to anticipate that the changes previously proposed by the five tribes will be integrated in the framework prior to the final release of the revised draft Recovery Plan on September 30, 2015.

The RUIP workshops have been the primary forum to date in which your office has encouraged tribal participation. During this process, managers in the Malheur River participated in one workshop, which was coordinated by the tribe concurrent to its ongoing facilitation of the interagency Malheur River Bull Trout Technical Advisory Committee (TAC). This workshop occurred on December 11, 2014 at the John Day Airport in John Day, Oregon and included TAC representatives from the U.S. Forest Service, the U.S. Bureau of Reclamation, the U.S. Bureau of Land Management, the Service, the tribe, and the Oregon Department of Fish and Wildlife. Subsequently, many TAC agencies electronically submitted individual edits on the RUIP, and after which no further opportunity for participation or review by the TAC or the tribe was provided by the Service until the recent release for public comment.

The attached comments pertain specifically to the two Malheur River Core Areas within the Upper Snake Recovery Unit which encompasses the BPT's ancestral homeland and in which BPT currently implements fisheries management actions. These comments are consistent with data collected by BPT during fifteen years of work in the recovery and monitoring of Malheur River bull trout. In general, the sections of the RUIP concerning the Malheur River core areas appear to be fairly inclusive. However, we believe that the following changes will strengthen the recovery actions in the RUIP and address inaccuracies. We resubmit the edits proposed via email on March 5, 2015 as comments here with specific reference to the following:

- None of our proposed additions were included on the published page E-40 to sections "2.2 Fisheries Management", "2.3 Small Population Size", or "2.4 Forage Fish Availability" in the North Fork Malheur River Core Area. As a result, these sections are vacant in the published RUIP.
- None of our proposed additions were included on page E-41 for section "4.2 Demographic" monitoring actions in the North Fork Malheur River Core Area.
- None of our proposed additions were included on page E-42 "4.3 Nonnatives" monitoring actions in the North Fork Malheur River Core Area.
- Some of our proposed additions were not included in section "1.1 Upland/Riparian Land Management" in the Upper Malheur Core Area (E-43, E-44).
- None of our proposed additions were included in sections "2.2 Fisheries Management" or "2.4 Forage Fish Availability" on page E-47 in the Upper Malheur Core Area. As a result, these sections are vacant in the published RUIP.
- None of our proposed additions were included in section "4.3 Nonnatives" monitoring actions on page E-47 in the Upper Malheur core area. As a result, these sections are vacant in the published RUIP.

We request that the Service revise the RUIP according to these comments from our attached March 5, 2015 submission, and not solely as addendums in the “Conservation Recommendations” sections.

In addition, tribal review during the recent solicitation period yielded inaccuracies in the published RUIP. Therefore, we propose the following additional changes:

- It is BPT’s understanding that adfluvial populations exist in addition to fluvial and resident populations in the North Fork Malheur River core area. The RUIP does not acknowledge an adfluvial component in the North Fork Malheur River; however, results from recent studies by the Bureau of Reclamation and from a BPT telemetry study conducted between 2000 and 2005 indicate presence of this life history. For the Upper Malheur River core area the RUIP correctly notes that only fluvial and resident populations have been documented. This inaccuracy occurs on pages E-1 and E-9 and should be corrected.
- Development and implementation of population monitoring techniques beyond redd counts should be emphasized for both the North Fork and Upper Malheur core areas. Redd counts have generally been considered to be an insufficient technique to determine status and trend, and widely acknowledged to be highly subjective due to surveyor bias and to the difficulty in detecting redds produced by the sizes of individuals currently found in the Malheur River. For the Upper Malheur core area, this technique is also confounded by the presence of spawning brook trout, which create redds identical to those of bull trout and commonly indistinguishable to surveyors. As a result, recent efforts to refine alternative methodologies, including Genetic Assessment Monitoring (GAM) by the Oregon Department of Fish and Wildlife, and environmental DNA sampling (eDNA) by the tribe, have been initiated to augment annual redd counts. We suggest that the RUIP include actions aimed at development of more statistically rigorous and less biased monitoring methodology or true population response to the threats management actions listed cannot be empirically determined.
- On page E-45, section 1.1.5 details actions in the Upper Malheur River core area. However, the Service lists “priority sites within the North Fork Malheur River” within this narrative. The wording must be changed to the “Upper Malheur River” to be consistent with the geographic area of this section.
- The BPT concurs with the existing actions included in the RUIP. The final editing stage of this RUIP should not eliminate any actions currently included for either of the Malheur River core areas.

Finally, BPT continues to propose the following changes to the recovery criteria for the Upper Snake Recovery Unit:

- 85% threats managed in each of 100% of core areas (proposed by the five tribes via email on May 6, 2015, attached)

- Inclusion of numeric demographic targets for objective evaluation of status and trend at the core area or population level and to determine population response to threats management actions.

We thank the Oregon RUIP leads for integrating many of our comments to date, and anticipate the opportunity for intergovernmental consultation prior to the release of the final plan. Please do not hesitate to contact us with any questions regarding these comments.

Respectfully,

/s/ JASON KESLING

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Attachments:

1. Proposed revisions submitted by the Burns Paiute Tribe on March 5, 2015 during RUIP development
2. May 6, 2015 emailed proposal to include targets of 85% threats management in 100% of core areas
3. (Resubmission) July 1, 2014 comments by the Kalispel Tribe, Coeur d'Alene Tribe, Shoshone Paiute Tribe, Confederated Salish and Kootenai Tribes, and the Burns Paiute Tribe on the recovery planning process
4. (Resubmission) November 1, 2014 comments by the Kalispel Tribe, Coeur d'Alene Tribe, Shoshone Paiute Tribe, Confederated Salish and Kootenai Tribes, and the Burns Paiute Tribe on the revised draft recovery plan

Cc: fw1bulltroutrecoveryplan@fws.gov