

PFR-0601

MAY 20 2005

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May 20, 2005

Mr. Steve Wright, Administrator
Bonneville Power Administration
P.O. Box 14428
Portland OR 97293-4428

Re: Northwest Power and Conservation Council comments on the Draft Power Function
Review Closeout Report

Dear Steve:

The Northwest Power and Conservation Council appreciates the opportunity to comment on the draft Power Function Review closeout report. The draft decisions reflected in this report are of extreme importance to Bonneville, its customers and the region. These decisions will affect not only the wholesale cost of power to Bonneville's customers over the next few years but also the costs and risks to which the power system is exposed for years to come. These comments will be focused on conservation because it reduces power-system cost and risk and hence is a key component of the Council's Fifth Power Plan. The plan's 2005 – 2009 Action Plan includes the rate period considered in the Power Function Review. In its April 26 letter to you the Council expressed its concerns regarding the inadequate level of funding for conservation. The decisions reflected in the draft closeout report have done nothing to allay those concerns.

The draft closeout report also does not address the issues raised by limiting support to measures that are identified as cost-effective in the Council's plan. We support the use of the Council's cost-effectiveness *methodology* for determining eligible measures. However, the plan does not provide an exhaustive list of cost-effective measures, nor does it identify all cost-effective applications of all measures. It will be essential to provide information at a sufficient level of detail to give utilities a broad menu of cost-effective options for implementation. At the same time, this information must not be so complex as to be unworkable at the program-delivery level. We believe that developing this information is an appropriate role for the Regional Technical Forum (RTF). However, the RTF will require funding for this work that is not reflected in Bonneville's budget proposal.

The Council's specific concerns with respect to the draft closeout report are detailed in the attachment. The Council remains concerned that the proposed funding levels are unlikely to achieve Bonneville's share of the fifth power plan's 2005-2009 target. The Council again encourages Bonneville to fund conservation at a level more likely to reach Bonneville's share of the Council's target. In addition, we request that Bonneville develop a contingency plan to assure acquisition of its share of conservation by 2009.

Sincerely,

/s/ Melinda S. Eden

Melinda S. Eden
Chair

Attachment

Attachment

1. Bonneville Proposal: Credit conservation done by utilities “on their own nickel” against Bonneville’s target, reducing Bonneville’s spending.

Bonneville’s conservation target is based on cost-effective conservation as defined in the Council’s Fifth Power Plan and reflects only loads that Bonneville serves. Also, Bonneville serves only a fraction of some public utilities’ loads. Bonneville agrees that if those utilities are effectively meeting some of Bonneville's target through their own non-Bonneville funded programs, then Bonneville should not separately forecast for the same conservation megawatts. Bonneville does not believe that currently there is enough information on how much of their own cost-effective conservation public utilities are accomplishing to warrant forecasting a reduction. However, Bonneville will track this going forward and adjust its forecast accordingly. If this can be done before final studies are undertaken for the Fiscal Year 2007-2009 rate period, this adjustment will be made before the final rate decisions are made.

Draft Conclusion: Do not include this reduction in the initial proposal, but possibly include it in final rate studies.

Council Response:

The Council agrees that there is too little information to determine how much of their own cost-effective conservation public utilities are accomplishing to warrant forecasting a reduction in Bonneville’s target. Moreover, the only way such conservation could be credited to Bonneville’s target would be if the utility could demonstrate that this conservation is truly incremental to “its share” of the regional conservation target based on loads served by its own resources. The Council does not want to see utility-financed conservation being attributed to Bonneville’s target in order to keep Bonneville’s rates down while the total conservation on the utility’s load falls short of the utility’s proportionate share of the regional target. The Council believes that utilities must be able to provide the information to determine whether the conservation they develop using their own resources is regionally cost-effective. If they are not, there is potential for counting as accomplishments toward Bonneville’s target measures that are not cost effective.

2. Bonneville Proposal: Reduce Bonneville’s target for “naturally occurring” conservation.

Bonneville originally set the conservation target at 40 percent, which is roughly the share of the regional load that Bonneville serves (7,782 average megawatts divided by 20,472 average megawatts is 38 percent based on Fiscal Year 2003 Bonneville White Book information). This calculation is fully consistent with the methodology for setting conservation targets in the current fiscal year 2002-06 rate period, as agreed to between Bonneville and the Council. After consultation with the Council’s staff, Bonneville estimated which specific measures are likely to become standard practice in absence of any Bonneville/utility conservation programs. Based on this analysis, Bonneville estimated that roughly 7 percent of the Council's targets would be naturally occurring. Seven percent equates to roughly four average megawatts out of Bonneville's 56 average-megawatts annual target. Based on the loads that Bonneville serves, our share of the Council’s regional target during the fiscal year 2007-2009 period is 168 average megawatts (40 percent of 420 average megawatts). This equates to an annual target of 56 average megawatts. BPA anticipates that the “naturally occurring” conservation will come be 7 percent or four average megawatts per year. This would yield a 52average-megawatt-per-year target and a 156 average-megawatt target over the 2007-09 period. While there has been some comment

that the Council set too high a target for conservation, Bonneville believes the target is appropriate and achievable. The Council conducted an extensive public process as conservation potential was analyzed, and Bonneville and many others in the region participated in that process. Thus, Bonneville concludes that 52 average megawatts per year is the right target.

Draft Conclusion: Include \$4 million annual capital and \$1 million annual expense reductions in the rate case initial proposal.

Council Response:

If Bonneville is going to reduce its conservation target to account for its own estimate of “naturally occurring conservation” and reduce its budget proportionately, it should explain how it intends to document *independently* that the conservation actually is occurring. This should include an estimate of the budget required to conduct such a third-party assessment. Bonneville also should explain its strategy for addressing any shortfall revealed by this assessment. Based on analysis of historical costs or conservation acquisition, the Council believes that Bonneville’s conservation budget is very likely to be inadequate at the initial target and budget level. Reducing the target and the budget doesn’t alter that conclusion.

3. Bonneville Proposal: Don’t require load decrement for conservation funded through the rate credit.

Power Function Review participants commented that it will be harder for Bonneville to meet its megawatt targets for conservation within its spending level limit if it requires block and slice customers to reduce their load on Bonneville by the amount of conservation they accomplish under the conservation rate discount program. Consistent with the advice of its Post-2006 Conservation Workgroup, Bonneville proposed not to require load decrements from slice/block customers under the rate credit program, but to continue to require load decrements under the new bilateral contract program.

Draft Conclusion: Make the recommended change but do not reduce costs.

Council Response:

The Council generally concurs with the draft conclusion. However, the Council believes that for bilateral contracts, Bonneville’s net requirements calculations and process are adequate and sufficiently timely to account for utility conservation implemented. In practice, decrementing conservation is a very short-term adjustment before the next net-requirements calculations. By initiating such decrements now, Bonneville will create disincentives for utilities that will make it more difficult to reach conservation targets.

4. Bonneville Proposal: Do not count Bonneville-financed conservation acquired by investor-owned utilities toward Bonneville’s target or count these megawatts, but add the utilities’ residential conservation acquisitions to Bonneville’s target.

Bonneville proposes to count toward the 52-average megawatt annual target any cost-effective conservation it helps ensure through its funding mechanisms, including the conservation achieved by investor-owned utilities under the rate credit program and the conservation accomplished by Bonneville’s Northwest Energy Efficiency Alliance (NEEA) funds. This decision is consistent with the current way Bonneville counts delivered savings toward its share of the Council’s target in the rate period as agreed to by Council staff. Further, Bonneville invests in regional conservation that currently is counted toward Bonneville targets, e.g., NEEA

market transformation. Bonneville says that counting conservation funded by investor-owned utility rate credits is fully consistent with the methodology it uses in this rate period and should be extended to the Fiscal Year 2007-2009 rate period. Bonneville believes that conservation it pays for should be counted toward its target.

Draft Conclusion: Count investor-owned utility megawatts toward the target, but do not increase the cost.

Council Response:

The Council believes that it is inconsistent for Bonneville to count conservation accomplished through the conservation rate discount on investor-owned exchange loads without also incorporating an estimate of the exchange load conservation potential as part of Bonneville's conservation target. Bonneville should increase its regional target by the conservation associated with the application of the Rate Discount to the load on which the exchange settlement is based. It should count the savings achieved toward its now larger target. And because the rate credit money already is counted in Bonneville's proposed conservation budget, no increase in the budget is necessary. This would at least be internally consistent. However, doing this will just make more obvious the inadequacy of Bonneville's proposed funding levels. What Bonneville acknowledges as "a stretch" in its initial proposal becomes more of a stretch – more megawatts to be saved with the same number of dollars.

5. Bonneville Proposal: Increase spending to increase certainty of meeting conservation targets.

Bonneville acknowledges that the target of \$1.4 million per average megawatt is a stretch. However, based on recent conservation program performance and given the changes that have been made in the designs of the proposed program portfolio, Bonneville believes it has a reasonable chance to achieve its share of the Council's new conservation targets with the proposed spending level. It is important to note that while Bonneville is targeting \$1.4 million per average megawatt, that figure is an average of different program spending levels. Bonneville has been successful at lowering the cost of savings through the Conservation Augmentation Program, and Bonneville will seek to continue to average program costs in the revised bilateral contracts at the current level (\$1.2 million per average megawatt). Similarly, the NEEA has a demonstrated track record of \$1 million per average megawatt. This leaves the budgets for local initiatives higher (\$1.7 million per average megawatt). Thus, the success to date with driving down program costs and continuing to adapt new marketing strategies leads Bonneville to believe these forecasted targets are achievable. Just as important, Bonneville believes that setting and meeting aggressive cost-containment goals is important both to keep rates down and to maintain support for steady conservation funding because higher costs per megawatt make conservation spending levels less sustainable during periods of even greater financial stress. Bonneville will assess progress toward its conservation goal and proposes to adjust for underperformance against the target in the next rate period.

Draft Conclusion: Keep funding at current forecasted level.

Council Response:

The basis for the Council's concerns about the funding level was documented in the Council's April 26 letter. We remain concerned that Bonneville's cost per first-year average-megawatt goal is unlikely to be attainable. Moreover, we believe that some of the assumptions that lead to

Bonneville's optimism are misleading. For example, the Council believes that Bonneville's budget assumption that Alliance (NEEA) market transformation savings and cost will be comparable to those in recent years may be overly optimistic. The fifth plan's targets were set using baseline assumptions that differ from current Alliance baseline assumptions. For example, some of what the Alliance now counts as savings from Energy Star appliances (particularly clothes washers), Energy Star windows, Super Good Cents manufactured homes and other programs are not counted as part of the Council conservation target because these savings are included in the plan's load forecast as already being achieved. The Council's target is based on savings from washers better than the new federal standard that will go into effect in 2007. Its savings for Energy Star windows already assume that 70 percent of windows installed in the region meet this standard. In comparison, the Alliance bases savings from its market transformation programs for clothes washers on a baseline considerably less efficient than the 2007 federal standards, and Alliance estimates of savings from Energy Star windows are compared to 1997 baseline market penetration for such windows. While the Alliance baselines are appropriate for measuring market effects of its efforts, which began in 1997, significant portions of these savings are not part of the fifth plan's target.

In addition, Bonneville is not acknowledging that the Council plan's five-year target begins in 2005 and that Bonneville is unlikely to achieve the target for 2005 and 2006 with current budgets, even when credited for the "excess" conservation achieved in 2002 and 2003. This leaves additional conservation to be "made up" during the fiscal year 2007-2009 rate period that is not now part of Bonneville's target. Waiting until fiscal year 2010 to make up the likely shortfalls will cause Bonneville to fall further behind. Bonneville inevitably will be subject to the same rate pressures in the future that the agency now faces. This increases the risk that Bonneville will not ever meet the targets in the plan.

6. Bonneville Proposal: Increase spending level for administrative costs.

Bonneville is proposing to pay up to 10 percent of administration costs under the new rate credit and bilateral contracts program. The Conservation Workgroup recommended 20 percent of administrative costs be included. The current Conservation and Renewables Discount credit allows credit of 20 percent for administration cost to support building of infrastructure. For ongoing conservation programs, however, Bonneville believes administration costs should be lower. A number of utilities and end users that are partners in capturing the regional conservation have told Bonneville they don't need a full 20 percent administration for ongoing programs. Bonneville has included a number of activities and tools that should reduce utility administration costs, such as standard program design templates and marketing materials and mechanisms for utility sharing. However, Bonneville received numerous written comments on this topic shortly before issuing the Power Function Review report and will consider them during the comment period.

Draft Conclusion: Keep funding at current forecast.

Council Response:

The Council believes that administrative costs of 10 percent may be adequate for larger utilities. However, the Council is concerned that there is a minimum "critical mass" of staffing necessary to carry out effective conservation programs. For smaller utilities, this critical mass is unlikely to be achieved with a 10 percent administrative-cost allowance. Bonneville should consider 20 percent administrative-cost allowance for smaller utilities.

7. Bonneville Proposal: Increase spending level for conservation infrastructure.

The Conservation Workgroup recommended a 2 percent infrastructure spending level (i.e., \$1.6 million per year). Bonneville has proposed instead conservation spending levels for Fiscal Year 2007-2009 that include \$1 million per year for the infrastructure spending that it believes should be sufficient to cover these activities. The 2 -percent infrastructure-support forecast was not based on detailed analysis and budgeting. More detailed analysis developed by Bonneville leads the agency to conclude the necessary infrastructure support can be accomplished at the \$1-million-per-year level. The \$1 million per year is a component of the \$75-million-per-year proposed conservation acquisition program level.

Draft Conclusion: Keep funding at current forecasted level.

Council Response:

The Council is concerned that the proposed budget is insufficient to accomplish the long list of infrastructure support activities on page 11 of the full proposal. Many of the conservation measures that will have to be developed are relatively new. There are not established programs through which they can be developed. In particular, the funding for the Regional Technical Forum should be increased so that it can provide utilities with information regarding the cost-effectiveness of specific measures or applications not addressed in the Council's plan. Providing such information at an appropriate level of detail will be essential to effective utility implementation. Bonneville should work with the Council staff and utilities to develop a zero-based budget estimate of the funding needed for these activities. Bonneville's budget for infrastructure support should reflect the agency's appropriate share of those estimated costs.

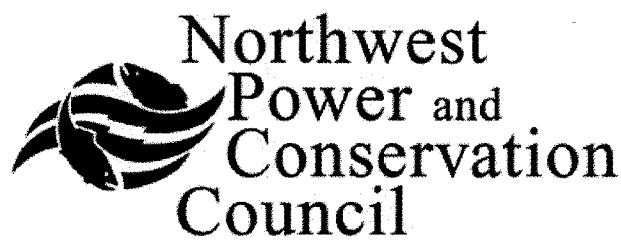
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May 20, 2005

Steve Wright
Administrator
Bonneville Power Administration
PO Box 14428
Portland, OR 97293-4428

Dear Mr. Wright,

Thank you for the opportunity to comment on the draft Power Function Review Closeout report. The draft decisions reflected in that report are of extreme importance to Bonneville, its customers, the region's fish and wildlife managers, the region as a whole and the region's fish and wildlife.

We have reviewed the assumptions in Bonneville's proposal to fund Fish and Wildlife Program implementation at \$143 million a year in the 2007-2009 rate case. Because of the assumptions used by Bonneville to support that proposal, Council members do not believe that this level of expense funding will support the most fundamental work of the program. The Council has not established a specific budget to recommend, but given Bonneville's assumptions, you should begin the rate case with an annual expense budget averaging \$161 million until Bonneville's assumptions can be tested in the project selection process for 2007-2009. If those assumptions prove correct, the budget could be reduced. If those assumptions prove incorrect, BPA would still be able to support the fundamental work of the program without interruption. We discuss our concerns about these assumptions in more detail below.

Our staffs worked together to analyze the current costs of the program for the ability to reallocate some portion of the average of 2001-2004 projects costs to support habitat and production funding. The staff discussions included participation from other regional parties, but there was not agreement on funding levels for the 2007-2009 rate case.

The staff analysis led to a discussion of program funding levels that was focused on several issues:

- The level of research, monitoring and evaluation expected to be required in the 2007-2009 rate period, taking into account (a) the requirements of Endangered Species Act biological opinions for the hydropower system; (b) monitoring established as conditions

of project implementation, and (c) increasing demands from customers to document the accomplishments of the program.

- The ability to implement the wildlife mitigation measures of the program under Bonneville's capitalization policy.
- The ability to dedicate funding to the implementation of priority habitat restoration and protection strategies identified in the subbasin plans.
- The effect of inflation on personnel, material and energy costs.

With these issues in mind, Bonneville proposes to account for almost the entire contribution to the implementation of subbasin plans by reducing research, monitoring and evaluations significantly and managing the effects of inflation well below current economic forecasts. By doing so, Bonneville places at serious risk implementation of subbasin plans and the wildlife component of the program. If Bonneville's assumptions about managing inflation and reducing monitoring costs are wrong, the habitat portion of the program will suffer.

The Council is completing the adoption of 58 subbasin plans after a \$14 million investment by Bonneville in those plans. The plans are being used by NOAA and the State of Washington as the foundation of ESA recovery plans, and NOAA is encouraging the use of subbasin plans to complete recovery planning elsewhere. The Council does not expect Bonneville to fund every action identified in every subbasin plan. Rather, the plans serve to focus priorities from other funding sources in concert with Bonneville's off-site mitigation obligations under the Northwest Power Act.

We are proud of completing subbasin plans on schedule and under budget, as defined in our master contract with you. Bonneville and the Council jointly administered the delivery of the subbasin plans to the specifications of the master contract. Your rate-case proposal suggests additional processes are necessary to assign funding responsibilities to other private, local, state and federal entities. We understand your interest in clearer definition of the responsibilities of the federal hydropower system, but that definition was not the purpose of the subbasin plans and should not be a reason for delay in implementing them.

The final rate-case design should be designed to respond fairly to the cost drivers described by our staffs so that we can demonstrate to the region a clear capability to direct program resources toward implementing the subbasin plans.

Wildlife program implementation

The wildlife portion of the program has largely been put on hold in the current rate case by Bonneville's financial management policy. This is the section of the program with the clearest assignment of responsibility to Bonneville and the most direct measures for mitigation. Instead of using available capital borrowing authority, Bonneville's policy determinations in the

Steve Wright

Comment on Power Function Review Fish and Wildlife Program Funding Proposal

May 20, 2005

2003 financial crisis required that interests in land for wildlife mitigation be funded from the expense portion of the budget instead of capital. Bonneville's capital funding commitment in this rate case was dramatically underspent, and the wildlife program was not implemented as planned because the expense portion of Bonneville's budget had been fully committed. Bonneville now intends to maintain the capital policy that constrains access for wildlife projects but is not budgeting a corresponding increase in the expense budget.

The program cannot achieve an actual distribution of 70 percent for anadromous fish, 15 percent for resident fish and 15 percent for wildlife with the proposed expense budget if we cannot rely on a portion of the capital budget. The final proposal should maintain flexibility to fund wildlife acquisitions that cost less than \$1 million to qualify for capital funding.

Assumptions for reduced research, monitoring and evaluation costs

Bonneville called for a new allocation formula as a budgeting target to limit research, monitoring and evaluation to 25 percent of the budget and coordination to 5 percent so that "on-the-ground" spending can average 70 percent. The Council is encouraged by significant recent progress toward regional development of an integrated regional monitoring framework. We are developing a design for the project selection process for the 2007-2009 rate period that can prioritize funding for monitoring from a regional perspective. We are optimistic that prioritization of monitoring tasks can allow some reallocation from the current portion of the program to habitat and production projects.

However, we think the assumed reduction in research, monitoring and evaluation costs is too aggressive. Bonneville committed to ambitious research, monitoring and evaluation tasks in the Updated Proposed Action under the 2004 biological opinion. The UPA adds to the monitoring and evaluation assignments of the previous biological opinion, which had not been fully designed and implemented. We expect much of the current population and habitat monitoring to confirm the status of listed populations for delisting and the performance of measures in the federal "All-H" strategy.

Bonneville acknowledges these concerns and suggests that we organize the project selection process for 2007-2009 so that RM&E, and not habitat and production implementation, bear the risk of the rate-case assumptions. We suggest that the rate case frame a range of funding levels dependent on the outcome of a collaborative prioritization of biological opinion requirements and the conditions of independent scientific review as the project selection process is completed.

We also remind you that many funding requirements for RM&E originate in the commitments Bonneville makes in biological opinions and records of decisions under the National Environmental Policy Act. Our mutual effort to prioritize this funding most effectively will require your commitment to staff support for the project selection process, resistance to impulsive funding opportunities and careful planning with long-term costs in mind.

Steve Wright
Comment on Power Function Review Fish and Wildlife Program Funding Proposal
May 20, 2005

Conclusion

Bonneville's proposal to spend \$143 million relies on overly aggressive assumptions. Reduction of research, monitoring and evaluation to finance all implementation of subbasin plans, continuation of the current three-year delay in wildlife mitigation and an inequitably low inflation factor undermine the ability of the region to perform the necessary work.

Managing program implementation costs as we have described will require our continued close collaboration. The Council looks forward to working with you and your staff in the coming rate period.

Very truly yours,



Melinda S. Eden
Chair

MAY 20 2005

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From: Andrew Englander [andrew@wildsalmon.org]

Sent: Friday, May 20, 2005 4:37 PM

To: BPA Public Involvement

Subject: SOS comments on Power Function Review

Attached are comments of the Save Our Wild Salmon Coalition on BPA's Power Function Review Closeout Report. Please contact me at the number below if there are any problems downloading the attachment.

Thank you.

Andrew Englander
Senior Policy Analyst
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- Alaska Trollers Association
- American Rivers
- Association of Northwest Steelheaders
- Boulder-White Clouds Council
- Clearwater Biodiversity Project
- Coalition for Salmon-Steelhead Habitat
- Coast Range Association
- Columbia Riverkeeper
- Defenders of Wildlife
- Earthjustice
- Federation of Fly Fishers
- Friends of the Clearwater
- Friends of the Earth
- Idaho Conservation League
- Idaho Rivers United
- Idaho Steelhead and Salmon Unlimited
- Idaho Wildlife Federation
- Institute for Fisheries Resources
- Izaak Walton League – Greater Seattle Chapter
- Lands Council
- Lighthawk
- Long Live the Kings
- The Mountaineers
- National Wildlife Federation
- Natural Resources Defense Council
- North Cascades Conservation Council
- Northwest Ecosystem Alliance
- Northwest Resource Information Center
- Northwest Sportfishing Industry Association
- NW Energy Coalition
- Oregon Guides and Packers Association
- Oregon Natural Desert Association
- Oregon Natural Resources Council
- Oregon Trout
- Oregon Wildlife Federation
- Pacific Coast Federation of Fishermen's Associations
- Pacific Environmental Advocacy Center
- Pacific Marine Conservation Council
- Puget Sound Harvesters
- Purse Seine Vessel Owners Association
- Rivers Council of Washington
- Salmon For All, Inc.
- Salmon For Washington
- Sawtooth Wildlife Council
- Sierra Club
- The Wilderness Society
- Trout Unlimited
- Washington Kayak Club
- Washington Trollers Association
- Washington Wilderness Coalition
- Washington Wildlife Federation
- Water Watch of Oregon
- Wild Angels
- Willamette Riverkeeper

May 20, 2005

Stephen J. Wright
Administrator
Bonneville Power Administration
P.O. Box 14428
Portland, OR 97293-4428

Re: Comments on BPA's Power Function Review "Draft Closeout Report"

Dear Administrator Wright:

I am writing on behalf of the Save Our Wild Salmon Coalition to comment on Bonneville Power Administration's ("BPA") Power Function Review Closeout Report. We appreciate this opportunity and hope that these comments provide your agency with useful guidance to ensure that BPA is prepared in its upcoming rate period to meet its obligations to restore Columbia and Snake river salmon populations to sustainable, harvestable levels.

With a combined membership of over six million, Save Our Wild Salmon ("SOS") is a diverse nationwide coalition of commercial and sport fishing associations, conservation organizations, taxpayer advocates, clean energy proponents, businesses and others joined in a single unifying mission: restoring self-sustaining, harvestable populations of wild salmon to the rivers and streams of the Pacific Northwest. As such, our coalition and its members have a keen interest in efforts to mitigate the harmful effects of the Federal Columbia River Power System ("FCRPS") on both listed and non-listed salmon and steelhead populations. We therefore take a special interest in BPA's Power Function Review because the process will determine the extent to which BPA is able to fulfill its fish and wildlife obligations during the next rate period.

BPA's fish and wildlife budget has been the subject of intense public scrutiny over the past three years, played out in legal, political and scientific forums, in the media and elsewhere. While SOS and BPA's utility customers may approach the idea of what constitutes a "cost effective" salmon investment from different perspectives, we believe we can agree on at least one thing: a substantial amount of taxpayer and ratepayer money is being spent on salmon with little to show for it. We offer these comments in the hope that this shared observation will result in a reformed Fish and Wildlife Program that truly meets BPA's obligations to recover imperiled Columbia and Snake River salmon for the economic, environmental, and cultural welfare of the region.



After reviewing the Closeout Report, we have several specific concerns:

- 1) The proposal for fish and wildlife will only exacerbate BPA's failure to meet its salmon recovery responsibilities.
- 2) BPA continues to distort the so-called "cost" of its salmon restoration obligations.
- 3) The proposal for conservation/renewable energy investments is not sufficient to ensure that pressure on the hydrosystem is relieved.

These issues are discussed in more detail below:

I. BPA's fish and wildlife proposal will exacerbate salmon recovery failures.

Background

In order to properly understand the relevance of BPA's proposal for fish and wildlife funding, one must review the context within which this proposal arises. Nearly half a decade ago, the federal government and the states of Oregon, Washington, Idaho, and Montana jointly committed to a so-called "aggressive non-breach" salmon restoration strategy. This unified commitment came despite widespread scientific recognition – even amongst federal salmon biologists – that the partial removal of the lower Snake River dams is far and away the most biologically certain way to recover Snake River salmon and steelhead and therefore capture the broadest recovery potential in the basin.¹ Inherent to the "aggressive non-breach" approach was a recognition that attempting to recover Snake River salmon *without* partially removing the Snake River dams would require substantial federal and regional investments to mitigate (it was hoped) for the impact of these dams. Even then, scientific consensus underscored the fact that despite the substantial investment required, this approach was (and is) highly uncertain to succeed.

Four and a half years later, federal salmon management agencies have not only abandoned consideration of lower Snake River dam removal, they have taken the "aggressive" out of "aggressive non-breach." For three years after the 2000 FCRPS Biological Opinion ("BiOp") was released, federal salmon restoration efforts suffered from implementation failures and significant funding shortfalls.² After the 2000 BiOp was ruled illegal and remanded to NOAA, the federal agencies developed a new BiOp, issued in November 2004, (currently the subject of litigation in federal court) that brings federal salmon restoration efforts to a halt.³

¹ National Marine Fisheries Service. *2000 FCRPS Biological Opinion* (December 21, 2000). *See, e.g.,* pg. 9-5 ("...breaching the four lower Snake River dams would provide more certainty of long-term survival and recovery than would other measures.")

² Save Our Wild Salmon. *Salmon Plan Report Cards: The Federal Plan to Restore Salmon and Steelhead in the Columbia and Snake River Basin*. 2001-2004. Available at: www.wildsalmon.org. Incorporated by reference herein.

³ *See* comments of the Save Our Wild Salmon, et al., on the draft 2004 FCRPS Biological Opinion (October 8, 2004). Available at: www.salmonrecovery.gov/remand/draft_biop/comments/Save_Our_Wild_Salmon_Coalition.pdf. Incorporated by reference herein.

The repercussions of this federal failure are just now beginning to come to light. When the 2000 BiOp was getting underway, adult salmon were returning to the basin in numbers not seen for more than two decades. These relatively large returns were a welcome sight, and an example of what favorable river conditions (due to high runoff in the late 1990s) can mean for migrating juvenile salmon, especially when combined with beneficial ocean conditions.⁴ Though federal agencies touted these returns, mislabeled “record-setting,” as the product of successful federal efforts, the reality is much different. In fact, federal agencies may have squandered the opportunity to make significant, meaningful progress on salmon recovery by failing to take advantage of improved adult returns.

Since 2001, many Columbia and Snake basin wild salmon and steelhead populations have plummeted, in some cases by more than 50 percent.⁵ Adult returns of spring chinook thus far in 2005 have been below even the lowest expectations. This is particularly troubling because many of this year’s adult salmon are the offspring of 2001’s peak return. Unless returns spike dramatically in the next few months, Snake River spring/summer chinook could sink back to the dismal levels of the 1990s; returns numbering *below* those that the region experienced the year this once prolific species was first listed for protection under the Endangered Species Act (“ESA”). While it is too early to say with certainty whether anything unexpected happened to this year’s spring return that would have caused such a marked decline, one thing is clear: federal negligence to address the impact of the FCRPS on salmon and steelhead is taking a toll.

It is within this context that we view BPA’s fish and wildlife funding proposal for the upcoming rate case. It is apparent that BPA and other federal agencies are not meeting their responsibilities under the ESA, Northwest Power Act, and Northwest tribal treaties. BPA’s fish and wildlife proposal will only exacerbate these failures.

Specific Concerns

According to a detailed analysis prepared by the Yakama Indian Nation, BPA’s funding proposal for the Integrated Program may in fact amount to a decrease of nearly \$18 million below average funding levels from Fiscal Years (“FY”) 2001-2004 (once inflation and other funding adjustments are accounted for).⁶ Even under the most optimistic assumptions, the Yakama Indian Nation’s analysis shows that under BPA’s proposed funding levels, it could take over 40 years to fully implement the fish and wildlife habitat strategies (subbasin planning) required under the Northwest Power and Conservation Council’s (“Council”) fish and wildlife program, and subsequently required under the Northwest Power Act.⁷ However, this has implications that stretch far beyond encumbering the progress of subbasin planning.

NOAA Fisheries and the Council have both recognized (to differing extents) that the status of subbasin planning is inherently tied to the federal government’s responsibilities under

⁴ Fish Passage Center. *Memorandum: Data request for flow conditions experience by the 2001 and 2005 spring Chinook adult returns*. April 19, 2005.

⁵ Save Our Wild Salmon. *Recent Salmon Returns: A missed opportunity for real salmon recovery*. April 2005. Available at: www.wildsalmon.org/library_files/Recent-salmon-returns.pdf

⁶ Confederated Tribes and Bands of the Yakama Nation. *The Yakama Nation Comments of Bonneville Power Administration’s Power Function Review Closeout Letter* (May 2005). pg. 28.

⁷ Id.

the ESA, particularly with respect to recovery planning. The 2004 FCRPS BiOp, in fact, includes, as one of two measures to fulfill ESA recovery obligations a “recommendation” that the Action Agencies “continue to facilitate the existing subbasin planning infrastructure to ensure that subbasin plans are implemented effectively and efficiently....”⁸ BPA itself acknowledged the connection between subbasin planning and recovery planning in a recent letter to state and federal salmon managers on Integrated Program funding.⁹ Nevertheless, BPA’s fish and wildlife funding proposal threatens to hamstring regional implementation of both the subbasin plans and the associated ESA recovery plans NOAA Fisheries has promised in the near future. This concern is compounded by the fact that the Integrated Program largely constitutes BPA’s commitment to funding other ESA obligations, such as implementation of the FCRPS BiOp. The inability to implement the Council’s Fish and Wildlife Program, BPA’s BiOp obligations, and recovery planning with the limited funding proposed is abundantly obvious.

BPA attempts to shirk its funding obligations by claiming that its fish and wildlife responsibilities are limited only to the mitigation and recovery needs of fish and wildlife impacted by the development and operation of the FCRPS.¹⁰ While BPA is of course not the only agency responsible for restoration and recovery obligations basin-wide, we cannot help but note the irony of this assertion. In a separate but related forum, BPA has simultaneously attempted to absolve itself of those very same responsibilities that it claims it should be limited to in the Power Function Review process. Specifically, the jeopardy framework of the 2004 FCRPS BiOp – which BPA worked in tandem with NOAA Fisheries to develop – attempts to relieve the Action Agencies of any mitigation responsibilities associated with the development and “non-discretionary” operations of the FCRPS.¹¹ BPA is clearly trying to avoid any and all mitigation responsibilities by “speaking out of both sides of its mouth.” The agency simply cannot have it both ways.

Lastly, while we understand that risk mitigation will be considered as part of the upcoming rate case, it does not appear that BPA will be prepared to effectively manage uncertainty as it relates to salmon restoration. Time and again, BPA manages the hydrosystem on the backs of salmon and salmon-based communities when the agency faces financial difficulties. Given that significant changes may be needed to protect salmon in the near future, we urge BPA to be prepared to manage its financial risks in a way that does not threaten salmon recovery and in fact paves the way progress.

Recommendation

⁸ National Marine Fisheries Service, *2004 FCRPS Biological Opinion* (November 30, 2004) at 9-1. This discussion notwithstanding, we have submitted comments raising concerns about the adequacy of existing subbasin plans to handle this “recovery load.” See American Rivers, et al. *Comments on the Northwest Power and Conservation Council’s Subbasin Planning Process* (November 22, 2004). Incorporated by reference herein.

⁹ Bonneville Power Administration. *Letter from Gregory K. Delwiche to Columbia Basin Fish and Wildlife Authority re: BPA review of CBFWA funding proposal drafts*. April 22, 2005. (“We funded subbasin planning with the understanding that the plans would contribute to the foundation of Endangered Species Act recovery planning....”)

¹⁰ *Id.*

¹¹ See *infra* footnote 3.

State and tribal salmon managers, through the Columbia Basin Fish and Wildlife Authority (“CBFWA”), have submitted to BPA a comprehensive assessment of funding needs to fully implement the Council’s fish and wildlife program under a true “aggressive non-breach” approach.¹² We recommend that BPA begin preparations for the partial removal of the lower Snake River dams. In the absence of lower Snake River dam removal (and for non-Snake River ESUs that may continue to need offsite mitigation to survive and recover) BPA should get back on track to implement an “aggressive non-breach” Salmon Plan by considering CBFWA’s funding recommendations.

II. BPA continues to distort the “costs” of its salmon restoration obligations.

In its materials for the development of the Power Function Review Closeout Report, BPA artificially inflates its annual fish and wildlife costs by including nearly \$370 million in power purchases and foregone revenue attributable to salmon restoration.¹³ Including these items as the equivalent of a ratepayer expense is both fundamentally flawed and inaccurate. Worse, it perpetuates a myth in the region that legally required measures to provide spill and adequate river flows to assist with the juvenile salmon migration are too expensive and not “cost effective” for the biological return on the investment. Further, this accounting practice is rooted in the wildly distorted perception that the Columbia and Snake rivers exist for BPA’s benefit rather than for the public at large, which benefits equally from healthy rivers and salmon populations and low-cost energy.

SOS and its member organizations have provided detailed comments in the past on the legal, policy, and scientific flaws of BPA’s misuse of foregone revenue. Rather than rehash this discussion in detail here, attached (Attachment A) are comments provided to the Council jointly by SOS and NW Energy Coalition in 2002 on the inclusion of such “costs” in the Council’s *Annual Report to the Northwest Governors on Expenditures of the Bonneville Power Administration*.¹⁴ Below is a short summary of the issues addressed in those comments that are relevant here:

- There is widespread recognition amongst federal, state, and tribal salmon managers that flow and spill measures provide immense biological benefit to juvenile salmon migrating through the hydrosystem. In fact, these actions are core elements of BPA’s legal requirements under the ESA and Northwest Power Act. In practice, by including these items as ratepayer “costs,” BPA is seeking compensation for the revenues it *could have* generated if only it had been allowed to violate the law.
- BPA is not entitled to any specific amount of power from the hydrosystem, nor does it have any legal claim to Columbia and Snake River water. BPA has the rights only to the

¹² See *infra* footnote 6.

¹³ Bonneville Power Administration. *Power Function Review April 18, 2005 Management Discussion; Fish and Wildlife Handout*.

¹⁴ Save Our Wild Salmon and NW Energy Coalition, *Comments of the NW Energy Coalition and Save Our Wild Salmon Coalition on the Northwest Power Planning Council’s 2nd Annual Report the Northwest Governors on Expenditures of the Bonneville Power Administration* (October 11, 2002).

power not otherwise required for the operation of the hydro projects, including fish operations. Therefore, there are significant legal issues that question the very concept of “foregone revenue.”

- BPA does not track foregone revenue due to other authorized dam purposes as “ratepayer expenses.” For example, according to BPA, irrigation withdrawals “cost” the agency upwards of \$180 million per year in foregone revenue – more than double the so-called “cost” of summer spill. Yet nowhere does BPA count this as a cost.
- A significant portion of the cost of salmon-related power purchases are credited to BPA’s annual Treasury payment through the use of 4(h)10(C) credits. This does not appear to be accounted for in BPA’s analysis, and as a result, the so-called “cost” for these activities is not accurately portrayed.¹⁵
- The so-called “cost” of these operations is also being overstated due to outdated assumptions about market prices. About one-third of foregone revenue is due to changes in timing of flows (the other two-thirds are due to spill). The calculation is based on historical patterns of higher value for winter flows as compared to spring and summer flows. However, that assumption is largely no longer true. Market prices are set by marginal resources, and increasingly, the marginal resource in the West is a gas-fired resource. Gas prices have proven to be fairly independent of season, since the energy crisis. Thus, BPA’s assumption of lower spring and summer prices, compared to the winter period, has turned out to be false. It may now well be the case that fish operations are closely aligned with price trends: higher in the summer. Thus, about 1/3 of annual foregone revenue Bonneville cites is probably fictitious.

III. Clean energy investments are insufficient to relieve pressure on the hydrosystem

As the region struggles through its sixth consecutive year of below-average runoff, it is disconcerting that BPA’s proposal for conservation and renewable energy programs appears to be lacking. SOS strongly supports adequate funding for BPA’s clean energy programs not only for their inherent economic and environmental value, but also because with proper management, clean energy investments can relieve pressure on the hydrosystem and make the Columbia and Snake rivers safer for salmon and steelhead. In addition it may be that global warming is partially responsible for the weather pattern that is harming fish. This is another good reason that Bonneville must show leadership in increasing investments in an affordable energy future.

Several commenters have submitted specific proposals to enhance BPA’s management of its conservation and renewable energy programs. We support the comments of the NW Energy Coalition and the Renewable Northwest Project in that regard. Specifically, we urge BPA to:

¹⁵ We also note that under BPA’s interpretation of section 4(h)10(C) of the Northwest Power Act, nearly 30% of expenses related to Integrated Program, operation and maintenance, and capital expenditures for tributary and passage habitat construction are credited to the agency’s annual Treasury payment. This important point also does not appear to be accounted for in BPA’s cost analyses, meaning that other fish and wildlife expenses are being overestimated.

- ensure that its conservation budget is sufficient to achieve BPA's share of the cost-effective conservation target in the Council's Fifth Northwest Power Plan; and
- continue to be a regional leader on renewable energy in the region by following through on existing commitments, providing incentives for utility customers to acquire new renewable energy, and providing new funding for renewable energy rather than using leftover funds from the previous rate period.

IV. Conclusion

In conclusion, we urge BPA to adopt these recommendations. The dramatic downturn in spring chinook returns to the basin thus far in 2005 should serve as a wake-up call. The recent abundance in salmon returns may be waning, taking with it the opportunity to make tangible progress towards salmon and steelhead recovery. We hope this point is not lost on BPA as it develops its rates for the upcoming rate period.

We would be happy to discuss these comments with you in more detail. Please feel free to contact us if you have any questions.

Sincerely,

Pat Ford
Executive Director

Attachment A

**Comments of the NW Energy Coalition
Save Our *Wild* Salmon Coalition**
on the
**Northwest Power Planning Council's
SECOND ANNUAL REPORT TO THE NORTHWEST GOVERNORS
ON EXPENDITURES OF THE BONNEVILLE POWER ADMINISTRATION**

October 11, 2002

I. Introduction and summary of recommendations

The NW Energy Coalition (“NWECC”) and the Save Our *Wild* Salmon Coalition (“SOS”), on behalf of their combined coalitions, thank the Northwest Power Planning Council (“Council”) for this opportunity to comment on their Second Annual Report to the Northwest Governors on Expenditures of the Bonneville Power Administration, document 2002-13 (“Report”).

The Council’s Report found that from 1978 through Fiscal Year (“FY”) 2001, the Bonneville Power Administration’s (“BPA”) fish and wildlife expenditures totaled \$6.01 billion, an increase of about \$2.5 billion from expenditures reported to date in 2001. The dramatic increase is due primarily to two categories: power purchases and foregone revenue attributed to fish operations at federal dams. These two categories alone totaled \$1.5 billion just in 2001, when the region suffered the fate of a drought year, coupled with a volatile energy market. That single-year sum out of a 23-year analysis accounts for 25 percent of BPA’s total fish and wildlife costs since 1978. NWECC and SOS believe that there are substantial legal, analytical, and public policy concerns with the inclusion of such costs into the Council’s analysis.

Based on legal, analytical, and policy flaws discussed below we recommend that the Council remove any costs attributed to power purchases or “forgone revenue” from its report on BPA’s fish & wildlife expenditures. At the very least, the Council should provide readers a broader, more equitable perspective of this subject in the text of the report itself including:

1. Legal issues which question the very concept of “foregone” revenue;
2. Identification of the true cause of the large “foregone” revenues: poor planning, not fish operations;
3. Estimates of the "foregone" revenue of other uses of the system, including irrigation and other withdrawals, lock operations, losses, etc., so that the "costs" of the various uses of the river can be put into perspective;
4. Discussion of the \$562.9 million in “forgone” revenue and power purchases credited to BPA’s annual treasury payment through the use of 4(h)10(C) credits; and,

5. Correction of the methodology used to estimate “foregone” revenue by factoring in price elasticity.

The Council’s presentation of these figures inappropriately fuels recent claims by some that actions like spill and increased flows for salmon survival provide little benefit and cost ratepayers an exorbitant amount of money. In truth, actions that result in a reduction of power generation for salmon recovery are required in order to meet BPA’s and other federal agencies’ responsibilities under the Endangered Species Act (“ESA”), the Northwest Power Act, and tribal treaties. In fact most, if not all, decisions to ignore the 2000 Federal Columbia River Power System Biological Opinion (“Bi-Op”) spill requirements would trigger a requirement for reinitiation of consultation under the ESA. Furthermore, these actions provide enormous biological benefit as has been documented by numerous independent scientific analyses. At the same time, we do *not* believe that these actions alone are sufficient to protect and restore salmon in the Basin. Nevertheless, without these minimum actions, salmon in the Basin would have fared far worse. Our comments provide some background on the importance of these actions.

II. The Columbia and Snake rivers do not belong to BPA, nor does the water used to satisfy legally required salmon recovery operations.

NWEC and SOS strongly dispute the underlying point of view implied in the Council’s discussion of “foregone” revenue. The basic policy assumption imbedded in this paradigm is that BPA is entitled to a certain amount of power from the hydro system -- the Firm Energy Load Carrying Capability (“FELCC”), or the total amount of firm energy that can be produced and shaped to load under critical water conditions -- and that if it cannot generate that amount due to fish constraints, BPA has been harmed and accrued various costs. Thus, according to the Council’s analysis, the difference between how the system was really operated and that entitlement amount is a “cost.”

The problem with this line of thinking is that BPA is not legally entitled to any certain amount of power from the hydro system. The Flood Control Act of 1944 (as amended) makes that clear by stating in part:

“Electric power and energy generated at reservoir projects under the control of the Dept. of the Army and **in the opinion of the Secretary of the Army not required in the operation of such projects** shall be delivered to the Secretary of Energy [BPA] who shall transmit and dispose of such power and energy....” 16 U.S.C. § 825s (emphasis added).

This language confirms that **the Army Corps of Engineers (“COE”) decides how much power goes to BPA. BPA has no set entitlement.** If the COE must generate less power to comply with Bi-Op requirements, then there is simply less power for BPA to market. Therefore BPA’s “cost” of not getting as much power as the FELCC because of fish operations is not really a cost at all, and is certainly not a cost which helps fish. It’s like claiming that one’s stock portfolio should earn 10% each year, and if it doesn’t, the difference between its actual

earnings and 10% is a "cost" that can be deducted on a tax return. The analysis is both illogical and illegal.

In 2001, BPA convinced the federal family to accept "Emergency Criteria" for deviating from Bi-Op flow and spill requirements. BPA's interpretation of the Criteria essentially enshrined BPA's concept of entitlement into the operation of the hydro system. As such, the Criteria allow BPA to halt fish-friendly hydro operations in order to guarantee that BPA gets enough power to meet its needs, both for reliability and for financial purposes. However, the law quoted above clearly states otherwise and the Endangered Species Act and Northwest Power Act also support different interpretations. The hydro system is not responsible for BPA's problems. BPA must acquire adequate resources and reserves, both physical and financial, to meet its own obligations. The COE gives BPA power after the COE has met its own needs and obligations. Since those needs and obligations include fish protections, the COE may not always have surplus power to serve all of BPA's loads. Therefore federal law does not allow BPA to declare an emergency and override fish operations for financial reasons, especially before the agency exhausts all possible alternatives, such as offering greater incentives for conservation and efficiency or purchasing and leasing water from irrigators to augment flows.¹

In sum, BPA simply has no legal right to a certain amount of power from the dams. Nor can BPA claim it has spent any money or incurred "costs" for fish because it did not get that amount from the hydro system. We therefore urge the Council to remove from its analysis the fish and wildlife costs attributed to so-called "foregone" revenue or power purchases unless it includes a broader discussion of the legal concerns underlying these costs, as well as the policy and analytical concerns outlined below.

III. Poor planning cost BPA over a billion dollars in 2001, not fish

By trumpeting Bonneville's "lost" revenue amounts for fish operations last year, the Council is failing to take an objective approach to this ever-contentious political issue. These "costs" of fish operations naturally make the public and politicians question if they are worth the biological benefits. However, the real driver for BPA's high rates is not fish operations (or irrigation withdrawals or other legal uses of the river), it is the fact that the region did not plan ahead to provide enough resources to meet loads in a drought year. If the system had been adequate, fish operations, irrigation withdrawals, lockages and other "costs" would have been no higher than usual and the region would have had no reason to suspend spill operations. An inadequate system is to blame both for high rates and for the biological damage from the emergency operations.

It is also important to note that regional utilities, BPA and the Council themselves need to take responsibility for this failure rather than putting the blame on fish operations. The utilities urged BPA to stay out of the acquisition business, Bonneville slashed its conservation and renewables budgets, and the Council's mainly ineffectual warnings came too little, too late.

¹ For more information, see *Sierra Club v. Bonneville Power Administration*, Petition for Review under the Northwest Power Act (consolidated cases 01-71736; 01-71740; filed November 2, 2002) and accompanying declarations. We hereby incorporate by reference documents associated with this legal proceeding.

NWEC and SOS urge the Council to make this point clear: The failure to make timely investments in conservation and new resources--especially renewables which would have been shielded from gas price hikes--is what cost BPA millions, perhaps billions more than its fish operations.

IV. Legally required salmon actions are not the only source of "foregone" revenue.

Even if we assume that legally required actions to protect and recover salmon in the Columbia and Snake rivers can actually be considered a source of "foregone" revenue, they are not the only actions in the operation of the FCRPS that force dam operators to "forego" energy generation. Under the Council's logic, water withdrawn for irrigation, municipal and industrial use also "costs" BPA power, as does water sacrificed when locks are opened to allow barge transportation, or water held to satisfy flood control or recreation needs. Yet the Council only speaks of BPA's "costs" related to fish operations. Because the issue of "foregone" revenue is so contentious and has been, and unfortunately, will continue to be used as a weapon in the war over fish restoration, it is important that the other river user's "costs" also be estimated and put into perspective.

BPA did an analysis in June 1995 for the Council that estimated the additional generation possible if no irrigation withdrawals or lock openings were permitted on the system. The numbers are stunning, equaling or even surpassing that claimed by BPA for fish operations.

In that study, BPA estimated that about 57% of the water withdrawn for irrigation eventually returns to the river. Even with that correction, **1067.5 aMWs of power could have been generated from the irrigation water.**² (For comparison, BPA estimates its total hydro-operations for fish average 982 aMWs of "lost" generation.) The market value of the power "lost" to irrigators last year is difficult to calculate with much precision (as is the case with BPA's foregone fish revenue – see especially the discussion of elasticity below), but if mid-Columbia market prices are used, this "lost" generation would be valued at \$2.08 billion over the July '00-July 2001 period.³

BPA also estimated the lost generation from lock openings. It is a much smaller figure--18.6 aMWs--but still significant given the prices last year. The "lost" generation value would range between \$16 and \$35 million because market prices varied so much.

² This amount includes both federal and non-federal entities. In a Feb. 26, 1996 update, BPA estimated that irrigation withdrawals accounted for about 650 aMWs in losses on the federal system.

³ If spread over all hours equally. Since prices came down after June, 2001, it would be worth perhaps \$1.2 billion over the 2001 calendar year. In addition to elasticity, another reason it is difficult to calculate accurately a "lost generation" value is that an assumption must be made as to how the water would be shaped if it were left in the river. Most irrigation takes place from May through August, but the extra flow could mean more winter generation, since October refill would be much easier. Just as BPA can move flows around in its "without fish" alternative, much of this extra water could also be moved to higher value months. Certainly the flow could be moved within the day, helping to satisfy peak load periods.

We are not aware of any estimates of municipal or industrial withdrawals, but we ask the Council to estimate those "costs" as well.

In addition, BPA estimates about 6% of the water leaks through sluiceways, etc., and thus does not generate power. Last year that would have accounted for approximately 400 aMWs valued at between \$400-500 million. Finally, BPA's 1995 analysis did not quantify "foregone" revenue for flood control rule-curves or recreation. However, water held for these purposes could clearly impact electricity generation potential. We urge the Council to consider these foregone "costs" as well.

If the Council insists on retaining the "lost" values associated with fish protection, it is imperative that it list and discuss these other equally important "lost" revenues. Any other outcome does not put fish operation costs into their proper perspective and treats fish inequitably with other power and non-power uses of the river, in violation of the Northwest Power Act's equitable treatment provision.

V. 4(h)10(C) Credits -- The "Fish Credits"

Section 4(h)10(C) of the Northwest Power Act directs BPA's Administrator to allocate expenditures attributable to fish and wildlife mitigation and enhancement among the various hydroelectric project purposes. Since 1995, BPA has credited the portion of the expenditures allocated to non-power purposes at federal hydro projects towards its annual payment to the U.S. Treasury. Such "non-power" purposes include power purchases and "foregone" revenue attributed to salmon recovery operations at federal dams. Through 2001, BPA has claimed a total of \$562.9 million in credit from its treasury payment using the 4(h)10(C) credit.⁴ In 2001 alone, BPA claimed a credit of \$342 million.⁵

Thus, a substantial portion of BPA's "costs" associated with power purchases and "foregone" revenue is actually borne by federal taxpayers, not by BPA. Yet, the Council's Report excluded this vital information. This glaring omission raises questions of fairness in fully reporting BPA's costs. If the Council feels it necessary to include power purchases and "foregone" revenue as expenditures under BPA's fish & wildlife program, then we strongly urge it to accurately portray those costs.

VI. BPA's methodology overestimates fish costs by failing to account for price elasticity.

Bonneville's calculation of its foregone revenue involves comparing the actual operation of the river ("with fish") to a theoretical model where fish restraints were not present ("without fish"). Purchases that would have to be theoretically made to operate the system with fish, and "lost" sales, are then valued at the actual prices which occurred. The problem with this methodology is that if the river were actually run without fish constraints, so that flows could be

⁴ The amount of 4(h)10(C) credit claimed in FY2002 was not available for these comments.

⁵ "BPA's Treasury Payment and 4(h)10(C) Credits," Bonneville Power Administration (October 3, 2001).

shifted to higher value periods, that shifting in energy generation would affect prices.⁶ The effect of this elasticity factor and an adjustment of BPA's figures should be estimated by the Council.

A very large portion of the foregone revenues BPA experiences (especially last year when most spill was curtailed) are caused by the shifting of water away from the natural hydrograph that the "without fish" model would allow. Without fish constraints, Bonneville could move flows and therefore generate more during higher price periods in the winter rather than the lower priced spring/summer run-off months. This theoretical shift of generation from lower to higher priced periods is responsible for much of the foregone revenue calculated.

However, under BPA's current methodology, power purchases and sales that are created by this *theoretical* shift are valued at market prices that do not reflect that doing so would change prices. In reality, if flows could be shifted to the winter period (or any higher priced period), the price during those times would go down. And, conversely, the price in the time period from which the flows were shifted would go up. The ultimate result of such shifts is that the value of any shifted flows is reduced by elasticity.

We can illustrate this with a simple example. Assume that the price in the winter of 2001 averaged around \$250/MWhr, but fell to perhaps \$150 during the spring/summer run-off. Under BPA's methodology, if under the without fish scenario it shifted 1000 MW-mos of generation from the spring/summer to the winter, it could increase the value of that flow by \$73 million (730 hrs * 1000MWs * (\$250-\$150/MWhr)). However, in reality there would be an elasticity adjustment to the prices from such a shift in generation. The price differential of \$100/MWhr would be reduced, perhaps substantially, depending on the steepness of the supply curve. If average winter prices fell by \$40 because of the shift, for example, instead of "making" \$73 million, the shift would only be worth \$43.8 million (730 hrs * 1000MWs * (\$210-\$150)).⁷

This error in Bonneville's methodology is troubling in normally priced years, but in 2001 its effect would have been extraordinary. During that crisis year, the energy supply curve was extremely steep. Even BPA complained that when it went into the market with small purchases, prices would change significantly. When one deals with last year's steep supply curve, moving flows around to try and find higher prices is similar to a shell game without a pea. BPA's assumption that it could obtain a big pot of money by generating more in the winter than it got in the spring/summer period is simply over-simplistic.. If BPA could have operated according to the "without fish" scenario, the simple laws of supply and demand dictate that prices would have reacted strongly, thus reducing the value of that shift as compared to BPA's methodology where prices stay static.

⁶ Needless to say, this change in operations would also violate federal laws and treaties. And while we do not and would not support this shift in flows and spill, we have ignored these legal constraints in this discussion and commented only on the economic analysis.

⁷ The actual analytical problem is more complicated than this example implies, even if one could estimate reasonable elasticity factors. If, for example, BPA did run the river "without fish," not only would prices change because of BPA's shift of water, they would also change due to other market participants' actions reacting to BPA's action. In addition, the change in prices would affect the price of the generation during that time that had not been shifted, not just the value of the generation that was shifted. Depending on whether power was sold, used to serve load, or necessitated increased purchases from the market, the net pecuniary affect on BPA's customers and other users and generators is quite complicated, but also quite dramatic.

It is difficult for us to estimate the affect on BPA's lost revenue numbers from correcting this error because we do not have the analytic capability. We urge the Council to do so, however insofar as that is possible. However, it would not be unreasonable to assume during that period of extraordinarily high prices and steep supply curve that the price differential in the markets between the winter and high-runoff months would have been reduced by half by shifting the large amount of flow to a "without fish" scenario. This correction would reduce the "cost" of last year's fish operations substantially, perhaps to a range of around \$700-800 million, instead of the \$1.4 billion claimed in the report. The elasticity factor for other years is undoubtedly much less, but still significant. We urge the Council at the least to estimate the elasticity factor's affect on BPA's overall numbers.

VII. Scientific evidence overwhelmingly supports spill as the safest method of juvenile salmon passage.

In addition to the concerns we raise above, NVEC and SOS have grave concerns that the Council's inclusion of fish-related "lost" revenue may have unintended consequences. By highlighting these costs as "lost" revenues, the Council is unfortunately feeding into efforts by some to halt these legally required actions altogether. Some argue that spilling water over dams to aid the migration of juvenile salmon costs ratepayers too much money while providing little-to-no biological benefit in return. These claims are at-odds with prevailing scientific information which overwhelmingly shows that spilling water over dams is the safest method of transportation for juvenile salmon past federal dams. A brief summary of that evidence is included below. We hereby incorporate by reference the reports mentioned and cited below. We assert that if the Council includes these costs in its analysis, that it must also include a summary of scientific evidence in support of spill.

In its 2000 FCRPS Biological Opinion ("BiOp"), the National Marine Fisheries Service ("NMFS") clearly states that spillway passage "is the preferred passage method for juvenile salmonids ... [and] should be the baseline against which other passage methods are measured."⁸ The BiOp goes on to state that, "the body of research evidence indicates that juvenile survival is generally highest through this passage route Therefore, measures that increase juvenile fish passage over FCRPS project spillways *are the highest priority...*" (emphasis added).⁹

Indeed, independent scientific studies, dating back to 1940 and as recently as 2001, have consistently shown that spill is the safest dam passage route for juvenile salmon.¹⁰ The benefits of spill were also clearly demonstrated during the 2001 migration season when water run-off volume was near the lowest on record in the Columbia River Basin. Chinook and steelhead survival estimates were the lowest since PIT-tags have been used to estimate survival in the hydrosystem (i.e. since 1993). Yet two separate studies, one by the Fish Passage Center and another prepared for BPA, found that under low water conditions, the highest estimates of in-

⁸ 2000 FCRPS Biological Opinion, 9-82

⁹ Id.

¹⁰ See e.g., Muir, et al. (2001), Polesky et al. (2001)

river survival coincided with spill periods.¹¹ These findings are particularly important in light of actions taken by BPA to drastically curtail spill for salmon during the drought in favor of energy generation.

Evidence also shows that spill can provide advantages to juvenile salmon beyond simply getting smolts past dams. The studies mentioned above also suggest that the increase in smolt travel time observed when spill levels are low, as was seen in 2001, may result in extending the migration period into a time of high water temperatures, increased predator exposure, and increased likelihood of delayed estuary entry.¹² Similarly, spill may also increase survival below Bonneville Dam by reducing delayed mortality associated with other routes of passage such as barge or truck transportation.¹³

Although political pressures, not scientific ones, continue to raise questions regarding the benefits of spill for salmon, the Council must rise above these political attempts and equitably balance scientifically proven salmon needs with other needs of the system. Affirming the importance of spill would be a step toward meeting that legal obligation.

VIII. Conclusion

We urge the Council to make the improvements to their Report that we have recommended. Doing so will give a fairer and more realistic picture of BPA's costs and the drivers for those costs. We would welcome the opportunity to answer any questions you might have that these comments have raised. Thank you again for the opportunity to comment.

Sincerely,

Sara Patton, Director, NW Energy Coalition
Pat Ford, Executive Director, Save Our *Wild* Salmon

¹¹ See Fish Passage Center, *2001 Juvenile Salmon Migration: Preliminary Analysis* (October 2001) and Zabel et al., *Survival estimates for the passage of spring-migrating juvenile salmonids through Snake and Columbia river dams and reservoirs* (2001), prepared for the Bonneville Power Administration.

¹² Zabel et al. (2001).

¹³ Bouwes, et al., *Review of Mainstem Passage Strategies in the Columbia River System: Transportation, Spill, and Flow Augmentation* (March 2002), pg. 12

MAY 20 2005

Asgharian, Maryam A - T

From: Mary Verner [maryv@aimcomm.com]
Sent: Friday, May 20, 2005 2:23 PM
To: BPA Public Involvement
Subject: UCUT Comments on Draft PFR Close-Out Report

Importance: High



UCUTCommentsOn
3PAPFRCloseOut05..

Attached are the comments of the Upper Columbia United Tribes (UCUT) on the Power Function Review Draft Close-Out Report.

A hard copy will follow by regular mail.

Thank you for your consideration.

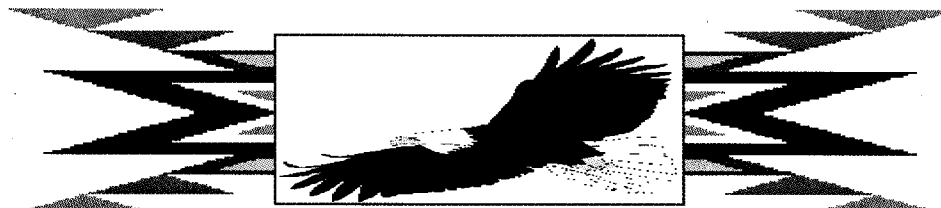
"Walk softly upon the Mother Earth."

Mary Verner
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*Colville * Coeur d'Alene * Kalispel * Kootenai * Spokane*

May 20, 2005

Via FAX to: 503-230-3285

Via email to: comment@bpa.gov

Mr. Paul Norman
Bonneville Power Administration
P.O. Box 14428
Portland, OR 97293-4428

RE: Power Function Review Draft Close-Out Report

Dear Mr. Norman:

Thank you for the opportunity to participate in the Power Function Review (PFR) workshops, and to comment on the draft Close-Out Report. The PFR process conducted by BPA this year was much more transparent and inclusive than previous cost estimation exercises for prior rate cases. The exchange of information and ideas was productive.

Please consider the following comments on the draft Report as you adjust the draft into a final PFR Close-Out.

Cultural Resources Funding

Early in the PFR meeting series, the Upper Columbia United Tribes (UCUT) asked BPA to identify the specific budget section that incorporates cost planning for cultural resource protection obligations. To our knowledge, this question still has not been answered, except for a general statement that BPA has an ongoing commitment to fund a portion of cultural resource responsibilities shared with the Bureau of Reclamation and the Army Corps of Engineers. UCUT would like to see a clear statement with a definite budget planning figure for cultural resources included in the final PFR cost estimates.

Internal Operations Charged to Power

The draft PFR proposal is to make no reductions in monetary awards. The discussion of this item refers to PFR participants' suggestions to increase the awards but tie them to financial performance standards.

UCUT member Tribes have been puzzled by BPA's budgeting of monetary awards to BPA employees, who receive quite generous baseline compensation packages. Monetary awards for exceptional performance seem unnecessary in light of both excellent employee compensation and the tight financial conditions faced by BPA.

Hydro System O&M and Capital Investments: Corps of Engineers and Bureau of Reclamation Program

We commend the commitment of the Corps and Reclamation to adopt a long-term asset management strategy, and we support and encourage the benchmarking exercise against mid-Columbia non-federal hydro projects.

As a general comment, cost efficiency at federal dams should match the cost effectiveness expected of fish and wildlife projects managed by the Tribes. Intense scrutiny is focused on every line item of Tribal projects funded through the Fish and Wildlife direct expense and capital budgets. Tribal budgets have been frozen without cost-of-living and inflation increases, and with severe restrictions on travel and training. Budget constraints at federal projects should be at least commensurate with constraints on Tribal projects. There should be no disparity in expectations of budget scrutiny just because Reclamation and Corps expenses are paid through a different BPA funding mechanism.

Fish and Wildlife Program

This section of UCUT comments addresses the Fish and Wildlife component of BPA's cost estimates:

1. The May 2, 2005 letter from Steve Wright to Pacific Northwest Customers, in explaining why post-2006 power costs will be higher than pre-2002, includes:

"Increases in fish and wildlife program costs, not counting operations costs, of \$120 million a year."

The draft Close-Out Report has only one section entitled "Fish and Wildlife Program," which incorporates only the Direct/Integrated Program, showing a proposed increase of only \$4M/yr. (offset by a \$0.3M/yr. decrease in USF&WS spending). The Report should include a section and accompanying table that clearly identifies each element of the draft fish and wildlife program costs that total to a \$120 million per year increase.

2. The cost estimates and rate case should provide a definite and defensible accounting for all "lost revenue" and "operational" costs "charged" to fish and wildlife, and the corollary revenue streams that result from operating the system to benefit anadromous fish.

3. Proposal to increase Integrated Program funding level.

a. An increase in the Integrated Program is appropriate and necessary, in order to meet all protection, mitigation and enhancement obligations under the Northwest Power Act and the RPA/UPA requirements of ESA Biological Opinions.

b. As presented in PFR Workshops, UCUT proposes a ten-year funding level to implement a suite of subbasin plan measures and address a specific set of identified biological targets. That proposal can be fully funded within the proposed Integrated Program funding level so long as capital funding sufficient to pay for all Direct Program capital needs is provided, and capital policies are adjusted to allow use of capital funds to acquire habitat for resident fish substitution. UCUT proposed a geographically-based regional allocation formula to provide equitable allocation of the total Integrated Program budget.

c. The table of proposed Integrated Program funding includes a column for average expense of \$143 M/yr. and average capital of \$36M/yr. The Report text includes discussion of difficult thresholds required by BPA for using capital funding to meet wildlife mitigation objectives. BPA's draft conclusion is that roughly \$15M/yr. could be shifted from RM&E to fund additional habitat enhancement efforts and maintain hatchery programs.

UCUT member Tribes require increases in both wildlife mitigation and hatchery O&M in order to make progress toward achieving long-under-funded protection, mitigation and enhancement goals. We are concerned that a shift of only \$15M from RM&E may be inadequate to meet region-wide demands for wildlife and hatchery

expenses. Further, the willingness of the region to shift funding away from RM&E is untested and speculative. Even if the \$15M is redirected to wildlife and hatchery costs, UCUT needs will remain unmet *unless* BPA commits specifically to prioritize the wildlife and hatchery needs of the Upper Columbia Ecoregion.

Therefore, we encourage BPA to budget sufficiently to fund the UCUT proposal for the Upper Columbia Ecoregion.

Total expense funds will need to be increased commensurate with any:

- 1) decrease in capital available for implementation of subbasin plans; and/or
- 2) continuation of BPA capital policy that constrains the use of capital for acquisition and management of habitat identified in subbasin plans.

d. Strict adherence to the NWPCC Program's 70/15/15 allocation guideline for anadromous fish, resident fish and wildlife is necessary to balance progress toward protection, mitigation and enhancement obligations while also restoring endangered fish.

BPA should create a "firewall" around the resident fish and wildlife percentage allocations and prepare, through appropriate risk management strategies, to pay for ESA costs that may exceed 70% of the Integrated Program budget from funds outside of, and in addition to, the Integrated Program budget. Additionally, needs identified for Okanogan anadromous fish (in subbasin plans and the Upper Columbia Salmon Recovery Plan) need to be funded as outlined in the UCUT ten-year plan.

e. Allocation of 70/25/5 percentages to on-the-ground, RM&E and CIMA, respectively, is appropriate so long as:

- 1) project-level RM&E is counted as project-level funding (i.e., the 25% is for regional/mainstem RM&E); and,
- 2) the 5% coordination/information management portion allows for more than just BPA overhead and NWPCC's costs. There must be sufficient funding in CIMA to allow the region's governmental fish and wildlife managers to remain engaged in fish and wildlife decision-making.

f. BPA's fish and wildlife overhead should be funded elsewhere in BPA's internal budgets, and not out of the Integrated Program budget.

g. The concept of "banking" additional funding in good water years has merit, and the final Report should address this concept more directly.

h. The draft Report's discussion of drivers for cost increases refers to an increase from \$100M/yr. in FY1997-2001 to \$139M/yr. in the current period, and attributes a portion of this increase to "a very significant allowance for inflation." The final Report should identify specifically where this "inflation increase" was allocated. The UCUT member Tribes were not the beneficiaries of any substantial budget increases for inflation in the current period.

i. Please note that the Close-Out report's representation of the CBFWA preferred alternative of raising Integrated Program spending to \$460 million annually does not reflect the opinion of UCUT. In fact, UCUT provided non-consent letters to CBFWA, disagreeing with those figures and how they were calculated.

Debt Management

Although BPA's draft conclusion is that F&W amortization policy should not be changed, fish and wildlife capital funds may be maximized by re-examining BPA's amortization policy for capital investments in habitat (land acquisitions). BPA's capital policy regarding habitat acquisitions has created a persistent failure to meet mitigation responsibilities to the Coeur d'Alene Tribe, and steep hurdles for achieving mitigation for the other four UCUT member Tribes. We strongly encourage BPA to leave flexibility in the final PFR proposal to explore and negotiate solutions to make capital both more freely available for mitigation, and less costly to the program as a whole.

Risk Mitigation

Lessons learned in the application of Cost Recovery Adjustment Clauses in the current rate period should be carried forward into the rate period that commences in 2007. Adjustment mechanisms should be designed to safeguard funding for the fish and wildlife program from the impacts of market variability.

Thank you for your consideration of these comments. If you have any questions, please feel free to contact our Executive Director, Mary Verner, at the Spokane office.

Sincerely,

Warren Seyler
Chairman

Mr. Paul Norman, May 20, 2005
UCUT Comments on Draft PFR Close-Out Report

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cc.: UCUT Member Tribes
Mr. Steve Wright
Mr. Greg Delwiche