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April 1, 2005

Stephen J. Wright, Administrator
Bonneville Power Administration
905 NE 11th Avenue
Portland, Oregon 97208

ASSIGN: KE-4

**cc: FO3, DC/Wash, DR-7, L-7, KEW-4, DR-7C,
P-6, PG-5, PF-6, PL-6, John Taves-DR-7C,
Lorri Bodi-A/Seattle, Suzanne Cooper-PG-5,
Sarah McNary-A-7**

Melinda Eden, Chair
Northwest Power and Conservation Council
851 SW 6th Avenue, Suite 1100
Portland, Oregon 97204

**RE: BPA Customer position on a Fish and Wildlife Program
Memorandum of Understanding (MOU)**

Dear Administrator Wright and Chair Eden:

For almost a year, the Northwest Power and Conservation Council (Council) and Bonneville Power Administration (BPA) have engaged in a process to reach agreement on a Memorandum of Understanding for BPA's Direct Program for fish and wildlife. The purpose of this letter is to clarify further the customers' position on an MOU and to request that a long-term funding agreement not be entered into at this time.

The MOU as currently discussed neither provides additional certainty within the total costs borne by ratepayers for fish and wildlife, nor does it create a comprehensive prioritization or performance-based funding mechanism that would ensure a cost effective method of achieving the stated goals of BPA's Direct Program.

Utility and industry interests recognize the responsibility to address effects to fish and wildlife caused by operation of the Federal Columbia River Power System (FCRPS). And, because BPA's customers bear the costs of fish and

wildlife mitigation programs through wholesale power charges and lost generation, they are seriously committed to seeing that the programs succeed. Customers reasonably wish to see the resources made available for mitigation used in the most cost effective and efficient manner possible. (See enclosed "Customer Principles for a Long-Term Funding Agreement for Fish and Wildlife".)

In the last several years, BPA's fish and wildlife expenditures have risen significantly. Since 1996 (the first year of the prior Memorandum of Agreement) expenses associated with BPA's Direct Program have increased from \$68.5 million to about \$146 million (including capital), representing a doubling in size of the program in eight years. This is an order of magnitude of growth that far outpaces the rate of inflation, and mandates a wholesale review regarding policy development and financial parameters guiding the program.

At the same time, as part of its Power Function Review (PFR), BPA has estimated that its total Fish and Wildlife Program's annual average cost will be \$691 million by 2007. This figure includes the Direct Program, hydro operations costs, capital and operations and maintenance costs for Corps of Engineers' and Bureau of Reclamation facilities, funding for US Fish and Wildlife Service, and other components. All of these factors compose the fish and wildlife component of BPA's total revenue requirement, and must be made up through rates collected from electricity consumers.

In total, fish and wildlife costs make up over 20 percent of BPA's revenue requirement. Until these expenditures are recognized as a single, integrated program in which costs and effects are inseparable, identifying the most biologically and cost effective measures for fish will not be possible.

The BPA Joint Customers have established a Priority Firm rate target for the period beginning in FY 2007 of \$27 MWh, including accommodating risk. We are vigorously pursuing that goal through the PFR and in other forums. In practical terms, it will be impossible to derive an acceptable rate figure without achieving greater efficiencies in the fish and wildlife program.

Uncertainties in the Region

As BPA heads into its rate case for the years 2007 – 2010, there are noteworthy uncertainties in the region that could have severe effects on the costs of BPA's total fish and wildlife program:

- The 2004 Biological Opinion is currently being litigated. An adverse judgment in this case could increase mandatory fish spending by as much

as \$200 million or more annually. Increased costs that result from the litigation will likely be borne disproportionately by the ratepayers.

- The Columbia River Basin has endured several consecutive years of low water runoff. Thanks to good ocean conditions and the past investments of the region's ratepayers, salmon and steelhead have thrived, with record or near record returns each year since 2000. These low water conditions have a different effect on rates for electricity consumers, however. A report presented at the February 16, 2005, Council meeting conservatively estimated that this year's low runoff would make implementation of the BiOp 10 percent (or about \$60 million) more costly than it would be under average water. Though precipitation totals have improved recently, they are still well short of average, signifying that BiOp implementation may be even more expensive.
- NOAA Fisheries intends to produce draft recovery plans for each of the Basin's Endangered Species Act (ESA) listed fish by the end of this year. While the scope of these plans is yet to be defined to the extent that ratepayer funds play a role, that funding must be prioritized within other fish and wildlife spending in the Council's Program. It is simply not acceptable to create further funding expectations of BPA's ratepayers without a comparison with the biological cost-effectiveness of current investments. Locking into a program without this information as a guide is premature.

Fish and wildlife costs already make up over 20 percent of BPA's total revenue requirement. The estimated \$700 million required is more than the annual cost associated with BPA's transmission system. Outside of BPA's treasury repayment obligation, it is the single largest component of BPA's rates. Amidst these escalating demands on ratepayer dollars, BPA and the Council should work together to control BPA's costs in order to maintain an economical and reliable power supply for the region. It is unwise for BPA and the Council to add another layer of non-discretionary funding in the form of a long-term funding agreement to BPA's fish and wildlife obligation.

The Scope of an Understanding

Throughout the MOU discussions, customers have requested a clear statement of the biological goals and estimates of the biological benefits that BPA's investments are achieving. Though we recognize the difficulty in these calculations, we are frustrated that estimates of the biological benefits are generally not available and that the Council and BPA have not made it a fundamental requirement that fish and wildlife expenditures be justified. Without

knowing the biological goals, it is impossible to evaluate the cost-effectiveness of alternate approaches for achieving those goals.

Customers believe that the basis of an understanding between BPA and the Council should be a foundation for establishing the Basin's funding priorities and determining BPA's obligation. An MOU that features a funding commitment as its chief component has it the wrong way 'round. This approach seems to focus solely on obtaining a specified dollar amount year after year, not on what can best be done for fish with limited resources. A successful understanding should be measured primarily by the achievement of favorable performance-based results for fish and wildlife populations, not on dollars collected and spent.

Outside of the funding discussion, customers can be supportive of an agreement that is limited to improving efficiencies in project selection or bolstering the cooperative working relationship between the Council and BPA. As stated in the Customer Principles, customers believe that increasing the role of cost-sharing and increasing incentives for cost-effectiveness in the project selection process are important goals. It is clear that not all of the Basin's limiting factors for salmon survival are due to the construction and operation of the federal hydrosystem. Many of these factors have no, or only a partial, relationship to the existence of the dams. Fairly apportioning the costs across the responsible parties makes sense for the region.

The customers are very supportive of BPA's initiative to increase the *on the ground* allocation of the Direct Program. The proportion of money identified for programs such as coordination, research and evaluation, monitoring and data collection, is disproportionately high compared to more fundamental activities directly benefiting fish, such as habitat and production.

Current activities that result in spending \$139 million expense and \$36 million capital per year need to be thoroughly prioritized based on biological benefits. Until an evaluation of this type is completed and it can be clearly shown what level of funds is needed to achieve the Program's biological goals, we see no justification to increase current expenditure levels. Consistent with the Customer Principles, any additional funding for the Direct Program should not result in an increase in total fish and wildlife spending for BPA's ratepayers.

Conclusion

Customers seek a low, cost-based power supply from BPA that allows us to maintain the region's economic viability while fulfilling the agency's legal responsibilities of environmental mitigation. This can be achieved only by giving very serious examination to fish and wildlife costs, which are a large and rapidly

growing component of BPA's cost structure. Entering into a long-term funding agreement will not allow BPA the flexibility it needs to prioritize its total fish and wildlife expenditures. We appreciate being involved with the process and thank the Council and BPA for the opportunity. We stand ready, and will devote the necessary resources, to work with both entities to identify the programs and projects that are best for fish and good for the region.

Sincerely,



Pat Reiten
President and CEO
PNGC Power



John Saven
Chief Executive Officer
Northwest Requirements Utilities



C. Clark Leone
Manager
Public Power Council

Enclosure

cc: Northwest Power and Conservation Council
Greg Delwiche
Doug Marker

Customer Principles for a Long-Term Funding Agreement for Fish and Wildlife

Utility and industry interests recognize the responsibility to address effects to fish and wildlife caused by operation of the Federal Columbia River Power System (FCRPS). Because Bonneville Power Administration (BPA) customers bear the costs of fish and wildlife mitigation programs through wholesale power charges and lost generation output, they are among the most committed to seeing the programs succeed. However, customers also reasonably expect that the resources made available for mitigation will be used in the most cost effective and efficient manner possible, consistent with a comprehensive recovery plan. The following principles are reflective of this expectation.

Performance Based/Results Oriented

Any viable funding agreement between the Northwest Power and Conservation Council (Council) and BPA must prioritize projects within the Fish and Wildlife Program, consistent with an integrated and scientifically based recovery plan, so that the region's limited resources are used in the most cost effective manner. Each project should have clearly defined goals, objectives and measures of performance that fit within the comprehensive plan. The plan should be administered in a manner that assures accountability for all parties involved, and includes open public participation. Justification for financial resources for additional mitigation measures should be established and understood.

Success should be measured primarily by achievement of favorable performance based results for fish and wildlife populations that are listed under the Endangered Species Act, pursuant to an integrated and scientifically based recovery plan. The continual focus should be on attaining real goals for fish, not on dollars spent.

Tie Between Funding and BPA Financial Health

In order to promote and maintain economic stability in the region, fish and wildlife funding levels and program demands should be tied to BPA's ongoing financial health.

Integration of Power Act and ESA Responsibilities

NOAA-Fisheries is still preparing its recovery plan for ESA listed stocks of salmon and steelhead. Without a *comprehensive and integrated* plan, it is impossible to prioritize where resources can be put to their highest and best use. A comprehensive plan must include:

- An analytical foundation based on the Best Available Science, which should include a review from a wide range of interests within the scientific community
- A clear identification of how the comprehensive plan mitigates specifically and solely for the effects to fish and wildlife caused by the operation of the FCRPS
- A detailed description of alternative approaches to mitigation opportunities, and the rationale and criteria for approaches selected
- Flexibility to incorporate new research
- A method to prioritize mitigation opportunities between fish and wildlife populations across watersheds and jurisdictions
- Guidelines to assure mitigation is implemented in the most cost effective manner
- Coordination among all parties funding and implementing mitigation in the region
- An achievable end point and definitions for success.

Cost Effectiveness

Fish and wildlife managers must share in the responsibility for prioritizing resources committed to fish and wildlife mitigation. Currently, there are few demonstrated formal incentives for managers to consider efficiencies and cost effectiveness when developing mitigation options. An agreement must include an IEAB or similar review for every project before funding is approved.

Inclusion of All Costs

In order to accurately reflect the commitment made to the fish recovery effort, and to allow for greater flexibility and cost effectiveness, an agreement should include all direct and indirect cost categories associated with fish and wildlife mitigation activities. These include, but are not limited to:

- Operational costs (*i.e.*, lost generation)
- Administration of the fish and wildlife program
- Reimbursed costs to the U.S. Army Corps of Engineers for their Columbia River Fish Mitigation Program
- Appropriated Capital

“Zero-Based” Funding

Programs should be built around scientifically based and agreed upon biological goals within a comprehensive plan, and should be subject to year by year accountability for results. An annual review should include a mechanism or procedure to discontinue project funding if it is determined that a particular project is no longer biologically effective or useful compared to alternatives, or is no longer needed to achieve the plan’s performance measures.

Each year, only those programs that are determined to be biologically effective or needed, when compared to alternatives, should receive new or continued funding. Critical infrastructure and needed O & M would retain funding year after year.

Cost Sharing

An agreement should encourage cost sharing for all mitigation projects. Other potential funding partners should be identified and pursued to avoid duplication of efforts, maximize effectiveness of programs and to stabilize costs for the region’s ratepayers.

Conclusion

The customers concur with BPA Administrator Steve Wright’s position, as referenced by the following quote:

“BPA is willing to explore the possibility of a broader, long term MOA on fish & wildlife costs for the post-2006 period, providing it provides a clear definition of BPA’s obligations, outcomes to be achieved, cost-effectiveness tests, and contemplates the ability to tie funding to Bonneville’s financial health so that funding adjusts in correlation to good and bad times.”

Administrator Steve Wright to Council Chair Judi Danielson; October 3, 2003