



Department of Energy

Bonneville Power Administration
P.O. Box 3621
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ENVIRONMENT, FISH AND WILDLIFE

February 9, 2007

In reply refer to: KE-4

Dr. Tom Karier, Chair
Northwest Power & Conservation Council
851 SW Sixth Avenue, Suite 1100
Portland, OR 97204-1348

Dear Dr. Karier:

I am pleased to provide the Bonneville Power Administration's (BPA) decision for the fish and wildlife protection, mitigation, and enhancement project proposals recommended by the Northwest Power and Conservation Council's (Council) for implementation of the *Columbia Basin Fish and Wildlife Program* (Program) during Fiscal Years (FY) 2007-2009. Our programmatic decision is the final step in the regional solicitation we jointly initiated on October 21, 2005. It relies upon and incorporates the project recommendations adopted by the Council at its October and November meetings, and forwarded to BPA on November 20, 2006. BPA appreciates all the hard work by the Council in formulating its recommendation, including the consideration of comments from Program participants and other interested parties. This decision benefits from the individual and collective input from across the region, facilitated by the regional process conducted by the Council.

In evaluating the Council's project recommendations and making BPA's implementation decision, BPA has endeavored to give substance to several inter-related objectives: consistency with the Council's Fish and Wildlife Program; progress toward a shared goal of improved Program delivery, effectiveness, and reporting that we have characterized as "reinvention;" integration of Endangered Species Act responsibilities and the commitments that are likely to be reflected in a revised "proposed action" and a newly crafted Biological Opinion for the federal hydropower system; and management of Program spending within a budget of \$143 million per year in expense and \$36 million per year in capital. In addition, we believe BPA's implementation choices over the next three years advance the principal overarching goal articulated by both BPA and the Council at the outset of the solicitation: to continue moving Program implementation towards project choices and funding priorities that are driven by clear biological objectives and explicit performance outcomes.¹

As with prior solicitations, project-specific funding amounts will be established in contracts based on negotiations between BPA and project contractors using these estimated individual project planning

¹ As the Council and BPA stated in a joint cover letter at the onset of the solicitation: "We are jointly endeavoring to develop and implement a performance-based fish and wildlife program, with biological, environmental or population performance measures clearly set forth in proposals" October 21, 2005, letter to the Region, from Mr. Delwiche and Mr. Marker.

budgets as a guide. As needed, we will rely on the within-year process in coordination with the Budget Oversight Group (BOG) for potential subsequent budget adjustments that may be proposed.

Consistency with the Council's Program – The Northwest Power Act (Act)² charges the Council with developing a program consisting of measures (sometimes also referred to as strategies) to protect, mitigate, and enhance fish and wildlife, and requires BPA to implement activities in a manner consistent with that Program, the Council's Power Plan, and the purposes of the Act. As detailed in the enclosed documents, BPA's implementation decision is consistent with the Council's Plan, Program, the purposes of the Act, and the other authorities and obligations of BPA. In particular, BPA's project selections reflect careful attention to the solicitation guidance and instructions, embody the Independent Scientific Review Panel project reviews, reflect public comments to the Council and BPA, and generally follow and incorporate the Council's project-specific recommendations.

Specifically, BPA will fund 260 of the approximately 285 projects recommended for funding by the Council via BPA's \$143 million/yr Fish and Wildlife Program *expense* budget. We also are choosing to fund 41 additional projects; nearly all of these additional projects are either reflective of commitments in the Interim 2007 Operations Agreement or reflect additional BiOp-related habitat work in the so-called high priority subbasins. In those limited circumstances where BPA is not adhering to particular project-specific recommendations, we describe the differences and explain our rationale in the tables that accompany our decision. Admittedly, BPA's choices place a premium on the implementation of projects with explicit biological or environmental performance benefits, and that have a clear nexus to the impacts on fish and wildlife of the Federal Columbia River Power System (FCRPS). Of necessity, in the absence of uniformly well-developed biological objectives, BPA has begun to emphasize on-the-ground projects that directly benefit fish and wildlife as a surrogate, during a period of transition, for the performance-basis in Program implementation underscored by the Council and BPA in the solicitation instructions.

Progress on program reinvention initiatives – BPA continues to encourage a view of FY07-09 as a critical period of transition – one in which BPA and the Council together re-set the broad programmatic parameters of project design and implementation to meet our mutually endorsed objectives. In comments to the Council last fall,³ BPA summarized some of the key attributes of the “reinvention” that we seek to implement. These initiatives include a greater focus on activities with clearly defined biological objectives,⁴ project evaluation and performance reporting based on a currency of common metrics, and increased focus on the implementation of projects with direct, on-the-ground benefits for fish and wildlife. Although we acknowledge that a Program of this magnitude requires a certain level of investment in “infrastructure” support and maintenance (e.g., coordination, education, monitoring), these administrative support functions have grown significantly in scale (and perhaps beyond the scope of BPA's responsibilities addressed solely to the effects of the FCRPS). It also warrants emphasis here that given our mutual commitment to project accomplishments reporting evaluation for *all* Program spending, the outcomes of infrastructure spending do not lend themselves to accomplishments

² Northwest Power Act, §4(h)(5)-(h)(10), 16 U.S.C. § 839b(h)(5)-839b(h)(10), 94 Stat. 2709-10.

³ October 6, 2006, letter and attachments from Mr. Delwiche to Dr. Karier.

⁴ As part of its agency-wide strategic direction for 2007-2011, BPA seeks to provide “*cost-effective solutions for meeting fish, wildlife and environmental responsibilities, measured against clearly defined performance objectives.*” BPA Agency Strategy Map: 2007-2011, S4.

reporting grounded in the biologically-based objectives and performance metrics we have both envisioned.

Expanding administrative costs, the escalating expectations of Program participants, and the embedded presumption that BPA will continue to serve as the primary funding source for the region's research, monitoring, and evaluation (RM&E) agenda – whatever its statutory origins – have coalesced to compromise the delivery of Program performance as measured by biological benefits provided to fish and wildlife. As we have noted previously: BPA's fish and wildlife obligations and commitments – including our Program and Northwest Power Act implementation responsibilities – ultimately are only met by protecting, mitigating and enhancing fish and wildlife populations affected by the FCRPS and not simply by increasing our knowledge about them, coordinating one another's authorities or perspectives, or administering a program. Active management of total Program spending, within budgets organized among categories, is one step toward addressing the persistent challenge of assuring the effective application of funds, the prioritization of actions, and the orderly accomplishment of Program goals across a broad range of programmatic effort and investment.

Consequently, while BPA is and will continue to be an active participant in regional RM&E efforts, our project decisions during this implementation period have begun to shift a greater percentage of our spending to fish and wildlife production efforts through habitat, hatchery and other actions that directly benefit fish and wildlife. Incrementally, through modest reductions or projected contract renewals held to FY06 levels, we are encouraging our implementation partners, as Program participants (and not merely recipients), to shoulder an increasing share of the administration and RM&E expenses that can be fairly allocated to them – encompassed within their agency statutory or organic management responsibilities. While BPA's decision is generally reflective of an initial shift in the latter direction, our decisions are very broadly consistent with the Council's recommendations. Additional change in the total allocations across programmatic spending categories will be evolutionary and incremental. For example, in FY06, using Columbia Basin Fish & Wildlife Authority project characterizations, the programmatic distribution of spending among categories for on-the-ground, RM&E, and Program administration (principally coordination) was about 55-40-5%, respectively; BPA's FY07-09 implementation decision results in an allocation of approximately 57-35-8% by the end of the 3-year period, based on the same project-level categorization method.⁵

Integration of Endangered Species Act – The Council and BPA have a long history of integrating projects addressing Northwest Power Act and ESA responsibilities into a single integrated Program. During the FY07-09 solicitation process, identifying and integrating projects that best meet the needs of ESA-listed anadromous fish has been particularly challenging, given that the FCRPS Biological Opinion currently under remand to NOAA Fisheries has not been completed. Although some uncertainty remains regarding the outcome of the remand collaboration, it has progressed to a point where a new draft Proposed Action (PA) will soon be released. This PA will incorporate an increased number of habitat actions benefiting ESA-listed stocks that have major population groups with relatively low productivity levels. Consequently, in addition to the Council's project

⁵ Note: This distribution is at a project level. As projects often contain a mix of on-the-ground implementation efforts, research, monitoring, or evaluation work, and coordination activities at the same time, we made a judgment as to the best category to describe the project as a whole. Once projects are contracted for and the work elements identified in PISCES, Bonneville will analyze the distribution of work elements for a more accurate categorization.

recommendations, our implementation decision also includes additional habitat projects that were proposed in the solicitation process and will benefit these stocks with relatively low productivity.

We will soon begin the initial steps for implementing these additional projects, so as to be ready to provide initial additional benefits to listed and non-listed species, and because they have already undergone Council and independent scientific review. In the interest of our implementation decision also being supportive of the thrust of a new Proposed Action, we have sought to fully coordinate these choices with the parties to the remand litigation – particularly the states and tribes represented through the Council – and, within the collaborative process ordered by the Court, integrate them into our Program implementation efforts. Following consultation with the Council in February, we plan to begin pre-implementation project activities, in order to be able to initiate contracting as soon as possible following a final remand outcome and a new court-supported Biological Opinion. This is important because our past experience suggests that it can take several months to develop contracts and complete permitting and other regulatory work prior to implementing projects on-the-ground.

Managing spending within the \$143 million expense and \$36 million capital budgets – As an outcome of the agency’s Power Function Reviews, and as communicated in BPA’s correspondence with the Council, our decision reflects the goal of managing annual average Program spending to \$143 million/yr (expense) and \$36 million/yr (capital) in FYs 2007-2009, plus the unspent carryover from FYs 2003-2006. BPA will also add approximately \$3 million dollars to the FY07 implementation budget (from power revenues) to reflect commitments in the recently announced 2007 Interim Operations Agreement, as discussed with the Council at its January 2007 meeting.

To minimize confusion and allow for straightforward comparison, BPA’s decision describes projected project budgets in dollar terms that mirror the Council’s project-level annual budget recommendations. However, it is important to note that BPA manages all of the agency’s programs based on fiscal year spending, not on the obligations basis or project year budgets the Council used in its recommendations. This distinction is important because our estimated fiscal year expenditures also include the cost of completing projects that were not re-proposed in the solicitation, but that have contract periods that span fiscal years and include spending that continues into FY07. Conversely, and equally important, only a portion of the budgets for new projects beginning in FY07 will actually impact FY07 spending; the spending impact of a three-year implementation decision for these projects will roll over into FY10. In addition to the project year versus fiscal year distinction, BPA’s decision also specifically accounts for the costs of closing projects, although these costs were not reflected in the Council’s recommendation.

In the course of incorporating these budget-related factors into an overall Program implementation budget, we have sought to match increases in spending for newly proposed on-the-ground work with pragmatic, principled, and explainable reductions in some spending for other ongoing projects. In some cases, we signal our intentions to close out certain projects by budgeting on a trajectory that diminishes, or eliminates, spending for them by the end of the implementation period. For others, we have held budgets either to FY06 levels, or have held increases at or below the rate of inflation. Some projects with persistent and ongoing *in lieu* concerns, while not targeted for closure, have been ramped-down to 85 percent of historic funding levels beginning in FY09, both as an impetus to address funding responsibilities that may have been inappropriately borne by BPA, and as a stimulus to promote more

robust cost-sharing that enables BPA to support additional on-the-ground work toward the end of FY09 and beyond.

BPA acknowledges that upward pressures on the cost of implementing projects will continue. Examples include rising costs for fuel and energy, health care benefits, and construction materials and supplies. Often, these pressures cannot be anticipated by proponents at the time proposals were developed, nor can they be fully taken into account even at the time of contract execution. We acknowledge that our efforts to manage finances systematically – across a spectrum of Program implementation activities and influencing factors, and over three years – may prove to be imperfect in some cases and there may be oversights in others. Consequently, BPA will carefully review budgets during contract negotiations and make the best possible assessment of appropriate costs (those necessary to achieve project purposes); and we will continue to work with the Council through the established steps of the within-year process and the BOG for any consideration of budget increases requested after contract execution.

It is also important to note that, as a result of our decision on project-specific budgets, the estimated aggregate spending level in some provinces is less than that budgeted and recommended by the Council. BPA's decision does not overtly reflect moving these dollars to other provinces; instead, these dollars are not reflected as being spent, most notably in FY08-09. As such, BPA asks the Council for its recommendation on how to approach this issue.

BPA's decision is more fully described in the enclosed supplementary materials and decision tables. We have organized the discussion of our decision around overarching categories of spending and investment. Part one describes those categories and the underlying rationale(s) for BPA's implementation decisions and project specific budget estimates. Part two consists of programmatic themes, overarching financial management considerations, and recurring policy issues that are, for the most part, not project specific, such as our treatment of placeholders. Part three contains BPA's final *in lieu* assessment.⁶ Lastly, BPA will post on its website an expanded legal analysis and discussion of the policy issues underpinning BPA's decision-making, and a record of decision under the National Environmental Policy Act covering this program implementation decision.

As always, please contact me if you have questions about this letter or the enclosed documents, and if you wish to discuss any of the issues associated with BPA's final programmatic decision. I appreciate your continued support of BPA's reinvention initiatives – aimed at our mutual goal of integrating all of BPA's obligations and commitments within a single Program that serves the broad resource protection, mitigation, and enhancement purposes of the Northwest Power Act.

Sincerely,

/s/ G.K. Delwiche

Gregory K. Delwiche
Vice President, Environment, Fish and Wildlife

Enclosures

⁶ The final *in lieu* ratings table is posted separately to BPA's website.

cc:

Mr. Bill Booth, Northwest Power & Conservation Council
Mr. Jim Kempton, Northwest Power & Conservation Council
Ms. Joan Dukes, Northwest Power & Conservation Council
Mr. Bruce Measure, Northwest Power & Conservation Council
Ms. Rhonda Whiting, Northwest Power & Conservation Council
Mr. Larry Cassidy, Northwest Power & Conservation Council
Ms. Melinda Eden, Northwest Power & Conservation Council
Mr. Doug Marker, Northwest Power & Conservation Council
Mr. Brian Lipscomb, Columbia Basin Fish & Wildlife Authority
Chairman Dean Adams, Burns Paiute Tribe
Chairman Chief Allen, Coeur d'Alene Tribe
Chairman Michael Marchand, Confederated Tribes of the Colville Reservation
Chairman Glen Nenema, Kalispel Tribe
Chairperson Jennifer Porter, Kootenai Tribe of Idaho
Chairperson Rebecca Miles, Nez Perce Tribe
Chairman James Steele Jr., Confederated Salish & Kootenai Tribes
Chairperson Alonzo Coby, Shoshone Bannock Tribes of Fort Hall
Chairman Terry Gibson, Shoshone Paiute Tribes of the Duck Valley Reservation
Chairman Richard Sherwood, Spokane Tribe of Indians
Chairman Antone Minthorn, Confederated Tribes of the Umatilla Indian Reservation
Chairman Ron Suppah, Confederated Tribes of the Warm Springs Reservation
Chairman Lavina Washines, Yakama Indian Nation
Ms. Mary Verner, Upper Columbia United Tribes
Mr. Olney Patt Jr., Columbia River Intertribal Fish Commission