



October 6, 2006

Tom Karier, Chair  
Northwest Power and Conservation Council  
851 S.W. Broadway, Suite 1100  
Portland, OR 97205

Dear Mr. Karier:

Thank you for the opportunity to submit comments on the Council's draft recommendations to the Bonneville Power Administration concerning its project funding decisions for FY2007-2009. As chairs of the Nez Perce Tribe, Umatilla Tribe, Warm Springs Tribe, and Yakama Nation, we want to express our deep concern about the Council's implementation of the Columbia River Basin Fish and Wildlife Program.

This letter identifies our overarching concerns with the Council's process for making project recommendations. Our tribes individually and through the Columbia River Inter-Tribal Fish Commission will provide comments with respect to individual projects.

### **The Fish and Wildlife Program Funding Level is Arbitrary and Inadequate**

We understand that Bonneville set, and the Council assented to, the fish and wildlife program funding level for Fiscal Years 2007-2009 quite some time ago. At that time we stated that Bonneville's proposal did not appear to have any discernable relationship to the 2000 Program Basinwide goals and objectives. We noted that the funding level was certainly not derivative of an analysis as to what it may take to begin implementing newly adopted subbasin plans. The Tribes and other fish and wildlife managers tried to work with the Council and BPA on a CBFWA effort to develop cost estimates for fully implementing the Program and Biological Opinion, but you never provided any input to our report. It also appears that the Council did not advocate adequate funding in various BPA processes. The funding level also seemed to be deaf to the Federal Court's continued admonition that more resources must be brought to bear on the salmon crisis. Simply put, the funding level established by Bonneville, and acquiesced in by the Council, was arbitrary. We recount this history because now, with the Council's draft funding recommendations, we can see the unsettling consequences.

- Over the next three years we will be committing less to fish and wildlife than in Fiscal Year 2006. Cost increases in materials, fuel, personnel more than consume the negligible program funding level increase. The fish and wildlife program is eroding.
- The Fish and Wildlife Program has been whittled down to little more than an inadequately funded ESA-listed salmon program. Lamprey, sturgeon, bull-trout, and unlisted salmon work would essentially disappear. All of these species are impacted by the hydrosystem. Many of your recently adopted subbasin plans feature these species. Failure to protect, mitigate, and enhance the full suite of affected species is not consistent with the Act, the Program or the Four Governors' letters.
- Your independent science panel says that the strategy of stripping out monitoring and evaluation to try to slow the erosion of actual on-the-ground projects is putting the Program on thin-ice scientifically.
- The tribes have provided analysis that the current level of effort is not likely to achieve the biological objectives of the Council Program. The region has not achieved the Council's first objective to stop the decline of salmon populations and is not on track to rebuild populations to five million fish above Bonneville Dam by 2025. In fact, at the current pace of implementation the Council subbasin plans will not be implemented for 40 to 80 years.
- On June 21, 2005 and January 10, 2006, CRITFC wrote to the Council detailing our rationale for the funding needed to fully implement your Program and seeking your analysis on this important issue. The tribes have not received responses to either of these letters.

### **The Local Review Processes Were Inconsistent, Unclear, and Failed**

Distributed bottom-up planning such as the Subbasin planning process has merit in the proper context. Farming out the project recommendations to four different venues does not. It was an experiment that didn't work. Neither the Act nor the Program requires this sort of balkanized effort, and the Council had never used such a process before.

The tribes care about how the program is implemented across the basin, not just in a single subbasin or province, or state. It was virtually impossible to understand how to effectively participate at a program, province or basin level. Even within subbasins and provinces, the processes varied. Transparency and accessibility for the exercise varied dramatically from state to state. Standards, criteria, and methods to prioritize projects (if there were any) were inconsistent from state to state.

Only when the Council draft recommendations were made public in the last two weeks were the tribes able to see this overall workplan and evaluate it. Even then, the reasons for some recommendations or choices remain a mystery because of the opaque processes in the prioritization efforts. For these reasons, we intend to work directly with BPA after the Council tenders its recommendations to ensure that there is an overall program that makes sense. We believe that BPA will need to make serious revisions to many elements of the recommendations.

Unfortunately, the Council's recommendations leave a major void.

- The promise of the subbasin planning effort remains unfulfilled. The region was positioned to craft strategic implementation plans as the next step, and to discern or build from those province and basinwide objectives. The disjointed, uncoordinated local review processes, for the most part, seems to have been able to do little more than discern political popularity, leaving biological integrity by the wayside.
- BPA has more work to do in making its decisions about funding a rational program after this process than it has ever had in the past. We expect significant departures from some elements of the Council's recommendations.

These process failings, when coupled with the currently vague Fish and Wildlife Program measures, have effectively circumvented the role of the fish and wildlife managers in implementation of the Northwest Power Act. The deference to the fish and wildlife managers that was intended by the drafters of the Northwest Power Act has been superseded by ad hoc and ill-informed judgments of the Council. Moreover, the Council's draft recommendations imperil treaty secured resources, such as lamprey, which have sustained tribal people for millennia and are now on the brink of extinction. The recommendations also run contrary to restoration of treaty-secured fisheries, such as coho in the Wenatchee River Basin. We object to the Council's decision to effectively remove measures from its Fish and Wildlife Program through its funding recommendations. This is a time for a greater regional commitment, not a lesser commitment.

### **Withholding Funding Is Unjustifiable**

The overall funding made available is inadequate, programs that are critical for the tribes are being slashed, entire species are dropping from the Program, and the Council is holding funds back for pet projects or issues. This is offensive and contrary to a sound and businesslike approach to implementation of the Northwest Power Act and the Council's Fish and Wildlife Program.

The Council should not have stashed away \$1 million for gimmick projects in an "innovative category." When the independent science group made a recommendation several years ago for innovative project funding, it was born out of a desire to secure new research ideas. This ISRP recommendation is now being transformed into a million dollar "pet-projects fund," which is non-responsive to the ISRP recommendations for research and the fish and wildlife managers' views on Program implementation. Does the Council intend to launch a new solicitation process this winter to spend "its" million dollars of innovative funding? Unless Bonneville remedies the serious problems in the Council's recommendations, such a solicitation would occur about the same time that the tribes are shutting down fish producing projects and truncating critical path research on species in rapid decline, such as lamprey.

There are additional millions of dollars that the Council has cut out of productive on-going projects to create what ostensibly is little more than a reserve fund for the FCRPS remand process. There is no rational basis for such a decision, since the Council does not and cannot discern at this time what will or will not be part of the proposed action in the remand, which may in fact include some of the projects the Council fails to recommend. The Council, however, has not made clear what its intentions are for these funds. If the Council is privy to information that it believes to be relevant to the remand, we request that the Council immediately share that information with the tribes, the action agencies, and the other sovereigns collaborating in the remand effort. We believe that the Fish and Wildlife Program

should be funded adequately, and to the extent the Endangered Species Act requirements defined in the Remand or by the District Court of Oregon require more, that Bonneville and the other Action Agencies add more funds. The Council should not recommend a “rob Peter to pay Paul” approach in its final recommendations, particularly when such an approach appears to be based on unstated assumptions about the outcome of the remand.

- The Program is inadequately funded. It is unreasonable to slash productive tribal projects to build reserve accounts for pet projects or anticipated issues.

### **The BPA Capital Policy Clarification Deserves Support**

The shifts in BPA's capital policy interpretation have caused huge problems in the local prioritization process and loss of trust with project funding partners. Fortunately, some missteps have been corrected by Bonneville. The Council should encourage Bonneville to implement its capital policy in ways that optimize the ability to access those funds. We thank the Council and Council members for their help in moving Bonneville in a more constructive direction on its use of the capital fund, and we urge you to persist in your efforts to have BPA truly makes these funds available for fish and wildlife.

### **The Program Funding Should Increase**

In times where Bonneville has asserted that financial crisis jeopardized its solvency the Fish and Wildlife Program was reduced – sometimes dramatically and with tremendous disruption. For years Bonneville has not actually spent all of the funding it represents is available for fish and wildlife. It occurs to us that we should ensure that we have the resources to meet fish and wildlife needs, and ensure that the resources that are available for fish and wildlife are utilized. As we approach Fiscal Year 2007 we note:

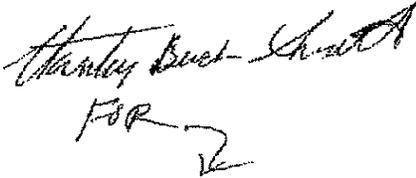
- Bonneville has nearly a billion dollars in reserves. It could choose to augment the fish and wildlife program funding *today* with absolutely no rate impact or risk to its other obligations.
- Bonneville has included provisions for spending more on fish and wildlife if pending litigation *forces* it to do so. Again, we believe that it should just make that choice *today* as a sound policy and legal decision.
- Bonneville rates are 53% below market. We estimate that BPA could fully fund the Council Program and Biological Opinion and still be 50% below market. This would rebuild our Treaty fish and wildlife resources, create thousands of jobs in rural and tribal communities and still continue significant benefits for ratepayers.

### **Conclusion**

The Council will soon make important decisions that affect the implementation of the Council Program. The tribes have previously provided extensive analysis demonstrating that the current funding is not adequate. We have also demonstrated that the Council's proposed decisions will cause major cuts in efforts to protect, mitigate, and enhance salmon and steelhead at the same time federal, state, and tribal governments are working hard to develop a new biological opinion that will require even greater effort. It makes no sense to terminate projects in October 2006 and then incur added costs to restart them again when the new biological opinion is completed next spring.

We urge the Council to work with BPA to continue ongoing fish and wildlife projects, initiate new projects that will be needed to implement the Council Program and Biological Opinion, and increase overall funding to levels that are adequate to fully implement the Program and the Biological Opinion. Again, thank you for the opportunity to comment on the Council's funding recommendations.

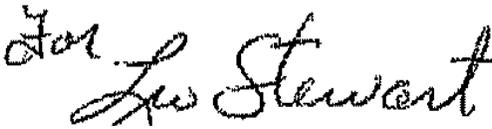
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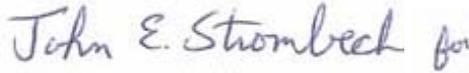
Ron Suppah  
Confederated Tribes  
Of the Warm Springs  
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Lavina Washines  
Yakama Nation



Antone Minthorn  
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The Umatilla Indian Reservation



Rebecca Miles  
Nez Perce Tribe

cc: Steve Wright, Bonneville Power Administration  
BG Martin, U.S. Army Corps of Engineers  
Bob Lohn, National Marine Fisheries Service  
Northwest Congressional Delegation



## COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

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October 6, 2006

Mark Walker  
Director of Public Affairs  
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Portland, OR 97204

Dear Mr. Walker:

Thank you for the opportunity to submit comments on the Council's draft recommendations to the Bonneville power Administration concerning its project funding decisions for FY2007-2009. This is one of a series of comments you will receive from our member tribes (Yakama Nation, Nez Perce Tribe of Idaho, Confederated Tribes of the Umatilla Indian Reservation, and the Warm Springs Tribes of Oregon), individually and jointly. We incorporate and support those comments, but generally do not repeat them here. We also reiterate by reference our October 2 comments on the tribal coordination projects. These comments are meant to address a few additional issues and supplement the issues raised in the letters from our member tribes.

### **General Comments**

The Council draft funding recommendations, in aggregate, undermine the significant work of the Independent Science Review Team and the Mainstem Systemwide Review Team, lowering the overall technical quality of the Fish and Wildlife Program. Project budgets have been arbitrarily reduced based on a financial algorithm or for other unexplained reasons with little attention to the work that will be completed. For instance, in many of the project-specific comments the Council defers to the project sponsors to prioritize their own work by stating "Ask sponsor to confirm during comment period what work can be completed at this budget level." The projects that eventually get funded may not resemble the proposals that the ISRP reviewed.

We feel that the creation of reserve accounts is unjustified in a program that is already severely under funded. However, the manner in which the reserve account was created is contrary to the Council's own project solicitation process. The way in which it may be used could serve as a mechanism for redistributing funds from the Basinwide funding category to other provinces, against the initial agreed upon funding allocations identified in the project solicitation announcement. One effect of such a reallocation is to reduce efforts to address basin-wide critical uncertainties (e.g. evaluating the effects of supplementation on natural production) identified by the Council and the ISRP and to, again, lower the technical foundation of the overall Program.

The Council's draft funding recommendations reduce funding for projects addressing certain critical uncertainties. This moves away from meeting the 2000 Fish and Wildlife Program interim biological objectives and, again, weakens the overall technical credibility of the Program in significant ways. Examples are provided in project-specific comments, below.

## **Ocean Research**

Two ocean research projects (200300900 and 200311400) were not recommended for funding by the MSRT review because they do not address the primary management questions related to operation and mitigation of the FCRPS and will not contribute significantly to the life cycle studies necessary for hydro operations.

The acoustic tracking study (200311400) in particular is unlikely to achieve its stated objectives as designed and is significantly less effective than the existing PIT tag system for estimating in-river survival. Tag releases below Bonneville Dam in 2004 and 2005 were 800 and 198, respectively. Recoveries from these releases were 3 in 2004 and 18 in 2005. The proposed releases in 2007 (2 lots of 500 each in the upper reaches of the Columbia and Snake Rivers) are unlikely to have more detections than previous releases. This is entirely inadequate to test the stated hypotheses. This is a very expensive project unlikely to provide useful management information. We recommend this project not be funded.

**Recommendation:** Do not fund these two projects and use the money instead to provide additional funding for the lamprey and sturgeon projects. These projects will provide much more immediate benefits to the Fish and Wildlife Program.

## **Lamprey**

Lamprey have been declining precipitously. These steep declines will become a crisis if not addressed, yet the Council continues to underfund or ignore this problem. It is far less costly and disruptive to the region and to operation of the hydropower system to address these problems before they gain the status of ESA issues.

Development of a lamprey sampling protocol cannot be completed for the proposed figure of \$200,000, as the Council recommends. As described in the work plan, this is an inter-agency effort and would require \$500,000. That includes assembling existing literature and data to compare past sampling efforts and data. That information would provide the technical basis upon which to develop a manual of field sampling procedures and a statistically defensible sampling design.

**Recommendation:** The Council should fund project 200716500 at \$500,000 to develop a full sampling protocol, including field manual and sampling design. Upon successful development of the protocols, the Council should approve funding for the field data collection portion of this project

## Sturgeon

Mainstem sturgeon populations above Bonneville Dam are experiencing severe recruitment failure in most years because of habitat changes resulting from construction and operation of the hydropower system. In short, sturgeon are not successfully reproducing. As with lamprey, it will be cheaper and less disruptive to address this situation before these populations become candidates for ESA listing.

Project 19860500 requested 1.6 million dollars annually for the 2007-09 funding period, but Council staff have recommended a funding level of 1.1 million, a reduction of 0.5 million dollars. This level will render the Project unable to complete most elements and tasks listed in the 2007-09 proposal. The proposal received excellent reviews from the ISRP “excellent proposal from a group with a good record of producing high quality technical reports and peer reviewed publications.” Additionally, the ISRP commended the Project on its integral part in the sturgeon management upstream of Bonneville Dam saying “ a key component in sturgeon stock assessment and management in the river above Bonneville.”

The proposed reduction will:

- Eliminate critical tasks rather than streamlining them;
- Eliminate the effectiveness of this Project to work cooperatively with other groups, particularly the PUD’s of the mid-Columbia, and may forego significant cost-sharing opportunities;
- Critical uncertainties will not be addressed, including improved information on stock-recruitment relationships, effects of spawning and reproductive success, understanding reservoir specific growth patterns, and refining target exploitation rates for harvest fisheries. This information is critical to management of populations negatively impacted by hydropower development.

**Recommendation:** Restore \$500,000 to this project (\$1,600,000 per year through FY2009) to:

- Continue existing data sets needed to inform management decisions and plans;
- Bolster depressed populations;
- Coordinate long-term management planning.

## Data Management

Reduced funding for existing data management projects force them to choose between updating existing databases or addressing additional regional needs expressed in the Council’s Data Center concept paper. Either way the data sharing gap will widen. We recommend the Council restore funds cut from these projects and provide additional funds from the placeholder amount to improve data sharing functionality as described in the Data Center concept paper.

The regional Data Workshop held on September 20 and 21 identified the lack of tribal data sharing capacity as a critical data gap. Cuts to existing tribal programs at the provincial level have reduced the existing minimal tribal data management capacity, thus widening this critical

gap. We recommend the Council add \$350,000 to the MSRT recommended StreamNet funding level (\$2,850,000 total) to fund significant efforts to increase tribal data management and sharing.

**Recommendation:** Fund the StreamNet project (project 198810804) at \$2,850,000 to develop new functions as described in the Council's Data Center concept paper and to provide additional support for capturing and sharing tribal fish data to meet regional information needs. Fund the Northwest Habitat Institute (project 200307200) at \$440,000 to provide additional capacity to capture and share wildlife data.

## **Fish Passage Center**

The Commission strongly recommends that the Council support the continuation of the current administrative arrangements and scope of responsibilities for the Fish Passage Center, which is reflected in joint-combined proposal for the Fish Passage Center services that emerged from the Mainstem System-wide Review Team (MSRT; Project 200732100). The MSRT deliberations regarding the Fish Passage Center reflects agreement among representatives of the Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife, Idaho Department of Fish and Game, CRITFC and the Columbia Basin Fish and Wildlife Authority. Nevertheless, at present the Bonneville Power Administration is enjoined by the Ninth Circuit Court of Appeals (Beezer, J.) to continue funding the Fish Passage Center, until further order of the Court. Neither our recommendations nor those of the Council will remove the Court's jurisdiction or change the Court's injunction. However, at such time that the injunction is lifted, we believe that the MSRT recommendation is consistent with the Program, whereas the Battelle recommendation is not.<sup>1</sup>

The Fish Passage Center has successfully tracked the migration of juvenile salmon from the Columbia's many tributaries for more than two decades. Today, the Center's responsibilities include, monitoring juvenile migration timing, coordinated salmon survival studies, assessment of fish response to gas supersaturation, and other technical duties necessary for salmon rebuilding in the Columbia Basin. If the Council wishes to consider modifications to the duties or administration of the Center, the Council must solicit in writing recommendations from the Commission's member tribes, publish those recommendations and any draft amendments following the timelines in the Act, and hold hearings in each of the states where the Commission's member tribes are located: Washington, Oregon, and Idaho.

## **Adult Salmon Run Timing and Upstream Migration (200701400)**

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<sup>1</sup> In fact the Ninth Circuit was fully aware of the Battelle proposal at the time it issued its injunction for continuation of FPC funding, since that arrangement was fully discussed in a series of four declarations authored by Greg Delwiche (BPA) and Rob Lothrop (CRITFC). A copy of the Supplemental Declaration of Robert C. Lothrop (Attachment 1) and the Ninth Circuit's order (Attachment 2) are attached to our comments. Also attached is a discussion of how The Council cannot undo its Fish And Wildlife Program measures for calling for continuation of The Fish Passage Center through its funding recommendations

Title: Stock specific run timing and upstream migration mortality of adult Chinook and sockeye salmon and steelhead through PIT tagging and genetic stock identification at Bonneville Dam

The Pacific Salmon Commission and NOAA have funded the development and standardization of genetic baselines for Chinook and steelhead populations in the Columbia Basin. CRITFC samples adult fish passing Bonneville Dam throughout the runs as part of its obligations under the Pacific Salmon Treaty. Adding routine genetic sampling to the Bonneville Dam sampling effort would allow identification of individual populations as they move upriver. That information could be used to shape fisheries and hydropower operations to better protect listed populations.

The development and maturation of two new technologies, genetic stock identification (GSI) and Passive Integrated Transponder (PIT) tags provides an opportunity to greatly expand the information we can obtain from our Bonneville monitoring program. This project will use PIT tags to verify to accuracy of population identification obtained from genetic stock identification methods. Once this comparison phase is completed, PIT tagging would be discontinued on a regular basis. PIT tag readers are now installed at fish ladders at almost all mainstem Columbia and Snake river dams, as well as at dams and weirs on many tributaries. Therefore, by inserting PIT tags in fish that we sample at Bonneville Dam, we can track those fish upstream giving valuable information on migration timing and survival rates. Coupled with genetic data, we would have the capability to determine the origin of these unknown fish collected at Bonneville Dam. Genetic identification of each run type and population will allow us to determine the stock composition of the different runs through Bonneville Dam with greater accuracy than current methods. Utilization of these advanced technologies offers tremendous improvement in the information that managers need to appropriately shift hydropower and fishery impacts away from ESA listed stocks toward sustainable populations.

This project contains significant cost sharing since the Pacific Salmon Commission pays for the sample collection effort. The BPA costs would cover additional PIT tagging and processing of the genetic samples. This project received favorable reviews from both the ISRP (“Fundable-Qualified”) and the MSRT (“Recommended Action”).

**Recommendation:** Fund this project at the requested level of \$967,895 for the FY07-09 period.

### **Supplementation**

Data which measure effects of supplementation on the long-term fitness of natural populations is sparse. Calls for enacting the M&E activities necessary to quantify these effects have been repeated in essentially every study which has reviewed hatchery programs in the Columbia basin for over 2 decades, including reviews by the ISRP.

### Reductions to ongoing supplementation projects

Through inter-agency collaborative efforts, a successful workshop was held this spring to review the interrelationships between existing supplementation projects. One conclusion was that the existing projects were all providing data useful for a coordinated basin-wide evaluation of supplementation. A second workshop to develop the actual coordinated study design is in the planning stages.

Council draft funding recommendations to reduce or eliminate funding for some of these key projects will delay efforts to resolve this critical uncertainty and reduce the technical foundation for future decisions on supplementation issues. While reduced funding for some of the projects involving supplementation of depressed salmon populations has been recommended in this FY'07-'09 round, many associated M&E projects have been recommended for no (0%) funding (Table 1).

A second category of supplementation-related projects are ones which involve reintroducing an extirpated population, and rebuilding it via supplementation. Spring Chinook in the Umatilla River, fall Chinook in the Snake River, and coho in the Yakima, Wenatchee, Umatilla and Clearwater Rivers have all been reintroduced and have established nascent naturally-spawning populations. In addition to their inherent "recovery" value, quantification of productivity measures from these projects provide estimates of the lower level to which a (depressed) natural population's fitness might decrease when subjected to an extended period of supplementation. Despite positive results documented by these on-going projects, funding has been eliminated in FY07-09.

These supplementation projects provide the basis upon which a coordinated evaluation effort will be developed. They should be funded at FY06 levels plus at least a 5% increase to cover some of the inflationary impacts.

**Recommendation:** Fund all projects in Table 1 at least at FY06 levels plus 5%.

### Steelhead Kelt Studies

The project title and the project number listed above do not match. The Kelt Reconditioning project number is 200001700 and is listed in the Mainstem on-the-ground and multi-province group of projects. The Kelt Reproductive Success project number is 200306200 and it is listed in the Regional research group of projects.

These two projects are often confused by the Council and others. They are listed in separate sections of the Basinwide recommendations, but should be viewed together as a coordinated pair of projects. The Kelt Reconditioning project (200001700) began first to determine whether it was even possible to maintain adult steelhead to a second spawning cycle. When that effort was successful, we needed to begin the Kelt Reproductive Success project (200306200). The reconditioning project uses various techniques to produce steelhead for a second spawning cycle. The Kelt Reproductive Success project determines which of the reconditioning techniques has the greatest contribution to future generations.

We had originally requested a total of \$945,906 for FY07 for the Kelt Reconditioning project (200001700). That included an expansion to additional reconditioning locations in the Snake River, partly in response to an ISRP recommendation to increase the number of replicate sites in this study. The MSRT recommended we defer the expansion of the project and held their funding recommendation to the FY06 level plus 5% for inflation (\$420,000). The Council did not accept the scope expansion, but held their funding recommendation to the actual FY06 spending level (\$400,000).

The Kelt Reproductive Success project (200306200) was submitted to the Council and BPA as part of the FY04-06 funding process. The contract was not completed until late in 2004 and involved an initial coordination, planning and permitting ramp-up period into FY2005. FY2006 was the first full year of operation and was recognized as the appropriate base funding level during the MSRT review process.

The Council draft funding recommendation for the Kelt Reproductive Success project (200306200) is an average of \$368,333 per year or a reduction of \$200,008 per year from the base period. There is no way we can maintain the present program, process the samples produced by the Kelt Reconditioning project, or complete the experiment in three years as per the Council's comments.

It appears the Council's funding recommendation for the Kelt Reproductive Success project (200306200) resulted from innocent oversight regarding either 1) confusion with the Kelt Reconditioning project (earlier comments mentioned reducing the scope of the project which was appropriate for Kelt Reconditioning but not Kelt Reproductive Success), or 2) an inappropriate funding calculation which assumed the project was fully operational throughout the FY04-06 period, or a combination of those factors.

**Recommendation:** We ask the Council to fund both these projects at their requested levels. Expansion of the Kelt Reconditioning Project and lesser increase in the Kelt Reproductive Success Project is necessary to complete the project in three years as requested by the Council. That would provide funding of \$945,906 for the Kelt Reconditioning project (200001700) and \$612,083 for the Kelt Reproductive Success project (200306200).

### **Coordination**

We submitted separate comments and recommendations concerning funding of coordination projects on October 2 and we include those here by reference.

Sincerely,



Olney Patt, Jr.  
Executive Director

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Attorney for Petitioner

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Confederated Tribes and	)	No. 06-71182
Bands of the Yakama Nation,	)	
Petitioner,	)	Supplemental Declaration of
	)	ROBERT C. LOTHROP in
v.	)	Support of the Yakama Nation's
	)	Motion for Immediate Stay
	)	
Bonneville Power Administration,	)	
Respondent.	)	
_____	)	

I, ROBERT C. LOTHROP, hereby state and declare:

1. My qualifications were set forth in my first declaration, dated March 3, 2006 and I incorporate that declaration herein. My second declaration responds to the first Declaration of Gregory K. Delwiche filed March 3, 2006 and the second Declaration of Gregory K. Delwiche filed March 13, 2006.

2. Mr. Delwiche's first declaration discusses the Northwest Power and Conservation Council's Fish and Wildlife Program and its funding

recommendations. 1<sup>st</sup> Delwiche ¶¶ 4-5, 8-16. I do not believe that Mr. Delwiche's discussion regarding the Bonneville Power Administration's fish and wildlife project funding is relevant to its decisions with regard to the Fish Passage Center.<sup>1</sup>

3. The specific tasks associated with the Fish Passage Center ("Center" or "FPC") are described in the Council's Fish and Wildlife Program, as is Bonneville's mandate to fund these tasks. This is no accident. State, federal and tribal fishery managers recommended, pursuant to the procedures of the Northwest Power Act, that the Program set forth the tasks that carry-on the activities of Fish Passage Center.<sup>2</sup> None of these recommendations distinguished "non-routine" from "routine" analyses to be performed by the Center. The Council is bound to follow such recommendations for Program content unless it can make certain findings that

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<sup>1</sup> A contrasting overview of BPA's funding actions for the fiscal years 2001 through 2004 was prepared by the Columbia Basin Fish and Wildlife Authority. [www.cbfgwa.org/FWProgram/Reports/FY2004/Chapter01Introduction.pdf](http://www.cbfgwa.org/FWProgram/Reports/FY2004/Chapter01Introduction.pdf)

<sup>2</sup> On February 7, 2003, the Columbia Basin Fish and Wildlife Authority representing 13 tribes, four state and two federal fish and wildlife agencies presented the NPCC with consensus recommendations in support of retaining the current services of the Fish Passage Center. Letter from Rod Sando to Mark Walker. [www.nwcouncil.org/fw/program/mainstem/2002-16comments/cbfgwa\\_fpc.pdf](http://www.nwcouncil.org/fw/program/mainstem/2002-16comments/cbfgwa_fpc.pdf). Similar letters expressing need for the FPC's services were sent in 2003 by the Oregon Dept. of Fish and Wildlife, [http://www.nwcouncil.org/fw/program/mainstem/2002-16comments/Lindsay\\_Ball.pdf](http://www.nwcouncil.org/fw/program/mainstem/2002-16comments/Lindsay_Ball.pdf) (p. 51); U.S. Fish and Wildlife Service, [www.nwcouncil.org/fw/program/mainstem/2002-16comments/USFWS.pdf](http://www.nwcouncil.org/fw/program/mainstem/2002-16comments/USFWS.pdf) (p. 3); Columbia River Inter-Tribal Fish Commission, [www.nwcouncil.org/fw/program/mainstem/2002-16comments/CRITFC.pdf](http://www.nwcouncil.org/fw/program/mainstem/2002-16comments/CRITFC.pdf) (pp. 3-4); and State of Idaho, [www.nwcouncil.org/fw/program/mainstem/2002-16comments/dirk\\_kempthorne.pdf](http://www.nwcouncil.org/fw/program/mainstem/2002-16comments/dirk_kempthorne.pdf) (p 8).

demonstrate such recommendations are for example, inconsistent with the Act's requirements. The Council accepted the managers' recommendations and set forth the Center's duties in the Program. The Program does not distinguish between "routine" and "non-routine" analyses.

4. I have reviewed the Second Delwiche declaration filed March 3, 2006. I do not share Mr. Delwiche's belief that the transition of the Fish Passage Center's functions to a new entity will be either seamless or will not result in a loss of services. It is clear from Mr. Delwiche's declaration that the only contract that exists as of March 13, 2006 to replace FPC services is a contract between Battelle and BPA. 2d Delwiche ¶ 3. Contracts between BPA and Pacific States and CBFWA are still in negotiation. Mr. Delwiche asserts that because all of these contracts are subject to future amendment (2d Delwiche ¶ 14) and other processes that have yet to be completed (2d Delwiche ¶16), Yakama and others cannot assert that any loss of services will in fact occur.

5. As Mr. Delwiche discusses in his first and second declarations, I have met with him and his staff as well as representatives of Oregon and Washington. At one of these meetings we discussed the Fish Passage Advisory Committee (FPAC) memorandum attached to the Lorz declaration. 2d Delwiche ¶ 20. Based on the discussions that occurred on February 27 with Mr. Delwiche, his staff, and Ed Bowles of Oregon Department of Fish and Wildlife, I believe that there are

differences of opinion with regard to the definition of “essential functions” of the Center to be continued in the future. Bonneville asserted at that meeting that some of the Center’s activities described in the FPAC memorandum were not among those “essential functions of the 2003 Mainstem Amendments” to be continued. Mr. Bowles and I disagreed with Bonneville’s characterization of the role of the Fish Passage Center in providing technical services to tribes and fish and wildlife agencies. My meetings with Mr. Delwiche should not be characterized as having resolved the Yakama’s or other tribes’ concerns.

6. Mr. Delwiche notes that “this [FPAC] memorandum has been used to help guide our discussions with Pacific States and Battelle regarding the distinction between **routine and non-routine** data analyses....” 2d Delwiche ¶ 20(emphasis added). Mr. Delwiche does not describe the distinction between the “routine” analyses to be performed by Pacific States and the “non-routine” analyses to be handled by Battelle. This distinction is significant. All other concerns aside, the prospect that a request for analyses from the tribes or other fishery managers will fall into limbo while some yet-to-be-formed entity decides whether the request is “routine” or “non-routine” is very real, quite troubling and inconsistent with the current services that the Passage Center provides.

7. Attachment A to my declaration is a February 6, 2006 Northwest Power and Conservation Council memorandum discussing the implications of the

distinction between routine and non-routine analyses. According to Mr. Shurts, the memo's author, "[t]he information from Bonneville is not as clear as might wish as to the nature of the "non-routine" analytical function (and precisely how it differs from "routine" analyses), except to say that it will stem from the Council's Fish and Wildlife Program provisions." Shurts Memorandum, Attachment A, p. 1. As discussed above, the distinction between routine and non-routine analyses was not an element of the 2003 Mainstem Amendment to the Council's Fish and Wildlife Program and those terms are not to be found in the Program.

8. Mr. Shurts discusses how a governing committee for the "non-routine" analyses might work "[a]ssuming the Governance Committee can be established by the entities suggested..." Shurts Memorandum, Attachment A, p. 2. He identifies a list of seven open-ended functions that the Council "should negotiate [in] its possible acceptance of a role in this committee..." *Id.* p. 3. To the best of my knowledge, negotiations on the terms of reference for a Governance Committee for "non-routine" analyses have not begun.

9. I disagree with Mr. Shurts' characterization of those analyses that should be considered "non-routine," which he identifies as fitting within the following two categories that are taken from the Fish and Wildlife Program:

3) Provide technical information necessary to assist the agencies and tribes in formulating inseason flow and spill requests that implement the water management measures in the Council's program, while also assisting the

agencies and tribes in making sure that operating criteria for storage reservoirs are satisfied; and

4) In general, provide the technical assistance necessary to coordinate recommendations for storage reservoir and river operations that, to the extent possible, avoid potential conflicts between anadromous and resident fish.

In my experience, the provision of technical information and assistance by the Fish Passage Center that is necessary for the agencies and tribes to formulate inseason flow and spill requests as well as recommendations for storage operations is, in fact, very routine. This has been standard practice of the Center for twenty years and was a basic tenant of the Center's creation. The Lorz Declaration describes this practice in greater detail. Lorz ¶¶ 5-9 and attached FPAC memorandum.

10. I disagree with Mr. Delwiche's "full expectation" that the Yakama Nation and other fishery managers in the region will have the same information available without any interruptions or changes in quality. 2d Delwiche ¶ 18. The uncertainty associated with the future contractual arrangements is already having a chilling effect on the Center staffs' provision of technical services. Attachment B is a declaration of Jerome McCann filed yesterday in the District Court of Oregon in a lawsuit related to this one, entitled *Michelle Dehart et al v. BPA*. Mr. McCann is an employee of the Fish Passage Center. In this declaration Mr. McCann states that various services previously provided by the Center staff would not continue under the new contractual arrangements, including basic analyses such as the fish survival effects of court-ordered spill operations, estimates of proportions of fish

collected at the dams, or website postings of System Operation Requests.

Attachment B, McCann Dec. ¶¶ 11, 12. Mr. McCann notes:

It is also apparent that my ability to prepare and communicate or publish analyses is being severely restricted by the BPA. Additionally, my participation in important regional processes such as the BiOp Remand are [sic] being discouraged.... I will not be allowed to provide reach survival analyses as I had in the past, I will not be providing summaries of survival analyses to TMT or ISAB and therefore, my impact on regional scientific debate is being severely limited.

Attachment B, McCann Dec. ¶ 14. Others at the FPC express similar chilling effects, including fear of retaliation by BPA. Attachment C, Declaration of David Benner, ¶ 8 (also noting that three senior staff at the FPC have not been offered continued employment).

11. The need for the services of the Center is acute at present because of the remand proceedings in *NWF v. NMFS*. Oregon, Washington and CRITFC have identified technical services related to fish passage that are needed for their participation. Attachment D (letter from ODFW, WDFW, CRITFC to BPA dated March 3, 2006). Ordinarily, I would have expected the Center to provide most these services. Mr. Delwiche indicates that he will “pursue the use of Battelle” for these services. 2d Delwiche ¶ 4. For several reasons, I do not believe that such pursuit is likely to be successful. First, the individuals who are best positioned to provide these services are currently employed at the Fish Passage Center and three of these key staff will apparently be out of work next week. *See* Attachment C,

Benner Dec. ¶ 8. Second, the Battelle scope of work is not designed to provide these staff services, rather it is oriented to “coordinating a peer review of the analytical product, and returning a peer-reviewed response to the request for analytical support.” Third, the Battelle contract is for \$550,000 and based on my budget estimates for the requested remand technical support, I do not believe it is likely that Battelle can provide these and other non-routine services within this budget amount.

12. A further basis upon which I believe Battelle cannot perform the prior FPC functions is the labyrinthine process now required in order to get a request considered, let alone completed. The BPA contract with Battelle (Ex J, p.6, to the 1<sup>st</sup> Delwiche Dec.) provides the following procedure :

- a. Upon receiving a request for analysis, PNNL [Battelle] will determine whether the request for analysis is within the scope of the Council Program, is a priority that can be accomplished within PNNL’s scope, and does not constitute an in-lieu funding issue. (A Governing Committee patterned after the ISAB’s Administrative Oversight Panel, will be established by BPA. The Governing Committee’s primary purpose will be to resolve issues arising from analytical requests that have significant policy implications, raise questions of priority relative to other requests, and/or could be outside the scope of work.) PNNL will be responsible for requesting input from the Governing Committee where necessary.

This contract term vests nearly unbridled discretion in Battelle as to what proposals do and do not get analyzed. The discretion appears to be even more expansive if Battelle decides to route a proposal to the Governing Committee

appointed by Bonneville, albeit yet to be formed. The independent science support previously supplied to the tribes on request may now be outright denied through an undefined process with ambiguous criteria. Moreover, analyses may be delayed or denied in cases of perceived “significant policy implication[s].” Current Center practices do not withhold science analysis because of “policy implications.” The proposed system has the real potential to deny the tribes the science that needed to participate in the hydro system management process, since Bonneville has often asserted that river management decisions concerning flow and spill affect its revenues and are matters of regional and federal policy. It is my opinion that such restrictions effectively throttle tribal ability to obtain real-time scientific information if it addresses a controversial subject.

13. I do not agree with Mr. Delwiche’s “apples to oranges” analogy by which he characterizes a February 28 memorandum from Michele DeHart. 2d Delwiche ¶¶ 10-18. The question addressed in the February 28 memorandum was relative to a routine activity and provision of data for in-season management decisions. The memorandum relied on Bonneville’s Pisces data system and was clear with regard to the work statements it compared. Pisces is a public data source for Bonneville funded contracts and work statements. The memo compared the new Pacific States work statement that had been posted on Pisces as of the date of memo with the existing Fish Passage Center Pisces work statement.

The memorandum did not assert that it compared anything else, such as the Battelle work statement. Exhibit D to the second Delwiche declaration underscores the fluid nature of the contract terms, including what work is defined “routine” (Pacific States) and “non-routine” (Battelle). For example, Exhibit D states that BPA “is continuing to define ‘routine,’ with the expectation that the definition will expand as user ‘requirements’ are defined **within the comfort levels of the policy folks.**” 2d Delwiche, Exhibit D, p. 2 (emphasis added). It thus appears that another criterion, “comfort levels of the policy folks,” may determine whether analyses that were previously routinely available to the tribes from the Passage Center will be similarly available in the future.

14. A further reading of Exhibit D reflects that the DeHart memorandum was soundly based. The operative phrases and conclusions in Exhibit D are often couched in words of equivocation or anticipated future agreements, for example:

Page 2 - "Tasks are defined within the comfort level"

Page 3 - "have proposed" (#3), "have proposed" (#5).

Page 4 - "we anticipate", data "can be deferred"

Page 5 - "we have asked"

Page 7 - "probably will provide some *ad hoc* routine analyses"

These statements reflect uncertainty and the fact that Bonneville, not having completed transfer process, presents a moving target and criticizes Dehart for not

hitting it. Further in Exhibit D, Bonneville agrees that Ms. Dehart was correct on several items, even with the moving target reflected in Exhibit D, for instance at page 2 - #2 (non-routine analyses), page 3 - #6 (outreach and education), page 4 – III (CSS [Coordinated Survival Study]), page 5, last two "claims" (services to “agencies and tribes,” and “routine” analyses), and page 6 - #2 (coordination with regional RM&E).

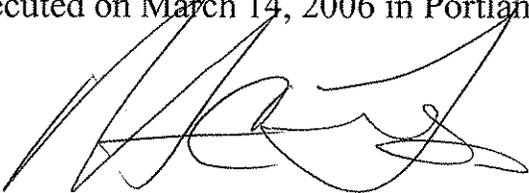
15. The current Passage Center contract was extended by Bonneville and is set to expire shortly. The previous Center contract was set to expire November 30, 2005 and in late October BPA indicated that Bonneville would extend the contract into March 2006. 1st Delwiche ¶ 18. It is my understanding that the contract extension to March 2006 was intended by Bonneville to allow time for orderly transition of the Fish Passage Center duties in the 120-day timeframe in the conference report language. In my experience, such a contract extension was unusual only in that it was in response to anticipated congressional direction. In the more than two decades of the Center’s existence, Bonneville has often extended the Fish Passage Center’s contract to allow for the negotiation of new contract terms. Since its inception, the Center’s contracts have been with minor variations for a period of one year. As each contract period has neared its ending date, Bonneville has either renewed the contract or extended and then renewed it. To the degree that

the current Center contract is set to expire in the near future, such expiration is on Bonneville's terms and within Bonneville's control.

16. Based on the incomplete state contract negotiations in transitioning the Fish Passage Center's duties, uncertainty over what those duties are and whether they are "routine" or "non-routine," whether routine analysis enjoy policy "comfort," the potential veto of tribal non-routine analysis requests by Battelle or a yet to be formed "Governing Committee," lack of deference to tribal and state recommendations for continuation of the Center's services, and the chilling effect that BPA's actions have had on providing these services, it is my opinion that the Yakama Nation and other tribes are significantly harmed by Bonneville's decisions to dismantle the Fish Passage Center. This harm is compounded by Bonneville's actions that are inconsistent with the current Fish Passage Center functions and tasks required by the Fish and Wildlife Program.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, based on my education, experience, and professional judgment.

Executed on March 14, 2006 in Portland, Oregon



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Robert C. Lothrop

Tom Karier  
Chair  
Washington

Frank L. Cassidy Jr.  
"Larry"  
Washington

Jim Kempton  
Idaho

Judi Danielson  
Idaho



Joan M. Dukes  
Vice-Chair  
Oregon

Melinda S. Eden  
Oregon

Bruce A. Measure  
Montana

Rhonda Whiting  
Montana

February 9, 2006

## MEMORANDUM

**TO:** Council Members

**FROM:** John Shurts

**SUBJECT:** Possible Council participation in the Governing Committee proposed by Bonneville to oversee the reorganized mainstem analytical function

**The February meeting includes an agenda item to update the Council on the Fish Passage Center transition. The focus of the discussion will be on possible Council participation in the proposed Governing Committee for the analysis coordination role that Battelle will take on.**

As part of the Fish Passage Center transition, Bonneville proposes to contract with the Pacific Northwest National Laboratory (Battelle) to provide what Bonneville calls "non-routine technical analyses" that falls within the substantive scope of the mainstem passage analyses called for in the Council's 2003 Mainstem Amendments. Bonneville has proposed that the Council join with NOAA and the CRITFC and UCUT tribes in a governing committee overseeing this analytical function.

The Council has to decide whether it wants to play such a role, and what that role would really be. The purpose of this note is to flesh out the possibilities. The Council should think of this as a pilot project for FY06. The Council will recommend a long-term resolution for this and other elements in the FY07-09 project review process.

**What is "non-routine" analysis? The analytical function as described in the Mainstem Amendments.** The information from Bonneville is not as clear as we might wish as to the nature of the "non-routine" analytical function (and precisely how it differs from "routine" analysis), except to say that it will stem from the Council's Fish and Wildlife Program provisions. The Council's program describes the analytical and other functions of the Fish Passage Center in this way:

- 1) Plan and implement the annual smolt monitoring program;
- 2) Gather, organize, analyze, house, and make widely available monitoring and research information related to juvenile and adult passage, and to the implementation of the water management and passage measures that are part of the Council's program;

3) Provide technical information necessary to assist the agencies and tribes in formulating in-season flow and spill requests that implement the water management measures in the Council's program, while also assisting the agencies and tribes in making sure that operating criteria for storage reservoirs are satisfied; and

4) In general, provide the technical assistance necessary to coordinate recommendations for storage reservoir and river operations that, to the extent possible, avoid potential conflicts between anadromous and resident fish.

"Non-routine" analysis would seem to fit within the last two categories. What could be considered "routine" analysis has meant taking raw data from the dams and elsewhere, organizing and displaying that data systematically, and drawing the obvious or direct conclusions (e.g., in season, that the bulk of the juveniles are now moving through the xxx projects; or, in retrospect, that 95% of the juvenile passage occurred as of xxx date). Non-routine analysis would seem to include such matters as, prospectively in-season, the technical assessment of possible alternative actions given current conditions, and, retrospectively, what were the survival effects of certain actions under the given water conditions and fish numbers and movements.

**What will Battelle be doing? The process for non-routine analysis.** Bonneville describes what Battelle will be doing in this way: Battelle will establish a coordinator for handling requests for such analysis. Battelle will also arrange ahead of time, through some sort of RFQ process, to have a stable of expert analysts qualified, contracted with, and available to do this type of analysis. And it will establish and have ready an independent technical review team to review the analysis,

The process then is to work like this: As a request for such analysis comes in, the Battelle coordinator will decide whether the request is within the scope of the analysis called for in the Council's program. If so, the coordinator will arrange with one or more of the expert analysts already qualified to do the analysis. The coordinator will also arrange to have the independent technical review team review whatever analysis comes from the expert analysts. The coordinator will then make the final analysis available to the requester and the public. *See* the attached diagram from Bonneville's presentation on the transition.

**What is the role of Governing Committee, in Bonneville's view? Guidance.** Bonneville proposes a Governing Committee to oversee Battelle's handling of this analytical function, consisting of one member from the Council, one from NOAA (either from the Regional Administrator, or the Science Center, or both), and (apparently) one member jointly agreed to be the CRITFC and UCUT tribes (and perhaps by the other tribes with interests in system operations?). The Battelle coordinator would refer to the committee requests for analysis that appear (to the coordinator) to be outside the scope of his expected function and other knotty problems. The committee would in turn provide "guidance" to the coordinator in fulfilling his or her function.

**What might the Governing Committee actually do? Suggestions for the Council.** This analytical process will work only if it can credibly and quickly respond to requests for analysis to serve the needs of fish and wildlife managers and others. Assuming the Governing Committee can be established by the entities suggested, it could go a long ways toward making this happen by:

- establish a set of guidelines or criteria for the coordinator to use in identifying expert analysts, and possibly review and comment on (and perhaps even having a veto over) analysts Battelle proposes to engage for this function;
- similarly, establish guidelines and criteria for the independent technical review team, including how to set it up, what kind of members to seek and how to appoint them, what the procedures for the review team will be, etc. (with a strong suggestion that the independent review team be established under the purview of the ISAB in some fashion);
- establish criteria for how the coordinator is to evaluate and decide what types of analytical requests are within the scope of the analytical function called for here, and serve as a review body for requests deemed by the coordinator to be out of scope;
- describe a set of expectations for the steps and timing of the analytical process, to ensure that the process is responsive to the needs of those engaged in annual and in-season management;
- help the coordinator set priorities for handling competing requests for analysis;
- set up some sort of regular reporting requirements for the coordinator so the committee is able to monitor the progress of this process in serving the analytical needs of the interested entities -- and be ready to adjust how this works if it is not serving those needs; and
- be responsive to the requests of the coordinator for guidance on other matters, including resolving questions or disputes that arise from the handling of requests for analysis by the experts coordinated by Battelle.

The Council should be ready with this or a modified list of functions it believes the Governing Committee should undertake. Then, the Council should negotiate its possible acceptance of a role in this committee by insisting that the committee take on the list of functions, and ultimately decide whether to join based on the level of success we have in securing these functions in the committee.

**How the Governing Committee might work, and how the Council might staff its role.** People have suggested this committee would be similar to the ISAB Oversight Committee, and certainly its make-up is meant to suggest that. Frankly, it seems unlikely that this Governing Committee would function much like the ISAB Oversight Committee. The entities involved in the ISAB Oversight Committee were themselves responsible for setting up the ISAB, they established the Board very directly to help these entities carry out their statutory functions, and the entities on the ISAB Oversight Committee are *the* source (along with the ISAB itself) for the questions the ISAB reviews. None of this will be the same for the oversight of the analytical function described here, and the differences will make the experience quite different, or at least so it seems.

Even so, the details of how the ISAB Oversight Committee actually works might be a useful model here. The Council should itself choose how it wants to be represented, whether by the Chair or by another member. Then, while the official members of the Governing Committee would be a Council members and other high agency officials, the Council (and the other entities) should also name a staff member to staff this function within the Council and for the official committee member, and have that staff member work with the other staff representatives as the primary way in which the Governing Committee does its work. The suggestion for the Council would be to rely on the new mainstem staff person in the Fish and Wildlife Division. The higher level members of the committee would rarely meet -- once a year or so -- unless circumstances require something more. And the Council and its partners should begin the committee by establishing it by charter, spelling out how the committee members are to be named, what the functions of the committee will be, and how the committee is to operate.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**MICHELE DEHART, THOMAS  
BERGGREN, JEROME MCCANN,  
MARGARET FILARDO, DAVID  
BENNER and HENRY FRANZONI,**

Civil No.

**DECLARATION OF  
JEROME MCCANN**

Plaintiffs,

vs.

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**BONNEVILLE POWER  
ADMINISTRATION, and STEPHEN  
WRIGHT, Administrator, Bonneville  
Power Administration (in his individual  
capacity),**

Defendants.

PAGE 1 - DECLARATION OF JEROME MCCANN

I, Jerome McCann, state and declare as follows:

1. My name is Jerome McCann; I am a resident of Oregon and I have a Master's Degree in Fishery Science from Colorado State University. After graduate school, I worked as a research fish biologist for the U.S. Fish and Wildlife Service (USFWS), at the Columbia River Research Laboratory, in Cook, Washington for two and one-half (2 ½) years. Subsequently, I began working for the Fish Passage Center (FPC) as a Fishery Biologist/Data Analyst. I have worked at the FPC in this capacity since 1995.

2. As a Fishery Biologist/Data Analyst at the FPC, I provide state and federal agencies and tribes with a wide range of analyses, in addition to managing the Smolt Monitoring Program, and participating in regional meetings related to operating and modifying the dams to improve fish passage. Data analysis is the most important, substantive and enjoyable aspect of my job at the FPC. At the request of the fishery agencies and tribes, I perform juvenile salmon survival and travel time analyses. I also perform statistical analyses used by the region in analyzing the effects of dam operations such as spill on fish survival. The analysis I provide is unbiased and accurate, and used as part of the ongoing scientific debate, to determine what types of management actions were most beneficial for improving fish survival through the hydrosystem.

3. While healthy scientific debate is important, it is because of this intense ongoing debate, and because data provided by the FPC has presented accurate and unbiased findings which do not support the interest of our funding source BPA, other hydropower interests and Senator Larry Craig, that BPA ultimately cut FPC funding.

4. During the summer of 2004, there was heated debate in the region regarding the benefits of the summer spill program. During that year, FPC provided analyses at the request of CRITFC, which presented data that supported their efforts to maintain spill protections for fish in the Lower Columbia River. Then, in 2005, the FPC was asked by Oregon and Columbia River Inter Tribal Fisheries Commission (CRITFC) to provide analyses and technical support for their efforts related to the biological opinion prepared by NOAA (BiOp). My efforts involved technical review of NOAA white papers issued in support of their 2004 Biological Opinion, as well as estimates of fish transportation proportions under various spill scenarios at Snake River dams.

5. FPC data was then presented as evidence in this Court by the Plaintiffs in *National Wildlife Federation, et. al.* In that case, the Court relied, in part, on the FPC analysis of the spill scenarios when it ordered spill during the summer of 2005. I remember being quite surprised when the Court ordered the summer spill at the Snake River dams.

6. Shortly after the Court's decision regarding the summer spill, Senator Larry Craig made statements in a Committee Report to cut funding from the BPA to the FPC. Other members of the FPC staff and I learned of those statements by Senator Craig three days after the spill started.

7. In December of 2005, BPA announced the request for proposals, cutting short our contract. By mid-January we still were not sure what was going to happen to us because no one had said anything directly to any of us: not Senator Craig, not the BPA, no one. Then BPA announced their decision as to which proposals would be funded. It was not until two weeks later that Pacific States Marine Fisheries Commission (PSMFC) contacted us to let us know that

they were working out the details of the transitional contract. Several of the existing FPC staff were asked to remain and work under the new contract. However, we still had nothing in writing, or formal presentation of any information regarding the FPC termination.

8. We then met with Carter Stein, the PSMFC representative who would be project leader after the FPC was shut down, and we began to learn just what role those of us who were to be rolled over would have under the new contract. Dona Watson was asked to modify the FPC statement of work to reflect changes BPA wanted to incorporate.

9. Initially, I was surprised when Mr. Stein initially suggested that things would change only slightly. He made a statement saying the region had shown a desire to have much of what we produced in terms of data and analyses, and he was in favor of continuing to do what we do, until the region tells us otherwise. Mr. Stein went over the BPA contract process in the meeting, and then we discussed budget specifics. He encouraged us to increase budgets to reflect the true costs of doing business. After several years of severely restricted budgets we were suddenly asked to put together a full budget that would include things like travel, office supplies, a leased vehicle, updated computer equipment. We also discussed how we could remove politically sensitive words from the statement of work (SOW), such as Fish Passage Advisory Committee (FPAC), and Comparative Survival Study. He asked that we make the SOW more generic by removing words that BPA would not like, and replacing them with very vague language. Finally he asked Henry Franzoni, Dona and I to put in "other" categories under each work element to provide contract flexibility. It seemed like a game of cat and mouse with BPA.

10. However, when we met with Mr. Stein again, on February 27, 2006, he made it clear that Roy Beaty, who I believe is a representative of BPA's Environmental, Fish and

Wildlife Group, and others at BPA were making decisions regarding what would and would not be included in the contract. The SOW had been significantly altered by BPA to remove further mentions of the FPAC. The SOW had also been revised to delete references to Comparative Survival Study (CSS), an ongoing PIT-tag study that was funded by BPA, but carried out by state and federal agencies. One of the primary purposes of CSS, which was coordinated by Tom Berggren and others, was to assess the effectiveness of the fish transportation program. The CSS findings did not support transportation for wild yearling Chinook salmon. The revised SOW that Mr. Stein shared with us also lacked any reference to the provision of support to agencies and tribes and vague language previously included to provide contract flexibility had also been deleted. In essence, BPA had begun severely restructuring what we would do.

11. During the February 27 meeting, Mr. Stein referred to a memo from Roy Beaty that outlined where to make deletions. One area BPA wanted to restrict was Dave Benner's graphs used for updating FPAC on reservoir operations. According to Mr. Beaty, Mr. Benner was not to refer to reservoir flood control elevations or operations necessary to achieve target elevations. According to Mr. Stein, BPA had instructed him that he could only report elevations. Further restrictions were also outlined in Mr. Beaty's memo. Mr. Stein informed us that these additional restrictions to our scope of work included that we were no longer to provide FPAC support; we were no longer to respond to System Operation Requests, which are letters from FPAC member agencies formally asking the COE for certain operations for fish, such as spill, reservoir elevations, bypass operations etc..., and that we were to conduct no politically sensitive analyses. Specifically, my understanding is that I will no longer do survival analyses, such as the summer spill analysis I presented to the Independent Scientific Advisory Board (ISAB)

/Independent Scientific Review Panel (ISAP) (groups of scientists enlisted by the Northwest Power and Conservation Council to review scientific data) in December of 2005, which showed that spill operations improved survival for subyearling chinook in the reach from Lower Granite Dam to McNary Dam. That analysis initially looked at the impact of the court ordered summer spill in 2005, but was expanded to include the years 1998 to 2005 for the final presentation to ISAB/ISRP. My understanding is that I will not due any analysis beyond summary statistics on passage data. When I asked Mr. Stein if I would be providing estimates of the changing proportions of fish collected at the dams, he argued that to do so would not seem consistent with the idea of simply providing data for others to interpret. Based upon this conversation with Mr. Stein, I understood that BPA meant to severely restrict our analyses.

12. On March 10, 2006, my colleagues from the FPC and I met again with Mr. Stein and he went over several deletions to the FPC website that would occur at the transition on March 20. According to Mr. Stein, anything related to Bull Trout, Lamprey, and Chum salmon spawning below Bonneville Dam, would be removed from the site. Further, he advised us that no new SOR's would be posted.

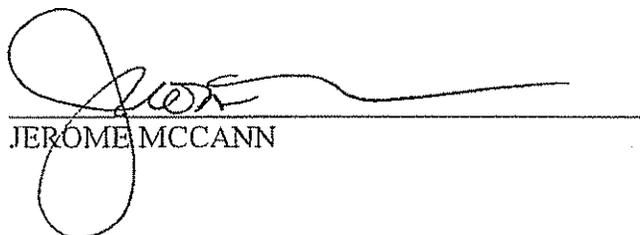
13. In addition, Mr. Stein told me during this March 10 meeting that I could not attend BiOp Remand/Compass meetings unless I was requested to attend by agencies after the transition had occurred. I had provided Mr. Carter with such a request after a previous meeting, but that request had been addressed to Michele DeHart. Randy Fisher, Director of PSMFC, wanted a new request addressed to him.

14. Since the transition out of the FPC program began, I have been reluctant to participate in regional meetings as I used to, because it is obvious to me that I will no longer be

allowed to continue the work that enabled me to make valuable contributions. It is also apparent that my ability to prepare and communicate or publish analyses is being severely restricted by the BPA. Additionally, my participation in important regional processes such as the BiOp Remand are being discouraged. I am not sure how difficult it will be to get the same written "permission" now that I am working under the new BPA plan. I will not be allowed to provide reach survival analyses as I had in the past, I will not be providing summaries of survival analyses to TMT or ISAB and therefore, my impact on regional scientific debate is being severely limited. This is all very upsetting to me as a scientist and I believe these changes will have a severely negative impact on my career and experience as a scientist.

15. In addition, I am afraid now that if I do speak up in meetings and present data that goes against the hydropower industry interests, specifically BPA and Senator Craig, that I will be fired. Consequently, I will not be presenting the kind of candid data analyses I provided previously. I strongly believe that other scientists and managers in agencies that receive funding from the BPA, such as the CRITFC, the Oregon Department of Fish and Wildlife, the Washington Department of Fish and Wildlife, and the Idaho Department of Fish and Game, will be afraid to present their scientific findings, no matter how accurate, because they will be afraid that their funding will be cut next.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 13<sup>th</sup> day of March 2006 at Portland, Oregon.

  
JEROME MCCANN

X:\Sullivan\Fish Passage Center 5048\ pleadings\McCann Declaration.wpd

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**MICHELE DEHART, THOMAS  
BERGGREN, JEROME MCCANN,  
MARGARET FILARDO, DAVID  
BENNER and HENRY FRANZONI,**

Civil No.

**DECLARATION OF  
DAVID BENNER**

Plaintiffs,

vs.

**BONNEVILLE POWER  
ADMINISTRATION, and STEPHEN  
WRIGHT, Administrator, Bonneville  
Power Administration (in his individual  
capacity),**

Defendants.

PAGE 1 - DECLARATION OF DAVID BENNER

I, David Benner, state and declare as follows:

1. My name is David Benner and I am a resident of Oregon. I have a Bachelor's Degree in Science from the University of Oregon and a Masters degree in Hydrology from Oregon State University. Previously, I worked as a Hydrologist at David Brown and Associates, Inc., and am currently a Data Analyst/Hydrologist for the Fish Passage Center (FPC). I have worked at the FPC in this capacity for 4 years.

2. As Data Analyst/Hydrologist at the FPC, my main duty is to respond to all requests for hydrologic analysis. Most requests for such analysis come from state, federal, and tribal agencies. Data requests that I have responded to have ranged from weekly updates of precipitation, snow pack and water supply in the Columbia River Basin, to calculations of water particle travel times between projects, to estimations of Columbia or Snake River flows under differing operational scenarios of large storage reservoirs. In my capacity as Data Analyst/Hydrologist for the FPC, I have worked closely with many Fisheries Managers and technical groups in the Columbia River Basin. I believe my involvement with these Fisheries Managers and technical groups has had a beneficial impact on decision-making in Columbia River Basin Fisheries.

3. Through my work at the FPC, I have come to understand that the Columbia River Basin is very unique. Specifically, on the one hand, its historical salmonid returns are an icon of the Pacific Northwest and on the other hand, it generates a great deal of the Pacific Northwest's electrical power supply. It is because of this unique circumstance that many groups with interests in the Columbia River Basin are divided on policy in regards to fish passage and mortality rates. It became clear to me shortly after joining the FPC staff, that those entities with an interest in the

Columbia River Basin's power supply viewed the FPC as an obstacle to their own interests, even though FPC data was accurate and unbiased.

4. The first time I felt like the FPC was truly being attacked because of its scientific findings was after a failed attempt in 2002 by the Bonneville Power Administration (BPA) and the Northwest Power Planning and Conservation Council (NPCC) to curtail summer spill. I recall feeling a real uncertainty about the future of the FPC after hearing discussions at the NPCC meetings, regarding a need to consolidate the data collection functions of the FPC with Data Analysis Real Time (DART) at the University of Washington. Several individuals at the NPCC stated they believed that the data collection of the FPC and DART were redundant. However, these allegations of redundancy were investigated and determined not to be true. Also, in response to these allegations, the state, federal and tribal agencies that relied on FPC data then and still do today, expressed strong and clear support for the FPC. This support made me feel they appreciated our hard work at the FPC and that our efforts to report reliable and unbiased science was imperative to their agencies' fish and wildlife programs.

5. In 2005, after FPC documents and scientific findings were entered into evidence before this Court by the Plaintiffs in *National Wildlife Federation, et. al.*, and this Court relied in part upon that evidence and ordered spill, Senator Larry Craig made statements in a Committee Report that said BPA was not to fund the FPC anymore. After this action, I knew the FPC was again under attack for its scientific findings. Subsequently, BPA cut FPC funding and has proposed a new plan to take over the duties of the FPC. However, BPA never provided me or my colleagues with any opportunity to address the allegations made by Senator Craig or any of his staff.

concerned over the impact they may have on my future employment. In the world of science, claims of bias are not taken lightly. I know now that if I report scientific findings that are contrary to the interests of Senator Craig, the BPA, or the hydropower industry, that I will suffer even more retaliation and next time will likely find myself out of a job like my co-workers, Michele DeHart, Margaret Filardo and Thomas Berggren, who were not offered roll-over positions under the new BPA plan. I am afraid that I may even be retaliated against for being a party to this lawsuit. Because of what has happened to the FPC, my co-workers, and the detrimental changes to my duties as specified under the new contract, I would be reluctant to testify voluntarily before a court of law regarding my scientific findings involving fish passage and mortality, or any other issue where BPA or others may retaliate against me because of those findings, no matter how accurate.

9. In addition, there are many other agencies, specifically, the Columbia River Inter Tribal Fisheries Commission (CRITFC), the Oregon Department of Fish and Wildlife, the Washington Department of Fish and Wildlife, and the Idaho Department of Fish and Game, who, like the FPC, receive funding from the BPA. I believe these agencies will be chilled by what has happened to the FPC and that their scientists and managers, will now be afraid to report science that goes against the interests of the BPA or the hydropower industry, for fear that their funding will be cut next.

10. In or around December 2005, after a Water Quality Team meeting, Scott Bettin, a fisheries biologist employed by BPA, told me that, had FPC not done the analysis that assessed the 2005 summer spill, BPA may not have terminated our contract. He also expressed regret that the entire staff of FPC had been impacted by BPA's decision to cease funding FPC's contract.

He expressed the opinion that BPA officials were particularly interested in insuring that Michele DeHart lost her job.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 13 day of March 2006 at Portland, Oregon.



---

DAVID BENNER



March 3, 2006

Greg Delwiche, Vice President  
BPA - Environment, Fish & Wildlife  
PO Box 3621  
Portland, OR 97208 Via Fax: 503-230-3314

Dear Greg,

Thank you for your availability to meet with us to discuss our concerns related to the “seamless transition” of Fish Passage Center and continuing technical support for the states and tribes. Pursuant to our understanding of your request, we have identified tasks associated with portions of the FCRPS remand that we believe to be necessary for a seamless transition of Fish Passage Center support services.<sup>1</sup>

As you know, Oregon, Washington and CRITFC (and its member tribes) are dedicating substantial resources of their own to the FCRPS remand. The FCRPS remand schedule is ambitious and expected to remain so even if an extension of time is forthcoming. Already the limited technical capabilities are affecting the remand. The attached table describes fish passage related technical services that are needed by Oregon, Washington, and CRITFC for effective collaboration in the FCRPS remand. We look forward to your response.

Sincerely,

Ed Bowles,  
Oregon Dept. of  
Fish and Wildlife

Guy Norman,  
Washington Dept of  
Fish and Wildlife

Rob Lothrop,  
Columbia River Inter-  
Tribal Fish Commission

<sup>1</sup> CRITFC's signature on this letter does not in any way suggest that it accepts BPA's position that there must be a transition of FPC services to new entities.

**Maintenance of Fish Passage Technical Services Required by Oregon,  
Washington and CRITFC for Effective Collaboration in the BiOp  
Remand  
2-28-06**

<b>Link to Framework Steps</b>	<b>Technical Working Group</b>	<b>Examples of Tech services needed that would have been provided by FPC Scientists</b>
Steps 1-3	Recovery Goals & Gaps	<b>None:</b> (Rely on TRT scientists and existing staff)
Step 4	"Framework" (Allocation of Mortality)	<b>Substantial:</b> -Direct mortality of juvenile and adult passage through mainstem dams & reservoirs -point estimates, variability, uncertainty -evidence supporting various methods of estimation. -Indirect mortality of juvenile & adult fish associated with effects of FCRPS -point est., lines of evidence, uncertainty -Historical or pre-hydrosystem passage mortality associated with juvenile & adult migration through lower Snake & Columbia rivers and estuary
Step 5	Hydro Analysis (Model)	<b>Substantial:</b> -Clarification of model parameters, inputs, sensitivity and methodology: strengths & weaknesses -Adjustments to model to more accurately characterize fish migration and direct & delayed mortality associated with FCRPS -RME necessary to resolve/reduce uncertainty associated with model
Step 5	Hydro Regulation (Water Model)	<b>Moderate:</b> -Base flow parameters, dynamics, inputs, methodologies -Augmented flow parameters, inputs, methodologies -Storage reservoir parameters, dynamics, inputs methodologies -Controlled & uncontrolled spill parameters -Flow/velocity associated with load following parameters, dynamics, methodologies -Flow/velocity/spill/gas/temperature accounting methodologies -Water forecasting methodologies: strengths,

		weaknesses, alternatives
Step 5	Hydro Actions	<b>Substantial:</b> -Water mgmt options to optimize availability of water for spring & summer migration periods -max freq of meeting URC -potential impacts on resident & anad fish -Dam specific spill mgmt options re: gas, survival, delay, stress -Dam specific RSW options and biological benefits/concerns
Step 5	Habitat Actions	<b>None:</b> (reliance on different staff)
Step 5	Habitat/Harvest Actions	<b>None:</b> (reliance on different staff)
Step 5	All H Integration	<b>Minimal:</b> -Possible needs related to hydro survival analyses
Step 6	Certainty of Biological Effectiveness, Certainty of Implementation	<b>Moderate:</b> -Expected biological benefits from hydro actions -Prediction, assumptions, uncertainty, -Possible methods to resolve uncertainty -Reasonable timeline for bio. benefits -Potential impacts of hydro actions on resident & anadromous fish, listed and non-listed
Step 7	RME	<b>Substantial:</b> -Possible performance standards for hydro actions: strengths & weaknesses -Possible performance measures to track implementation & effects of hydro actions: strengths & weaknesses -Experimental design options to track and evaluate effects of hydro actions -Opportunities to integrate RME options with existing or planned regional RME
Step 8	Contingencies	<b>Moderate:</b> -Analyses of expected boil. impacts (resident & anadromous) associated with alternative hydro actions identified by policy reps
Step 9	Oversight and Governance	<b>None:</b> (reliance on different staff)
Step 10	BiOp on PA	<b>None:</b> (reliance on different staff)

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

MAR 17 2006

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

CONFEDERATED TRIBES & BANDS  
OF THE YAKAMA INDIAN NATION,

No. 06-71182

Petitioner,

v.

BONNEVILLE POWER  
ADMINISTRATION,

ORDER

Respondent.

Before: BEEZER and BEA, District Judges.

Petitioner's motion for an emergency stay pending review is granted, without bond. Respondent shall continue, pending resolution of this petition and/or further order of the Court, its existing contractual arrangement to fund and support the Fish Passage Center under the existing terms and conditions.

This petition is referred to mediation for consideration of issues relating to consolidation and briefing, including whether to expedite the petition.

# NPCC FY'07-'09 F&W Project Proposal Funding Recommendations

## Supplementation Programs

= recommended for NO (0%) funding

### Kalama River summer steelhead

n/a

**Capital:** planning and construction costs

**Operation:** costs for operation and maintenance of hatchery - broodstock capture, incubation & rearing, etc.

**M&E:** collection of monitoring data - smolt trapping, redd counts, tagging, DNA analysis, etc.

### Abernathy Creek steelhead

200306300 ? - not among '07-'09 proposals

<u>Hood River winter and summer steelhead</u>				FY '06	3 X FY'06	FY '07-'09 Request	NPCC Recomm.	Ratio: Recomm. / 3 X FY'06	Ratio: Recomm. / Request	Capital, Operation or, M&E
79	200305400	Repro Of Steelhead In Hood River	Oregon State University	\$277,000	\$831,000	\$1,064,290	\$872,550	105%	82%	M&E

<u>Umatilla River steelhead</u> (production and monitoring of steelhead is combined with)				FY '06	3 X FY'06	FY '07-'09 Request	NPCC Recomm.	Ratio: Recomm. / 3 X FY'06	Ratio: Recomm. / Request	Capital, Operation or, M&E
280	198902401	Evaluation of Juvenile Salmonid Outmigration and Survival in the Lower Umatilla River Basin	Oregon Department of Fish & Wildlife (ODFW)	\$306,235	\$918,705	\$1,364,050	\$0	0%	0%	M&E
282	198903500	Umatilla Hatchery Operation and Maintenance and Fish Liberations	Oregon Department of Fish & Wildlife (ODFW)	\$875,000	\$2,625,000	\$2,944,186	\$2,824,992	108%	96%	Operation
283	199000500	Umatilla Hatchery - M&E	Oregon Department of Fish & Wildlife (ODFW)	\$572,848	\$1,718,544	\$2,144,497	\$1,718,544	100%	80%	M&E
284	199000501	Umatilla Basin Natural Production Monitoring and Evaluation Project	Confederated Tribes of the Umatilla Indian Reservation	\$395,129	\$1,185,387	\$2,406,675	\$1,185,387	100%	49%	M&E

<u>YKFP spring Chinook</u>				FY '06	3 X FY'06	FY '07-'09 Request	NPCC Recomm.	Ratio: Recomm. / 3 X FY'06	Ratio: Recomm. / Request	Capital, Operation or, M&E
314	199506325	Yakima Klickitat Fisheries Project - Monitoring And Evaluation	Yakama Nation and WDFW	\$4,100,251	\$12,300,753	\$13,781,246	\$13,500,000	110%	98%	M&E

317	199701325	Yakima/Klickitat Fisheries Project Operations and Maintenance	Yakama Confederated Tribes	\$2,597,942	\$7,793,826	\$8,687,944	\$7,999,998	103%	92%	Operation
322	200203100	Growth modulation in salmon supplementation	National Oceanic & Atmospheric Administration (NOAA)	\$337,000	\$1,011,000	\$1,121,672	\$0	0%	0%	M&E
333	200733500	Migration and homing ecology of supplemented and wild spring Chinook salmon	Northwest Fisheries Science Center	new		\$1,242,216	\$0		0%	M&E

<b>Wenatchee (Chiwawa) River spring Chinook</b>				<b>FY '06</b>	<b>3 X FY'06</b>	<b>FY '07-'09 Request</b>	<b>NPCC Recomm.</b>	<b>Ratio: Recomm. / 3 X FY'06</b>	<b>Ratio: Recomm. / Request</b>	<b>Capital, Operation or, M&amp;E</b>
101	200303900	Monitor Reproduction In Wenatchee/Tucannon/Kalispel	WDFW and NOAA	\$448,728	\$1,346,184	\$1,747,606	\$0	0%	0%	M&E

<b>Tucannon River spring Chinook</b>				<b>FY '06</b>	<b>3 X FY'06</b>	<b>FY '07-'09 Request</b>	<b>NPCC Recomm.</b>	<b>Ratio: Recomm. / 3 X FY'06</b>	<b>Ratio: Recomm. / Request</b>	<b>Capital, Operation or, M&amp;E</b>
273	200001900	Tucannon River Spring Chinook Captive Broodstock Program	Washington Department of Fish and Wildlife (WDFW)	\$126,500	\$379,500	\$285,000	\$285,000	75%		Operation and M&E

<b>Snake River fall Chinook</b>				<b>FY '06</b>	<b>3 X FY'06</b>	<b>FY '07-'09 Request</b>	<b>NPCC Recomm.</b>	<b>Ratio: Recomm. / 3 X FY'06</b>	<b>Ratio: Recomm. / Request</b>	<b>Capital, Operation or, M&amp;E</b>
76	200203200	Snake River fall Chinook salmon life history investigations	US Geological Survey (USGS) - Cook	\$131,000	\$393,000	\$12,501,967	\$3,000,000	763%	24%	M&E
80	200306000	Evaluating relative reproductive success of wild and hatchery origin Snake River fall Chinook spawners upstream of Lower Granite Dam	Washington Department of Fish and Wildlife (WDFW)	\$140,000	\$420,000	\$28,979	\$28,979	7%	100%	M&E
230	199801003	Spawning distribution of Snake River fall Chinook salmon	US Fish & Wildlife Service (USFWS)	\$52,000	\$156,000	\$156,000	\$156,000	100%	100%	M&E
231	199801004	Monitor and Evaluate Performance of Juvenile Snake River Fall Chinook Salmon from Fall Chinook Acclimation Facilities	Nez Perce Tribe	\$307,176	\$921,528	\$1,110,608	\$0	0%	0%	M&E
232	199801005	Pittsburg Landing Fall Chinook Acclimation Project (FCAP)	Nez Perce Tribe	\$729,635	\$2,188,905	\$2,356,680	\$2,188,905	100%	93%	Operation

<b>Idaho Supplementation Studies - spring Chinook</b>				<b>FY '06</b>	<b>3 X FY'06</b>	<b>FY '07-'09 Request</b>	<b>NPCC Recomm.</b>	<b>Ratio: Recomm. / 3 X FY'06</b>	<b>Ratio: Recomm. / Request</b>	<b>Capital, Operation or, M&amp;E</b>
178	198909800	Idaho Supplementation Studies	USFWS			\$6,320,361	\$131,847		2%	M&E
179	198909800	Idaho Supplementation Studies	NPT	\$429,841	\$1,289,523	\$6,320,361	\$1,596,627	124%	25%	M&E
180	198909800	Idaho Supplementation Studies	SBT	\$240,767	\$722,301	\$6,320,361	\$735,000	102%	12%	M&E
181	198909800	Idaho Supplementation Studies	IDFG	\$990,000	\$2,970,000	\$6,320,361	\$3,387,444	114%	54%	M&E
182	199102800	Pit Tagging Wild Chinook	National Oceanic & Atmospheric Administration (NOAA)	\$350,000	\$1,050,000	\$1,829,782	\$1,050,000	100%	57%	M&E
185	199107300	Idaho Natural Production Monitoring	Idaho Department of Fish & Game	\$906,638	\$2,719,914	\$3,029,260	\$2,353,950	87%	78%	M&E
190	199700100	Idaho Chinook Salmon Captive Rearing	Idaho Department of Fish & Game	\$509,000	\$1,527,000	\$1,839,185	\$1,554,000	102%	84%	M&E
200	200725000	Genetic Evaluation of Chinook Salmon Supplementation in Idaho Rivers	Idaho Department of Fish and Game / Nez Perce Tribe	new		\$3,213,990	\$0		0%	M&E
442	198909600	Genetic Monitoring of Snake River Chinook Salmon and Steelhead	Northwest Fisheries Science Center	\$460,500	\$1,381,500	\$1,584,470	\$0	0%	0%	M&E

<b>Imnaha and Grande Ronde River spring Chinook (NE Oregon Hatchery Program - NEOH)</b>				<b>FY '06</b>	<b>3 X FY'06</b>	<b>FY '07-'09 Request</b>	<b>NPCC Recomm.</b>	<b>Ratio: Recomm. / 3 X FY'06</b>	<b>Ratio: Recomm. / Request</b>	<b>Capital, Operation or, M&amp;E</b>
15	198805301	Grande Ronde/Imnaha Endemic Spring Chinook Supplementation - Northeast Oregon Hatchery	Nez Perce Tribe	\$6,000,000	\$18,000,000	\$12,356,000	\$14,665,000	81%	119%	Capital
16	198805305	Northeast Oregon (NEOH) Outplanting Facilities Master Plan	Oregon Department of Fish & Wildlife (ODFW)	\$30,000	\$90,000	\$18,870	\$18,870	21%	100%	Capital
214	199800702	Grand Ronde Supplementation - Lostine O&M/M&E	Nez Perce Tribe Dept. Fisheries Resource Management Watershed Division	\$581,215	\$1,743,645	\$1,920,117	\$1,487,801	85%	77%	Operation and M&E

215	199800703	Grande Ronde Supplementation Operations and Maintenance	Confederated Tribes of the Umatilla Indian Reservation	\$684,454	\$2,053,362	\$2,081,116	\$2,053,362	100%	99%	Operation
216	199800704	Grande Ronde Basin Endemic Spring Chinook Supplementation Project: Northeast Oregon hatcheries implementation-ODFW	Oregon Department of Fish & Wildlife (ODFW)	\$206,048	\$618,144	\$699,240	\$600,000	97%	86%	Operation
217	199801001	Grande Ronde Captive Brood O&M	Oregon Department of Fish & Wildlife (ODFW)	\$723,718	\$2,171,154	\$2,604,490	\$2,171,154	100%	83%	Operation
218	199801006	Captive Broodstock Artificial Propagation	Nez Perce Tribe	\$175,718	\$527,154	\$563,974	\$527,154	100%	93%	Operation
220	200708300	Grande Ronde Cooperative Salmonid Monitoring and Evaluation Project	Confederated Tribes of the Umatilla Indian Reservation	new		\$1,434,392	\$0		0%	M&E
223	200713200	NEOH Monitoring & Evaluation Implementation (Formerly a component of 198805301)	Tribe: Nez Perce Tribe, State: Oregon Department of Fish and Wildlife	new		\$5,469,410	\$0		0%	M&E
225	200733700	Oregon Plan Monitoring of Steelhead Status, Trend, and Habitat in the Grande Ronde River Subbasin	Oregon Department of Fish & Wildlife (ODFW)	new		\$1,166,249	\$0		0%	M&E
227	199701501	Imnaha River Smolt to Adult Return Rate and Smolt Monitoring Project	Nez Perce Tribe	\$263,246	\$789,738	\$1,020,184	\$0	0%	0%	M&E
300	200003800	NEOH Walla Walla Hatchery - Three Step Master Planning Process	Confederated Tribes of the Umatilla Indian Reservation	\$0		\$749,000	\$0		0%	M&E

<b>Reintroduction/Supplementation Programs</b>				<b>FY '06</b>	<b>3 X FY'06</b>	<b>FY '07-'09 Request</b>	<b>NPCC Recomm.</b>	<b>Ratio: Recomm. / 3 X FY'06</b>	<b>Ratio: Recomm. / Request</b>	<b>Capital, Operation or, M&amp;E</b>
24	200711700	Comprehensive Assessment of Coho Salmon Restoration Efforts in the Mid-Columbia and Mid-Snake River Basins	Columbia River Inter-Tribal Fish Commission (CRITFC)	new		\$197,002	\$0		0%	M&E

100	199604000	Mid-Columbia Coho Restoration Project	Yakama Confederated Tribes	\$2,288,859	\$6,866,577	\$9,347,394	\$0		0%	Operation and M&E
169	200726900	Clearwater Coho Restoration Project	Nez Perce Tribe	new		\$595,544	\$0		0%	Operation and M&E
226	200734500	Grande Ronde Coho Restoration Project	Nez Perce Tribe	new		\$830,737	\$0		0%	Operation and M&E
371	200105300	Reintroduction of Chum Salmon into Duncan Creek	Pacific States Marine Fisheries Commission (PSMFC)	\$294,949	\$884,847	\$1,051,408	\$474,999	54%	45%	Operation and M&E