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February 4, 2003
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Dear Mr Walker:
Please consider these comments from the Northwest Environmental Defense Center, Columbia Riverkeeper, the Northwest Ecosystem Alliance, Oregon Trout, and the Oregon Natural Resources Defense Council on your Mainstem Proposal (Doc. #2002-16).

The Northwest Environmental Defense Center (NEDC), a dozen years older than the Council itself, is a non-profit organization that is dedicated to preserving, protecting, and improving the environmental quality of the Pacific Northwest. Many of NEDC's hundreds of members reside in the vicinity of the Columbia River and use and enjoy the river, its tributaries, and estuary for recreational, scientific, aesthetic, and commercial purposes, including canoeing, kayaking, sailing, sightseeing, fishing, bird watching, and swimming in areas directly affected by this decision. NEDC has commented on numerous governmental decisions affecting natural resources throughout the Pacific Northwest for more than thirty years.

Columbia Riverkeeper is a nonprofit public interest group working to restore and protect the water quality of the Columbia River and all life connected to it, from its headwaters to the Pacific Ocean. Columbia Riverkeeper has over 2500 members and supporters in the Columbia River Basin and is a member of the international Water Keeper Alliance, a group of 73 organizations working on behalf of their local waterways.

The Northwest Ecosystem Alliance is a nonprofit conservation foundation dedicated to the protection and restoration of wildlands in Washington state and southern British Columbia. The Alliance conducts research and advocacy to promote the conservation of endangered species and their habitat in the northern Pacific region.

Oregon Trout is the oldest wild fish conservation organization in the Pacific Northwest. Founded in 1983, Oregon Trout's mission is to protect wild, native fish and the habitat upon which they

depend. Oregon Trout, with over 3000 dues-paying members and numerous corporate supporters from around the state and the region, pursues its mission through legal and policy advocacy at the state and regional level, through on-the-ground habitat restoration projects, and via a comprehensive science education program targeting middle and high school students.

The Oregon Natural Resources Council's mission to protect and restore Oregon's wildlands, wildlife, and water as an enduring legacy. The council has had a long-term interest in the restoration of the Columbia River ecosystem and all its biological processes and ecological integrity.

NEDC, Columbia Riverkeeper, the Northwest Ecosystem Alliance, Oregon Trout, and the Oregon Natural Resources Defense Council find it truly regrettable that the Council, once a leader in salmon restoration,[1] now seeks basically to end spring and summer salmon flows. Congress expected the Council to be an innovative leader in salmon restoration, while deferring to the recommendations of the region's fishery agencies and Indian tribes. It did not anticipate that the Council would reduce salmon protection over the objection of the majority of the agencies and tribes. The "lack of scientific evidence" that the Council cites for eliminating salmon flows is based on a selective and misleading use of science. If the same standard were applied to the technological fixes at the heart of the Council's restoration program-the transportation program and widespread reliance on hatcheries-those would also fail the scientific burden of proof, as your independent scientists in the *Return to the River* report indicated.

Our detailed comments which follow indicate that we believe that not only does the Council's proposal reflect unwise policy, we also believe that it is inconsistent with several of the Council's obligations under the Northwest Power Act. We urge you to reverse your regrettable course of action, as proposed in the Mainstem Plan, and return to the path of leadership in salmon restoration the Council has blazed during most of its existence.

In particular:

1) We oppose the proposed elimination of the April 10 refill date. We do not believe the Council has ~~developed a rec~~ord that demonstrates that this change reflects "best available scientific knowledge" or the other statutory criteria specified in section 4(h)(6) of the Act. Nor does such a change give "a high degree of deference" to the views of the fishery agencies and tribes, as required by the Ninth Circuit's interpretation of the statute.

2) For the same reasons, we oppose the related proposed change to eliminate spring flows. We believe that the Council's claim that there are no meaningful benefits to spring flows is based on selective and misleading interpretation of the scientific evidence. Neither the Fish Passage Center, nor the Independent Scientific Advisory Board, nor the majority of federal and state fishery agencies and Indian tribes support terminating flow augmentation in the spring. We believe that doing so to benefit upstream resident fish and to increase the capacity of the Columbia Basin hydroelectric system by an insignificant amount is contrary to the Northwest Power Act.

3) We also oppose the idea that flow augmentation for fish migration should decrease in low water years. Congress drafted the fish and wildlife provisions of the Northwest Power Act in response to the disastrous effects that the low flow years of 1973 and 1977 had on salmon migration. Congress

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[1] We adopt the tribal use of salmon to include steelhead throughout these comments.

clearly intended that the fish and wildlife program would supply salmon protection against low flow years. Reducing flow augmentation in low water years would frustrate this intent. However, we do support the idea that salmon should benefit from increased flow augmentation in high flow years. That was the intent of the original fishery agency and tribal recommendations 22 years ago.

4) We think that, if the Council is truly concerned about the science of flow augmentation, it should take no action until the results of the 2001 downstream migration season-during which migrating salmon received essentially no flow augmentation-on adult returns are fully assessed by the scientific community. That cannot take place for at least two or three more years.

5) At a minimum, the rationale for the proposed amendments is so poorly articulated, and the fishery agency and tribal recommendations are so poorly explained-with no explanation at all of why the Council rejected them-that we believe the Council should re-propose this amendment, rectifying the current inadequate record. Failing to do so, we believe, will produce both a violation of the Northwest Power Act and deprive the public of an opportunity to effectively participate in the amendment process.

Our detailed comments follow. Detailed Comments

Page 5-The proposal lists generic types of recommendations which the Council "drew from ... in developing this draft mainstem plan." We do not believe this reference comes close to fulfilling the Council's statutory obligation under section 4(h)(7) of the Northwest Power Act to "explain in writing, as part of the program, a statutory basis for rejecting the recommendations of fishery managers."[2] We think the Council is obligated to set forth its reasoning for such rejections with specificity, explaining how its reasoning is consistent with the statutory directives in section 4(h)(7), including the congressional expectation that the Council would give "a high degree of deference" to the recommendations of the region's fishery agencies.' This means that "Congress intended that the Council not simply tap this resource of information, but that it `heavily rely' upon it.,, }[4] Absent

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[2] Northwest Resource Information Center v. Northwest Power Planning Council, 35 F.3d 1371, 1384 (9`" Cir. 1994).

[3] Id. At 1388-89.

[4] Id. At 1388. Extractive users of the Columbia Basin's water resources claim that section 4(h)(10)(D)(vi) of the Northwest Power Act, added by appropriations rider in 1996, overturned the deference the Ninth Circuit found in the pre-1996 statute. Such a result is quite improbable. First, Congress made no mention of the court's decision in the rider, so it apparently did not mean to overturn it. Second, the language of the provision, requiring the Council to "fully consider" the recommendations of the Independent Scientific Review Panel does not contemplate the same deference that the court ruled the Council must give to the recommendations of the fishery agencies and tribes. Third, the provision made no attempt to amend section 4(h)(7) of the statute, which was the basis of the court's ruling in *Northwest Resource Information Center,* articulating the deference principle.

detailed explanations, the statutory assumption is that the Council will include such recommendations in its program.' The Mainstem Proposal makes no attempt to explain how it satisfies the Council's statutory obligations, and thus deprives the reviewing public of an opportunity to understand the Council's reasoning. We believe that if the Council is determined to proceed with this proposal, it should re-propose it with appropriate explanations in order to allow the public to comment on the Council's reasoning, which is largely impossible with the current proposal.

Page 6, *1st* bullet-The proposal goes to great lengths, here and elsewhere, to explain that the Council's charter from Congress includes all fish and wildlife affected by the hydroelectric system. With that we have no quarrel. But the inference the Council now apparently draws, over twenty years after-the-fact, is that salmon habitat needs must be reduced to benefit upstream resident fish. This is a complete misinterpretation of the intent of the statute as well as the interpretation of the Council over the past twenty years. The statute singles out "anadromous fish" for special consideration in its purposes section (section 2(6)) and in the provision calling for improved survival at dams and flows sufficient to improve salmon production, migration, and survival to meet sound biological objectives (section 4(h)(6)(E)). There is no question that Congress was principally concerned with salmon when it authorized the Columbia Basin Fish and Wildlife Program: It was the devastating salmon losses due to low flows in the 1970s, especially the low flow years of 1973 and 1977, which induced Congress to authorize a comprehensive, systemwide fish and wildlife restoration program. To eliminate protection against low flows two decades later is to disregard congressional intent.

Moreover, resident fish the Council now seeks to protect at the expense of salmon include many reservoir fish which were *created* by the hydroelectric system. But for the reservoirs the hydroelectric system created, these fish would not exist. They therefore have benefitted from the hydroelectric system. Salmon, on the other hand-the chief concern of Congress-have been devastated by the construction and operation of that system, as the Council's own losses study vividly demonstrated, fixing salmon losses at an estimated 8 million annually.' Those losses, multiplied by the 60 years or so of the hydroelectric system's existence, amount to roughly a half a *billion* adult salmon. There is no possible way twenty years of reallocating 2 percent of Columbia

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Nor did the 1996 appropriations rider change the criteria in sections 4(h)(5) and (6) which program measures must meet. So, for example, under section 4(h)(6)(C), cost considerations continue to remain a secondary factor to biological considerations. Finally, the court made it clear that the Council must use "textual consistency" in interpreting the statute; that is, it must construe statutory provisions consistent with other Northwest Power Act provisions as well as applicable environmental laws. *Northwest Resource Information Center,* 35 F.3d at 1388. The argument of the extractive users that the rider silently abrogated the deference called for by the other provisions of the statute is thus implausible.

[5] Id. ("One of the primary purposes" of the Northwest Power Act is that the Council "shall include" in the program recommended measures satisfying the criteria of section 4(h)(6) of the statute.)

[6] See H.R. Rep. No. 96-976, pt. l, 96 `h Cong., 2d Sess. 47 (1980) (noting that virtually the entire flow of the river was put through power turbines, helping to produce salmon mortalities of 95% in 1973).

[7] Northwest Power Planning Council, *Hydropower Responsibility for Salmon and Steelhead Losses in the Columbia River Basin 1* (1986) (hydroelectric system responsible for 510 million salmon losses each year, probably 8 million annually).

Basin flows to benefit salmon could cost reservoir fish anything close to this staggering toll exacted on the salmon resource by the hydroelectric system.

Page 6, *2nd* bullet-The Council's proposal to eliminate spring and summer salmon flows seems partially premised on "an inability to measure the extent of the benefits gained" by flow augmentation. Why is it that the Council expects science to be able to measure the benefits of flow augmentation? Where does the Council demand that the transportation program "measure the extent , of the benefits gained?" Where does the Council's program require hatcheries to measure their benefits in quantitative terms? Saddling salmon flows with this unprecedented burden of scientific proof seems most inequitable. Where is the Council's statutory authority to practice such inequitable, "pick and choose" science?

The Northwest Power Act directs the Council to favor biological outcomes over economic ones.[8] Where is the evidence that the proposal to eliminate spring and summer salmon flows meets this provision of the statute? The proposal claims that the Council's goal is to produce "more biologically effective ... flow." Where is the evidence that salmon benefit from reduced flows? Certainly not in the Mainstem Proposal.

Pages 6-7--The proposal emphasizes that the region's power supply requirements "have changed radically since the last revision of the fish and wildlife program in the mid-1990s." Maybe so. But as late as 1997, the Council's staff suggested that breaching the Lower Snake Dams, if staggered and planned, would not impose significant costs on the Bonneville Power Administration's customers unless BPA rates fell by around 25 percent.' If the region could afford to breach the Lower Snake Dams five years ago, it certainly can afford to maintain the salmon flows it committed to many years ago today. The suggestion that the power supply problems encountered in 2001-which evidence now indicates were exacerbated by suppliers manipulating the West Coast market-makes salmon flows unaffordable, imposes on salmon and those who depend on them the burden of unwise power supply decisions. This is contrary to congressional intent, which anticipated reasonable power losses due to salmon flows.[10]

If the hydroelectric system, with biologically sound salmon flows, jeopardizes an adequate and reliable power supply-of which there is no evidence and which the Council in the Mainstem Proposal expressly denies (page 49)-the solution is for the Council to plan for sufficient nonhydropower resources in its power plan. The solution is not, as the proposal suggests, to meet load demands from the hydroelectric system in "most if not all low-flow years." That was what the hydroelectric system did before the enactment of the Northwest Power Act, with disastrous results for salmon. It was that system Congress aimed to change by enacting the statute. The Council now seems to want to revert to a pre-Northwest Power Act world.

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[8] 16 U.S.C. s. 839b(h)(6)(C) (economic results matter only if measures achieve "the same sound biological objective").

[9] Witt Anderson, et al., *Fish and Wildlife Recovery in the Pacific Northwest: Breaking the Deadlock (Nov.* 1997), app. B at 1-5 (finding that the affordability of BPA power was more a function of the market than of whether the Lower Snake Dams were breached, and concluding that around 20 mills "[BPA customers] will do well over the long-term, whether the five dams are drawn down or not").

[10] H.R. Rep. No. 96-976, pt. l, 96" Cong., 2d Sess. 56-57 (1980).

Pages 8-9--The Council's "vision" for its program makes the proposal to eliminate spring and summer salmon flows particularly incomprehensible. The Council states that, "[w]herever feasible, the program vision [of sustaining "abundant, productive and diverse communities of fish and wildlife"] is to be accomplished by protecting and restoring the natural ecological functions, habitats, and biological diversity of the Columbia River Basin." Since flow augmentation is aimed at restoring a fraction of historic spring and summer flows, the proposal to terminate those flows seems flatly inconsistent with restoring natural ecological functions and habitats. Since there is no Council finding that it is infeasible to continue to provide flow augmentation, the proposal appears to be arbitrary on its face. Nor would it seem possible for the Council-after two decades of calling for flow augmentation-to be able to justify a determination that spring and summer flows were no longer economically feasible.

The proposed elimination of spring and summer flows is even harder to reconcile with the Council's commitment to provide conditions "within the hydrosystem for adult and juvenile fish that [] most closely approximate natural physical and biological conditions...." Since flow augmentation is an effort to approximate natural physical and biological conditions, the proposal to eliminate flows is contrary to this commitment. Perhaps the Council believes that this commitment is qualified by the vision promise of "ensur[ing] that water management operations are optimized to produce the greatest biological benefits for targeted species with the least cost and the least adverse effects on other species...." We object to this apparent attempt to pit salmon restoration against resident fish, which include many reservoir fish which would not exist under natural physical and biological conditions. We question the Council's statutory authority to compromise salmon restoration in this regard.

Page 8, note 1-Here the proposal indicates that "the Council's position is not contrary to that of the National Marine Fisheries Service's 2000 Biological Opinion with reference to any and all considerations of breaching the lower Snake River hydroprojects." It would be helpful to the reviewing public if the Council were to explain with some precision where and why the Mainstem Proposal is inconsistent with the NMFS 2000 BiOp. Perhaps in addition to so indicating in the text of the proposal, the Council could include an appendix collecting all the inconsistencies.

Page 10 -We have no quarrel with the Council's biological objective of "provid[ing] habitat conditions that sustain abundant, productive and diverse fish and wildlife populations, so as to allow for recovery of listed species *and* abundant opportunities for tribal trust and treaty right harvest and non-tribal harvest." And we understand that the objective of the Council's restoration program is broader than the recovery of species listed under the Endangered Species Act. But we do not believe that the Council's attempt to limit this objective to "the least cost to the region's financial and water resources" is authorized by the Northwest Power Act, which restricts the Council's balancing to an "adequate, efficient, economical, and reliable power supply." The latter is considerably narrower than the former. We view this "least cost to the region's financial and water resources" caveat as an attempt by the Council to arrogate power not granted to it by Congress.

Moreover, we think that this economic criterion is inappropriate in the definition of "sound biological objectives," a statutory directive that the Ninth Circuit has interpreted to "relate the biological needs of fish and wildlife to the operations of the hydropower system."}" Neither the statute nor the court mentioned anything about "least cost" or "financial or water resources."

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11 *Northwest Resource Information Center*, 35 F.3d at 1391.

Further, we object to the subrogation of the biological objective of recovering ESA-listed species "except where.. inconsistent with the specific objectives and strategies included in this mainstem plan." The Council has no authority to authorize any "takes" of listed species; that power resides with the federal fish and wildlife agencies. And any attempt by the Council to authorize "takes" not permitted by the federal. consultation agencies runs the risk of a court finding the Council to be in violation of the ESA. [12]

We do, however, support the Council's recognition that the program be measured on its "success in protecting and enhancing abundant and diverse naturally spawning populations of salmon and steelhead and other *native fish...."* We think the Council's biological objectives should be restricted to protecting, mitigating, and enhancing native resident fish, not reservoir fish created by the hydroelectric system. Further, we think that the Council should, consistent with congressional intent (as we explain on page 4 of these comments), see its principal objective as restoring salmon populations if there are any conflicts with native resident fish.

Pages10-11-The Council's determination to give "equal priority" for protecting and enhancing relatively productive salmon populations with listed populations is unobjectionable, so long as the listed species actually receive "equal priority" and are not in fact neglected. But we question the Council's commitment to restore mainstem spawning and rearing habitat. The Council is proposing to eliminate the provisions in the Council's existing program calling for drawdowns of Lower Snake reservoirs, and there is no apparent commitment to draw down the John Day pool, despite the Council's mention of it on page 11. In short, while recognizing the importance of restoring mainstem spawning and rearing habitats and populations, the Mainstem Proposal does nothing specific to bring this about.

Pages12-13 -We support the Council's support of the Columbia River Inter-Tribal Fish Commission's call for 9,000 new acres of spawning habitat for Snake River fall chinook and 40 additional miles of additional spawning habitat for mid-Columbia fall chinook. But conceptual support is no substitute for specific actions, and the Council offers no actions, just consultations. This inaction comes over six years after your independent scientists, in *Return to the River,* called for such action to increase mainstem spawning habitat. There certainly was time over the last six years for such consultations. The contrast between the Council's "no action" approach to increasing mainstem spawning and rearing habitat-which has the support of its own independent scientists-and the Council's eagerness to dispose of flow augmentation, is striking. Why doesn't the Council submit the flow augmentation issue to the same consultation process and time frame for implementation as the mainstem spawning issue? Subjecting the latter to consultation while the former proceeds over the objections of most of the fishery agencies and tribes seems highly inequitable, especially considering that the Council's Independent Scientific Advisory Board

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[12] *See* Pacific Rivers Council v. Brown, CV 02-243-BR (D.Or. Dec. 23, 2002) (state forest agency, which authorized logging operations likely to result in a take, would violate the ESA); Strahan v. Coxe, 127 F.3d 155, 163 (1S` Cir. 1997) (state fisheries agency, authorizing fishermen to harvest a listed species, violated the ESA); Defenders of Wildlife v. EPA, 882 F.2d 1294, 1301 (8`h Cir. 1989) (EPA's registration of a pesticide, which killed an ESA-listed species, was a take); Loggerhead Turtle v. County Council of Volusia County, Florida, 896 F.Supp. 1170, 1180-81 (M.D. Fla. 1995) (county's authorization of vehicle beach access was a take under the ESA).

endorsed a continuation of studying flow augmentation. '3 About the only thing consistent in the Council's treatment of the flow augmentation and mainstem spawning issue seems to be the Council's willingness to ignore its scientific advisors.

Page 13 -Perhaps the most contradictory statements in the whole Mainstem Proposal are the Council's simultaneous commitments to "where feasible, manage the hydrosystem so that patterns of flow more closely approximate the natural hydrographic patterns," while "increasing the likelihood of storage reservoir refill" and providing stable, even flows out of the storage reservoirs over an extended period of the summer and fall." These are inconsistent objectives, but the Council seems to give priority to the latter by the immediately following commitment to restrict operation of storage projects to "local inflows," "shap[ing] the water to benefit fish in and immediately below the reservoir and then, as the water travels downstream, benefit anadromous fish downstream." This is followed shortly by the statement that "storage reservoir operation should first prioritize fish species in the immediate vicinity of, and directly affected by, federal dams." This professed priority for reservoir fish over listed salmon is inconsistent with the Council's foregoing commitment to manage the hydrosystem to "more closely approximate the natural hydrographic patterns," making the Mainstem Proposal (again) inherently contradictory. It is also inconsistent with the intent of the Northwest Power Act, as discussed on page 4 above.

The Council's caveat that, "where feasible," flows should approximate natural hydrographic patterns should be defined. We suggest that the Council define "where feasible" similar to the way it has defined federal water managers' obligation to "take the [Council's] program into account to the maximum extent practicable" under section 4(h)(11)(A)(ii). The Council once defined this directive to mean that the federal water managers must implement the program or explain in writing why implementation was "physically, legally, or otherwise impractical, including all possible allowances to permit implementation."} 14 We maintain that the phrase "where feasible" is stronger language than that contained in section 4(h)(11)(A)(ii) of the Act, and therefore the Council should require no less of itself in providing flow augmentation to approximate natural hydrographic pattern than what is required of federal agencies. Please define the phrase "where feasible" in the program.

The Council proclaims that "[o]perations based solely on efforts to achieve the flow target in the lower Columbia River will adversely affect resident fish while failing to benefit anadromous fish if they do not take into account reasonable storage operations." First, how does the Council define "reasonable reservoir operations?" Second, what is the scientific basis for the conclusion that flow targets "will fail to benefit anadromous fish? Without scientific justification, we believe this statement violates the Council's statutory obligation to employ "best available scientific knowledge"

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13 Independent Scientific Advisory Board, *Comments on the Giorgi Report,* at 7-9, 23-26 (June 4, 2002). See text accompanying note 24, below.

14 Northwest Power Planning Council, *Columbia River Basin Fish and Wildlife Program* s. 1305(a)(5) (promulgated in the original program in 1982). In the 1994 program, the Council had changed the language but still required the "federal project operators and regulators to implement program measures or explain in detail why they cannot do so." Id. at 1.5 (1994). Strangely, this provision was not included in the Council's 2000 program, although we can find no evidence that the Council proposed to eliminate it, nor did it explain the significance of doing so. We believe the Council's lack of attention to this provision epitomizes its lack of interest in implementing its fish and wildlife program, which has been a major problem for years.

in its program.[15]

We believe that the Council's attempt to change reservoir management objectives to give first priority to reservoir fish protection is unlawful, as discussed above. We also believe that the new objective of "shift[ing] hydrosystem management strategies away from spring flow augmentation to an operational strategy that results in a 95 percent probability of refilling the storage reservoirs to provide for more flow augmentation capability in the summer months of July through September" is completely disingenuous. Where is the program's commitment to flow augmentation in July? The real effect of this new objective, which the Council nowhere mentions, is to largely revert to the pre-1982 objective of ensuring that storage reservoirs were refilled by July. This was the status quo that the drafters of the Northwest Power Act and the initial Columbia River Basin Fish and Wildlife Program sought to change. The Council now apparently seeks a return to the overriding objective of reservoir refill by July without explaining the effect of its proposal and without explaining how its proposal will avoid the disastrous results produced by pre-1982 operations. We think these failures to explain result in arbitrary decisionmaking.

We do not necessarily object to the proposed objective of producing "stable or flat" outflows from upper basin storage reservoirs in the summer months. But if these flows come at the expense of flow augmentation for listed salmon, we think that is both an unwise and unlawful objective. There is certainly sufficient flexibility in the system to move toward stable outflows while continuing to provide flow augmentation. These aren't necessarily inconsistent objectives, and the Council's attempt to suggest that they are is another manifestation of the Council's effort to elevate resident fish over salmon. We believe that the drafters of the Northwest Power Act were principally concerned about salmon restoration, not fish largely created by the hydroelectric system.

Page 14 -With some reservations, we support the Council's objective of "[w]here feasible, pursue restoration of anadromous fish into mainstem areas blocked by dams." Restoring salmon access above Chief Joseph and Hells Canyon Dams would be an achievement, but we are skeptical about its efficacy, given the sorry track record of trap and haul operations and the unlikelihood that, in light of downstream passage difficulties, such populations could ever be sustainable. We don't think that such efforts should be allowed to divert attention from the need to restore ecological functions in the areas to which salmon currently have access, including increasing spawning habitat in the mainstem and breaching the lower Snake dams, whose economic utility remains extremely marginal and which would create a free-flowing river of over 200 miles, five times longer than the Hanford Reach.

Pages 17-18 -We oppose the Council's effort to elevate the status of reservoir fish in Hungry Horse and Libby reservoirs and in Lake Roosevelt if doing so sacrifices spring and summer salmon flows. We do not believe that doing so is consistent with the intent of the Northwest Power Act. (The Council's intention becomes much clearer on page 32, as our comments below on page 13 indicate.)

Page 19 -We object to the "least cost and the least adverse effects on other species" objectives. As we indicated above, we think these objectives are not authorized by the Northwest Power Act and conflict with congressional intent. We also object to the lack of an objective of protecting listed salmon species. We think this should be the principal goal of the Council's program, as Congress clearly was concerned mostly about depressed salmon populations in enacting the Northwest Power Act.

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[15] 16 U.S.C. s. 839b(h)(6)(B).

Page 20 -While we agree that the Council has the authority to take measures to benefit fish and wildlife not listed under the ESA, we do not think that the Council has authority to pursue such measures *at the expense* of listed salmon. We believe that doing so conflicts with both the express provisions and legislative history of the Northwest Power Act.

Pages 21-22 - The mainstem habitat provisions are virtually all about studies, evaluations, and generic advice. The Council makes no concrete improvements to mainstem habitat. Yet this the Mainstem Plan of a program that is over two decades old. When will these mainstem habitat improvements come if not in the Mainstem Plan? The Council appears to be deferring action on meaningful mainstem restoration, while rushing ahead with the elimination of flow augmentation.

Page 23 -The Council assumes that the breaching of no mainstem dams will occur "in the near term."_

What science supports this no breaching assumption, and how does it relate to the Council's objective of restoring ecological functions? What is the Council's reasoning for apparently dropping the existing program provisions calling for drawdowns of the lower Snake River and John Day reservoirs? We believe that eliminating these provisions from the program without an explanation consistent with the statutory criteria in section 4(h)(6) and (7) of the statute is inherently arbitrary. *Page* 24-The Council endorses continued reliance on transportation as a "transitional strategy," but fails to explain how long this transition is to last, and what the goal is after the transition. The Council's independent scientists, in *Return to the River,* observed that the transportation program had never been justified scientifically. 1[6] Your scientists' questions have been reinforced by more recent studies that suggest that there is little benefit to the transportation program.17 Where is the new science that justifies this program, so central to the Council's restoration strategy?

Pages 30-31, 36 -The Council declares its opposition to the National Marine Fisheries Service 2000 Biological Opinion's spring and summer flow targets "due to a lack of evidence that they are related to survival with the range of the operating agencies' control given reservoir and other system

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16 Independent Scientific Group, *Return to the River* 2000: *Restoration of the Salmonid Fishes in the Columbia River Ecosystem* (Northwest Power Planning Council document 200012), at 42-43 ("Transportation benefits are incompletely substantiated .... [E]xisting knowledge of the benefits of transportation across species, life histories, biological and physical condition is limited .... [T]ransportation is unlikely to an adequate response to modification of the mainstem Snake and Columbia Rivers, and is inadequate by itself, to rebuild Columbia River salmonid populations.")

17 *See* Bouwes et al., *Review* of *Mainstem Passage Strategies in the Columbia River System: Transportation, Spill, and Flow Augmentation 10* (March 19, 2002) ("...a close examination of the data suggest that transportation benefits for wild Snake River salmon and steelhead are not evident .... Most important, however, is what the data tell us about the long-term viability of transportation as a recovery tool: transportation is simply inadequate. This is borne out by the consistently low SARs of transported fish....). See also Sandford & Smith, *Estimation of Smolt-to-Adult Return Percentages for Snake River Basin Anadromous Salmonids, 1990-97,* 7 J. of Agricultural, Biological, and Environmental Statistics 243 (2002) (concluding that the smolt-to-adult ratio of juvenile fish that never enter a collection facility is as high as those which are transported, meaning that there is no benefit to transporting juvenile fish).

constraints." The Council claims that "[r]esearch has not validated the predicted benefits of flow augmentation from upstream reservoirs." We believe that, first, if this same standard were applied to the transportation and hatchery programs at the core of the Council's restoration efforts, both would be abandoned. We object to this selective use of the scientific burden of proof.

Second, we believe the Council has misinterpreted the scientific studies of flow augmentation. The Council-commissioned Giorgi report[18] attempted to summarize the state of the science of flow augmentation, among other issues. That report was flawed by focusing principally on flow augmentation's effects on juvenile salmon survival from one point in the river to another and due to a general failure to evaluate its effects on the complete salmon life cycle. Nor does the Giorgi report acknowledge the great uncertainties in the current restoration strategy embodied in the NMFS BiOp on hydroelectric operations, which relies on a high-risk recovery strategy of maintaining the current configuration hydroelectric system, with flow enhancement, combined with an untested (and probably unenforceable and perhaps unlawful) strategy of "off-site enhancement," mostly habitat restoration. Further, the Giorgi report summarized NMFS reach survival studies during years in which flow and spill conditions satisfied the NMFS BiOp, when it would be unlikely to observe significant survival changes due to minor changes in flow. These flaws were pointed out to the Council by the fishery agencies, tribes, and others in their comments on the report. [19] Yet the Council seems to continue to think there is no scientific support for flow augmentation. That is false, as there are several studies suggesting a positive flow/survival relationship.[20]

Flow augmentation clearly reduces juvenile salmon travel time. [21] It also improves estuarine conditions, provides a larger plume in the Columbia River, and produces increased turbidity that reduces predation, all of which improve salmon survival, as the National Marine Fisheries Service has acknowledged. Moreover, the Fish Passage Center has documented how using short reach

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[18] Giorgi et al., *Mainstem Passage Strategies in the Columbia River System: Transportation, Spill, and Flow Augmentation* (BioAnalysts, Inc. report to the Northwest Power Planning Council, Jan. 31, 2002).

[19] Columbia River Inter-Tribal Fish Comm'n, Idaho Dept of Fish and Game, Oregon Dept of Fish and Wildlife, U.S. Fish and Wildlife Service, Washington Dept of Fish and Wildlife, and Yakima Indian Nation, *Joint Technical Staff Memorandum 1-2, 6-7* (March 19, 2002); Boules et al. (cited in note *17),* at 1-2, 24-28.

[20] National Marine Fisheries Service, *White Paper: Sahnonid Travel Time and Survival Related to Flow in the Columbia River Basin 54, 56* (March 2000) ("...consistent and highly significant relationships between flow and survival have been observed for juvenile fall chinook."); Marmorek et al., *Plan for Analyzing and Testing Hypotheses: Final Report for Fiscal Year 1996 (ESSA* Technologies, Inc. 1996) (spring chinook); C.W. Sims & F. Ossiander. *Migrations of Juvenile Chinook Salmon and Steelhead in the Snake River, 1973 to 1979: A Research Summary* (report to U. S. Army Corps of Engineers prepared by National Marine Fisheries Service, 1980).

[21] *Joint Technical Staff Memorandum* (cited in note *17),* at 1; Giorgi report (cited in note 14), at *65.*

[22] National Marine Fisheries Serv., *Comments on the Giorgi Report* 4 (May 28, 2002); see also NMFS White Paper (cited in note 20), at 54; Fish Passage Center, NWPPC *Response: Flow and Spill Update: Summary of Data Analysis and Review Regarding Mainstem Fish Passage Relating to Flow 3-4* (Dec. 9, 2002)

estimates can significantly misrepresent the flow/survival relationship over a longer reach and has suggested that a better means of evaluating the flow/survival relationship is to compare spring flow conditions to available PIT-tag survival estimates in different years. For example, survival of yearling chinook, which was over 65 percent in years in which flow targets in the NMFS BiOp were met, fell to 57 percent in 2001, when they were not. Even more dramatic was steelhead survival, which fell from over 65 percent in years the target flows were satisfied to just 16 percent in 2001, when they were not. The Fish Passage Center concluded that the results "validates the need for and the benefits of implementation of the biological opinion flow and spill measures even in low run-off years." }[24] It is not at all clear how the Mainstem Proposal can ignore this advice from the entity the Council created to monitor mainstem salmon survival and satisfy the Council's statutory obligation to employ the best available scientific knowledge in its decisionmaking.

The Independent Scientific Advisory Board's review of the Giorgi report is hardly an endorsement for terminating flow augmentation. The ISAB thought the Giorgi report's premises on the benefits from flow augmentation were too narrow and faulted the report for, among other things, 1) not considering the role of flows in supplying mainstem habitat for spawning and rearing, 2) ignoring a recent study indicating that summer flows can predict travel time of juvenile Snake River fall chinook, 3) not considering the evidence suggesting "a clear degradation in smolt survival at low river flows," and 4) assuming the per-project survival rates can be used to estimate systemwide survival.[25] The ISAB called for more study of the effect of flows on survival, including large-scale life-cycle experiments, the effect of rapid flow fluctuations on survival, and the effect of flows on temperature. [26] The independent scientists certainly did not endorse an end to flow augmentation, and they took pains to clarify that tests which state that no effect of flows on survival was found "do not definitively prove the absence of effect."} [27] On the basis of this record, we do not believe the Council can make a colorable case that terminating flow augmentation is based on best available scientific knowledge.

Page 32-Here, the Council elaborates on its intentions for upstream storage reservoirs hinted at earlier on pages 17-18, now explaining that the "highest priority" of Hungry Horse, Libby, Grand Coulee, and Dworshak dams is to "assure a 95 percent refill probability" by June 30 (Libby by late July), "so that the reservoirs have the maximum amount of water available during the summer. This moves the Council to recommend that the NMFS BiOp eliminate the provision calling for the reservoirs assure a high probability of being within a half-foot of the flood control refill by April 10. The effect of removing the April 10 date is to return to pre-1982 reservoir operations: maintaining high summer reservoir levels benefitting reservoir uses, while simultaneously allowing more aggressive use of storage water for power production in the winter. The cost is the loss of spring and summer flow augmentation. The lack of flow augmentation before 1982 helped produce the salmon

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[23] Fish Passage Center, *Review of NMFS (Draft) Report, "Survival Estimates for the Passage of Spring-Migrating Juvenile Salmonids Through the Snake and Columbia River Dams and Reservoirs*, 2001, " at 4-7 (Feb. 27, 2002) (comparing flow to seasonal survival levels in 1995-2001 in the reach from Lower Granite to McNary dams, and for 1999-2001 from Lower Granite to John Day dams).

[24] Id. at 11.

[25] ISAB comments (cited in note 13), at 7, 20-22. [26] Id. At 7-9, 23-26.

[26] Id. at 3.

crisis that led to the enactment of the Northwest Power Act twenty-two years ago. Congress clearly intended its directive to provide salmon flows in section 4(h)(6)(E)(ii) of the statute to remedy the low water year problem through changes in the power system (i.e., byproviding flow augmentation). We strongly object to the elimination of the April 10 refill date. We believe that such a requirement is essential to providing salmon spring and summer flows in low water years.

Page 39 -We support the continuation of the Fish Passage Center and its important work of monitoring and evaluating salmon passage and implementing the program's water management measures. Some people apparently think that if the Fish Passage Center, in fulfilling its responsibilities, reports negative information, it is engaging in impermissible "fish advocacy." In truth, the Center is supplying the public, fishery agencies, and tribes with essential information about the effects of an often arcane energy system on the fish and wildlife that Congress that expected would be treated as a "coequal partner ... on a par with" energy production."}" Although the Council has never taken this congressional expectation seriously, the information provided by the Center is essential in order to understand the effects of the hydroelectric system on the salmon resource.

The big problem with the Fish Passage Center concerns the fact that the Council has placed a representative of the Public Power Council on the Center's oversight board. That seems fundamentally inconsistent with the statute's directive that the Council's program "complement the existing and future activities" of the fishery agencies and tribes.29 The purpose of the FPC has been to "complement and coordinate" the activities of the agencies and tribes. How it can do so while apparently under the control of a power official is not at all clear. If the Council insists on having power interest representation on the Center's oversight board, it is only equitable that there should be a fishery agency/tribal representative with oversight over BPA's systemwide power requests. Congress expected the fishery resource and the power resource to be "coequal partners."} 30 There is nothing resembling parity in the current institutional arrangements established by the Council.

Pages 41-42 -We of course support research that could produce results optimizing both fish and wildlife restoration and energy production, but we think that the Council is misguided to give a "high priority" to mainstem research promising such results, since the upshot could be less research on the efficacy of current restoration efforts. For example, there really is no clear indication that the transportation and hatchery programs-the centerpieces of the Council's program-are producing tangible benefits in terms of increasing wild salmon spawners. [31] Given the amount of money invested in these programs, measuring their efficacy ought to be the Council's highest research priority.

We also wish to comment on the diagram on page 41 because we think it may reflect a fundamental flaw in the Council's approach not merely to research but to its entire program. Congress did not

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28 H.R. Rep. No. 96976, pt. l, 96t' Cong. 2d Sess. 49, 56-57 (1980).

29 16 U.S.C. s. 839b(h)(6)(A).

30 H.R. Rep. No. 96-976, pt. l, 96" Cong. 2d Sess. 49, 56-57 (1980).

31 *See* Bouwes et al. (cited in note 17), at 5-6 (concluding that during the years the 1995 NMFS BiOp was in effect there was virtually no transportation benefit, particularly to wild fish; *Return to the River* (cited in note 16), at 339 (concluding that hatcheries have not replaced "in any sense" natural production, have altered the genetic structure of wild stocks, yet have never been subjected to a comprehensive evaluation).

expect the Council to measure every fish and wildlife measure against foregone killowatt-hours. It expected an "imaginative and effective" restoration program and anticipated reasonable hydropower losses to result.32 The great virtue of the Northwest power system is its flexibility, including its ability to add non-hydroelectric resources to meet demand, especially if given time to plan. Both the Bonneville Power Administration and your own staff have indicated that even breaching five dams is affordable if properly planned.33 So, if the diagram on page 41 reflects an assumption that salmon restoration measures are going to be judged primarily on their hydropower costs, we reject that assumption as inconsistent with congressional intent, as has the Ninth Circuit.[34]

Page 43-We think it is not nearly enough for the Council to merely sponsor coordination teams to make in-season management adjustments of hydroelectric operations; we think the Council must see that it is the Council's responsibility to be an advocate for implementing its program. In particular, the Council must ensure that BPA acts consistently with the program, [35] and that federal water managers like the Corps of Engineers take the program into account at each relevant stage of their decisionmaking "to the fullest extent practicable."} 6 This means they must implement the program or give written reasons why doing so is physically, legally, or otherwise impractical, including all possible allowances to permit implementation.

Page 45-On this page, in one sentence, without explanation or reasoning, the Council discards all of its existing program provisions concerning flows, reservoir drawdowns, and water purchases, among other provisions. We consider this to be the epitome of arbitrary decisionmaking.

Pages 47-48-We do not consider the alternatives portrayed here to approach a reasonable range of alternatives, since they do not even consider the drawdown plan in the existing Council program or the four- or five-dam breaching plans that both BPA and the Council staff considered affordable only five years ago. Within the inadequate list of alternatives considered by the Council, we support alternatives G and H which, even according to the Council, would increase BPA's cost just 1.5 percent (page 52). As the Council itself says, it is unlikely that either would "increase the winter loss of probability beyond acceptable standards (page 48)." We will support the resource acquisitions necessary to ensure that either of these alternatives provides a reliable power supply, so long as those acquisitions comply with the Northwest Power Act's priority scheme for resource acquisitions.

Given the Council's determination that implementation of the NMFS 2000 BiOp on hydroelectric operations has not made "the power system inadequate, inefficient, uneconomical and unreliable..." (page 49), we do not think that the Council has the authority to propose a reduction in salmon protection on power supply grounds. Congress did not give the Council the authority to reject salmon restoration measures because the Council views them to be too costly in terms of hydroelectric losses; it restricted the Council's ability to reject salmon measures-especially those currently being implemented-to those jeopardizing an adequate, efficient, economical, and reliable power supply. The Ninth Circuit expressly rejected the idea that the Council had the authority apply

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[32] H.R. Rep. 976, pt. 1, 96 `" Cong. 2d Sess. 57 (1980).

[33] *Breaking the Deadlock* report (cited in note 9).

[34] *Northwest Resource Information Center,* 35 F.3d at 1389, 1391. 3s 16 U.S.C. s. 839b(10)(A).

[36] Id. s. 839b(11)(A)(ii).

[37] See note 14 and accompanying text.

a cost-benefit test to salmon restoration measures. [38]

We also strongly object to the Council's mentioning of BPA's estimate that additional power purchases and foregone revenues are due to flow augmentation. There is no economic analysis supporting such a figure, and it is more than implausible given the fact that salmon got precious little in the way of flows and spills in 2001. We consider the use of such a figure without supporting analysis to be reckless, since it is almost certainly in error by several magnitudes.

First, BPA includes in such figures "foregone hydropower revenues," a concept premised on the flawed notion that the principal purpose of the dams is to produce hydropower. None of the Columbia Basin dams were authorized principally for that purpose, and the statute authorizing the McNary Dam promised that "adequate provision shall be made for the protection of anadromous fishes [sic] by affording them free access to their natural spawning grounds."} 39 This long-ignored provision seems to establish a congressional policy of providing maximum dam passage and favoring wild salmon protection over hatchery fish.

Second, if BPA's estimated costs are premised on the attempt to meet the April 10 refill date (instead of the traditional July goal) to supply fish flows (which weren't supplied in 2001 anyway), we would like to see an independent economic analysis of how much of the storage was attributable to the April 10 date for spring flow augmentation, and how much was attributable to the objective to refill by July for non-fish purposes. In an extreme low water year, like 2001, our impression is that the system managers' highest priority is to refill, regardless of flow augmentation requirements, while purchasing power to meet load. Assigning all of these power purchases to fish costs, which is what we think BPA did, when the purchases would in all probability have occurred anyway (and for which the fish received no benefit, since the flows and spills weren't provided anyway) is wholly inequitable and misleading. Yet the Council repeats BPA's figures as if they were facts.

Pages 53-68-We wish to emphasize that Congress instructed the Council to ensure "an adequate, efficient, economical, and reliable power supply," *not* a hydropower supply. Power losses due to salmon restoration measures were anticipated by the drafters of the Northwest Power Act.[40] The antidote to such power losses was the power acquisition authority also granted by the statute.

We therefore strenuously disagree with the Council's assertion that, "[t]he question of how the impacts of fish operations on the power system can be lessened while fulfilling the objective of protecting, mitigating and enhancing the fish and wildlife of the Columbia Basin" is the foremost question before the Council (page 50). We think the Council has this exactly backwards. Congress made the Council's primary objective to protecting, mitigating, enhancing fish and wildlife, while ensuring an adequate, efficient, economical, and reliable power supply (not a hydropower supply). So the Council should not (and in fact has no authority to) be attempting to reduce fish and wildlife protection in order to minimize effects on hydropower generation. Instead, the approach contemplated by the Northwest Power Act is to 1) promulgate a program sufficient to protect and restore fish and wildlife populations, especially salmon, which are specifically mentioned in the statute; 2) then determine if the program ensures an adequate, efficient, economical, and reliable

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38 *Northwest Resource Information Center,* 35 F.3d at 1389, 1391.

39 Rivers and Harbors Act of 1945, ch. 665, s. 2, 59 Stat. 22.

40 H.R. Rep. No. 96-976, pt. 1, 96th Cong., 2d Sess. 56-57 (1980).

power supply, and 3) then acquire the resources necessary to achieve both. The Act simply does not contemplate reducing fish and wildlife protection to increase hydropower production.

Page 57-The Council's acknowledgment here that the power system "failed in its obligation to protect, mitigate and enhance the fish and wildlife resources of the Columbia Basin" in the winter of 2001 is of course quite accurate, however belated this recognition comes. But the Council fails to note that the reason for the declared "power emergencies" (which we believe violated both the Northwest Power Act and the Endangered Species Act) was, it turns out, at least partly due to certain suppliers' successful attempts to manipulate the West Coast electric markets. Yet, the apparent lesson the Council draws from the 2001 shortages is to reduce salmon flows, thereby increasing (marginally) hydropower production. Why salmon should suffer the consequences of the 2001 energy shortages well beyond 2001 is hardly clear, and probably a violation of the Northwest Power Act.

Page 66-We are heartened by the Council's recognition that "attention also needs to be paid to assuring the fish and wildlife needs and reliability needs are balanced appropriately in crisis situations," and its acknowledgment that the result in 2001 was complete loss of fish operations. However, we do not agree that these "crisis issues" should be left to the Northwest Power Plan-we think they are appropriately resolved in the Fish and Wildlife Program. We also think the Council bears considerable responsibility for the salmon migration disaster of 2001, when the Council basically shut its eyes to BPA's repeated "power emergency" declarations, and allowed spill and flow requirements to be ignored by the system operators. The Council's habitual lack of interest in enforcing the measures in its program ought to be a source of institutional embarrassment.

Conclusion

We do not think there is any legitimate policy ground for eliminating spring and summer salmon flows. The estimated gain of 41 average megawatts (page 49), about 1/4% of the average output of the Columbia Basin hydroelectric system, is so small as to be nearly insignificant. Yet the costs to salmon and those who depend upon them could be huge. We do not believe that the Council has the authority to subject salmon restoration measures to such a cost-benefit test, and we do not think the Council has the statutory authority to reduce salmon protection to benefit resident fish, many of which are a byproduct of the hydroelectric system. We also think that the Council has misrepresented or misinterpreted the science which it claims does not support continuation of flow augmentation, and we urge that the Council fulfill its statutory responsibility of deferring to the scientific opinion of the vast majority of fishery agencies and tribes, and drop its proposed elimination of flow augmentation.

Thank you for the opportunity to comment.

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PACIFIC NORTHWEST WATERWAYS ASSOCIATION

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.. Working to enhance economic vitality in the Pacific Northwest since 1934

February 7, 2003

Northwest Power Planning Council
c/o Mark Walker
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PNWA comments on the "Draft Mainstem Amendments to the Columbia River Basin Fish and Wildlife Program", Council document 2002-16

Dear Council Members:

The Pacific Northwest Waterways Association was formed in 1934 (as the Inland Empire Waterways Association) as a coalition of public and private sector organizations. Since 1934, we have worked in support of regional economic development programs that enhance regional economic vitality. Since the 1980s, we have worked to accomplish this goal within the context of improving the environmental health of the region.

The Council's mainstem amendments have the potential of affecting both the economic vitality and the environmental health of the Pacific Northwest. The economies of the region and the nation have been extremely fragile for several years. Improvement is likely to be slow. The availability of efficient, economical and reliable power at the lowest possible cost is a critical element in the region's economic recovery and its long-term economic health.

For these reasons, we urge the Council to adopt the most cost-effective measures possible and eliminate those measures that have been shown to have little or no benefit for endangered fish. We have watched ratepayer fish and wildlife costs grow to $6 billion over the last 20 years. Some of those expenditures have been effective. Many have not. So far, if a measure has proven to be ineffective, the approach has been to do more, not something different. Flow augmentation and spill programs are examples in point. Repeatedly, when they have not worked, they have been increased rather than scrapped for more effective measures.

Cost matters. It matters now more than ever. The Council has taken some measures in this draft that move toward more cost effectiveness within the overall program. But, you do not go far enough. We urge the Council to go farther in the reduction of spill and flow. We also urge the Council to scrutinize all programs for excessive costs, be they overhead, duplication or conflicts between program objectives. If the Council and the region do not reduce fish costs and increase program effectiveness, we put the financial solvency of the Bonneville Power Administration and the economic health of the region at extreme risk.

We appreciate the opportunity to comment and would be happy to answer any questions you may have.

Glenn Vanselow
Executive Director

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Comments on Draft Amendments - 132

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February 4, 2003

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Judi Danielson, Chair

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Dear Council Members:

Thank you for giving us the opportunity to comment on your Mainstem Amendments to the Columbia River Basin Fish and Wildlife Program. Franklin PUD is pleased to see the Council's overall direction to modify river operations to provide more biological benefit at less cost. Within the last two years, Franklin PUD has endured a series of rate increases from the Bonneville Power Administration (BPA). Our goal is to avoid more wholesale rate increases from BPA and to achieve long term compliance with all relevant environmental laws. We are confident a solution can be implemented through the joint work of the Council and Bonneville's customers to benefit fish and wildlife and affordable power rates.

We want to encourage the council to develop a regional cost-effectiveness tool. A costeffective approach to fish and wildlife management decisions has been noticeably absent in the past. And now the Council in their draft Amendments has included the concept, recognizing they are missing information to do it properly. The Council staff, with analysis of power impacts and biological benefits, provides a great first step in developing a cost-effective methodology. We recommend the council work with the Independent Economic Analysis Board, NMFS Science Center and federal agencies to develop the tools needed. In the interim, use the work to date to help guide the decision making process. Ultimately a tool of this nature should be used to determine the most beneficial river operations, as well as be used for evaluating the relative costeffectiveness of various actions for fish, whether there are changes ill harvest practices, hatchery operation or habitat improvements.

I mentioned earlier the series of rate increase we have received from BPA. Since March 2001, our overall wholesale power rate increases from BPA is over 70%. If BPA implements the rumored 20% Safety Net CRAC (SN CRAC), Franklin PUD customers may again see more rate increases. Our commercial, industrial, and agricultural customer's rates have increased 64% within the last 15 months. This increase does not **include the possible SN CRAC** increase this fall. Noting the economic distress the recent and proposed electric rates increase have placed on our economy, we urge the Council to insist on affordable river operations for salmon. We are pleased to see the Council's mission is to provide a balance between power and fish needs. With this mission your Mainstem Amendments are crucial inputs to the federal agencies' river operation decisions. It is also our goal to provide a balance between fish and power. We understand that Fish and Wildlife programs are not solely the cause of increased power

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costs, but do want to note that the cost of river operations and the direct programs have risen drastically. Because Northwest economies are faced with rising electric rates, recession, and closing factories, we urge all interested parties to put forth heroic efforts to cut costs in order for fish and power to work together.

When balancing power and fish needs, it is crucial that all solutions take into account dry water years and/or critical economic situations. The Northwest economy is founded on hydro-generation. We feel the Council must address river operations during a power emergency. During the power crisis of 2000-01, the council took an active role to ensure that we maintain a reliable power supply and for that we are grateful. However, as amendments are being made, we implore the Council to provide guidance in the Mainstem Amendments on appropriate actions in emergency situations.

In order for the Northwest to remain intact, everyone must step up and do their part. We understand the legal obligation that the Council and BPA have regarding fish and wildlife. We also understand the legal obligation to ensure the region has ari adequate, economic, efficient and reliable power supply. With that in mind, we support BPA's effort to pare its overall fish and wildlife costs in all categories, including program spending, reimbursable payments and capital spending. Bonneville is in a short-term budget crunch that requires sacrifice for all.

Franklin PUD is confident that fish and power can coincide together. We also support the comments of **the Public Power Council.** Thank your for the opportunity to comment.

Sincerely,

Kenneth A. Sugden
Manager

LTR 2003-034