

**From:** Charles Pace

**Sent:** Tue 5/18/2010 4:43 PM

**To:** Leonard, Nancy

**Subject:** MERR comment

Dr. Leonard:

Thank you for extending the comment period for MERR to May 18th. I've reviewed the draft documents and offer the following additional comments for consideration.

A significant number of amendments proposed for the fish and wildlife program in the most recent revision process addressed research, monitoring and evaluation. Many of these were developed by consensus and presented as recommendations of the Columbia Basin Fish and Wildlife Authority.

At the same time, three of the four lower Columbia River Tribes, the Colville Tribe and the states of Idaho and Montana were engaged in closed-door discussions leading to the Accords. Though incomplete, the Accords were announced to the region, proposed as amendments to the program that must necessarily be assured favorable consideration and funding as part of a new role for Bonneville as "peacemaker."

This approach, which was ultimately embraced by the Council, undermined the integrity of the amendment process and raised serious issues regarding credibility and impartiality of Council members who pledged to support the use of ratepayer funds to remove perspectives of parties in litigation, which the Power Council participates in *amicus*.

The Council is using the "maturity" of the program to offer the region a flawed RME approach that is designed to (1) support the 2008 biological opinion, and (2) continue diverting ratepayer funds to fulfill the deals inherent in the Accords in hopes that the District Court will validate the proposed power system operation.

Because a large number of proposed program amendments addressed research, monitoring and evaluation, and in light of a majority of the Council embracing the incomplete and inadequate RME strategies presented in the Accords, an obvious concern for Bonneville and its customers is how to limit research, monitoring and evaluation programs under the fish and wildlife program to support and advance the interests of federal defendants in *National Wildlife Federation v. National Marine Fisheries Service* litigation.

The closed-door discussions that occurred between federal defendants, Bonneville, and Council staff were clearly designed and intended to address the fractured nature of RME under the 2008 biological opinion, compared to the range of proposals received in response to the program amendment solicitation.

Put somewhat differently, it appears that the Council is proceeding with development of MERR for the benefit of private interests in the states of Idaho, Montana and Washington, the "affirming and forbearing" tribes signatory to the Accords, Bonneville's customers and other stakeholders participating in the BiOp litigation.

It may be significant that Council staff, by participating in the agency/Bonneville/NPCC discussions of research, monitoring and evaluation while the members were deliberating on the program amendments, likely violated restrictions on *ex parte* communications.