

**BONNEVILLE POWER ADMINISTRATION
NATIONAL ENVIRONMENTAL POLICY ACT
RECORD OF DECISION**

**for the
FY 2007-2009 Fish and Wildlife Project
Implementation Decision**

INTRODUCTION

The Bonneville Power Administration (BPA) has decided to implement certain new and ongoing fish and wildlife projects for Fiscal Years (FY) 2007 through 2009 that help meet the agency's responsibilities to protect, mitigate and enhance fish and wildlife affected by the development and operation of the Columbia River Basin hydroelectric dams from which BPA markets power. The Northwest Power and Conservation Council (Council) has recommended that BPA fund most of these projects. All of the projects serve to assist in the implementation of the Council's Columbia Basin Fish and Wildlife Program and are consistent with it.

Because this decision involves fish and wildlife policy issues, BPA has reviewed the Fish and Wildlife Implementation Plan Environmental Impact Statement (FWIP EIS) (DOE/EIS 0312, April 2003), and the Fish and Wildlife Implementation Plan Record of Decision (FWIP ROD, October 31, 2003) to determine if this decision falls within the scope of the FWIP EIS and ROD. As explained in this decision document, BPA has determined that the projects BPA will implement are adequately covered within the scope of the FWIP EIS and ROD, and that implementing these projects would not result in significantly different environmental effects. BPA therefore decided to tier this FY 2007-2009 Fish and Wildlife Project Implementation Decision ROD to the FWIP EIS and ROD.

BACKGROUND

BPA's responsibilities for protecting, mitigating and enhancing fish and wildlife resources in the Columbia Basin, as well as involving states, tribes and others in the process, are defined by a collection of laws, treaties and executive orders. The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) of 1980 requires that BPA use the Act and its pre-Act legal authorities to protect, mitigate, and enhance fish and wildlife adversely affected by the development and operation of the Federal Columbia River Basin hydroelectric projects from which BPA markets power (abbreviated as the Federal Columbia River Power System (FCRPS)). In addition, BPA must avoid jeopardizing federally-listed species, pursuant to the Endangered Species Act (ESA), and must avoid destroying or adversely modifying their critical habitat. The ESA

also requires that BPA use its authorities for the conservation and recovery of protected species. Finally, BPA must uphold its share of the Federal government's tribal treaty and trust responsibilities to Columbia River Basin Indian tribes, specifically as they pertain to fish and wildlife.

Under the Northwest Power Act, the Council, which represents the four Northwest states, develops a Columbia Basin Fish and Wildlife Program that is intended in part to help guide BPA's fish and wildlife mitigation actions. The current version of this program is the 2000 Columbia River Basin Fish and Wildlife Program, as supplemented by the 2003 Mainstem Amendments and the subbasin plans for 57 subbasins of the Columbia, adopted in 2004-05.

The Council's 2000 Program consists of measures and strategies that indirectly address the effects of the mainstem Columbia and Snake River hydroelectric dams on fish and wildlife using enhancement or off-site mitigation.¹ These off-site mitigation measures and strategies include artificial production (hatcheries), habitat and production enhancement, monitoring and evaluation, and research and coordination to help in implementation and review of the program. This decision document addresses projects for off-site mitigation derived in large part from the subbasin plans.

The 2003 Mainstem Amendments include primarily measures that directly protect and mitigate fish and wildlife from the FCRPS's adverse impacts by recommending changes in how BPA, the Army Corps of Engineers, and the Bureau of Reclamation configure and operate the hydrosystem. Because FCRPS configuration and operations are subject to Biological Opinions under the ESA, and the Federal District Court for the District of Oregon has remanded two of those opinions back to the National Oceanic and Atmospheric Administration Fisheries, this decision document will not address all of the actions BPA takes based on the 2003 Mainstem Amendments. Instead, the forthcoming Biological Opinion(s), and BPA's decisions and documentation related to it, will directly address the Council's mainstem guidance.

Beginning in 1996, BPA began enlisting the Council to periodically solicit projects intended to help meet BPA's share of the Program's measures and objectives through an open and public process. The Council is directed by the Northwest Power Act to conduct a review of submitted project proposals and make recommendations for BPA to fund from its annual fish and wildlife program budget. The Council accomplishes its review of the proposals with the assistance of an Independent Scientific Review Panel (ISRP). The Council must have the ISRP "review a sufficient number of projects to ensure that the list of prioritized projects recommended [to BPA] is consistent with the Council's program."² The ISRP assesses whether projects are based on sound scientific principles, benefit fish and wildlife, and have a clearly defined objective and outcome with

¹ Although the Northwest Power Act directs the Council to plan mitigation for between 100 and 200 dams in the basin, the 2000 Program and 2003 Mainstem Amendments focus almost exclusively on the FCRPS. BPA's legal responsibilities are for mitigating the power-share of the FCRPS only, not the non-federal dams that FERC regulates or the non-FCRPS federal dams.

² 16 U.S.C. § 839b(h)(10)(D)(iv).

provisions for monitoring and evaluation of results. After its review, the ISRP rates each project as fundable, fundable in part, not fundable or requiring a further response, based on the panel's application of the criteria. The Council fully considers the ISRP's evaluation in making its final project recommendations to BPA.

Based largely on the Council's final recommendations, BPA makes funding decisions and implements projects through contracts with numerous entities, including Columbia Basin tribes, states, other federal agencies, universities, and private vendors. BPA also considers its other fish and wildlife obligations, such as those required by ESA, in the decision making process. BPA funds and implements an extremely wide array of protection, mitigation and enhancement actions such as acquiring lands, repairing habitat, improving fish passage, studying fish diseases, and controlling predators.

BPA'S FWIP EIS AND ROD

In response to fish and wildlife administration issues that were identified in the 1995 Business Plan EIS (Business Plan EIS, DOE/EIS-0183, June 1995, and Business Plan ROD, August 15, 1995)³, BPA developed the Fish and Wildlife Implementation Plan EIS. The underlying need for the FWIP EIS was to establish a comprehensive and consistent policy to guide the implementation and funding of the agency's fish and wildlife mitigation and recovery efforts under existing statutes and policies. The FWIP EIS is intended to support a number of decisions related to fish and wildlife mitigation and recovery⁴ necessary to comply with BPA's responsibilities, including decisions by BPA related to implementing its share of the Council's Fish and Wildlife Program (FWIP EIS, Section 1.4.2).

The FWIP EIS considered a wide range of potential Policy Direction alternatives for BPA's fish and wildlife mitigation policy. Five basic alternatives were identified and evaluated in the EIS: Natural Focus, Weak Stock Focus, Sustainable Use Focus, Strong Stock Focus, and Commerce Focus. These five basic Policy Direction alternatives span the full range of reasonably foreseeable directions for fish and wildlife policy, ranging from policies perceived as favoring the natural environment to those that may be perceived as favoring the economic and social environments. Developed from within the range of the five basic Policy Direction alternatives, the EIS also includes a preferred alternative, the Preferred Alternative Policy Direction (PA 2002). In addition, the EIS includes a Status Quo alternative that serves as a baseline against which all alternatives can be compared.

³ In the Business Plan EIS and ROD, BPA adopted a market-driven approach to guide its overall business practices. In accordance with this approach, BPA fully participates in the competitive market for power, transmission, and energy services, and uses success in the market to ensure the financial strength necessary to fulfill its numerous and varied mandates and obligations. BPA also operates in a manner that is more cost-conscious, customer-focused, and results-oriented. As part of its market-driven approach, BPA has been working towards "reinventing" its fish and wildlife program to emphasize better results, effectiveness, and efficiency.

⁴ BPA uses the phrase "mitigation and recovery" to address its responsibilities to fish and wildlife under the Northwest Power Act ("mitigation), the ESA ("recovery"), and other laws.

The FWIP EIS assesses the environmental consequences on the natural, economic, and social environments of adopting a variety of policy directions. By design, the analysis in the FWIP EIS is a policy-level evaluation, and thus is more qualitative than quantitative. The analysis is based on relatively predictable relationships between changes to the environment (air, land, and water) and the consequences for fish, wildlife, and humans (FWIP EIS, Section 5.3.1.2). The analysis in the FWIP EIS compares the potential environmental impacts for the possible range of implementing actions for fish and wildlife recovery under each Policy Direction with the Status Quo.

The FWIP EIS also collects and sorts the many and varied proposed and ongoing actions for fish and wildlife mitigation and recovery in the region (FWIP EIS, Volume III). These actions, referred to as Sample Implementation Actions (SIAs), are organized in the EIS in SIA tables for each Policy Direction alternative. These SIAs are representative of the types of actions that are consistent with the various alternatives.

In addition, the FWIP EIS incorporates by reference BPA's Watershed Management Program EIS (DOE/EIS-0265, July 1997); and Wildlife Mitigation Program EIS (DOE/EIS-0246, March 1997). These two programmatic EISs were the result of an examination by BPA in the mid-1990s of the environmental consequences of its routine fish and wildlife program activities, including implementation of Council-recommended projects. In these programmatic statements and their associated RODs, BPA chose to adopt a set of prescriptions to standardize the planning and implementation for the majority of its projects. In accordance with these prescriptions, BPA completed a NEPA document called a Supplement Analysis for each site-specific action under the appropriate programmatic EIS. In each Supplement Analysis, the agency considered the environmental consequence of a proposed project and made a determination concerning whether the project was generally consistent with the programmatic EIS. By adopting the prescriptions, BPA was able to implement its numerous watershed and wildlife projects with greater efficiency and consistency.

In approximately ten years, BPA has prepared well over 300 Supplement Analyses under the Watershed Management and Wildlife Mitigation Program EISs. Each of these documents has confirmed that the environmental consequences for routine activities are predictable and that, although there are short term adverse effects from fish and wildlife mitigation activities, they continue to have net positive and therefore increasingly beneficial impacts to fish and wildlife across the basin.

Through the FWIP ROD, BPA adopted the PA 2002. PA 2002 characterizes the policy direction BPA chose in funding and implementing its fish and wildlife obligations. PA 2002 focuses on enhancing fish and wildlife habitat, modifying hydroelectric power operations and structures, and reforming hatcheries to both increase populations of listed fish stocks and provide long-term harvest opportunities (FWIP EIS, Section 3A). The PA 2002 Policy Direction is a blend between a weak stock focus and a sustainable use focus that incorporates both BPA's mitigation obligations and ESA obligations. Sample Implementation Actions for PA 2002 can be found in the SIA tables for the Weak Stock

Focus and Sustainable Use Focus alternatives. PA 2002 reflects regional fish and wildlife policy guidance and considers extensive public input. It is also consistent with the fish and wildlife component in BPA's earlier Business Plan decision.

As previously mentioned, the FWIP EIS was intended to support a number of decisions (FWIP EIS, Section 1.4.2), including implementing BPA's share of the Council's Fish and Wildlife Program and funding and implementing other fish and wildlife mitigation and recovery efforts that support the PA 2002. The FWIP EIS and ROD also document a strategy for making subsequent fish and wildlife policy decisions (FWIP EIS, Section 1.4.1 and Figure 1-6; FWIP ROD, Figure 1, page 15). For each subsequent decision as appropriate, BPA reviews the FWIP EIS and ROD to determine if the proposed action was adequately covered within the scope of the PA 2002 evaluated in the EIS and adopted in the ROD. If the action is found to be within the scope of this alternative, the Administrator may make his decision for the proposed action under the FWIP EIS and ROD. This approach to decision making allows the BPA Administrator to implement decisions concerning fish and wildlife mitigation and recovery actions in a timely, comprehensive manner (FWIP ROD, page 13).

THE 2007-2009 COUNCIL SOLICITATION PROCESS

In October 2005, the Council, in coordination with BPA, solicited proposals from regional entities for projects that would protect, mitigate and enhance fish and wildlife affected by the development and operation of the FCRPS consistent with the Fish and Wildlife Program. The Council and BPA required sponsors to submit proposals for all newly proposed projects and ongoing projects that were seeking funding after their 2006-2007 contracts expired.

As part of the 2007-2009 solicitation process, the Council organized a set of local groups to review the proposed projects for consistency with the priority objectives and strategies in the program's subbasin plans and other key planning documents. The Council looked to these local review groups for advice on which proposals were of highest priority in each subbasin. Working with the Columbia Basin Fish and Wildlife Authority, the Council also employed a review group called the Mainstem Systemwide Review Team (or MSRT) to review projects that included research, monitoring and evaluation and coordination activities (generally identified in measures in the 2003 Mainstem Amendments) that did not fit into any particular province.

In the fall of 2005, BPA announced that it would commit an annual average of \$179 million in fish and wildlife funding for fiscal years 2007 through 2009. Of that, up to \$143 million would be used for non-capital activities (expensed) and up to \$36 million would be used for capital projects. Capital funding is borrowed from the U.S. Treasury and BPA's policy for its use is prescribed in the *Fish and Wildlife Capitalization Policy*.⁵

⁵ BPA's policy for capitalizing fish and wildlife costs is that the project costs must exceed \$1M, the facilities must have an estimated useful life of at least 15 years, and the project must provide a measurable

The Council subsequently established planning target budget allocations for geographic areas throughout the region. Similarly, for those research, monitoring and evaluation, and coordination activities not linked to a particular geographic area, the Council established a “basinwide” projects planning target. The Council also established a planning budget target for that group of projects left over, consisting of the few mainstem on-the-ground projects and projects of a multi-province nature. The Council based the allocations on its historical funding recommendations and on its non-binding policy that recommends that 70% is spent on projects benefiting anadromous fish, 15% on resident fish and 15% on wildlife.

The solicitation process began on October 21, 2005, when the Council and BPA requested project proposals for fiscal years 2007-2009. The proposals were submitted by January 2006, and the Council began its review. During August and September 2006, the Council made the project proposals, the ISRP’s final report, and other review group recommendations available for public review and comment. After considering the comments received, the Council released draft funding recommendations in mid-September 2006 for public review and comment. The Council closed this comment period on October 6, 2006.

The Council completed its recommendations in November 2006, with project specific comments and the general text of its decision being issued in December. The Council’s recommendation to BPA was based on a planning target of \$153 million annually. Of this total, the Council recommended allocating: approximately \$93 million among the ecological provinces that make up the Columbia River Basin; \$13.4 million for the mainstem Columbia River and for multi-basin projects; \$32.6 million for basin-wide projects; \$2 million as an unallocated placeholder; and the remainder to support the ISRP, Independent Scientific Advisory Board (ISAB), and BPA internal overhead. The Council provides further explanation of its recommendation in a final decision memorandum and related documents, located at www.nwcouncil.org/fw/budget/2007/finalrec/Default.htm.

To address these recommendations, BPA is issuing a decision that describes which projects it will and will not implement, at what levels, and why. This decision includes a finding that BPA’s decision and the projects it will implement are consistent with the Council’s Program and therefore comply with the Northwest Power Act. In addition, because the solicitation and the comments that both BPA and the Council received raised numerous legal and policy issues, BPA has also provided its views on these issues in additional documentation accompanying its decision. Finally, BPA is issuing this Record of Decision under the FWIP EIS to ensure full and expeditious consideration under NEPA of its policy-level decision for the projects that BPA intends to implement over the next three years.

future benefit. Examples of projects that may meet these criteria are some hatchery facility construction projects, major fish passage projects, or land acquisition projects (BPA Financial Policy: Fish and Wildlife Capitalization Policy, reviewed 08/03/05, and the Fish and Wildlife Capital Project Clarification memo dated August 18, 2006).

BPA'S PROJECT IMPLEMENTATION DECISION

The projects that BPA has decided to implement from 2007 through 2009 are described in the attached document (cover letter and accompanying documents) (see Attachment A). BPA has decided, consistent with its objectives and the Council's Program, that it will implement approximately 301 projects for fish and wildlife protection, mitigation and enhancement from 2007 to 2009, some of which will be closed-out and terminated over time. BPA seeks to expend \$143 million a year on non-capital activities (expense) and \$36 million a year on capital projects. BPA will also apply the unspent "carryover" for fish and wildlife program activities in fiscal years 2003-2006.

In addition to the \$143 million expense budget for fish and wildlife projects, BPA added approximately \$3 million in FY 2007 for projects that it is funding as part of a collaborative short-term agreement focused on the operation of the hydrosystem in 2007. Twenty-three projects, which include actions benefiting ESA-listed species, are part of this agreement between BPA, the U.S. Army Corps of Engineers, the Confederated Tribes of the Warm Springs Reservation, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes and Bands of the Yakama Nation, and the Confederated Tribes of the Colville Indian Reservation.

The FWIP EIS includes a summary of the types of activities that the PA 2002 would support, organized by resource category (FWIP EIS, Section 3A), as well as sample implementation actions (FWIP EIS, Volume III). BPA has reviewed the FWIP EIS and determined that the 2007-2009 project implementation decision is within the scope of the PA 2002.

The factors embedded in BPA's decision were reflected in the agency's October 6, 2006 letter to the Council on its draft recommendations and also in the final decision letter and accompanying documentation. These include the following:

- implement highest priority projects that enhance natural ecological functions that increase abundance, distribution, and diversity of fish and wildlife populations affected by the FCRPS;
- implement habitat protection and improvement actions to address key limiting factors to species recovery;
- increase portion of funding going directly to on-the-ground mitigation;
- pursue efficiencies in implementing the program through reviewing and refining certain work categories like regional research, data management, coordination, and wildlife operation and maintenance;
- increase project funding partnerships and encourage greater cost-sharing for projects that do not address direct FCRPS impacts to fish and wildlife.

These factors help BPA operate in a results-oriented, cost-conscious fashion that contributes to fish and wildlife program reinvention. By helping to improve program efficiencies, attract additional funding, and put more money into mitigation that directly benefits fish and wildlife, these factors provide overall benefits to the environment.

These decision factors are consistent with the fish and wildlife reinvention goals intrinsic to the market-driven approach described in BPA's Business Plan EIS and ROD (BP EIS, Section 2.6.3). These factors are also components of the PA 2002 adopted in the FWIP EIS and ROD, which was aimed at helping ensure predictability and stability in fish and wildlife funding and accountability for results (FWIP EIS, Section 3A.3.2; FWIP ROD, page 9).

ADDITIONAL ENVIRONMENTAL REVIEW

While this decision document has been prepared to address the policy decision being made for FY 2007-2009 projects under NEPA, BPA recognizes that additional environmental consideration may be required for particular projects. Thus, prior to the implementation of any project approved under the 2007-2009 decision, BPA will conduct an additional environmental review of each project. Depending on the nature and complexity of the project, this additional environmental review will range from a "validation" process in which other applicable laws and regulations relating to environmental impacts are addressed, to a requirement for additional NEPA analysis.

BPA expects that a majority of the projects implemented for the 2007–2009 timeframe will involve routine watershed and wildlife management and mitigation actions as described above. Because these routine projects have predictable environmental effects that have already been analyzed in the FWIP, the Watershed Management, or Wildlife Mitigation Program EISs, these routine projects will require no further NEPA documentation beyond this decision document prior to implementation. Nonetheless, these projects will be required to go through a validation process in which BPA will review each project to ensure all applicable tribal, local, state, and federal laws and regulations in addition to NEPA have been addressed prior to implementation. Examples of typical compliance requirements that could be addressed in the validation process include those of the Endangered Species Act, National Historic Preservation Act, Clean Water Act, Clean Air Act, and others.

BPA staff will document compliance with these and other applicable laws and regulations as part of the contract management process. Results of the validation process will be tracked and accessed through Pisces, a web-enabled software application that assists BPA and its fish and wildlife program participants manage projects throughout the Columbia River Basin. These results will also be made available to the public on an ongoing basis throughout the period of the decision, as new information about environmental compliance actions becomes available.

In addition to these routine watershed and wildlife mitigation projects, there are two types of projects that BPA has determined will require additional NEPA analyses beyond this decision document and the validation processes prior to implementation. The first type includes projects that will always require additional NEPA analysis prior to implementation based on their characteristics. The second type includes projects for which complicating factors emerge as the project develops, necessitating additional NEPA analysis.

Projects automatically requiring additional NEPA analysis are those with at least one of the following characteristics:

- (1) projects that are not consistent with the PA 2002 adopted in the FWIP ROD;
- (2) projects that are required to go through the Council's 3-Step Review Process (such as new artificial production facilities, or other large-scale capital-intensive projects, see <http://www.nwcouncil.org/LIBRARY/2006/2006-21.htm>);
- (3) projects that involve substantial modification to an ongoing artificial production program (for example, expansion of the program to include a new species).

BPA may determine during the validation process or otherwise that there are complicating factors that make this decision document an inappropriate basis for providing NEPA analysis and documentation for a given project and therefore additional NEPA analysis is required. These factors may include controversy, special regulatory requirements (federal, state or local), the participation of other federal agencies (where environmental review methodologies may differ), unprecedented actions (with accompanying uncertainty in impacts), or extraordinary environmental circumstances. For such projects, BPA will determine the appropriate strategy to comply with NEPA on a case by case basis.

ENVIRONMENTAL IMPACT SUMMARY

In considering the potential environmental impacts of BPA's project implementation decision for 2007-2009, BPA has considered the decision both at a programmatic level, as well as at the project-specific level based on information available at this time. At the programmatic level, a review of the FWIP EIS shows that the potential environmental impacts of BPA's 2007-2009 decision are adequately covered by this EIS.⁶ At the project-level, a review of the FWIP EIS shows that the routine watershed and wildlife mitigation projects to be implemented through BPA's decision are also adequately covered within the scope of this EIS, and that implementing these projects would not result in significantly different environmental effects from those described in the EIS. A further discussion of both the potential programmatic and project-specific impacts follows.

Programmatic Impacts

As a mitigation initiative, implementation of the 2007-2009 fish and wildlife projects is intended to have long-term beneficial effects on fish and wildlife, increasing habitat values within the Columbia River Basin and increasing and sustaining fish and wildlife populations. These actions may also have associated side effects: outcomes that were not the primary objective of the action, but that occur nonetheless. These effects are sometimes unwanted and undesirable (e.g. causing short-term sedimentation during streambank restoration work).

⁶ As previously noted, the FWIP EIS incorporated by reference BPA's Watershed Management Program EIS and Wildlife Mitigation Program EIS. Both the Watershed Management Program EIS and the Wildlife Mitigation Program EIS have previously been used to provide NEPA coverage for site-specific fish and wildlife projects that were implemented through the Council's Fish and Wildlife Program.

Through its experience with completing Supplement Analyses over the past 10 years, BPA has a firm understanding of the adverse environmental consequences associated with fish and wildlife projects. These associated effects were also identified and evaluated in the FWIP EIS (FWIP EIS, Section 3A.3). Experience has also shown that federal, state and local regulatory requirements are central to addressing any adverse effects and minimizing them through best management practices, restrictions, and mitigation measures.

Some adverse environmental impacts associated with fish and wildlife projects are unavoidable (i.e. cannot be fully mitigated). The impacts however are often temporary and short-term. Soils are typically disturbed during the implementation phases of most projects. This can cause sediments to enter adjacent surface waters during project implementation. Ground disturbing activities also have the potential to impact cultural and/or historic resources. In many cases it is not possible to avoid removing some existing vegetation as part of project implementation. Fish and wildlife can be disturbed by noise and human activity in project vicinities. Smoke from prescribed burning conducted to improve habitat or to manage fuel loads could cause local reductions in visibility and air quality. Some loss of local revenue and taxes could occur in cases where commercial land uses are halted as part of a fish and wildlife project (e.g. retiring a grazing lease) or land is acquired for the purposes of fish and/or wildlife mitigation. Access restrictions and impacts to recreation could also occur in an attempt to protect sensitive habitats or during project implementation.

BPA's ratepayers would continue to fund the agency's share of the Fish and Wildlife Program's implementation costs. BPA addressed the social and economic impacts fulfilling its mitigation and recovery responsibilities in the FWIP EIS (FWIP EIS, Section 3A.3.2 and Section 3A.3.3). Levels of funding for the Fish and Wildlife Program and uncertainties surrounding fish and wildlife mitigation requirements (e.g. court-related actions of the FCRPS 2004 Biological Opinion) continue to be a major concern for many regional entities. BPA addressed many of those issues in its record of decision concluding BPA's 2007 Wholesale Power Rate Adjustment Proceeding (WP-07-A-02, July 2006). In addition, BPA's Vice President for Environment, Fish and Wildlife addressed similar issues in his letters responding to fish and wildlife manager comments during BPA's Power Function Review.⁷

Project-Specific Impacts

Prior to implementation, projects that BPA proposes under the 2007-2009 decision will be required to meet all applicable tribal, local, state and federal laws and regulations. For example, the Endangered Species Act requires federal agencies to minimize or avoid adverse impacts to threatened or endangered plant, fish and wildlife species. In accordance with the Clean Air Act, project managers conducting prescribed burns are

⁷ See BPA's responses to comments from the Yakama Nation and the Columbia Basin Fish and Wildlife Authority at:
http://www.efw.bpa.gov/Integrated_Fish_and_Wildlife_Program/YINCRITFCLetterandAttachments.pdf;
http://www.efw.bpa.gov/Integrated_Fish_and_Wildlife_Program/05CBFWAResponse422.pdf

required to coordinate with state officials to ensure that impacts on air quality would be minimal and within state-defined limits. The Clean Water Act regulates discharges into surface waters including adjacent wetlands. The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties including cultural resources. In addition, there are a myriad of state and local regulations that protect sensitive resources that are applicable to fish and wildlife project actions. For projects on Indian reservation lands, tribes often have laws and regulations that parallel many federal, state and local laws and ordinances.

BPA staff will work with project sponsors to ensure that all applicable requirements have been met and are appropriately documented through the validation process. The best management practices, restrictions, and mitigation measures imposed through the regulatory process will ensure that any project-specific adverse effects to water quality, habitat access, habitat elements, channel conditions and dynamics, flows, and watershed conditions will be brief, minor, and timed to occur at times that are least impacting.

Mitigation

The fish and wildlife projects BPA proposes to implement under the 2007-2009 decision are intended to mitigate the impacts of the FCRPS on fish and wildlife. If a project results in an adverse effect on other natural resources, then those effects would be addressed and mitigated for through applicable laws and regulations as confirmed through the validation process). The FWIP EIS also identified possible mitigation measures that could be employed to avoid or minimize environmental harm (FWIP EIS, Section 5.2). Through the validation process, BPA staff will work with project sponsors to ensure that all practicable mitigation measures have been implemented and are appropriately documented.

Cumulative Impacts

A cumulative impact is one that results from the incremental impact of an action when added to other past, present, and reasonable foreseeable future actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The FWIP EIS is designed to account for potential cumulative impacts of many site-specific actions when following a particular Policy Direction. It was expected that the assessment of cumulative impacts from reasonably foreseeable actions in the FWIP EIS would be furthered by the use of a tiered ROD process. The tiered ROD process would connect program or site-specific projects to the policy-level analysis in the EIS (FWIP EIS, Section 3.4.3).

Under the 2007-2009 decision, BPA will implement hundreds of individual fish and wildlife projects within the Columbia River Basin. Individual projects will range in size from fractions of an acre to several hundred acres or more. Relatively minor impacts that might occur at individual sites could occur over many hundreds of acres when all individual projects are considered together. However, when examined within the broad geographic extent of the project area (i.e. Columbia River Basin), cumulative adverse impacts would be relatively minor.

Impacts from implementing projects under the 2007-2009 decision could add to past, present and future negative impacts occurring from other human activities in the region. For example, reduction in timber production at new mitigation sites could aggravate existing and reasonable foreseeable reductions in available timber. Mitigation projects may also add to the reduction in available grazing lands in the region. Prescribed burning at mitigation lands might add to existing or future regional air quality problems. To the extent to which 2007-2009 fish and wildlife projects would create or aggravate negative cumulative effects on any given resource, they would be mitigated for through adherence to establish federal, state and local laws and regulations and coordination with appropriate federal and state agencies, tribes and private landowners.

Negative impacts, as described in this section (e.g. reduction of available land for grazing), would affect only a small portion of the lands available for such uses within the Columbia River Basin. Overall, fish and wildlife mitigation actions throughout the Columbia River Basin would provide net benefits to water quality, fish and wildlife habitat, as well as to other natural resources such as soils and vegetation. Cumulative benefits to fish would include improvements in many natural processes, including sediment transport, streamflow generation, large woody debris recruitment, and temperature regulation. Fish would enjoy improved spawning habitat and easier access to all habitats through the modification or removal of obstructions. Water quality would also improve.

Cumulative benefits to wildlife would also occur as a result of implementing fish and wildlife mitigation actions. The process of acquiring and managing lands for wildlife will protect existing wildlife habitat values and ensure habitat availability for wildlife species in the future. Human populations would also benefit from lands acquired for wildlife, as opportunities for recreation are maintained (e.g. wildlife viewing) and aesthetic values are preserved. Private lands acquisitions may in some instances also provide additional protection for cultural resources. Vegetation management techniques would help to control invasive species that are currently limiting vegetation diversity. Wildlife would benefit from improved habitat diversity. The reestablishment of native species would benefit fish and wildlife, as well as traditional Native American cultural uses.

PUBLIC PROCESS

In developing the FWIP EIS, BPA reviewed many ongoing processes, identified key issues, and developed alternative policy directions based on multiple existing initiatives in the region. BPA also worked with the public and the agencies to identify the key issues that are necessary to address for any comprehensive fish and wildlife mitigation and recovery plan to be successful. These key issues were used to organize much of the analysis in the FWIP EIS (FWIP EIS, Section S3.3).

After public release of the Draft FWIP EIS in June 2001, BPA held six public meetings and workshops across the region to receive comments. During the comment period, BPA

received approximately 400 individual comments. BPA arranged for opportunities to interact directly with interested members of the public and share ideas on specific aspects of the Draft EIS. These comments were responded to in the final FWIP EIS (FWIP EIS, Section 8.1) and considered in the Administrator's decision to implement the PA 2002 Policy Direction.

In preparing the 2000 Fish and Wildlife Program, the Council solicited recommendations from the region's fish and wildlife agencies, Indian tribes, and others, as required by the Northwest Power Act. In all, the Council received more than 50 recommendations totaling more than 2,000 pages. After reviewing the recommendations, the Council prepared a draft Program plan and then conducted an extensive public comment period before finalizing the plan in December 2000.

Since 2000, the Council has amended its program twice, once with the mainstem amendments and again with the subbasin plans. In preparing a mainstem plan, the Council solicited recommendations from the region's state and federal fish and wildlife agencies, Indian tribes and others, as required by the Northwest Power Act. The Council conducted an extensive public comment period on the draft mainstem plan before finalizing these program amendments. The mainstem plan contains specific objectives and action measures for the federal operating agencies and others to implement in the mainstem Columbia and Snake rivers to protect, mitigate and enhance fish and wildlife affected by the development and operation of hydroelectric facilities while assuring the region an adequate, efficient, economical and reliable power supply.

The Council also solicited recommendations for Program amendments in the form of subbasin plans so that they could adopt more specific biological objectives and measures for tributary subbasins and specific mainstem reaches. In May 2004, the Council received proposed subbasin plans for 57 subbasins of the Columbia River. These subbasin plans were developed collaboratively by state and federal fish and wildlife agencies, Indian tribes, local planning groups, fish recovery boards, and Canadian entities where the plans address transboundary rivers. The planning effort was guided by the Council and funded by BPA. As required by the Power Act the public was given an opportunity to review and comment on the draft Program amendment subbasin plans. Based on the recommendations submitted, the Council formally adopted as amendments into the Program subbasin plans for 57 subbasins.

Opportunity for public participation also was provided as part of the 2007-09 project solicitation process for BPA's share of the Council's Program. In October 2005, the Council, in coordination with BPA, solicited proposals from regional entities for projects that would protect, mitigate and enhance fish and wildlife affected by the development and operation of the FCRPS consistent with the Fish and Wildlife Program. In response to questions from participants regarding the 2007-09 solicitation process, BPA provided additional information to supplement the Council's project solicitation guidance documents. BPA's purpose was to convey to project proponents in advance some of the factors BPA would consider when commenting during project review as the solicitation

progressed, and ultimately in making our decision, so that project proponents could consider them as they developed their proposals.

All proposals, submitted by January 10, 2006, were posted on the Columbia Basin Fish and Wildlife Authority website and available to the public (<http://www.cbfwa.org/solicitation/components/forms/Allproposals.cfm>). The proposals were reviewed by the ISRP for scientific merit and consistency with the program, after which project sponsors were given an opportunity to respond to ISRP comments and questions (<http://www.nwcouncil.org/library/isrp/isrp2006-6.htm>). Proposals were then sent to local groups for review; the extent to which these local reviews were open to the public varied by location (<http://www.nwcouncil.org/fw/budget/2007/Default.asp>). During August and September 2006, the Council made the project proposals, the ISRP's final report, and other review group recommendations available for public review and comment. Upon reviewing ISRP and local reviewer comments and deliberating at various Council public meetings, the Council released draft recommendations in mid-September 2006 on which projects should receive BPA funding. Those recommendations were open for public review and comment through October 6, 2006. In making its final project recommendations to BPA in November 2006, the Council considered the public comments on its draft along with the project proposals, the review report of the ISRP, the public comments on the panel's report, the prioritization recommendations from the various review groups organized by the Council, and other comments and information in the Council's administrative record.

BPA provided comments on the Council's draft fish and wildlife project recommendations on October 6, 2006. The comment letter focused on the integration of Endangered Species Act objectives and BPA's thoughts on a desired long-term strategic path for the Program. In addition, following the Council's draft recommendations, numerous tribes provided comments and concerns to the Council, as well as BPA, about the recommendations and their potential impacts to tribal interests. As a result, BPA consulted directly with tribes regarding the Council's recommendations and factors affecting whether BPA should support the recommendation as it affected a tribe or make a different decision.

In addition to these extensive opportunities for public involvement on the Council's Program, BPA and/or the project sponsor may also engage in further public involvement activities for site-specific actions. The degree of public involvement for a site-specific action will be commensurate with the relative environmental impacts of, and public interest in, the proposed action. BPA and/or the project sponsor will make diligent efforts to discover potentially interested and affected parties, and will solicit information when appropriate. Interested and affected parties may include nearby landowners or other individuals; interest groups; tribes; and city, county, state, federal and regional agencies. Options to inform the public about project related actions include mailings, public notices, public meetings and workshops, notification in local papers and BPA's monthly newsletter, postings on the internet and radio advertisements, and one-on-one meetings. BPA will document site-specific public involvement as part of the validation

process. Activities requiring additional NEPA documentation may have public involvement obligations as outlined in the NEPA regulations.

PUBLIC AVAILABILITY

This ROD will be available to all interested parties and affected persons and agencies. A Notice of Availability of this ROD will be published in the Federal Register. The ROD will also be announced in the BPA Journal. Copies of the FWIP EIS, FWIP ROD, and additional copies of this FY 2007-2009 Fish and Wildlife Project Implementation Decision ROD are available from BPA's Public Information Center, P.O. Box 12999, Portland, Oregon, 97212. Copies of these documents may also be obtained by using BPA's nationwide toll-free document request line: 1-800-622-4520. This ROD may be accessed on BPA's Web site: www.efw.bpa.gov.

CONCLUSION

Based on a review of the FWIP EIS and ROD, BPA has determined that the FY 2007-2009 Fish and Wildlife Project Implementation Decision is consistent with the FWIP EIS and ROD. Through the FWIP ROD, BPA adopted a comprehensive policy to guide the implementation and funding of its fish and wildlife obligations, including the implementation of its share of the Council's Fish and Wildlife Program. BPA's decision to implement the FY 2007-2009 fish and wildlife projects fits within the PA 2002 Policy Direction adopted in the FWIP ROD both at a program level and at a project-specific level for routine watershed and wildlife mitigation projects. BPA also has considered the natural, economic, and social environmental consequences of taking action to implement mitigation projects that respond to the Council's 2007-2009 recommendations, and has found this decision to be within the scope of environmental consequences examined in the FWIP EIS. Additional environmental review as described in this decision document will be required for all activities prior to implementation. Thus, the decision to implement this decision is tiered to the FWIP ROD, as provided for in the FWIP EIS and ROD.

Issued in Portland, Oregon.

/s/ Stephen J. Wright
Stephen J. Wright
Administrator and
Chief Executive Officer

February 9, 2007
Date