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Montana

February 10, 2004

## MEMORANDUM

**TO:** Council Members

**FROM:** Bruce Suzumoto

**SUBJECT:** Update on mainstem implementation issues

### Summer spill

At the January 21 Council meeting in Skamania, Washington, federal agency representatives presented various 2004 summer spill operation alternatives and estimates of their revenue and fish impacts. The following tables summarize the results of their analyses.

<b>DAM</b>	<b>STATUS QUO: PLANNED (BIOP) 2004 SUMMER SPILL OPERATIONS (JUNE 20 THROUGH AUGUST)</b>
Bonneville	75 kcfs day; TDG cap (about 140 kcfs) night
The Dalles	40% total river flow day and night
John Day	30% total river flow day and night
McNary	No voluntary spill
Ice Harbor	45 kcfs day; TDG cap (in summer almost all river flow) night
Lower Monumental	No voluntary spill
Little Goose	No voluntary spill
Lower Granite	No voluntary spill

	<b>ALTERNATIVES EVALUATED RELATIVE TO BIOP</b>
1	No Spill in July or August
2	BiOp Spill in July Except Test 0 kcfs v. BiOp at BON / No Spill in August / No Spill at IHR
3	BiOp Spill in July Except Test 50 kcfs v. BiOp at BON / No Spill in August / No Spill at IHR
4	BiOp Spill in July / No Spill in August
5	BiOp Spill July - August 15 / No Spill at IHR
6	BiOp Spill July and August / No Spill at IHR

Stocks included in the analysis

<b>FALL CHINOOK</b>
<b>Upriver Bright</b>
Priest Rapids & Ringold Springs Hatcheries
Hanford Reach Natural
Yakima River & Marion Drain
Snake River Bright
Listed Wild Snake River
Unlisted Lyons Ferry Hatchery
Unlisted Nez Perce and Big Canyon Hatcheries
<b>Mid-Columbia Bright</b>
Deschutes River
Klickitat River
Umatilla River
Little White Salmon River
<b>SUMMER CHINOOK</b>
Upper-Columbia

Estimated number of fall chinook adults loss under the different alternatives for a range of smolt to adult returns (SAR).

	SAR	<b>ALTERNATIVES</b>					
		No spill July- Aug	Spill test 0 kcfs @ BON; no spill IHR; no spill Aug	Spill test 50 kcfs @ BON; no spill IHR; no spill Aug	Bi-Op spill July; no spill Aug	BiOp Spill thru Aug 15, No IHR Spill	BiOp Spill Except IHR
<b>Listed</b>	0.5	(6)	(3)	(3)	(2)	(1)	(1)
	1.0	(12)	(6)	(6)	(4)	(2)	(1)
	2.0	(24)	(13)	(12)	(7)	(4)	(3)
	4.0	(48)	(26)	(24)	(15)	(8)	(5)
<b>Non- Listed</b>	0.5	(4,741)	(2,269)	(2,033)	(1,401)	(394)	(4)
	1.0	(9,481)	(4,539)	(4,066)	(2,801)	(787)	(8)
	2.0	(18,962)	(9,078)	(8,132)	(5,603)	(1,575)	(15)
	4.0	(37,925)	(18,156)	(16,265)	(11,206)	(3,150)	(31)

<b>SPILL OPTION</b>	<b>SAVINGS COMPARED TO BIOP IN MILLIONS (50-YEAR AVERAGE)</b>	<b>SAVINGS RANGE COMPARED TO BIOP IN MILLIONS (LOW - HIGH)</b>
No Spill July-Aug	\$77	\$55 - \$92
No IHR, No Aug, BON 0 v. BiOp	\$54	\$32 - \$64
No IHR, No Aug, BON 50 v. BiOp	\$51	\$30 - \$61
BiOp Spill in July, No August Spill	\$42	\$25 - \$50
BiOp Spill thru Aug 15, No IHR Spill	\$26	\$15 - \$32
BiOp Spill Except IHR	\$8	\$5 - \$11
Full BiOp Spill Jul-Aug	\$0	

- The federal SIMPAS and power cost analysis on summer spill was released for public comment on January 23, 2004 with comments due February 13, 2004. Federal agencies are viewing the analysis as a decision support tool to help look at varying impacts. The analysis was completed for 2004 operations.
- Discussions regarding the analysis, 2004 summer spill operations and possible offsets have been held at the Technical Management Team (TMT) and the Implementation Team (IT). Questions focused on the assumptions used in the models and offsets, the variability of the inputs and the risks associated with using the survival estimates.
- At the present time only a project survival spill test at Bonneville Dam is doable for summer 2004. BPA has agreed to purchase tags and fund a study if sufficient money is saved to cover the costs of a study from spill reductions.
- As of yet, no decision has been made regarding summer spill operations in 2004. There will be a Regional Executives' meeting March to discuss summer operations for 2004 and possibly beyond. After regional input, Federal executives are planning to make a final decision on summer spill operations in March 2004.
- CRITFC and the Nez Perce Tribe have submitted letters opposing reductions in summer spill (attached).

#### Libby and Hungry Horse reservoir operations

- The ISRP has completed a preliminary review of the Montana Fish Wildlife and Parks' research proposal to evaluate the effects of changes in reservoir operations on resident fish above and below Libby and Hungry Horse dams. Overall the review was positive and the ISRP is now requesting additional information from MFWP to complete their review.
- Discussions are being held at the CBFWA resident fish committee concerning this proposal. MFWP and ODFW are also jointly discussing the proposal.
- Bonneville released modeling results for changes in flow, reservoir elevations and revenue resulting from implementation the reservoir operations called for in the Council's mainstem amendments (attached). The results differ somewhat from the

Council staff analysis done last year probably due to updated hydro information used in the BPA analysis. Still aiming for a decision on Libby and Hungry Horse operations in March at the regional executives' meeting.

#### Ice Harbor removable spillway weir (RSW)

- The Corps budget for fish management construction and research was reduced from an estimated \$77 million to \$69 million. In spite of this, the Ice Harbor RSW is a high priority project and is scheduled to move ahead toward a completion date of March 2005. The amount of funding allocated to the RSW in FY04 is \$5.7 million and the total cost of construction will be approximately \$13 million.



*Nez Perce*

TRIBAL EXECUTIVE COMMITTEE

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

4 February 2004

Steven Wright (*via facsimile*)  
Bonneville Power Administration  
1002 N.E. Holladay Street  
P. O. Box 3621  
Portland, OR 97208

B. G. William Grisoli (*via facsimile*)  
U. S. Army Corps of Engineers  
P. O. Box 2870  
Portland, OR 97208-2870

Bob Lohn, Director (*via facsimile*)  
National Marine Fisheries Service  
Northwest Regional Office  
7600 Sand Point  
Seattle, WA 98115-0700

***Re: Nez Perce Tribe's Opposition to Elimination/Reduction in Summer Spill***

We are appalled by the continuing efforts of Bonneville Power Administration, the Corps of Engineers and NOAA Fisheries to eliminate or reduce summer spill.

The Nez Perce Tribe has long supported the spill and flow to vital measures to provide passage conditions for juvenile salmon. Absent breaching the four lower Snake River dams and investing in affected local communities, these measures are even more critical to salmon survival.

These proposals directly impair the United States' ability to comply with the Endangered Species Act, which is the currently the subject of the National Wildlife Federation v. National Marine Fisheries Service litigation in the United States District Court in Portland. These proposals also contain measures that represent a direct infringement on the Nez Perce Tribe's treaty-reserved fishing rights, which are the under the United States District Court's continuing jurisdiction in United States v. Oregon. Finally, as the State of Alaska has expressed, these proposals are inconsistent with the Pacific Salmon Treaty.

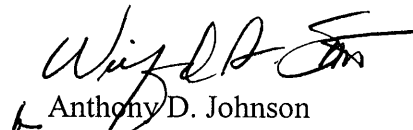
The federal government's "Summer Spill Update and Analysis" is woefully short of actual analysis, and the information that is presented is flawed and inaccurate. This document grossly understates the impacts to salmon (as documented by the analysis conducted by the fish and wildlife co-managers). This document also includes numerous flaws in even the most basic of information, such as considering Nez Perce and Big Canyon releases to be releases of "unlisted" fish.

The "Offsets" contained in the "Summer Spill Update and Analysis" and in the "Alternative Mitigation Actions" document are particularly disturbing. In contrast to the actual documented benefits that spill provides, the United States proposes a handful of "potential biological offsets" consisting of the following:

- things such the United States previously committed to in the 2000 FCRPS BiOp ("Law Enforcement");
- things that are of unspecified benefit to salmon (the vague reference to "Habitat Improvements" with no indication of where, when or what benefit they would provide which is similar to the deficiencies which led the United States District Court in the NWF v. NMFS case to rule that NOAA's reliance on such measures was "arbitrary and capricious");
- things that admittedly have no direct benefit to outmigration ("Avian Predation Research"); and,
- things that would violate the Nez Perce Tribe's treaty-reserved rights ("Commercial Harvest Reductions").

As you have previously acknowledged at the Regional Executives Meeting last August, any change in summer spill would affect the NWF v. NMFS litigation, and we trust you will advise the Court accordingly.

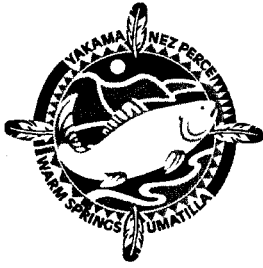
Sincerely,

  
Anthony D. Johnson  
Chairman

February 4, 2004

Page #3

cc: Governor Frank H. Murkowski  
Senator Ted Stevens  
Senator Lisa Murkowski  
Representative Don Young  
James Connaughton, Chairman, Council on Environmental Quality  
Governor Ted Kulongoski  
Governor Gary Locke  
Governor Judy Martz  
Governor Dirk Kempthorne  
IT/TMT  
Stan Speaks, BIA  
J. William McDonald, Northwest Regional Director, U.S. Bureau of Reclamation  
Alaska Trollers Association  
Fred Disheroon, DOJ, Counsel in NWF v. NMFS and U.S. v. Oregon



## **COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION**

729 NE Oregon, Suite 200, Portland, Oregon 97232

Telephone 503 238 0667

Fax 503 235 4228

February 3, 2004

Jim Ruff, Chair  
Implementation Team  
NOAA Fisheries  
Portland, OR 97232

Dear Mr. Ruff,

I understand that the Implementation Team at its meeting this Thursday will discuss the Bonneville Power Administration's and others' proposal to curtail summer spill. It does not appear that representatives from the Commission's member tribes will be able to attend this meeting due in part to an overlapping commitment to meet with General Grisoli, ACOE-NWD, to discuss this topic and related issues.

I would like to offer the following points for your consideration:

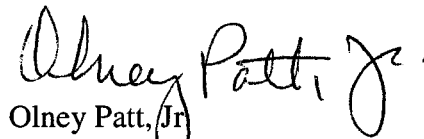
1. The operations described in summer spill option 4 and the study methodology developed by CBFWA to support summer spill options 3 and 4 would provide sound biological data to assess and quantify the benefits of summer spill. Summer spill options 3 and 4 refer to proposals developed to assess existing Biological Opinion spill operations (option 3) and expanded spill operations intended to increase salmon protection (option 4).
2. The Skalski-Beeman study method for summer spill option 2 would not allow for the development of data addressing the range of stocks affected by spill curtailment nor would it provide information on project effects at any dams other than Bonneville. Summer spill option 2 refers to the proposal(s) to reduce summer spill.
3. The projections of benefits estimated to accrue from those actions described in the federal postings on the TMT web page are unreasonably high and do not meet the test that the survival benefits should be equal to or greater than the benefits of summer spill.
4. The offset exercise actions contain elements of "double-counting." For example, Bonneville's support for the "Vernita Bar plus" operation, which has been ongoing for the last several years, was recently made contingent on reduction of summer spill. Likewise, continuation of Bonneville funding for tribal law enforcement appears to be contingent on reductions in summer spill. These "offsets" are inconsistent with the notion that offset actions should result in survival improvement above current conditions.



5. The impacts to salmon resulting from the loss of summer spill appear to be low. A more conservative estimate of loss would be approximately double the losses presented in the federal materials posted on the TMT web page. Actual assessment of summer spill effects should be undertaken by studying option 4, with the associated methods for options 3/4.
6. The notion that federally imposed unilateral reduction in tribal salmon harvest may be considered an offset to additional hydropower impacts is contrary to our understanding of the law and antithetical to tribal proposals for salmon conservation.

Additional comments addressing this subject matter will be forthcoming in response to NOAA's white papers and in response to Judge Redden's remand of the FCRPS BiOp. We will address this matter in additional forums as appropriate.

Sincerely

A handwritten signature in cursive script that reads "Olney Patt, Jr." with a stylized flourish at the end.

Olney Patt, Jr.  
Executive Director

## BPA Analysis of Libby and Hungry Horse Council Mainstem Amendment Operation

<b>Mainstem Amendment Operation:</b> If volume forecast is greater than 20th percentile, September 30 draft target is 10 feet from full, otherwise draft target is 20 feet from full on September 30.	<b>BiOp Operation:</b> draft to 20' from full by August 31 in all years if needed to meet the McNary flow augmentation target..
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### 50-Year Modeling Results (Mainstem Amendment minus BiOp)

#### MCN Flow Change (kcfs)

	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>
50yr Ave.	3.0	-8.7	-0.4
Min	-2.4	-19.7	-7.9
Max	11.2	3.2	4.2

#### Reservoir Elevation Change (feet)

<u>Libby</u>	<u>Aug15</u>	<u>Aug31</u>	<u>Sep30</u>
50yr Ave.	0.0	5.2	6.1
Min	-10.9	-6.6	-7.1
Max	6.3	13.3	11.5

<u>Hungry Horse</u>	<u>Aug15</u>	<u>Aug31</u>	<u>Sep30</u>
50yr Ave.	2.7	7.9	6.5
Min	-10.7	-9.2	-10.0
Max	12.5	13.3	13.5

#### BPA Annual Revenue Change (\$millions)

50yr Ave.	5.2
Min	-29.4
Max	41.5