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Montana

September 6, 2005

**To:** Council Members

**From:** Doug Marker, Director  
Fish and Wildlife Division

**Subject:** Briefing on a long-term budget agreement with the Bonneville Power Administration

Council members have asked the staff to brief the Council on the status of discussions of a budget management agreement for the Fiscal Years 2007-2009 rate case.

**Background:**

Bonneville's fish and wildlife budget for the 1996-2001 rate period was guided by a Memorandum of Agreement signed by the Secretaries of Energy, Commerce, Interior and the Army after a year's negotiation among regional federal agencies, tribes and Council staff. The Council itself was not a party to the agreement but the agreement defined roles and procedures recognizing the Council's functions in recommending project funding priorities for Bonneville.

The 2002-2006 rate case began without such a formal agreement. After Bonneville's financial crisis in 2002 caused changes in financial management procedures and policies, the Northwest Governors included in their June, 2003 Recommendations a call for a new agreement to "provide predictability and certainty for fish and wildlife spending over the next few years". Council and Bonneville staff developed terms for budget management and reporting that were incorporated in a letter from Administrator Steve Wright to Council Chair Judi Danielson on October 3, 2003 (attached). These terms continue to guide Bonneville's budget for the Fish and Wildlife Program through the end of the next fiscal year.

Anticipating the 2007-2009 rate case, Council staff engaged with Bonneville staff and regional fish and wildlife managers for a new budget agreement. After consulting with Council members, Council staff offered a draft focused on terms and requirements for program budget management. As we have reported to the Council, Bonneville initially sought a draft that covered a broader range of terms and conditions for program implementation including many of the program issues discussed in their Power Business Line's Power Function Review public

process. Several of these issues caused concerns for Council staff and members. A side-by-side comparison of the initial drafts is attached. We have since been trying to come to a draft with a consistent scope for additional review. Since that time, Bonneville has proposed a budget level for program implementation for its 2007-2009 rate case.

Attachments:

1. Letter from Administrator Steve Wright to Chair Judi Danielson; October 3, 2003
2. Side by side comparison of initial Council staff and Bonneville draft budget agreements



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

EXECUTIVE OFFICE

October 3, 2003

In reply refer to: KE-4

Ms. Judi Danielson, Chair  
Northwest Power and Conservation Council  
851 S.W. Sixth Avenue, Suite 1100  
Portland, OR 97204-1348

Dear Ms. Danielson:

As you know, the past year has been difficult for the Bonneville Power Administration (BPA) and the region. Over the last three years drought, variable power market conditions, and costs in excess of rate case projections caused BPA's financial position to deteriorate significantly. We raised power rates for 2002 an average of 43 percent over 2001 levels. In 2003 we triggered and completed a Safety-Net Cost Recovery Adjustment Clause rate case, resulting in yet another potential rate increase for FY 2004, despite reducing forecasted internal support and program spending for the remainder of this rate period by \$350 million.

In a December 10, 2002, letter to the Chairman of the Northwest Power and Conservation Council (Council), I asked the Council to ensure that the level of spending for the FY 2003 Fish and Wildlife Program not exceed \$139 million in accrued expenses. I very much appreciate the Council providing cash-management recommendations in February 2003 and I acknowledge that in that effort, BPA and the Council had to make difficult decisions that resulted in some disruption to the planning and management of the Program. However, the potential consequences of BPA's precarious financial circumstances warranted prompt decisions designed to preserve our ability to maintain the many benefits we provide the region. To that end, we have worked to apply to our fish and wildlife efforts the same business principles we use in fulfilling our power and transmission mandates.

Looking forward, we have an ongoing critical need in this and every other function to spend only what is absolutely required to meet our essential goals. BPA also has an interest in providing stability in the Fish and Wildlife Program. In an effort to provide clarity and predictability for the planning and management of the program, staff from the Council, the Columbia Basin Fish and Wildlife Authority (CBFWA) and BPA, with input from the Upper Columbia United Tribes (UCUT), have worked closely over the last several months to develop processes and protocols to be used for fish and wildlife spending for the remainder of BPA's current power rate period, FY 2004 through 2006.

I appreciate the collaborative approach of the Council, UCUT, and CBFWA staff in the development of these rules. There has been a great deal of time and effort spent in discussions to design a structure that addresses concerns raised by each party. This structure is consistent with recommendations contained within the June 3, 2003, letter from CBFWA to BPA and the Council. I believe these rules, together with BPA's current efforts to improve contracting and financial reporting, provide a good foundation for managing the Program in a way that is beneficial for all parties. They:

- Enable the Council, CBFWA and BPA to have common and current budget information;
- Improve BPA's ability to manage its financial operations and risk;
- Give contractors more certainty in the funding of work as well as flexibility in the timing of that work; and
- Promote effective project management.

The rules for the expense portion of the program are described in Enclosure A to this letter. The general structure establishes that accrued expenses for the program must be within an annual average of \$139 million for the period FY 2003-2006, and a total of no more than \$556 million for the four years. The accrued expense in any one year can fluctuate by up to plus or minus 10 percent of \$139 million, allowing a range between \$125 million and \$153 million for any year, provided the program is within the \$556 million total. We have included this range because we do not want to encourage the inefficiency of a "use it or lose it" spending approach and to ensure program objectives can be achieved.

We believe that as these rules are implemented, the result will be a more efficient process that facilitates the important work of the program and maximizes the effective application of program resources. While we cannot guarantee our revenue streams, our rates and budgets are based on funding this level of program activity. Only if there is a significant change in circumstances, and only after consultation with interested regional parties, would we expect to deviate from this process.

We know that there is and will continue to be substantial competition for the available program dollars. We expect to continue working with you to assure the effective achievement of program objectives while managing within the \$139 million average.

Work is continuing on developing budgeting rules that will guide fish and wildlife capital funding as part of our overall capital budgeting over the FY 2004-2006 period. Over the last year, BPA has developed principles that describe the application of BPA's accounting and capitalization policies to land acquisitions, and has taken the steps necessary to allow capitalizing land acquisitions that meet specific standards. I feel confident that we will be able to acquire additional habitats, if they meet the established principles including providing a measurable benefit against a clearly defined obligation.

We--BPA, Council and CBFWA-- have not yet determined how best to handle any "over- or under-funding" at the end of the current rate period in FY 2006 and going into the next rate period.

I acknowledge the importance of being very clear about the transition from one rate period to another. However, we would like to manage under this process for a year or so before determining the best way to manage this transition.

Although BPA thinks some aspects of the proposed budgeting process for FY 2003-2006 may be appropriate to apply beyond FY 2006, we do not assume this process dictates the rules for the post-2006 period. BPA is willing to explore the possibility of a broader, long-term Memorandum of Agreement on fish and wildlife costs for the post-2006 period, providing it includes a clear definition of BPA's obligations, outcomes to be achieved, cost effectiveness tests, and contemplates the ability to tie funding to BPA's financial health, so that funding adjusts in correlation to good and bad times.

Again, I appreciate the efforts that have been made on behalf of all participants in the Fish and Wildlife Program to help manage through BPA's difficult financial situation. I am confident the budget approach outlined can help support our continued partnership in the effective management of the program.

Sincerely,

*/s/ Stephen J. Wright*

Stephen J. Wright  
Administrator and Chief Executive Officer

Enclosure

cc:

Chairman Albert Teeman, Burns Paiute Tribe  
 Chairman Ernest Stensgar, Coeur d'Alene Tribe  
 Chairman Joseph Pakootas, Confederated Tribes of the Colville Reservation  
 Chairman Glen Nenema, Kalispel Tribe  
 Chairman Gary Aitken, Kootenai Tribe of Idaho  
 Chairman Tony Johnson, Nez Perce Tribe  
 Chairman Fred Matt, Confederated Salish & Kootenai Tribes  
 Chairperson Nancy Murillo, Shoshone Bannock Tribes of Fort Hall  
 Chairman Terry Gibson, Shoshone Paiute Tribes of the Duck Valley Reservation  
 Chairman Warren Seyler, Spokane Tribe of Indians  
 Chairman Gary Burke, Confederated Tribes of the Umatilla Indian Reservation  
 Chairman Garland Brunoe, Confederated Tribes of the Warm Springs Reservation  
 Chairman Ross Sockzehigh, Yakama Indian Nation  
 Mr. Rod Sando, Columbia Basin Fish & Wildlife Authority  
 Ms. Mary Verner, Upper Columbia United Tribes  
 Mr. Olney Patt, Jr., Columbia River Intertribal Fish Commission  
 Mr. Steve Huffaker, Director, Idaho Department of Fish and Game  
 Mr. Jeff Hagener, Director, Montana Department of Fish, Wildlife and Parks  
 Mr. Lindsay Ball, Director, Oregon Department of Fish and Wildlife  
 Dr. Jeff Koenings, Director, Washington Department of Fish & Wildlife

## ENCLOSURE A

### **BUDGETING RULES FOR THE EXPENSE PORTION OF BPA'S FISH AND WILDLIFE PROGRAM**

#### **Overview**

For the FY 2004-2006 period, the Northwest Power and Conservation Council (Council) will develop a multi-year project budget for BPA's Fish and Wildlife Program. The expense portion of this budget will not exceed an average of \$139 million per year. The project budget will reflect an amount of work that each project can accomplish between October 1 and September 30 of each year, and the associated spending plan for that work. The Council's multi-year budget will not exceed \$556 million for FYs 2003-2006 (an average of \$139 million per year).

#### **Features**

**\$139 million plus-or-minus 10 percent:** When the Council completes its recommendations for expense budgets, the budgets, together with actual expenditures for years already complete and the forecast for the not-yet-complete current year, should result in expenses for the FY 2003-2006 period that average no more than \$139 million per year. The expense in any one year can fluctuate by up to plus or minus 10 percent of \$139 million, allowing a range between \$125 million and \$153 million for any year, provided the program is within the \$556 million total. To the extent that expenses in any year are forecasted to exceed \$139 million, prior year actual expenses and/or out-year forecasts of less than \$139 million are required. To the extent work performed in one fiscal year results in associated spending of less than \$139 million, the difference between the expenditures and \$139 million may be made available for work performed in the subsequent fiscal year (within the plus-or-minus 10% band width, or \$125 million to \$153 million). So, for example, if work performed in FY 2004 resulted in expenditures of \$130 million, BPA may make available \$139 million plus \$9 million, or \$148 million in FY 2005. All allowance of flexibility of funds is done on a project-level basis through rescheduling or Available Contract Funds. There is no programmatic carry-over.

**Rescheduling:** Rescheduling is the circumstance where there is a shift in work between years without changing the overall project budget or scope. If work will take longer to perform for reasons beyond the sponsors' control, or can potentially be moved to an earlier time, the funding associated with that work may be rescheduled, as long as the total program budget for FYs 2003-2006 remains within the parameters of an annual average of \$139 million and plus-or-minus 10% of \$139 million for each year.

BPA is developing the protocols for controlling and tracking rescheduling. Considerations will include: the continued relevance of the work, when the work can realistically be performed, etc.

Contracting Officer Technical Representatives (COTR) will be authorized to allow rescheduling, and increase a project budget and/or annual spending cap by up to 10 percent of the annual project budget amount up to a maximum amount of \$20 thousand without notifying Council of the action. Protocols will be developed and presented to Council prior to this being implemented.

Contracting Officer Technical Representatives (COTRs) will be authorized to allow rescheduling, and increase a project budget and/or annual spending cap by up to 10 percent of the annual project budget amount up to a maximum amount of \$20 thousand without notifying Council of the action. Protocols will be developed and presented to Council prior to this being implemented.

**Available Contract Funds:** Funds not used for a project, or not yet committed to a project, are made available to fund other projects. They can be spent on other projects in the current or future years, as long as the annual program budget remains within plus or minus 10 percent of the \$139 million program average.

**Quarterly Program Status Review Meetings:** A key part of managing the Fish and Wildlife Program budget effectively will be holding Quarterly Program Status Review meetings. These meetings will provide the opportunity for BPA, Council and CBFWA staff to discuss the progress of projects, with BPA's Project Managers/COTRs and contractors attending as necessary. It may be determined that these meetings should be held more often than quarterly. The meetings will be used to:

- discuss projects that appear to be considerably ahead of or behind schedule;
- report rescheduling or changes to project budgets that COTRs have approved within their authorization parameters;
- consider requests for rescheduling outside COTR authorized parameters;
- decide on the appropriate process and level of review for requests for additional funding or changes in scope;
- identify the amount of Available Contract Funds;
- identify and discuss other budget-related issues.

These actions will be identified and reported at Quarterly Program Status Review meetings, and necessary action to maximize performance in the Program will be taken. The expectation is that through this process, projects will be managed such that the combination of Available Contract Funds and Rescheduled Funds applied to the following year will be managed within plus or minus ten percent of the \$139 annual average. In support of this process, BPA will provide project-level reports on a regular basis showing project budgets and accrued expenses to date.

**Side-by-side comparison of proposed Council staff and BPA MOA versions with references to 1996 MOA**  
(Draft - 10/20/04) Page 1

Procedure	1996 MOA terms	Council staff draft 9/3/04	BPA draft 10/8/04
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**Management issues**

Scope of agreement	Direct, reimbursable and capital repayment	Directly funded program	Directly funded program
Signatories	Cabinet secretaries	Bonneville and Council with “consulting parties”	Bonneville and Council with “concurrences”
Integration of Power Act and ESA requirements for BPA funding		Defines the financial commitment to encompass both the Council direct program and ESA “off-site mitigation”	Procedural requirements to define actions required for Bi-Op requirements and ESA compliance; goals for expedited ISRP review where needed
Financial consequence of hydrosystem measures	BPA bore power costs outside of program funding commitment	BPA absorbs costs outside of program; provides for pursuit of cost-effective measures with equitable sharing as called for in 2003 Mainstem Amendments	No provisions.
Financial impact of new ESA measures and appropriations exceeding available funding	Provided that such events would be considered an unforeseen event subject to the provisions of Section IX(c) (providing for escalating consultation through OMB and CEQ) on how to provide for the financial consequences. Providing for the extra costs from unobligated direct program funds is a last resort.	Proposed language accepts risk of new requirements but suggests “reopener” mechanism if Bonneville’s rate period is shorter than life of funding agreement.	Not addressed



**Side-by-side comparison of proposed Council staff and BPA MOA versions with references to 1996 MOA**  
(Draft - 10/20/04) Page 2

Procedure	1996 MOA terms	Council staff draft 9/3/04	BPA draft 10/8/04
ISRP review		Council role is to define the nature of independent scientific review, consistent with statutory requirements.	Council will streamline and expedite the process. Emphasize ISRP review of general protocols, guidelines, and standards for classes of projects.
Science review of BPA reimbursed capital and expense programs		While funding is outside the scope of the proposal, independent scientific review would continue consistently with direct program	Not addressed
Program budget allocations		Does not establish specific allocations	Proposes 70-15-15 anad., res. fish, wildlife; 70% “on the ground” 25% RM&E/planning 5% coordination; Additional reserve balances for financial management and contingencies
Project prioritization		Project review and selection procedures defined by Council outside of MOA	Seeks to apply criteria to prioritize Council project recommendations

**Side-by-side comparison of proposed Council staff and BPA MOA versions with references to 1996 MOA**  
(Draft - 10/20/04) Page 3

Procedure	1996 MOA terms	Council staff draft 9/3/04	BPA draft 10/8/04
Contract management		No specific provisions; leaves to Bonneville role	Defines specific contract performance periods and specifies contracts will not move to match fiscal years.
Role of CBFWA in project selection process		Project selection defined by Council outside of MOA	Proposes specific tasks for project review, RM&E evaluation, cost sharing and cost-savings in project implementation.
Capital fund management plan		No specific provision - proposal is for expense only.	Capital budgets to be managed by BPA Financial Services. Provides a capital accrual commitment
FCRPS obligations		No specific definition	Proposes a review and definition workplan
Contingency fund	Available from 4(h)(10)c credits	Reopener if needed. No specific reserve.	Budget \$1 million to \$2 million annually
Separation of interest in BPA program management: <ul style="list-style-type: none"> <li>• operational cost v. project funding;</li> <li>• Influence of rate concerns from project management</li> </ul>		Describes Bonneville's role in contract administration, financial and performance tracking	Describes project tracking and review;
Division of capital vs.	\$100 million expense on	Treat budget as single	Separate commitments

**Side-by-side comparison of proposed Council staff and BPA MOA versions with references to 1996 MOA**  
(Draft - 10/20/04) Page 4

<b>Procedure</b>	<b>1996 MOA terms</b>	<b>Council staff draft 9/3/04</b>	<b>BPA draft 10/8/04</b>
expense	average; \$27 million capital average	line item allowing Bonneville flexibility to manage to financial requirements and best advantage.	
4(h)10c credits	Defined for Treasury credit	Not addressed	Not addressed
Bonneville internal program support costs	\$8 million annually included	Funded separately	Funded separately, except for project support costs (i.e. land appraisals, NEPA)
Dispute resolution	Federal parties raise disputes to CEQ	Placeholder only	Facilitated process between BPA and Council with rights of access by CBFWA members

**Accounting issues**

Initiation of accounting		Defines as work scheduled and performed after October 1, 2006. BPA to ensure that performance before 10/1/06 is accounted for in FY '06 or before	Not specific
Reporting on expenditures	Annual and quarterly review of both obligations and accrual basis	Annual and quarterly reporting on an obligations basis with an independent review on an accrual and obligations basis	Annual and quarterly reviews on accrual basis with performance reviews
Accrual basis accounting	Used for independent audit	BPA maintains corporate	Establish and track

**Side-by-side comparison of proposed Council staff and BPA MOA versions with references to 1996 MOA**  
(Draft - 10/20/04) Page 5

Procedure	1996 MOA terms	Council staff draft 9/3/04	BPA draft 10/8/04
	and determining interest. MOA accounted for pre-'96 obligations as accruals during agreement term. Expenses incurred after 2001 would not accrue to the agreement.	financial accounting on an accrual basis.	budget by accrual accounting standards as used in other BPA program areas.
Obligations basis accounting	BPA to provide an obligations based accounting. When work to be performed is completed, unexpended funds are de-obligated and made available for other obligations.	BPA should track and report funding obligations as they are entered into. Provides for de-obligation and reallocation of funds as contracts are completed.	No provision. All accounting is same manner as in other BPA program areas
Management of commitment on average	Defined as the "expenditure amount available" relative to the actual expenditure and added (carry over) or decremented from (carry under) from year to year. No limit defined	Provides for "carry over" and "carry under" with no limit	Managed within 10 percent limit as defined by Administrator's 10/3/03 letter
Carry forward balance	Provided for calculation in each category of the cumulative total of previous carry over and carry under. This section provided "Any funds remaining in these	Provides for tracking of unexpired obligations to be made available after close of 2010	No specific provision for close of agreement period

**Side-by-side comparison of proposed Council staff and BPA MOA versions with references to 1996 MOA**  
 (Draft - 10/20/04) Page 6

Procedure	1996 MOA terms	Council staff draft 9/3/04	BPA draft 10/8/04
	accounts after close of Fiscal Year 2001 will non be re-programmed for any non-fish and wildlife use, but will remain available for expenditure for the benefit of fish and wildlife”.		