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September 9, 2010

MEMORANDUM

TO: Fish and Wildlife Committee members

FROM: Mark Fritsch, project implementation manager

SUBJECT: Deferred Third Quarter 2010 within-year project funding request for Project 1983-350-00, *Nez Perce Tribal Hatchery Operations and Maintenance (O&M)*

PROPOSED ACTION: That the Council defer making a recommendation on this project until the Nez Perce Tribe (NPT) provides background information that would support revising the Council's original funding recommendation.

BUDGETARY/ECONOMIC IMPACTS

The total requested amount is up to \$320,000 in expense funds. This action if implemented would be in addition to the Fiscal Year 2011 funding recommendations.

BACKGROUND

The Council's original recommendation in 2000 that Bonneville fund the Nez Perce Tribal Hatchery (NPTH) resulted only after an extensive exchange of requests for further information among the Council, Bonneville, and the Nez Perce Tribe (see Attachment 1). In order to keep the total cost of the project under the \$16 million cap recommended by the Council, the NPT committed to covering the cost of housing at the facility (see Attachment 2).

In February of this year, NPT staff submitted to the Budget Oversight Group (BOG) a request for \$320,000 for two additional residences for the NPTH. The request was made to allow better staffing rotation of hatchery personnel at the site. Shortly after the BOG meeting it was confirmed that as part of the 2000 decision the NPT had agreed to pay for the housing at the NPTH in order to meet the agreed upon construction budget. In April, the NPT withdrew the within-year budget request, but resubmitted it the following month, providing additional detail regarding the need for additional housing (see Attachment 3). In July, the Fish and Wildlife Committee asked staff to provide a recommendation on this request before the August meeting. In response, later in July Bonneville sent Chairman Booth a letter stating that Bonneville was

deferring consideration of this request until the NPT addresses the original understanding regarding housing at the hatchery.

ANALYSIS

Depending on size, complexity, and location, housing is a necessity for maintaining a hatchery facility and the life histories that are dependent upon hatchery personnel for their care. This need at a hatchery covers security, care of the particular species of interest and emergency support of the mechanical equipment that supports the species being addressed. In addition, housing needs to be appropriately sized to support qualified staff and their families so as to provide a suitable living environment that is conducive to employee retention. To ensure this support there typically needs to be a minimum of three residences to provide for reasonable staffing rotation of hatchery personnel at the site on a 7-day/week, 24-hour basis.

The permanency of these residences and total number are dependent on the proximity of the hatchery to nearby communities, availability of housing within reasonable transit to the hatchery, and the size and complexity of the hatchery. Based on its understanding of hatchery operations, personnel needs, and the location of this facility, staff believes that additional housing at the NPTH is justified. Not all the work done at the NPTH relates to implementation of the Council's Fish and Wildlife Program (Program), however, and for this reason, staff is of the opinion that only one additional residence should be considered for Bonneville funding.

Staff has developed the following three alternatives to address the request for \$320,000 for two additional residences for the NPTH.

Alternative 1

The staff's preferred alternative is that the Council defer making a recommendation, but invite the NPT to supply further information in support of its request for additional housing as related to Program-related needs, as well as explaining what has changed since the tribe's letter to Bonneville in October 2000 in which it committed to paying for housing at the facility (see Attachment 2). Staff understands that there is an extensive history over the 10 years since the Council's initial funding recommendation of tribal efforts to secure the support required to protect the region's investment in this hatchery facility. Such added information might well provide a rationale for the Council to revise its original recommendation in 2000. In that case, staff believes the Council could recommend that Bonneville fund additional housing to the extent it supports Fish and Wildlife Program activities, that is, one more residence.

Alternative 2

In the absence of further information from the project sponsor, staff recommends that the Council not support this request.

Alternative 3

The Council could recommend that Bonneville fund one more residence at the NPTH at this time. Staff does not recommend this alternative, given the commitment of the NPT to Bonneville that the tribe would cover the cost of such housing.

Attachment 1

Brief History of the Funding Recommendation for the NPTH

Ten years ago, at its May 17, 2000, meeting in Helena, the Council approved the Step 3 (Final Design) review for the Nez Perce Tribal Hatchery (NPTH). The Council approval required that the construction of the facilities associated with this project not exceed \$16 million; that any significant changes in the design and scope of this project, including changes to the facilities or production be subject to additional Council review before they are recommended for funding; and that Bonneville establish specific cost reporting requirements for the project contractor and that reports should document the progress of construction against the approved project budget and scope. In addition, the Council requested that Bonneville project management staff review reports from the project contractor with Council staff at least quarterly.

Later that same year, at the Council meeting on June 7, 2000, the Nez Perce Triber (NPT) provided an update on the contract negotiation with the construction firm Williams Brothers of Spokane, Washington.¹ These negotiations were conducted to ensure that the construction of the NPTH fell within the \$16 million construction cap set by Council. The Council requested that the project sponsor and Bonneville provide documentation regarding major cuts and modifications to the facilities for staff review before the NPT entered into any contracts. .

On June 9, 2000, Council staff received documentation from Bonneville that provided a general overview regarding the changes made to the facilities to meet the funding cap. The adjustments appeared very positive and seemed to meet the intent of the project as expressed by the NPT and the Council in the fall of 1999 (e.g., a "low cost/small scale," "minimal impact," and "'small foot print"). The adjustments did not alter the production goals or rearing techniques as approved by the Council. Changes focused on using temporary facilities at Sweetwater Springs, using a temporary weir and traditional capture methods at Meadow Creek, eliminating the administration building, and reducing the size of the hatchery building at Allotment 1705. Information received from Bonneville regarding how the adjustments related to the budget as approved on May 17, 2000, was not adequate in detail. Due to the inadequacies of the budgetary information, Council staff was unable to ensure that the conditions were met, and requested additional information from Bonneville and the NPT.

On June 16, 2000, Bonneville supplied additional information stating that through their continued negotiations the NPT, Bonneville and contractor had developed a fixed Construction Cost Contract for this project (including TERO, sales tax, bonds and insurance) that would meet the construction cap of \$16 million. The contractor would be bonded for this project including a lowered contingency at 5.537%. In addition, there were numerous cost saving measures that the NPT would absorb, including housing at Allotment 1705.

¹ Following the acceptance of the low construction bid of \$19.4 million, a construction process called partnering was implemented to adjust construction, land acquisition and well development costs downward to \$16,050,000 to meet both financial limits and to achieve construction of a hatchery capable of meeting the biological and management needs.

Based on the information received and to ensure that the specifics of the contract described by Bonneville in its June 16, 2000 correspondence had been understood and interpreted correctly, the Council requested confirmation from Bonneville of the following items:

- construction costs specified in the contract is within the \$16 million approval;
- the O&M and M&E costs previously presented have not increased and are not affected by the changes described in Bonneville's letter of June 9, 2000; and
- the Tribe will provide for the housing costs at Allotment 1705.

In September 2000 Bonneville² and the FY 2001 proposal (Section 5, objective 3, task a and b) indicated that equipment and fixtures associated with the facilities were included in the operation and maintenance (O&M) costs (e.g. shade/predation covers, incubators, screens, recirculation pumps/frames, 10 living trailers, and 20 tanks). This information and a subsequent September 28, 2000 meeting with the NPT in Lapwai demonstrated the need for additional clarification on the rationale used to determine the costs and items associated with the facilities, and operation and maintenance.

On October 4, 2000 the Council again asked Bonneville to clarify that the budget for this project would be consistent with the Council's recommendation that the construction of the facilities associated with this project would not exceed \$16 million. To ensure the proper context, costs needed to be defined not only for the Step 3 submittal, but also for out-year estimates as well (e.g. Fiscal Year 2001-04).

At the November 1, 2000 Council meeting Bonneville addressed the issue regarding the O&M costs associated with the NPTH. Based on this presentation from Bonneville the Council accepted the costs, which were included as part of the annual operation and maintenance costs for the hatchery, and not included as part of the \$16 million capital cost.

On November 20, 2000 Council staff received a copy of a letter from the NPT (dated October 26, 2000, from Samuel Penny, NPT Chairman) and addressed to Judi Johansen, Bonneville, confirming the Tribe's intent to not ask Bonneville to fund housing costs at Allotment 1705 (Attachment 1).

On June 26, 2001 the NPT presented a progress report, as specified in the Council's May 22, 2000 letter approving construction of NPTH, on construction activities at the various NPTH sites.

At the November 2001 Council meeting in Idaho Falls, Council staff was made aware that the NPTH might need additional funds for completion. The Council sent an e-mail to Bonneville on November 14, 2001 requesting clarification. On November 14, 2001 Council staff received the following e-mail from Bonneville staff.

"We would like to sit down with you and discuss this. The answer is yes, but there are caveats. It is not that we have over spent. We are within budget. There are some non-

² On September 9th by a letter and on the 19th by fax.

constructive costs we have incurred and would like to re-coup the funds and apply the money toward the project. The NPT tried to get money for housing, but to no avail. We desire the council's help in providing housing for the mngrs. It is dollars like these we are requesting."

On November 30, 2001 the NPT, Bonneville and Council staff met to review a summary of the proposed NPTH non-contingency needs. This list included a request for operational staff housing for 2 houses @ \$125,000 for a total of \$253,750 (including a 1.5% TERO fee). Other items included county road repair, landscaping costs, fish crowders, a cover for the spawning area, and hatchery road paving³.

Based on an analysis of the information received by Council staff during the meeting on November 30th additional issues were raised regarding how the budget contingency (in the approved \$16 million) were originally used.

On December 19, 2001 Council staff received an email from Bonneville staff requesting a meeting on January 7, 2002.

At a January 7, 2002 meeting, Bonneville and the NPTH Core Team provided additional clarification regarding line item justification for the various NPTH project changes. As outlined above, this meeting was intended to address the concerns regarding the expenditure of contingency funds associated with the NPTH [MF: the balance of this sentence throws me completely] due to the result of background data provided in conjunction with the potential request for additional funding to enhance the hatchery facility at Allotment 1705. The information received made no mention of the housing issue at the hatchery facility.

The two houses at the hatchery were finally secured through a pilot program demonstrating performance of super energy efficient manufactured homes funded through Bonneville's energy efficiency budget (Research and Development).

Budget Oversight Group Request

On February 24, 2010 the NPT staff submitted a within-year budget-adjustment request for \$320,000 for two additional manufactured homes for the NPTH. Currently, the hatchery has two residences, one for the hatchery manager and one for the assistant manager. The request was made to provide for reasonable staffing rotation of hatchery personnel at the site on a 7-day/week, 24-hour basis. The lack of permanent housing (currently a travel trailer is used) does not allow the level of live-on-station permanent staffing needed to complete work assignments efficiently and to monitor safety and alarm systems

³ Notes on the handouts from this meeting as well as a follow-up Council staff discussion make clear that the housing and road repair are project (Bonneville) responsibilities, the landscaping, crowders, and cover are to be dealt with in the future phase of the project based on the biological triggers. The paving should be folded into O&M cost in the out-years.

During the March 3rd BOG meeting the request was categorized and placed with the requests received as part of the second quarter of 2010. Shortly after the BOG meeting it was confirmed that as part of the 2000 decision the NPT had agreed to provide the housing at the NPTH in order to meet the agreed upon construction budget (Attachment 1). On April 12, 2010 the request was withdrawn by the NPT.

On May 26, 2010 the NPT resubmitted the request, including additional detail regarding the need for additional housing at the hatchery (Attachment 2). At the June BOG meeting the request was reviewed and categorized as part of the requests received for the third quarter.

At its July 2010 meeting, the Fish and Wildlife Committee asked staff to provide a recommendation on this request before the August meeting packet date. However, on July 28, 2010, Bonneville sent Chairman Booth a letter stating that Bonneville is deferring consideration of this request until receipt of a letter from the NPT that addresses the original understanding regarding housing at the hatchery. Bonneville and Council staff determined that that was an appropriate action based on the understanding in the Nez Perce letter of 2000.

Attachment 2



Nez Perce

TRIBAL EXECUTIVE COMMITTEE

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

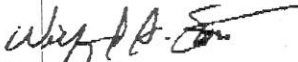
October 26, 2000

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

Dear Mr. Johansen:

This letter is in regard to your request for confirmation on the funding for housing required at the Nez Perce Tribal Hatchery (NPTH) at the Allotment 1705 Central Incubation Rearing Facility. The NPTH is a program that is being constructed under the Pacific Northwest Electric Power Planning and Conservation Act, which authorizes Bonneville Power Administration to fund the protection, mitigation, and enhancement of fish and wildlife to the extent affected by the development and operation of any federal hydroelectric project of the Columbia River and its tributaries. The intent of the supplementation hatchery is to partially restore natural spawning salmon runs that are undeniably affected by the federal hydroelectric projects in the Columbia Basin. Nevertheless, the Nez Perce Tribe committed to pay for the housing costs at Allotment 1705 in order to reduce the \$16.05 million hatchery budget by approximately \$300,000.00, and thus secure approval by the Northwest Power Planning Council to proceed with construction of the first phase of the program. Therefore, Bonneville Power Administration will not be asked to fund housing costs at Allotment 1705, anticipated under Phase I of the program.

Sincerely,


Samuel N. Penney
Chairman

cc: Bob Austin, BPA
Larry Cassidy, NPPC
Michael J. Penney, NPT
Dave Johnson, NPT
file

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Attachment 3

Information the NPT attached to the June 2010 BOG request

Explanation of need:

Nez Perce Tribal Hatchery (NPTH) has sixteen permanent employees, two of which live in on-site housing built and funded by the Nez Perce Tribe at the time of hatchery construction. Employees living on-site are provided housing in exchange for engaging in “standby” (being on-call during off-duty hours to respond to and correct facility water or other emergencies). They also provide an on-site security presence, to prevent theft of hatchery equipment and adult salmon, and to prevent vandalism.

Initially, four houses were planned at NPTH. After a severe budget reduction just prior to scheduled construction, the Nez Perce Tribe committed to providing all “phase one” housing at NPTH through a letter from Chairman Samuel N. Penney to Ms. Judi Johansen of BPA (attached). “Phase two” construction would expand NPTH once program biological criteria were met. The Tribe did this to help bridge the funding gap, so the Northwest Power Planning Council would approve the project and construction could proceed. They purchased and placed two manufactured homes on-site, which are in use today.

Construction of NPTH was completed in 2003 and operation of the facility began. It was soon realized having the hatchery manager and one assistant manager perform all standby was an unreasonable expectation on those two employees. For six months out of each year both of them were not able to leave the facility. Further, because these two people worked weekends they had several days off during the week which made them less available for management activities and duties. In addition, technical staff were not being trained in this critical hatchery duty (alarm response and correction). To begin training technical staff in standby duties, and to provide some relief for the manager and assistant manager, a camp trailer was purchased for off-station staff to use at NPTH on a rotating basis, as a temporary solution until additional houses were constructed. Currently, eight employees at NPTH use the camp trailer during their assigned standby shifts, while two other employees live on site in provided housing to fulfill that obligation. This is clearly not equitable. No employees in the Nez Perce Tribe are paid standby wages.

Why is the Tribe now asking for additional housing funded by BPA, after committing to pay for that expense in the letter of October 26, 2000?

1. In 2000, prior to hatchery construction when the Nez Perce Tribe drafted and sent the letter stating Bonneville Power would not be asked to fund housing costs at NPTH during Phase I, no one realized how unreasonable it was to expect only two employees to cover 16 hours of standby every day, seven days per week, and 365 days per year.
2. Although it made sense to put experienced management staff in the two residences during initial operation of NPTH, this decision had some unforeseen negative consequences. Both the manager and assistant manager became less accessible to Tribal leadership, administration, and the co-managers, since one of the two was on days off every Thursday and Friday (having worked the previous Saturday and Sunday as part of assigned standby duties), or 40% of the standard work week. Also, technical employees were not learning how to operate the facility systems, or how to correct alarm related problems after hours, since they were not assigned standby. After several years of only the manager and assistant manager fulfilling standby, they

were really the only two employees capable of addressing problems that the alarm system monitors after hours.

3. The hatchery has lost high-quality employees to other projects, specifically because of the inequity in standby related housing, i.e. some employees being provided a home on site as compensation for standby while others are asked to share a camp trailer. An excellent supervisor that left NPTH recently was asked what his primary reason was for leaving. He stated the only reason he found other work was because of the strain it caused on his family when he was asked to live in a trailer away from them multiple weeks each year.
4. Not only has the hatchery lost good employees due to this shortage in suitable housing for standby, it has also impacted recruiting efforts to replace them. Some candidates for the vacant supervisor position have expressed reservations about the job because of the living quarters (trailer) during assigned standby, and may not apply for the job for that reason alone.
5. At the time of construction, most of the employees at NPTH were inexperienced in hatchery operations, and how standby is a critical component of fish production. They are now well-trained, experienced fish culturists, and have willingly accepted standby to meet the goals of the program. They were told the trailer was a “temporary” solution, and that additional housing would be secured at some point. They are now aware of how other hatcheries operate, and recognize the trailer as standby housing is an “unusual” housing option at a facility with the program, staffing and budget of NPTH. They justifiably don’t understand how a few employees get free housing to compensate for standby duties while others do not. Again, no employees in the Tribe currently receive standby pay.
6. Staffing size within any hatchery program is a good indicator of the complexity of that program. When analyzing staffing levels and provided housing amongst regional hatcheries (regardless of funding source), it is clear NPTH does not meet reasonable housing standards:

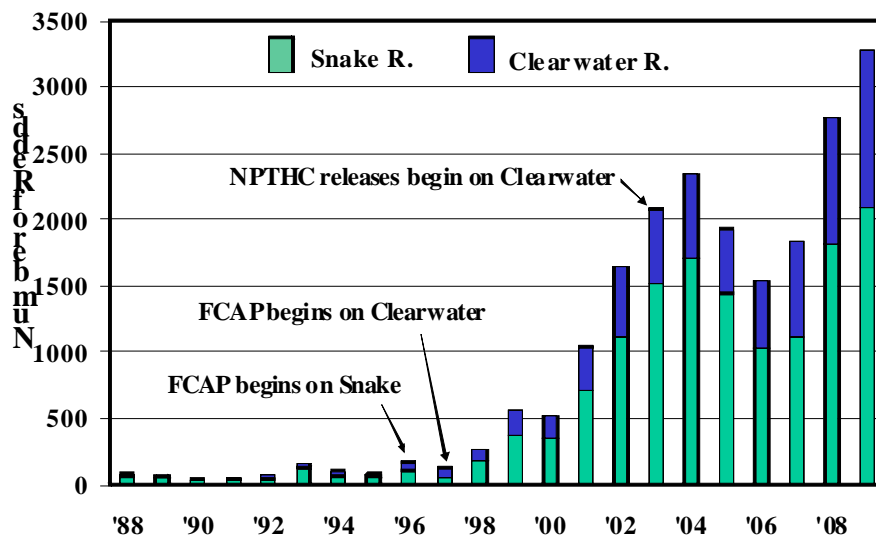
HATCHERY	AGENCY	NUMBER OF FTE’S	NUMBER OF ON-SITE RESIDENCES	PERCENT OF FTE’S HOUSED
Clearwater	IDFG	8	7	87.5%
Kooskia	USFWS/NPT	4	3	75.0%
Lyons Ferry	WDFW	16	8	50.0%
Lookinglass	ODFW	7	3	42.9%
Dworshak	USFWS	20	4	20.0%
NPTH	NPT	16	2	12.5%

7. Efforts have been made to find alternative sources for funding additional residences at NPTH, with no success to date. Snake River Basin Adjudication (SRBA) funding is not accessible for this type of request. The Tribal Housing Authority can seek grant money for housing on Tribal Allotment 1705 (where NPTH is located), but occupants of houses funded that way would have to pay rent, and there is no provision to allow only hatchery employees access to residences built by the Tribal Housing Authority. Both U.S. Senator Risch and Senator Crapo have toured or had staffers tour NPTH, and recognize the good work the NPT is doing on behalf of salmon

recovery in the Clearwater Basin. They understand the housing problem at the hatchery, and have expressed support for additional residences, but thus far have been unable to secure funding to assist in solving this problem. The Bureau of Indian Affairs has been contacted to look into possible solutions, but at this point it appears they probably cannot help. The Tribe is turning back to BPA and the Council because this is a reasonable and necessary request, and other funding options have not been found.

8. NPTH is in its second year of full production (1.4M fall Chinook and 825,000 spring Chinook salmon), contributing greatly to salmon recovery in the Clearwater Basin. In 2009, fall Chinook redd counts in the Clearwater reached another record count (see graph below). In addition, in 2008 and 2009 the Tribe, Idaho and Washington were able to open fall Chinook fisheries in the Snake River for the first time since the Snake River dams were constructed.

Number of Fall Chinook Redds Counted above Lower Granite Dam



It is important to point out the NPT is only requesting \$320,000 for two manufactured homes (including setup, water, sewer, electrical, foundation, etc.). These would include metal roofs and hard board siding for longevity, but otherwise are modest in terms of housing. By comparison, the new residence built in 2010 at Kooskia Hatchery by the USFWS (stick-built, attached two car garage, fireplace, great room, etc.) cost more than the Tribe is requesting for two homes at NPTH.

Plan to proceed if request is denied:

The current "short-term" camp trailer approach to provide housing for standby duty is not equitable or reasonable in any way. Having only two staff members cover ALL standby duty is equally unreasonable, particularly with 16 full-time employees available to share this duty. Therefore, if two additional residences are not constructed at NPTH, a completely different

approach to fulfilling standby duties will have to be employed.

Currently the alternative under consideration is for off-site employees to meet assigned standby duties from their homes, regardless of response time. A phone dialer system is already in place at NPTH and is very dependable, so notification and response would not be a problem, since standby employees are expected to be near their home phones during their standby shifts. This system automatically dials phone numbers that are programmed into the system, and continues calling assigned numbers sequentially until someone answers and acknowledges the alarm.

The drawback to this solution is two-fold. First, longer response times for off-site employees on standby during key fish rearing stages would almost certainly lead to occasional or frequent catastrophic fish losses. These losses would be avoided with on-station housing. Secondly, vandalism and theft may become a problem with no on-site security presence.

Please explain any NEW cost share associated with this request:

As mentioned above, the NPT has explored multiple options for funding two additional residences at NPTH, with no success to date.