Kuehn, Ginny -KC-7

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-030
RECEIPT DATE: SEP 0 4 2001

From: Grmshw@cs.com
Sent: Friday, August 31, 2001 3:15 PM
To: comment@bpa.gov
Subject: (no subject)

I realize that this is the last day to make comment. I got out my very heavy book describing what you entend to do with the dams. 1-9 says that you entend to take down dams. It is in the middle of farming season. We don't have time to fight. The minute we turn our backs you are ready to pull the trigger on us.
Please, we need the dams. This is not the solution. There has got to be some creative minds at the BPA that can come up with a better solution. Pulling down dams will not save the fish. Pulling down dams will not fix an acute energy crisis. Pulling down dams will credit you with creating a food crisis. #1

There is a right way to do things, but this is not it.

Sincerely,
Shelley Grimshaw
211 W. Sagemoor R.
Pasco, WA 99301

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-031
RECEIPT DATE: SEP 0 4 2001

2348 Snohomish Ave.
Richland, WA 99352
August 28, 2001

Communications
Bonneville Power Administration - KC - 7
P.O. Box 12999
Portland, OR 97212

Comments on Fish & Wildlife Implementation Plan Draft EIS

The first assumption in the Cover Sheet Abstract is that "some species of fish and wildlife continue to decline." I take exception to this statement as the dam counts for the years 2000 and 2001 show increased salmon and steelhead runs if not record runs. Attached is a three year summary of the fish over Bonneville and Ice Harbor dams. Note that the Jack counts indicate strong salmon runs next year. Also, over one million Coho salmon are expected this fall. #1

The second assumption in the Abstract that "there is no clear scientific answer" for the lack of success in increasing fish runs. Dr. James J. Anderson of the University of Washington School of Fisheries would take great exception to this statement. He looked at the history of ocean cycles in his September 1997 article titled "Decadal Climate Cycles and Declining Columbia River Salmon" published in 1998 in Sustainable Fisheries Conference Proceedings. This 20 page article provides data for the major decadal climate shifts from good to poor in 1925, back to good in 1947, and then to poor in 1977. It would appear that these climate changes, now described as Pacific Decadal Oscillation (PDO), have four known dates in the 20th century; 1925, 1947, 1977, and 1998. Salmon catches in Alaska reflect exactly the opposite trend. Even now, because of poor salmon returns, the Governor of Alaska is trying to have the Kuskokwim Bay & River, and the Bristol Bay declared as disaster areas. #2

On April 27, 2000 Anderson provided testimony before the U.S. House of Representatives Committee on Resources in Pasco, Washington. He stated the Plan for Analyzing and Testing Hypotheses (PATH) conclusions on needed Snake River dam breaching are based on salmon returns through brood year 1990 and the NMFS Cumulative Risk Initiatives (CRI) conclusions, that salmon are in dire condition and breaching alone will not recover them, are based on runs through 1994. These analyses are based on data that is not representative of current conditions. Most significantly the CRI and PATH Analyses do not reflect the possibility that the ocean can shift quickly into a regime favorable to Columbia River salmon and steelhead. #3

This cooler upwelling nitrogen and phosphorous rich water in the ocean is providing a strong food chain. The sardine population has increased enough for commercial fishing to be considered off of Astoria.

Since the food chain in the ocean is close to optimum, the food chain in the natal streams need to be upgraded with either salmon carcasses or by fertilizer briquets that are being used by B.C. biologists on Vancouver Island to increase the steelhead and salmon population. #4

While driving the upper Salmon River in the early sixties, I had to clean my windshield every 5 to 10 miles. While working out of Challis, Idaho in the early eighties my windshield was cleaned once or twice a week. The wild salmon and steelhead smolts were not getting fat. In fact the answer to why the hatchery fish do so well is that they are fed. If the hatchery uses spring or well water, the smolts can be fed continually all winter. They become bigger and stronger than their wild counterparts.

With two of the basic assumptions of this DEIS totally and factually wrong, the only alternative of the DEIS that I can honestly support is Status Quo.]#5

The only concept paper that I can totally support is 26.Murphy & Buchal: Goldendale, Kaiser, Northwest & Reynolds Aluminum?

I particularly support moving all hatchery management to the tribes. The first to go should be the Klickitat hatchery. The tribes hatchery efforts on the Yakima and the Umatilla are outstanding.] #6

Your search for truth in this DEIS needs a reality check with new data input and less "sky is falling" emotion from the 90's.

Sincerely Yours,

Elwin L. Fisk

Elwin L. Fisk

Bonneville Dam fish counts:

Spring/Summer Chinook		
Year	Adults	Jacks
1999	64,838	12,713
2000	208,952	34,813
2001	467,974	28,916

Fall Chinook		
Year	Adults	Jacks
1999	242,143	23,482
2000	192,832	55,381
2001	40,008*	7,780*

Steelhead		
Year	Hatchery	Wild
1999	151,448	55,064
2000	199,373	76,161
2001	315,732*	126,527*

Ice Harbor Dam fish counts:

Spring/Summer Chinook		
Year	Adults	Jacks
1999	9,251	3,968
2000	42,539	12,311
2001	186,237	5,400

Fall Chinook		
Year	Adults	Jacks
1999	6,532	3,489
2000	6,509	9,729
2001	465*	82*

Steelhead		
Year	Hatchery	Wild
1999	67,052	13,215
2000	92,392	23,002
2001	35,086*	12,073*

*Counts as of 08/26/01

August 31, 2001

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-032
RECEIPT DATE: SEP 05 2001

Communications
Bonneville Power Administration
KC-7, P.O. Box 12999
Portland, OR 97212

Re: Comments on Fish and Wildlife Implementation Plan Draft Environmental Impact Statement (DOE/EIS-0312)

The Public Power Council appreciates this opportunity to comment on the Fish and Wildlife Implementation Plan Draft Environmental Impact Statement ("Draft EIS").

BPA has requested comments on the range of options and impacts in the Draft EIS, and whether there is a policy direction or hybrid we would propose from the list provided within that document. In attempting to provide NEPA coverage for any and all future fish and wildlife program expenditures (this does not cover river operations), BPA seeks to untie a daunting Gordian Knot of confusing and conflicting directives, jurisdictions, policies and strategies.

On its face, the DEIS is inconsistent. On one hand, BPA seeks to identify the specific path the region is most likely to take as a unified approach to fish and wildlife mitigation, and states that it must implement a mitigation and recovery strategy even if the region fails to agree on a single policy direction. (Draft/ ES-v) In the forward/update, the DEIS states that it "allows the Administrator an opportunity to review and decide upon a comprehensive, consistent and unified BPA approach to its role in the fish and wildlife mitigation and recovery effort." (5/6/1 Draft/i)

On the other hand, the DEIS states that BPA is not unilaterally selecting a policy direction. (Draft/ ES-v) #1

When BPA initiated this EIS effort, the Multi-Species Framework Process was in high gear. That two-year effort, however, was only able to narrow the number of alternative visions for the Columbia to seven. That should be taken as a dramatic statement of the lack of unity of purpose in the fish and wildlife program. Now the MSFP is considered dead and buried in certain fish and wildlife circles. The DEIS, however, has resurrected elements of the MSFP and BPA has suggested that it might decide on a mitigation and recovery strategy in its EIS.

Suggested Approach for BPA: Promote Development of a Unified Salmon Management Plan

The DEIS, in the Introduction, provides a very important insight into the fish and wildlife program by describing the reasons for the lack of success to date. These include contrasting values and priorities in the region, no clear scientific answers, conflicting directives and jurisdictions, the absence of a comprehensive and coordinated planning approach and inefficiencies in implementation and funding.

PPC urges BPA to emphasize this description of the problem in the EIS. BPA could and should declare in its final EIS that there are fundamental reasons for the lack of success in the fish and wildlife program that include degraded freshwater habitat but also include issues that lie at the core, the very foundation, of anadromous fisheries management. Further, BPA should declare that many of these problems are not the responsibility of BPA or its customers, nor do they involve operation of the FCRPS. #2

BPA should take a stand that it has a responsibility to fund a unified, coordinated and integrated fish and wildlife program and the lack of such a program constitutes a fundamental problem that must be addressed. Until federal salmon management policies are clarified, there is a danger that BPA will fund measures that prove to be counter-productive (such as hatchery programs that produce fish deemed unworthy of spawning and are not harvestable). BPA should use this EIS and all available means to stress to fisheries managers the importance of resolving their fisheries management challenges. #3

For example, the federal, state and tribal fisheries managers (not BPA) must be held accountable for developing and implementing salmon production and harvest policies that can successfully implement the Endangered Species and Regional Power Acts, treaties with the tribes and Canada, Trust responsibilities and other federal fisheries obligations. See the attached table for a summary of this argument.

BPA can also, in this EIS, comment on its relationship to the institutional Gordian Knot that plagues fisheries and habitat management. How does BPA interpret its responsibilities under multiple federal obligations? It doesn't make #4

sense to focus on one obligation such as the ESA without identifying a strategy to simultaneously implement the other applicable laws, treaties and responsibilities.

It is apparent that BPA does not have the authority to select a national and regional strategy regarding fisheries management policies and strategies: that decision is up to other agencies. BPA should clarify that point.

BPA can and should, however, emphasize the importance of a unified plan in its EIS and use its influence to put and end to funding for uncoordinated, inconsistent and counter-productive measures. The following table provides a shorthand example of the current situation in which various fisheries managers support an approach similar to Alternative A or C, but the status quo is Alternative B. BPA should articulate the consequences of continuing to fund a poorly coordinated and integrated program as illustrated by Alternative B and urge the appropriate agencies and tribes to expedite the formulation of a workable plan. #5

Thank you for this opportunity to comment on the Fish and Wildlife Implementation Plan Draft EIS. PPC looks forward to working with BPA on this and related issues in the future.

Sincerely,

Robert G. Walton
Assistant Manager

Summary of Suggested Approach for BPA:
Insist that Alternative B is unacceptable.

	Alternative A	Alternative B	Alternative C
Emphasis	Weak stock management	Increased funding for projects; management plan = sum of separate projects.	Strong stock management
Compelling Authority	ESA	BPA's obligation to fund F & W mitigation even without a good strategy.	Tribal treaty and trust harvest obligations
Primary Proponent	NMFS	Recipients of project funding.	Tribes
Implication for BPA Funding	Limited, cautious use of hatcheries means reduced funding for hatcheries and/or changed role. Fund marking of fish as harvest and production management tool. Fund selective fishing measures.	Absence of workable strategy ensures perpetual funding of projects without reaching success. Hatcheries without harvest strategies, clubbing fish to prevent spawning, etc. This in turn continues pressure to spill more and breach dams.	More robust use of hatcheries. Don't fund marking. No selective fishing.
Description of success	Listed populations are neither overfished nor swamped by hatchery fish, a big boost towards ESA recovery. Salmon harvest limited by weak stock management and ability to fish selectively.	Unlikely to lead to success meeting ESA, production or harvest goals. The only winners are recipients of continued funding.	Hatcheries produce fish worthy of spawning naturally so populations can support higher harvest levels.

Kuehn, Ginny -KC-7

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-033
RECEIPT DATE:
SEP 06 2001

From: Moreland, Molly R - KEC-4
nt: Wednesday, September 05, 2001 5:07 PM
: Alton, Charles - KEC-4; Pierce, Kathy - KEC-4; Kuehn, Ginny -KC-7
Subject: FW: Comments on EIS from Constituents unable to attend meeting

Ginny,

Please enter these comments (in red font) into the record. These were sent to me via Mark Reller, BPA's Montana liaison.

Thank you.

Molly

-----Original Message-----
From: Reller, Mark D - KR/MSGL
Sent: Tuesday, September 04, 2001 8:44 AM
To: Moreland, Molly R - KEC-4
Cc: 'Jean Johnson & Gordon Burns'
Subject: RE: Comments on EIS from Constituents unable to attend meeting

Those comment were from Gordon Burns and Jean Johnson at Natural Solutions.
NOTE: I have copied them this email so that now you also have there email. Phone is 406 - 458-6363

Mark

-----Original Message-----
From: Moreland, Molly R - KEC-4
Sent: Friday, August 31, 2001 4:10 PM
To: Reller, Mark D - KR/MSGL
Subject: RE: Comments on EIS from Constituents unable to attend meeting

Thanks. These comments will be entered into our official file and considered before the Final EIS. Who shall I say is submitting them? I do not see the name of the proposer and might want to contact him or her about the naturalized bypass systems. I have heard of these mechanisms, but need additional information in order to accurately name and describe them in the EIS.

Molly

-----Original Message-----
From: Reller, Mark D - KR/MSGL
Sent: Wednesday, August 29, 2001 11:55 AM
To: Moreland, Molly R - KEC-4; Beaty, Roy E - KEWR-4
Cc: 'Jean Johnson & Gordon Burns'
Subject: Comments on EIS from Constituents unable to attend meeting

Dear Molly
Hello again from Montana. You noted that if others here in Montana had concerns about the draft EIS to forward them to you and would take them as official comments. I am taking you up on that offer.

Two constituents recently approached me who had concerns that the EIS may not cover alternative proposals to move fish around dams. They are advocates of more natural, surface bypass systems that mimic natural stream conditions. I have searched the Draft EIS CDROM on the phrase "Surface bypass" and found the following references:

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-033
RECEIPT DATE:
SEP 06 2001

Page 259
4-1 Dam Modifications and Facilities
Capital improvements at the mainstem dams designed to approximate natural conditions (e.g., surface bypass).

Page 271
Provide a variety of passage routes at the remaining mainstem dams...including surface bypass, submerged screens

and spill (Framework Alternative 1,2,3). Provide safe passage for juveniles moving down stream and adults moving upstream at all hydro projects (federal and non-federal) in the basin (Framework Concept Paper 1).

The Corps shall continue to investigate a way to increase entry rates of fish approaching surface bypass/collector entrances (NMFS Biological Opinion 2000 Action Table Dec. 2000).

Page 303
Aggressive passage improvements, including specific passage upgrades for juvenile fish at individual dams. Improvements vary by location, including relocation of bypass outfalls, refined screens and bypass facilities, development of surface bypass, spillway modifications and more effective spill, improved turbine operations and design, predator management, mainstem and estuarine habitat (Final All-H Paper Dec. 2000).

Page 304
4-3 Spill
Spill and/or surface bypass to achieve 80% FPE or better through non-powerhouse routes (Tribal Vision).

Page 313
4-8 Adult Fish Passage
Provide a variety of passage routes at the remaining mainstem dams... including surface bypass, submerged screens and spill (Framework Alternative 1,2,3). Provide safe passage for juveniles moving down stream and adults moving upstream at all hydro projects (federal and non-federal) in the basin (Framework Concept Paper 1; Framework Concept Paper 20).

Page 413
Hydrosystem configuration actions would change the facilities at existing dams to facilitate passage and water quality goals. Examples include new fish ladders, surface bypass structures, other bypass improvements, modified turbines, turbine intake screening systems, and facilities for gas abatement.
After reviewing these citations I am concerned that "surface bypass" may be viewed as a term of art that describes mechanical bypass systems of the type historically used. Based on this concern, and to incorporate the concerns of my constituents, I am asking you to consider their comments in the following way.

First please review my concern on the definition of surface bypass. If you view the definition as more generic and encompassing all types of surface bypass systems please correct the draft text to more explicitly state the intended definition. If you agree with my concern, please add text include more naturalized systems. Second please incorporate in the vast list of alternatives and analysis a section on naturalized bypass systems that strive to mimic the in-stream like conditions. These systems would bypass both adults and juveniles fish of all species. Third please include reference to and analysis of (if available) an alternative mechanism to encourage fish to enter the aforementioned natural surface bypass systems. This alternative mechanism would use directed water velocity to induce fish movement into the naturalized bypass system or other bypass routes. #1 #2 #3

These concerns appear to be already tangentially referenced in the EIS based on the extracted text referenced noted above. Please consider the comments of my constituents as relayed to me when you prepare the EIS for final publication. If you have further questions please call or email and I will attempt to answer them if I can or put in touch directly with my constituents at Natural Solutions - A Dam Site Better.

COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION
729 N.E. Oregon, Suite 200, Portland, Oregon 97232
Telephone (503) 238-066
Fax (503) 235-422

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-034
RECEIPT DATE: SEP 06 2001

August 31, 2001

Bonneville Power Administration
Attn: Charles Alton
P.O. Box 3621
Portland, OR 97208-3621

Dear Mr. Alton:

Thank you for the opportunity to review the "Fish and Wildlife Implementation Plan Draft EIS" (DEIS). The DEIS provides helpful direction in coordinating the various programs and policies such as the Regional Act, the ESA and the Clean Water Act. The DEIS also rightly acknowledges conflicting directives and jurisdictions as reasons for the continuing decline of salmon along with conflicting priorities that present themselves. However, the statement that "There is no clear scientific answer to the problem" is misleading. #1

The DEIS, while not choosing a policy direction, lists elements of several potential policy directions. What it lacks are goals and a decision framework that permits an evaluation of actions in meeting the goals. Bonneville has both funded and participated in a process (PATH) that has successfully been used to assess the effectiveness of actions in meeting goals. This process was designed to lessen uncertainty and facilitate a decision on policy direction. It seems disingenuous for BPA to omit all mention of PATH and then declare that "There is no clear scientific answer to the problem." #2 #3

CRITFC commissioned some of the PATH members to use the decision framework to evaluate an "All H" approach to salmon recovery. This document (Marmorek et al 2000; attached) is consistent with prior PATH documents and indicates the likelihood of recovery is largely governed by actions taken to substantially reduce hydro related mortality. BPA should acknowledge this and previous PATH analyses in the Final EIS. #4

Although the DEIS claims that the status quo is unacceptable, it continues to support hydro operations that rely on transportation. Continuing business as usual in the hydro system and shifting focus to the freshwater environment does not represent a departure from the status quo. The Tribes support habitat protection and restoration. However, there was no environmental calamity coincidental with the declines of upriver stocks. Petrosky et al. (2001) found that there were no substantial declines in the fresh #5 #6

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water survival rates for Snake River spring chinook that would explain the steep declines of these fish.

In the past 12 months, the Commission has provided extensive comments to the Bonneville Power Administration on salmon recovery issues, including briefs and testimony in Bonneville's wholesale power rates proceedings, emergency operations of the hydropower system, and comments on the draft FCRPS Biological Opinion. We also submitted substantial recommendations to the Northwest Power Planning Council for amending its Fish and Wildlife Program to address the operations and configuration of the regional hydropower system. We request that you consider the recommendations contained in these documents and that they be made a part of the record for this EIS. #7 #8

There is no magic bullet to recovering salmon stocks. But, as discussed in Wy-Kan-Ush-Mi-Wa-Kish-Wit, there are measures specific to particular stocks that would greatly increase the likelihood of survival of those stocks. Wy-Kan-Ush-Mi-Wa-Kish-Wit is based on sound science. BPA should acknowledge the available science. Regional salmon stocks will be further threatened if available studies are ignored and scientific uncertainty is used as an excuse for maintaining the status quo. #9

Sincerely,

Donald Sampson
Executive Director

cc: Fish and wildlife committees
Brian Brown, Federal caucus chairman
Steve Crow, NPPC executive director

September 6, 2001

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-035
RECEIPT DATE:
SEP 07 2001

VIA E-MAIL
comment@bpa.gov
&
FEDERAL EXPRESS

Communications
Bonneville Power Administration - KC-7
Attn: Charles Alton
905 NE 11th Avenue KEC-4
Portland, Oregon 97232

RE: Comments Regarding Bonneville Power Administration Fish & Wildlife Implementation Plan Draft Environmental Impact Statement, KEC-4

Dear Mr. Alton:

On behalf of the Washington Farm Bureau Association, please consider the following comments to the Bonneville Power Administration Draft Environmental Impact Statement.

Bonneville Power Administration Draft Environmental Impact Statement Comments

I.____INTRODUCTION

In terms of farm-gate value, farmers and ranchers produce more than $5.3 billion worth of food and fiber annually in the state of Washington alone. In Washington, there are currently more than 35,000 farms growing at least 230 crops, including hay, cattle, apples and wheat. Agriculture remains the second largest industry in the state. When agriculture and food production are combined, the agriculture industry is the largest employer in the state paying out between $3 to $4 million in wages and salaries per year. Even when Boeing Industries was headquartered in Washington, the agriculture industry employed 1.5 times more people than Boeing.

All of the proposed Alternatives listed by Bonneville Power Administration ("BPA") in the Draft Environmental Impact Statement ("DEIS") have the potential to negatively impact the agriculture industry in the state of Washington. Obviously, the Alternatives which propose removal of dams would have a larger negative impact on agriculture than the other Alternatives. However, all of the Alternatives call for more regulatory control of agriculture and land use which will have a great impact on the citizens of Washington. #1 #2

Currently, agriculture in Washington is showing signs of trouble. For the last several years,

commodity prices have slumped and in some cases, as in the apple crop, the prices have plummeted. For example, the commentators have knowledge of a family apple farmer that is receiving a 1 cent per pound return on the apples his family grew this year even though his costs are 20 cents per pound.

In addition to low commodity prices, the agricultural industry must contend with the high cost of electricity, natural gas, and fertilizer. Furthermore, farmers are in the midst of a drought year and segments of Washington's farmers may not survive. Farmers and ranchers simply cannot afford the environmental regulations suggested by BPA in the DEIS. #2

It is important to remember that if the country loses the farming industry, the farmers are not the only loss. Farmers provide employment, products for the food processing industry, and products for carriage by the transportation industry which includes the majority of port business in the Seattle area.

Similar to Klamath, Oregon where farmers have been put out of business because of the Endangered Species Act ("ESA"), farmers and ranchers in Washington cannot understand why they are being threatened to be put out of business for a fish that even BPA states is not endangered. It is a basic fairness issue. If the public at large wants to protect fish species then the public at large should shoulder the burden. The burden should not fall upon farmers and ranchers who are facing disaster because of commodity prices, energy costs, and increasing federal regulations. #3

The Washington farmers are requesting that the issues facing the Pacific Northwest are treated with common sense, fairness, and policies that are based on adequate scientific studies. For example, BPA's assertion that no species of salmon is near extinction lacks common sense when the least sophisticated citizen realizes that some salmon species are near extinction. DEIS at 54. In essence, Pacific Northwest fisheries managers have taken a biologically cautious approach to ESA listings. Small populations within a species have been listed for federal protection when, under a broader definition, the overall species itself is in no danger of extinction. Id. #4

In 1999, National Marine Fisheries Service ("NMFS") listed three Evolutionary Significant Units ("ESUs") of Northwest chinook salmon as threatened species, and one chinook salmon ESU as an endangered species. The commentators believe that these listings are an unlawful alternative to the ESA's statutory species definition. In fact, NMFS' use of the ESU theory is the subject of litigation in the U.S. District Court for the District of Columbia. Common Sense Salmon Recovery v. Daley, D.C. Cir. 2001, 1:99CV01093(PLF) (complaint will be provided under separate cover). #5

Under the ESA, a species is endangered if it is in danger of extinction throughout all or a significant portion of its range. 16 U.S.C. §1532(6). A species is threatened if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. 16 U.S.C. §1532(20). These chinook salmon are neither endangered nor threatened when identical and abundant salmon from artificial channels or hatcheries are included in the population.

"These fish are not at risk of extinction." An Assessment of The ESA Listing of Columbia River Anadromous Salmonids with Emphasis on Chinook Salmon, Dr. Ernest L. Brannon, PhD (study will be submitted under separate cover). To list salmon and steelhead at risk of extinction is deceptive to the public who have not been made aware of the narrow definition of the terms extinction and species under the NMFS interpretation of the ESA. Topics such as the minimum breeding unit, evolutionary significance, and legacy of the species, are scientific deductions for which great controversy exists in the scientific community.

Currently, there are record numbers of Spring chinook and Summer chinook returning to spawn. On August 17, 2001 the Fish Passage Center, reported that 391,367 adult fish returned to spawn at Bonneville Dam, compared to the 10-year average of 70,775 fish returning. See www.fpc.org. At the last dam where the fish are counted up river, Wells dam, there were 9,994 adult fish returning compared to the 10-year average of 869 fish returning. Id. There are other counts that are similarly spectacular in showing dramatic increases of salmon.

There is no real danger of extinction of a species, yet the DEIS advocates greater use of the ESA and the Clean Water Act ("CWA") to reform land use laws for salmon protection, as well as manage public land for salmon instead of for multiple use. The DEIS appears to hijack every possible law to protect a species that is not endangered according to BPA, the law, or fish biologists. The DEIS advocates massive social engineering under the guise of fulfilling protection of a species that is not actually endangered. #6

It is illogical to pay taxes to implement protection for a fish species that is not endangered. BPA has spent $3.48 billion since 1978 on fish issues. From 1996 to 2000, BPA spent over $200 million per year in fish and wildlife program costs, reimbursable expenses paid to the U.S. Treasury for other federal agencies' operation and maintenance of fish hatchery and passage facilities, and debt service on capital investments such as bypass facilities and hatcheries. DEIS at 96. Between 2001 and 2006, BPA predicts that it will spend an average of $300 million annually with the integration of the 2000 Biological Opinions to address the ESA compliance requirements. Id. #7

Not only is the DEIS advocating the unlawful extension of federal laws for a species that is not endangered, but BPA admits that it is at the cost of millions and billions of dollars. Also, at a time when there is power shortage, the DEIS calls for more reduced power generation. This will have a severe impact on farmers and ranchers throughout the states impacted by the DEIS. #8

The DEIS is not based on adequate scientific data. Instead, the DEIS is founded upon fuzzy concepts and buzzwords, which seem to gloss over the controversy surrounding those concepts. These concepts are not based upon peer-reviewed science. Instead of science, nature-based biocentric philosophy underpins the dramatic changes in public policy contained throughout the DEIS. #9

Throughout the DEIS, the policies suggest contravening existing law and policy. The DEIS advocates moving forward to force many people in the rural areas to change their lives in ways that may have severe economic and social impacts. #10

Through their elected officials, Americans agreed on current land management decisions via debate, discussion and tradeoffs that characterize policymaking in a democracy. Americans have not had a debate about abandoning multiple use, sustained yield, and balancing competing uses of public lands in favor of trying to recreate pre-European landscapes which is advocated by the DEIS. #11

If we in America decide to abandon more than a century of law and policy for a radical new approach to land use management based upon biocentrism, the debate should be long, vigorous and held in the open. Major policy changes should not be made by clever processes that sidestep the democratic process. Changing policies by adopting the DEIS is arbitrary and capricious.

II. REQUEST FOR RELIEF

The DEIS for the Columbia Basin prepared by BPA is an inadequate framework and does not meet the statutory requirements of Congress nor the regulatory requirements of the agency. Specifically, the DEIS fails to: (1) quantify goals or the methods used to reach those goals; (2) demonstrate with high quality scientific data that the proposed modifications are necessary to prevent harm to the environment; (3) fully consider the impact of its proposed actions on the social and economic aspects of the human environment and manage the region in a manner that is sensitive to economic efficiency; (4) assess opportunities for mitigation of the social and economic harm of the proposed action; (5) account for the totality of factors which are responsible for problems in resource conditions in the region.

III. PROCESS

BPA drafted the Fish and Wildlife Implementation Plan DEIS: "(1) to evaluate the range of potential Policy Directions and possible implementing and funding actions that the region could decide to take for fish and wildlife mitigation and recovery efforts, (2) to identify what specific path the Pacific Northwest most likely will take as a unified planning approach or as a services of independent actions by involved parties to try to recover fish and wildlife populations in the region, and (3) to determine the environmental consequences of BPA's implementation and funding of the actions that could emerge from that policy." DEIS at 1.

To address these issues, BPA presents six Alternatives (also called "Policy Directions" in the DEIS) which include a no-action alternative. These Policy Directions are:

(1) Status Quo represents a continuation of the policy direction that the region appears to be following at the present time;

(2) Natural Focus represents a policy direction that would remove the past major human intervention in the ecosystem and allow existing fish and wildlife to return to a natural balance without further major human intervention;

(3) Weak Stock Focus represents a policy that would prevent the extinction of fish and wildlife populations, especially those listed as threatened or endangered under the ESA;

(4) Sustainable Use Focus represents a policy that would expand the opportunities to harvest fish and wildlife resources and represents a philosophy of building a sustainable relationship between human beings fish and wildlife;

(5) Strong Stock Focus represents a policy that maintains viable stocks and ecosystems to avoid broader collapse of fish and wildlife populations.

(6) Commerce Focus represents a policy that emphasizes human intervention to enhance economic value of river uses.

DEIS at Chapter 3.

BPA does not choose any of the Alternatives as a preferred alternative. DEIS at 106. Instead, BPA will allow the BPA administrator to choose the Alternative which BPA will most likely follow. DEIS at 16. #12

IV. PURPOSE

The stated purpose of the DEIS is to:

A. Facilitate implementation of a regional unified planning approach for fish and wildlife mitigation and recovery efforts that will improve (1) coordination, (2) efficiency, and (3) consistency.

B. Fulfill statutory, legal obligations under the Regional Power Act, especially BPA's obligations to (1) protect, mitigate, and enhance fish and wildlife, and (2) provide a reliable, adequate, efficient, and economical power supply.

C. Fulfill the Administration's Fish Funding Principles such that BPA (1) meets all of its fish and wildlife obligations, once established, (2) takes into account the full range of potential fish and wildlife costs, (3) demonstrates a high probability of Treasury repayment, (4) minimize rate effects on power and transmission customers, (5) adopts rates and contracts that are easy to implement, (6) adopts a

flexible fish and wildlife strategy.

D. Fulfill other obligations under other applicable laws, including (1) federal treaty and trust responsibilities with regional tribes, (2) the Endangered Species Act, (3) the Clean Water Act, and (4) the National Historic Preservation Act.

E. Promote predictable and stable fish and wildlife costs and competitive rates, enhancing BPA'S ability to provide funding for public benefits and remain competitive in the electric utility marketplace.

DEIS at pp. 7-8.

Furthermore, the introduction states that the DEIS is intended to integrate and complement all of the regional, state and federal efforts. DEIS at ii. So that "[t]ogether, these many processes will coalesce to advance a single preferred alternative that BPA will adopt for fish and wildlife mitigation and recovery in the region." Id.

V. COMMENTS

1. BPA makes gross errors in its conclusions regarding rural Washington's history and its affected environment. DEIS at 86. For example, the DEIS states that current economic growth is spurred primarily by growth in the service industry, government and technology industry. However, future growth from the service industry and the government will rely upon the agriculture industry. With the changes proposed in the DEIS there will be insufficient numbers of people left to pay taxes and support the jobs in the government and service industry. Meanwhile, the technology industry has plummeted as indicated by the recent declines in the stock market. #13

The DEIS touts the service and recreation industries as the future of rural Washington with a major market being California's 30 million people. The DEIS suggests that rural Washington should be a playground for people from elsewhere. However, farmers and ranchers have been in Washington since the beginning of statehood. Many agricultural families are third or fourth generation farmers and ranchers. Yet, the DEIS ignores the importance of Washington's agricultural heritage.

Throughout Chapter 2, the DEIS ignores the fact that agriculture is the second largest industry in Washington. Further, if agricultural producers are combined with food production, the agriculture industry is the largest employer in Washington. Rural Washington as well as other parts of the state are dependent upon agriculture. The DEIS does not provide any economic studies or support for its conclusion that rural Washington should be a service and recreational playground for Californians.

2. The DEIS does not list a preferred alternative. It is impossible for the commentators to adequately determine the effects of all alternatives on the region. Thus, once a preferred alternative is chosen, an additional comment period must be provided. #14

3. The DEIS admits that it used "qualitative" or "relationship analysis (not specific numbers)" to compare Alternatives. DEIS at 101. This is inappropriate as determinations and actions must be based on scientific studies. Any action taken without necessary scientific data is arbitrary and capricious. #15

4. The DEIS admits that "exact actions taken under each Policy Direction, and the precise intensity of those actions, are generally not established at this time." DEIS at 101. The DEIS is leaving the actions that they are going to take a mystery and thus, it is impossible to comment upon same. Any action taken without appropriate notice and comment is arbitrary and capricious. #16

5. The DEIS admits that agriculture is dependent on the irrigation from the Columbia River and dams. DEIS at 94. Only 6% of the Columbia Basin is diverted for irrigation. DEIS at 94. The DEIS admits that agriculture is especially dependent upon Ice Harbor, John Day, and McNary reservoirs. DEIS at 94. However, two Alternatives suggest removing these dams (among others) which is contrary to the need of the people relying upon the agriculture of the region. Removal of the dams is too drastic a measure considering that only 6% of the Basin is diverted for irrigation for agriculture and over 300,000 acres are irrigated by those 3 reservoirs. DIES at 94-95. #17

6. The DEIS admits that not all the alternatives are within BPA's "current authority to implement." DEIS at 102. The DEIS goes on to discuss that some of the Alternatives could only be implemented if there was a change in the current law. DEIS at 102. It is inappropriate for the DEIS to provide Alternatives that cannot be implemented within the current legal restraints. This would be arbitrary, capricious, and illegal agency action. This is directly in conflict with one of the stated purposes of the DEIS which is to "[f]ulfill statutory, legal obligations...." DEIS at 7-8. #18

7. The DEIS fails to specify the scope of the no action Alternative. DEIS at 110. The DEIS defines the no action Alternative in broad and vague terms so that the commentator cannot determine if it is truly a no action alternative as required by the National Environmental Policy Act ("NEPA"). 42 U.S.C. §§4321-4370e. Therefore, using the Status Quo or no action Alternative as a benchmark to predict future environmental impacts is in violation of NEPA and is arbitrary and capricious under the Administrative Procedure Act ("APA"). #19

8. The DEIS allows the administrator to select a hybrid of any of the alternatives to implement his or her policy direction. DEIS at 116, 140. In addition, this type of approach is #20

inappropriate in that it is impossible for the commentator to comment on the possible environmental impacts of a hybrid alternative yet to be determined by the DEIS administrator. #20

9. Throughout the DEIS there are numerous statements that rely upon and refer to the Interior Columbia Ecosystem Management Project ("ICBEMP"). DEIS at 46, 84, 85, 95. This proposed decision is not final and has been protested. (ICBEMP Protest will be provided under separate cover). Therefore, all reference to and reliance on ICBEMP is improper, arbitrary and capricious. #21

10. The DEIS claims that the last summer chinook commercial fishing season was in 1967. DEIS at 23. However, the media reported in April, 2001 that the Washington state Department of Fish and Wildlife authorized recreational fishing for chinook salmon in the summer of 2001. Other media reports indicated that approximately 17,000 chinook salmon were caught during the 2001 commercial season. Therefore, the DEIS statement is inaccurate. #22

The DEIS indicates that the Status Quo Policy Direction is based on the fact that "no commercial in-river fisheries directed at upper Columbia River spring chinook have occurred since 1977." DEIS at 9. Again, this statement seems to be inaccurate in light of the media reports indicating that commercial fishing took place in 2001.

11. The conclusions in the DEIS are not based on adequate scientifically sound data. Throughout Chapter 2, the DEIS makes sweeping conclusions without supporting documentation. For example, the DEIS states that "there are over 2,500 water bodies that fail to meet the CWA standards" in Oregon, Washington, and Idaho without any data to correlate this statement. DEIS at 41. #23

Also in Chapter 2, the DEIS states that "return flows may be impaired by sediment, agricultural chemicals, or temperature" without any data to correlate this statement. DEIS at 44. In fact, there are scientific studies that indicate that agricultural return flows work to cool the temperature.

The DEIS goes to great length to discuss global warming and how this will effect the species of the area without any site specific data to support these conclusions. DEIS at 78-79. The DEIS fails to take into consideration other possible factors to the decline of fish species in the region, i.e. over fishing. In support of this conclusion, the DEIS lists Appendix F which is somewhat contradictory because it states that global warming is actually increasing some salmon populations.

The DEIS conclusions based on Federal studies are inappropriate as the studies are inadequate and not site specific. For example, the DEIS relies upon the Federal Caucus to

make conclusions regarding dams, irrigation, runoff, mining, etc. DEIS at 77-78. Although the Columbia and Snake Rivers are mentioned, there is no determination as to where the harm has occurred and to what specific species. The DEIS fails to correlate the conclusions with harm to the region. Further, these conclusions contradict other parts of the DEIS which point out that species are improving. See discussion of *Council's 2001 Report on Bonneville Fish and Wildlife Expenditures* and *NMFS Draft White Papers.* DEIS at 12, 48.

The DEIS concludes that "native salmon and steelhead, and many resident fish species are in decline throughout the Columbia River Basin" and that there is significant "extinction risks." DEIS at 79. Furthermore, the DEIS relies on the conclusion that species are in a "death spiral." DEIS at 114. These conclusions ignore data that the projected 2001 Columbia River mouth return is 1,071,200 adults. Joint Staff Report Concerning the 2001 In-River Commercial Harvest of Columbia River Fall Chinook Salmon, Summer Steelhead, Coho Salmon, and Sturgeon, Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife, August 2, 2001. This includes 760,500 early stock and 310,700 late stock. Id. This total return would be the largest return since 1986 and would be the second largest run since 1970. Id. The media have reported that nearly 150,000 chinook salmon made their way past the last dam on the Snake River before reaching Idaho. Columbia Basin Bulletin, June 1, 2001. Recently, a University of Washington researcher, Nate Mantua, noted that the Trout Unlimited Study that predicted imminent extinction for Snake River chinook was designed to lead to an extinction forecast. NW Fishletter, May 17, 2001. The study deliberately excluded strong salmon runs from the early 1980's brood years because the time frame showed "anomalously high productivities." Id.

The DEIS relies on the Federal Caucus to conclude that "[a]quatic conditions in the mainstem have been substantially altered by reservoirs." DEIS at 80. This is inappropriate without specific site and species specific data to support this conclusion.

The DEIS operates on the assumption that water temperatures are increased by dams. DEIS at 6. However, the U.S. Army Corps of Engineers state that dam operation have "no significant impact" on river temperatures. AP/Olympian, May 17, 2001.

Throughout the DEIS, in broad sweeping statements, there are conclusions that fish need lower water temperature and certain dissolved gas ratios. However, these statements are not supported with general or scientific studies on the specific needs of ESU's listed.

The DEIS concludes that runs of salmon have "already been decimated by habitat damage (due primarily to destructive mining, grazing, and logging practices in tributary stream watersheds)." DEIS at 27. There is no scientific study cited to support this statement.

The DEIS concludes that hatchery fish have caused genetic damage to wild fish. DEIS at 37. There are no credible scientific studies to suggest that the genetic makeup of hatchery-bred

salmon is different than the genetic makeup of naturally spawning salmon. The differences cited by the NMFS are differences in allele frequencies, resulting from mass production techniques, but do not represent actual genetic differences, or behavior differences that are the result of hatchery rearing. Genetic Identity of Wild and Hatchery-Bred Salmon: A White Paper, James E. Lannan, Professor of Fisheries, Oregon State University. Not only are there no credible scientific studies to suggest that the genetic makeup of hatchery-bred salmon is different than the genetic makeup of naturally spawning salmon, most fisheries biologists concede that it is unlikely that any pure "wild" salmon exist. Hatchery fish, which are the progeny of "wild" fish, have been spawning with "wild" fish for more than 100 years. In March 2000, Stephen Smith, regional hatchery director for the NMFS told the Associated Press that there are probably no "pure" salmon left in the Northwest.

The DEIS concludes that riparian and aquatic ecosystems continue to experience moderate to severe degradation in the region from "logging, grazing, mining, water diversions, dams, and to other human activities...." DEIS at 81. However, in the DEIS there is no specification of which areas and species this conclusion relates to. The DEIS fails to provide scientific data to support this conclusion.

The DEIS states that the "freshwater fish communities are relatively sparse in terms of the numbers of species and families, compared to other parts of the country." DEIS at 83. BPA fails to provide data in which to support this statement. In addition, the DEIS fails to provide information regarding which species they are referring to and the significance of this statement. It is impossible to compare freshwater fish species in one area of the country to another without knowing if the species are similar.

The DEIS concludes that soil productivity is declining due to "agriculture, grazing, trampling, vehicle traffic, and a variety of other human activities." DEIS at 84. BPA fails to provide specific examples to support this conclusion. The DEIS fails to provide scientific data to support this conclusion.

The DEIS inappropriately uses conclusions from a different DEIS to support its conclusions regarding wildlife. DEIS at 85. BPA cannot rely upon an DEIS that studied a particular area and apply it to "other areas of the basin as well" without additional study. DEIS at 85.

In summary, any action taken based on the aforementioned conclusions would be arbitrary and capricious.

12. The DEIS states that BPA will probably "proceed along the lines discussed in the Basin-wide Strategy Paper" to take steps to comply with ESA. DEIS at 41. It is inappropriate and a violation of the APA for an agency to make decisions as to how to act before receiving public comment. Any action taken by BPA without proper public notice and comment is arbitrary and capricious and in violation of the APA. #24

13. NEPA requires that the DEIS recommendations include "detailed statement[s]...on (i) the environmental impact of the proposed action, (ii) any adverse environmental effects...(iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources...." 42 U.S.C. §4332(C). BPA fails to provide detailed statements regarding any of the five items above. BPA admits that "[c]onsequences are expressed not in terms of exact numbers but, rater, in qualitative terms" which would not comply with the "detailed statements" mandated by NEPA. DEIS at 148. #25

14. The Bonneville Power Act established BPA in 1937 to facilitate the generation of energy. 16 U.S.C. §832. There is no mention of environmental concerns or mitigation in the original act. The current direction of BPA as evidenced in the DEIS, is contrary to the Congressional scheme of the Bonneville Power Act. #26

15. The Pacific Northwest Electric Power Planning and Conservation Act ("PNEPPCA") was passed in 1980 to provide a balance between fish and wildlife resources and the development of energy. 16 U.S.C. §839. The PNEPPCA mandates balance between electric power needs and conservation efforts in the environment. Congress did not intend for fish and wildlife mitigation efforts to supercede human development. The Alternatives proposed by the DEIS fail to provide the necessary balance as mandated by the PNEPPCA. Either the Alternative promotes mitigation measures above those of economical and social effects, or vise versa. #27

The PNEPPCA provides for a Pacific Northwest Electric Power and Conservation Planning Council ("Council") made up of eight gubernatorial appointees. 16 U.S.C. §839b(a)(2)(B). The Council is responsible for preparing a regional conservation and electric power program as well as a program for fish and wildlife. 16 U.S.C. §839b(h)(5) (2001). It is the Council's objective under the PNEPPCA to make the type of policy directives that BPA is suggesting in the DEIS. Under PNEPPCA, BPA has no authority to make policy decisions, but instead, is mandated to carry them out. 16 U.S.C. §839b(d)(1) (2001). Therefore, the DEIS is beyond BPA's statutory authority under PNEPPCA and as such, arbitrary, capricious, and an abuse of discretion. #28

Under the PNEPPCA, the BPA administrator has to consult with "the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators...to the greatest extent practicable, coordinate their actions." 16 U.S.C. §839b(h)(11)(B). There is nothing in the DEIS to suggest that BPA has done this consultation. #29

16. The Natural Focus, Weak Stock Focus, Sustainable Use Focus, and Strong Stock Focus Alternatives all rely upon an ecosystem approach to management of natural resources. There is no statutory basis for an ecosystem approach. The merits of ecosystem management as a #30

management option are irrelevant unless Congress has authorized the government agencies to practice such an approach. Congress has not authorized using ecosystem management as the focus of forest and land use management on federal lands. In fact, Congress has recently declined on several occasions to provide its use. Examples include: the refusal by the Senate to ratify the UN Convention on Biological Diversity; the rejection by the102nd Congress to ratify the National Biological Diversity Conservation and Environmental Research Act; the failure of the 104th Congress to act on the proposed Ecosystem Management Act of 1995; and many Congressional members' opposition to Bruce Babbitt's proposal to make ecosystem protection the fundamental goal of federal land managers in the Pacific Northwest.

The possible merits of ecosystem management are not relevant to this discussion. Nor can a change in management philosophy be justified on that basis. Government agencies are bound to act in accordance with Congressional will and intent, and nowhere does Congress authorize such broad management authority for federal lands or private lands.

17. The ESA requires BPA to consult with the appropriate agencies to determine if its actions effect any endangered species. 16 U.S.C. §1536. The DEIS states that this has been done and the appropriate Biological Opinions have been issued. DEIS at 281. However, the Biological Opinions referred to were not completed with the current Alternatives in mind. BPA must consult with the appropriate agencies under the ESA to determine the extent of their current proposed actions on any endangered species. #31

18. BPA acknowledges that it may need to do additional consultation under the following statutes and Executive Orders: ESA, Fish and Wildlife Conservation Act, National Wildlife Refuge System Administration Act, Migratory Bird Treaty Act, National Historic Preservation Act, Coastal Zone Management Act, Executive Orders 11988 and 11990, Farmland Protection Policy Act, Wild and Scenic Rivers Act, Clean Water Act, Estuary Protection Act, and Watershed Protection Act. DEIS at 281-288. These consultations need to take place with regard to the actions that the DEIS proposes in its final DEIS. Any action taken by BPA without these necessary consultations would be arbitrary, capricious, and an abuse of discretion. #3

19. The DEIS inappropriately includes "Reserve Options for Future Action" which provide "future decisionmakers with the ability to extend or intensify actions already in place." DEIS at 140. As noted by the BPA, the Reserve Options have not been provided to the public for comment which is necessary under the APA. DEIS at 141. Therefore, any use of the Reserve Options prior to public notice and comment would be arbitrary, capricious, and an abuse of discretion. #

20. The DIES goes to great length to list types of human activities that effect the following: land use and habitat, water, fish and wildlife, air quality and associated health effects. DEIS at

157-174. However, the DEIS fails to provide supportable scientific data as well as causal links between the human activities and their effect on the Columbia Basin Region. Further, these broad and sweeping effects are not site specific to the Columbia Basin Region, but are merely value judgments on the part of BPA. This broadness is further exemplified with the DEIS's "*possible* adverse effects" and "*possible* mitigation measures" with regard to the human factors which effect the environment. DEIS at 157-174 (emphasis added). Without specific data to prove the causal connection, any determination or proposed action based on these conclusions is arbitrary and capricious. #34

21. The DEIS does not discuss concrete social and economic impacts of it proposed Alternatives, but instead makes broad policy statements regarding proposed "*possible* adverse effects" and "*possible* mitigation measures." DEIS at 174-204 (emphasis added). BPA must consider opportunities for mitigation of the economic harms as required under 40 C.F.R. §1508.20. The DEIS does not consider specific mitigation and economic harms which would allow the public to be fully informed. For example, the DEIS explains that dam breaching and changed hydrosystems operations would affect agriculture through costs of electricity, irrigation changes, etc. DEIS at p. 181. However, the DEIS fails to specify the dams to be breached and the causal relationship to agriculture. Further, the DEIS fails to take into account the effect any of the proposed actions would have on the economic and social aspects of the region. Without fully explaining the potential social and economic impacts in the DEIS, BPA's proposed actions are arbitrary and capricious. #35

22. The DEIS fails to provide substantive scientific support for its conclusions regarding the adverse economic effects from declining fish and wildlife populations. DEIS at 200. Instead of providing scientific support and causal links between the declining fish and wildlife populations and economic effects, the DEIS makes broad sweeping conclusions. For example, the DEIS states that the possible adverse economic and social effects include: "tribal effects; commercial fishing losses; recreational fishing and hunting losses; aesthetic economic values...; non-use economic values...; and losses associated with feeling of moral or ethical obligation...." DEIS at 200. Without scientific support for these conclusions, these are merely value judgments and, as such, are arbitrary and capricious. #36

23. The DEIS attempts to provide environmental consequences in relation to each Alternative. DEIS tables at 219-223. However, the tables provided fail to produce a clear picture of what types of consequences each Alternative would create. Instead of providing scientific support and concrete data, the DEIS rates each environmental consequence using categories of "less magnitude" and "greater magnitude." In addition, the DEIS fails to provide any explanation as to how the magnitudes were determined. Therefore, any decision based on these tables would be arbitrary and capricious. #37

The same phenomenon can be found in the DEIS' explanation of environmental consequences in the remainder of Chapter 5. DEIS at 225-266. Again, the DEIS creates #38

tables which compare each Alternative with regard to possible environmental consequences. However, the tables and proposed explanations are devoid of supportive scientific data or actual concrete analysis. Instead, the DEIS provides tables which rate possible environmental consequences in the categories of "better" or "worse." Therefore, any decision based on these inadequate tables would be arbitrary and capricious. #38

24. Throughout the DEIS, BPA advocates the management of public lands for salmon instead of for multiple use. This would be a violation of the National Forest Management Act ("NFMA"), the Federal Land Management Policy Management Act ("FLMPA") and the Multiple Use, Sustained Yield Act ("MUSYA"). #39

25. The DEIS threatens increased regulation by the federal government under the CWA and ESA if the region fails to develop a coordinating plan with state and local government. However, the federal government has limited authority under CWA and ESA and should not exercise excess authority in an attempt to receive cooperation from state or local governments. #40

26. The DEIS calls for TMDL development and implementation for anadromous fish tributaries within five years. DEIS at 9, 11, 12. TMDL development is controlled by the CWA and should not be inappropriately determined beyond the CWA's authority. #41

27. The Weak Stock Focus Alternative "emphasize[s] a substantial and explicit tie between water quality compliance efforts and salmon recovery. . . .[to] [d]etermine water quality standards for fish habitat." To accomplish this, the DEIS determines that water temperatures should not to exceed 60 degrees Fahrenheit. Further, if standards are not met, land and water managers must take action that will achieve compliance. DEIS at 11-12. Yet, water quality standards are controlled by the CWA and should not be inappropriately determined beyond the CWA's authority. #42

28. The DEIS fails to take into consideration that its proposed actions implicate the taking of private property. Some of the DEIS proposed Alternatives will cause the taking of private property through restriction on property rights, flooding, drought, or construction. Thus, a takings implication assessment pursuant to Executive Order 12630 should be performed. #43

Examples of restrictions on property rights that are proposed by the DEIS include:

(1) The ESA and federal land and resource management plans infer limited road building, grazing restrictions, and more protective riparian buffers. DEIS at 1.

(2) Take avoidance and critical habitat provisions of ESA would continue to affect agricultural practices. DEIS at 8.

(3) On private land, programs administered by the USDA and EPA may influence

agricultural practices. DEIS at 8.

(4) No new development on riparian or natural lands. DEIS at 15.

(5) Protect high quality aquatic habitat on private lands while allowing restricted use. DEIS at 15.

(6) Remove some lands from agricultural production and use natural processes to restore lands and water to the extent possible. DEIS at 16.

(7) Reform and enforce land use statutes governing growth management, forestry practices, and agricultural practices. DEIS at 16, 37.

(8) Eliminate agricultural practices in riparian areas and farmed wetlands; reduce and manage agriculture in upland areas, especially marginal farmland. DEIS at 17.

(9) Eliminate grazing in riparian areas. DEIS at 17.

(10) Federal regulatory efforts would increase to ensure that non-federal land and water use would not continue to degrade fish habitat. This would occur through a combination of increased ESA rule development, increased ESA enforcement and increased CWA enforcement. DEIS at 39.

(11) Reduce existing permits for water withdrawal. DEIS at 40.

Hertha Lund
Assistant Director of Government Relations
Washington Farm Bureau
P.O. Box 2009
Olympia, Washington 98507
(360) 375-9975

Kuehn, Ginny -KC-7

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-036
RECEIPT DATE: SEP 10 2001

From: maia [maia@clarkston.com]
Sent: Friday, September 07, 2001 2:39 PM
To: comments@bpa.gov
Subject: EIS Comments

In response to the request for comments on the Fish & Wildlife Implementation
Plan Draft EIS:

1) The following is submitted for inclusion as a Sample Implementation Action
under section 5.2 (Commerce, 5. Power, 5-2. New Generation) of Natural Focus,
Weak Stock Focus, Sustainable Use Focus, Strong Stock
Focus and Commerce Focus.

Install and operate an array of photovoltaic panels on the south-facing slopes
near Lower Granite Dam, conected in to existing transmission facilities located
at the dam, to relieve regional dependency on hydroelectric power. #1

2) It is good to see so many of the facets, interests, viewpoints and concerns
around this issue of the Environment vs Humans collected and presented in one
place. A forum in which each affected human party
can see all the other affected human parties, as well as the larger
environmental picture, is much needed. I am impressed by the sincere
listening that is reflected in the work, especially the extent to which
tribal perspectives are finally being expressed in appropriate language.

More than anything else, it is the language that I am astonished by and grateful
for. In the past I have criticized the language used in BPA's writings as not
reflecting, or even making room for, a respectful relationship with the
environment. This F&WIP EIS is a landmark piece of writing, at least in
breaking that language, and maybe attitude, barrier.

The problem with doing something well, is hopes are raised for what comes next.
My hopes are up. This is a good and welcomed problem to have.

3) I attended BPA's public meeting in Clarkston WA. I am very grateful that
Katherine Pierce and Charles Alton were able to visit here. They are both very
competent and personable. It was a pleasure to meet them, and I admire the work
they have been doing.

I appreciate the excellent work done by all who contributed to this EIS.

Thank you,
Maia E Genaux
1245 8th St.
Clarkston WA 99403-3329
509-758-7146 (phone and fax)

maia@clarkston.com

Kuehn, Ginny -KC-7

RECEIVED BY BPA
PUBLIC INVOLVEMENT
LOG#: FWIP-037
RECEIPT DATE: SEP 10 2001

From: Timothy Charles Reagan [timerina@clarkston.com]
Sent: Friday, September 07, 2001 3:16 PM
To: comments@bpa.gov
Subject: EIS Draft

Dear Bonnevile Power Administration

I recommend the following implementation action be included in the the Fish & Wildlife Implementation Plan Draft EIS under Section 5-2, that is, Commerce-New Generation, of the Weak Stock Focus, Strong Stock Focus, Sustainable Use Focus and Commercial Focus. #1

BPA will grant a 30% subsidy to any homeowner or small business that properly installs a rooftop photovoltaic solar collector which is connected to the public grid. BPA will prevail upon regional utilities to purchase power thus generated. This action will: 1) diversify sources of electricity; 2) provide supplemental electrical power that will offset electrical demand especially during critical summertime daylight hours; 3) improve the integrity of the public grid by reducing long transmission loads during peak and near peak hours; 4) augment the likelihood of increased spill for summertime migrating smolts; and finally, 5) stimulate the solar industry locally and nation wide.

Timothy Charles Reagan
1245 8th Street Apt. B
Clarkston, WA 99403
timerina@clarkston.com