

BUTCH OTTER  
GOVERNOR

JIM KEMPTON  
COUNCIL MEMBER

W.BILL BOOTH  
COUNCIL MEMBER



P.O. BOX 83720  
BOISE, ID 83720-0862

450 W. STATE STREET  
3RD FLOOR  
BOISE, ID 83702

(208) 334-6970  
FAX (208) 334-2112

**NORTHWEST POWER AND CONSERVATION COUNCIL - IDAHO**

September 24, 2007

Karen Hunt  
DKR-7  
Bonneville Power Administration  
905 NE 11th Ave.  
P.O. Box 3621  
Portland, OR 97208-3621

Dear Ms. Hunt:

We wish to express our concerns regarding the recent mitigation land acquisitions in Benewah County, Idaho; specifically the apparent lack of open public involvement and the payment of future property taxes.

First, as stated in the Bonneville Power Administration Wildlife Mitigation Program Final EIS, project managers are required to gather input from affected Stakeholders during the acquisition process. Stakeholders include but are not limited to individuals; interest groups; Tribes; and city, county, state, regional or Federal agencies. BPA's internal policy on "Public Involvement" regarding mitigation land acquisitions specifically calls for publication of a display ad in the local newspaper; a minimum fifteen (15) day comment period before purchase proceeds; and finally, if concerns are raised, a BPA determination regarding a formal public involvement period. The timeline of events indicates these policies were not appropriately adhered to in BPA's most recent 87 acre purchase in Benewah County, Idaho.

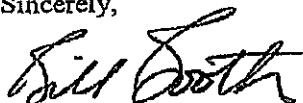
We understand you intend to meet with County and City officials in St. Maries, Idaho next week to address these issues. And, that you intend to review and modify your public involvement process as necessary to ensure a transparent process in the future. This is a step in the right direction. Please keep me informed on your progress.

Page 2  
Karen Hunt

Second, Idaho is especially concerned with the tax impacts of converting land from economic use to wildlife conservation use; especially in a rural County with a limited tax base to begin with. It is Idaho's position that payment of property taxes should continue in some manner. There appears to be confusion regarding BPA policy in this arena, and I'm getting conflicting answers to my questions. As a first step in sorting out a solution, I'd like to request a meeting with you and the appropriate policymaker within BPA on mitigation property tax payments or payment of "taxes in lieu". We have a few ideas to bat around, but first need to sort out the actual facts.

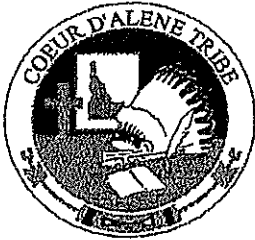
We know that BPA is obligated to purchase lands for habitat mitigation and we understand your desire to work toward timely completion of the program. But, we need to make sure local impacts are fully considered, reviewed and appropriately dealt with. I look forward to hearing from you regarding these concerns.

Sincerely,



Bill Booth  
Idaho Council Member

cc: Governor CL Butch Otter  
Jim Kempton  
Shannon Stewart  
Bill Maslen  
Jack Buell  
Robert Allen

**COEUR D'ALENE TRIBE**

CHIEF J. ALLAN CHAIRMAN

P.O. BOX 408

PLUMMER, IDAHO 83851

(208) 686-5803 • Fax (208) 686-8813

email: [chairman@cdatribe-nsn.gov](mailto:chairman@cdatribe-nsn.gov)

October 4, 2007

Stephen J. Wright, Administrator  
Bonneville Power Administration  
P.O. Box 3621  
Portland, OR 97208-3621

Dear Administrator Wright:

I am writing to you on behalf of the Coeur d'Alene Tribe (Tribe), to address some of the issues raised in the letter dated September 24, 2007, that was sent to you by Bill Booth who is an Idaho member of the Northwest Power and Conservation Council (Council). The Tribe believes that the issues asserted by Mr. Booth in his letter lack both clarity and basis when he addressed the property purchase conducted by the Bonneville Power Administration (BPA) and the Tribe pursuant to the Memorandum of Agreement between the Tribe and BPA for the Albeni Falls Mitigation Project (Project).

The Tribe is a federally recognized tribe organized under the Indian Reorganization Act of 1934, 25 U.S.C. § 476, living on the Coeur d'Alene Indian Reservation established by Federal action in 1873. The BPA is a power marketing agency within the U.S. Department of Energy. Through its own policy adopted on April 30, 1996, the BPA has affirmed its own obligation as a trustee with regard to Indian tribes which derives from the historical relationship between the Federal government and the Tribes as expressed in Treaties, statues, Executive Orders, and Federal Indian case law. The Tribe continues to support this trust relationship that exists between our two governments.

Further, the Pacific Northwest Electric Power Planning and Conservation Act (Act), directs BPA to protect, mitigate, and enhance fish and wildlife affected by the development and operation of federal hydroelectric projects on the Columbia River and its tributaries, in a manner consistent with the purposes of the Act, the program adopted by the Council under subsection 4(h) of the Act and other environmental laws. As a result, the Tribe has worked as a member of the Albeni Falls Interagency Work Group (Work Group) to develop the mitigation Project in conjunction with other government actors. The Work Group itself consists of the Idaho Department of Fish and Game (IDFG); Kalispel Tribe of Indians; the Kootenai Tribe of Idaho; the Coeur d'Alene Tribe; and the U.S. Fish and Wildlife Service. In the Work Group's operating guidelines, it is recognized by all governments that each actor has the proper authority as State, Tribal, and Federal wildlife managers to ensure that mitigation implementation is consistent with the Act.

CJA:QMS

The IDFG is an agency within the executive branch of the Idaho state government that has been empowered to exercise the powers granted the executive branch under Article II of the Idaho state constitution. Similarly, Idaho state constitution Article XVII states that county governments are **legal subdivisions** of the Idaho state government and are not permitted to exercise powers in contravention to those already exercised by another branch of the Idaho state government. In this case, the Tribe asserts that it entered into a Work Group with the IDFG (an executive branch agency) to implement the purchase of real property interests within the state of Idaho that would assist the BPA in fulfilling its fish and wildlife mitigation obligations associated with the Federal Columbia River Power System. In this Work Group, all members recognized that anyone may attend a Work Group meeting and that it would be each member's responsibility to disseminate public information, which it assumed would include **legal subdivisions** of the state government. The Tribe realizes that it cannot, as a matter of respect for other government's authority, dictate to the state how it will interact with its own **legal subdivisions**.

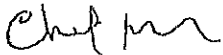
Beginning in January of 2007, the Tribe properly notified and identified the property that it would seek to purchase to its fellow members of the Work Group that included the IDFG. Again in March of 2007, the IDFG along with other members of the Work Group ranked and approved the Tribe's proposed purchase of the Sullivan property which is the subject of Mr. Booth's letter. It was the intent of this process to allow the Work Group's constituent governments to review the Sullivan property's information and render a decision as to whether or not it fit within the Council's program for mitigation. The IDFG did not at that time express its opposition to the purchase of said property, but in fact approved the purchase as fitting within the Council's program. Since there was no opposition expressed, the Tribe proceeded cooperatively with the BPA to conduct the purchase according to federal real property acquisition laws; the National Environmental Policy Act; and the Uniform Relocation Act.

The Tribe believes that Mr. Booth's assertion that the public involvement process was somehow lacking in the purchase of the Sullivan property is offensive to the open and collaborative process that the Tribe engaged in to complete the purchase. This is further evidenced when the Tribe and the BPA worked together to provide actual notice of the intent to purchase in a letter sent directly to surrounding landowners on September 5, 2007. Constructive notice of the intent to purchase the Sullivan property was achieved when the BPA published the notification in an ad which ran in one of the region's largest circulating daily newspapers, the Coeur d'Alene Press on September 7.

The Tribe also asserts that Mr. Booth's concern regarding payment in lieu of taxes has been adequately addressed through the Work Group and its accompanying agreement with BPA. In that agreement under Section 2.1.1, the Tribe recognized that it ". . . shall pay, from a source other than BPA, payments in lieu of taxes . . ." and the Tribe has complied with that section as of today's date. The Tribe also finds Section 16.9 of the agreement instructive since it states that nothing in the agreement would restrict or prohibit the United States from taking properties acquired under this agreement into trust on behalf of the Tribe. This Tribe along with many others has an aggressive and longstanding policy whereby the Tribe will place previously alienated Tribal lands back into Trust status once they are reacquired through purchase. The Tribe believes that Mr. Booth's position necessarily implicates a Federal and Tribal policy that is not in the purview of his duties as a member of the Council. We would respectfully request the BPA to work together with the Tribe to ensure that the Council is cognizant of its role and does not seek to intrude into other governmental processes where it lacks the authority to proscribe the factors that will allow the United States to place land into trust on behalf of the Tribe.

We would appreciate the opportunity to discuss these issues with you further at your offices in Portland, Oregon. We believe that in order to further our trust relationship, you provide us the opportunity to explain our respective roles with regard to the agreement with you and create a mechanism to address some of Mr. Booth's concerns. The Tribe is ready to meet with you and your designated staff this month to discuss the matter in greater detail. Please contact my legislative director, Quanah Spencer, by telephone at (208) 686-0803 or by e-mail at [gspencer@cdatribe-nsn.gov](mailto:gspencer@cdatribe-nsn.gov). Thank you and we look forward to hearing from you soon.

Sincerely,



Chief J. Allan, Chairman  
Coeur d'Alene Tribe