



COLUMBIA BASIN FISH AND WILDLIFE AUTHORITY

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April 20, 2007

TO: Members Advisory Group (MAG)
FROM: CBFWA staff
SUBJECT: BPA FY 2007-2009 Project Funding Decision Analysis

This analysis is intended to augment the presentations that have been provided by the technical committees at previous MAG meetings.

1) Review Criteria Bonneville Power Administration (BPA) used in funding projects (See Attachment 1, Page 3) –

- BPA has unilaterally defined “in-lieu” for the Fish and Wildlife Program (Program) according to their staff’s perception of the authorities and responsibilities of fish, wildlife, and land management agencies and tribes. These staff level perceptions may not be consistent with the realities of the responsibilities of the fish and wildlife managers and others in the Columbia River Basin and this issue should be addressed thoughtfully and publicly in the upcoming Program amendment process.
- BPA decisions were based on assumptions by their staff about biological impacts of projects and the usefulness of information in managing and implementing the fish and wildlife program (M&E). BPA should request that Columbia Basin Fish and Wildlife Authority (CBFWA) provide a review of their decisions, and assumptions, to validate whether these assumptions are accurate in the real world of fish and wildlife management.
- The criteria BPA has provided to support their decisions are vague and undefined. It is clear that the criteria have not been applied consistently across the Program. BPA should work with the region through the Northwest Power & Conservation Council’s (NPCC) public process to develop these criteria and better define them for the next round of project selection.

2) Draft Bullets for response to BPA funding decisions –

- The CBFWA members are frustrated by the 2007-2009 BPA funding decisions. BPA did not provide a reasoned explanation for deviating from the NPCC’s deliberative, public process. BPA also waited until the NPCC’s process was complete to provide completely new project selection criteria and policies including additional funding. If this information was provided at the outset of the NPCC’s process, BPA’s actions would be considerably more defensible.
- BPA has not fully responded to the NPCC’s request for information. It is still unclear, and information is not available, to determine exactly what BPA has

Coordinating and promoting effective protection and restoration of fish, wildlife, and their habitat in the Columbia River Basin.

The Authority is comprised of the following tribes and fish and wildlife agencies:

Burns Paiute Tribe

Coeur d’Alene Tribe

Confederated Salish and Kootenai Tribes of the Flathead Reservation

Confederated Tribes of the Colville Reservation

Confederated Tribes of the Umatilla Indian Reservation

Confederated Tribes of the Warm Springs Reservation

Confederated Tribes and Bands of the Yakama Nation

Idaho Department of Fish and Game

Kootenai Tribe of Idaho

Montana Department of Fish, Wildlife and Parks

National Marine Fisheries Service

Nez Perce Tribe

Oregon Department of Fish and Wildlife

Shoshone-Bannock Tribes of Fort Hall

Shoshone-Paiute Tribes of Duck Valley

U.S. Fish & Wildlife Service

Washington Department of Fish and Wildlife

Coordinating Agencies

Columbia River Inter-Tribal Fish Commission

Upper Columbia United Tribes

contracted for in 2007, and intends to contract for in 2008 and 2009. Rumors abound that BPA is modifying a significant number of their original project funding decisions; but BPA denies these rumors. However, BPA also characterized their funding decisions as not being significantly different from the NPCC's recommendations (BPA modified 166 project funding levels from NPCC's recommendations).

Staff recommends that CBFWA request a Budget-to-Actuals spreadsheet that would provide the original BPA funding decisions for all three years and the current contracted and planned funding for all three years for all BPA funded projects. This spreadsheet should be updated and provided to CBFWA on a monthly basis through the Budget Oversight Group, allowing CBFWA staff and members to track implementation of the funding decisions and any modifications to projects during this three year period. This would also allow CBFWA staff and members the ability to track available dollars for within-year budget modification requests.

- BPA staff fully participated as an active member of the Mainstem Systemwide Review Team. The Mainstem Systemwide Review Team worked diligently to balance the interests of all participants including BPA, and BPA staff did not support the MSRT recommendations in their final funding decision. An example of the compromises that were made within that process is the DART project. DART and other University of Washington sponsored statistical support projects have historically not received funding recommendation from the fish and wildlife managers or NPCC. The fish and wildlife managers compromised in the MSRT process to meet the needs of all the participants (including BPA) within the limited funding level, yet BPA deviated from the MSRT recommendations in their funding decisions, cutting fish and wildlife manager support projects but continuing funding for projects that support BPA internal decision making.

Staff recommends that CBFWA members support specific funding recommendations, consistent with the MSRT, for projects that provide technical support for fish and wildlife managers involvement in the implementation of the Fish and Wildlife Program and river operations decision making. These projects are provided in the attached table (See Attachment 2, MSRT BPA 07_09 decision.xls).

ATTACHMENT 1. Summary of policy initiatives and criteria that were key in BPA decisions in response to NPCC FY07-09 Recommendations.

- BPA’s general approach then is to implement habitat projects that benefit species most affected by the operation of the federal hydrosystem, and that promote effectiveness through project investments that produce the most biological benefit per rate-payer dollar invested, or that leverage additional benefits through the synergistic effects of actions funded in tandem with those of other entities, and by supporting incentives for landowners to undertake beneficial actions on their lands.
- BPA’s funding decision in the RM&E category reflects a primary focus on projects that directly inform: (a) key uncertainties in operation or impacts of the FCRPS; and (b) the selection and evaluation of on-the-ground efforts intended to mitigate FCRPS impacts, while attempting to be both consistent with the NPCC’s Program, and within the structure of the emerging regional programmatic framework.
- BPA does not view status or trend monitoring as a singular need or sole responsibility of the agency.
- While RM&E projects can enhance Program effectiveness by providing feedback and insights that inform management choices, RM&E projects do not, of themselves, directly improve Program performance through benefits to fish and wildlife in the short-term.
- First, it is entirely appropriate for BPA to be responsible for managing the data and information associated with the life-cycle of its projects
- On that basis, BPA will also continue to participate in and support the regional initiatives that are developing a common regionwide data management framework
- Since these regional initiatives have a scope much broader than BPA’s narrower responsibilities, they should be supported and co-funded by all the entities that have an interest in using regional data.
- Criteria for not funding some projects includes: (1) lower priority RM&E, including RM&E not linked to determining and/or evaluating FCRPS mitigation strategies (11 projects); (2) in lieu issues (primarily above the Hells Canyon complex) (4 projects); and (3) unclear nexus to FCRPS mitigation responsibility
- Criteria used by BPA in its review of proposals include but are not limited to the following elements: (1) NPCC’s recommendation; (2) BPA’s in lieu assessment; (3) BPA’s reinvention principles which emphasize projects that are on-the-ground and projects with a clear FCRPS mitigation nexus; (4) integration of ESA priorities; and (5) consideration of federal trust and treaty responsibilities and the impacts to tribal communities and affected resources.

In lieu

- BPA’s expenditures, however, “shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or

provisions of law.” In an August 3, 2006, letter, BPA summarized its long-term interpretation of the *in lieu* provision, including how it interprets the “authorized and/or required” language, how it was reviewing and rating projects, and how entities could remedy *in lieu* problems identified.

- If a new proposal were found to present a significant *in lieu* problem, that is, the proposal was rated a “3” in the ratings system, then BPA would not fund the proposal, at least until the *in lieu* condition was remedied. If an ongoing project was rated as having *in lieu* concerns (including but not limited to the “3” rated projects—could also include “2” rated projects), then BPA concluded it would fund the proposal for 2007, but would expect to have the *in lieu* issues addressed in the 2007-2009 period, or else the proposal would no longer be funded by BPA.
- In addition, BPA’s decision for FY09 generally shows a budget that is 85 percent of the FY07-08 budgets for “3”-rated projects, in order to underscore the need for an increase in cost-share contribution by others. Sponsors of such proposals should expect to work with BPA to identify appropriate cost-share or identify another way of confirming that BPA’s funding is in addition to and not *in lieu* of funding authorized or required of another entity, in order to continue receiving BPA funding
- BPA agrees that there are means other than per-project cost-share to confirm that our funding is in addition to and not *in lieu* of another’s. As indicated in our correspondence last fall, BPA recognizes that other kinds of programmatic commitments, such as the agreement between BPA and the U.S. Forest Service regarding BPA-funded projects on National Forest System lands, may be appropriate. The NPCC suggests that there is also a mid-level range, something between the project-specific and the programmatic, that could be used to demonstrate that other entities are doing parallel or complementary work, and that such a demonstration would not require a specific agreement between BPA and the other entity.
- So long as the NPCC makes recommendations to BPA on a project-specific basis, the per-project cost-share will likely be BPA’s preferred method for assuring there is no *in lieu* problem.
- BPA is willing to explore alternative means of assuring compliance with the *in lieu* limitation, such as the “parallel” or “complementary” funding by other entities suggested by the NPCC. Such alternatives, however, will require additional effort to identify and document the parallel or larger project to which BPA is adding. Without such parameters, the *in lieu* limit could be rendered superfluous, a result Congress clearly did not intend.
- Among the reasons that BPA diverged in part from NPCC project recommendations are: the recommended project did not appear to address the effects of the FCRPS; the project raised a statutory *in lieu* prohibition on BPA’s ability to fund; or the recommended project was counter to BPA’s reinvention initiatives associated with its implementation of the Program.