



Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

June 9, 2009

In reply refer to: KE-4

Mr. Brian Lipscomb
Columbia Basin Fish & Wildlife Authority
851 SW Sixth Avenue, Suite 300
Portland, Oregon 97204

Dear Mr. Lipscomb:

This responds to your briefing memo dated May 4, 2009, regarding Bonneville Power Administration's (BPA) funding decisions for project 198906201, Columbia Basin Fish and Wildlife Authority (CBFWA) – Annual Work Plan (AWP) and project 200303600, the Collaborative System-wide Monitoring and Evaluation Program (CSMEP).

While your follow up memo of May 14, 2009, acknowledged BPA's support for CBFWA's development of an anadromous fish monitoring framework, and also confirmed a reinvigorated CBFWA commitment to the Pacific Northwest Aquatic Monitoring Partnership (PNAMP), misconceptions remain regarding BPA's decision history on coordination and research, monitoring and evaluation (RM&E), and I would like to take the opportunity to set the record straight. This letter addresses those misconceptions, and also restates BPA expectations for the product we have contracted with CBFWA to provide: a recommended prioritized list of research, monitoring and evaluation projects within the scope of the anadromous fish monitoring framework.

CBFWA's memos raised three intertwined but distinct issues: 1) concern about BPA's funding levels for regional coordination of fish and wildlife managers, 2) BPA's decision to fund RM&E coordination through an entity other than CBFWA, and 3) the coordination project budget decisions that BPA reached through direct negotiations with sovereigns. Before discussing those issues in detail, a broader overview may help put them in better perspective.

Your May 4 memorandum raised concerns about BPA not funding CBFWA at the same levels as in the recent past. Quite simply, CBFWA is a smaller organization as a result of reduced membership. CBFWA member agencies now perform some tasks CBFWA used to do. New coordinating groups have emerged. And expensive, product-oriented projects like CSMEP have ended.

Amid these changing circumstances, BPA offered to work with CBFWA to provide the opportunity to facilitate work on specific products originally slated for fisheries managers under the FCRPS BiOp. The condition was that the fisheries managers had to ask that CBFWA manage those product-focused tasks on their behalf. They have now done so, and BPA has provided the funding for those specific products as discussed in greater detail below.

Request for additional funding for development of an anadromous monitoring framework

While BPA has granted CBFWA's funding request, we do so with some serious concerns and caveats.

We first want to make clear that the deliverable is a prioritized list of recommended projects, which 1) fit within the scope of fish population status, tributary habitat, and hatchery effectiveness monitoring framework, 2) fit within a total budget allocation for this purpose, 3) are supported by CBFWA's membership and the FCRPS Action Agencies, and 4) meet BPA's requirements under the FCRPS BiOp.

Second, we want to make clear that we are providing *short-term funding* for a *specific set of tasks*. Funding for the monitoring framework product is not intended to make up for shortfalls created by coordination funding shifts by CBFWA's members, nor is it intended to become an ongoing function or meet CBFWA's desire for more funding. The Power Act assigns a role to the fish and wildlife managers of recommending measures to the Northwest Power & Conservation Council (Council) to be used in fashioning a Program with objectives, arguably those that Congress enacted in the legislation. This is not the same as awarding responsibility to develop RM&E policy or products to any single organization; nor does it confer a specific role in RM&E policy development; nor do aspirations and wishes for such a role translate to a BPA funding obligation to create and sustain one.

Finally, we remain concerned about CBFWA's level and quality of participation in PNAMP. Organizations such as PNAMP plays a critical role in advancing BiOp monitoring and data management protocols and tools needed for regionally coordinated monitoring programs and more reliable and cost-effective information access. CBFWA should not be competing for that role, but instead working to coordinate and integrate its member input and expertise within this broader regional effort. When CBFWA disparages PNAMP's role, it raises questions about the future value that CBFWA will provide in regional RM&E coordination and advancement.

We therefore fully expect that CBFWA will actively engage its members to communicate and contribute to PNAMP work products and recommendations and will conduct outreach with its members in support of implementing regional monitoring guidelines and data management standards. We also expect that critical M&E activities currently being conducted at the local level by entities that are not CBFWA members will be taken into account.

PNAMP vs. CSMEP

We also take exception to your assertion that funding that once went to CSMEP or CBFWA is now being used to fund PNAMP. Increased funding for PNAMP has been provided in response to BiOp RPA-specific needs, as well as key F&W Program objectives, that the PNAMP partnership is uniquely positioned to advance. PNAMP funding supports a broad array of BiOp-critical products with review, vetting, and associated recommendations through a much broader state, tribal and federal membership than CBFWA and its members.¹

¹ PNAMP coordination and workgroup products support directly or indirectly BiOp RPAs 50.6, 51.1, 51.2, 51.3, 56.3, 71.3, 71.4, 71.5, 71.6, 72.1, 72.2, 72.3, 73.2, and 73.3 (NOAA FCRPS BiOp, 2008). See also PNAMP Charter <http://www.pnamp.org/web/Content.cfm?SectionID=1> and PNAMP 2009 Work Plan at http://www.pnamp.org/web/workgroups/SC/meetings/2009_0317/2009_0306WorkplanInBrief.doc

The CSMEP project was intended as a 3 year project that was extended -- at significant expense -- to 5 years to complete specific technical products.² It was never intended to be a long term project nor ongoing coordination forum. And attempts to have CSMEP work coordinated with the region through PNAMP and to have its technical experts participating more directly within the PNAMP Fish Population Workgroup were never realized. Notwithstanding those concerns, we are extremely encouraged by your recent commitment to good-faith participation in PNAMP and look forward to a more positive approach with an associated increased connection and coordination with your member agencies.

Regional Coordination Placeholder and BPA's Decision to Fund Tribal Coordination Independently of CBFWA

We are puzzled that CBFWA has resisted BPA and Council limits on funding for Program coordination relative to mitigation that clearly and directly benefits fish and wildlife.³ CBFWA staff and members have periodically criticized the Program's transaction costs, and partly in response to these criticisms, both BPA and Council have engaged in process efficiency and cost cutting efforts in the past few years. To call for new and expanded funding for support functions for CBFWA seems a double standard, and logically inconsistent given the co-managers' move to a more dispersed, and therefore less economically and functionally efficient, coordination delivery model.

With this letter we are re-affirming what we told your members last month: BPA intends to maintain the budget placeholder for regional coordination at \$2.4M per year, plus an annual cost of living adjustment (currently 2.5% for FY10 and FY11). This is intended to cover all regional coordination, including that done by CBFWA, Upper Columbia United Tribes (UCUT), Upper Snake River Tribes (USRT), Columbia River InterTribal Fish Commission (CRITFC)⁴ and any sovereign that wishes to use its share of coordination funding to contract directly with BPA to meet its coordination needs.

We would also like to correct the record on BPA's decisions to fund regional coordination generally and sovereign coordination specifically. CBFWA's May 4 memorandum criticized the FY08-FY09 Start-of-Year budgets by erroneously stating that BPA "did not identify FY2009 budgets for these projects, and did not identify a process for determining those budgets." In 2006-2007, BPA and the Council asked the regional coordination working group to establish a process for allocating individual budgets under the coordination placeholder fund. This working group -- which CBFWA staff participated in -- *could not agree* how to distribute the funds fairly or how to allocate them.⁵ That disagreement continues to this day. Finding no clear guidance or consensus from the regional coordination working group, we determined those budgets based on historic funding levels and the requests from tribal sovereigns.

² See Project Status and Summary Report for Project 2003-036-00 at BPA report Center <http://www.efw.bpa.gov/IntegratedFWP/reportcenter.aspx>

³ http://www.cbfwa.org/RegionalIssues/Correspondence/CBFWA/cbfwaFY0809FundingLtr-Spreadsheet_20071210FINAL.pdf; see also <http://www.nwcouncil.org/news/2008/01/f2coord.pdf>

⁴ Base operating budget, pre-Accords (\$189,542)

⁵ <http://www.nwcouncil.org/news/2008/01/f2coord.pdf>

With regard to the transparency of this decision, BPA Fish and Wildlife Division Director Bill Maslen stated at the January 2008 Council meeting that BPA would honor requests from sovereigns to negotiate coordination budgets directly. Neither Council nor CBFWA objected to this. The Council recommended a placeholder and project budgets with the understanding that BPA would engage the two sovereigns (Kalispel Tribe and Spokane Tribe) in government-to-government negotiations to determine final budgets for them. CBFWA staff attended that meeting and were aware that the Kalispel Tribe and the Spokane Tribe intended to negotiate their coordination project budgets directly with BPA.

Several months later three additional sovereigns – the Colville Confederated Tribes, the Coeur d’Alene Tribe and the Kootenai Tribe of Idaho – asked to negotiate coordination funding apart from CBFWA. BPA accommodated them. Here again we notified CBFWA directly, both as a courtesy to allow adequate time for CBFWA to make the necessary adjustments and to show good faith and be transparent about the funding shift.

Your memorandum states that “CBFWA Members investigated...a distributed funding model that split the funding 19 ways among the agencies and Tribes as proposed by the Kalispel Tribe⁶ and recommended by UCUT letter⁷. The distributed funding model...[was] rejected after careful consideration.” We see things differently. Five sovereign entities – including three current members of CBFWA—chose to pursue the distributed funding model through direct negotiation with BPA. BPA honored their requests.

Your memo also says you were unaware that “BPA was negotiating with UCUT members to divide the regional coordination funding cap equally between the 19 fish and wildlife entities.” The letter omits the fact that the request to redistribute the UCUT member tribes’ share of the coordination funding was initiated by the *UCUT member tribes*—both current and former members of CBFWA—not by BPA. BPA did not make its decision unilaterally, but in deference to the tribes. In BPA’s effort to “encourage cooperation, participation, and assistance of appropriate [agencies and tribes]” in implementing the program, we may contract with “such agencies, entities, tribes, and subdivisions individually, in groups or through associations thereof...”⁸ I hope you can appreciate that BPA cannot and does not discuss all of its contract negotiations in public with non-parties, especially when the contracts concern matters between tribal sovereigns and a Federal agency.

A path forward

BPA recognizes the role that CBFWA has historically played, and can continue to play, in helping state, tribal and federal entities develop consensus positions matured by group debate. CBFWA’s strongest role is speaking with one voice for all of their members, a most challenging task for any coordinating or lobbying body. When CBFWA is successful, it provides a sense of clarity amongst and across state, tribal and federal fish and wildlife co-managers, as well as similar deliberative consideration of up-river and down-river interests which are at times at odds with each other. A cost savings is also achieved given the greater economic efficiency of a larger and more

⁶ Kalispel Tribe October 12, 2007, letter to Karier & Whiting, from Deane Osterman.

⁷ UCUT October 12, 2007, letter to Karier, from Verner.

⁸ 16 U.S.C. § 839b(g)(3).

singular coordination organization. While CBFWA may not always be successful in producing consensus positions, consensus may never be achieved if Program decision-makers have to coordinate with states and tribes individually.

BPA recognizes that staying at the table and compromising to build consensus is hard, and one card that any member can play is to walk away. BPA also recognizes the right of sovereigns to make decisions that advance and protect their unique interests. At the same time, we do not wish to encourage further fragmentation. We do want to encourage and support the fish and wildlife managers toward working together, and as such, we value the coordination role that CBFWA staff can provide. However, we cannot make your case for you with your members. One implication of the distributed funding model is that it gives decision-making power to the sovereigns. Membership organizations must justify their value to their members, and be accountable to them for results. The challenge goes to CBFWA staff – as well as UCUT, CRITFC, and USRT staff -- to demonstrate their organization’s strengths to each prospective member. Going forward, all who have a stake in regional coordination – including BPA, Council, and the existing membership organizations – must be open to and prepare for the possibility that new groups and individual entities may emerge, and request a role in Program decision-making forums.

Your memo says that “If the funding shortfalls are not restored by the end of May the Members will be faced with the task of reducing their work plan and identifying which deliverables will not be accomplished.” CBFWA staff are understandably concerned about a loss of capacity at CBFWA. But the members who exercised the right to shift their *funding* inherently recognized that they were shifting *work* away from CBFWA. It would be helpful for CBFWA to ask those members to identify the functions and deliverables they intended to go with that funding. This may be an opportunity to begin prioritizing those functions that are most important to the remaining members and delineate those functions that would be performed by individual fish and wildlife managers.

And, with the advent of the Columbia Basin Fish Accords, and other changes that have brought greater regional collaboration, CBFWA has an opportunity to take a fresh look at its organizational mission, priorities, and decision making model, and chart a path forward that will best serve its members and partners in this new era.

Future Coordination Funding Scenarios

The next two years (2010-2011) and beyond offer a second chance to take these important steps. To that end, I would like to invite CBFWA members and staff to participate in a forum to resolve the unfinished business from the 2006-2007 working group: establish a transparent and cooperative process for distributing coordination funding among the 19 sovereigns and their membership organizations. I will also extend this invitation to the UCUT, USRT, and CRITFC⁹ organizations and their members. Ideally, all sovereigns could decide on, and perhaps come to agreement about, their allocation requests for the next two to three years, well ahead of coordination contract expiration dates. This would allow membership organizations to plan around more certain levels of

⁹ As CBFWA’s letter correctly noted, the CRITFC budget was established through the Lower River Tribes Fish Accord, and would not be affected by allocation decisions under the placeholder. Nevertheless, we welcome the participation and insight of CRITFC staff in the discussion.

funding – under a coordination cap recommended by the Council and adopted by BPA -- and would support multi-year contracts.

Alternatively in 2010 and 2011, we can continue to experiment with the default solution of some sovereigns requesting specific allocations. Those who choose not to exercise this choice would continue with historical allocation patterns. Enclosed is a spreadsheet showing one possible allocation scheme for 2010 coordination project budgets, based on historical patterns as well as sovereign choices over the last two years.

Conclusion

In closing, I would like to reiterate my intention to set a regional coordination budget placeholder in partnership with the Council, and to invite the sovereigns and their membership organizations to establish a transparent and equitable method for requesting allocations among entities – including those who are not currently receiving coordination funding but may request it in the future. I hope that the painful lessons from this round of coordination budget recommendations brings CBFWA back to the table with a commitment to cooperate with all affected agencies and tribes, the Council and BPA to develop such a mechanism.

We also look forward to your increased assistance and cooperation in advancing PNAMP products for more effective and coordinated monitoring and data management critical to the successful implementation of the FCRPS BiOp and Fish and Wildlife Program objectives. And with regard to the anadromous fish monitoring framework, we look forward to receiving the prioritized project list that CBFWA staff and members are developing.

Sincerely,



Gregory K. Delwiche
Vice President, Environment, Fish & Wildlife

Enclosure

cc:
Northwest Power & Conservation Council Members
Tony Grover, Northwest Power & Conservation Council

FY10 Budgets Scenario A: Adding 2.5% COLA

Assume placeholder is:

\$2,400,000 base
 \$60,000 2.5% COLA
 \$2,460,000 total

And you divide the total by 19 sovereigns \$129,474 (and change)
 then the allocations in FY10 will likely be*:

	To USRT	To CRITFC	To UCUT	To CBFWA	To Sovereign	Total Allocated
Burns Paiute	\$26,777	\$0	\$0	\$102,697	\$0	\$129,474
Shoshone Bannock	\$26,777	\$0	\$0	\$102,697	\$0	\$129,474
Shoshone Paiute	\$26,777	\$0	\$0	\$102,697	\$0	\$129,474
Nez Perce	\$0	\$48,571	\$0	\$80,903	\$0	\$129,474
Warm Springs	\$0	\$48,571	\$0	\$80,903	\$0	\$129,474
Umatilla	\$0	\$48,571	\$0	\$80,903	\$0	\$129,474
Yakama	\$0	\$48,571	\$0	\$80,903	\$0	\$129,474
Coeur d'Alene	\$0	\$0	\$53,300	\$0	\$76,174	\$129,474
Colville	\$0	\$0	\$61,500	\$67,974	\$0	\$129,474
Kalispel	\$0	\$0	\$52,599	\$0	\$76,875	\$129,474
Kootenai	\$0	\$0	\$54,110	\$75,364	\$0	\$129,474
Spokane	\$0	\$0	\$53,300	\$0	\$76,174	\$129,474
Salish Kootenai	\$0	\$0	\$0	\$129,474	\$0	\$129,474
IDFG	\$0	\$0	\$0	\$129,474	\$0	\$129,474
MTFWP	\$0	\$0	\$0	\$129,474	\$0	\$129,474
ODFW	\$0	\$0	\$0	\$129,474	\$0	\$129,474
WDFW	\$0	\$0	\$0	\$129,474	\$0	\$129,474
NOAA	\$0	\$0	\$0	\$129,474	\$0	\$129,474
USFWS	\$0	\$0	\$0	\$129,474	\$0	\$129,474
BPA Accord Contribution	\$0	\$36,338	\$0	\$0	\$0	\$36,338
Total	\$80,331	\$230,621	\$274,809	\$1,681,355		\$2,460,000

Adjusted to add 2.5% COLA

Base USRT contribution		\$26,777
Base CRITFC contribution	\$47,386	\$48,571
Base BPA contribution to CRITFC via Accords	\$35,452	\$36,338

*Subject to sovereigns' choices about allocations.

Assumptions:

One: BPA will not provide base funding to UCUT in FY2010 or beyond as we move toward the "sovereigns choose" model.

Two: USRT total budget drops down to \$80,330, which divided by 3 members = \$26,777 (each USRT member's allocation to USRT)

Three: CRITFC member allocations are unlikely to change; in this table they are based on their FY09 allocations plus COLA.

Four: BPA will continue to make up the difference between the CRITFC members' allocation to CBFWA through the coordination placeholder and the total budget agreed to for project 1998-031-00 in the Accords

Five: While NOAA and USFWS get an "allocation" as members of CBFWA, we will always assume that their full amounts go to CBFWA's budget, and that we're not augmenting other Federal agencies' funds for coordination.