

SERVICE CENTERS:  
OROVADA, NEVADA  
FIELDS, OREGON



## HARNEY ELECTRIC COOPERATIVE, INC.

1326 HINES BLVD.  
BURNS, OREGON 97720  
PHONE: (541) 573-2061

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2.19.04

Info Only

SS-0157  
FEB 20 2004

February 13, 2004

Governor Ted Kulongoski  
Oregon Governor's Office  
State Capitol, Room 254  
Salem, OR 97301-4047

Re: Summer Spill for Salmon on the Columbia and Snake Rivers

Dear Governor Kulongoski:

Last summer I wrote you about an opportunity to save millions of dollars and put them in the hand of Oregonians, for a number of reasons that plan did not happen. This year another opportunity to help our economy while continuing to improve the numbers of returning fish exists but it needs your help. The state government of Oregon has an immediate opportunity to help our economy while also providing environmental stewardship.

Most of the Oregon utilities purchase power from BPA (or get a payment to offset the cost to small farms and residents) and as a result pay their fair share of the full cost of federal generation. One of the largest components of this cost includes funding for fish restoration efforts in the Columbia River system. Not including the one time cost effects of the 2000 - 2001 west coast price run up, fish and wildlife costs constitute 21% of BPA's base power rates. We strongly support fish restoration programs that are based upon sound biology and can demonstrate accountability for results in returning fish. Over the years BPA's revenue requirement has been impacted by over \$6 billion for measures associated with fish mitigation.

However, there is one major river operations practice that is extremely costly and has negligible biological benefit for salmon runs listed under the Endangered Species Act. Spilling water over dams in the months of July and August in an attempt to pass fish in river is a wasteful practice that needs to be halted before the summer of 2004. Over 90% of the juvenile Fall Chinook in the Columbia and Snake Rivers are safely transported past the dams and released below Bonneville dam. Recent materials presented on January 21<sup>st</sup> by Federal agency officials to the Northwest Power and Conservation Council show the annual revenue loss of the summer spill program for July and August of \$77 million.

INFO ONLY: Suzanne Cooper-PG-5  
cc: FO3, DC/Wash, DR-7, L-7, P-6, PG-5, PGF-6,  
Taves-DR-7C, Bodi-A/Seattle, McNary-A-7



The reported biological impact on ESA listed Snake River Fall Chinook for ending summer spill completely is 24 fish, and for all Chinook stocks less than 20,000, out of a combined adult run of 385,000 Chinook, less than 5%. These abundant stocks are then harvested at over a 50% rate when they return. Equally important, the federal agencies are recommending changes in mitigation programs that are expected to provide an additional 51,000 to 66,000 returning fish, and a price of only \$1 million. These include a more aggressive program to reduce Northern Pikeminnow predation and an expanded Hanford Reach rearing plan.

Those opposed to eliminating summer spill make arguments that we may not have all conceivable data to determine the scientific impacts (if any) on fish mortality, either immediate or delayed. Such arguments need to be considered in the context of the overall lack of scientific information used as a base initially for establishing summer spill. It is time for common sense and application of best available data to prevail.

In summary, by ending summer spill and saving up to \$77 million per year, there is a compelling opportunity to improve the economy of Oregon through reduced electricity rates. We can simultaneously increase the number of returning fish, including ESA listed stocks, through much less expensive mitigation measures that have demonstrated biological benefit.

Therefore, we urge quick action by the Army Corps of Engineers, BPA, NOAA and any other parties to eliminate or significantly reduce the summer spill program. Such an approach makes economic sense and is consistent with the current biological opinion for the federal river system. Your direction to the Oregon Department of Fish and Wildlife and The Northwest Power Planning and Conservation Council supporting these concepts would be of considerable assistance.

Thank you for your continuing leadership on these important issues. Harney Electric Cooperative, Inc. recognizes there is an opportunity to address and resolve the issue before the summer of 2004, and we stand committed to assist in any way possible to achieve this objective.

Sincerely,

Randall T. Whitaker  
General Manager  
Harney Electric Cooperative, Inc.

cc: ✓ Steve Wright, Administrator, Bonneville Power Administration  
Lindsay Ball, Director, Oregon Department of Fish and Wildlife



State of Washington  
DEPARTMENT OF FISH AND WILDLIFE

55-0158  
FEB 20 2004

Mailing Address: 600 Capitol Way N • Olympia, WA 98501-1091 • (360) 902-2200, TDD (360) 902-2207  
Main Office Location: Natural Resources Building • 1111 Washington Street SE • Olympia, WA

February 20, 2004

Steve Wright, BPA  
Brigadier General William Grisoli, USACE  
J. William McDonald, USBR  
BPA, Communications – DM-7  
Post Office Box 14428  
Portland, Oregon 97293-4428

Dear Sirs:

Re: Summer Spill Analysis

The Washington Department of Fish and Wildlife (WDFW) believes the spill program outlined in the 2000 Biological Opinion (BiOp) should be continued through 2004, for several reasons including the following:

- 1) Reduction in summer spill would be inconsistent with the "aggressive non-breach" option currently being implemented, as the value of spill as the safest means of juvenile salmon passage past dams is essentially undisputed in the region.
- 2) The 2000 BiOp remand by the court is an on-going process, and it makes no sense to me to consider reductions or elimination of summer spill prior to the court finalizing the outcome of the remand process. In my opinion, the remand was done because the contents of the 2000 BiOp did not convince the court that fish were being properly protected. Hence, the BiOp needs to be strengthened, and for the Action Agencies to now propose a further weakening of fish protection measures flies in the face of the remand.
- 3) The Four Governors consensus statement in their June 2003 Recommendations provides excellent guidance that set the regions reliance on following the contents of the biological opinion at hand:  
"We will continue to pursue full implementation of the biological opinions to recover our salmon, steelhead and freshwater species because it is not only the right thing to do, but also because the failure to do so can jeopardize the federal hydropower system and re-ignite the controversy over dam breaching."
- 4) I also offer the hydropower policy goal from the Washington Statewide Strategy to Recover Salmon, issued by the Governors Salmon Recovery Office in June 1999:  
"Achieve no net impact for each salmonid species affected by hydropower projects."

Mr. Wright  
Brigadier General William Grisoli  
Mr. McDonald  
February 20, 2004

#### Offset Action 3 – Commercial Harvest Reduction

This offset is unrealistic, inappropriate and inconsistent with the Northwest Power Act. Most of the ocean harvest of Upriver Bright fall chinook occurs in fisheries in Alaska and Canada. It is unrealistic to expect Alaska or Canada to reduce fisheries to compensate for reductions in Columbia River hydropower protection. In the Columbia River, the majority of harvest on Upriver Bright fall chinook (including Snake River) occurs in the treaty Indian fishery. Reductions in this fishery to compensate for reduced hydropower protection have been flatly rejected by the Tribes, and are inappropriate in our view. Non-treaty harvest of Upriver Bright fall chinook, and other stocks of fall chinook that would be impacted by summer spill reductions, occurs in both recreational and commercial fisheries. The economics generated by both fisheries is high, and cannot be measured entirely on ex-vessel value. The lower Columbia commercial fishery provides significant value to the small rural communities in the lower river, which are currently some of the poorest in the states (Washington and Oregon). The discussion in the Action Agencies offset proposal regarding the trends towards purchase of farm fish by the public is incorrect. There is an increasing demand from the consumer for "wild" salmon (hatchery and naturally produced) from the Columbia River, particularly following the recent bad publicity for farm-reared salmon.

#### Offset Action 4 – Avian Predation Research

This offset would have little or no value. Research is essential to guide mitigation, but does not constitute mitigation itself.

#### Offset Action 5 – Pile Dike Removal

This offset would have little or no value.

#### Offset Action 6 – Anti-Stranding Flow Fluctuation Limits in the Hanford Reach

WDFW is extremely concerned that the recently developed Vernita Bar agreement is being proposed as an offset measure. This agreement, already signed by WDFW and three PUDs, was developed to provide mitigation for Grant County PUD operational impacts to fall chinook from Priest Rapids and Wanapum dams. If, instead, it is used as mitigation elsewhere, then Grant PUD will not meet their mitigation obligations in the FERC re-licensing process. Mitigation simply cannot be double-counted.

The list of proposed offsets falls very short of reasonable, scientifically-based mitigation for a proposed action that will certainly increase mortality to both ESA listed fish and to large numbers of unlisted, Washington origin salmon populations. It is unfortunate that the Action Agencies did not consider actions that could provide real mitigation in place of summer spill.

Increased flows are an example of a potential offset that would be both credible and viable. One example would be to provide additional draft from Dworshak. The current program in the 2000 BiOp drafts Dworshak to 1520 feet by August 31 and then starts to refill. An appropriate offset would be to draft to 1520 feet on August 31 and continue to

Mr. Wright  
Brigadier General William Grisoli  
Mr. McDonald  
February 20, 2004

Reduction or curtailment of summer spill would increase downstream passage mortality for large numbers of Washington origin salmonids, including fall chinook from Hanford Reach, summer chinook from the upper Columbia, lingering steelhead, spring chinook, coho and sockeye from the upper Columbia and Yakima watersheds, fall chinook from the Washington portions of the Snake drainage, and fall chinook from the Klickitat River<sup>1</sup>. Thus, potential impacts of this action are of large concern to Washington.

If the Action Agencies reduce or curtail summer spill, over the objections of the fish and wildlife managers, then the mitigation provided must address all the populations that will be impacted by this action and must have real value in improving survival to a greater degree than the expected loss. Mitigation is inherently risky, as the degree of harm being caused by the action may be underestimated and as the benefits of the proposed mitigation may be overestimated. In this case, WDFW is concerned that the Action Agencies analysis of the impacts of spill reduction or elimination is an underestimate, please refer to our comments in the joint agencies and tribes letter<sup>2</sup>. WDFW is also concerned that the proposed offsets offer very little real value, with only minor exception. As a result, the proposed offsets fall far short of a risk averse strategy for mitigating the impacts of summer spill curtailment. Following are our comments on the proposed offsets and suggestions for the types of mitigation that might truly provide offsets to the curtailment of summer spill.

#### Offset Action 1 -- Northern Pikeminnow Management Program Heavy-Up

This offset may have some benefit if it is expanded in the lower river downstream of Bonneville Dam; however, as it is currently drafted it provides almost negligible mitigation. An increase of 1-2% is not substantial enough to realize any detectable reductions in predation. In addition, predation on juvenile salmonids by northern pikeminnow will likely increase in the absence of spill, adding to the number of salmonids required to be saved by any offset measure. If this action continues to be actively considered, it would be worthwhile to have some discussions with the Columbia River commercial fishing industry regarding ideas on pikeminnow removal. Some fishers have developed ideas on trapping, seining, and gill-netting for other species in the Columbia River.

#### Offset Action 2 -- Smallmouth Bass Control

Removing smallmouth bass is not an efficient way to increase survival of juvenile salmonids. The overall abundance is relatively low compared to that of northern pikeminnow, thus removing large numbers would be difficult. This offset would have little or no value.

<sup>1</sup> Memorandum from Fish Passage Center to WDFW, dated December 15, 2003, on Juvenile Fish Passage in the Lower Columbia River in August -- Washington stocks.

<sup>2</sup> Joint agencies and Tribes comments on the summer spill analysis, dated February 20, 2004.



Mr. Wright  
Brigadier General William Grisoli  
Mr. McDonald  
February 20, 2004

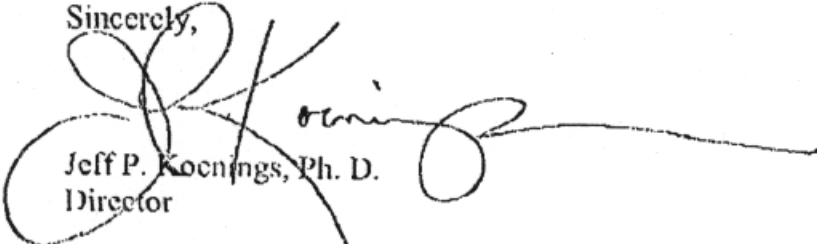
draft to 1500 feet by September 15. This would provide both additional flow and colder temperatures to benefit Snake River fish. In addition, this would provide benefits to juveniles moving through the system from McNary Dam downstream to Bonneville Dam. The additional cold water would enable Snake River dams to meet the Washington state temperature standards through the season. Benefits would also accrue to adult fish migrating upstream during September, primarily fall chinook and steelhead. Purchase of water from Idaho Power during July, August and September could also provide additional flow, however, this action would not provide temperature benefits similar to Dworshak.

We understand that Nez Perce Tribe has expressed serious concerns regarding exposure of additional tribal cultural sites from increased withdrawals. The Action Agencies should provide funding for sufficient enforcement and survey staff to minimize potential impacts to cultural sites.

Another example would be to provide additional flow protection for Hanford Reach fall chinook, over and above that provided by the recently concluded agreement. The agencies and Tribes are presently conducting studies in the Hanford Reach, and expect those results to be available soon. The outcome of those studies might point towards some additional protection measures that would further increase survival of fall chinook in the Hanford Reach. In order to provide actual mitigation, fall chinook survivals must increase over the levels provided by the recently concluded agreement.

Certainly, the Action Agencies, with their detailed knowledge of the river, can construct meaningful mitigation measures that improve the habitat and river ecosystem inhabited by the affected fish. Unfortunately, it seems that the Action Agencies instead chose to focus on speculative mitigation techniques, transfer of responsibility, and research as their proposed offsets. If the choice is made to curtail summer spill, it must be accompanied by mitigation measures that provide real benefits for impacted fish. Given the above, I am forced to conclude that the best way forward is for the Action Agencies to do no additional harm, by maintaining the current summer spill program. Thank you for this opportunity to comment.

Sincerely,



Jeff P. Koenigs, Ph. D.  
Director

cc: The Honorable Norm Dicks  
Larry Cassidy, Northwest Power and Conservation Council  
Tom Karier, Northwest Power and Conservation Council  
Bob Nichols, Governor's Office  
Robert Lohn, National Marine Fisheries Service

55-0159

FEB 20 2004

## Comments to Federal Agencies

(Bonneville Power Administration, Corps of Engineers, NOAA Fisheries, Bureau of Reclamation and US Fish and Wildlife Service)

On

### Modified Summer Draft at Libby & Hungry Horse

from

### Montana Fish Wildlife and Parks & The Montana NW Power & Conservation Council February 20, 2004

The Montana Office of the Northwest Power and Conservation Council (MNPCC) and Montana Fish, Wildlife and Parks (MFWP) offer the following comments on the proposed changes to this summer's operations at Libby and Hungry Horse reservoirs. The MNPCC AND MFWP have recommended a more balanced operation of the reservoirs in Montana that recognizes the needs of both resident fish and wildlife in the state and the needs of anadromous fish in the Lower Columbia River. We believe that the current operational strategies at Libby and Hungry Horse in the summer months of July and August do not provide for a balanced operation that recognizes the needs of resident fish in Montana. This includes endangered Kootenai white sturgeon and threatened bull trout that are listed for protection under the ESA as well as numerous other fish and wildlife species. Since Hungry Horse and Libby Dams are the only federal projects that can be reconfigured to recover these species, Montana believes that the operation of these dams should prioritize species that are immediately affected by their operation.

It is for this reason that the Northwest Power and Conservation Council (Council) recommended in its Mainstem Amendments to the Fish and Wildlife Program that:

"As an experiment, implement and evaluate an interim summer operation as follows: Summer reservoir drafting limits at Hungry Horse and Libby should be 10 feet from full pool by the end of September (elevations 3550 and 2449, respectively) in all years except the lowest 20<sup>th</sup> percentile water supply (drought years) when the draft could be increased to 20 feet from full pool by the end of September. This would protect fisheries resources in the reservoirs and rivers downstream, while providing additional flow augmentation for fish immediately below the project(s) and in the lower Columbia River." and

"Draft each storage reservoir according to elevation limitations that, when combined with projected inflows, result in stable and "flat" or very gradually declining weekly average outflows from July through September."

In making the Mainstem recommendations to the federal agencies the Council understood that the effect would be to reduce the drafting of Libby and Horse in summer compared to what they would be under past TMT recommended operations under the biological opinion for anadromous

fish. However, the Council believes there is significant flexibility within the biological opinions to implement this operation as an experiment.

Montana recommends that the federal agencies continue to investigate creative water management actions for summer flows, including what is known as the "Libby-Arrow" and "Libby-Duncan" swaps. However, the Council's recommendation for an experiment this summer at Hungry Horse and Libby was not to be dependent on creative water management actions.

Montana also recommends that the highest priority for the use of reservoir drafts from Libby and Hungry Horse be the water needed to meet flow requirements for bull trout and Kootenai white sturgeon. If there is more water in storage than is needed to meet the flow requirements for bull trout and sturgeon, the reservoirs should be drafted no lower than the recommended minimum elevation limitations so that the reservoir draft, when combined with projected inflows, results in stable or very gradually declining weekly average outflows from July through September.

The recent NOAA Technical Memorandum entitled, "Passage of Juvenile and Adult Salmonids at Columbia and Snake River Dams", John W. Ferguson, R. Lynn McComas, Randall F. Absolon, Dean A. Brege, Michael H. Gessel, Lyle G. Gilbreath, Bruce H. Monk, and Gene M. Matthews, December 2003, provides some of the latest scientific evidence, or lack thereof, for using Montana reservoirs to augment flows in the Lower Columbia in July and August. This report indicates that estimating survival for chinook salmon below Lower Granite Dam is difficult and uncertain. We believe this to be the case especially as it pertains to any presumed flow/survival relationship.

The evidence for fall chinook survival is even more difficult and uncertain in the Lower Columbia River below McNary dam. In the McNary Dam tailrace to John Day Dam tailrace reach, the NOAA scientists found the same simultaneous relationship among survival, flow, temperature, and turbidity that has been documented for Snake River fall chinook salmon above Lower Granite. However, the finding below McNary was based on only four data points and the NOAA researchers noted that findings on this basis were "not significant". This lack of a clear relationship makes it particularly problematic for Montana when we have spent considerable effort documenting the negative impacts on fish in both Montana reservoirs and rivers from the rapid drafting in July and August to provide a very small increase in flows and velocities in McNary pool and downstream.

It is also troubling to Montana that the current strategy for drafting Libby and Hungry Horse abruptly ends at the end of August. This leaves the reservoirs at about 20 feet from full and the river flows dropping rapidly to try and maintain reservoir elevations for coming winter operations. The strategy creates an unnatural second flow peak at the very time when natural flows would be receding in the rivers in Montana. It also results in lower flows in the Lower Columbia during September and October when there is evidence that important components of fall chinook are continuing to migrate out of the system. The NOAA researchers found that substantial portions of the adult return are some fish that are either undetected or migrated out after August. The NOAA report states:



"We have no survival estimates for juvenile fish that migrate in September and October, nor for undetected fish. Based on adult returns, however, the two groups accounted for 14 and 36% of the total adult return from PIT-tagged fish."

The apparently high survival rates in these late migrating fish that account for 14 percent of the total adult returns of PIT-tagged fish should encourage a more extended operating strategy such as that proposed by Montana.

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME OFFICE OF THE COMMISSIONER

**FRANK H. MURKOWSKI**  
GOVERNOR

P.O. BOX 25526  
JUNEAU, AK 99802-5526  
PHONE: (907) 465-4100  
FAX: (907) 465-2332

February 20, 2004

55-0160  
FEB 23 2004

Bonneville Power Administration  
Communications – DM-7  
P.O. Box 14428  
Portland, OR 97203-4428

**Re: Summer Spill Analysis**

Dear BPA:

The State of Alaska has previously expressed its concern over the proposal by Bonneville Power Administration (BPA) to reduce summer spill at Federal Columbia River Power Dams (see letter to Bob Lohn, Regional Administrator, NOAA Fisheries, dated December 12, 2003; copy attached). We reiterate the concern here, and now that we have reviewed the analyses posted on the website of the Technical Management Team (TMT), have a few additional comments.

As stated in our letters to Mr. Lohn and Brig. Gen. Grisoli (letter attached), harvest of coastwide chinook is governed by the Pacific Salmon Treaty (PST), specifically the fishing regime in Chapter 3, Annex IV. The current fishing arrangements for chinook and other salmon species were agreed to by the U.S. and Canada in 1999 after years of contention and intense negotiation. The 1999 PST Agreement moved harvest management of chinook away from fixed allocations to an approach where harvest levels are determined each year based on indices of abundance. As a general matter, this means that the harvest level for treaty chinook in Southeast Alaska waters is driven by the abundance of the larger and healthier stocks of coastwide chinook. While it is recognized that we catch some number of fish from small stocks in the mix, including stocks listed under the Endangered Species Act (ESA), the impact is very small. Indeed, the biological opinion issued in conjunction with U.S. approval of the 1999 PST Agreement concluded that the level of take of endangered salmon expected under the agreement was not likely to jeopardize any listed species.

We would also note that the PST fishing regime for chinook contains, in paragraph 9 of Ch. 3, a specific mechanism for adjusting fishery harvest rates if escapement objectives are not being met. No party to the PST (or within the U.S. Section) has suggested that this provision be applied.

In short, reducing the harvest of chinook in the Southeast Alaska fishery would have negligible, if any, benefit for ESA-listed stocks. The only certain result of such a reduction is that we would forego the harvest of a large number of fish from healthy stocks. Even if reducing the commercial harvest led to increased spawning escapement, as the offset analysis posits, nothing

Bonneville Power Administration

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February 20, 2004

would be gained if survival of the juvenile fish was compromised by the low flow regime BPA seeks to impose.

The offset analysis suggests that harvest reductions might be achieved through harvest easements or a permit buy-back program. This is problematic for several reasons. Under the Alaska Constitution, salmon, like other renewable resources, are a common property resource held by the state in trust for the benefit of its citizens. Individuals do not have any property rights to salmon that can be sold or restricted by an easement or similar mechanism. Fishermen do hold limited entry permits that, in theory, could be "retired" for monetary consideration. But these permits only represent a use privilege entitling a person to engage in fishing and do not entail any right to harvest a specific amount of fish. Thus, a buy-back program, while it might improve the harvest success of those remaining in the fishery, would do nothing to change the overall chinook harvest level. Alaska's chinook harvest is determined pursuant to the PST and is not affected by the number of permits it has issued.

In conclusion, Alaska reiterates its opposition to any reduction in summer that would have a significant impact on the productivity of Columbia River chinook and to any attempt to offset the harm from reducing spill by scaling back the commercial harvest of chinook in the Alaska fishery.

Thank you for considering these comments.

Sincerely,



Kevin C. Duffy  
Commissioner

Attachments

# STATE OF ALASKA

**FRANK H. MURKOWSKI**  
**GOVERNOR**

**DEPARTMENT OF FISH AND GAME**  
**OFFICE OF THE COMMISSIONER**

P.O. BOX 25526  
JUNEAU, AK 99802-5526  
PHONE: (907) 465-4100  
FAX: (907) 465-2332

December 12, 2003

Bob Lohn  
Regional Administrator  
NOAA Fisheries  
BIN C-15700  
7600 Sandpoint Way, NE  
Seattle, WA 98115

Dear Mr. Lohn,

The State of Alaska, an interested and affected party, is gravely concerned over Bonneville Power Administration (BPA) proposals to reduce summer spills at Federal Columbia River Power Dams.

It is our understanding that apart from the general success achieved in 2002, the BPA has not met the levels of summer spill identified as necessary to improve juvenile fish passage and survival in recent years. The present request for reduced summer spill is a poor indicator of progress in meeting the standards set forth in the December 21, 2000 Biological Opinion (2000 Biop). A request for reduced spill should not be routinely granted. Absent compelling justification, the request should be denied.

Because we were not directly noticed of the request or served with a copy of the BPA proposal, the details are unclear. But Alaska has been informed that BPA may justify its request to reduce summer spill by relying on a reduction in the harvest exploitation rate. Based on the information available to Alaska, such a request appears premature. To our knowledge, the standards for any off-site mitigation credit have not been set. Nor have the Action Agencies established performance measures for any harvest measures that may benefit ESA-listed fish. In addition, it is unclear that any measures to which BPA may have contributed were not already likely to occur. As the 2000 Biop notes, "offsite mitigation is intended to complement, not displace, actions by other entities to address ... harvest." Biop at 9-3.

Moreover, we consider the use of off-site mitigation as compensation for the normal operation of the Federal Columbia River Power Dams, at the flow and spill levels specified in the Biop. The BPA request to reduce spills lowers the bar. Reducing summer spill will likely reduce the net survival benefits of other actions. That hardly seems the purpose of recognizing off-site mitigation. Even under normal operation, passage success and interdam loss are a serious concern.

Bob Lohn

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12/12/2003

Alaska also has broader concerns with the apparent inconsistency of this action with the Pacific Salmon Treaty. Alaska is a party to the Pacific Salmon Treaty (PST), an international agreement affecting salmon stocks harvested in the Pacific Northwest, Canada, Alaska, and by Tribes. In 1999, after several years of intense negotiation, the U.S. entered into an historic package of agreements with Canada under the Pacific Salmon Treaty to ensure the conservation and coastwide rebuilding of salmon stocks. Importantly, salmon stocks meant to benefit from those agreements include summer and fall chinook stocks that originate in the Columbia River. Alaska's Treaty fisheries are affected by Columbia River salmon issues.

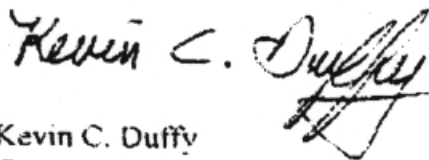
The Treaty adopts an abundance-based harvest management approach for chinook stocks. This new harvest management approach was adopted specifically to address concerns over the preservation and conservation of stocks that a reduced spill would put at increased risk. Approval of such a proposal could ultimately shift more of the burden for conserving this stock on Alaska, in direct contravention of the Salmon Treaty and domestic U.S. agreements memorialized by Congress in legislation approving and funding the package of Salmon Treaty agreements. The proposed spill reductions should not be permitted if they result in additional harvest restrictions in the Treaty fisheries of the U.S. and Canada.

Further, the impacts on fish passage and survival caused by spill reductions are directly contrary to the '99 Treaty Habitat and Restoration Agreement (Appendix E). This agreement was designed to ensure "safe passage" for Columbia River salmon. A strong consensus has developed among the managers that additional harvest management restrictions are not going to help us rebuild salmon stocks, in the face of continued destruction and degradation of salmon habitat. The Habitat and Restoration Agreement captures this agreement of the U.S. and Canada, where both Parties agreed "to use their best efforts to maintain and, as needed, improve safe passage of salmon to and from their natal streams." Your actions, perhaps unknowingly, are inconsistent with the agreement of the U.S. and Canada, as well as, earlier agreements reached by the parties to the underlying action.

As stated above, Alaska was not noticed of this action. This is a matter of particular concern where BPA's proposed actions might impact Alaska as a fishery manager. Lack of direct knowledge of the BPA proposal has made it difficult to present comments, but the general topic is too important to stand silent.

At this time Alaska cannot support BPA's summer spill request. Further, we request that an evaluation be undertaken as to the expected impacts of reduced summer spills, including impacts on fisheries in Southeast Alaska, as well as any proposed mitigation to those impacts. Please contact Susan Aspelund at the Alaska Department of Fish and Game if you have any questions. Thank you for your careful consideration of our views.

Sincerely,



Kevin C. Duffy  
Commissioner

cc: Alan Austerman, Special Assistant, Alaska's Office of the Governor  
Judi Dameison, Chair, Northwest Power & Conservation Council



# STATE OF ALASKA

**FRANK H. MURKOWSKI**  
GOVERNOR

**DEPARTMENT OF FISH AND GAME**  
**OFFICE OF THE COMMISSIONER**

P.O. BOX 25526  
JUNEAU, AK 99802-5526  
PHONE: (907) 465-4100  
FAX: (907) 465-2332

December 12, 2003

Brigadier Gen. William T. Grisoli  
Division Engineer  
North Pacific Division, Corps of Engineers  
P.O. Box 2870  
Portland, OR 97208

Dear Mr. Grisoli,

The State of Alaska, an interested and affected party, is gravely concerned over Bonneville Power Administration (BPA) proposals to reduce summer spills at Federal Columbia River Power Dams.

It is our understanding that apart from the general success achieved in 2002, the BPA has not met the levels of summer spill identified as necessary to improve juvenile fish passage and survival in recent years. The present request for reduced summer spill is a poor indicator of progress in meeting the standards set forth in the December 21, 2000 Biological Opinion (2000 Biop). A request for reduced spill should not be routinely granted. Absent compelling justification, the request should be denied.

Because we were not directly noticed of the request or served with a copy of the BPA proposal, the details are unclear. But Alaska has been informed that BPA may justify its request to reduce summer spill by relying on a reduction in the harvest exploitation rate. Based on the information available to Alaska, such a request appears premature. To our knowledge, the standards for any off-site mitigation credit have not been set. Nor have the Action Agencies established performance measures for any harvest measures that may benefit ESA-listed fish. In addition, it is unclear that any measures to which BPA may have contributed were not already likely to occur. As the 2000 Biop notes, "offsite mitigation is intended to complement, not displace, actions by other entities to address ... harvest." Biop at 9-3.

Moreover, we consider the use of off-site mitigation as compensation for the normal operation of the Federal Columbia River Power Dams, at the flow and spill levels specified in the Biop. The BPA request to reduce spills lowers the bar. Reducing summer spill will likely reduce the net survival benefits of other actions. That hardly seems the purpose of recognizing off-site mitigation. Even under normal operation, passage success and interdam loss are a serious concern.

William Grisoli

page 2

12/12/2003

Alaska also has broader concerns with the apparent inconsistency of this action with the Pacific Salmon Treaty. Alaska is a party to the Pacific Salmon Treaty (PST), an international agreement affecting salmon stocks harvested in the Pacific Northwest, Canada, Alaska, and by Tribes. In 1999, after several years of intense negotiation, the U.S. entered into an historic package of agreements with Canada under the Pacific Salmon Treaty to ensure the conservation and coastwide rebuilding of salmon stocks. Importantly, salmon stocks meant to benefit from those agreements include summer and fall chinook stocks that originate in the Columbia River. Alaska's Treaty fisheries are affected by Columbia River salmon issues.

The Treaty adopts an abundance-based harvest management approach for chinook stocks. This new harvest management approach was adopted specifically to address concerns over the preservation and conservation of stocks that a reduced spill would put at increased risk. Approval of such a proposal could ultimately shift more of the burden for conserving this stock on Alaska, in direct contravention of the Salmon Treaty and domestic U.S. agreements memorialized by Congress in legislation approving and funding the package of Salmon Treaty agreements. The proposed spill reductions should not be permitted if they result in additional harvest restrictions in the Treaty fisheries of the U.S. and Canada.

Further, the impacts on fish passage and survival caused by spill reductions are directly contrary to the '99 Treaty Habitat and Restoration Agreement (Appendix E). This agreement was designed to ensure "safe passage" for Columbia River salmon. A strong consensus has developed among the managers that additional harvest management restrictions are not going to help us rebuild salmon stocks, in the face of continued destruction and degradation of salmon habitat. The Habitat and Restoration Agreement captures this agreement of the U.S. and Canada, where both Parties agreed "to use their best efforts to maintain and, as needed, improve safe passage of salmon to and from their natal streams." Your actions, perhaps unknowingly, are inconsistent with the agreement of the U.S. and Canada, as well as, earlier agreements reached by the parties to the underlying action.

As stated above, Alaska was not noticed of this action. This is a matter of particular concern where BPA's proposed actions might impact Alaska as a fishery manager. Lack of direct knowledge of the BPA proposal has made it difficult to present comments, but the general topic is too important to stand silent.

At this time Alaska cannot support BPA's summer spill request. Further, we request that an evaluation be undertaken as to the expected impacts of reduced summer spills, including impacts on fisheries in Southeast Alaska, as well as any proposed mitigation to those impacts. Please contact Susan Aspelund at the Alaska Department of Fish and Game if you have any questions. Thank you for your careful consideration of our views.

Sincerely,



Kevin C. Duffy  
Commissioner

cc: Alan Austerman, Special Assistant, Alaska's Office of the Governor  
Judi Danielson, Chair, Northwest Power & Conservation Council