

June 6, 2008

Mark Walker  
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Portland, OR 97204-1348

**RE: Comments of the NW Energy Coalition and Save Our Wild Salmon on the Draft Seventh Annual Report to the Northwest Governors On Expenditures of the Bonneville Power Administration**

Dear Mr. Walker,

The NW Energy Coalition (NVEC) and Save Our Wild Salmon (SOS) are taking this opportunity to comment on the Draft 2007 Report (“Spending Report”). As usual, our main point is that we take strong exception to the report’s characterization and calculation of “forgone revenues” and “power purchases to replace forgone hydropower” amounting to about \$403 million in FY2007. In addition, the characterization of these expenses as those of the Bonneville Power Administration fails to note that \$66 million was reimbursed through the 4(h)(10)(C) credit by federal taxpayers – a fact that is buried in the back tables. We may sound like a broken record making these same comments year after year, but we will continue to do so until this absurd accounting practice is discontinued.

***I. Bonneville does not own the river***

As we have previously stated, the apparent underlying supposition for counting forgone revenues and power purchases to replace forgone hydropower as a Bonneville Power Administration fish and wildlife expenditure is that BPA owns the river. Under this paradigm, BPA, on behalf of its preference customers, rents out the river at market prices to fish. Not only is this assumption completely arbitrary – because other parties that use the river are not also “billed” – but it appears contrary to federal statute as well.

The Bonneville Project Act of 1937 established the basic relationship of the Bonneville Administrator to the Corps of Engineers (Corps). The Corps is charged in Sec. 1 with maintaining and operating the dams. Sec. 2(a) then describes BPA’s role: “The Administrator shall...make all arrangements for the sale and disposition of electric energy...not required for the operation of the dam and locks...and the navigation facilities employed....”

In other words, BPA simply sells the electricity not required for operation of the dams. It is a sales agent for the electricity generated; it does not own any energy that could be *potentially* generated if certain laws and/or obligations were not complied with.

We recommend two options to correct this. Our preferred approach would be for “costs” of forgone revenue and power purchases to replace forgone generation be eliminated from the report altogether. BPA cannot sell power it would potentially generate in a regime without environmental laws. In no other forum have we heard a credible argument that a business or other entity may claim potential revenues it might make if allowed to ignore the law. Simply

put, one may not claim a tax deduction for business losses from not being allowed to sell illegal drugs, operate bordellos (outside of Nevada), or bury nuclear waste in a residential neighborhood.

BPA does not claim “forgone revenues” from obeying safety laws, paying employee withholding taxes, or scores of other legal mandates. Fish costs should not be singled out for this bizarre accounting. Including them in this report implies that the Native American Treaties, the Endangered Species Act, and other legal mandates do not *really* apply to Bonneville, or that the agency is somehow suffering disproportionately when it must obey the law. To be consistent, BPA should list how much it could lower rates if only it didn’t have to obey its other laws.

Thus, a second approach would be to calculate similar amounts for the other uses of the river so as to put these amounts all in context. Those other uses might include: preference (below-market) rates, flood control, navigation, recreation, irrigation, and municipal/industrial withdrawals. After all, if BPA could potentially make money by ignoring its fish obligations, it could also earn money by ignoring its other obligations. Failure to treat all of these “costs” similarly strikes us as simply highlighting the impacts of fish recovery for political gain. The Power Council should not be used in this way; instead it should present the facts in a neutral manner to best inform the political process. The region would benefit from seeing an accounting of all the benefits it receives from the Federal system, and doing so would put hydro operations for fish in proper context.

## ***II. Customers pay preference rates, fish pay market***

The Spending Report uses a peculiar accounting that tallies up the cost of forgone revenues and purchases at market rates, but charges other users of the system – preference utilities and DSIs – on a cost, or wholesale, basis. This greatly exaggerates the cost of recovering fish. Specifically, it violates the intent of section 4(h)(11)(A)(i) of the Regional Power Act. That section requires that BPA provide “equitable treatment” of fish with the other purposes of the system. We believe the intent of this section also applies to the accounting treatment given fish and wildlife expenses. There is no reason why fish should be “charged” for their use of water at the market price, while customers pay a preference price.

Bonneville does not add up how much serving its preference customers “costs” by comparing the revenue they pay to the value of the power that BPA could make on the market, but for that pesky preference law. And in fact, when OMB or Congressional voices have proposed otherwise, the region has risen in unison to argue that selling power at cost is not a subsidy, and it does not produce forgone revenues for the federal budget. To be consistent, then, if customers purchasing at the preference rate produce no forgone revenues, then the forgone generation fish operations create should be priced similarly: at the preference rate.

To calculate a cost basis for the forgone revenue from fish operations, one might use the PF rate per kWh as a rough approximation. Because annual market prices were about twice that of average PF prices, the \$282 million the Spending Report lists for forgone revenues should instead be about \$141 million.

The Report’s other category, power purchases to cover forgone hydro-generation (\$120 million), is a little harder to parse out. This amount is already in the PF rate, so if it is to be pulled out and assigned to fish costs, the PF rate would go down by about 1.5 mills/kWh, or

about 6%. That would make the cost of forgone revenues from the previous paragraph go down by \$8 million. Therefore the total *wholesale cost* for both categories should be roughly  $\$120 + \$141 - \$8 = \mathbf{\$253 \text{ million}}$ , as compared to the Report's total of \$403 million. For the ten-year total, a similar calculation produces:  $\$2,417 + \$799 - \$48 = \$3,168$  million, rather than \$4,015.9 million. (We of course note that in doing this calculation we are not abandoning our arguments in Section I above. We also recognize that a more accurate calculation using actual numbers might change these results to some extent.)

### **III. 4(h)(10)(C) credits**

Section 4(h)(10)(C) of the Northwest Power Act directs BPA's Administrator to allocate expenditures attributable to fish and wildlife mitigation and enhancement among the various hydroelectric project purposes. Since 1995, BPA has credited the portion of the expenditures allocated to non-power purposes at federal hydro projects towards its annual payment to the U.S. Treasury. Such "non-power" purposes include about 22% of BPA's real fish expenses, as well as power purchases attributed to salmon recovery operations at federal dams. BPA received \$66.1 million from taxpayers in 2007, and claimed a total of \$1,211.1 million in 4(h)(10)(C) credit over the past 10 years.

Thus, a substantial portion of BPA's costs associated with power purchases and actual expenses are borne by federal taxpayers, not by BPA. Yet, the Council's Report excluded this vital information. This glaring omission raises questions of fairness in fully reporting BPA's costs. We strongly urge the Council to accurately portray BPA's fish and wildlife costs as being not entirely borne by ratepayers.

### **IV. Elasticity**

It is unclear from the Report whether the value for forgone revenue includes any factor for price elasticity. That is, if that generation had actually been sold to the market, it is likely that for those hours the market price would have been reduced. If elasticity was not included, the value would be artificially high, and we request that the Council redo its calculations with a reasonable elasticity factor.

### **V. Forgone revenues and purchases should be normalized (for average flow, weather, and prices)**

Because the hydro operations did not significantly change in FY07 compared to FY06, changes in the forgone revenue and purchased power amounts are completely dependent on non-fish issues. Without making this clear, the Report makes it seem as if changes in fish operations are somehow involved in the difference in costs this year.

Other utilities deal with these kinds of transient effects on their revenues as well. However, for their stockholders and regulators, they provide "normalized" results to allow stakeholders and decision-makers to make apples-to-apples comparisons. Doing otherwise gives readers a false impression regarding cost-controls, changes in policy, etc., because they cannot tell which factor – BPA and the federal family, the courts, nature, California markets – are

responsible for the changes. The Report should emphasize normalized numbers and leave the actuals in footnotes with appropriate context.

## **VI. Lower lost revenues is bad for BPA's ratepayers**

It would be valuable for the Report to put the lost revenue numbers into proper context. The simple fact is that the major driver for high numbers is high market prices. But high market prices are a *good thing* for BPA's customers, since it means that BPA's secondary sales revenues will generally be high, more than compensating for the lost revenues in the Report. When the lost revenue number is high, BPA's rates are (or will be at the next rate case) *low*, and vice versa.

This counter-intuitive result needs to be explained. Without this information, the reader will not understand how the numbers affect his/her rate. He or she will more likely assume that a high number is bad news, when in reality it is most likely the opposite. Our recommendation would be to present accompanying figures and graphs of secondary revenues side-by-side with the lost revenue numbers, so the reader can put them into context and proportion.

## **VII. Conclusion**

The NW Energy Coalition and Save Our Wild Salmon urge the Council to treat fish restoration costs in a more reasonable, legal, and less politically-charged manner. We hope the insights and suggestions presented here will prove constructive toward that end. Please feel free to contact us with any questions or concerns.

Sincerely,

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