

**American Rivers * Columbia Riverkeeper * Friends of the Columbia Gorge *
Friends of the Earth * Idaho Rivers United * Institute for Fisheries Resources *
National Wildlife Federation * Northwest Sportfishing Industry Association * NW
Energy Coalition * Pacific Coast Federation of Fishermen's Associations * Save
Our Wild Salmon * Trout Unlimited * U.S. Public Interest Research Group**

April 7, 2004

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Re: Summer Spill Proposal Comments

Dear Sirs:

We are writing on behalf of the Save Our *Wild* Salmon Coalition and the undersigned individual organizations to comment on the *Preliminary Proposal for Federal Columbia River Power System Summer Juvenile Bypass Spill Operations* (March 30, 2004). We appreciate this opportunity and hope that our comments provide your agency with useful guidance to ensure the recovery of salmon and steelhead in the Columbia River Basin.

With a combined membership of over six million, Save Our *Wild* Salmon (SOS) is a diverse nationwide coalition of commercial and sport fishing associations, conservation organizations, taxpayer advocates, clean energy proponents, businesses and others joined in a single unifying mission: restoring self-sustaining, harvestable populations of wild salmon to the rivers and streams of the Pacific Northwest. As such, our organizations have a keen interest in efforts to mitigate the harmful effects of the Federal Columbia River Power System (FCRPS) on both listed and non-listed salmon and steelhead populations.

In short, the Bonneville Power Administration (BPA)/Army Corps of Engineers (Corps) proposal to severely reduce summer spill for three years under the guise of a “pilot project” is deeply irresponsible, risking long-term salmon recovery for minimal short-term economic gain. The proposal flies in the face of sound science, public policy, and the law. SOS provided extensive comments on the scientific, policy, and legal flaws of the initial analysis that serves as the

foundation on which this proposal is based.¹ After review, it is evident that our concerns – and the extensive technical concerns raised by state, federal, and tribal salmon biologists, and members of the public and media – were not heeded.² Therefore, we believe our previous comments are sufficiently applicable to the proposal at hand. Rather than continuing to dwell on its profound deficiencies, we hereby resubmit our joint comments on the *Summer Spill Update and Analysis* (January 21, 2004) as Attachment A.

However, we would like to take this opportunity to raise a few additional points and concerns:

I. The BPA/Corps proposal would provide negligible ratepayer benefits.

If the primary motivation for pushing forth a reduction in summer spill is to provide meaningful ratepayer relief in the face of higher-than-average electricity rates, the proposal patently fails to deliver on its promise. According to an analysis by the NW Energy Coalition, the BPA/Corps proposal would, at most, only result in a savings of between 11 and 52 cents per month annually on residential electricity bills (see Attachment C).³ In all likelihood, the ratepayer benefits of a summer spill reduction will be substantially less because of unknown offset costs. The NWECA analysis is based on the known (up to \$3.1 million annually) and unknown (up to \$10 million annually, as a placeholder) “offset” costs identified in the BPA/Corps proposal. However, BPA’s “placeholder” cost for yet-to-be determined offsets likely underestimates the investment that will be necessary to address the adverse impacts of BPA’s spill elimination proposal, to the extent that such offsets are even possible. This means that the more realistic overall ratepayer savings will be significantly lower than indicated in the attached NWECA analysis.

For example, the Washington Department of Fish and Wildlife (WDFW) recently identified a package of over \$14 million worth of proposed offsets that could potentially, if implemented in its entirety, meet Washington’s “No Net Impact” standard for a spill reduction.⁴ It is important to note that the WDFW package is meant to address only Washington origin salmon and steelhead. Additional actions would likely be required to address impacts to Oregon and Idaho salmon and steelhead. Moreover, the WDFW package contains several potential items, such as Chandler Bypass Reach, Removable Spillway Weirs, and Snake River flow/temperature supplementation, for which costs have yet to be determined. Therefore, the price tag for meeting just Washington’s offset needs in its entirety would be substantially greater than BPA’s

¹ Save Our Wild Salmon et al., Letter to NOAA, BPA and the Corps, *Re: Summer Spill Analysis Comments*, February 20, 2004 (Attachment A).

² We hereby incorporate by reference recent editorials by Northwest media outlets in opposition to a summer spill reduction (Attachment B).

³ NW Energy Coalition/Save Our Wild Salmon, *Putting the Power System Benefits of Reduced Spill Into Perspective*, April 1, 2004 (Attachment C).

⁴ Washington Department of Fish and Wildlife, *Proposed Package to offset effects of potential reduction of summer spill at several Columbia River federal dams*, March 29, 2004. SOS has not done an analysis to determine whether WDFW’s proposed offsets would be sufficient to address the impacts to Washington salmon and steelhead due to a summer spill reduction. WDFW’s letter is used here simply to illustrate that BPA’s “placeholder” cost significantly underestimates what would be required to sufficiently offset (inasmuch as is possible) the substantial harm caused by the BPA/Corps proposal.

placeholder cost. As a result, the 11– 52 cents savings per month on annual residential electricity bills identified in NWECC’s analysis is overly generous.

II. Modest investments in energy conservation would save ratepayers equal or more money without harming salmon.

We share the region's concern about the current high cost of electricity. However, the focus on eliminating spill to reduce those costs is both misplaced and hypocritical given the other opportunities for producing revenue and savings that are not being considered. We must question the real motives of the agencies in targeting spill when they have failed to discuss, much less implement, other measures that would produce an equal or greater economic value.

In particular, we urge the agencies to immediately implement a stronger energy conservation effort. Currently power prices are averaging around 4 cents/kilowatt hour (kwh). At the same time, the Northwest Power and Conservation Council has identified more than 2800 average megawatts (aMWs) of achievable conservation activities costing less than 2.5 cents/kwh.⁵ This conservation is not being captured due to BPA and the utilities' reduced conservation activities of the past decade. A 2-3 year accelerated conservation effort could easily acquire 300 MWs that would not otherwise be captured. Given the 1.5 cent "profit" that is generated – the difference between its cost and market value – 300 MWs would produce savings to the region of \$39.4 million/year.⁶ Such a program would also produce thousands of new jobs, make our businesses more competitive, and help diversify the region’s energy portfolio so that our energy supplies are less vulnerable to drought conditions.⁷

Most importantly, pursuing energy conservation would achieve the desired economic benefits without further harm to salmon and steelhead by allowing agencies to continue summer spill. In the absence of a meaningful effort to save money by acquiring this profitable conservation resource, it is difficult to see this attack on summer spill as anything but politically motivated.

III. Additional “Offsets”

⁵ Northwest Power and Conservation Council, *Draft Conservation Resources Chapter, 5th Power Plan*, March 4, 2004.

⁶ 300 MWs x 8,760,000 kwhs/MW x 1.5 cents/kwh

⁷ BPA and the Corps' failure to consider this, and other less harmful alternatives would have been avoided had the agencies completed a fresh analysis as required by the National Environmental Policy Act, 42 U.S.C. § 4321 et seq. In our previous comments, we highlighted that the proposal would require the agencies to reinstate consultation with NOAA Fisheries under Section 7 of the ESA, 16 U.S.C. § 1536(a)(2). See pages 10-11, Attachment A. Similar to the requirements of the ESA, NEPA's implementing regulations require a supplemental environmental impact statement whenever "(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 C.F.R. §§ 1502.9(c)(1)(i), (ii). We believe that eliminating summer spill triggers this duty. A new analysis, or at least supplementation of any previous analysis, including an opportunity for public comment, is necessary here.

Recognizing that Northern Pikeminnow Management Program augmentation and the Hanford Reach anti-stranding operation⁸ will not sufficiently offset the harm that would be caused by a summer spill reduction, the BPA/Corps analysis suggests additional mitigation items that could be implemented. Most of the additional actions are provided are purely speculative, without any substantive detail as to whether they would provide quantifiable biological benefits. A number of the actions appear simply to be restatements of previously rejected offsets, while others are clearly “double-counting” of previously committed-to legal requirements. Many of the proposed offsets would not provide biological benefits to salmon or steelhead at the smolt lifestage, and therefore would not address the biological harm of reducing spill.

It is also disconcerting that BPA and the Corps have yet to provide any meaningful analysis of whether actions to augment flows above and beyond BiOp-recommended targets could succeed as mitigation for a spill reduction. State, federal, and tribal salmon biologists have all identified additional flow augmentation as a potential offset. Yet, this alternative gets little more than a passing reference in the BPA/Corps preliminary proposal.

Recognizing that the BPA/Corps proposal did not provide sufficient information, the following are some specific concerns with the additional offsetting actions:

- A. Council Fish and Wildlife Program funding increase:** In light of the recent BPA-imposed \$40 million Fish and Wildlife Program funding cut and subsequent funding cap, this proposal is irresponsible and unacceptable. Making up the funding shortfall in the Council’s program caused by BPA’s previous financial difficulties simply cannot be counted as an “offset” to other BPA-imposed actions that would harm salmon. Moreover, there is no conceivable way to quantify the biological benefits of this proposal in time for a 2004 spill reduction.
- B. Additional or improved artificial production:** Simply boosting artificial production to compensate for losses to hatchery and wild fish would be inconsistent with the BiOp’s hatchery strategy and with the goals and requirements of the ESA. Moreover, additional hatchery fish, if added to the system, are just as likely (if not more likely) to suffer substantial mortalities due to reduced summer spill and otherwise poor river conditions.
- C. Avian predation research:** Research is not a biological offset. This action was proposed initially in the *Summer Spill Update and Analysis*. At that time, the agencies found that increased avian predation research did not provide any quantifiable biological benefit. Avian predation research is already required in the 2000 BiOp, and has been

⁸ We reiterate our concern and disbelief that BPA/Corps would suggest these two operations as partial offsets for the harm caused to salmon by reducing summer spill. State, federal, and tribal fishery agencies have been clear that the Northern Pikeminnow Management Program augmentation has limited, if any, value as an offset. Moreover, the Hanford Reach anti-stranding operation, as noted in our previous comments, is an operation that is already required to ensure Endangered Species Act (ESA) compliance of the mid-Columbia PUD dams. We understand that Grant County PUD has indicated that it could not unilaterally provide this operation without BPA participation. Nevertheless, Grant PUD is obligated to meet the requirements of that agreement for its own ESA responsibilities. The federal agencies taking some hand, and thus some credit, in meeting that agreement for other purposes is still double counting, even if the current offset proposal only assumes 50% of benefits from this operation. By double counting, both the federal agencies and Grant County PUD’s ESA compliance is in jeopardy.

underway in the Columbia Basin for some time. Simply stating that the research “may lead to” future unspecified management actions does not satisfy the agencies’ own requirements for a sufficient offset.

D. Habitat protection: To restate objections raised in our previous comments (Attachment A), the proposal for unspecified habitat improvements – with no indication of where, when, or what benefits may or may not be accrued – does not satisfy the agencies’ own requirements for a sufficient offset and once again contradicts clear legal mandates under the ESA. In fact, the reliance on such an uncertain and unspecified offset is a deficiency similar to what ultimately led the U.S. District Court to remand the 2000 BiOp back to the agencies and to rule that the reliance on such measures is “arbitrary and capricious.”⁹

E. Additional Removable Spillway Weirs (RSWs): This proposal is particularly disturbing on a number of levels. First, it is our understanding that biological testing of the RSW at Lower Granite dam is still ongoing and has only been done for spring migrants. There is no available data, therefore, to determine the benefits of RSWs for summer migrants affected by the BPA/Corps proposal. Moreover, the benefits of this new technology could vary greatly due to hydraulic differences at each project; biological improvements from an RSW at one dam may not necessarily translate to benefits at another. It is premature to commit to RSWs at lower Columbia River projects while the benefits of currently installed RSWs have yet to be sufficiently proven, and it is inappropriate to commit to RSWs at Snake River dams, given that the dams will eventually need to be removed to meet salmon recovery obligations.

Second, funding for the Corps’ Columbia River Fish Mitigation Program is already significantly limited. Prioritizing yet-to-be proven RSWs at lower Columbia River dams could push other important BiOp-required projects aside. Third, it is our understanding that initial funding for RSWs (which can cost up to \$40 million each) would be borne by federal taxpayers. It is entirely inappropriate for BPA and the Corps to place the burden of offsetting a spill reduction on the Federal Treasury.

Finally, we note the irony of suggesting that RSWs be used as an offset to a spill reduction. RSWs, by definition, require spill in order to properly function as a fish passage alternative. Within the context of the BPA/Corps summer spill reduction proposal, the application of this technology as an offset is entirely inconsistent with the purpose and intent of mitigation.

IV. Conclusion

In conclusion, this proposal is a textbook example of the type of decision-making that originally led to Endangered Species Act listings in the Columbia Basin. The history of salmon and hydroelectric dam development in the Pacific Northwest has taught us at least two things: fish need water, and they need rivers to act like rivers. Absent the removal of the four lower Snake

⁹ National Wildlife Federation v. National Marine Fisheries Service, 245 F. Supp 2d 1196 (D. Or. 2003).

River dams, the flow and spill requirements of the 2000 BiOp are essential and irreplaceable to prevent further salmon extinctions and to improve the prospects for recovery.

With the analyses to date, we see little indication that the harmful impacts of a summer spill reduction could be successfully and sufficiently mitigated. The BPA/Corps proposal contains serious scientific, policy, and legal flaws, as detailed in our previous comments. The ill-conceived proposal trades long-term biological benefits for minimal short-term economic gain. As such, we urge the federal agencies to reject this summer spill reduction proposal and instead continue to implement the summer spill requirements in the 2000 BiOp while seeking ratepayer relief through the acquisition of cost-effective energy conservation measures.

Sincerely,

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Governor Judy Martz, State of Montana
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James L. Connaughton, Chairman, Council on Environmental Quality
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Northwest Congressional Delegation