

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

WHEREAS the Confederated Tribes of the Warm Springs Reservation, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Indian Reservation and Bonneville Power Administration (“The Parties”) and others are actively engaged in remand collaboration pursuant to *National Wildlife Federation v. National Marine Fisheries Service (NWF v. NMFS)*, Cv. 01-640, and in discussions regarding a long term agreement for the operation and mitigation of the FCRPS;

WHEREAS the parties recognize that long term operation of the system is being addressed through the ongoing remand in *NWF v. NMFS* and long term agreement discussions;

WHEREAS the Federal Agencies believe that the FCRPS should be operated in 2007 with respect to spill as required by the Court with respect to 2006 operation except for changes to reflect the anticipated structural improvements at two facilities;

WHEREAS, the Tribes contend that some additional changes to spill and other measures are appropriate;

WHEREFORE, to resolve this disagreement, the Parties agree as follows:

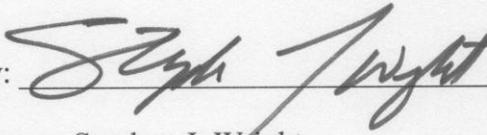
- The Federal Agencies shall operate the FCRPS in 2007 as described in Attachment 1 (which is incorporated herein by reference). To the extent not specified in Attachment 1 the operations shall be consistent with the 2004 Biological Opinion. The Parties agree that these operations provide additional and adequate interim protection for ESA-listed fish for 2007.
- In the event that the District Court requires or desires confirmation of the Tribes’ support for these 2007 FCRPS operations and/or the project funding commitments in Attachment 2, the Tribes shall support the above-described operations in any statements to the Court. Even if not required to do so, the Tribes will indicate their support for these operations and project commitments in 2007 to the Court and support their implementation in all forums.
- The Tribes and Columbia River Intertribal Fish Commission, and their staffs, will not provide direct or indirect support for any other party’s position in any legal proceeding conducted to determine what 2007 FCRPS operations will be implemented and will not provide support for other parties’ efforts to implement operations in 2007 that deviate from those described in Attachment 1.
- Bonneville Power Administration will also provide interim funding for certain tribal projects described in a separate exchange of letters with the tribal chairs, which include actions benefiting ESA-listed fish. The letters setting forth the project funding commitments are, by this reference, part of this agreement and are Attachment 2.

This Agreement addresses 2007 operations only, and does not provide a precedent for any future proceedings or endorsement of these operations for the long term operations of the federal dams.

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

Dated December 20, 2006

For:
United States Department of Energy
Bonneville Power Administration

By: 
Name: Stephen J. Wright

Title: Administrator/CEO

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

Dated 12-15, 2006

For:
Confederated Tribes of the Warm Springs
Reservation

By: Ron Suppah, Sr.

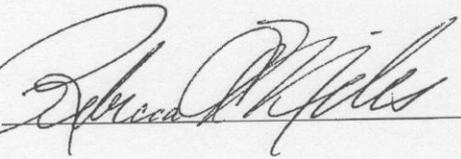
Name: Ron Suppah

Title: Chair of Tribal Council

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

Dated 12-15-06, 2006

For:
Nez Perce Tribe

By: 

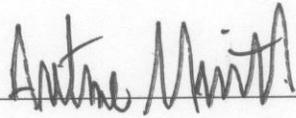
Name: Rebecca Miles

Title: Chair of Executive Committee

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

Dated December 26, 2006

For:
Confederated Tribes of the Umatilla Indian
Reservation

By: 

Name: Antone Minthorn

Title: Chair of Board of Trustees

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

Dated Dec 21-06, 2006

For:
Confederated Tribes and Bands of the
Yakama Nation

By: Lavina Washines

Name: Lavina Washines

Title: Chair of Tribal Council

Agreement Regarding
2007 Federal Columbia River Power System Fish Operations

Dated Dec. 21, 2006, 2006

For:
Confederated Tribes of the Colville Indian
Reservation

By: 

Name: Michael E. Marchand

Title: Chair of Business Council



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND OR 97208-2870

DEC 15 2006

Planning, Environmental Resources,
and Fish Policy and Support Division

Rebecca Miles, Chairwoman
Nez Perce Tribe
P.O. Box 305
Lapwai, Idaho 83540

Antone Minthorn, Chairman
Confederated Tribes of the Umatilla
P.O. Box 638
Pendleton, Oregon 97801

Lavina Washines, Chairwoman
Confederated Tribes and Bands of
the Yakama Nation
P.O. Box 151
Toppenish, Washington 98948

Ronald Suppah, Sr., Chairman
Confederated Tribes of the Warm
Springs Reservation of Oregon
P.O. Box C
Warm Springs, Oregon 97761

Michael Marchand, Chairman
Confederated Tribes of the Colville Reservation
P.O. Box 150
Nespelem, WA 99155

Dear Tribal Chairs:

I have reviewed the agreement between Bonneville Power Administration and the Colville, Yakama, Umatilla, Warm Springs, and Nez Perce Tribes regarding 2007 Federal Columbia River Power System Fish Operations.

I commit to, and will implement the operations identified in Attachment 1 (copy enclosed herein) to the referenced agreement.

Sincerely,

Gregg F. Martin
Brigadier General, US Army
Division Commander

Enclosure

2007 Operations For Lower Snake and Columbia River projects

The following spill operations assume average water conditions in 2007. Unusually high or low water conditions may require deviations from these operations.

Spring 2007

	Planned Operations for Spring 2007 (Day/Night)	Comments
Transport	Initiate transport at Lower Granite Dam between April 20 – May 1 with staggered transport start dates at Little Goose and Lower Monumental. Criteria for start date and stagger days will be provided to TMT*1	Same as 2006 except potential later start of transport
Lower Granite	20kcf/20kcf	Same as 2006 with planned main turbine unit outage
Little Goose	30%/30% Allow for 14 days night Gas Cap spill within the last week of April – second week of May (April 22 – May 15)*. Dates of actual night time spill to be determined by salmon managers within the window of time identified above	Same as 2006 except 14 days of gas cap night spill
Lower Monumental	27 kcf/27kcf Gas Cap	Same as 2006 test program (24 hr Gas Cap spill)
Ice Harbor	30%30% vs 45kcf/Gas Cap	Same as 2006 test program
McNary	40%/40% (April 10 – June 30)	Same as 2006 except elimination of 0/150 kcf operation to provide testing of the prototype temporary spillway weir (PTSW)
John Day	0 / 60% Planning for PTSW test with 24 hour spill in 2008	Same as 2006
The Dalles	40%/40%	Same as 2006
Bonneville	100kcf/100kcf	Same as 2006

*1 Initiation of Transport

* The timing of the 14 days of spill to nighttime gas cap levels will be determined in-season through the TMT processes and is intended to coincide with the peak of the wild spring yearling Chinook migration at Little Goose Dam within the window specified.

Attachment 1
 Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
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In water years when the Snake River projected seasonal average (April 3 – June 20) flow is greater than 70kcfs, transportation will be initiated at Lower Granite Dam no earlier than April 20 and no later than May 1. The seasonal average flow projection will be based on the Corps' STP model and the April final forecast. The actual start date will be decided through the TMT process as informed by the in-season river conditions (e.g. river flow and temperature) and the status of the juvenile Chinook and steelhead runs (e.g. percent of runs having passed the project). In exceptionally low water years, when the projected seasonal average flow is less than 70kcfs, the start date of transport would be April 20.

In water years when the projected seasonal average flow is greater than 70kcfs, transportation will be planned to start 8 days and 11 days after the Lower Granite Dam start date for Little Goose and Lower Monumental dams respectively. The actual start date at those dams will be further considered through the TMT process depending on in-season river conditions and the status of the juvenile Chinook and steelhead runs.

Summer 2007

Project	Planned Operations for Summer 2007 (Day/Night)	Comments
Lower Granite	18 kcfs / 18 kcfs	Same as 2006
Little Goose	30% / 30%	Same as 2006
Lower Monumental	17 kcfs / 17 kcfs	Same as 2006
Ice Harbor	30%/30% vs 45kcfs/Gas cap	Same as 2006 test program
McNary	40%/40% vs 60%/60	Same as 2006 test program
John Day	30% / 30%	Same as 2006
The Dalles	40%/40%	Same as 2006
Bonneville	75kcfs / 120kcfs	Same as 2006

Studies Review Work Group and Fish Facility Review Work Groups will determine final 2007 biological test program and spill patterns for testing and operation.

All other operations not specified in the table above will be consistent with the operations identified in the 2004 FCRPS Biological Opinion; however, flood control operations at Libby Dam are under review. Concerns about potential risks to public health and safety are currently being assessed, and the Corps may decide an operation in 2007 that differs from the interim VARQ operation is necessary.

Attachment 2
Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
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Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

In reply refer to: KE-4

Ron Suppah, Chairman
Confederated Tribes of the Warm Springs Reservation
PO Box 1299
Warm Springs, OR 97761

RE: Agreement on 2007 Federal Columbia River Power System Fish Operations and Transition Funding

Dear Chairman Suppah:

On behalf of the Bonneville Power Administration, I would like to thank you for the constructive discussions we have had regarding 2007 hydropower operations and bridge funding for tribal fish mitigation projects. I am pleased to confirm that we have reached agreement in both of these areas. In support of the Agreement regarding 2007 FCRPS fish operations, we are agreeing to extend/provide the contracts and budget amounts for the remainder of FY07 as noted below:

<u>Project #</u>	<u>Project Title</u>	<u>Funding Level</u>
2002-016-00	Evaluation of Lamprey Status	\$108,000
*2007-157-00	Bull Trout Status and Abundance	\$115,000

* This is a new project that will be included within BPA's funding decision letter to the Council for FY07

As we have discussed, this interim agreement covers fiscal year 2007 funding and calendar year 2007 operations only. It does not provide a precedent for any future proceedings or endorsement of these operations or projects for the longer term. We look forward to negotiation of a long term agreement with the Warm Springs Tribe to improve our partnership in fish recovery and to meet our mutual interests in the resources of the Columbia Basin.

Sincerely,

A handwritten signature in blue ink that reads "Gregory K. Delwiche".

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



Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

In reply refer to: KE-4

Rebecca Miles, Chair
Nez Perce Tribe
PO Box 305
Lapwai, ID 83540

RE: Agreement on 2007 Federal Columbia River Power System Fish Operations and Transition Funding

Dear Chair Miles:

On behalf of the Bonneville Power Administration, I would like to thank you for the constructive discussions we have had regarding 2007 hydropower operations and bridge funding for tribal fish mitigation projects. I am pleased to confirm that we have reached agreement in both of these areas. In support of the Agreement regarding 2007 FCRPS fish operations, we are agreeing to extend/provide the contracts and budget amounts for the remainder of FY07 as noted below:

<u>Project #</u>	<u>Project Title</u>	<u>Funding Level</u>
2002-054-00	Protect & Restore Asotin Creek Watershed	\$129,000
1997-038-00	Listed Stock Gamete Preservation	\$228,000
2007-xxx-xx	Conservation Enforcement	\$285,000

In addition, BPA and the Tribe will work together to initiate the work necessary to allow for construction of the Northeast Oregon Hatchery consistent with meeting the summer instream work window which begins on July 1, 2007. This includes reevaluation of cost estimates (e.g. cost escalation due to postponement of the project), and development of a bid package and final design. In addition, the Tribe will prepare a short management plan for the hatchery linked to ESA recovery goals. It is also agreed that the Tribe and BPA will continue to promote the benefits of NEOH in recovering ESA listed species in an effort to gain NOAA concurrence.

As we have discussed, this interim agreement covers fiscal year 2007 funding and calendar year 2007 operations only. It does not provide a precedent for any future proceedings or endorsement

Attachment 2
Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
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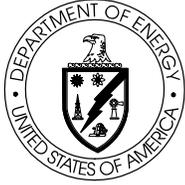
of these operations or projects for the longer term. We look forward to negotiation of a long term agreement with the Nez Perce Tribe to improve our partnership in fish recovery and to meet our mutual interests in the resources of the Columbia Basin.

Sincerely,



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

Attachment 2
Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
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Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

In reply refer to: KE-4

Antone Minthorn, Chairman
Confederated Tribes of the Umatilla Indian Reservation
P.O. Box 638
Pendleton, OR 97801

RE: Agreement on 2007 Federal Columbia River Power System Fish Operations and Transition Funding

Dear Chairman Minthorn:

On behalf of the Bonneville Power Administration, I would like to thank you for the constructive discussions we have had regarding 2007 hydropower operations and bridge funding for tribal fish mitigation projects. I am pleased to confirm that we have reached agreement in both of these areas. In support of the Agreement regarding 2007 FCRPS fish operations, we are agreeing to extend/provide the contracts and budget amounts for the remainder of FY07 as noted below:

<u>Project #</u>	<u>Project Title</u>	<u>Funding level</u>
2000-038-00	Walla Walla Hatchery, 3-Step Process	\$30,000 ¹
2000-031-00	John Day Fish Habitat Enhancement	\$249,000 ²
2002-030-00	Progeny Marker Steelhead Supplementation	\$297,000
1994-026-00	Lamprey Research and Restoration	\$296,000 ³
2002-037-00	Freshwater Mussel Research & Restoration	\$233,000
1990-005-01	Umatilla Natural Prod. Temperature M&E	\$25,000
2007-252-00	Assessment of Hyporheic Flow	\$77,000
*2007-xxx-xx	Conservation Enforcement	\$100,000 ⁴
Total		\$1,307,000

* This is a new project that is planned for inclusion in BPA's fish and wildlife project funding decision letter to the Council for Fiscal Year 2007.

¹ This is the initial CTUIR share. It is understood that upon completion and acceptance by BPA of the master plan, BPA commits to future funding in the amount of \$255,000 to non-CTUIR parties (contractors) necessary to complete the project at a total FY07 budget amount of \$285,000.

² This represents the total FY07 project cost. The Northwest Power and Conservation Council has authorized/allocated \$200,000 for this project.

³ This is the budget for FY07 (through September).

⁴ This budgeted amount covers the period through June, 2007, not the entire FY 07.

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As we have discussed, this interim agreement covers fiscal year 2007 funding and calendar year 2007 operations only. It does not provide a precedent for any future proceedings or endorsement of these operations or projects for the longer term. We look forward to negotiation of a long term agreement with the Umatilla Tribe to improve our partnership in fish recovery and to meet our mutual interests in the resources of the Columbia Basin.

Sincerely,



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

Attachment 2
Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
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Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

In reply refer to: KE-4

Lavina Washines, Chair
Yakama Indian Nation
P.O. Box 151
Toppenish, WA 98948-0151

RE: Agreement on 2007 Federal Columbia River Power System Fish Operations and Transition Funding

Dear Chair Washines:

On behalf of the Bonneville Power Administration, I would like to thank you for the constructive discussions we have had regarding 2007 hydropower operations and bridge funding for tribal fish mitigation projects. I am pleased to confirm that we have reached agreement in both of these areas. In support of the Agreement regarding 2007 FCRPS fish operations, we are agreeing to extend/provide the contracts and budget amounts for the remainder of FY07 as noted below:

<u>Project #</u>	<u>Project Title</u>	<u>Funding Level</u>
1992-062-00	*Riparian Wetlands Restoration	\$25,000
1996-035-01	Yakama Reservation Watershed Project	\$650,000
1996-040-00	Mid-Columbia Coho	\$600,000
1988-120-25	YKFP Management, Data, Habitat	\$454,000
1997-056-00	Klickitat Watershed Enhancement	\$261,000

*Note: This project has an O&M component that will continue to receive funding from the fish & wildlife program

As we have discussed, this interim agreement covers fiscal year 2007 funding and calendar year 2007 operations only. It does not provide a precedent for any future proceedings or endorsement of these operations or projects for the longer term. We look forward to negotiation of a long term agreement with the Yakama Tribe to improve our partnership in fish recovery and to meet our mutual interests in the resources of the Columbia Basin.

Sincerely,

A handwritten signature in blue ink that reads "Gregory K. Delwiche".

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

Attachment 2
Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
Page 7 of 8



Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

In reply refer to: KE-4

Michael Marchand, Chair
Confederated Tribes of the Colville Reservation
P.O. Box 150
Nespelem, WA 99155

RE: Agreement on 2007 Federal Columbia River Power System Fish Operations and Transition Funding

Dear Chairman Marchand:

On behalf of the Bonneville Power Administration, I would like to thank you for the constructive discussions we have had regarding 2007 hydropower operations and bridge funding for tribal fish mitigation projects. I am pleased to confirm that we have reached agreement in both of these areas. In support of the Agreement regarding 2007 FCRPS fish operations, we are agreeing to extend/provide the contracts and budget amounts for the remainder of FY07 as noted below:

<u>Project #</u>	<u>Project Title</u>	<u>Funding Level</u>
*2000-001-00	Omak Creek Culvert & Land Acquisition	\$271,000
1996-042-00	Salmon Creek	\$300,000
2007-212-00	Locally Adapted STT Broodstock – Step 1	\$100,000
2003-022-00	Okanogan Basin M&E	\$125,000

*Final land acquisition cost will be based upon a BPA land appraisal that will occur in FY 07

Note: These projects are also planned for inclusion in BPA's new habitat UPA as well as in BPA's fish and wildlife project funding letter to the Council for Fiscal Year 2007.

As we have discussed, this interim agreement covers fiscal year 2007 funding and calendar year 2007 operations only. It does not provide a precedent for any future proceedings or endorsement of these operations or projects for the longer term. We look forward to negotiation of a long term agreement with the Colville Tribe to improve our partnership in fish recovery and to meet our mutual interests in the resources of the Columbia Basin.

Sincerely,

A handwritten signature in blue ink that reads "Gregory K. Delwiche".

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

Attachment 2
Agreement Regarding 2007 Federal Columbia River Power System Fish Operations
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Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

In reply refer to: KE-4

Olney Patt Jr., Executive Director
Columbia River Inter-Tribal Fish Commission
729 NE Oregon St., Suite 200
Portland, OR 97232

RE: Agreement on 2007 Federal Columbia River Power System Fish Operations and Transition Funding

Dear Mr. Patt:

On behalf of the Bonneville Power Administration, I would like to thank you for the constructive discussions we have had regarding 2007 hydropower operations and bridge funding for tribal fish mitigation projects. I am pleased to confirm that we have reached agreement in both of these areas. In support of the Agreement regarding 2007 FCRPS fish operations, we are agreeing to provide the contract and budget amount for the remainder of FY07 as noted below:

<u>Project #</u>	<u>Project Title</u>	<u>Funding Level</u>
*2007-xxx-xx	Conservation Enforcement	\$225,000

* This is a new project that will be included within BPA's funding decision letter to the Council for FY07

As we have discussed, this interim agreement covers fiscal year 2007 funding and calendar year 2007 operations only. It does not provide a precedent for any future proceedings or endorsement of these operations or projects for the longer term. We look forward to negotiation of a long term agreement with the Columbia River Inter-Tribal Fish Commission to improve our partnership in fish recovery and to meet our mutual interests in the resources of the Columbia Basin.

Sincerely,

A handwritten signature in blue ink that reads "Gregory K. Delwiche".

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