



Department of Energy

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

PUBLIC AFFAIRS

July 2, 2007

In reply refer to: DK-7

Mr. James W. Simpkin
Opportunity Construction Company, Inc.
1810 Schneidmiller Ave., #140
Post Falls, ID 83854

RE: FOIA 07-027 and 07-028

Dear Mr. Simpkin:

This letter is in response to your request for information that you made to the Bonneville Power Administration (BPA) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

We are responding to both of your requests at once due to the fact that they are requesting information on the same topic, BPA Project #2005-007-00, also known as the Fulton Diversion Dam, Phase 2. Your first request was received in this office on Monday, May 7, 2007, and was assigned a control number 07-027, and your second was received in this office on Thursday, May 31, 2007, and was assigned a control number 07-028.

In 07-027 you asked for the following:

1. Engineering design documents and cost estimates prepared by BPA and/or received by BPA from the Bureau of Reclamation and/or others.

Response: BPA has provided responsive documents in their entirety in section FOIA 07-027, Item 1.

2. Bid packages preparation and information for the above project.

Response: BPA has no responsive documents.

3. Copies of regulatory documents regarding the project.

Response: BPA has provided responsive documents in their entirety in section FOIA 07-027, Item 3, and has also included the link below for the Updated Proposed Action for salmon recovery:

http://www.salmonrecovery.gov/biological_opinions/FCRPS/biop_remand_2004/update.cfm

Due to the size of the responsive documents they cannot be posted. Please contact the BPA FOIA Officer at 503-230-7305 to obtain a copy.

4. Copy of approved applicable Biological Assessment prepared for the project.

Response: BPA has provided responsive documents in their entirety in section FOIA 07-027, Item 4, and have included the link below for additional information on this subject matter:
http://www.efw.bpa.gov/environmental_services/endoringspecies.aspx

5. Notifications of technical changes to the JARPA prior to actual construction field changes occurring.

Response: BPA has no responsive documents.

6. Qualifications of Contract Officer/Technical Representative (Chris Johnson) for project management.

Response: BPA has no responsive documents.

7. Copy of certification of Chris Johnson to BPA requirements for handling of project funds.

Response: BPA has no responsive documents.

8. Project correspondence between BPA and other governmental agencies regarding this project.

Response: BPA has identified and provided several documents in their entirety in section FOIA 07-027, Item 8, along with 12 documents that have had information segregated and withheld under the FOIA in section FOIA 07-027, Item 8 (documents with redactions).

9. Project correspondence between BPA and private entities, companies, non-profit organizations, etc.

Response: BPA has provided responsive documents in their entirety in section FOIA 07-027, Item 9.

10 & 11: BPA's determination process for allowing Chewuch Basin Council to manage the project, contract negotiations, contract award, and distributing BPA funds; and, copies of project solicitation and award process for this project.

Response: BPA has provided responsive documents in their entirety in section FOIA 07-027, Item 10 & 11, and additional responsive documents for #10 and #11 are found at this website:
http://www.efw.bpa.gov/environmental_services/endoringspecies.aspx

12. Changes in design of the diversion approach (BOR).

Response: BPA has no responsive documents.

13. Documents justifying the use of a grant for construction work that involves work relative to the Endangered Species Act;

Response: BPA has no responsive documents.

14. Documents received from the Independent Scientific Review Panel (ISRP) specifically associated with this project.

Response: Information can be found at the following website:
<http://www.nwcouncil.org/library/isrp/isrp2005-9.pdf>

15. Copy of document used to allow the bid proposal winner to improperly retract their bid without penalty.

Response: BPA has no responsive documents.

In FOIA Request 07-028 you asked for the following:

1. All documents prepared and submitted to the Department of the Army, Seattle District, Corps of Engineers, P.O. Box 3755, Seattle, WA 98124-3755, for Phase 2 of the Fulton Diversion Dam, BPA Project #2005-007-00. Specifically, the information submitted for the approval of the 404 DA Permit.

Response: BPA has no responsive documents.

2. All documents submitted to the BPA, NEPA/ESA, or other Federal Agencies, specifically for the Habitat Improvement Program Biological Opinion (HIP Opinion) for Phase 2 of the Fulton Diversion Dam, BPA Project #2005-007-00.

Response: BPA responsive documents link was submitted under FOIA 07-027, Item 3.

3. The resulting HIP Opinion for Phase 2 of the Fulton Diversion Dam, BPA Project #2005-007-00.

Response: BPA responsive documents link was submitted under FOIA 07-027, Item 3.

4. Copies of Chewuch Basin Council's (CBC) written procurement procedures per OMB Circular 110, if applicable. If CBC is under OMB Circular 102, then the Financial Management Practices CBC uses.

Response: BPA has no responsive documents.

5. All documents and records provided to the DOE/BPA as to the CBC's relationship with the Fulton Ditch Company and/or any other state recognized Irrigation District.

Response: BPA has no responsive documents.

6. All documents relative to CBC's accounting of the costs and expenditures for the above referenced project.

Response: BPA has provided one responsive document in its entirety in section FOIA 07-028, Item 6.

7. All documents and records relating to the official transmittal of all required local, state, and federal permits from the Chewuch Basin Council to Opportunity Construction Company, as required by contract and in some cases federal law.

Response: BPA has provided responsive documents on FOIA 07-027, Item 3.

8. All documents and records relating to the lawful ownership of the Fulton Diversion Dam, on which this funded work was performed.

Response: BPA has no responsive documents.

9. All documents and records relative to permit agency's required re-submittal of radical changes in the project work sequencing and design. This would have transpired between September 2006 and March 2007.

Response: BPA has provided responsive documents on FOIA 07-027, Item 4.

If you are dissatisfied with our determination, you may make an appeal within thirty (30) days of receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Both the envelope and the letter must be clearly marked "Freedom of Information Act Appeal." You will be billed under separate cover by the budget department in the amount of \$663.60, which covers all search, photocopy charges and postage.

I appreciate the opportunity to assist you with this matter. If you have any questions about this response, please contact me or Laura M. Atterbury, FOIA Specialist, at (503) 230-7305.

Sincerely,

/s/ Christina J. Brannon
Christina J. Brannon
Freedom of Information Act Officer

Enclosures: (Responsive Documents/Hard Copy and CD format)