



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Oregon Fish and Wildlife Office  
2600 SE 98<sup>th</sup> Avenue, Suite 100  
Portland, Oregon 97266

Phone: (503) 231-6179 FAX: (503) 231-6195

Reply To: 1105.0070  
File Name: BPA.doc  
TS Number: 07-1823

RECEIVED BY BPA FOIA OFFICE THIS DATE: 8.16.07
DUE DATE: 9.14.07
LOG # 07-037

Christina Brannon  
FOIA Coordinator  
U.S. Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208

Dear Christina Brannon:

This is in response to the Freedom of Information Act (FOIA) request from the Pacific Environmental Advocacy Center, dated June 1, 2007, seeking records on the effects of the Willamette River Basin Flood Control Project.

Because our files contain requested records originating from your agency, we are referring this request to you pursuant to provisions of 43 CFR 2.22(b)(2).

Enclosed are copies of the documents in electronic format, so that you may make a determination on their release. There are multiple email messages that include responses from agencies other than your own. In such instances, those other agencies have also been provided copies of the messages so that they may make decisions regarding the release of their portion of each document. We have advised Stephanie Parent that she will receive a direct response regarding your agency's portion of these documents from your office.

If you have any questions, please contact Cassi Zisa at 503-231-6179.

Sincerely,

*for*   
Kemper M. McMaster  
State Supervisor

Enclosures

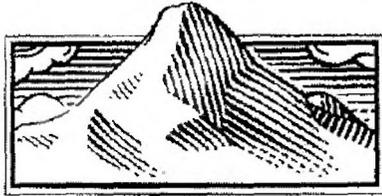
cc: Patti Carroll, FOIA Coordinator, Regional Office

Printed on 100 percent chlorine free/60 percent post-consumer content paper.



**FOIA Index  
Willamette River Basin Flood Control Project  
BPA Documents**

Item No.	Date of Document	Description of Document
1	10/21/2002	Email from Kimberly Fodrea, BPA to Matt Rea, COE re- Willamette Issues
2	8/26/2002	Email from Kimberly Fodrea, BPA to Chris Allen, FWS, et al re- BPA funding and Willamette consultation
3	12/15/2006	Email from Chris Allen, FWS to Matt Rea, COE re- Reason for Request for Delay in Releasing Flow Proposal
4	11/1/2001	Email from Chuck Willis, COE to John Wellschlager, BPA re- BPA Corps Willamette Basin Coordination
5	4/25/2001	Email from Lance Smith, NMFS, to Kimberly Fodrea, BPA, et al re- Willamette RPA/ITS consultation joint work sessions
6	4/6/2007	Email from Chris Allen, FWS, to Rollie White, FWS, et al, Subject: Fw: Draft RM&E Section 3.8 for the Willamette Revised Proposed Action
7	9/21/2001	Email from Kimberly Fodrea, BPA to Lynne Krasnow, NMFS et al re- Draft agenda for 09/27/01 technical briefing



The Environmental Legal Clinic  
of Lewis & Clark Law School

Pacific  
Environmental  
Advocacy  
Center

10015 S.W. Terwilliger Boulevard  
Portland, Oregon 97219  
phone: 503-768-6736  
fax: 503-768-6642

parent@lclark.edu  
www.peaclaw.org

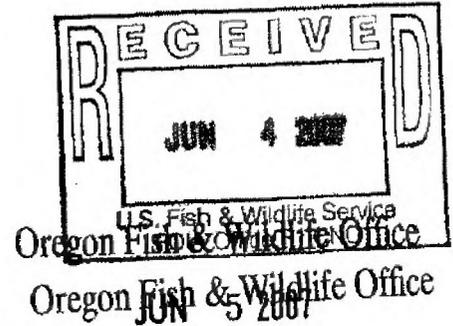
FLWS-2007-00715  
1105.0070  
75-07-1823

June 1, 2007

FREEDOM OF INFORMATION ACT REQUEST

VIA U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Regional FOIA Officer or Coordinator  
Fish & Wildlife Service, Pacific Region  
Budget and Administration  
Eastside Federal Complex  
911 NE 11th Ave.  
Portland, OR 97232-4181



RE: Documents related to the Endangered Species Act Section 7 Consultation on the Effects  
of the Willamette River Basin Flood Control Project

Dear FOIA Officer or Coordinator:

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended. I  
make this request on behalf of the Northwest Environmental Defense Center ("NEDC").

NEDC was founded in 1969 and is dedicated to the preservation and protection of the natural  
resources of the Pacific Northwest. NEDC's members are lawyers, scientists, students and  
citizens interested in protecting the environment of the Pacific Northwest.

In April, 2000, the U.S. Army Corps of Engineers ("the Corps"), along with the Bureau of  
Reclamation ("BOR") as a cooperating agency, submitted to the National Marine Fisheries  
Service ("NMFS") and the U.S. Fish and Wildlife Service ("FWS") a Final Biological  
Assessment of the Effects of the Willamette River Basin Flood Control Project on Listed Species  
Under the Endangered Species Act ("2000 BA"), thereby initiating consultation pursuant to  
Section (7)(a)(2) of the Endangered Species Act ("ESA"). 16 U.S.C. § 1536(a)(2). It is NEDC's  
understanding that the Corps intends to submit a supplemental BA based on a revised proposed  
action for the effects of the Willamette River Project shortly. NEDC seeks further information  
related to this consultation, or related to any other consultation process concerning the effects of  
the Willamette River Basin Project.

BOR-5  
NMF5-3 - SAME AS OURS  
COE-6

FWS FOIA Request  
Willamette Project  
May 30, 2007

Pursuant to FOIA, please provide copies of the following documents to my attention at the address above, on behalf of NEDC:

BK  
NMF5 ✓

1. Any and all documents related to the duration and extension of the consultation on the effects of the Willamette River Basin Flood Control Project, including but not limited to mutual agreements to extend the consultation for a specific time period pursuant to 50 C.F.R. § 402.14(e), ranging in time from April, 2000 up to and including the date FWS begins searching for the documents requested herein.

small  
4/5/07

BK  
NMF5 ✓

2. Any and all documents related to requests for additional data to better formulate a biological opinion on the effects of the Willamette River Basin Flood Control Project made pursuant to 50 C.F.R. § 402.14(f), ranging in time from April, 2000 up to and including the date FWS begins searching for the documents requested herein.

probably  
nothing

PR  
NMF5 ✓

3. Any and all documents related to irreversible or irretrievable commitments of resources pursuant to Section 7(d) of the ESA, including but not limited to the operations of the Willamette River Basin Flood Control Project for any purpose or related to the BOR contracts for stored water within the Willamette River Project, ranging in time from April, 2000 up to and including the date FWS begins searching for the documents requested herein.

probably  
Section 7(d)

This request applies to all such records in whatever form, including but not limited to correspondence, memoranda, notes, "e-mail" messages, and electronic files whose release is not expressly prohibited by law. It also covers any non-identical duplicates of records that, by reason of notation, attachment, or other alteration or supplement, include any information not contained in the original records. Additionally, this request is not meant to be exclusive of other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request.

I emphasize that this request applies to all described documents whose disclosure is not expressly prohibited by law. If you should seek to prevent disclosure of any of the requested records, I request that you: (i) identify each such document with particularity (including title, subject, date, author, recipient, and parties copied); (ii) explain in full the basis on which non-disclosure is asserted; and (iii) provide me with any segregable portions of the records for which you do not claim a specific exemption. NEDC is willing to accept the requested records in electronic format in order to reduce the cost in providing these documents, so long as the electronic versions are the final versions and have not been subsequently altered.

NEDC also requests that you waive any applicable fees because disclosure is clearly in the public interest. The disclosure "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

The disclosed documents will illuminate in a clear and direct way the operations and activities of FWS as it acts to fulfill important Congressional mandates to protect imperiled species through ESA consultation. Specifically, the disclosed documents will significantly contribute to public understanding and oversight of FWS actions related to the consultation on the Willamette River Project, which has been ongoing for over seven years. To the best of my knowledge, this information has not been disclosed before and is therefore "new" information to the public. As such, the disclosed information will enhance public understanding to a significant extent.

NEDC has interest and expertise in environmental issues related to water quality and quantity, river management, fisheries and the ESA. NEDC will use this expertise to analyze the disclosed documents and disseminate the findings in order to enhance the public's understanding. NEDC intends to disseminate information gleaned from the disclosed documents through diverse and effective channels, including: NEDC's website, which specifically highlights environmental issues in the Pacific Northwest; NEDC's quarterly newsletter, which is broadly distributed; press releases; letters and emails to NEDC supporters; and by any other appropriate means in any appropriate forum that may arise.

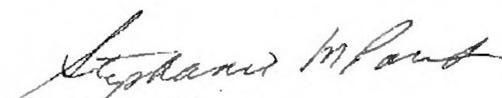
If for some reason the fee waiver is denied, NEDC reserves the right to appeal such decision and requests that a bill of costs be transmitted prior to incurring document duplication and transmission costs.

NEDC anticipates that FWS will make the requested documents available within the statutorily prescribed period. Access to the records should be granted within twenty working days from your receipt of this request. Failure to respond in a timely manner shall be viewed as a denial of this request.

If you have any questions or if you require further information to rule on the fee waiver request, please, feel free to contact me at the phone number below. In addition, if you are not the proper recipient of this request, please, identify which office has information responsive to this request.

Thank you in advance for your prompt reply.

Sincerely,



Stephanie M. Parent  
PEAC Managing Attorney  
(503) 768-6736



# United States Department of the Interior



FISH AND WILDLIFE SERVICE

Oregon Fish and Wildlife Office

2600 SE 98<sup>th</sup> Avenue, Suite 100

Portland, Oregon 97266

Phone: (503) 231-6179 FAX: (503) 231-6195

Reply To: 1105.0070  
File Name: Response.doc  
TS Number: 07-1823

JUN 28 2007

Stephanie M. Parent  
Pacific Environmental Advocacy Center  
10015 S.W. Terwilliger Blvd.  
Portland, OR 97219

*Clarification  
Letter*

Dear Stephanie Parent:

This is in response to your Freedom of Information Act (FOIA) request (FWS#-2007-00715) dated June 1, 2007, seeking documents related to the Endangered Species Act Section 7 Consultation on the Effects of the Willamette River Basin Flood Control Project. Your request was received by our Regional Office on June 4, 2007 and was received in the Oregon Fish and Wildlife Office (OFWO) on June 5, 2007.

On June 18, 2007, per the conference call with the OFWO, the U.S. Army Corp of Engineers (COE), the National Marine Fisheries Service (NMFS), and the Bureau of Reclamation (BOR), you clarified your request to the following two items that pertain to the OFWO:

Item 2: "Any and all documents related to requests for additional data to better formulate a biological opinion on the effects of the Willamette River Basin Flood Control Project made pursuant to 50 C.F.R. 402.14(f)"

You clarified you did not want actual data. Instead you were interested in any and all documentation of the requests themselves, whether made formally or informally during the course of the consultation, in order to ascertain what impact such requests may have had on the duration of the consultation.

Item 3: "Any and all documents related to irreversible or irretrievable commitments of resources pursuant to Section 7(d) of the ESA, including but not limited to the operations of the Willamette River Basin Flood Control Project for any purpose or related to the BOR contracts for stored water within the Willamette River Project"

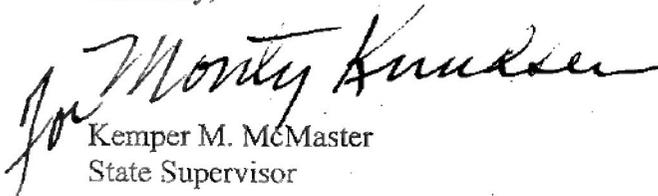
You clarified you were looking for documents that may discuss irreversible or irretrievable commitments of resources pursuant to Section 7(d) of the ESA. You suggested an example may be documentation concerning irreversible or irretrievable commitments of resources related to BOR contracts.

We will presume our interpretation from the conference call is correct unless we hear from you.

Based on the fact that the Pacific Environmental Advocacy Center efforts appear to be "for the public interest" and "not for commercial interest of the requester", we grant a waiver of any fee associated with responding to this request.

If you have any questions please contact Cassi Zisa at 503-231-6179.

Sincerely,



Kemper M. McMaster  
State Supervisor

cc:

Patti Carroll, FOIA Coordinator, Regional Office