



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
PO BOX 2946
PORTLAND OR 97208-2946

August 16, 2007

Office of Counsel

Freedom of Information Act Officer
Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621

RECEIVED BY RPA FOIA OFFICE THIS DATE: 8.20.07
DATE: 9.18.07
LOG# 07-039

Re: Freedom of Information Act Request 2007-058,
Pacific Environmental Advocacy Center

Dear Sir or Madam:

This is in reference to a Freedom of Information Act request sent to the Corps of Engineers, U.S. Fish & Wildlife Service, and NOAA for documents relative to the Willamette Valley ESA issues. I am enclosing a copy of the request from Ms. Parent, Pacific Environmental Advocacy Center.

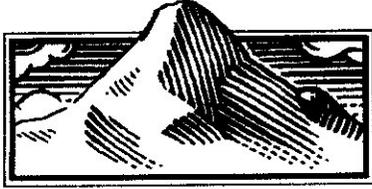
I have responded to this request. Pursuant to 32 CFR 286.4(I)(2), I am transferring 93 pages of documents that have been identified as documents which were initiated by your agency. To the extent that any of these emails include sections from Corps employees, those portions have either been approved for release or redacted. Please respond to the requester directly regarding these documents.

I appreciate your coordination. If you have questions regarding this matter, please call me at (503) 808-4523.

Sincerely,


Janice E. Sorensen
Freedom of Information Act Officer

Enclosures



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

June 1, 2007

FREEDOM OF INFORMATION ACT REQUEST

VIA U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED

FOIA Officer or Coordinator
Portland District
U. S. Army Corps of Engineers
333 SW First Ave., 10th Floor
Portland, OR 97204-3495

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.

Filed 6/15/07
2007-058

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

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 the Corps begins searching for the documents requested herein.
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 the Corps begins searching for the documents requested herein.
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 commitments caused or contributed to by the operations, maintenance or mitigation of the Willamette River Basin Flood Control Project for any purpose, i.e. flood control, power generation, irrigation, recreation, fisheries, fish propagation, ranging in time from April, 2000 up to and including the date the Corps begins searching for the documents requested herein.
4. Any and all draft or final Environmental Impact Statements ("EISs"), Environmental Assessments ("EAs") or documentation of Categorical Exclusions for the environmental analysis of the effects of the operations, maintenance or mitigation of the dams and reservoirs in the Willamette Basin, known as the Willamette Basin Project, pursuant to the National Environmental Policy Act, including but not limited to the Draft or Final EIS for the Willamette River Basin Review Feasibility Study, see 61 Fed. Reg. 50286 (Sept. 25, 1996).
5. Any and all plans of operations, whether temporary, interim, annual or otherwise, for the operations, maintenance or mitigation of the dams and reservoirs of the Willamette Basin, known as the Willamette Basin Project, for any purpose, i.e. flood control, power generation, irrigation, recreation, fisheries, fish propagation, ranging in time from April, 2000 up to and including the date the Corps begins searching for the documents requested herein.
6. Any amended, supplemental or additional Biological Assessments submitted to NMFS and FWS related to the effects of the operations and maintenance of the Willamette Project Basin on listed species under the ESA, as revised, since April, 2000 and up to and including the date the Corps begins searching for the documents requested herein.

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 the Corps 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 the Corps' 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.

Corps FOIA Request
Willamette Project
May 30, 2007

Page 4

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 the Corps 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,

A handwritten signature in cursive script, appearing to read "Stephanie M. Parent".

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