



## Department of Energy

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

PUBLIC AFFAIRS

March 15, 2010

In reply refer to: DK-7

Steven Hawley  
3762 Rocky Ridge Court  
Hood River, OR 97031

### **FOIA # BPA-2010-00899-F**

Dear Mr. Hawley:

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

**You narrowed your request on February 26, 2010 by email and again by telephone on March 1, 2010, to the following:**

1. The complete Administrative Record filed by BPA in the 9<sup>th</sup> Circuit challenges to the BPA Record of Decision on the NOAA 2008 FCRPS BiOp on CD.
2. The results of a search of the Administrative Record, above, for all communications between Jeff Stier, Senior Policy Advisor, BPA, and any/all of nine specified NOAA scientists on CD.
3. All communications from Jeff Stier's files including, but not limited to, emails, written notes, letters and draft documents sent to or written by Jeff Stier, to any/all of nine specified NOAA Scientists and pertaining to the 2008 NOAA FCRPS BiOp's Adaptive Management Implementation Plan (between June 15, 2009, until the AMIP was filed on September 15, 2009).

**Response:**

The following responsive CD/DVD's are enclosed:

1. BPA Volume 1 9<sup>th</sup> Cir Case #08-74269 & #08-74597.
2. BPA Volume 2 9<sup>th</sup> Cir Case #08-74269 & #08-74597.
3. BPA Volume 3 9<sup>th</sup> Cir Case #08-74269 & #08-74597.
4. BPA Volume 4 9<sup>th</sup> Cir Case #08-74269 & #08-74597.
5. BPA Priv01 & Priv02 Index 9<sup>th</sup> Cir Case #08-74269 & #08-74597 dated March 10, 2009, Index Files.
6. Supplemental Administrative Record 9<sup>th</sup> Cir Case #08-74269, Charles Pace v. BPA, dated April 8, 2009.
7. Second Supplemental Administrative Record 9<sup>th</sup> Cir Case #08-74269, Charles Pace v. BPA, August 18, 2009.
8. BPA Responsive Documents to FOIA Request #BPA-2010-00899-F.

In addition, BPA has identified and provided 7 pages with redactions under Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5). Exemption 5 protects attorney-client communications between government attorneys and their clients that relate to a legal matter for which the client has sought professional advice. Release of the privileged communications will deter an open and candid exchange between the attorneys and their clients. BPA therefore is not making a discretionary release of these communications.

BPA has also located four additional documents that were created by NOAA Fisheries. These documents will be sent to NOAA Fisheries for review under FOIA, and NOAA will reply directly to you with their response. The NOAA documents have been transferred to:

Jean Carter-Johnson  
NOAA FOIA Officer  
National Oceanic and Atmospheric Administration  
Public Reference Facility (OFA56)  
1315 East West Highway (SSMC3), Room 10730  
Silver Spring, Maryland 20910  
Phone: (301) 713-1169

If you are dissatisfied with this determination, you may make an appeal within thirty (30) days of receipt of this letter to the Director of 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."

If you have any questions about this letter, please contact Laura M. Atterbury, FOIA/Privacy Act Specialist, at 503-230-7305.

Sincerely,

*/s/ Christina J. Brannon*

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

Enclosures:

1. (8) CD/DVD's
2. Responsive Documents

cc: NOAA Fisheries

*NOTE: File is too large to post. Please contact our office at 503-230-7305 if you would like a copy of the responsive documents.*