



Department of Energy

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

ENVIRONMENT, FISH AND WILDLIFE

February 4, 2010

In reply refer to: KEC-4

Ms. Christine Reichgott, Unit Manager
Environmental Review and Sediment Management Unit
U. S. E. P. A., Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

Re: Chief Joseph Hatchery Program DOE/EIS 0384

Dear Ms. Reichgott:

Thank you for reviewing and commenting on the final EIS for the Chief Joseph Hatchery Program via your letter of December 23, 2009 (EPA Project Number 05-039-BPA; CEQ no. 20090398). The letter states that EPA continues to have concerns with potential impacts to water quality due to lack of detailed information on effects on beneficial uses and unclear information regarding NPDES permit requirements. I have spoken with Linda Storm and Lynne McWhorter of your staff about EPA's concerns, and I would like to try again to address the remaining issues. BPA would appreciate another reply on these items for the project's administrative record.

Effects of water withdrawals for fish acclimation ponds on beneficial use of instream habitat, and recommendation for including mitigation in the ROD

The beneficial use of most concern during the annual operational period (October to April) of the acclimation ponds is aquatic habitat. Other beneficial uses are identified in EIS section 3.6.1 (page 3-44) (domestic and other water supply; wildlife habitat; recreation; and commerce and navigation) and effects on them are addressed in other resource-relevant sections of the EIS in appropriate detail with all showing no impact from the individual pond withdrawals, but potentially substantial benefits on recreation, aesthetics, wildlife and commerce (economics) when adult hatchery fish return from the ocean.

Regarding aquatic habitat effects in the diversion reaches for the ponds, the final EIS in Appendix C, response to EPA's letter on the draft EIS, Tables 4 and 5, shows that only in certain drought years when instream flows are at their lowest, minimum instream flow requirements are not met *anywhere* in the middle or lower Okanogan River channel. At these times, the river is naturally out of compliance with minimum instream flow requirements. So, even without withdrawal for fish acclimation, the river's beneficial use as aquatic habitat is affected during these times. With withdrawal for fish acclimation, at the worst flow scenarios recorded since 1995, the instream flows and therefore, arguably, the aquatic habitat, would be further diminished for short reaches between intakes and outfalls at the ponds. EIS section 3.6.2 (page 3-50) estimates that between 4 and 6 per cent of the residual low flow would be taken at each short diversion reach for the duration of the lowest flow events (until the hydrograph volume

rises). At all other times (average and better stream flow years and many below average, non-severe drought years), the aquatic habitat would not be affected by the acclimation pond withdrawals. In all years and under all flow regimes, the withdrawn water would be used as aquatic habitat in the acclimation ponds to rear and acclimate Chinook salmon before their release into their historic habitat in the natural channel.

The EIS in section 4.2.1 (page 4-1) lists the measures required by USFWS and NOAA Fisheries Service to mitigate for effects to ESA-protected species and their habitats, the species and habitats of most concern in the aquatic environment affected by instream withdrawals. These mitigation measures have been accepted and will be incorporated into the project during implementation and operations. Consultation with WDFW through project development phases and USFWS under the Fish and Wildlife Coordination Act revealed no other fish and wildlife concerns and resulted in no further mitigation requirements.

NPDES Permits

Thank you for the clarification that the new hatchery facility, Omak Pond and Riverside Pond discharges would require separate NPDES permits. The Omak Pond and hatchery discharge points are on Colville Tribes' land and would require individual NPDES permits from the EPA. BPA believes the general permit for Federal Aquaculture Facilities and Facilities Located on Indian Country will not apply due to planned fish production and feeding rates. The Riverside Pond is not on federal or tribal land, so it requires an NPDES permit from WA DOE. These permit applications are being readied now by a consultant to BPA, and would be submitted by October, 2010 so that permits are in-hand when construction is slated to begin in Spring of 2011, should the BPA and US Army Corps of Engineers decide via RODs to implement this project. (BPAs ROD is planned for March, 2010; USACE ROD is expected in September, 2010.)

CWA Section 401 Water Quality Certifications

Also, thank you for the clarification on authorities for CWA Section 401 certifications for Section 404 permits on tribal lands. EIS Table 4-1 (page 4-6) is in error and should read that EPA and WA DOE have the authorities, not the Colville Tribes. The requests for these certifications has been submitted to EPA on May 29, 2009 and WA DOE on May 14, 2009 via Section 404 JARPA permits; and we understand that permits are expected to be granted soon.

Sincerely,

/s/ Mickey A. Carter

Mickey A. Carter
Senior Environmental Protection Specialist