



May 14, 2014

Via Electronic Mail

Christina J. Munro, FOIA Officer
Freedom of Information Act Officer
Mail Stop DK-7
Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208
cirmunro@bpa.gov
cc: kswinn@bpa.gov

Received:
5/14/2014
Due:
6/12/2014
Tracking Number:
BPA-2014-01120-F

Re: Freedom of Information Act Request

Dear Ms. Munro:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), as amended, we are writing on behalf of Save Our Wild Salmon to request copies of any and all documents, records, communications, or correspondence, including, but not limited to, letters, memoranda, e-mails, notes of telephone conversations, or any other record of communication, created on or after February 1, 2014 through the date of your search for records responsive to this request:

(1) By, to, or between any official, employee, or contractor of the Bonneville Power Administration (“BPA”), the National Marine Fisheries Service, the U.S. Army Corps of Engineers, or the U.S. Bureau of Reclamation, regarding or relating in any way to:

- (a) the Independent Scientific Advisory Board’s (“ISAB”) review of the State of Oregon’s recommendation to the Northwest Power and Conservation Council for an experimental spill program, or
- (b) a study design by the Comparative Survival Study (“CSS”) or other response from the CSS regarding the ISAB’s review of the Oregon recommendation;

(2) By, to, or between any official, employee, or contractor of BPA, the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, or the National Marine Fisheries Service, and any official, employee, appointed political official, representative, or contractors of any sovereign government (including, but not limited to any employee, official, or contractor of any agency or division of any such entity, and any sovereign’s representatives on the Northwest Power and

Conservation Council) that has executed a Memorandum of Agreement with BPA, the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation concerning the Federal Columbia River Power System, regarding or relating in any way to

- (a) the ISAB review of the State of Oregon's recommendation to the Northwest Power and Conservation Council for an experimental spill program, or
- (b) a study design by the CSS or other response from the CSS regarding the ISAB's review of the Oregon recommendation;

Withheld documents, if any, must be identified specifically and the basis for withholding explained.

The request for documents, records, and correspondence should be interpreted as including, but not limited to, any and all correspondence, memoranda, e-mails, papers, maps, scientific or technical data, telephone logs, calendars, calendar notes, meeting notes, and notes documenting any communications, regardless of physical form or characteristics. Our request encompasses all documents and records, whether in draft or final form, in the possession of BPA, regardless of whether the documents or records were produced by employees or contractors of BPA. We would be glad to work with you and your staff to identify the documents sought in this letter. Please do not hesitate to call should you need clarification about whether certain documents fit within the parameters of this request.

We trust that your response to our request will accord with the presumption in FOIA requests, articulated by the President, that “[i]n the face of doubt, openness prevails.” Accordingly, we trust that BPA will “act promptly and in a spirit of cooperation,” and apply a “presumption in favor of disclosure.” *See* Memorandum for the Heads of Executive Departments and Agencies, *available at* http://www.whitehouse.gov/the_press_office/FreedomofInformationAct/ (Jan. 21, 2009).

FEE WAIVER

The Freedom of Information Act and BPA's implementing regulations permit the waiver of search and copy fees where the release of the information is in the public interest. See 5 U.S.C. § 552(a)(4)(A)(iii); 10 C.F.R. § 1004.9(a)(8). This request satisfies these criteria. We provide the following information relating to the public benefits associated with this request and the entitlement of SOS to a fee waiver in this matter.

Preservation and recovery of the Northwest's salmon and steelhead, particularly those in the Columbia and Snake Rivers, has been the subject of intense public interest and scrutiny even before many of these stocks were listed as threatened or endangered pursuant to the Endangered Species Act. As thousands of public comments, public meetings, Congressional hearings, and media attention demonstrate, protection and recovery of Northwest salmon and steelhead has spawned intense interest among many segments of the public, including environmentalists, fishermen, state and federal legislators, and water resource users. Many of these groups, on all sides of the public discourse, are concerned that the federal government take the necessary steps

to protect and recover listed salmon and steelhead stocks. The requested documents are essential to the public's understanding and assessment of the implementation of that goal and the Endangered Species Act, the Northwest Power Act, and other legal requirements in the region. A response to this request will help the public to better understand the respective roles and actions of federal agencies and state and tribal governments by providing a deeper understanding of the substance and development of measures to enhance survival and restoration of salmon and steelhead affected by the Federal Columbia River hydrosystem and the relationships between the entities involved in developing and considering those measures.

SOS will use the requested information to evaluate BPA's efforts to achieve the goals of the Endangered Species Act, the Northwest Power Act, and other applicable environmental laws. SOS is uniquely qualified to review the requested information and synthesize it for consumption by the general public. Through advocacy on salmon issues in administrative and judicial processes, SOS has extensive experience with respect to the Endangered Species Act, the Northwest Power Act, and, in particular, the application of these laws to threatened and endangered anadromous fish stocks in the Northwest. In addition, SOS will be able to evaluate the information either because of the expertise of staff members or the close ties to leading experts in relevant fields, including fisheries biology, who may review the requested documents.

SOS will provide the documents, expert synopses of the documents, and expert and legal advice based on review of the documents, to the interested community and the general public through public education activities. Indeed, SOS is uniquely well-qualified to disseminate this information to the public at large. SOS is a recognized contact for the regional and national news media on salmon preservation and recovery issues in the Pacific Northwest. SOS uses its media contacts as an opportunity to publicly disseminate information on governmental activities gleaned from the review of FOIA documents and to ensure full and balanced coverage of environmental issues by the news media. Save Our *Wild* Salmon has extensive programs to educate its over 6,000,000 members and the public on salmon recovery issues, including: community outreach; conducting conferences and symposia; preparing reports and comments to local, state, tribal, and federal legislative and administrative bodies; and disseminating news releases, giving interviews and press conferences to the media.

SOS will not benefit financially from the requested documents. Save Our *Wild* Salmon is a § 501(c)(3) tax-exempt non-profit organization of more than 50 sport fishing, commercial fishing, and conservation organizations – local, regional, and national – which seek restoration of abundant salmon stocks throughout the Pacific Northwest to sustainably harvestable numbers. SOS will not use the requested documents to obtain any financial gain. Rather, it will use the documents to monitor and evaluate BPA's efforts to implement the ESA and Northwest Power Act to protect listed anadromous fish species, a subject relevant to the health and welfare of the public and of long-standing and intense public interest and involvement. A fee waiver is clearly appropriate under these circumstances, and we request such a waiver.

As provided in the Freedom of Information Act, 5 U.S.C. § 552(a)(6)(A), we will expect a final decision within twenty working days. We note that time is of the essence in responding to this request as the records requested above relate to ongoing discussions and upcoming decisions. As just one example, it is vital to obtain the requested records far enough in advance

of the comment deadline for the Northwest Power and Conservation Council's 2014 Fish and Wildlife Program Amendments to allow adequate time to evaluate these records and inform comments and participate effectively at upcoming public hearings. Finally, to the extent that the information can be released in electronic format, we ask that you do so.

Thank you for your assistance. If you have any questions regarding this request, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Mashuda". The signature is fluid and cursive, with the first name "Stephen" and last name "Mashuda" clearly distinguishable.

Todd D. True
Stephen D. Mashuda
Earthjustice
705 Second Avenue, Suite 203
Seattle, WA 98104
(206) 343-7340
(206) 343-1526 [FAX]
ttrue@earthjustice.org
smashuda@earthjustice.org