



## Department of Energy

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

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

July 2, 2014

In reply refer to: D-B1

Ralph Sletager

Ex 6

### FOIA #BPA-2014-01267-F

Dear Mr. Sletager:

Thank you for your request for records that you made to the Bonneville Power Administration (BPA), under the Freedom of Information Act, 5 U.S.C. 552. Your request was officially received in this office on Thursday, June 17, 2014, and has been assigned a control number, BPA-2014-01267-F. Please use this number in any correspondence with the Agency about your request.

#### **You requested:**

All communication between the hearing officer and the BPA regarding the appeal of BPA-2014-00787-F.

We have reviewed your letter and have determined that it addresses all of the criteria of a proper request under the FOIA, DOE, and BPA regulation that implements the FOIA at Title 10, Code of Federal Regulations, Part 1004.

#### **Response:**

BPA is releasing the enclosed documents with certain information redacted under Exemption 6 of the FOIA.

Exemption 6 protects information in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. § 552(b)(6)). Exemption 6 requires balancing the public interest in the information against the individual privacy interest at issue. Here, we assert this exemption to redact your personal address and email address. We find no public interest in this information and therefore redact it under Exemption 6.

Information that falls under Exemption 6 cannot be discretionarily released; the right of privacy belongs to the individual, not to the agency. Therefore, we did not analyze this information under the discretionary release guidelines in Attorney General Holder's March 19, 2009, FOIA Memorandum.

There are no fees associated with this request.

This is a final response. Pursuant to Department of Energy Privacy Act regulations at 10 C.F.R. § 1004.8, you may administratively appeal this response in writing within 30 calendar days. If you choose to appeal, please include the following:

- (1) A copy of your original request;
- (2) A copy of the determination letter; and
- (3) A statement detailing the reasons for your belief that the denial was made in error.

Clearly mark both your letter and envelope with the words "Privacy Act Appeal," and direct it to the following address:

Director, Office of Hearings and Appeals:  
Department of Energy  
1000 Independence Avenue SW  
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions, please contact Kim Winn, FOIA Public Liaison, at 503-230-5273.

Sincerely,

*/s/Christina J. Munro*  
Christina J. Munro  
Freedom of Information/Privacy Act Officer

Enclosure: CD

**From:** [Patel, Shiwali](#)  
**To:** [Winn, Kim S \(BPA\) - D-1](#)  
**Subject:** FOIA Appeal FIA-14-0030 (Request BPA-2014-00787-F)  
**Date:** Wednesday, May 28, 2014 2:49:15 PM  
**Attachments:** [FIA 14-0030 Appeal.pdf](#)

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Good afternoon, Ms. Winn.

We received the attached FOIA Appeal earlier today from Ralph Sletager. He contests the adequacy of search for responsive documents and the application of Exemption 6 to the released documents. Please review his Appeal and provide me with your response by next Wednesday, June 4, as to why you applied Exemption 6 to the withheld material. Also, by then, please provide me with a copy of the redacted and unredacted documents that were released to the Appellant.

Moreover, could you provide me with a description of the search methodology that was conducted for the requested documents (i.e. search terms used, databases searched, whether there was a search of electronic files and/or hard copies) and explain what kind of information was targeted while searching? Could you also let me know if there is any other location where the requested information might reside? Could you also provide me with the name of the individual(s) who were charged with conducting the search?

Please let me know if you have any questions.

Thank you,

Shiwali

Shiwali G. Patel  
Attorney Advisor (Administrative Judge)  
Office of Hearings and Appeals  
U.S. Department of Energy  
Room 7035, 7th floor, 950 L'Enfant Plaza  
Washington, DC 20585  
shiwali.patel@hq.doe.gov  
Phone: (202)287-1382  
Fax: (202) 287-1415

## Ralph Sletager

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**From:** Ralph Sletager (b) (6)  
**Sent:** Tuesday, May 20, 2014 3:28 PM  
**To:** 'cjmunro@bpa.gov'; 'Winn, Kim S (BPA) - D-1'  
**Subject:** FW: Privacy Act Appeal  
**Attachments:** BPA-Public Review 3500 M\_20140520150121.pdf

Director, Office of Hearing and Appeals:

Department of Energy

1000 Independence Avenue SW

Washington DC 20585-1615

Dear Christina Munro,

Re: BPA-2014-00787-F

Subject: Privacy Act Appeal

Reason for appeal:

a) The 3500 person mailing list was included by the BPA in the public review section in the ROD as an example of “public comment sought”. It does not qualify for Exemption # 6 because it is public comment not privileged. See Attached

b) The BPA response forwarding NEPA documents are nonresponsive to my request for the written standards established and adopted by the BPA. Only 2 documents were BPA documents. The search isn't adequate.

The purpose of this letter is to appeal your agency's partial denial of my Freedom of Information Request. The basis for my appeal is that under NEPA 42 U.S. 4321, any government action that may constrain a person's life, liberty or property has significant procedural requirements of public notice, public meetings, the opportunity to be heard, record of Decisions and the opportunity to appeal. I am trying to determine if the agency followed the required due process.

This change in PRIMARY PURPOSES clearly requires due process. It specifically changes the functions and purposes of the dam's construction and operation from those enumerated in the Idaho law 67-4304 and Senate document # 9 (The Enabling Document). The Flood Control Act of 1950 precludes any modification in operation from Senate Document #9 without prior US Congressional approval. Also compare the original CRT to the proposed new one. It appears to take control of the entire basin, without regard to existing rights. It subordinates Idaho's inhabitants rights to scenic beauty, health, recreation, transportation, or commercial purposes necessary and desirable for all the inhabitants of Idaho to the primary purposes of power production, flood risk and ecosystem-based function as primary purposes. The 1925 Idaho 67-4302 declares the rights the commission was chartered to defend are “a more necessary use than the use of said lands as a storage reservoir for irrigation or power purpose” The CRTR changes that.

Written Standards: When a government agency has not established a set of written standards and regulations to guide its deliberation in all instances, this failure has been held to amount to a denial of a fair hearing. (Second Circuit: *Holmes v. New York City Housing Authority*, 398 F.2d 262 (2d Cir. 1968) The generic NEPA information does not constitute the BPA established written standards that I requested. Is there a set of standards that have been formally adopted by the BPA. Do the standards describe enforcement and protect first amendment rights? The FOIA response includes boiler plate NEPA documents not the BPA documents. It is nonresponsive.

Public notice: The #1 step on the agency's "A guide to being heard" pamphlet is a notice by letter announcing the project to the affected landowners. 1) Was the notice adequate or was it a façade? 2) Was the notice VAGUE? 3) Was the notice overly broad? 4) Was the notice precise in its description of the change in Primary purposes and proscribed behavior or do men of common intelligence have to guess at its meaning? 5) Were the affected property owners notified and if so how?

This action may be a "TAKING". What notice was given to the property owners. The construction of the dam and the Operation Plan resulted in a taking, albeit minor, of a Flowage easement. The appraisal at the time was based on a more usable normal pool for 6 months a year and maximum drawdown just before the spring floods. Property rights for Navigation are affected. A change in the primary purposes in this case that will lead to a change in operations and a change in value.

Is the agency's position that adequate public notice was given and public comment was received? How can one verify that if they are withholding the Public notice, the names of the public and their comment for their internal (BPA) journal mailing list.

The Albeni Falls Master Development Plan is required under the funding legislation for the Albeni Falls Project and is specifically to include "the desires of many agencies, such as private business interests, sportmen's associations, municipal and state authorities as a result of a gradual crystallization of public demand. The document is intended to be created with public input not protected from public information requests. These statements all come from the COE generated Document Senate Document #9. (see paragraph 102 and 103 page 33& and paragraph 118 page 39).

118. Other benefits. The benefits accruing from recreational opportunities created or augmented by the project, and those resulting from the conservation of fish and other wildlife are closely associated, because the latter will be entirely game varieties. Ultimately, the recreational and conservational aspects of the project, particularly with respect to the extension and stabilization of Pend Oreille Lake, will be substantial. A report by the United States Department of the Interior, Fish and Wildlife Service, included as a section of appendix V, has established the net annual benefit to conservation by the Albeni Falls project at \$12,500. The exact nature and extent of recreational developments are somewhat dependent on the desires of the many agencies, such as private business interests, sportsmen's associations, and municipal and State authorities, who may join the Government in providing facilities. Improvements such as those mentioned previously in paragraphs 102 and 103 usually result from a gradual crystallization of public demand. Costs of such facilities cannot be estimated satisfactorily until such time as a master recreational plan reflecting the desires of local interest and establishing the economic justification of each proposal can be formulated. It can be assumed, however, that the benefits from recreation and improved sanitation will at least equal the costs by whomsoever incurred, and the omission either of expected costs or probable benefits will not prejudice the economic justification of the Albeni Falls project. Therefore, the evaluation of these highly important benefits has not been attempted at this time.

The withheld documents do not qualify as privileged. On the contrary the public is intended to be included in the development of the Master Plan to achieve the multiple purposes that the project was approved and

constructed. Those multiple purposes are co-equal in the defined functions of the project: Power generation, navigation, flood control, fish and wildlife conservation, and recreation. ( see page 21 ) These purposes are derived from the COE acknowledged State of Idaho water rights for the same. (see page 20). The very essence of the Master Plan was to protect the inhabitants interests and rights not to secretly avoid the public input. Under NEPA 42 U.S. 4321, any government action that may constrain a person's life, liberty or property has significant procedural requirements of public notice, public meetings, the opportunity to be heard, record of Decisions and the opportunity to appeal.

We have a right to this public information about a public project that was supposed to follow a public process.

Thanks for your consideration in this matter.

Ralph Sletager

A handwritten signature in black ink, appearing to read 'Ralph Sletager', written over the printed name.

comment.<sup>54</sup> The specific public review process for the Kalispel MOA is discussed below.

### **3.1 Public Review of the Kalispel MOA**

After negotiations with the Kalispel were completed, the proposed agreement was announced through a press release, posting on the government's salmon recovery website, [www.salmonrecovery.gov](http://www.salmonrecovery.gov), and letters to interested persons. The proposed Kalispel MOA was posted on July 1, 2011, with public comment sought through August 1, 2011. BPA also sent notice to its entire *BPA Journal* mailing list (approximately 3500 members).

BPA received six comments in response. Comments can be viewed at the BPA website: <http://www.bpa.gov/applications/publiccomments/CommentList.aspx?ID=132>

In follow up with one of the commenters, BPA determined that the comment was not intended for the Kalispel MOA, and so it was not considered further.<sup>55</sup> BPA considered all remaining comments in its decision whether to enter into the Kalispel MOA. In the following section, BPA addresses the substantive comments received.

### **3.2 BPA Analysis of Comments**

#### *3.2.1 Comments from BPA customer organizations*

BPA received comments from several organizations representing BPA customers and ratepayers, including Northwest RiverPartners, the Public Power Council, and PNGC Power. All three entities expressed some support for the Kalispel MOA, but also raised concerns about the increasing costs of BPA's fish and wildlife mitigation program. They expressly request that BPA consider taking a "top down" rather than a "bottom up" approach to its fish and wildlife program implementation, as there are concerns that individual agreements such as this are producing a piecemeal approach to the budget. In addition, they asked that as BPA implements the program, it look for ways to prioritize its spending, and to reduce or eliminate spending on non-priority matters.

BPA uses a "top down" perspective when considering the value of long-term agreements like the MOA. This approach gives perspective to the magnitude and complexity of the FCRPS mitigation responsibility that is being addressed, as well as how the agreement will improve the biological- and cost-effectiveness of the investments. Such agreements result in commitments that may reduce flexibility, but they also capture the longer-term

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<sup>54</sup> A summary of many of these forums and their public review opportunities was included in the Record of Decision for the Shoshone-Bannock Fish Accord, and is incorporated by reference here, see section 4.1 of that Decision, available at:

[http://www.bpa.gov/corporate/pubs/RODS/2008/ShoBan\\_MOA\\_ROD\\_FINAL.pdf](http://www.bpa.gov/corporate/pubs/RODS/2008/ShoBan_MOA_ROD_FINAL.pdf)

<sup>55</sup> A summary of many of these forums and their public review opportunities was included in the Record of Decision for the Shoshone-Bannock Fish Accord, and is incorporated by reference here, see section 4.1 of that Decision, available at:

[http://www.bpa.gov/corporate/pubs/RODS/2008/ShoBan\\_MOA\\_ROD\\_FINAL.pdf](http://www.bpa.gov/corporate/pubs/RODS/2008/ShoBan_MOA_ROD_FINAL.pdf)

## Ralph Sletager

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**From:** Ralph Sletager (b) (6)  
**Sent:** Friday, March 28, 2014 1:29 PM  
**To:** 'cjmunro@bpa.gov'; 'Winn, Kim S (BPA) - D-1'  
**Subject:** FW: FOIA COE SL-003 BPA JOURNAL MAILING List Kalispell MOA 3-28-2014

Hi Christy and Kim, Pursuant to the FOIA, I request a copy of:

- 1) The BPA Journal Mailing List of approximately 3500 members
- 2) The press release inviting public comment on the Kalispell MOA
- 3) The posting on the government salmon recovery website
- 4) The method employed to serve notice of the MOA to the affected area of economic impact.
- 5) The written standards and regulations including the hearing and appeals process established by the agency to ensure compliance with procedural due process.

I am willing to pay reasonable fees and costs associated with processing my request.  
Thanks rs



## Department of Energy

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

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

May 7, 2014

In reply refer to: D-B1

Ralph Sletager

(b) (6)

RECEIVED  
BY: \_\_\_\_\_

FOIA #BPA-2014-00787-F

Dear Mr. Sletager:

This is a final response to your request for Bonneville Power Administration (BPA) records under the Freedom of Information Act, 5 U.S.C. § 552. Your request was received in our office on Friday, March 28, 2014, with an acknowledgement letter sent to you on April 4, 2014.

### You requested:

- 1) The BPA Journal Mailing List of approximately 3500 members, to include the mailings regarding the 2012 Fish Accord MOA with the Kalispell Tribe.
- 2) The press release inviting public comment on the 2012 Fish Accord MOA with the Kalispell Tribe.
- 3) The press release posting on the government salmon recovery website
- 4) The method employed to serve notice of the 2012 Fish Accord MOA with the Kalispell Tribe to the affected area of economic impact.
- 5) The written standards and regulations including the hearing and appeals process established by the agency to ensure compliance with procedural due process under the NEPA.

### Response:

BPA has found ten documents in response to your request. All ten documents are on the enclosed CD.

- 1) The BPA Journal Mailing List of approximately 3500 members, to include the mailings regarding the 2012 Fish Accord MOA with the Kalispell Tribe.

See file named "JournalMailingList-redacted.pdf." This is the list used for the letter to interested parties.

BPA is withholding certain information under Exemption 6 of the FOIA. Exemption 6 protects information in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. §

552(b)(6)). Exemption 6 requires balancing the public interest in the information against the individual privacy interest at issue. Here, we assert this exemption to redact names and addresses of private individuals. We find [no/limited] public interest in this information and therefore redact it under Exemption 6.

Information that falls under Exemption 6 cannot be discretionarily released; the right of privacy belongs to the individual, not to the agency. Therefore, we did not analyze this information under the discretionary release guidelines in Attorney General Holder's March 19, 2009, FOIA Memorandum.

2) The press release inviting public comment on the 2012 Fish Accord MOA with the Kalispell Tribe.

BPA has no responsive documents.

3) The press release posting on the government salmon recovery website

<https://www.salmonrecovery.gov/Partners/FishAccords/KalispellTribe.aspx>

The website above links to the MOA itself. BPA is including the Record of Decision and the MOA Fact Sheet that were once linked to the Salmon Recovery website, but have since been removed. See files named "MOA\_ROD.pdf" and "Kalispel MOA fact sheet – June 302011.pdf."

4) The method employed to serve notice of the 2012 Fish Accord MOA with the Kalispell Tribe to the affected area of economic impact.

The Press Release about the MOA is posted publically at the following web address:

<http://www.bpa.gov/news/newsroom/Pages/Kalispel-Tribe-joins-federal-agencies-to-protect-bull-trout-and-other-species.aspx>

The joint BPA, U.S. Army Corps of Engineers, Kalispel Tribe, and Bureau of Reclamation Press Release is enclosed: see file named "Kalispel Tribe joins federal agencies to protect bull trout and other species.pdf."

The BPA Journal dated July 2012 (enclosed) announced the MOA on page 3, the BPA Press Release (web address provided above) and the posting to the Salmon Recovery web page (also provided above) are released in their entirety. See file named "Journal-201207-July-2012.pdf."

BPA is releasing the enclosed "Letter to Interested Parties" in its entirety: see file named "Kalispel MOA Public Ltr 6.30.2011.pdf." This letter was mailed to parties on the BPA mailing list provided in its redacted form for item #1 of your request.

5) The written standards and regulations including the hearing and appeals process established by the agency to ensure compliance with procedural due process under the NEPA.

BPA is releasing the following documents that describe the NEPA process followed by BPA in their entirety:

- “NEPA Delegation of Authority.pdf”
- “A\_Citizens\_Guide\_to\_NEPA.pdf”
- “WhatIsNEPA.050709.pdf”
- “Overview of the NEPA Review Process.pdf”
- “enviro-NEPA-A-guide-to-being-heard-in-the-process.pdf”

More information on the NEPA requirements can be found at the Environmental Protection Agency web site: <http://www.epa.gov/compliance/nepa/>.

Pursuant to Department of Energy Privacy Act regulations at 10 C.F.R. § 1008.11, you may administratively appeal this response in writing within 30 calendar days. If you choose to appeal, please include the following:

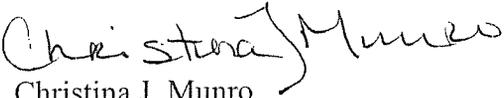
- (1) A copy of your original request;
- (2) A copy of the determination letter; and
- (3) A statement detailing the reasons for your belief that the denial was made in error.

Clearly mark both your letter and envelope with the words “Privacy Act Appeal,” and direct it to the following address:

Director, Office of Hearings and Appeals:  
 Department of Energy  
 1000 Independence Avenue SW  
 Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions, please contact Kim Winn, FOIA Public Liaison, at 503-230-5273.

Sincerely,

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

Enclosure: CD

## **Winn, Kim S (BPA) - D-1**

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**From:** Patel, Shiwali <Shiwali.Patel@Hq.Doe.Gov>  
**Sent:** Wednesday, June 04, 2014 2:35 PM  
**To:** Mautner, Paul F (BPA) - LG-7  
**Cc:** Winn, Kim S (BPA) - D-1; Munro, Christy (BPA) - D-B1  
**Subject:** RE: FOIA Appeal FIA-14-0030 (Request BPA-2014-00787-F)

Mr. Mautner,

Thank you for your response. While there may be the additional letter that is responsive to the Appellant's FOIA Request, for which I may remand in part this matter, I still need to address BPA's usage of Exemption 6 to redact information in the 3500 person mailing list that was released to him. Can you please provide an electronic copy of the unredacted and redacted versions of that mailing list and provide any additional support or explanation for Exemption 6 to the withheld information?

Please let me know if you have any questions.

Thank you,

Shiwali

-----Original Message-----

**From:** Mautner, Paul F (BPA) - LG-7 [mailto:pfmautner@bpa.gov]  
**Sent:** Wednesday, June 04, 2014 11:40 AM  
**To:** Patel, Shiwali  
**Cc:** Winn, Kim; Munro, Christy  
**Subject:** RE: FOIA Appeal FIA-14-0030 (Request BPA-2014-00787-F)  
**Importance:** High

Ms. Patel:

I have had a chance to discuss with the program office and the Authorizing Official the two specific issues that Mr. Sletager has raised on appeal.

1) BPA released to Mr. Sletager the requested BPA Journal mailing list, albeit in redacted form. From my discussions with staff, however, it appears that what the requester perhaps was really after was the mailing list for a June 30, 2011 letter from former BPA Administrator Steve Wright (copy attached). The letter fits with the second half of his particular request asking for the list associated with "mailings regarding the 2012 Fish Accord MOA with the Kalispell Tribe."

A clarifying conversation about the scope of this request would probably be helpful, although I don't think BPA can do so while the FOIA request is on appeal. If my assumption on what happened is accurate, I suggest that this request be remanded for re-processing by BPA. In effect, BPA would process the request as one asking for the mailing list used for the June 30, 2011 letter.

2) BPA misinterpreted the request for BPA standards and regulations in the NEPA process. The AO incorrectly assumed that the requester was only after general background information about the NEPA process. BPA does not have its own "written standards and regulations" for the NEPA process. BPA, as part of DOE, follows the DOE NEPA regulations at 10

CFR 1021.100 to 1021.410. (I also confirmed with both the program office, and BPA's NEPA attorney, that BPA has no separate NEPA written standards and regulations.)

I hope that this answers your questions, and perhaps allows for a remand of the first portion of Mr. Sletager's FOIA appeal regarding the mailing list. If you have any additional questions or concerns, please let me know.

Regards

Paul Mautner  
Office of General Counsel  
Bonneville Power Administration  
503-230-5199

-----Original Message-----

From: Mautner,Paul F (BPA) - LG-7  
Sent: Monday, June 02, 2014 12:51 PM  
To: 'Shiwali.Patel@Hq.Doe.Gov'  
Cc: Munro,Christy (BPA) - D-B1; Winn,Kim S (BPA) - D-1  
Subject: Re: FOIA Appeal FIA-14-0030 (Request BPA-2014-00787-F)

Ms. Patel:

Confirming our telephone conversation of a few minutes ago, BPA will get to you the information that you requested in your email by the end of this week. I have not yet had the opportunity to speak with the individuals who did the search for the requested polices. In addition, I have been informed that the requester may have been sent an incorrect (but redacted) mailing list. If that is true, BPA will re-process that portion of the request, if you agree it is appropriate to do so.

Thank you for your patience. If you have any questions in the meantime, please call or email me.

Regards

Paul Mautner  
Office of General Counsel  
Bonneville Power Administration  
503-230-5199

-----Original Message-----

From: Patel, Shiwali [mailto:Shiwali.Patel@Hq.Doe.Gov]  
Sent: Wednesday, May 28, 2014 2:49 PM  
To: Winn,Kim S (BPA) - D-1  
Subject: FOIA Appeal FIA-14-0030 (Request BPA-2014-00787-F)

Good afternoon, Ms. Winn.

We received the attached FOIA Appeal earlier today from Ralph Sletager. He contests the adequacy of search for responsive documents and the application of Exemption 6 to the released documents. Please review his Appeal and provide me with your response by next Wednesday, June 4, as to why you applied Exemption 6 to the withheld material. Also, by then, please provide me with a copy of the redacted and unredacted documents that were released to the Appellant.

Moreover, could you provide me with a description of the search methodology that was conducted for the requested documents (i.e. search terms used, databases searched, whether there was a search of electronic files and/or hard copies) and explain what kind of information was targeted while searching? Could you also let me know if there is any other location where the requested information might reside? Could you also provide me with the name of the individual(s) who were charged with conducting the search?

Please let me know if you have any questions.

Thank you,

Shiwali

Shiwali G. Patel  
Attorney Advisor (Administrative Judge)  
Office of Hearings and Appeals  
U.S. Department of Energy  
Room 7035, 7th floor, 950 L'Enfant Plaza  
Washington, DC 20585  
shiwali.patel@hq.doe.gov  
Phone: (202)287-1382  
Fax: (202) 287-1415

## Department of Energy

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

EXECUTIVE OFFICE

June 30, 2011

In reply refer to: A-7

### **To: Interested Parties**

The Bonneville Power Administration (BPA), the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation (collectively, the Action Agencies) are proposing to enter into a Memorandum of Agreement (MOA) with the Kalispel Tribe of Indians (Tribe) in Washington State. The proposed MOA is a direct outcome of the enhanced communication and cooperation among the Action Agencies and the Tribe to pursue mutual goals of protecting and recovering fish and wildlife affected by the Federal Columbia River Power System (FCRPS) and the Upper Snake Projects.

The proposed Kalispel MOA involves a ten year funding commitment by BPA. As a result, BPA is providing a 30-day period for the public to review and comment on the proposed MOA. Prior to signing the MOA, BPA would assess the comments received, and prepare a Record of Decision (ROD) for the BPA Administrator's signature. Details about commenting are provided below.

Through the proposed MOA, the Action Agencies commit to implement activities that support the protection and recovery of fish and wildlife affected by the FCRPS and the Upper Snake Projects and reinforces the Tribe's role as a mitigation partner. The proposed MOA provides for long-term funding certainty for fish and wildlife projects; supports implementation of the FCRPS Biological Opinion for salmon and steelhead issued by NOAA Fisheries Service and the U. S. Fish and Wildlife Service's Biological Opinion for bull trout; and supports BPA's trust responsibility to the Tribe. The proposed MOA commits approximately \$39.8 million through September 2021 (with the possibility of adjustments should new operational impacts to fish or wildlife be identified). If BPA enters into the MOA, funding from BPA ratepayer monies would continue and expand existing fish and wildlife projects and implement new priority projects. The proposed MOA and a fact sheet may be viewed at <http://www.salmonrecovery.gov/>.

In 2003, BPA prepared a policy level National Environmental Policy Act (NEPA) document - the Fish and Wildlife Implementation Plan (FWIP) Environmental Impact Statement (EIS). The FWIP EIS examined the possible environmental consequences of alternative policies to guide the implementation and funding of BPA's fish and wildlife mitigation and recovery efforts. In the FWIP Record of Decision (ROD), BPA adopted a comprehensive and consistent policy that reflects regional fish and wildlife policy guidance. The FWIP ROD also provided for tiering future fish and wildlife decisions that are consistent with the adopted policy.

**Comment:** Consistent with BPA's commitment to a public process before obligating substantial funds or making a tiered decision under the FWIP EIS and ROD, BPA is now seeking public comment on the proposal to enter into the MOA with the Kalispel Tribe as negotiated and is also requesting public comment on any potentially associated environmental effects. This 30-day public comment period closes at midnight on August 1, 2011. All public comments will be considered by BPA in the Kalispel MOA Record of Decision (ROD).

Comments may be submitted to BPA:

- 1) online at <http://www.bpa.gov/comment>;
- 2) via mail to Bonneville Power Administration, Public Affairs Office – DKE-7,  
P.O. Box 14428, Portland, OR 97293-4428;
- 3) via fax to (503) 230-4019.

If you want to receive a hard copy of the MOA ROD when available, your comment must include your complete mailing address: name, address, city, state, and zip code. All comments will be posted as received with only the author's name and affiliation on BPA's Web site at <http://www.bpa.gov/applications/publiccomments/OpenCommentListing.aspx>.

**Copies:** If you would like a hard copy of the proposed MOA (50 pages including attachments) or fact sheet (two pages), you may call BPA's toll-free document request line at (800) 622-4520 and leave a message with the name of the project (Kalispel MOA), your complete mailing address and phone number.

**For More Information:** If you have questions pertaining to the Kalispel MOA, please call Bill Maslen at (503) 230-5549 or toll free at (800) 282-3713 or email him at [wcmaslen@bpa.gov](mailto:wcmaslen@bpa.gov). If you have questions pertaining to the NEPA analysis, please contact Mickey Carter at (503) 230-5885 or toll free at (800) 282-3713 or email him at [macarter@bpa.gov](mailto:macarter@bpa.gov).

We look forward to your comments on the proposed Kalispel MOA.

Sincerely,

*/s/Stephen J. Wright*

Stephen J. Wright

Administrator and Chief Executive Officer