



Department of Energy

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

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

October 13, 2016

In reply refer to: FOIA #BPA-2016-01350-F

Charles Pace, Ph.D.

(b)(6)

Dear Dr. Pace:

This communication serves as the Bonneville Power Administration's (BPA) final response to your Freedom of Information Act (FOIA) request BPA-2016-01350-F. Your request was received in this office on August 23, 2016, and was acknowledged on August 31, 2016.

Request

"Agency record(s) comprising the agreement described in this media statement: 'At the June 29 event, Mainzer and Carol Evans, chair of the tribe's business council, agreed on a 20-year deal that promises to fund for hatchery operations, maintenance and improvements.'"

Response

In accord with the FOIA requirements and practices, BPA has conducted electronic searches of records associated with the following agency offices:

Natural Resources
Fish and Wildlife Division
Washington Implementation
Tribal Affairs

Records responsive to your request were located.

Records Subject to Exemption 4

Certain responsive agency records contained information obtained from The Spokane Tribe of Indians (The Tribe). In accord with 5 U.S.C. § 552(b)(4) (Exemption 4) and Executive Order 12,600 and Department of Energy (DOE) regulations at 10 C.F.R. 1004.11, BPA submitted the records responsive to your request to The Tribe on September 9, 2016. BPA also sent its

solicitation of objection to release under Exemption 4, which protects business trade secrets or other confidential commercial or financial information from release. The Tribe declined to raise any Exemption 4 objections to release.

Records Subject to Exemption 6

5 U.S.C. § 552(b)(6) (Exemption 6) of the FOIA protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." The application of Exemption 6 requires balancing the public's interest in acquiring the information against the individual's privacy interests (NARA v. Favish, 541 U.S. 157 (2004)). If a significant privacy interest is found to exist, but there is no FOIA public interest in disclosure, the information should be protected (Nat'l Ass'n of Retired Fed. Employees v. Horner, 879 F.2d 873, 879 (D.C. Cir. 1989)). Accordingly, BPA asserts Exemption 6 to withhold the following information: the salaries and benefit costs of non-federal individual hatchery employees. BPA can find no public interest in the forgoing information and we have therefore redacted it under Exemption 6.

Records Not Subject to Discretionary Release under Exemption 6

Please be aware that the right of privacy asserted belongs to the individual, not to the agency, and information that falls under Exemption 6 cannot be discretionarily released (Ditlow v. Shultz, 517 F.2d 166, 172 (D.C. Cir. 1975) - "agency assertion of authority to make discretionary disclosure" would "undercut the privacy expectations protected by Exemption 6"). Therefore, BPA did not analyze the forgoing information under any discretionary release guidelines.

Records Release and Certification

In accord with the FOIA, BPA is herein releasing 107 pages of responsive agency records to you with one (1) page containing redactions made under Exemption 6. Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the release and exemption determinations on the information described above. Your FOIA request BPA-2016-01350-F is now closed with all available agency records provided.

Fee

There are no FOIA fees applicable to the fulfillment of your request for BPA records.

Appeal

This decision, as well as the adequacy of the search, may be appealed within 90 calendar days from your receipt of this letter pursuant to DOE FOIA regulations 10 C.F.R. § 1004.8. Appeals should be addressed to:

Director, Office of Hearings and Appeals,
HG-1, L'Enfant Plaza
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-1615

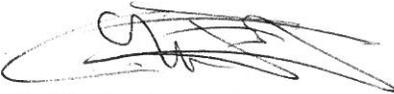
The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. The appeal must contain all of the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

You may contact BPA's FOIA Public Liaison, Sarah Westenberg, at the address at the letter header for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
E-mail at ogis@nara.gov
Telephone: 202-741-5770; Toll free: 1-877-684-6448; Fax: 202-741-5769

If you have questions about this communication you may contact James King (CorSource Technology Group, Inc.), assigned to the BPA FOIA office at 503-230-7621.

Sincerely,



C. M. Frost
Freedom of Information/Privacy Act Officer

Responsive Records Attached

June 4, 2015

**SPOKANE TRIBAL HATCHERY
EXTENDED AND AMENDED
OPERATION AND MAINTENANCE AGREEMENT
between
BONNEVILLE POWER ADMINISTRATION
and
SPOKANE TRIBE OF INDIANS**

This amended and extended Spokane Tribal Hatchery Operation and Maintenance Agreement (**agreement**), executed June 04, 2015, between the Bonneville Power Administration (**BPA**) and the Spokane Tribe of Indians (**Tribe**), a federally recognized tribe. This agreement refers to the Tribe and BPA together as “**the parties**.”

Background of the Spokane Tribal Hatchery

A. BPA has the express authority and duty under section 4(h)(10)(A) of the Pacific Northwest Electric Power Planning and Conservation Act (Act), 16 U.S.C. § 839b(h)(10)(A), to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of the hydroelectric projects comprising the Federal Columbia River Power System—including Grand Coulee Dam. BPA must fulfill this duty in a manner consistent with the purposes of the Act, the Columbia River Basin Fish and Wildlife Program (Program) developed by the Pacific Northwest Power and Conservation Council (Council), and other environmental laws. BPA implements its fish and wildlife mitigation responsibilities in a manner that also helps fulfill the Federal government’s general trust responsibility.

B. The Spokane Tribe of Indians is a federally recognized Indian Tribe with jurisdiction over the Spokane Indian Reservation, established August 18, 1877, and operates under a constitution first approved by the Secretary of the Interior on June 27, 1951. The Tribe has authority to enter into this agreement pursuant to Article VIII of the Spokane Constitution. The Tribe has reserved fishing rights within its Reservation waters, and fishing, boating, and hunting rights within portions of the Lake Roosevelt under 16 U.S.C. § 835d. Tribe desires to ensure an abundant, healthy and continuing supply of fish in Lake Roosevelt adjacent to the Spokane Indian Reservation (**Reservation**) and its waters for harvest and consumption.

C. To help fulfill the Tribe’s desire for an enhanced fishery in Lake Roosevelt, and to help meet BPA’s mitigation duties under the Act, in June 1990 the Tribe executed a 25-year renewable lease with BPA (Contract No. DE-MS79-90BP92905) so BPA could construct a hatchery on the Reservation to produce rainbow trout, kokanee, and other resident fish species for stocking Lake Roosevelt and other reservation waters. Simultaneously the parties entered a 25-year renewable operations and maintenance agreement (**1990 O&M agreement**) establishing the commitments and processes necessary for BPA to fund the Tribe to operate and maintain the hatchery.

D. Congress provided express approval for BPA to construct the Spokane Tribal Hatchery (**hatchery**) (aka **Galbraith Springs Hatchery**) in the Energy and Water Development Appropriations Act of 1990, 103 Stat. 641, P.L. 101-101. BPA constructed the hatchery as planned,

the Tribe provided water as agreed, and for over two decades BPA has funded the Tribe to operate and maintain the hatchery. Pursuant to the 1990 lease, the Tribe now owns the hatchery and improvements described in **Exhibit 3**. A specific listing of equipment, vehicles, computers and improvements the parties intend for the Tribe to own is set forth in **Exhibit 4**.

E. The parties now intend to renew commitments to this hatchery project with a restated O&M Agreement for a 20-year term with an option to renew again. The parties are renewing their commitment and will follow the principal goals of coordination and cooperation as propounded in the doctrine of a government-to-government relationship.

F. The Spokane Tribal Hatchery is one of three artificial production projects whose operations are coordinated to create harvestable rainbow trout and kokanee salmon fisheries in Lake Roosevelt. The other artificial production components include the Sherman Creek Hatchery operated by the State of Washington and the Lake Roosevelt Rainbow Trout Net Pen Projects operated by volunteers. The Hatchery supports a segregated harvest program for sport and tribal fisheries. This fishery helps partially mitigate the anadromous fish affected by the construction and operation of Grand Coulee Dam.

G. The hatchery has current collective annual release goals including: 750,000 triploid (sterile) rainbow trout yearlings released at 5 fish per pound; 84,000 triploid rainbow trout yearlings released at 1 fish per pound, and; 250,000 triploid kokanee salmon yearlings released at 5 fish per pound. Release goals may vary determined by ongoing research, monitoring and evaluation results. Release goals are incorporated as needed into Lake Roosevelt Rainbow Trout and Kokanee Salmon Management Plans and will be set forth in an annual intergovernmental contract for the hatchery. Release goals are also contingent on the hatchery's and net pens' production capacities which change with target release size and number.

The parties now agree as follows:

1. Purpose

This agreement renews the parties' commitment to an O&M agreement to assure continuous, cost-effective, and prudent operation and maintenance of the hatchery. This agreement also recognizes that the Tribe now owns the hatchery as referenced in the 1990 lease agreement. The parties will use the hatchery to produce resident fish above Grand Coulee Dam to help partially mitigate for anadromous fish losses incurred as a result of the construction and operation of Chief Joseph and Grand Coulee Dams.

2. Definitions

2.1 Capital Improvement means any addition to the hatchery or related facilities that costs at least \$1,000,000 and has a life expectancy of at least 15 years.

2.2 Contracting Officer (CO) means a person delegated authority by BPA to enter into, administer, or terminate contracts on behalf of BPA pursuant to the Bonneville Purchasing

Instructions (BPI).¹

2.3 *Contracting Officer's Technical Representative (COTR)* means a person within BPA who has been delegated specific responsibilities by the CO for technical matters.

2.4 *Consult or Consultation* means to timely discuss and, as appropriate, meet through BPA and Tribal representatives. This duty does not imply or establish any additional duties or rights favoring either party.

2.5 *Expansion* means changes in hatchery design or operation which are

- i. intended to rear more fish than the designed capability of the hatchery,
- ii. cause the hatchery to require more water than 11.5 cubic feet per second (cfs) as discussed in section 7.1; or
- iii. result in changing species.

2.6 *Fiscal year (FY)* means the year beginning October 1 and ending September 30.

2.7 *Hatchery or Spokane Tribal Hatchery* means the fish hatchery constructed by BPA and owned by the Tribe. The hatchery includes (1) the real property described in Exhibit 3, (2) the facilities, improvements, and other real or personal property constructed and operated on the real property described in Exhibit 3, and (3) ingress and egress on, and use of those Spokane Reservation roadways identified in Exhibit 3.

2.8 *Hatchery Technical Coordination Team or Coordination Team* means the team created pursuant to section 7 of the 1990 O&M agreement. The team includes representatives from the Tribe, the Confederated Colville Tribes, and Washington Department of Fish and Wildlife. The team's purpose is to assist the parties in making technical operational decisions for the hatchery as provided in section 7.5 of this agreement.

2.9 *Operate and Operation* means operation, maintenance, and repair of the hatchery, collection of adult eggs, rearing and planting of fish produced at the hatchery, the use of water at the hatchery, and audits and evaluations of the hatchery.

2.10 *Prudent fish hatchery practice* at any particular time is best management practice, but is not intended to be limited to any optimum practice, method or act, to the exclusion of all others, but rather to be a spectrum of reasonable practices, methods or acts. It includes those practices, methods and acts:

- i. utilized by owners, agencies, tribes and others responsible for the operation of public fish hatcheries producing hatchery fish of the same species or subspecies, and for purposes similar to those of the Spokane hatchery; and
- ii. which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish specified

¹ Bonneville Purchasing Instructions are available online at:
<http://www.bpa.gov/Doing%20Business/purchase/Pages/default.aspx>

production objectives consistent with disease, water and other pertinent fish management policies.

3. Exhibits

Exhibit 1	Tribe's Resolution Approving this Agreement
Exhibit 2	Initial 2015 Annual Intergovernmental Contract
Exhibit 3	1990 Hatchery Lease with Exhibits
Exhibit 4	List of Improvements and Other Personal Property Conveyed to Tribe
Exhibit 5	Asset Management and Improvement Schedule

4. Effective Date

All of the following actions must be taken before this agreement is final. This agreement becomes effective on the date the last of these actions is complete.

- i. The Tribe issues a resolution approving this agreement (**Exhibit 1**); and
- ii. the parties sign this agreement.

5. Term

5.1 Initial Term. This is a 20-year renewable agreement beginning on the effective date as defined in section 4 and expiring on June 1, 2035.

5.2 Right to Renew. BPA can renew this agreement for an additional 20-year term under the same terms and conditions, unless modified by the parties. BPA must notify the Tribe in writing by June 1, 2034, that it intends to renew this agreement.

6. BPA's Duties

6.1 O&M Contract Consolidation and Modernization. BPA's commitment is to negotiate a new template for an intergovernmental contract (**intergovernmental contract**), **Exhibit 2**, that uses BPA's standard work elements for artificial production facilities. The intergovernmental contract and its work elements replace requirements in the 1990 O&M agreement (such as the need for the Tribe to prepare an Annual Operating Plan, Operations and Maintenance Manual, and out-planting plan). Within 60 days of this agreement being effective, BPA shall offer the Tribe an annual or multi-year intergovernmental contract for the operation and maintenance of the hatchery, substantially similar to Exhibit 2. Activities funded by BPA in these intergovernmental contracts are subject to environmental review by BPA environmental compliance staff.

6.3. Intergovernmental Contracts. BPA shall continue to offer the Tribe annual or multi-year intergovernmental contracts for funding the operation and maintenance of the hatchery, substantially similar to the previous year's contract, for the duration of this agreement.

These intergovernmental contracts will expressly allow the Tribe to use funds provided by BPA to purchase insurance coverage for the hatchery.

6.4. Intergovernmental Contract Budgets. BPA shall base the contract budget on the values shown in Exhibit 2 and as modified by subsequent agreement by the parties. If the parties do not agree on a budget for a new intergovernmental contract then BPA shall use the same amount from the previous year's contract.

7. Tribe's Duties

7.1 Operation and Maintenance. The Tribe shall operate the hatchery following all the terms and conditions of this agreement, the intergovernmental contracts, and all applicable laws.

7.2 Failure to Appropriately Operate and Maintain the Hatchery. If the Tribe does not operate the hatchery according to this agreement, then BPA may invoke dispute resolution or seek termination as provided in sections 9 and 10. If the Tribe does not operate the hatchery according to the intergovernmental contract, then the BPA's remedy will be as provided by the intergovernmental contracts.

7.3 Hatchery Access. The Tribe shall continue to provide BPA full access to the hatchery at all times, upon reasonable oral or written notice, at no additional cost until this agreement expires. The Tribe agrees that this access includes the right of BPA to use tribal roads to access the hatchery pursuant to this agreement and the intergovernmental contract.

The Tribe also agrees to provide BPA access to all hatchery records upon reasonable request.

7.4 Hatchery Water. The Tribe warrants and agrees to continue to provide water for the hatchery as follows.

7.4.1.1 The Tribe will provide sufficient water from available sources for efficient operation of the hatchery.

7.4.1.2 The Tribe will seek available, cost efficient technologies to increase the efficiency of all water use at the hatchery.

7.4.1.3 The Tribe will secure and provide any additional water needed to fully utilize any capital repairs, replacements, or expansions to the hatchery.

7.4.1.4 The Tribe will diligently pursue and secure alternative sources of water if it does not have sufficient water to operate the hatchery under this paragraph, or seek funding to obtain additional water from other sources, prior to seeking any funding from BPA.

7.5 Hatchery Technical Coordination Team. The Tribe will continue to participate in the Hatchery Technical Coordination Team (HTCT) comprised of representatives from the Colville Confederated Tribes and Washington Department of Fish and Wildlife who are technically experienced and knowledgeable in fish hatchery matters.

7.5.1. The Tribe shall strive to ensure that the coordination team has a consensus recommendation for BPA on hatchery performance and practice relative to the production objectives at least 60 days before an intergovernmental contract is set to

expire.

7.5.2. The Tribes shall facilitate annual HTCT meetings to review production and release goal recommendations from the Lake Roosevelt Fisheries Evaluation Program (Research, Monitoring & Evaluation mechanism).

7.5.3. The Tribe shall strive to incorporate recommendations with HTCT consensus in Annual Operating Plans provided as a Work Element in BPA annual Statement of Work Reports.

7.5.4. The parties shall take any report submitted pursuant to Section 7.5.3 into consideration and determine by mutual agreement whether to modify future intergovernmental contracts to address the coordination team's findings and recommendations.

8. Asset Management and Improvement

8.1 The parties included **Exhibit 5**, a list of **Asset Management and Improvement Needs**, to reflect their intent to address hatchery repairs and replacements. Exhibit 5 creates no rights or obligations for either party. BPA will, however, endeavor to prioritize and fund the needs shown in Exhibit 5 as additional funds become available. To help ensure all the needs identified in Exhibit 5 are ultimately met, the parties agree to work with regional asset management planning efforts, while still prioritizing this agreement.

8.2 The parties agree to engage in future planning discussions about the possibility of revising the purpose of the hatchery, if there is mutual agreement to do so. This agreement would be subject to the Council's three-step process and appropriate environmental review by BPA environmental compliance staff, as applicable.

9. Termination of this Agreement

9.1 No affect on other contracts. Termination of this agreement by either or both parties does not affect the parties' obligations under any other agreement, including any intergovernmental contract in place regarding the hatchery.

9.2 Termination for Convenience. The parties may terminate this agreement in whole or in part if, after consultation, they mutually agree that continued operation of the hatchery is no longer desirable.

9.3 Notice of Deficiency. If a party believes the other has failed to fully honor any provision in this agreement, the aggrieved party shall give written notice of such deficiencies informing the other party that the agreement may be terminated in 150 days if the deficiencies which shall be listed in the notice have not been corrected.

i. Consistent with the partnership established under the 1990 O&M agreement, and in this agreement, the parties will provide each other, as appropriate, the technical assistance needed to correct the noticed deficiencies.

ii. If the deficiencies have not been addressed to either party's satisfaction within 150 days from the date of the notice, then either party may seek to terminate the agreement. The aggrieved party shall provide a written notice of termination stating the reasons for termination and the time when termination will occur. Absent any countervailing action by either party, this agreement will become void on the date given in the termination notice.

10. Dispute Resolution

The parties shall attempt in good faith to resolve any dispute arising out of or relating to implementation of this agreement in accordance with this section and prior to any administrative, judicial or other formal dispute resolution procedures. The purposes of this section is to provide the parties an opportunity to fully and candidly discuss and resolve disputes without the expense, risk and delay of a formal dispute resolution.

10.1. If the parties are unable to resolve the dispute through informal dispute resolution, then the dispute shall be elevated to negotiating between executives or officials who have authority to settle the controversy and who are at a higher level of management than the person with direct responsibility for administration of this agreement.

10.2. In the event a dispute over material non-compliance with this agreement has not been resolved by negotiation, the affected Party may withdraw from this agreement.

10.3. In the event the dispute has not been resolved by negotiation, the parties may agree to participate in mediation, using a mutually agreed upon mediator. The mediator will not render a decision, but will assist the disputing parties in reaching a mutually satisfactory agreement. The parties agree to share equally the costs of the mediation.

11. Notice

11.1 Notices to BPA. BPA is deemed to have received an item of correspondence if it is sent by registered mail to the following address:

Fish and Wildlife Division Director
Bonneville Power Administration
P.O. Box 3621—KEW
Portland, OR 97208

11.2 Notices to the Tribe. The Tribe is deemed to have received an item of correspondence if the correspondence is sent by registered mail to the following address:

Tribal Business Council Chairman
Spokane Tribe of Indians
P.O. Box 100
Wellpinit, WA 99040

11.3. Each party shall notify the other party of any change in addressee or address within 30

days of such change.

12. Sovereign Immunity and Taxation

12.1 Consent for Federal Court Jurisdiction and Sovereign Immunity. The Tribe consents to suit by BPA in any Federal Court of competent jurisdiction for the purpose of enforcing this agreement and expressly waives its immunity to the extent necessary to allow assertion of such claims.

12.2 Taxation of BPA. The Tribe waives any and all right to assess and collect any and all taxes, levies, charges, fees, fines or penalties from BPA that relate to:

- i. the real property described herein, including water provided;
- ii. all improvements to the property; and
- iii. all operations and maintenance, and research activities related to the hatchery.

13. Administrative Provisions

13.1 Employment. It is the intention of the parties to use their best efforts to offer opportunities for employment to qualified Native Americans in connection with operation and maintenance of the hatchery, including application of Indian preference as allowed by law. This Section shall not prohibit or limit the Tribe from applying its Tribal Employment Rights Ordinance (TERO) Indian-preference clauses to its own operation of the hatchery.

13.2 Tribe's Hold Harmless. The Tribe shall indemnify and hold harmless BPA for any claims or liability directly or indirectly resulting from the Tribe's operation, maintenance, or use of the hatchery. The Tribe assumes responsibility for bona fide claims arising out of negligent hatchery operations, maintenance, and use performed by Tribe to the extent covered by any general liability insurance policy called for in the intergovernmental contract. Nothing in this agreement waives the Tribe's sovereign immunity against claims from parties or persons or entities that are not a party to this agreement. Liability shall be limited to the amount of the general liability insurance policy.

13.3 BPA's Liability. BPA assumes full responsibility for the acts and omissions of its employees pursuant to the Federal Tort Claims Act, 16 U.S.C § 2671 *et seq.*

13.4 Trust Responsibility. This agreement is not intended to, and does not, create any trust responsibility, substantive or procedural, enforceable at law or equity, by any person or entity, including a party, against any party, its agencies, officers, or assigns that is not authorized under law, nor is it intended to deny the existence of, or diminish, any such responsibility that is authorized under law.

13.5 Assignment. This agreement can be assigned only upon the mutual consent of the parties.

13.6 Representatives of the Parties. Any person designated pursuant to the terms of this agreement as a representative of either BPA or the Tribe shall not be authorized to act in a representative capacity under this agreement until and unless the other party has been advised at least five days before in person, by telephone, or by email with a confirming response.

13.7 No Surprises. Each party will make best efforts to consult with the other prior to taking any action that could reasonably be interpreted as inconsistent with any part of this agreement. To assist in this, the parties will each designate an initial policy or legal contact point. The formality and nature of the consultation will likely vary depending on circumstances. The initial contact representative shall attempt to agree on what form of consultation is required. In some instances, contacts between representatives may suffice for consultation, while in others they may need to recommend additional steps. Consultations should be as informal and with the least amount of process necessary to ensure that the good-faith obligations underlying this agreement are followed.

13.8 Third Parties. This agreement in no way expressly or otherwise implies a right of action by third parties for enforcement of any terms of this agreement.

IN WITNESS WHEREOF, the parties have signed this agreement below.
Bonneville Power Administration

By: F. Lorraine Bodi
F. Lorraine Bodi
Vice President
Environment, Fish and Wildlife

Date: 6/4/15

By: Rudy J. Peone
Rudy Peone
Chairman
Spokane Tribe of Indians

Date: 6/4/15

EXHIBITS

- | | |
|------------------|--|
| Exhibit 1 | Tribe's Resolution Approving this Agreement |
| Exhibit 2 | Initial 2015 Annual Intergovernmental Contract |
| Exhibit 3 | 1990 Hatchery Lease with Exhibits |
| Exhibit 4 | List of Improvements and Other Personal Property Conveyed to Tribe |
| Exhibit 5 | Asset Management and Improvement Schedule |

RESOLUTION
Spokane Tribal Resolution 2015-252

APPROVING AMENDED AND EXTENDED SPOKANE TRIBAL HATCHERY OPERATION AND MAINTENANCE AGREEMENT WITH BONNEVILLE POWER ADMINISTRATION FOR A TERM OF 20 YEARS WITH AN OPTION FOR BONNEVILLE POWER ADMINISTRATION TO RENEW FOR AN ADDITIONAL 20 YEARS

WHEREAS, the Spokane Tribal Business Council is the duly constituted governing body of the Spokane Tribe of Indians by the authority of the Constitution of the Spokane Tribe; and

WHEREAS, under the Constitution of the Tribe, the Spokane Tribal Business Council is charged with the duty to administer the affairs and assets of the Tribe under appropriate contracts and agreements; and

WHEREAS, under the Constitution the Spokane Tribal Business Council is charged with the duty to negotiate with and represent the Tribe before Federal, State, and local governments and their departments and agencies; and

WHEREAS, under the Constitution the Spokane Tribal Business Council is charged with the duty to foster, encourage and retain the arts, crafts, culture and traditions of the Tribe and this includes ensuring that Tribal members have the opportunity to access first foods, such as fish; and

WHEREAS, to help fulfill the Tribe's desire for an enhanced fishery above Grand Coulee Dam, and to help meet Bonneville Power Administration's ("BPA") mitigation duties under the Northwest Power Act, in June 1990 the Tribe executed a 25-year renewable lease with BPA (Contract No. DE-MS79-90BP92905) so BPA could construct a hatchery on the Reservation to produce rainbow trout, kokanee, and other resident fish species for stocking Lake Roosevelt and other reservation waters. Simultaneously the parties entered a 25-year renewable operations and maintenance agreement (1990 O&M agreement) establishing the commitments and processes necessary for BPA to fund the Tribe to operate and maintain the hatchery; and

WHEREAS, the current O&M Agreement expires on June 7, 2015 and a restated and revised O & M Agreement was negotiated between the Tribe and BPA during the Fall of 2014 through the Spring of 2015; and

WHEREAS, the Spokane Tribal Business Council has been advised by their negotiation team about the elements of the new O & M Agreement; and

WHEREAS, now before the Spokane Tribal Business Council is the restated and revised O & M Agreement for consideration and approval; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, the Spokane Tribal Business Council has been advised and hereby approves the attached "Spokane Tribal Hatchery Extended and Amended Operation and Maintenance Agreement between Bonneville Power Administration and Spokane Tribe of Indians" ("Agreement"); and

BE IT FURTHER RESOLVED; that the Spokane Tribal Business Council hereby irrevocably waives the Spokane Tribe's sovereign immunity for the sole and limited purpose of enforcing the Agreement as governed by it; and

FINALLY, BE IT RESOVLED, that the Chairman or his designee is hereby granted the authority necessary to sign all necessary documents to finalize the Agreement.

Certification

The foregoing was duly enacted by the Spokane Tribal Business Council on the 5th day of June, 2015, by the vote of 4 for 0 against and 0 abstain under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.


Chairman
Spokane Tribal Business Council

	Yes	No	Abstain	Absent
RP	x			
CE				x
CW	x			
GA	x			
GH	x			

UNITED STATES
GOVERNMENT

INTERGOVERNMENTAL CONTRACT

Mail Invoice To:

fwinvoices@bpa.gov
F & W Invoices - KEWB-4
P. O. Box 3621
Portland OR 97208-3621

Contract : 00067576
Release :
Page : 1

Vendor:
SPOKANE TRIBE OF INDIANS
PO BOX 100
WELLPINIT WA 99040

Please Direct Inquiries to:

KRISTI J. VAN LEUVEN
Title: CONTRACT SPECIALIST
Phone: 503-230-3605
Fax : 503-230-4508

Attn:

Contract Title: 1991-046-00 EXP SPOKANE TRIBAL (GALBR SPRGS) H

Total Value : \$711,017.00
Pricing Method: COST, NO FEE
Performance Period: 01/01/15 - 12/31/15

**** NOT TO EXCEED ****
Payment Terms: % Days Net 15



Contractor Signature
Donnie M. LeBret

Printed Name/Title
12/30/014

Date Signed



BPA Contracting Officer
11/25/2014

Date Signed



Intergovernmental Contract 67576

**Spokane Tribal Hatchery O&M
Project Number 1991-046-00
Intergovernmental Contract 67576**

**BPA TECHNICAL POINT OF CONTACT (COTR): CARLOS MATTHEW (503) 230-3418
BPA CONTRACTING OFFICER: KRISTI VAN LEUVEN (503) 230-3605**

This intergovernmental contract (IGC) includes the following documents:

1. Face page
2. This page 2 and page 3
3. Terms and Conditions
4. Statement of Work
5. Budget
6. Property Inventory

This IGC replaces the previous one (63771) which will expire 12/31/2014. All property from the previous IGC is transferred to this new one.

Where noted in the contract clause, the prime contractor shall include relevant clauses in any subcontract issued for this work.

This IGC is subject to the cost principles of 2 CFR 200 and Part 25 of the Bonneville Purchasing Instructions.

The Bonneville Purchasing Instructions, Appendix 19-A, Property Management Procedures for Contractors, is hereby incorporated by reference and made a part of this contract. Appendix 19-A may be accessed at:

http://www.bpa.gov/Doing%20Business/purchase/BPI/BPI_13-4_APPENDICES.pdf

The BPA COTR is authorized to perform the following:

- Inspect and review work performed;
- Inspect or witness test presentations or other activities;
- Interpret Technical Specifications;
- Approve submitted deliverables/reports (including property inventory reports);
- Approve invoices;
- Reject nonconforming services, materials, or equipment; and
- Maintain a file of all Contractor property acquisition and disposition documents.

The COTR is not authorized to perform the following:

- Contract Modifications that change the contract price, technical requirements or time for performance;
- Suspension or termination of the Contractor's right to proceed, either for default or for convenience of BPA;
- Final decisions on any matters subject to appeal, as provided in a disputes clause



Intergovernmental Contract 67576

Please mail invoices with above IGC # to: Bonneville Power Administration
Attn: **Fish & Wildlife Invoices / KEWB-4**
PO Box 3621
Portland, OR 97208-3621
fwinvoices@bpa.gov

We now have a central mailbox to use for invoices. It is located at fwinvoices@bpa.gov. All invoices should be submitted in PDF format. Please put the following information in the email subject line: entity/contract number/invoice performance period/invoice #invoice amt. when mailing future invoices. A separate email is required for each invoice.

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UNIT 1 — SCHEDULE

CONTRACT TYPE (7-1) (JUL 13)(BPI 7.10)

This is a cost reimbursement type contract.

PROJECT RENEWAL (IGC'S) (7-51) (SEP 98)

This Project may be incrementally funded on an annual basis subject to BPA's favorable determination of the following:

- (1) Availability of adequate funds **for the project**.
- (2) Required reports were submitted and contained required data.
- (3) Results demonstrate progress towards project goals was equal to or greater than established by the Intergovernmental Contract.
- (4) The next year's work statement has been approved by BPA.
- (5) The annual formal presentation of the project status, if required, has been completed on a timely basis; and BPA desires to continue the project.

LIMITATION ON TRAVEL COSTS (22-50) (SEP 10)

Costs incurred for lodging, meals, and incidental expenses shall be reimbursed on an actual cost basis to the extent that they do not exceed, on a daily basis, the per diem rates in effect at the time of travel as set forth in the Federal Travel Regulation, prescribed by the General Services Administration, for travel in the conterminous 48 United States. Per Diem shall be authorized for travel in excess of 12 hours and shall not exceed 75% of the daily rate for the first and last day of official travel. Lodging and other expenses exceeding \$75.00 must be supported with receipts, which shall be submitted with the request for payment.

Airline costs will be reimbursed on an actual cost basis to the extent determined reasonable and allocable under Part 13 of the Bonneville Purchasing Instructions. Generally, airline costs will be limited to coach or economy class. Any variation from these requirements must be approved by the Contracting Officer. Contractors may request a letter from the Contracting Officer, authorizing access to an airline, lodging, or other rates negotiated for government travel to the extent such authorization is honored by the service providers.

Per Diem rates are available at: <http://www.gsa.gov/portal/category/21287>

The Federal Travel Regulations are available at: <http://www.gsa.gov/portal/content/102886>

UNIT 2 — CONTRACT CLAUSES

PAYMENT AND TAXES

IGC ELECTRONIC FUNDS TRANSFER PAYMENT (22-54) (DEC 04)

- (a) Payment Method. Payments under this contract, including invoice and contract financing payments, will be made by electronic funds transfer (EFT). Contractors are required to provide its taxpayer identification number (TIN) and other necessary banking information as per paragraph (c) of this clause to receive EFT payment.
- (b) Contractor EFT arrangement with a financial institution or authorized payment agent. The Contractor shall designate to BPA, as per paragraph (c) of this clause, and maintain at its own expense, a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under all BPA contracts, unless the BPA Vendor File Maintenance Team is notified of a change as per paragraph (d) of this clause. An initial designation should be submitted after award, but no later than three weeks before an invoice or contract financing request is submitted for payment. **Electronic Funds Transfer will only be approved to one EFT account number per Vendor name and location.**
- (c) Submission of EFT banking information to BPA. The Contractor shall submit EFT enrollment banking information directly to BPA Vendor File Maintenance Team, using Substitute IRS Form w9e, Request for Taxpayer Identification Number and Certification. This form is available either from the Contracting Officer(CO) or from the Vendor File Maintenance Team. Submit completed enrollment form to the Vendor Team. Contact and mailing information:
- Bonneville Power Administration
PO Box 491
ATTN: NSSS - MODW Vendor Maint.
Vancouver, WA 98666-0491
- E-mail Address: VendorMaintenance@BPA.gov
Phone: (360) 418-2800
Fax: (360) 418-8904
- (d) Change in EFT information. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall be responsible for providing the changed information to the BPA Vendor File Maintenance Team office. The Vendor File Maintenance Team must be notified 30 days prior to the date such change is to become effective.
- (e) Suspension of Payment. BPA is not required to make any payment under this contract until receipt of the correct EFT payment information from the Contractor.
- (f) EFT and prompt payment. BPA shall pay no penalty on delay of payment resulting from defective EFT information. BPA will notify the Contractor within 7 days of its receipt of EFT information which it determines to be defective.
- (g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the Assignment of Claims clause of this contract, the assignee shall provide the assignee's EFT information required by paragraph (c) of this clause.

TERMS AND CONDITIONS

PAYMENTS IN ARREARS (25-50) (JUN 09)

(a) The contractor shall submit proper invoices on a monthly basis in arrears to:

Bonneville Power Administration
(Program Analyst-KEWB-4)
PO Box 3621
Portland OR 97208-3621
fwinvoices@bpa.gov

A proper invoice must include all of the following information:

- 1) Name of contractor (must reasonably match the name on the contract);
 - 2) Contractor address (only when not set up as Electronic Funds Transfer);
 - 3) Invoice date;
 - 4) BPA contract number;
 - 5) Contractor invoice number (must be a number unique to the contractor and not used on any other invoice with BPA);
 - 6) Invoice Performance Period (e.g., "For work actually performed during the period of June 1 through June 30, 2003"). If the invoice performance period covers more than one budget period or BPA fiscal year, the contractor must provide a sub-total of the costs attributable to each budget period or fiscal year. For example, work performed prior to September 30 should be sub-totaled separately from work performed after September 30);
 - 7) Shipping terms, if applicable (i.e., FOB Destination);
 - 8) Contact name, title and telephone number;
 - 9) For fixed price contracts: Description (including, for example, contract line/sub-line number), price, and quantity of goods and services rendered;
 - 10) For cost reimbursement contracts: Documentation required under section (b), below.
- (b) For Cost Reimbursement Contracts, the contractor will provide a summary of the approved budget by line item for the current budget year and provide cumulative expenditures, for the current contract period, by line item to date. The categories below are the minimum level of documentation required for each line item.

TERMS AND CONDITIONS

Line Item Description	Minimum Documentation Required	Documentation NOT Required
Salaries – direct labor only	<p>**See note below for exceptions</p> <p>A list, by position title and/or name, showing units of time and pay rate in the same units used in the contract's budget. For example, this could be hours worked multiplied by hourly rate, or in a monthly salary unit.</p> <p>This must be consistent with the labor categories shown in the awarded budget. On a quarterly basis, the COTR may request individual employee names as a "spot-check" to verify the specific individuals whose time is being charged to the contract. Individual invoice approvals shall not be delayed during this "spot-check" and any adjustments, if necessary, shall be made in future payments.</p>	<p>**See note below for exceptions</p> <p>Individual time sheets and employee names.</p>
Salary Fringes	Must be stated at the same rates in the approved indirect rate agreement.	Detailed information supporting fringe benefit amounts, such as insurance policies, etc.
Travel and transportation (including per diem)	Copy of the summary page of the travel voucher or other document(s) that was used to reimburse the person that traveled. List purpose of travel, destinations, and dates if not on the summary page. A single summary page, rather than individual copies of travel vouchers, is required when more than 5 people traveled during the invoice period.	Airline ticket receipts, hotel receipts, meal receipts, etc.
Vehicles	<p>For GSA vehicles identify the cost per month. Do not bill for costs such as new tires, repairs, etc., since these costs are included in the GSA rental cost. Very limited, legitimate non-GSA covered costs may be allowed.</p> <p>Privately Owned Vehicles (POVs) must show costs in miles multiplied by rate. POVs do not receive additional reimbursement for repairs, and maintenance costs.</p>	Copies of receipts, gas bills, etc.

TERMS AND CONDITIONS

Line Item Description	Minimum Documentation Required	Documentation NOT Required
	**See note below for exceptions	**See note below for exceptions
Training/Tuition	Description of the training received, who received the training, dates of the training, and cost of the training. Level of detail must be adequate to determine whether it is allowable under the F&W Contract Management Manual.	Conference registration receipts, payment vouchers, etc.
Equipment and materials greater than \$10,000 per item (non expendable)	Itemized description of the equipment, date of purchase, purchase cost, model number, and serial number.	Copies of receipts, freight bills, etc.
Equipment less than \$10,000 but more than \$1000 per item	Itemized list of equipment with year purchased.	Copies of receipts, freight bills, etc.
Miscellaneous Supplies and Equipment under \$1000 per item	Summarize the kinds of equipment and miscellaneous supplies by type (e.g., office supplies, power tools, camera, etc.).	Copies of receipts, freight bills, etc.
Operations, repair and maintenance (including computer services)	For repairs and maintenance over \$100, itemize what service was obtained and the cost (e.g., repair of a motor).	Copies of payment vouchers, repair invoices, parts bills, etc.
Equipment Rental	For rentals, within a one-month period that exceeds \$500, provide description of what was rented, dates or hours of rental, and rental rates and whether rates include operator.	Rental receipts, time sheets, etc.
Easement, Purchase, or lease of land	Specify area and type. For example: Purchase 500-acre Jones property, grazing allotment, in perpetuity. 15-year lease on riparian zone 300-foot buffer on both sides for ½ mile on June Creek.	

TERMS AND CONDITIONS

Line Item Description	Minimum Documentation Required	Documentation NOT Required
Overhead/Other Indirect Costs	<p>**See note below for exceptions</p> <p>Identify the overhead/indirect rate used to calculate the dollar amount. Rates shall be applied consistent with the current rate negotiated by the Cognizant Audit Agency or by the CO. If a revised rate has been approved by the Cognizant Audit Agency, provide a copy of the approved rate agreement to the CO.</p> <p>Identify the line items to which the indirect rate applies.</p>	<p>**See note below for exceptions</p> <p>Itemized lists or records of costs included in overhead or other indirect costs.</p>
Subcontracts (also include when work being billed was performed by subcontractor)	<p>If the subcontract is a <u>cost reimbursement</u> contract, and greater than or equal to 50% of the contract amount, the subcontract costs shall be provided in the same level of detail as those required above for the prime contractor.</p> <p>If the subcontract is a <u>fixed price</u> contract, itemize each subcontractor cost by: vendor name, work accomplishment dates, and amount spent. This applies for both "progress" payments, or "payment in full" (at the end of performed work) according to the vendors subcontract terms.</p>	<p><u>Cost reimbursement</u> contract: Same guidance as for prime contractor line items.</p> <p><u>Fixed price</u> contract: itemized receipts.</p>
Summary Financial Information	By line item, provide a summary of the approved budget and cumulative expenditures to date for the current contract period (e.g., March 1 st , 2004 through April 30 th , 2005).	

**More detailed information may be required when certain situations occur such as those listed below where the CO, COTR, and their manager determine more detailed information is needed: (this list is not intended to be all inclusive).

- Amounts billed are inconsistent with the negotiated budget, such as:
 - Fringe benefits are different than negotiated
 - Labor category rates and/or categories are different than negotiated
 - Equipment is different or costs more than negotiated
 - Indirect cost rate is different than Cognizant Audit Agency current approved rate or CO negotiated rate, whichever is appropriate
 - Budget line item is expended at a faster rate than expected based on Work Schedule
 - Extensive line item transfer requests are occurring

TERMS AND CONDITIONS

- Overcharges or other invoice abnormalities occur.
- (c) Non-itemized and/or incomplete billings will be returned to the contractor without processing for payment until a corrected invoice is received. Allowable costs shall be determined in accordance with the cost principles of the F&W Contract Management Manual and 2CFR 200.
- (d) Additionally, invoices will be returned if:
 - 1) The amount exceeds the contract award ceiling;
 - 2) The invoice billing period is for work performed after the last day of the contract performance period;
- (e) Adjustments
 - (1) Refunds, Rebates or Credits. Separate statements to BPA indicating a credit amount to be applied by BPA to offset future payments will no longer be accepted by BPA.
 - (A) Active/Current Contracts. Refunds or credits to BPA as a result of previous errors in billing, overpayments, or other rebates or refunds shall be applied by the contractor to the invoice submitted immediately following the identification of the need to issue a refund, credit, or rebate to BPA. The invoice where the credit or refund has been applied shall include an explanation of the reason for the refund or credit. Do not submit the refund or credit as a check or cash.
 - (B) Inactive/Closed Contracts. Refunds or credits to BPA as a result of previous errors in billing, overpayments, or other rebates or refunds shall be returned to BPA in the form of a check. Contact the CO to determine to whom to address the check. An explanation of the reason for the refund or credit shall be included with the check. Please do not submit cash.
 - (2) Corrected or Revised Invoices. If the contractor needs to correct or revise a previously submitted but not yet paid invoice, the contractor –agency shall note on the corrected or revised invoice: “Corrected/Revised Invoice – Corrects invoice #_____ previously submitted.” The revised invoice must have a new date.
- (f) Final payment.

The Contractor shall submit an invoice marked "Final Invoice" promptly upon completion of the work. Upon approval of that invoice and upon the Contractor's compliance with all terms of this contract, the BPA shall promptly pay any allowable costs not previously paid.

PAYMENT (22-12) (JUL 13)(BPI 22.2.5)

- (a) Payment Due Date. Payment (including partial payments or progress payments, if authorized, shall be due not later than thirty (30) calendar days after the later of the date on which BPA actually receives a proper invoice in the designated billing office or the date when the items delivered or completed services are accepted by BPA. According to the Prompt Payment Act, a proper invoice to a Federal Agency is to include bank account information requisite to enable Electronic Funds Transfer (EFT) as method of payment. For purposes of payment only, items will be deemed accepted not later than seven (7) calendar days after proper delivery. If delivered items or completed services are found defective, the provisions of this paragraph will be reapplied upon receipt of a corrected item or service.
- (b) Billing Instructions.

TERMS AND CONDITIONS

- (1) Invoices must include the contractor's name and address, invoice date, contract number, task order number (if applicable), contract line item number, description of products delivered or work performed, price and quantity of item(s) actually delivered or rendered (amounts billed for work performed under a task order must be separately identified by task order number), and the name and address of the person to whom payment will be made, and name (where practicable), title, phone number, mailing address of person to be notified in event of a defective invoice and bank account information required to enable Electronic Funds Transfer (EFT) as method of payment (Invoices will not require banking information if the contractor has that information on file at BPA). Failure to submit a proper invoice may result in a delay in payment including a rejection of invoice pending receipt of a properly amended invoice.
- (2) Contractors may bill monthly, or at more frequent intervals as may be agreed to by the CO. The contractor may submit invoices electronically (e-mail, fax, etc.).
- (c) Payment Method. Payments under this contract will be made by electronic funds transfer whenever possible, or by check in very limited circumstances, at the option of BPA.
- (d) Prompt Payment Act. This contract is subject to the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), and regulations at 5 CFR Part 1315.
- (e) Interest Penalty Payments. If interest penalty payments are determined due under the provisions of the Prompt Payment Act, payment shall be made at the rates determined by the U.S. Treasury Section 611 of the Contract Disputes Act of 1978 (PL 95-56341 U.S.C. § 7109).

CONTRACT CEILING LIMITATION (22-7) (JUL 13)(BPI 22.1.3)

- (a) The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the contract ceiling. The contract ceiling includes all estimated costs (both direct and indirect) and any fee allowance. If this is a cost-sharing contract, the contract ceiling includes both BPA's and the Contractor's share of the cost.
- (b) Notification of CO. The Contractor shall notify the CO in writing at the first indication that the total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.
- (c) Revised Estimate. As part of the notification, the Contractor shall provide the CO a revised estimate of the total cost of performing this contract.
- (d) Contract Ceiling.
 - (1) BPA is not obligated to reimburse the Contractor for costs incurred in excess of the contract ceiling specified in the Schedule or, if this is a cost-sharing contract, the estimated cost to BPA specified in the Schedule; and
 - (2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the contract ceiling specified in the Schedule, until the CO notifies the Contractor in writing that the contract ceiling has been increased.
- (e) No notice, communication, or representation, or from any person other than the CO, shall affect this contract's contract ceiling.

TERMS AND CONDITIONS

- (f) If this contract is terminated or the contract ceiling is not increased, BPA and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

INDIRECT COST RATES WITH CARRY FORWARD (22-19) (JUL 13)(BPI 22.1.3)

Notwithstanding 2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87), the indirect cost rate for this contract will be established based on the estimate of a future period's cost and is not subject to revision. However, differences between the estimated costs and actual costs when they become known are carried forward and are considered in the negotiation of rates for subsequent periods. If actual indirect costs are more than estimated, the amount of the increase is added to the estimate for the next period to determine the fixed rate for the next period. Conversely, if actual indirect costs are less than estimated, the difference between the fixed rate and the actual cost is subtracted from the estimate of the next period to determine the fixed rate for the next period.

GENERAL CONTRACT ADMINISTRATION

CONTRACT ADMINISTRATION REPRESENTATIVES (14-2) (SEP 98)(BPI 14.3.2)

- (a) In the administration of this contract, the Contracting Officer may be represented by one or more of the following: Contracting Officer's Representative for administrative matters, and Contracting Officer's Technical Representative, Receiving Inspector, and/or Field Inspector for technical matters.
- (b) These representatives are authorized to act on behalf of the Contracting Officer in all matters pertaining to the contract, except: (1) contract modifications that change the contract price, technical requirements or time for performance, unless delegated field modification authority (see clause 24-25); (2) suspension or termination of the Contractor's right to proceed, either for default or for convenience of BPA; and (3) final decisions on any matters subject to appeal, as provided in a disputes clause. In addition, Field Inspectors may not make final acceptance under the contract.

STOP WORK ORDER (14-14) (JUL 13)(BPI 14.12.1)

- (a) The Contracting Officer may order the Contractor to suspend all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of BPA.
- (b) The contractor shall immediately comply with the Contracting Officer's order and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order.
- (c) If a stop work order is issued for the convenience of BPA, the Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, if the order results in a change in the time required for, or the costs properly allocable to, the performance of any part of this contract.
- (d) A claim under this clause shall not be allowed (1) for any cost incurred more than 20 days before the Contractor notified the Contracting Officer of the basis of the claim in writing, and (2) unless the claim stating the amount of time or money requested, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

TERMS AND CONDITIONS

CHANGES (25-4) (SEP 98)(BPI 25.4.1)

Any changes in the project objectives, scope, or key personnel, including any proposed transfer of expenditures between all approved budget line items above 5% of the contract total must be approved by the Contracting Officer. All such changes must be submitted in writing through the Contracting Officer's Technical Representative prior to initiating the change.

AUDIT -- INTERGOVERNMENTAL CONTRACT (25-5) (NOV 08)(BPI 25.1.1)

- (a) The contractor-agency shall maintain accounting procedures and practices sufficient to reflect properly all costs claimed to have been incurred in performing this agreement. The Contracting Officer, or representatives of the Contracting Officer, shall have the right to examine books, records, documents and other evidence supporting such claimed costs at all reasonable times at the agency's facilities used in performing this agreement and other locations where records pertaining to this agreement are maintained. Such records shall be retained and made available for examination until 3 years after the budget year in which they were created.
- (b) The contractor-agency shall comply with the provisions of OMB Circular A-133. The contractor-agency shall apply provisions of those circulars concerning program levels requiring audits, audit scope, and determinations of this agreement as if it was a Federal assistance program. If an audit is required, a copy of the audit report shall be sent to the BPA Internal Audit Staff, Mail Stop DN-7, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208, and other distribution of the report as required by the circular.

PUBLICATION/PRESENTATIONS (25-8) (SEP 04)(BPI 25.4.1)

All news releases, presentations, publications, or signage and related materials shall acknowledge BPA support for project activities. BPA strongly endorses the publication of project results in scientific journals to facilitate public access and to preserve project data. Copies of news articles, publications, etc. shall be provided to the COTR. When appropriate, Project Managers shall prepare manuscripts for submission to journal editors, giving due credit for BPA's financial support. BPA reserves the right to publish all or part of the reports submitted pursuant to the terms of this contract.

ENDANGERED SPECIES ACT REQUIREMENTS (25-9) (SEP 98)(BPI 25.1.1)

- (a) To the extent requested by BPA, the contractor-agency shall:
 - (1) Participate in consultations and conferences conducted under Section 7 of the Endangered Species Act (ESA);
 - (2) Obtain, or assist BPA in obtaining permits under Section 10 of the ESA, and
 - (3) Provide to BPA all information, materials, documents, records and other assistance requested by BPA for such consultations, conferences, or the acquisition of permits.
- (b) The contractor-agency shall not proceed with action/activities in this agreement until completion of requisite consultations and conferences and the acquisition of necessary permits. To the extent requested by BPA, the contractor-agency shall comply with conditions identified during consultations and conferences and with the provisions of any requisite permit.

TERMS AND CONDITIONS

STANDARDS OF CONDUCT AND BUSINESS PRACTICES

ORGANIZATIONAL CONFLICTS OF INTEREST (3-2)

(JUL 13)(BPI 3.4.2.1)

- (a) The offeror or contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts which could give rise to organizational conflicts of interest, as defined in BPI 3.4.1, and that the offeror or contractor has disclosed all relevant information to the Contracting Officer.
- (b) The offeror or contractor agrees that, if after award, an organizational conflict of interest with respect to this contract is discovered, an immediate and full disclosure in writing shall be made to the Contracting Officer which shall include a description of the action which the contractor has taken, or proposes to take, to avoid or mitigate such conflicts.
- (c) In the event that the contractor was aware of an organizational conflict of interest prior to the award of this contract and did not disclose the conflict to the Contracting Officer, BPA may terminate the contract for default.
- (d) The provisions of this clause shall be included in all subcontracts for work to be performed in aid of the services provided by the prime contractor, and the terms "contract," "contractor," "Contracting Officer" modified appropriately.

CERTIFICATION, DISCLOSURE, AND LIMITATION REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (3-3)

(JUL 13)(BPI 3.5.5.1)

- (a) As used in this clause:

"Covered Federal action" means:

- (1) The awarding of any Federal contract.
- (2) The extension, continuation, renewal, amendment, or modification of any Federal contract.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and includes Alaskan Natives.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, includes a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

TERMS AND CONDITIONS

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes all contractors and subcontractors. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that:

- (1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract or the extension, continuation, renewal, amendment, or modification of any Federal contract.
- (2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, Standard Form-LLL, Disclosure of Lobbying Activities, to the Contracting Officer.
- (3) He or she will include the language of this certification in all subcontract awards at any tier and that all sub-recipients of subcontract awards in excess of \$150,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10, 000 and not more than \$100,000 for each such failure.

(d) A contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under this clause if paid for with appropriated funds.

(e) The contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (b) of this clause. An event that materially affects the accuracy of the information reported includes--

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- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (f) The contractor shall require the submittal of a certification, and if required, a disclosure form, by any person who requests or receives any subcontract exceeding \$150,000 under the Federal contract.
- (g) All subcontractor disclosure forms (but not certifications), shall be forwarded from tier to tier until received by the prime contractor. The prime contractor shall submit all disclosure forms to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding contractor.
- (h) Any person who makes an expenditure prohibited under this clause or who fails to file or amend the disclosure form to be filed or amended by this clause shall be subject to a civil penalty as provided by 31 U. S. Code 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING (3-4) (JUL 13) (BPI 3.7.1.1)

- (a) Definitions. As used in this clause--

“Driving”—(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. (2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

“Text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

- (b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while driving, dated October 1, 2009.
- (c) The Contractor should adopt and enforce policies that ban text messaging while driving —(1) Company-owned or -rented vehicles or Government-owned vehicles; or (2) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
- (d) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$10,000.

DRUG-FREE WORKPLACE (3-6) (JUL 13)(BPI 3.6.4)

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(a) The contractor agrees that with respect to all employees to be employed under this contract it will provide a drug-free workplace as described in this clause.

(b) Definitions. As used in this clause "Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), as from time to time amended, and as further defined in regulation at 21 CFR 1308.11-1308.15, as amended.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the contractor in connection with a specific contract at which employees of the contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other contractor employees who have other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(c) The Contractor, if other than an individual, shall -- within 30 calendar days after award (unless a longer period is agreed to in writing for contracts of 30 calendar days or more performance duration); or as soon as possible for contracts of less than 30 calendar days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an on-going drug-free awareness program to inform such employees about--

(A) The dangers of drug abuse in the workplace;

(B) The contractor's policy of maintaining a drug-free workplace;

(C) Any available drug counseling, rehabilitation, and employee assistance programs; and

(D) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (c)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (c)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(A) Abide by the terms of the statement; and

(B) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than five (5) days after such conviction.

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- (5) Notify the Contracting Officer in writing within ten (10) days after receiving notice under subdivision (c)(4)(B) of this clause, from an employee, or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subparagraph (c)(4)(B) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - (A) Taking appropriate personnel action against such employee, up to and including termination; and/or
 - (B) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (c)(1) through (c)(6) of this clause.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (c) of this clause may, pursuant to BPI 3.6.3 render the contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.
- (e) The requirements of this clause shall not apply to
 - (1) Solicitations and contracts for the acquisition of commercial items and services.
 - (2) Subcontracts at any tier for the acquisition of commercial items or commercial components at any tier.

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS (3-10) **(FEB14)([BPI 3.9.4.1](#))**

- (a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the Contractor employee whistleblower protections established at 41 U.S.C. § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).
- (b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712.
- (c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts that exceed \$150,000.

SOCIO-ECONOMIC ISSUES

SOCIO-ECONOMIC REQUIREMENTS (25-6) **(MAR 10)(BPI 25.1.1)**

The contractor-agency agrees to comply with the following Federal Laws and Executive Orders:

- (a) Laws and Regulations relating to Equal Employment Opportunity
- (b) Drug Free Workplace Act of 1988, P.L. 100-690

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EMPLOYMENT ELIGIBILITY VERIFICATION (10-18) **(OCT 14) ([BPI 10.1.8.3](#))**

- (a) "Employee assigned to the contract," as used in this clause, means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause as prescribed by 10.7.3. An employee is not considered to be directly performing work under a contract if the employee—
- (1) Normally performs support work, such as indirect or overhead functions; and
 - (2) Does not perform any substantial duties applicable to the contract.
- (b) E-Verify enrollment and verification requirements.
- (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at the time of the contract award, the Contractor shall:
 - (A) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;
 - (B) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (a) (3) of this section); and
 - (C) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (a)(4) of this section).
 - (2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—
 - (A) All new employees.
 - (i) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract within 3 business days after the date of hire (but see paragraph (a)(3) of this section); or
 - (ii) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph)(3) of this section); or
 - (B) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (4) of this section).
 - (3) If the Contractor is an institution of higher education; a state or local government, or the government of a federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract. The Contractor shall follow the applicable verification requirements at (a)(1) or

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- (a)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.
- (4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—
- (A) Enrollment in the E-Verify program; or
- (B) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).
- (5) The Contractor shall comply, for the period of performance of this contract, with the requirement of the E-Verify program MOU.
- (A) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a Department of Energy suspension or debarment official.
- (B) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.
- (c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.
- (d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—
- (1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
- (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
- (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD) -12, Policy for a Common Identification Standard for Federal Employees and Contractors.
- (e) Subcontracts. The contractor shall include the requirements of this clause, including this paragraph (d) (appropriately modified for identification of the parties), in each subcontract that—
- (1) Is for:
- (A) Services other than commercial services that are part of the purchase of a commercial-off-the-shelf (COTS) item, performed by the COTS provider and are normally provided for that COTS item;
- (B) Construction.
- (2) Has a value of more than \$3,000; and

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(3) Includes work performed in the United States.

SUBCONTRACTING WITH DEBARRED OR SUSPENDED ENTITIES (11-7) (JUL 13) (BPI 11.8.1; BPI 25.1.1)

- (a) "Commercially available off-the-shelf (COTS) item," as used in this clause means any item of supply (including construction material) that is:
- (1) A commercial item (as defined in BPI 1.8);
 - (2) Sold in substantial quantities in the commercial marketplace; and
 - (3) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace.
- (b) The Government suspends or debar Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract in excess of \$30,000 with a Contractor that is debarred, suspended, by any executive agency unless there is a compelling reason to do so.
- (c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended by the Federal Government.
- (d) The Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended (see www.sam.gov).
- (e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that exceed \$30,000 in value and is not a subcontract for commercially available off-the-shelf items

PATENTS, DATA, AND COPYRIGHTS

INFORMATION ASSURANCE (17-20) (OCT 11)(BPI 17.6.1.4.1)

- (a) In performance of this contract, the contractor shall protect all data and information systems under its management and control at all times commensurate with the risk and magnitude of harm that could result to Federal security interests and BPA's missions and programs resulting from a loss or unauthorized disclosure of confidentiality, availability, and integrity of these information or systems.
- (b) The contractor shall maintain an information security and/or data security plan or program consistent with industry standards such as National Institute of Standards and Technology (NIST), as required by the E-Government Act (Public Law 107-347) of 2002, Title III Federal Information Security Management Act (FISMA).

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- (c) The BPA Chief Information Officer (CIO), or representatives, shall have the right to examine, audit, and reproduce any of the contractor's pertinent information security and/or data security plan or program.
- (d) The contractor shall adhere to any additional information security requirements identified in the statement of work.
- (e) The contractor, at its sole expense, shall address and correct any deficiencies and/or noncompliance with the terms of the contract as identified by BPA.

UNAUTHORIZED REPRODUCTION OR USE OF COMPUTER SOFTWARE (23-3) (SEP 98)(BPI 23.2)(BPI 17.4.1.1)

The contractor shall hold BPA harmless for unauthorized reproduction or use of copyrighted or proprietary computer software and/or manuals or other documentation by the contractor's employees or subcontractors in the performance of the contract.

INSPECTION AND WARRANTY

INSPECTION - SERVICES AND CONSTRUCTION (18-70) (AUGUST 2014)

- (a) BPA may inspect the work called for by the contract at any time and place. BPA will perform inspections in a manner that will not unduly delay the work.
- (b) If any of the services do not conform with contract requirements (including services performed on a cost-reimbursement or time-and-materials basis), BPA may require the Contractor to perform the services again in conformity with the contract at no cost to BPA. When the defects in services cannot be corrected by re-performance, BPA may deduct from the contract payments an amount which reflects the reduced value of the services performed.
- (c) Neither inspection, lack of inspection, acceptance, nor payment shall relieve the Contractor of any of its obligations under this contract.

PROPERTY

BPA-FURNISHED/CONTRACTOR-ACQUIRED PROPERTY (19-1) (DEC 12)(BPI 19.4)

- (a) The Contractor shall manage BPA-furnished, contractor-acquired property in accordance with BPI Appendix 19-A if that appendix is made a part of this contract. If Appendix 19-A is not made a part of this contract, property should be managed in accordance with ASTM Property Management Standards and/or sound industry practices. All contractors shall use government furnished and contractor acquired property for official business use only.
- (b) BPA shall deliver to the Contractor, at the time and locations stated in this contract, BPA-furnished property described in the Schedule, statement of work, or specifications. If that property, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the Changes clause of the contract when--
 - (1) The Contractor submits a timely written request for an equitable adjustment; and

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- (2) The facts warrant an equitable adjustment.
- (c) Title to BPA-furnished property shall remain with BPA, unless specifically identified elsewhere in this contract. The Contractor shall use BPA-furnished property, except as provided for in BPI subpart 19.3, only in connection with this contract. The Contractor shall maintain adequate property control records in accordance with sound industry practices and will make such records available for BPA inspection at all reasonable times.
- (d) Upon delivery of BPA-furnished property to the Contractor, the Contractor assumes the risk and responsibility for its loss or damage, except--
 - (1) For reasonable wear and tear;
 - (2) To the extent property is consumed in the performance of this contract; or
 - (3) As otherwise provided for by the provisions of this contract.
- (e) Unless specified elsewhere in this contract, title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in BPA upon the supplier's delivery of such property to the contractor.
- (f) Title to BPA property shall not be affected by its incorporation into or attachment to any property not owned by BPA, nor shall BPA property become a fixture or lose its identity as personal property by being attached to any real property.
- (g) Upon completion of this contract, the Contractor shall follow the instructions of the Contracting Officer regarding the disposition of all property, title to which is held by BPA, which was not consumed in the performance of this contract or previously delivered to BPA. For the disposal of electronic property, the Contractor is required to follow all Federal, State, and local laws and regulations. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of BPA property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to BPA as directed by the Contracting Officer.

BPA PROPERTY FURNISHED "AS IS" (19-2) (SEP 98)(BPI 19.7.1)

- (a) BPA makes no warranty whatsoever with respect to BPA property furnished "as is", except that the property is in the same condition when placed at the f.o.b. point specified in the solicitation as when inspected by the Contractor pursuant to the solicitation, or if not inspected by the Contractor, as when last available for inspection under the solicitation.
- (b) The Contractor may repair any property made available on an "as is" basis. Such repair will be at the Contractor's expense except as otherwise provided in this clause. Such property may be modified at the Contractor's expense, but only with the written permission of the Contracting Officer. Any repair or modification of property furnished "as is" shall not affect the title of BPA.
- (c) If there is any change in the condition of BPA property furnished "as is," from the time inspected or last available for inspection under the solicitation to the time placed on board at the location specified in the solicitation, and such change will adversely affect the Contractor, the Contractor shall, upon receipt of the property, notify the CO detailing the facts, and, as directed by the CO, either (1) return the property at BPA's expense or otherwise dispose of the property, or (2) effect repairs to return the property to its condition when inspected under the solicitation, or if not inspected, its condition when last available for inspection under the solicitation. After completion of the directed action and upon written request of the Contractor, the CO will equitably adjust any contractual provisions affected by the return, disposition or repair, in accordance with the

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procedures provided for in the Changes clause of this contract. The foregoing provisions for adjustment are the exclusive remedy available to the Contractor and BPA shall not be otherwise liable for any delivery of BPA property furnished "as is" in a condition other than that in which it was originally offered.

CONTRACTOR USE OF GOVERNMENT-OWNED VEHICLES (19-3) (SEP 98)(BPI 19.8.1)

In those instances where BPA provides access to sources of Government-owned vehicles for the Contractor's use, the Contractor agrees to indemnify and save and hold harmless BPA from any and all claims and damages or other costs where BPA was not at fault.

TERMINATION

TERMINATION FOR CONVENIENCE BY EITHER PARTY (20-1) (JUL 13)(BPI 20.3.1)

Either party may terminate all or any part of this contract at any time upon 30 days written notice to the other party. Termination costs will be negotiated between the parties. Notwithstanding the Disputes clause of this contract, if the parties are unable to agree upon the termination costs, the parties may use Alternative Dispute Resolution processes (5 U.S.C. 571-584 {1996} or the Administrative Dispute Resolution Act of 1996) or Civilian Board of Contract Appeals if agreement cannot be reached.

DISPUTES

APPLICABLE LAW (21-5) (JUL 13)(BPI 21.1.2.1 : 25.4.1)

United States law will apply to resolve any claim of breach of this contract.

RELEASE OF CLAIMS (21-4) (JUL 13)(BPI 21.3.10.1)

After completion of work, and prior to final payment, the Contracting Officer may, at his or her option, require the Contractor to furnish a release of claims against BPA arising out of the contract, other than claims specifically excepted from the operation of the release.

DISPUTES (21-2) (JUL 13)(BPI 21.3.15.1 ; 25.4.1)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. § 7101-7109).
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

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(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within six years after accrual of the claim to the Contracting Officer for a written decision. A claim by BPA against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)

(A) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(B) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(C) The certification shall state as follows:

“I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes BPA is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.”

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer’s decision shall be final unless the Contractor appeals or files suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by BPA is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor’s specific reasons for rejecting the offer.

(h) BPA shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if the date is later, until the date of payment. With regard to claims having defective certifications, as defined in BPI 21.3.1, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Secretary of the Treasury during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

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UNIT 3 — STATEMENT OF WORK AND BUDGET



Statement of Work Report

Data Current as of: 11/22/2014
 Report Printed: 11/24/2014

Project Title: Spokane Tribal Hatchery Operations and Maintenance (O&M)
Project #: 1991-046-00
Contract Title: 1991-046-00 EXP SPOKANE TRIBAL (GALBR SPRGS) H
Contract #: 67576
Province: Intermountain **Subbasin:** Columbia Upper
Workorder ID: 187992 **Task ID:** 1
Perf. Period Budget: \$711,017 **Perf. Period:** 1/1/2015 - 12/31/2015
Contract Type: Contract (IGC) **Pricing Type:** Cost Reimbursement (CNF)
Contractor(s): Spokane Tribe (Prime - SPOKTRIB00)
BPA Internal Ref: 67576
SOW Validation: Last validated 10/28/2014 with 0 problems, and 0 reviewable items
Contract Documents: Spokane Tribal Hatchery O&M Property Inventor...
[Property Inventory \(10/28/2014\)](#)
[Budget - Contract \(10/28/2014\)](#) CR-277801 LIB

Contacts:

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Peter Lofy	F&W Approver	Bonneville Power Administration	(503) 230-4193 / (503) 230-4563	ptlofy@bpa.gov	905 NE 11th Ave. Portland OR 97232
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Ted Gresh	Env. Compliance Lead	Bonneville Power Administration	(503) 230-5756 / NA	esgresh@bpa.gov	P.O. Box 3621 - KEC-4 Portland OR 97208-3621
Rossana Callejas	Interested Party	Bonneville Power Administration	(503) 230-7558 / NA	rxcallegas@bpa.gov	HQ-4
B.J. Kieffer	Supervisor	Spokane Tribe	(509) 626-4427 / NA	bjk@spokanetribe.com	Wellpinit WA 99040

Work Element Table of Contents:



<u>Work Element - Work Element Title</u>	<u>EC Needed*</u>	<u>Estimate</u>	<u>(%)</u>
A : 165. Produce Environmental Compliance Documentation - Maintain Permits		\$1,000	(0 %)
B : 61. Maintain Artificial Production Facility/Infrastructure - Hatchery Maintenance	*	\$162,355	(23 %)
C : 119. Manage and Administer Projects - Management and Administration		\$150,000	(21 %)
D : 174. Produce Plan - Produce an Annual Operation Plan	*	\$1,000	(0 %)
E : 132. Produce (Annual) Progress Report - Submit Progress Report for the period (Jan 2013) to (Dec 2013)		\$1,000	(0 %)
F : 132. Produce (Annual) Progress Report - Progress Report for the period Jan 2014 to Dec 2014		\$1,000	(0 %)
G : 158. Mark/Tag Animals - Adipose Fin Clip Rainbow Trout	*	\$72,320	(10 %)
H : 158. Mark/Tag Animals - Adipose Fin Clip Kokanee Salmon	*	\$18,082	(3 %)
I : 176. Produce Hatchery Fish - Produce Brood Year 2013 Rainbow Trout	*	\$30,000	(4 %)
J : 176. Produce Hatchery Fish - Produce Brood Year 2014 Rainbow Trout	*	\$213,728	(30 %)
K : 176. Produce Hatchery Fish - Produce Brood Year 2013 Kokanee Salmon	*	\$6,000	(1 %)
L : 176. Produce Hatchery Fish - Produce Brood Year 2014 Kokanee Salmon	*	\$52,532	(7 %)
M : 191. Watershed Coordination - Coordination of Hatchery Production		\$1,000	(0 %)
N : 185. Produce Pisces Status Report - Periodic Status Reports for BPA		\$1,000	(0 %)
Total:		\$711,017	

* Environmental Compliance (EC) needed before work begins.

Contract Description:

The Spokane Tribal Hatchery produces rainbow trout and kokanee salmon for supporting harvestable sport and subsistence fisheries in Lake Roosevelt (Grand Coulee Dam Impoundment). The hatchery operates in conjunction with the Sherman Creek Hatchery and Lake Roosevelt Rainbow Trout Net Pen Projects for a collective annual release goal of 750,000 triploid rainbow trout and 250,000 triploid kokanee salmon catchable size fish. The hatchery program is primarily funded by Bonneville Power Administration under provisional requirements of the 1980 Northwest Power Planning and Conservation Act addressing mitigation for adverse impacts to anadromous and resident fisheries caused by Federal Columbia River Power System operations. This project has also received cost share funding from the Bureau of Indian Affairs for operational and maintenance needs. However, this funding is without Federal obligatory requirements and subject to competitive grant application submissions. Anniversary date for renewal of the long term/25 year O&M and Lease Agreements between BPA and the Spokane Tribe is on June 7, 2015. The Spokane Tribe intends on working with BPA during this contract period to renew the agreements and begin modernizing the hatchery to ensure the longevity of the facility for the next O&M and Lease Agreements 25 year extension.

Statement of Work Report



Work Element Details

A: 165. Produce Environmental Compliance Documentation

Title: Maintain Permits
Description: Current approved EA will be reviewed by BPA Environmental personal in conjunction with hatchery manager to assure compliance in 2014.
Deliverable Specification: Obtain NEPA Compliance Coverage/Clearance from BPA Environmental Dept.
Planned Metrics: * Are herbicides used as part of work performed under this contract?: No
 * Will water craft, heavy equipment, waders, boots, or other equipment be used from outside the local watershed as part of work performed under this contract?: No

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Use Best Management Practices to stabilize soils and prevent spread of noxious weeds	1/1/2015	12/31/2015	Inactive	Use applicable BMPs to retain existing vegetation and achieve re-establishment of vegetation in disturbed areas to at least 70% of pre-disturbance levels. Visit chapter 7.3 of http://www.ecy.wa.gov/pubs/0410076.pdf for BMPs to consider for construction contracts and http://wdfw.wa.gov/publications/01330/wdfw01330.pdf for guidance on re-vegetation in the Columbia River Basin.
B. Report lamprey observation and catch data to USFWS by Feb. 15	1/1/2015	12/31/2015	Canceled	[IF ALL WORK UNDER THE SOW IS IN SUBBASINS BLOCKED TO ANADROMOUS SPECIES, ASK YOUR COTR TO CANCEL THIS MILESTONE.] All contractors doing instream work in anadromous fish areas (e.g., surveys, habitat improvements, electrofishing, screwtraps, etc.) are required to report annually, by Feb 15 each year, on lamprey observations or catch, including zero, during the previous calendar year to christina_luzier@fws.gov at US Fish and Wildlife Service. A data template is available - ask your COTR for a link. See page 10 of USFWS Best Management Practices to Minimize Adverse Effects to Pacific Lamprey (<i>Entosphenus tridentatus</i>) http://www.fws.gov/pacific/Fisheries/sphabcon/lamprey/pdf/Best%20Management%20Practices%20for%20Pacific%20Lamprey%20April%202010%20Version.pdf (BMPs) for life stage pictures.
C. Participate in Cultural/Historic Resource Consultation	1/1/2015	12/31/2015	Inactive	BPA must initiate the Sec. 106 consultation ? sponsors cannot do this themselves. Provide the EC Lead with appropriate information to help them initiate Sec. 106 consultation (examples include maps, a detailed project description, GIS data, etc.). Provide this information to your EC Lead early to avoid affecting your construction schedule. Section 106 consultations typically take 4 months to complete, assuming access is available for survey fieldwork (e.g., weather permitting). If the EC Lead and sponsor have agreed that the sponsor will be responsible for contracting out some of the compliance work (such as surveys), the EC Lead will assist the project sponsor in drafting a SOW for the contract to ensure that the appropriate methodology and deliverables are included. Survey methods and the area of potential effects map needs to be shared and reviewed by BPA archaeologists and the SHPO prior to initiation of cultural resources fieldwork. The EC Lead will include this information in the letter initiating consultation with the SHPO/THPO and tribes. Draft cultural resource survey reports must be submitted to the BPA archaeologist for review. Any comments resulting from this review need to be addressed in the final report. BPA, or another federal cost share partner if they have been determined the lead for consultation, has the sole authority to submit the final survey report to the SHPO/THPO. Submitting these reports yourself or having your consultant submit them will only result in delays to your approval.
D. Obtain/Renew applicable local, state, federal and tribal environmental permits	1/1/2015	12/31/2015	Inactive	Work done to obtain permits such as Sec. 401 or 404 (including RGP process), shoreline, NPDES, or any other required federal, state, or local permits.
E. Obtain NEPA Compliance Clearance from BPA NEPA Staff for Hatchery O&M	1/1/2015	12/31/2015	Inactive	Provide assistance to BPA's Environmental Compliance Group to meet necessary NEPA compliance requirements.



Milestone Title	Start Date	End Date	Status	Milestone Description
F. Obtain BPA's EC Lead sign-off that EC requirements are complete	1/1/2015	12/31/2015	Inactive	The EC? column on the contract SOW tab in Pisces must have a "full moon" for each work element requiring environmental compliance before ground-disturbing implementation of that work element can begin. You will receive verbal or email notification from the EC Lead when a work element or, in rare instances, a portion of a work element is approved for implementation.
G. Inspect water craft, waders, boots, etc. to be used in or near water for aquatic invasive species	1/1/2015	12/31/2015	Inactive	Aquatic invasive Species Guidance: Uniform Decontamination Procedures: http://www.aquaticnuisance.org/wordpress/wp-content/uploads/2009/01/Recommended-Protocols-and-Standards-for-Watercraft-Interception-Programs-for-Dreissenid-Mussels-in-the-Western-United-States-September-8.pdf -- Best management guidance for boaters: http://www.coastal.ca.gov/ccbn/bmp-boaters.pdf -- Aquatic Nuisance Species newsletter: http://www.aquaticnuisance.org/newsletters -- State Aquatic Invasive Species Management Plans: Oregon: http://www.clr.pdx.edu/publications/files/OR_ANS_Plan.pdf -- Washington: http://www.wdfw.wa.gov/publications/pub.php?id=00105 -- Montana: http://www.anstaskforce.gov/Montana-FINAL_PLAN.pdf -- Idaho: http://www.idahoag.us/Categories/Environment/InvasiveSpeciesCouncil/documents/Idaho%20Aquatic%20Nuisance%20Species%20Plan.pdf
H. Inspect and, if necessary, wash vehicles and equipment infested with terrestrial invasive species	1/1/2015	12/31/2015	Inactive	Prevent spread of invasive species
I. Determine if contract work could adversely affect Pacific lamprey	1/1/2015	12/31/2015	Inactive	Contractor will review work proposed under this contract and determine the following: 1) Will field work take place in any area where lamprey may be present? (Any tributary or subbasin where anadromous fish exist is also accessible Pacific lamprey habitat.) 2) Are there any stream disturbing activities or instream activities that could adversely impact Pacific lamprey? Examples of activities posing a threat to lamprey may include (this list is not intended to be all-inclusive): aquatic habitat improvements, fish passage improvements, culvert replacements, water diversions, altered management of water flows, dewatering of any portions of streams, or alteration of irrigation practices. If the answer is yes to BOTH 1 and 2, the contractor must implement USFWS Best Management Practices to Minimize Adverse Effects to Pacific Lamprey (<i>Entosphenus tridentatus</i>) http://www.fws.gov/pacific/Fisheries/sphabcon/lamprey/pdf/Best%20Management%20Practices%20for%20Pacific%20Lamprey%20April%202010%20Version.pdf (BMPs).
Deliverable: J. Permits required to execute contract		12/31/2015	Inactive	<i>See the Deliverable Specification above</i>

B: 61. Maintain Artificial Production Facility/Infrastructure

Title: Hatchery Maintenance
Description: Routine and as needed maintenance and repair of hatchery facilities, grounds, raceways, water treatment facilities, equipment and vehicles.
Deliverable Specification: Routine and as needed maintenance and repair of hatchery facilities, grounds, raceways, water treatment facilities, equipment and vehicles.
Locations: 1
Primary Focal Species: Kokanee | Trout, Rainbow
Country: US **NPCC Subbasin:** SPOKANE
State: WA **HUC5 Watershed:** CHAMOKANE CREEK
County: STEVENS **HUC6 Name:**
Salmonid ESUs Present: Outside legal CKUCS (Upper Columbia River Spring-run Chinook Salmon ESU) boundary (anthropogenically blocked) | Outside legal STUCR (Upper Columbia River Steelhead DPS) boundary (anthropogenically blocked)



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	1/1/2015	Completed	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Assemble manufacturer or BMP maintenance requirements for all equipment and structures	1/1/2015	12/31/2015	Inactive	Routine and as needed maintenance of hatchery facilities, grounds, vehicles and equipment.
Deliverable: C. Hatchery Maintenance		12/31/2015	Inactive	<i>See the Deliverable Specification above</i>

C: 119. Manage and Administer Projects

Title: Management and Administration

Description: Covers work to manage on the ground efforts associated with the project. Also covers administrative work in support of on the ground efforts and in support of BPA's programmatic requirements such as metric reporting, financial reporting (e.g., accruals), and development of an SOW package (includes draft SOW, budget, spending plan, and property inventory). Also covers training and travel consisting of attending annual Lake Roosevelt Forum, Native American Fish & Wildlife and Northwest Fish Culture Conferences. Also training for obtaining combination drivers licenses and possibly updating fish culturing/health methods.

Deliverable Specification: Prepare and submit 2016 scope of work, budget and accrual estimates. Training and travel as needed for work related activities, program administration and facilitation.

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Submit final invoice for prior contract within 90 days to facilitate contract closeout	1/1/2015	3/31/2015	Inactive	Within 90 days of the last day of the PRIOR contract, the contractor shall issue a final invoice. In instances where more than 90 days is needed (e.g., because subcontractors have not invoiced), the contractor shall: 1. review records, 2. estimate all outstanding costs, and 3. provide BPA with a single, cumulative estimate of all completed, but uninvoiced work. This amount shall be emailed to FWinvoices@bpa.gov and the COTR.
B. Long Term O&M and Lease Agreement renewals	1/1/2015	6/7/2015	Inactive	Work with BPA to renew hatchery long term O&M and Lease Agreements set to expire June 7, 2015.
C. Begin drafting contract renewal documents and conduct internal review as needed	7/1/2015	7/31/2015	Inactive	Your statement of work, line-item budget, and (if required) property inventory for your next contract are due to BPA at least 5 months prior to the contract start date (longer if your internal processes require more time to get the contract signed and in place prior to the start date).
D. Submit contract renewal package (SOW, Excel budget, property inventory) to BPA COTR	8/1/2015	9/1/2015	Inactive	Once your statement of work (SOW) in Pisces is complete, and you have attached your line-item budget (LIB) and property inventory (PI) (if required), click the "Submit" button on the SOW tab to notify your COTR the package is ready for review.
E. Address comments and revise SOW, LIB, and PI as needed to get BPA manager approval	9/1/2015	9/30/2015	Inactive	Once your COTR and his or her BPA manager have reviewed your contract renewal package and returned any comments to you, you will need to provide responses and changes as needed to achieve approval from the BPA manager, who will then forward the package to the Contracting Officer. This should be completed at least two months prior to the next contract start date, but may need to be 3 or 4 months depending on your internal processing time for contract signatures. If you have subcontracts that need to be signed prior to the contract start, it should be a minimum of 4 months.
F. Return signed contract to BPA's Contracting Officer within 30 days	10/1/2015	10/31/2015	Inactive	Respond to the CO and COTR indicating any problems with the contract within 20 days, or return the signed contract to the BPA Contracting Officer (CO) within 30 days.
G. Accrual - Submit September estimate to BPA	8/10/2015	9/10/2015	Inactive	Provide BPA with an estimate of contract work that will occur prior to September 30 but will not be billed until October 1 or later. Data must be input in to Pisces by September 10 (begins Aug 10, ends Sep 10).
H. Facilitate inputting Cost Share information into Pisces at the Project level	9/30/2015	11/15/2015	Inactive	(a) I am the sole contractor under this project. I will enter previous federal FY's Cost Share information on the Project's Cost Share tab by Nov 15. (Milestone starts Sep. 30 and ends Nov. 15)
I. Submit Initial Inventory Report at beginning of Contract Performance Period.	9/1/2015	9/30/2015	Inactive	The project sponsor will send an initial inventory list of property acquired from previous contract performance period.



Milestone Title	Start Date	End Date	Status	Milestone Description
J. Attach initial FISMA Compliance Attestation (BPA risk category Low)	1/1/2015	1/1/2015	Inactive	<p>BPA contractors are required to protect their data and electronic systems consistent with the federal FISMA law (Federal Information Security Management Act of 2002). Your contract has been rated as low risk by BPA Cyber Security. The designated signatory for your organization may vary.</p> <p>Check with your COTR to see if BPA has already obtained, or will soon obtain through previous contracts, the attestation. If not, please work with your COTR to obtain a signed attestation confirming your organizations compliance with FISMA. Attestations can be in the form of a formal memorandum, letter, or email. An email will need to be cut and pasted into a word processing program. All attachments must be saved and uploaded as PDF. A sample attestation communication that describes the minimum information required can be found as a Pisces attachment at {https://pisces.bpa.gov/release/documents/DocumentViewer.aspx?doc=P137862}.</p> <p>Upload the attestation to Pisces under the new FISMA Attestation File Type, and type in the title as Low-risk FISMA attestation. This milestone is considered complete when the contractor has uploaded an electronic copy of a signed attestation. Deadline: Start and end dates are both the first day of the contract.</p>
K. Confirm that FISMA compliance documentation for any subsequent contract is current	1/1/2015	12/31/2015	Inactive	<p>Contact your COTR and check in Pisces to confirm that the FISMA compliance documentation for your subsequent contact is still current. If not, work with COTR to update documentation. (Due 125 days before the contract end date).</p> <p>BPA contractors are required to protect their data and electronic systems consistent with the federal FISMA law (Federal Information Security Management Act of 2002). Your contract will be rated as low risk by BPA Cyber Security.</p>
Deliverable: L. Various Project management reports and activities		12/31/2015	Inactive	<i>See the Deliverable Specification above</i>

D: 174. Produce Plan

Title: Produce an Annual Operation Plan
Description: Develop annual operating plan that covers fish culture operations and hatchery maintenance.
Deliverable Specification: A annual operations and maintenance plan will be developed that covers fish culturing practice and hatchery maintenance needs.

Primary Focal Species: Kokanee | Trout, Rainbow

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	1/1/2015	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Produce an Annual Operation Plan	1/1/2015	1/30/2015	Inactive	Produce an Annual Operation Plan
C. Upload Annual Operations and Maintenance Plan in Pisces	1/1/2015	1/30/2015	Inactive	Upload annual operations and maintenance plan
Deliverable: D. Produce Annual Operations and Maintenance Plan		1/30/2015	Inactive	<i>See the Deliverable Specification above</i>



E: 132. Produce (Annual) Progress Report

Title: Submit Progress Report for the period (Jan 2013) to (Dec 2013)
Description: The progress report summarizes the project goal, objectives, hypotheses (for research), completed and uncompleted deliverables, problems encountered, lessons learned, and long-term planning. Examples of long-term planning include future improvements, new directions, or any ramping up or ramping down of contract components or of the project as a whole.

Non-technical Progress Reports must conform to BPA guidelines. See the "Non-technical Progress Report" link at: <http://www.cbfish.org/Help.mvc/GuidanceDocuments>.

If producing a manuscript for a peer-reviewed publication, use work element 183: Produce Journal Article.

Deliverable Specification: It usually takes BPA 30-45 days to publish the final PDF version of a report. This milestone's end date should therefore be 45 days after the final version is uploaded in Pisces. You will receive an email from BPA confirming that your report has been finalized and posted to the web. If you do not, contact your COTR.

Planned Metrics:
 * Start date of reporting period : 1/1/2013
 * End date of reporting period : 12/31/2013

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Non-Technical: Review Progress Report format requirements for non-technical reports	1/1/2015	1/31/2015	Inactive	Contractor must review formatting requirements before starting the first draft of their non-technical report. Please follow the BPA-required format: http://www.cbfish.org/Help.mvc/GuidanceDocuments
B. Non-Technical: Write Non-technical Progress Report	2/1/2015	2/28/2015	Inactive	Please follow the BPA-required format.
C. Non-Technical: Upload Non-Technical Progress Report in Pisces	3/1/2015	3/31/2015	Inactive	Use the attachment tab in Pisces to upload your progress report. Progress reports uploaded in Pisces will be published for public access after BPA review, and finalized editing, and re-uploading, if required. http://www.cbfish.org/Help.mvc/GuidanceDocuments
Deliverable: D. Progress Report has been published		5/1/2015	Inactive	See the <i>Deliverable Specification</i> above

F: 132. Produce (Annual) Progress Report

Title: Progress Report for the period Jan 2014 to Dec 2014
Description: The progress report summarizes the project goal, objectives, hypotheses, completed and uncompleted deliverables, problems encountered, lessons learned, and long-term planning. Examples of long-term planning include future improvements, new directions, or level of effort for contract implementation, including any ramping up or ramping down of contract components or of the project as a whole.

Progress reports must conform to BPA guidelines. See the "formatting guidelines" link at the Technical Reports and Publications page: <http://www.efw.bpa.gov/IntegratedFWP/technicalreports.aspx>.

Deliverable Specification: Use the attachment tab in Pisces to attach your progress report. Progress reports attached in Pisces will be posted on the web.

Planned Metrics:
 * Start date of reporting period : 1/1/2014
 * End date of reporting period : 12/31/2014



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Review progress report format requirements	1/1/2015	1/30/2015	Inactive	Contractor must review formatting requirements before starting the first draft of their report. Please follow the BPA-required format. http://www.efw.bpa.gov/IntegratedFWP/technicalreports.aspx
B. Draft progress report	1/1/2015	3/31/2015	Inactive	Prepare non-technical annual progress report for Spokane Tribal Hatchery O&M program.
C. Confirm BPA has posted the progress report	4/1/2015	7/31/2015	Inactive	It usually takes BPA 30-45 days to post the final version of a report. This milestone's end date should therefore be 45 days after the Deliverable milestone. You will receive an email from BPA confirming that your report has been finalized and posted to the web.
Deliverable: D. Attach Progress Report in Pisces		6/30/2015	Inactive	See the Deliverable Specification above

G: 158. Mark/Tag Animals

Title: Adipose Fin Clip Rainbow Trout
Description: Adipose fin clip rainbow trout for assisting fishery managers with ongoing research, monitoring and evaluation objectives.
Deliverable Specification: Adipose fin clip approximately 850,000 rainbow trout before release into Lake Roosevelt.
Planned Metrics:

- * Primary R, M, and E Focal Strategy : Hatchery
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Harvest
- * # fish marked with ad clip: 880000

Locations: 1
Primary Focal Species: Kokanee | Trout, Rainbow
Country: US **NPCC Subbasin:** SPOKANE
State: WA **HUC5 Watershed:** CHAMOKANE CREEK
County: STEVENS **HUC6 Name:**
Salmonid ESUs Present: Outside legal CKUCS (Upper Columbia River Spring-run Chinook Salmon ESU) boundary (anthropogenically blocked) | Outside legal STUCR (Upper Columbia River Steelhead DPS) boundary (anthropogenically blocked)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	5/31/2015	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Adipose Fin Clip 850,000 Rainbow Trout	6/1/2015	11/30/2015	Inactive	Adipose fin clip 850,000 brood rainbow trout fingerlings prior to transfer to Sherman Creek Hatchery and Lake Roosevelt Net Pen operations.
Deliverable: C. Fish Marking		1/30/2015	Inactive	See the Deliverable Specification above

H: 158. Mark/Tag Animals

Title: Adipose Fin Clip Kokanee Salmon
Description: Adipose fin clip kokanee salmon for assisting fishery managers with ongoing research, monitoring and evaluation objectives.
Deliverable Specification: Adipose fin clip approximately 300,000 kokanee salmon before release into Lake Roosevelt.
Planned Metrics:

- * Primary R, M, and E Focal Strategy : Hatchery
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Harvest
- * # fish marked with ad clip: 300000

Locations: 1
Primary Focal Species: Kokanee | Trout, Rainbow
Country: US **NPCC Subbasin:** SPOKANE
State: WA **HUC5 Watershed:** CHAMOKANE CREEK
County: STEVENS **HUC6 Name:**
Salmonid ESUs Present: Outside legal CKUCS (Upper Columbia River Spring-run Chinook Salmon ESU) boundary (anthropogenically blocked) | Outside legal STUCR (Upper Columbia River Steelhead DPS) boundary (anthropogenically blocked)



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	1/1/2015	Completed	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Maintain NPDES Permit	1/1/2015	12/31/2015	Inactive	Comply with NPDES Standards, reporting, and monitoring as appropriate for your facility.
C. Rearing/Feeding	1/1/2015	12/31/2015	Inactive	Produce 84,000 brood year 2013 triploid rainbow trout yearlings with an end production/release size of 1 fish per pound. Daily Feeding calculated semi-monthly and adjusted accordingly.
D. Release 80,000 triploid rainbow trout yearlings into Lake Roosevelt	5/18/2015	6/12/2015	Inactive	Release 80,000 triploid rainbow trout yearlings 1 fish per pound size into the Spokane Arm of Lake Roosevelt during or after reservoir refill and when zooplankton bio-mass is adequate for forage. This release group is to support Tribal subsistence fisheries on the Spokane Indian Reservation of Lake Roosevelt.
E. Release 4,000 triploid rainbow trout yearlings into Spokane Indian Reservation Inland Lakes	4/1/2015	6/5/2015	Inactive	Release 4,000 triploid rainbow trout yearlings 1 fish per pound size into Spokane Indian reservation inland lakes to support Tribal subsistence fisheries.
F. Maintain fish health	1/1/2015	6/30/2015	Inactive	Standard fish health monitoring and providing appropriate treatments if needed to maintain good fish health and survival.
Deliverable: G. Triploid Rainbow Trout Yearling Production		6/30/2015	Inactive	<i>See the Deliverable Specification above</i>

J: 176. Produce Hatchery Fish

Title: Produce Brood Year 2014 Rainbow Trout

Description: Obtain 1.1 million eyed triploid rainbow trout from Washington Department of Fish and Wildlife Spokane Trout Fish Hatchery. Operate Spokane Tribal Hatchery to produce 850,000 brood year 2014 triploid rainbow trout for transfer to Lake Roosevelt net pen rearing operations.

Deliverable Specification: Operate Spokane Tribal Hatchery to produce 850,000 brood year 2014 rainbow trout to 15 fish per pound for transfer to Lake Roosevelt net pen rearing operations in the fall of 2015. Approximately 350,000 of the juveniles will be transferred to the Sherman Creek Hatchery in July to alleviate rearing capacity issues at the Spokane Tribal Hatchery. These fish will eventually be transferred to net pen operations (part of 850,000 transfer goal). All fish are marked with adipose fin clips before transfer to the net pen

Planned Metrics:

- * Purpose of production program : Harvest Augmentation
- * # eggs you released to the natural environment during this contract period: 0
- * # juveniles you released to the natural environment during this contract period: 0
- * Secondary purpose of production program (if any) : Supplementation
- * Brood Year: 2014
- * # adult fish released to non-anadromous fishery: 0
- * # of kelts collected or received: 0
- * # of female fish retained as broodstock: 0
- * # of male fish retained as broodstock: 0
- * # eggs imported from a BPA-funded facility: 0
- * # eggs imported from a non BPA-funded facility: 1100000
- * # eggs transferred to another BPA-funded facility: 0
- * # of eggs retained in your facility at the end of this contract period: 0
- * # of juveniles imported from a BPA-funded facility: 0
- * # of juveniles imported from a non BPA-funded facility: 0
- * # of juveniles transferred to another BPA-funded facility: 0
- * # of juveniles retained in your facility at the end of this contract period: 84000
- * # of kelts transferred to a BPA-funded facility: 0
- * # of captively reared adults transferred to a BPA-funded facility: 0
- * # of adults imported from a BPA-funded facility: 0
- * # of adults imported from a non BPA-funded facility: 0
- * # of adults transferred to another BPA-funded facility: 0
- * # of adults retained in your facility at the end of this contract period: 0
- * # of captively reared adults retained in your facility at the end of this contract period: 0

Locations: 1

Primary Focal Species: Trout, Rainbow



Country: US NPCC Subbasin: SPOKANE
 State: WA HUC5 Watershed: CHAMOKANE CREEK
 County: STEVENS HUC6 Name:
 Salmonid ESUs Present: Outside legal CKUCS (Upper Columbia River Spring-run Chinook Salmon ESU) boundary (anthropogenically blocked) | Outside legal STUCR (Upper Columbia River Steelhead DPS) boundary (anthropogenically blocked)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	1/1/2015	Completed	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Maintain NPDES Permit	1/1/2015	12/31/2015	Inactive	Comply with NPDES Standards, reporting, and monitoring as appropriate for your facility.
C. Incubate eggs	1/1/2015	2/28/2015	Inactive	Culture triploid rainbow trout eggs received from Washington Department of Fish and Wildlife Spokane Trout Fish Hatchery. Eggs will be cultured using well water and up welling incubators. Target minimum 80% survival rate to hatch.
D. Fish Rearing	1/1/2015	12/31/2015	Inactive	Produce 850,000 triploid rainbow trout to 15 fish per pound before transfer to Lake Roosevelt net pen rearing operations in the fall of 2014. Rearing densities will be based on a relative density index of 0.3 lbs/ft3.
E. Rainbow Trout Inter-Program Transferring	7/1/2015	8/7/2015	Inactive	Inter-program fish transfers from the 850,000 brood year 2013 triploid rainbow trout produced will include 350,000 juveniles approximately 70 fish per pound transferred to the Sherman Creek Hatchery in July 2014 and 500,000 juveniles approximately 15 fish per pound transferred to the Lake Roosevelt Rainbow Trout Net Pen Rearing Project in October 2014.
F. Maintain fish health	1/1/2015	12/31/2015	Inactive	Standard fish health monitoring and providing appropriate treatments if needed to maintain good fish health and survival.
Deliverable: G. Produce 850,000 brood year 2014 rainbow trout at Spokane Tribal Hatchery.		12/31/2015	Inactive	<i>See the Deliverable Specification above</i>

K: 176. Produce Hatchery Fish

Title: Produce Brood Year 2013 Kokanee Salmon
Description: Produce triploid kokanee salmon yearlings for release into the Spokane Arm of Lake Roosevelt and Spokane Indian reservation inland lakes to support Lake Roosevelt sport and Tribal subsistence fisheries.
Deliverable Specification: Produce 100,000 brood year 2013 triploid kokanee salmon yearlings for release into the Spokane Arm of Lake Roosevelt. Fish releases will occur during or after reservoir refill in conjunction with sufficient zooplankton standing crop (June-July). All fish released will be marked with adipose fin clips.
Planned Metrics:
 * Purpose of production program : Harvest Augmentation
 * # eggs you released to the natural environment during this contract period: 0
 * # juveniles you released to the natural environment during this contract period: 100000
 * Secondary purpose of production program (if any) : Supplementation
 * Brood Year: 2013
 * # adult fish released to non-anadromous fishery: 0
 * # of kelts collected or received: 0
 * # of female fish retained as broodstock: 0
 * # of male fish retained as broodstock: 0
 * # eggs imported from a BPA-funded facility: 0
 * # eggs imported from a non BPA-funded facility: 0
 * # eggs transferred to another BPA-funded facility: 0
 * # of eggs retained in your facility at the end of this contract period: 0
 * # of juveniles imported from a BPA-funded facility: 0
 * # of juveniles imported from a non BPA-funded facility: 0
 * # of juveniles transferred to another BPA-funded facility: 0
 * # of juveniles retained in your facility at the end of this contract period: 0
 * # of kelts transferred to a BPA-funded facility: 0
 * # of captively reared adults transferred to a BPA-funded facility: 0
 * # of adults imported from a BPA-funded facility: 0
 * # of adults imported from a non BPA-funded facility: 0
 * # of adults transferred to another BPA-funded facility: 0
 * # of adults retained in your facility at the end of this contract period: 0
 * # of captively reared adults retained in your facility at the end of this contract period: 0



Locations: 1
Primary Focal Species: Kokanee
Country: US
State: WA
County: STEVENS
Salmonid ESUs Present: Outside legal CKUCS (Upper Columbia River Spring-run Chinook Salmon ESU) boundary (anthropogenically blocked) | Outside legal STUCR (Upper Columbia River Steelhead DPS) boundary (anthropogenically blocked)

NPCC Subbasin: SPOKANE
HUC5 Watershed: CHAMOKANE CREEK
HUC6 Name:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	1/1/2015	Completed	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Secure Proof of Beneficial Use of Water Right	1/1/2015	12/31/2015	Inactive	<p>[IF YOUR STATE'S WATER RESOURCES DEPARTMENT CONTACTS YOUR ORGANIZATION AND/OR BPA REGARDING BENEFICIAL USE FOR WATER RIGHT, THIS MILESTONE WILL APPLY. IF NOT, PLEASE DELETE THIS MILESTONE.]</p> <p>In order for a water permit holder to fulfill the condition of the permit to obtain a water right license, the permit holder must "prove up" or "perfect" the beneficial use approved in their water right permit. Typically after a 5-year period (time period varies by state), the permit holder must develop their system and put the water to use according to the terms and conditions stated in the permit.</p> <p>The permit holder submits a Proof of Beneficial Use Form together with the license examination fee (check with your state's water resource department on fees and if one is required) OR submits the proof together with a completed field examination report prepared by a certified water right examiner (CWRE).</p> <p>The information submitted will enable the state's water resources department to determine the extent of beneficial use before the license is issued. The information entered on the proof form should show the extent of actual development of the project and should correspond to that authorized by the permit. If it does not, an amendment to the permit may be required.</p>
C. Maintain NPDES Permit	1/1/2015	12/31/2015	Inactive	Comply with NPDES Standards, reporting, and monitoring as appropriate for your facility.
D. Rear juveniles	1/1/2015	6/30/2015	Inactive	Incorporate current cold water fish culturing practices to rear 100,000 kokanee to 5 fish per pound or greater release size by June 2015.
E. Maintain fish health	1/1/2015	6/30/2015	Inactive	Standard fish health monitoring and providing appropriate treatments if needed to maintain good fish health and survival.
Deliverable: F. Triploid kokanee salmon production		6/30/2015	Inactive	<i>See the Deliverable Specification above</i>

L: 176. Produce Hatchery Fish

Title: Produce Brood Year 2014 Kokanee Salmon
Description: Obtain 500,000 eyed triploid kokanee salmon eggs trout from Washington Department of Fish and Wildlife Lake Whatcom Kokanee Hatchery. Produce triploid kokanee salmon from allotted eggs, retain fish for release as yearlings in 2016.
Deliverable Specification: Operate Spokane Tribal Hatchery to produce 250,000 brood year 2014 kokanee salmon triploids for release into Lake Roosevelt as yearlings.



Planned Metrics:

- * Purpose of production program : Harvest Augmentation
- * # eggs you released to the natural environment during this contract period: 0
- * # juveniles you released to the natural environment during this contract period: 0
- * Secondary purpose of production program (if any) : Supplementation
- * Brood Year: 2014
- * # adult fish released to non-anadromous fishery: 0
- * # of kelts collected or received: 0
- * # of female fish retained as broodstock: 0
- * # of male fish retained as broodstock: 0
- * # eggs imported from a BPA-funded facility: 0
- * # eggs imported from a non BPA-funded facility: 500000
- * # eggs transferred to another BPA-funded facility: 0
- * # of eggs retained in your facility at the end of this contract period: 0
- * # of juveniles imported from a BPA-funded facility: 0
- * # of juveniles imported from a non BPA-funded facility: 0
- * # of juveniles transferred to another BPA-funded facility: 0
- * # of juveniles retained in your facility at the end of this contract period: 300000
- * # of kelts transferred to a BPA-funded facility: 0
- * # of captively reared adults transferred to a BPA-funded facility: 0
- * # of adults imported from a BPA-funded facility: 0
- * # of adults imported from a non BPA-funded facility: 0
- * # of adults transferred to another BPA-funded facility: 0
- * # of adults retained in your facility at the end of this contract period: 0
- * # of captively reared adults retained in your facility at the end of this contract period: 0

Locations:

Primary Focal Species:

Country:

State:

County:

Salmonid ESUs Present:

Kokanee

US

WA

STEVENS

Outside legal CKUCS (Upper Columbia River Spring-run Chinook Salmon ESU) boundary (anthropogenically blocked) | Outside legal STUCR (Upper Columbia River Steelhead DPS) boundary (anthropogenically blocked)

NPCC Subbasin: SPOKANE

HUC5 Watershed: CHAMOKANE CREEK

HUC6 Name:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	1/1/2015	1/1/2015	Completed	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff (completion can be based on pre-existing environmental documentation from BPA).
B. Maintain NPDES Permit	1/1/2015	12/31/2015	Inactive	Comply with NPDES Standards, reporting, and monitoring as appropriate for your facility.
C. Incubate eggs	1/1/2015	3/1/2015	Inactive	Culture eyed triploid kokanee eggs received from Washington Department of Fish and Wildlife Lake Whatcom Kokanee Hatchery. Utilize well water and upwelling incubators for culturing. Target 80% minimum survival rate to hatch.
D. Fish Rearing	3/1/2015	12/31/2015	Inactive	Incorporate current cold water fish culturing practices to rear 250,000 kokanee to 5 fish per pound or greater release size by June 2016.
Deliverable: E. Produce Brood Year 2014 Kokanee Salmon Triploids at Spokane Tribal Hatchery		12/31/2015	Inactive	See the Deliverable Specification above

M: 191. Watershed Coordination

Title: Coordination of Hatchery Production

Description: Coordinate hatchery production with recommendations derived from Lake Roosevelt Fisheries Monitoring and Evaluation Program results.

Deliverable Specification: Meet monthly and/or as needed with fishery managers from the Spokane Tribe, Colville Tribe and Washington Department of Fish & Wildlife to coordinate hatchery production and release goals.



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Meet with Lake Roosevelt Fisheries Management Group	1/1/2015	12/31/2015	Inactive	Meet with Lake Roosevelt Fisheries Management Group for review and recommendations for annual fish production, marking and release strategies.
B. Meet with Lake Roosevelt Hatcheries Coordination Team	1/1/2015	12/31/2015	Inactive	Meet with Lake Roosevelt Hatcheries Coordination Team to determine annual production and release goal numbers as well as locations and timing.
Deliverable: C. Coordination of Hatchery Production and Release Goals.		12/31/2015	Inactive	<i>See the Deliverable Specification above</i>

N: 185. Produce Pisces Status Report

Title: Periodic Status Reports for BPA

Description: The Contractor shall report on the status of milestones and deliverables in Pisces. Reports shall be completed either monthly or quarterly as determined by the BPA COTR. Additionally, when indicating a deliverable milestone as COMPLETE, the contractor shall provide metrics and the final location (latitude and longitude) prior to submitting the report to the BPA COTR.

Deliverable Specification:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Jan-Mar 2015 (1/1/2015 - 3/31/2015)	4/1/2015	4/15/2015	Inactive	
B. Apr-Jun 2015 (4/1/2015 - 6/30/2015)	7/1/2015	7/15/2015	Inactive	
C. Jul-Sep 2015 (7/1/2015 - 9/30/2015)	10/1/2015	10/15/2015	Inactive	
D. Final Oct-Dec 2015 (10/1/2015 - 12/31/2015)	12/17/2015	12/31/2015	Inactive	

Inadvertent Discovery Instructions

BPA is required by section 106 of the National Historic Preservation Act (NHPA) to consider the effects of its undertakings on historic properties (16 USC 470). Prior to approving the expenditure of funds or conducting a federal undertaking, BPA must follow the section 106 process as described at 36 CFR 800. Even though BPA has completed this process by the time an undertaking is implemented, if cultural materials are discovered during the implementation of a project, work within the immediate area must stop and the significance of the materials must be evaluated and adverse effects resolved before the project can continue (36 CFR 800.13(b)(3)). The Inadvertent Discovery of Cultural Resources Procedure form outlines the steps to be taken and notifications to be made. If the undertaking takes place on tribal lands (16 USC 470w), BPA must also "comply with applicable tribal regulations and procedures and obtain the concurrence of the Indian tribe on the proposed action" (36 CFR 800.13(d)).

Inadvertent Discovery of Cultural Resources Procedure form:

<http://www.efw.bpa.gov/IntegratedFWP/InadvertentDiscoveryProcedure.pdf>

SPOKANE TRIBE OF INDIANS - FY 2015		
BUDGET SUMMARY		
PROGRAM NAME: SPOKANE TRIBAL HATCHERY BPA O&M, 1991-046-00		
S.T.O.I. FUND/PROGRAM NO.	5642-1185	
EFFECTIVE DATES:	01-01-2015 to 12-31-2015	
CONTRACT:	67576	
BUDGET CATEGORY	ACCT. CODE	PROPOSED BUDGET
PROGRAM REVENUE (FUNDING SOURCES)		
GRANT/CONTRACT REVENUE	4602	711,017
PROGRAM INCOME	XXXX	-
TOTAL PROGRAM REVENUE:		711,017
PROGRAM EXPENDITURES		
WAGES/SALARIES	5010	319,883
FRINGE BENEFITS	5130	52,739
TRAVEL& TRAINING	5100	3,444
SUPPLIES	5200	12,500
SUPPLIES (OTHER)	5202	98,924
UTILITIES	5300	104,573
FUEL	5303	5,820
MAINTENANCE EXPENSE	5400	9,766
VEHICLE O&M	5403	24,697
INSURANCE EXPENSE	5501	2,461
RENTAL EXPENSES	5502	5,000
TOTAL DIRECT EXPENDITURES:		639,807
INDIRECT COST @ 11.13%	5512	71,211
TOTAL PROGRAM EXPENDITURES:		711,017
NET PROGRAM REVENUE:		-
APPROVAL:		
Program Manager		Date
Division Director		Date
Compliance Officer		Date
Finance Officer		Date
Executive Director		Date
Tribal Council Resolution No.		Date

SPOKANE TRIBE OF INDIANS - 2015											
2015 BUDGET JUSTIFICATION WORKSHEET											
PROGRAM NAME: Spokane Tribal Hatchery BPA O&M, 1991-046-00											
S.T.O.I. FUND/PROGRAM NO. 5642-1185											
EFFECTIVE DATES: January 1, 2015 - December 31, 2015											
CONTRACT: 67576											
ACCT. CODE	BUDGET CATEGORY - DESCRIPTION OF ITEMS / COST CALCULATION								BUDGET AMOUNT		
5010	Wages										
	Annual Wage Costs - see Salary-Personnel Worksheet								\$ 319,883		
	Total Wages								\$ 319,883		
5130	Fringe Benefits										
	Fringe - see Salary-Personnel Worksheet								\$ 52,738		
	Total Fringe Benefits								\$ 52,739		
5100	Travel & Training										
									Quant	Unit Cost	
	Per diem for attending meetings and workshops.								12 days @ \$35.00	day	\$ 420
									12 days @ \$75.00	day	\$ 900
	Estimated costs for travel and registration fees for attending annual fish culturists, LRF & NAFWS conferences										\$ 2,124
Total Travel, Training and Per Diem									\$ 3,444		
5200	Supplies										
	Disinfectant and fish therapeutants								\$ 2,500		
	Lumber and metal materials								\$ 2,500		
	Ground maintenance supplies								\$ 2,500		
	Metal and Woodworking Materials								\$ 2,500		
	Office and Cleaning Supplies								\$ 2,500		
	Total Supplies								\$ 12,500		
5202	Supplies (Other - Egg Allotments & Fish Food)										
			Quant (1)	Quant (2)		Unit Cost					
	Triplod Rainbow Trout Egg Allotments		1.1 Mil	1,000 eggs	@	\$17 /1000	\$ 18,700				
	Triplod Kokanee Salmon Egg Allotments		0.5	1,000 eggs	@	\$17 /1000	\$ 8,500				
	Starter Mash			800 bs.	@	\$1.88 /lb.	\$ 1,504				
	Starter #0, #1 & #2			8,000 bs.	@	\$1.88 /lb.	\$ 15,040				
	1.2mm			10,000 bs.	@	\$1.43 /lb.	\$ 14,300				
	1.5mm			12,000 bs.	@	\$1.09 /lb.	\$ 13,080				
	2.0 mm			10,000 bs.	@	\$1.01 /lb.	\$ 10,100				
	3.0 mm			6,000 bs.	@	\$0.95 /lb.	\$ 5,700				
Medicated feed (Aquaflor and Aquamycin)			6,000 bs.	@	\$2.00 /lb.	\$ 12,000					
Total Supplies (Other Egg Allotments & Fish Food)									\$ 98,924		
5300	Utilities										
			Quant (1)	Quant (2)		Unit Cost					
	12 month electrical load est. @ 1,500,000 kilowatts		1,400,000	12 mo.	@	\$0.07 /kw	\$ 98,000				
	Solid Waste Disposal		4 pickups	12 mo.	@	\$25.00 /ea.	\$ 1,200				
	Monthly costs for phone, satellite ISP and fax modem lines					\$ 2,121					
	Monthly cost for hatchery specialist residence lines		2 lines	12 mo.	@	\$45.00 /mo.	\$ 1,080				
	Monthly cost for mobile phones		4 phones	12 mo.	@	\$34.00 /mo.	\$ 1,632				
	Monthly plant & security digital monitoring system					\$ 540					
Total Utilities									\$ 104,573		
5303	Fuel										
	Diesel Tank Fuel for generator								1,200 gal. @ \$4.85 /gal.	\$ 5,820	
	Total Fuel								\$ 5,820		
5400	Maintenance Expense										
	Heating and Ventilation Maintenance Agreement for hatchery facility.								\$ 3,766		
	Miscellaneous Costs - unexpected maintenance costs for hatchery facility and equipment								\$ 5,000		
	Water sampling and analysis for NPDES & Annual full scale anysis								\$ 1,000		
	Total Maintenance Expense								\$ 9,766		

5403	Vehicle Operating and Maintenance	Quant (1)	Quant (2)		Unit Cost		
	<i>Commercial Vehicle Use for Fish Outplanting & Transfers - \$0.95 /mile rate</i>						
	84,000 rainbow trout yearlings to Lake Roosevelt	28 trips	70 mi.	@	\$0.95 /mi.	\$	1,862
	100,000 kokanee salmon yearlings to Lake Roosevelt	30 trips	70 mi.	@	\$0.95 /mi.	\$	1,995
	350,000 rainbow trout fingerlings to Sherman Creek	10 trips	180 mi.	@	\$0.95 /mi.	\$	1,710
	500,000 rainbow trout Fingerlings to FDR Net Pens	40 trips	135 mi.	@	\$0.95 /mi.	\$	5,130
	<i>Hatchery Utility Vehicle Use - \$0.555/mile rate</i>						
	Travel to Tribal Headquarters and Spokane (nearest large trade center) and surrounding areas						
	for attending meetings and picking up supplies	12 mo.	1,250 mi.	@	\$0.60 /mi.	\$	9,000
	<i>Vehicle Maintenance</i>						
	General service requirements or unexpected breakdowns for utility, tractor and mower vehicles						\$
Total Vehicle Operating and Maintenance						\$	24,697
5501	Insurance Expense						
	Insurance Premiums for 3 Utility Vehicles and 2 Commercial Vehicles						
			12 mo.	@	\$205.08 /mo.	\$	2,461
Total Insurance Expense						\$	2,461
5502	Rental Expense						
	Oxygen Cylinder Rental and O2 - includes monthly liquid oxygen rental						
			12 mo.	@	\$416.65 /mo.	\$	5,000
Total Rental Expense						\$	5,000
Total Direct Expenditures						\$	639,807
5512	Indirect Costs		Quant		Unit Cost		
	(11.13% of total budget less Capital Expenses)		\$	639,807	11.13%	\$	71,211
	Total Indirect Costs						\$
Total Program Expenditures						\$	711,017

SPOKANE TRIBE OF INDIANS - 2015

SALARY/PERSONNEL WORKSHEET

PROGRAM NAME:	Spokane Tribal Hatchery BPA O&M, 1991-046-00
S.T.O.I. FUND/PROGRAM NO.	5642-1185
EFFECTIVE DATES:	01/01/15-12/31/15
CONTRACT:	67576

SALARIES (Personnel)		Account 5010 (Salaries)					Account 5020 (Fringe)					TOTAL PERSONNEL COSTS	Comments
LIST POSITION TITLE ONLY (no names)	Annual Hours	Final FY 2014 Hourly Rate	Pay Increase 8.5%	FY 2015 COLA 1.50%	Total FY 2015 Hourly Rate	ANNUAL COST	Fringe Benefits 8.20%	Monthly Medical Ins. Cost (employer share) \$535	Number of months Participating in medical	Monthly Dental Ins. Cost (employer share) \$23	Number of months Participating in dental		
1 Program Manager, Fish Culturist III	2,080	(b) (6)											
2 Fish Culturist II, Culturist Supervisor	2,080												
3 Fish Culturist I, Marking Supervisor	2,080												
4 Fish Culturist I, Maintenance Manager	2,080												
5 Fish Culturist I	2,080												
7 Seasonal - Fish Marking	1,040												
8 Seasonal - Fish Marking	1,040												
9 Seasonal - Fish Marking	1,040												
10 Seasonal - Fish Marking	1,040												
TOTAL WAGES:													319,883.20

COMMENTS: List employees that are charged to multiple funds in the comment section below - include fund/program number & hours/%

- A**
- B**
- C**

HATCHERY LEASE
for the SPOKANE TRIBAL HATCHERY
between the
BONNEVILLE POWER ADMINISTRATION
and
THE SPOKANE TRIBE OF INDIANS

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Exhibit 5. Operation and Maintenance Agreement with Exhibits	

THIS HATCHERY LEASE (Lease), executed this 7th day of June, 1990, between the United States acting by and through the BONNEVILLE POWER ADMINISTRATION (BPA) and THE SPOKANE TRIBE OF INDIANS (Tribe), a federally recognized Indian Tribe residing on the Spokane Indian Reservation.

W I T N E S S E T H

WHEREAS the Administrator of BPA has authority pursuant to section 4(h)(10)(A) of the Pacific Northwest Electric Power Planning and Conservation Act 94 Stat. 2697, P.L. 96-501, 16 U.S.C. §§ 839 et seq. (Northwest Power Act) to use the BPA Fund to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any federal hydroelectric project of the Columbia River and its tributaries in a manner consistent with the Columbia River Basin Fish and Wildlife Program (Program) developed by the Pacific Northwest Power Planning and Conservation Council (Council);

WHEREAS Congress provided express approval for the Spokane Tribal Hatchery (Hatchery) in the Energy and Water Development Appropriations Act, of 1990, 103 Stat. 641, P.L. 101-101;

WHEREAS the Administrator of BPA has determined that construction and operation of a Hatchery on the Spokane Reservation is cost-effective and consistent with the Act and § 900(g)(1)(c) of the Fish and Wildlife Program, and will produce resident fish in the impoundments above Chief Joseph Dam in substitution and mitigation as described in the Council's Fish & Wildlife Program for anadromous fish that no longer have access to the impoundments of Chief Joseph and Grand Coulee Dams on the Columbia River;

WHEREAS the Spokane Tribe of Indians is a federally recognized Indian tribe with jurisdiction over the Spokane Indian Reservation and operates under a Constitution first approved by the Secretary of the Interior on June 27, 1951 and thereunder has the full authority and power to enter into this Lease;

WHEREAS the Tribe desires to ensure an abundant and continuing supply of resident fish in the waters adjacent to the Spokane Indian Reservation, particularly in Lake Roosevelt and Banks Lake and has water resources suitable for hatchery development on the Reservation;

WHEREAS for their individual benefit BPA and the Tribe desire to enter into a Lease, whereby the Tribe will provide land, water and water rights, necessary for a Hatchery and, BPA will construct the Tribal Hatchery; and

WHEREAS, the parties to this Lease affirm that all actions taken under this Lease shall be guided by the principal goals of coordination and cooperation as propounded in the doctrine of a government to government relationship.

NOW, THEREFORE, in consideration of and in reliance upon the recitals, declarations and covenants contained herein, BPA and the Tribe agree as follows:

1. Purpose

The purpose of this Lease is to convey and transfer to BPA substantial real property and personal rights for the term of this Agreement. This Lease enables BPA to construct, operate, and maintain, in a cost-effective manner, a fish hatchery which after construction, shall be owned by the Tribe. The Hatchery will be located on the trust property described in Exhibit 1, and have water resources sufficient for operation of the Hatchery, in order to satisfy fish and wildlife responsibilities imposed upon BPA by § 4(h)(10)(A)

of the Pacific Northwest Electric Power Planning and Conservation Act and other legislation. The Hatchery will produce resident fish above Chief Joseph Dam in substitution and mitigation for anadromous fish that no longer have access to the impoundments above Chief Joseph and Grand Coulee dams, as described in the Council's Fish and Wildlife Program, § 900(g)(1)(c) (1987), which production shall be for the benefit of the Pacific Northwest Region. This Lease site shall be used for construction, operation and maintenance of a fish hatchery and any other related uses, which shall include education, fishery research, and storage for the Sherman Creek Hatchery. Any modification to this purpose shall require mutual agreement of the Parties.

2. Definitions

- (a) Annual Production Goal (APG) means a minimum of 37,000 pounds of Kokanee fish which shall include 6.7 million fry at 325 fish per pound final release weight, 5.0 million fry at 500 fish per pound release weight and, 1.7 million fry at 500 fish per pound, transport weight, to the Sherman Creek facility or any additional amount of fish designated in the Annual Operating Plan (AOP), which fish shall be released in Lake Roosevelt, Banks Lake or, as directed by the AOP. Such Kokanee fry shall have survival rates comparable to those for other hatchery programs operating with similar conditions and at reasonable costs. For the first four fiscal years of the Agreement the APG shall be as established by the AOP.
- (b) Bonneville Power Administration (BPA) means the Bonneville Power Administration, a federal power marketing agency of the United States and includes its agents, successors, assigns and contractors.

- (c) Capital Improvement means any addition to the Hatchery and/or related facilities that costs at least \$1,000,000 and has a life expectancy of at least 15 years.
- (d) Council means the Pacific Northwest Electric Power and Conservation Planning Council created by § 4 of the Pacific Northwest Electric Power Planning and Conservation Act. 94 Stat. 2697, P.L. 96-501, 16 U.S.C. §§ 839 et seq.
- (e) Consult or Consultation means to timely discuss and, as appropriate, meet through BPA and Tribal representatives. This duty does not imply or establish any additional duties or rights favoring either party.
- (f) Expansion means any capital improvement or change in Hatchery design or operation which causes the Hatchery to require more than 11.5 cubic feet per second (cfs) of water.
- (g) Fiscal year means the year beginning October 1 and ending September 30.
- (h) Spokane Tribal Hatchery or Hatchery, means a fish hatchery to be constructed and operated on the leased area of the Spokane Reservation in order to satisfy BPA's responsibilities to protect, mitigate and enhance fish and wildlife to the extent affected by the development and operation of any federal hydroelectric project on the Columbia River and its tributaries pursuant to § 4 of the Pacific Northwest Electric Power Planning and Conservation Act, and the other purposes of the Act. The Hatchery includes; (1) the leased real property held in trust and described in Exhibit 1, (2) the facilities, improvements and

real or personal property constructed and operated on the real property described in Exhibit 1, (3) all water sources on the leased real property described in Exhibit 1, and determined by BPA to be necessary or appropriate to deliver 11.5 cfs of water to the facilities on the real property described in Exhibit 1, and (4) ingress and egress on, and use of those Spokane Reservation roadways identified in Exhibit 4.

(i) Tribe means the Spokane Tribe of Indians, a federally recognized Indian Tribe residing on the Spokane Indian Reservation, its agents, successors, assigns and contractors.

3. Exhibits

- Exhibit 1. Description of Leased Trust Property on Which Hatchery is to be Located
- Exhibit 2. Resolutions of the Tribe Approving Allocation of Water and the Terms of This Lease
- Exhibit 3. Description of Hatchery
- Exhibit 4. Description of Easement
- Exhibit 5. Operation and Maintenance Agreement with Exhibits

4. Lease

In consideration of one dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, and the covenants and agreement hereinafter stipulated, the Spokane Tribe does hereby let and lease, during the term of this Lease, unto BPA, the Spokane Tribal Hatchery site and the Hatchery, as are fully described in Exhibits 1 and 3.

5. Term

- (a) Effective Date. This Lease shall take effect at 2400 hours the day after the following events have occurred: (i) the Tribe issues a resolution approving this Lease (Exhibit 2), (ii) the Parties sign this Lease, and (iii) the Secretary of the Interior, or his designate, approves this Lease.
- (b) Length of Lease and Renewal. The term of this Lease shall be twenty-five (25) years, beginning on the date this Lease takes effect. Provided, however, BPA may exercise an option to renew this Lease for an additional term of twenty-five (25) years, or the remaining number of years of useful life of the facility, whichever is less, under the same terms and conditions and consideration herein specified. Provided further, BPA shall serve the Tribe with notice by mail not less than six (6) months prior to the date of expiration of this Lease to exercise its option of renewal.
- (c) Early Termination. If during the term of this Lease,
- (i) operation of the Hatchery lapses because BPA ceases to operate the Hatchery after it has assumed operation of the Hatchery, or because BPA discontinues funding of the Hatchery, and
 - (ii) BPA notifies the Tribe in writing that it will not resume operation or funding of the Hatchery during the remaining portion of the possible 50-year term of this Lease, then the term of this Lease shall end 90 days after the date of BPA's notification.

(d) Casualty Loss. If the Hatchery suffers a casualty loss, BPA may at its option, following consultation with the Tribe,

- (i) rebuild the damaged or destroyed facility or,
- (ii) remove the facility and any additions to the leased premises which may cause a nuisance or a hazard to health and safety or terminate the Lease (pursuant to Section 5(c)). Provided, however, remaining functional elements of the Hatchery shall be maintained by BPA pursuant to requirements of Section 12(f) of this Lease.

(e) Extension of Term. If pursuant to Section 8 of this Lease, BPA undertakes Capital Improvements to the Hatchery, and such improvements do not commence until the remaining portion of the possible 50-year period of the Lease is less than 15 years, then the term of this Lease shall be extended to a date 15 years after commencement of improvements.

(f) End of Lease. At the end of the term of this Lease or any renewal or extension thereof, the Lease shall terminate without additional actions of any Party and the Hatchery and all improvements thereto and all inventory shall return to the Tribe.

6. Access by BPA to Spokane Reservation and Hatchery

(a) Quiet Enjoyment. The Tribe agrees and warrants that BPA shall peaceably and quietly hold, enjoy, and occupy the Spokane Tribal Hatchery without hindrance, interruption or molestation by the Tribe.

- (b) Easement. The Tribe grants and conveys a nonexclusive easement for the life of this Lease, or any renewal or extension thereof for road access described in Exhibit 4, to the Hatchery and lands described at Exhibit 1 of this Lease. This grant shall include the right of access for BPA and its employees and contractors as well as the operators of the Hatchery and their employees and contractors.
- (c) Maintenance of Easement. BPA is authorized to install a sixteen (16) foot wide road (including grading, preparation and paving) on the Easement described in Exhibit 4 for connecting Boardman Road with the Hatchery. After construction BPA, without further consent, is authorized to maintain and repair the road upon the easement. BPA shall, prior to reconstruction or additional construction on the Easement, consult with the Tribe on such plans and objectives.

7. Water

- (a) Water Rights and Water. The Tribe, at no additional cost, warrants and agrees to provide BPA 11.5 cfs of water from whatever source, of sufficient quality for efficient operation of the Hatchery and any and all related BPA activities. Provided, however, the Tribe also agrees to provide BPA up to and including 4.2 cfs of additional water if the conditions for Hatchery Expansion, as described in Section 8 of this Agreement, are met.
- (b) Protection of Water Rights and Water. The Tribe shall not take actions which limit or restrict BPA's enjoyment, use or

enforcement of the water rights and water described in Section 7(a) above. BPA's right of enjoyment under the terms of this Section shall in no way be abridged or limited by the Tribe due to any BPA decision on the operation of the Hatchery by BPA, its employees, and contractors, as well as the operators of the Hatchery and their employees and contractors, provided that BPA shall comply with applicable discharge permit provisions of the Clean Water Act. 33 U.S.C. §§ 1251 et seq., as amended.

- (c) Covenant to Defend Water Rights. In the event any third party commences any legal proceeding challenging the adequacy or sufficiency of the water rights provided herein by the Tribe for the operation of the Hatchery, the Tribe agrees and hereby undertakes to appear in such proceeding at the Tribe's sole expense and in support of and on behalf of this Lease, to vigorously defend against such challenge.

8. Hatchery Expansion BPA, after consultation with the Tribe, may order expansion of the Hatchery provided the following conditions are satisfied:

- (a) BPA and the Tribe shall establish the technological and biological criteria for expansion, which BPA shall apply to any decision it makes regarding expansion;
- (b) The expansion will not adversely interfere with or affect the production and quality of the fish the Hatchery is capable of producing;
- (c) The expansion is consistent with the Fish and Wildlife Program of the Council;

- (d) The expansion shall become part of the Hatchery, which shall be operated and maintained consistent with this Lease;
- (e) Kokanee and/or other fish produced by the expansion shall be released in Lake Roosevelt and/or Banks Lake or other bodies of water with the approval of BPA and appropriate Federal, State and Tribal fish management agencies.
- (f) BPA pays for the costs of construction and operation of the expansion during the term of this Lease; and
- (g) The expansion facilities shall be contiguous with existing facilities and returned to the Tribe pursuant to Section 5(f) of this Lease.

9. Hatchery Operation

- (a) Use of Leased Premises. The Leased Premises shall be used for the construction, operation and maintenance of a fish hatchery and related uses which shall include education, fishery research and storage for the Sherman Creek Hatchery. Joint uses may be agreed to by the Parties as appropriate. No other uses shall be made without the prior consent of the Tribe.
- (b) Tribal Operation of Hatchery. It is the intention of the parties hereto that the Tribe will be responsible for operation and maintenance of the Hatchery in accordance with a Operation and Maintenance Agreement executed contemporaneously with this Lease. Should that Operation and Maintenance Agreement between BPA and the Tribe be terminated in accordance with its terms for any reason, the terms of this Lease shall continue in effect and

BPA shall have the right to enter and maintain and operate the Hatchery itself or enter into a new Operation and Maintenance Agreement with a third party.

- (c) Third Party Operation. BPA shall consult with the Tribe prior to assigning Operation and Maintenance responsibilities for the Hatchery to an operator other than BPA or the Tribe.

10. Sovereign Immunity and Taxation

- (a) Sovereign Immunity. The Tribe consents to suit by BPA in any Federal Court of competent jurisdiction for the purpose of enforcing the terms of this Lease and does hereby waive its immunity to the extent necessary to allow assertion of such claims.
- (b) Taxation of BPA. The Tribe waives any and all right to assess and collect any and all taxes, levies, charges, fees, fines or penalties from BPA that relate to:
 - (i) the real property described herein, including water provided;
 - (ii) all improvements to the property, including Hatchery operations; and
 - (iii) all operations and maintenance, and research activities related to the Hatchery.

11. Notice

- (a) BPA is deemed to have received an item of correspondence or notice of representation if it is sent by registered mail to the following address:

Director, Division of Fish and Wildlife - PJ
Bonneville Power Administration
P.O. Box 3621
Portland, OR. 97208-3621

- (b) The Tribe is deemed to have received an item of correspondence or notice of representation if the correspondence is sent by registered mail to the following address:

Tribal Business Council Chairman
Spokane Tribe of Indians
P.O. Box 100
Wellpinit, WA 99040

- (c) Each party shall notify the other party of any change in addressee or address within 30 days of such change.

12. Miscellaneous Provisions

- (a) Employment. It is the intention of the parties to use their best efforts to offer opportunities for employment to qualified Native Americans in connection with operation and maintenance of the Hatchery, including application of Indian preference as allowed by law. This section shall not prohibit or limit the Tribe, from applying its Tribal Employment Rights Ordinance (TERO) to its own operation of the Hatchery or from requiring contractors of BPA to comply with such ordinance, as allowed by law.
- (b) Hold Harmless. The Tribe shall indemnify and hold harmless BPA from any claims or liability directly or indirectly resulting from the Tribes' operation of the Hatchery. If BPA operates the

Hatchery pursuant to Section 9(b) of this Lease, then BPA shall indemnify and hold harmless the Tribe from any claims or liability directly or indirectly resulting from BPA's operation of the Hatchery, to the extent that the acts create a cause of action pursuant to the Federal Tort Claims Act, 62 Stat. 982, 33 U.S.C. §§ 2671 et seq., as amended.

- (c) Integration. The terms of this Lease represent the entire agreement between BPA and the Tribe. No other rights or obligations shall be implied between BPA and the Tribe or between any third parties.
- (d) Amendments and Assignments. BPA and the Tribe may, by mutual agreement, amend the terms of this Lease or assign the rights and responsibilities created by this Lease.
- (e) Utilities. The Tribe shall provide access to BPA for all utility services required during the term of the Lease.
- (f) Maintenance by BPA. BPA shall maintain in good operating condition the Hatchery and all improvements placed upon the leased premises consistent with their useful life and subject to the right to terminate pursuant to Section 5(c) of this Lease.
- (g) Inspection.
 - (i) Lease Compliance. The Tribe may, after consulting with BPA and giving 15 days advance notice, inspect the leased premises including facilities located thereon, as they are described in Exhibits 1 and 3 of this Lease to insure that the terms and conditions of

this Lease are being met. The Tribal Business Council members or their designates may conduct inspections provided that the requirements of Section 12(h) of this Lease have been met.

(ii) Emergency. In an emergency threatening health and safety on the Spokane Reservation the Tribe may make inspections that are reasonable in timing and scope. The Tribal Business Council members shall be authorized to make such emergency inspection. The names, titles, addresses and telephone numbers of the Business Council members authorized to inspect under this section must have been sent at least ten (10) days in advance, by letter to BPA's Director, Division of Fish and Wildlife or the Director's successor.

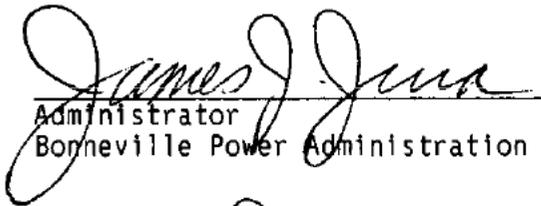
(h) Representatives of the Parties. Any person designated pursuant to the terms of this Lease as a representative of either BPA or the Tribe shall not be authorized to act in a representative capacity under this Lease until and unless the other party has been advised in writing, mailed to the other party at least five days before; which writing shall describe the name, address, telephone number and, as appropriate, title of the representative.

(i) Survival. All provisions of this agreement which authorize or require action on the part of either party after termination, shall survive termination of this Lease in order that such

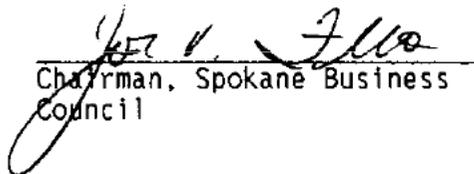
provisions be given the full effect intended. No additional duties, liabilities or obligations not herein stated shall accrue following termination of this Lease.

(i) Third Parties. This Lease in no way expressly or otherwise implies a right of action by third parties for enforcement of any terms of this Lease.

Dated this 7th day of June 1990.



Administrator
Bonneville Power Administration



Chairman, Spokane Business
Council

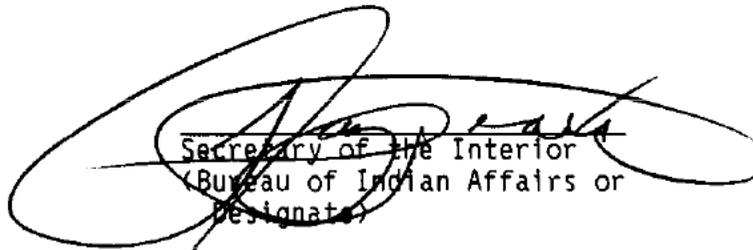
Date Signed June 7th 1990
Place where contract signed:

Date Signed 6-1 1990
Place where contract signed:

Portland, OR

Spokane office

This Lease is hereby approved and declared to be made in accordance with the law and the rules and regulations prescribed by the Secretary of the Interior thereunder, and now in force.



Secretary of the Interior
(Bureau of Indian Affairs or
Designate)

Date: 6/5/90

Exhibit 1

Description of Leased Trust Property on Which Hatchery is to be Located

Exhibit 2

Resolutions of the Tribe Approving Allocation of Water
and the Terms of This Lease

Exhibit 3

Description of Hatchery

Exhibit 4

Description of Easement

Exhibit 5

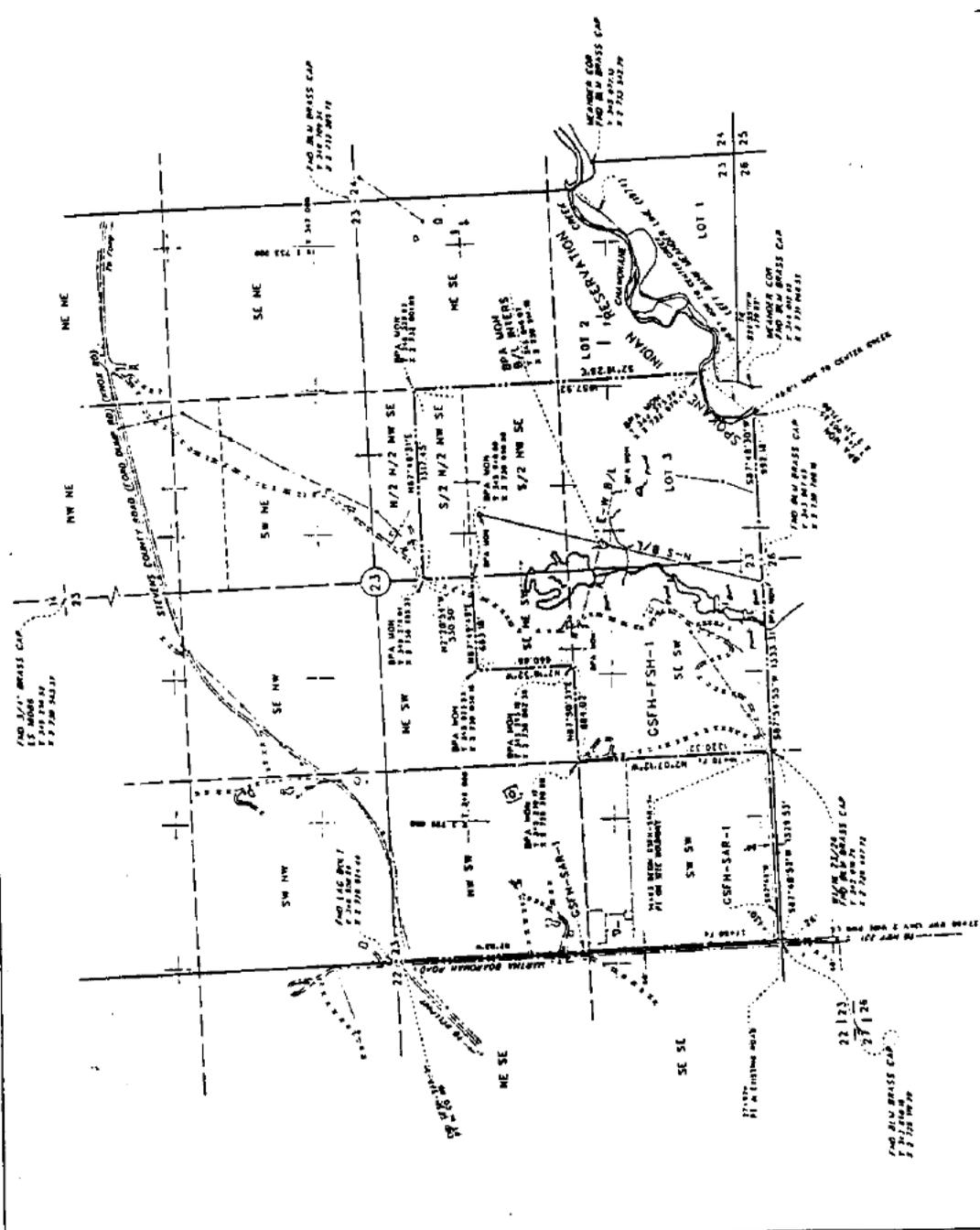
Operation and Maintenance Agreement with Exhibits

SEC 23 T28N R39E WM
STEVENS COUNTY, WASHINGTON

TRACT NO S1A TO S1A CSPH-FSH-1 (FIELD)	NAME GALBRAITH TRUST ET UX	LOCATION SE/4SW/41D1 2 S1/4NW/435/A S1/4NE/435/A S1/4E/435/A SEC 23	SURVEY ACRES 16.80
CSPH-SAR-1	SPECIAL TRACT	7/25/4 SEC 23 7/26/4 SEC 23	APPRO

Lease/ Exhibit 1

PRELIMINARY
3-11-73



PRELIMINARY
3-11-73

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NOTE:
1. FROM THESE FACTS THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FOR THE PURPOSES OF THIS MAP.
2. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FOR THE PURPOSES OF THIS MAP.
3. THE USER OF THIS MAP SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FOR THE PURPOSES OF THIS MAP.

Galbraith Springs
Trust property

SCALE TO BE USED	
ACCESS ROAD LEGEND	
EXISTING ROAD	
TO BE CONDT	

161139 TCM A1 of 1 D

R E S O L U T I O N

Spokane Resolution 1990 - 242

WHEREAS, the Spokane Tribal Council is the duly constituted governing body of the Spokane Tribe by authority of the Constitution and By-laws of the Spokane Tribe; and

WHEREAS, under the Constitution and By-laws of the Tribe, the Spokane Tribal Council is charged with the duty of protecting the health, security and general welfare of the Spokane Tribe and all Reservation residents; and

WHEREAS, the Spokane Tribal Council has participated in negotiations with individuals delegated by the Bonneville Power Administration (BPA) to develop Lease and Operations and Maintenance Agreements pursuant to the partial mitigation for fishery losses above Chief Joseph and Grand Coulee Dams on the Columbia River; and

WHEREAS, the Spokane Tribal Council has negotiated in good faith detailing its concerns and issues of paramount importance to the Spokane Tribe; and

WHEREAS, the Spokane Tribal Council has designated certain lands and Tribal waters for the purpose of construction and operation of a resident fish hatchery within the Spokane Reservation; and

WHEREAS, the Spokane Tribal Council has coordinated their efforts with the Northwest Power Planning Council, BPA, the Colville Tribe and the State of Washington, to assure an environmentally sound mitigation effort, and

NOW, THEREFORE, BE IT RESOLVED, the Spokane Tribal Council accepts the Lease and Operation and Maintenance Agreements as attached and as authorized by the Spokane Tribal Constitution and By-laws, do hereby provide notice to the BPA that pursuant to stipulations so noted, the Tribe will consider the attached agreements as binding and will sign said agreements as finally provided by the BPA for signature, and

BE IT FURTHER RESOLVED, that should the agreement be amended or materially changed by BPA the Spokane Tribal Council reserves the right to re-open negotiations on those provisions amended, and

BE IT FURTHER RESOLVED, that the Spokane Tribal Council does hereby authorize Mr. Joe V. Flett, Spokane Tribal Chairman, to execute any and all documents consistent with the Resolution and the understanding of the Council, and further, to submit such documents to the Bureau of Indian Affairs for their approval.

Certification

The foregoing was duly enacted by the Spokane Tribal Business Council on the 14th day of May, 1990, by a vote of 5 for and 0 against under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.



For Joe V. Flett
Chairman
Spokane Tribal Business Council

DESCRIPTION OF SPOKANE TRIBAL HATCHERY

The Spokane Tribal Hatchery will be located adjacent to a spring, known as Galbraith Springs, which lies approximately 2.3 miles west of the town of Ford (Steven County), Washington, within the boundaries of the Spokane Indian Reservation (T28N, R39E, Section 23).

The Hatchery would receive 16 million Kokanee eggs from Sherman Creek facility in the Fall of each year. Annual fry production is expected to be approximately 13.4 million. The entire production of Kokanee fry are expected to be trucked off-site and released at various location in Lake Roosevelt (e.g., Spokane Arm, Hunters, Kettle Falls, and others) and Banks Lake. Kokanee production at the Hatchery would occur between October and late June.

The Hatchery building, raceways, and settling pond would occupy approximately 1.2 acres. The Hatchery manager's residence would occupy an additional 0.25 acre on a terrace above the Hatchery.

The Hatchery facility shall initially consist of one hatchery building (with an approximate area of 16,400 square feet including raceways). The preliminary design includes incubation and early rearing equipment; 44 indoor/outdoor concrete raceways; office, laboratory, shop, garage, generator and storage space; crew quarters; and restrooms. A 1,300 square foot residence for the hatchery manager will be constructed on a terraced area a few hundred feet northwest of the Hatchery building. One pump house would be constructed to house the pump used to move water to the aerator/headbox facility.

This facility will be capable of incubating the Kokanee eggs received from the Sherman Creek facility and rear them to fry size juveniles before releasing them into Banks and Roosevelt Lakes.

Between April and October, the Hatchery would hatch and rear Rainbow Trout fry (to 50 - 75 fish per pound). Rainbow Trout produced at the Hatchery would be used to meet the needs of several private and civic groups, which operate Rainbow Trout pen-rearing facilities in Lake Roosevelt.

BPA F 6420.15
(08-89)
(Previously BPA 762)

U.S. DEPARTMENT OF ENERGY - BONNEVILLE POWER ADMINISTRATION
ACCESS ROAD ACQUISITION REQUEST

TRACT NO EXISTING NORTH ROAD
TO GALBRAITH SPRINGS
FISH HATCHERY SITE

PARCEL NO

TO: DIVISION OF SYSTEM MAINTENANCE

PL-6 F2611

FROM: DIVISION OF FACILITIES ENGINEERING

DATE

The acquisition of the easement described below is hereby requested.

NAME OF OWNER

STATE Washington COUNTY Stevens SEC. 23 TWP. 28N RGE. 39E W M

DESCRIPTION An existing road over and across part of the NE1/4SW1/4, the N1/2N1/2NW1/2SE1/2, the SW1/2NE1/2 and that part of the N1/2NE1/2 lying south of Stevens County Road (Ford Dump Road) (Knox Road) all in Section 23 as shown on the BPA Preliminary Drawing for the existing north road alignment.

LENGTH OF ACCESS ROAD 3040 feet

RIGHT OF WAY WIDTH

PURPOSE For access to the Galbraith Springs Fish Hatchery Site.

REMARKS

PREPARED BY: GZuercher:cda

CHECKED BY:

VERIFIED BY: *HEJ* 3-26-90

G. A. Parks
DIRECTOR, DIVISION OF FACILITIES ENGINEERING

by: _____

U.S. DEPARTMENT OF ENERGY
BONNEVILLE POWER ADMINISTRATION

ACCESS ROAD ACQUISITION REQUEST

TRACT NO. GSFH-SAR-1

PARCEL NO.

TO: DIVISION OF SYSTEM MAINTENANCE

PL-6 F2601

FROM: DIVISION OF FACILITIES ENGINEERING

DATE MAY 23 1989

The acquisition of the easement described below is hereby requested.

NAME OF OWNER Spokane Tribe

STATE Washington COUNTY Stevens SEC. 22, 23 TWP. 28N RGE. 39E W M

DESCRIPTION A right-of-way 50 feet wide for a road to be constructed over and across the south 50 feet of the SW1/4SW1/4 of Section 23, and a right-of-way 40 feet wide over and along an existing road over and across the west 20 feet of the W1/2SW1/4 of Section 23 and the east 20 feet of the E1/2SE1/4 of Section 22, all in Township 28 North, Range 39 East, Willamette Meridian, Stevens County, Washington.

LENGTH OF ACCESS ROAD 1,329 feet, 50-foot right-of-way
2,560 feet, 40-foot right-of-way

RIGHT OF WAY WIDTH 40 and 50 feet

PURPOSE For access to the Galbraith Springs Fish Hatchery site.

REMARKS This request supersedes GSFH-SAR-1, Parcel No. 1, dated April 13, 1989, and cancels GSFH-SAR-1, Parcel Nos. 2 and 3, dated April 13, 1989, due to relocation of road.

PREPARED BY: GZuercher:mw:tkc

CHECKED BY: *5-22-89*

VERIFIED BY: *UM 5-22-89*

G.A. Parks
DIRECTOR, DIVISION OF FACILITIES ENGINEERING

by: *W.P. Yang*

U.S. DEPARTMENT OF ENERGY
 BONNEVILLE POWER ADMINISTRATION
 LAND ACQUISITION REQUEST

Lease/Exhibit 4
 3 of 4

TRACT NO. GSFH-FSH-1

PARCEL NO.

TO: DIVISION OF SYSTEM MAINTENANCE

PL-6 F2601

FROM: DIVISION OF FACILITIES ENGINEERING

DATE MAR 9 1989

The acquisition of appropriate land rights as described below is hereby requested.

OWNER

Glenn F. Galbraith, et ux.

STATE	COUNTY	SEC	TWP	RGE	M
Washington	Stevens	23	28N	39E	W

DESCRIPTION

See the attached sheet and BPA Drawing No. 161139 TCM-A1, Sheet 1.

SURVEY STATION	TO SURVEY STATION	LENGTH ALONG SURVEY LINE
RIGHT OF WAY WIDTH	ACRES	NO. OF LINE(S) OF STRUCTURES TO BE ERECTED ON THIS RIGHT OF WAY
	119.80	

PURPOSE: Land for the Galbraith Springs Fish Hatchery site.

REMARKS:

PREPARED BY: GZuercher:mw

CHECKED BY: MSZ 3/9/89

VERIFIED BY: GZ 3/19/89

GALBRAITH SPRINGS FISH HATCHERY SITE

A tract of land for the Galbraith Springs Fish Hatchery site being all of the SE1/4SW1/4, Government Lot 3, the SE1/4NE1/4SW1/4, the S1/2N1/2NW1/4SE1/4 and the S1/2NW1/4SE1/4, all in section 23, Township 28 North, Range 39 East, of the Willamette Meridian in Stevens County, Washington, containing 119.80 acres, more or less.

(VS9-2726r)

Contract No. DE-MS79-90BP92906

OPERATION AND MAINTENANCE AGREEMENT

for the SPOKANE TRIBAL HATCHERY

between the

BONNEVILLE POWER ADMINISTRATION

and

THE SPOKANE TRIBE OF INDIANS

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Exhibit 2. Operation and Maintenance Manual	
Exhibit 3. The Annual Operating Plan	
Exhibit 4. Hatchery Lease with Exhibits	

This HATCHERY OPERATION AND MAINTENANCE AGREEMENT (Agreement), executed this 7th day of June, 1990, between the United States acting by and through BONNEVILLE POWER ADMINISTRATION (BPA) and THE SPOKANE TRIBE OF INDIANS (Tribe), a Federally recognized Indian Tribe residing on the Spokane Indian Reservation.

W I T N E S S E T H

WHEREAS the Administrator of BPA has authority pursuant to Section 4(h)(10)(A) of the Pacific Northwest Electric Power Planning and Conservation Act 94 Stat. 2697, P.L. 96-501, 16 U.S.C. §§ 839 et seq. (Northwest Power Act) to use the BPA fund to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any federal hydroelectric project of the Columbia River and its tributaries in a manner consistent with the Columbia River Basin Fish and Wildlife Program (Program) developed by the Pacific Northwest Power Planning and Conservation Council (Council);

WHEREAS Congress provided express approval for the Spokane Tribal Hatchery (Hatchery) in the Energy and Water Development Appropriations Act of 1990, 103 Stat. 641, P.L. 101-101;

WHEREAS Bonneville Power Administration has leased the Spokane Hatchery;

WHEREAS BPA has the responsibility to ensure that the Hatchery is properly operated and maintained for the purpose of satisfying its responsibilities under Section 4(h) of the Northwest Power Act;

WHEREAS The Spokane Tribe of Indians is a Federally recognized Indian Tribe with jurisdiction over the Spokane Indian Reservation and operates under a Constitution first approved by the Secretary of the Interior on June 27, 1951, and thereunder has the full authority and power to enter into this Agreement;

WHEREAS the Tribe desires to ensure an abundant and continuing supply of resident fish in the waters adjacent to the Spokane Indian Reservation, particularly in Lake Roosevelt and Banks Lake;

WHEREAS BPA and the Tribe desire to enter into an Agreement for the operation and maintenance of the Hatchery by the Tribe with funds provided by BPA; and

WHEREAS, the parties to this Agreement affirm that all actions taken under this Agreement shall be guided by the principal goals of coordination and cooperation as propounded in the doctrine of a government to government relationship.

NOW, THEREFORE, in consideration of and in reliance upon the recitals, declarations and covenants contained herein, BPA and the Tribe agree as follows:

1. Purpose

The purpose of this Agreement is to assure continuous, cost-effective and prudent operation and maintenance of a fish Hatchery located on the Spokane Indian Reservation in order to satisfy fish and wildlife responsibilities imposed on BPA by Section 4(h)(10)(A) of the Pacific Northwest Electric Power Planning and Conservation Act and other legislation. The purpose of the Hatchery is to produce resident fish above Chief Joseph Dam in substitution

and mitigation for anadromous fish that no longer run above Chief Joseph and Grand Coulee dams, as described in the Council's Fish and Wildlife Program, § 900(g)(1)(c) (1987). Such production shall be for the benefit of the Pacific Northwest region.

2. Definitions

- (a) Annual Operating Plan (AOP) means the Annual Operating Plan for a fiscal year submitted by the Tribe and revised or adopted by BPA as provided in this Agreement.
- (b) Annual Production Goal (APG) means a minimum of 37,000 pounds of Kokanee fish which shall include 6.7 million fry at 325 fish per pound final release weight, 5.0 million fry at 500 fish per pound release weight and, 1.7 million fry at 500 fish per pound, transport weight, to the Sherman Creek facility or any additional amount of fish designated in the AOP, which fish shall be released in Lake Roosevelt, Banks Lake or, as directed by the AOP. Such Kokanee fry shall have survival rates comparable to those for other hatchery programs operating with similar conditions and at reasonable costs. For the first four fiscal years of the Agreement the APG shall be as established by the AOP.
- (c) Bonneville Power Administration (BPA) means the Bonneville Power Administration, a Federal power marketing agency of the United States and includes its agents, successors, assigns and contractors.
- (d) Capital Improvement means any addition to the Hatchery and/or related facilities that costs at least \$1,000,000 and has a life expectancy of at least 15 years.

- (e) Council means the Pacific Northwest Electric Power and Conservation Planning Council created by § 4 of the Pacific Northwest Electric Power Planning and Conservation Act, 94 Stat. 2697, P.L. 96-501, 16 U.S.C. §§ 839 et seq.
- (f) Consult or Consultation means to timely discuss and, as appropriate, meet through BPA and Tribal representatives. This duty does not imply or establish any additional duties or rights favoring either party.
- (g) Expansion means changes in hatchery design or operation,
 (i) which are intended to rear more fish than the designed capability of the hatchery, or
 (ii) which cause the Hatchery to require more water than 11.5 cubic feet per second (cfs).
- (h) Fiscal year means the year beginning October 1 and ending September 30.
- (i) Hatchery Technical Coordination Team or Coordination Team means the team modeled on the provisions of Section 900(g)(1)(c) of the Columbia River Basin Fish and Wildlife Program (1987) and created pursuant to Section 7 of this Agreement, whose purpose is to assist the Parties in making technical operational decisions for the Hatchery.
- (j) Operate and Operation means operation, maintenance, and repair of the Hatchery, collection of eggs, rearing and planting of fish produced at the Hatchery, the use of water at the Hatchery, and audits and evaluations of the Hatchery.
- (k) Party means either of the two parties to this Agreement: BPA or the Tribe.

- (l) Prudent fish hatchery practice at any particular time is not intended to be limited to any optimum practice, method or act, to the exclusion of all others, but rather to be a spectrum of reasonable practices, methods or acts. It includes those practices, methods and acts:
- (i) utilized by owners, agencies, Tribes and others responsible for the operation of public fish hatcheries producing hatchery fish of the same species or subspecies, and for purposes similar to those of the Spokane Tribal Hatchery; and
 - (ii) which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish specified production objectives consistent with disease and other pertinent fish management policies.
- (m) Spokane Tribal Hatchery or Hatchery, means a fish hatchery to be constructed and operated on the leased area of the Spokane Reservation in order to satisfy BPA's responsibilities to protect, mitigate and enhance fish and wildlife to the extent affected by the development and operation of any federal hydroelectric project on the Columbia River and its tributaries pursuant to § 4 of the Pacific Northwest Electric Power Planning and Conservation Act, and the other purposes of the Act. The Hatchery includes; (1) the leased real property held in trust, as described in Exhibit 4, (2) the facilities, improvements and real or personal property constructed and operated on the real

property described in Exhibit 4, (3) ingress and egress on, and use of those Spokane Reservation roadways identified in Exhibit 4.

(n) Tribe means the Spokane Tribe of Indians, a Federally recognized Indian Tribe residing on the Spokane Indian Reservation, its agents, successors, assigns and contractors.

3. Exhibits

Exhibit 1. Resolution of Tribe Approving this Operations and Maintenance Agreement

Exhibit 2. Operation and Maintenance Manual

Exhibit 3. The Annual Operating Plan

Exhibit 4. Hatchery Lease with Exhibits

4. Term

(a) Anniversary Date. This Agreement shall take effect at 2400 hours the day after the following events have occurred:

- (i) the Tribe issues a resolution approving this Operation and Maintenance Agreement (Exhibit 1) and the Lease Agreement (Exhibit 4);
- (ii) the Parties sign this Operation and Maintenance Agreement;
- (iii) the Secretary of the Interior, or his designate approves this Agreement and the Lease Agreement; and
- (iv) completion of construction of the Spokane Reservation Hatchery.

(b) Length of Agreement and Renewal. The term of this Agreement shall be approximately twenty-five (25) years, beginning on the date this Agreement takes effect, provided, however, that

- (i) this Agreement shall terminate on the same date as the Lease (Contract No. DE-MS79-90BP92905); and,
 - (ii) BPA may exercise an option to renew this Agreement for an additional term of twenty-five (25) years and extend the Agreement for up to 15 years under the terms, and conditions stated in Sections 5(b) and 5(e) of the Lease.
- (c) Early Termination. This Agreement shall terminate 90 days after the following events occur:
- (i) operation of the Hatchery lapses because BPA ceases to operate the Hatchery after it has assumed operation of the Hatchery or because BPA discontinues funding of the Hatchery; and
 - (ii) BPA notifies the Tribe in writing that it will not resume operation or funding of the Hatchery during the remaining portion of the possible 50-year term of this Agreement.

5. Annual Operating Plan

The Tribe shall operate the Hatchery in accordance with the AOP.

- (a) The AOP shall provide for operation of the Hatchery. Each AOP shall:
 - (i) set forth details of operation of the Hatchery;
 - (ii) include a production plan, which will identify the species, weight and number of fish to be produced at the Hatchery and which will have an Annual Production Goal of the sum of the following;
 - (aa) an Annual Production Goal of Kokanee Salmon as described in Section 2(b) of this Agreement, and

- (bb) such additional resident fish (rainbow trout) to be produced and released as determined pursuant to this AOP;
- (iii) include an outplanting plan, which will identify by species and weight the planned distribution of fish and the schedules of planting and locations of waters that will receive the fish. Provided, however, that such locations are consistent with plans and programs of applicable federal, state and tribal fish agencies;
- (iv) include an annual operating budget for the fiscal year, which shall be organized by line items and shall include an estimate of expenses for each month of the year;
- (v) identify personnel positions that will implement and be funded by the AOP;
- (vi) incorporate the provisions of an Operation and Maintenance Manual, whose provisions shall be proposed by the Tribe no more than ninety 90 days following the date that this Agreement becomes effective, and shall become final upon approval by BPA, and which shall be attached to this Agreement as Exhibit 2;
- (vii) specify the quantity and quality of water necessary to meet the production goal;
- (viii) be consistent with prudent fish hatchery practice;
- (ix) include an equipment repair and acquisition plan;
- (x) describe condition of the physical plant; and
- (xi) include research and collection plans.

- (b) No later than April 30 of each year, the Tribe shall, after consultation with the Coordination Team, submit to BPA a proposed AOP for the following fiscal year. The initial AOP shall be submitted to BPA no more than 90 days following the date that this Agreement becomes effective.
- (c) Prior to the start of such fiscal year, or the initial fiscal year, BPA shall, as it determines to be appropriate after consulting with the Tribe, approve or propose revisions to the Tribe's proposed AOP. If, after consultation, BPA and the Tribe do not agree on an AOP, then BPA, after consultation with the Hatchery Technical Coordination Team, shall adopt an AOP.
- (d) If the Tribe has not timely submitted a proposed AOP, then, prior to the start of such fiscal year, BPA shall, as it determines to be appropriate after consulting with the Tribe, adopt an AOP.
- (e) In addition to the matters set forth in Section 5(a), BPA may include in the AOP provisions for:
 - (i) the installation and use of updated equipment, techniques and practices provided, however, that such installation and use shall be subject to Section 5(c); and
 - (ii) capital improvements notwithstanding any other provision of this Agreement.
- (f) The AOP as developed pursuant to this Agreement for a fiscal year shall be the AOP for that fiscal year, except to the extent modified pursuant to Sections 5(g) and (h), or amended pursuant to Section 5(j) of this Agreement.

- (g) BPA, after consulting with the Tribe, the Coordination Team, and others as appropriate, shall determine the following portions of the AOP:
- (i) the budget, provided the budget is not less than the amount needed for other Hatchery programs at reasonable cost under similar conditions to produce and release the Annual Production Goal; and,
 - (ii) operation of the Hatchery for the purpose of research and development, provided BPA and the Tribe agree that operation for this purpose shall not endanger operation of the Hatchery to produce the Annual Production Goal or have an adverse biological impact on downstream fishery resources.
- (h) If the Hatchery does not produce the Annual Production Goal, as described in the AOP, for three consecutive years because of problems that cannot be controlled or corrected at reasonable cost, then BPA may, after consultation with the Tribe and the Coordination Team, reduce the Annual Production Goal to any level and the budget to any amount sufficient to meet the Production Goal.
- (i) If a cause beyond the control of and without the fault or negligence of BPA would require reconstruction or redesign of all or a significant portion of the Hatchery, then BPA may reduce the Annual Production Goal to any level and the budget to any amount sufficient to meet the Production Goal.

(j) During a fiscal year, the parties may by mutual agreement amend the AOP for that fiscal year.

(k) The Hatchery shall be operated in accordance with the AOP. The initial and subsequent AOPs when approved by BPA, shall be made a part of this Agreement as Exhibit 3.

(l) Changes to the AOP.

(i) the Tribe must obtain prior written approval from BPA for major changes in the AOP including, but not limited to:

(aa) changes in Hatchery operations;

(bb) changes in the amount of any approved budget category that will exceed the total budget amount for that category by 5 percent or \$5,000.00, whichever is greater; and

(cc) any increases in the total budget amount.

Approval must be requested as soon as practicable and no more than fifteen (15) calendar days after the need for the change becomes known.

Exceptions to the written approval rule are provided in Sections 5(1) (ii) and (iii) below.

(ii) AOPs and Budgets must provide enough detail to justify proposed capital improvements or property acquisitions. When adequate time for a written change is not available, requests for changes may be transmitted orally. However, all oral requests must be confirmed by a written request with pertinent

information as soon as possible. All oral approvals by BPA will be followed by written approval within 20 days.

(iii) If an emergency adjustment to the AOP is required to prevent demonstrable harm to the Hatchery or loss to the fish produced, and it is not reasonable to consult or reach agreement in advance with BPA, then the Tribe may, without prior confirmation or agreement with BPA, adjust performance under the AOP during the 24-hour period following occurrence of the emergency. The Tribe shall inform BPA of emergency action taken no later than the next business day.

(m) Both BPA and the Tribe shall meet their respective obligations under this Agreement to timely propose, review, adopt and execute the AOP, notwithstanding any actions by the Coordination Team.

6. Reimbursement to Tribe of Hatchery Expenditures

(a) Billing. The Tribe shall, within thirty (30) calendar days, of the end of each month, submit to BPA an invoice, itemizing by budget line item, expenditures made for the preceding month, substantiated by receipts and documentation.

(b) Payment. BPA shall compare, monthly, the cumulative actual expenses, with the cumulative annual budget of the AOP and make payment to the Tribe for approved expenditures within 30 calendar days of receipt of invoice. BPA may, in whole or in part:

- (i) delay payment and require additional documentation, or
 - (ii) deny payment where expenditures are insufficiently documented or outside the annual budget, provided that BPA shall in writing indicate reasons for taking either action.
- (c) Disputes. If the Tribe disputes the amount of BPA's payment, the Parties shall attempt to resolve the dispute informally. If the Parties are unsuccessful in such attempts, the facts in dispute shall be submitted to binding arbitration using the rules of the American Arbitration Association. The arbitrator's decision shall be binding upon both BPA and the Tribe. Parties shall pay their own costs for such arbitration.
- (d) Advance Payment. At the request of the Tribe, BPA shall make advance payments totaling no more than \$16,000 for O & M costs. Any advance payments shall be recovered by BPA from monthly billing by offset against monthly billing by the Tribe at a rate of one-twelfth (1/12) of the advance payment per month during the first twelve (12) months of this Agreement.

7. Hatchery Technical Coordination Team

- (a) Membership. The Hatchery Technical Coordination Team or Coordination Team shall consist of three persons technically experienced and knowledgeable in fish hatchery matters: A representative of The Spokane Tribe, a representative of the Confederated Tribes of the Colville Reservation and a representative of the Washington Department of Wildlife. The Team members shall be chosen by the respective entities.
- (b) Coordination Team Responsibilities. The Coordination Team shall be responsible to:

- (i) make recommendations to the Tribe and BPA regarding Hatchery production, stocking and outplanting locations; and,
 - (ii) review the proposed AOP of the Tribe prior to its submission to BPA.
- (c) Site Inspection. The Coordination Team shall conduct an annual site inspection of the Hatchery and such additional inspections as may be requested by either Party. The purpose of the inspections is to:
 - (i) evaluate whether the Tribe has operated the Hatchery during a fiscal year in accordance with the AOP for such fiscal year;
 - (ii) evaluate whether the Tribe has operated the Hatchery in accordance with prudent fish hatchery practice;
 - (iii) identify and make recommendations regarding any aspect of the Hatchery operation which should be changed or corrected to result in better performance of the facility; and
 - (iv) submit all recommendations in a written report to the Tribe and BPA.
- (d) Use of Coordination Team Report. The Parties shall take any report submitted pursuant to Section 7(c)(iv) into consideration and determine by mutual agreement whether to revise the AOP applicable to the year in which the parties receive the Team's report. The Parties shall also take the report into consideration during development of the following year's AOP pursuant to Section 5.

8. Termination of this Agreement

(a) Termination by Tribe. The Tribe may terminate this Agreement on 90 days written notice if it reasonably concludes that budgetary reductions by BPA pursuant to Section 5(h) of this Agreement makes continuation of the Agreement by the Tribe impractical or uneconomical.

(b) Termination for Convenience. The Parties may terminate this Agreement in whole or in part if, after consultation, they mutually agree that continued operation of the Hatchery by the Tribe would not produce beneficial results. The Parties shall agree upon termination conditions including the effective date and, in the case of partial terminations, the portion of the Agreement to be terminated. The Tribe shall not incur new obligations after the effective date of such termination and shall cancel as many outstanding obligations as possible. BPA shall reimburse the Tribe for non-cancellable obligations properly incurred pursuant to the AOP by the Tribe prior to termination.

(c) Termination for Failure to Comply With AOP. If BPA determines that the Tribe has failed to operate the Hatchery in accordance with the AOP, BPA may terminate the Agreement after taking the following actions:

(i) Notice of Deficiency. BPA shall give written Notice of Deficiency informing the Tribe that the Agreement will be terminated in 90 days if the Tribe has not corrected the deficiencies which shall be listed in the notice;

- (ii) Assistance. Consistent with the parties' consultation obligation, BPA shall provide, to the extent practicable, technical assistance for correcting the deficiencies listed in the Notice of Deficiency;
 - (iii) Notice of Termination. BPA shall give a written Notice of Termination by registered mail if the Tribe has not timely corrected the deficiencies listed in the Notice of Deficiency referred to in Section (i) above; and
 - (iv) The Agreement shall be considered terminated as of the date the Notice of Termination is tendered to the Tribe.
- (d) Termination for Cause. After notice to the Tribe, BPA may take immediate possession of the Hatchery when it determines that the Tribe is in material breach of the Agreement and there is an imminent danger to the facilities or the hatchery stock due to the breach. If BPA takes possession of the Hatchery pursuant to this section, it may after 10 days terminate the Agreement for cause; provided the following conditions have been met:
- (i) BPA shall promptly notify the Tribe of the intent to terminate and the reasons therefore, and
 - (ii) BPA shall consult with the Tribe on the nature of the breach and the possibility of rescinding the termination decision.

Payments made and recoveries by the Parties shall be in accordance with the Parties legal rights and liabilities.

- (e) Operation Following Termination. In the event that this Agreement is terminated, the Parties agree to the following:
- (i) BPA may operate the Hatchery at its own expense, may contract for operation of the Hatchery by a third party, or may discontinue operation of the Hatchery;
 - (ii) the Tribe shall transfer to BPA all responsibilities for operation of the Hatchery, assign to BPA all rights related to operation of the Hatchery as described in this Agreement, and refrain from interfering with operation of the Hatchery by BPA, its agents or contractors; and
 - (iii) the Tribe shall issue such resolutions as are necessary to achieve the actions identified in this Section.

9. Inventory

The Tribe shall establish and implement an inventory procedure sufficient to insure protection of property furnished by BPA during the term of this Agreement. Such inventory shall remain the property of BPA during the term of the Lease described in Exhibit 4.

10. Inspection, Review and Evaluation

- (a) The Tribe shall maintain adequate records of operation of the Hatchery. These records shall include records of revenues, expenditures and inventory prepared in accordance with generally accepted accounting principles.
- (b) BPA's rights of inspection, review and evaluation shall include:

- (i) the right to inspect conditions during operation of the Hatchery at all reasonable times;
- (ii) the right to inspect and obtain copies of all records of the Tribe that pertain to the Hatchery; and
- (iii) the right to review and approve the Single Audit Act accounting methods or procedures used to document project costs that are reimbursable by BPA.

The Tribe shall cooperate fully with such reviews and inspections, and make relevant records available for review and copying within fifteen (15) days after BPA sends to the Tribe notice of its decision to review such records. BPA shall compensate the Tribe for the costs of copying records requested by BPA.

11. Notice

- (a) BPA is deemed to have received an item of correspondence or notice of representation if it is sent by registered mail to the following address:

Director, Division of Fish and Wildlife - PJ
Bonneville Power Administration
P.O. Box 3621
Portland, OR. 97208-3621

- (b) The Tribe is deemed to have received an item of correspondence or notice of representation if it is sent by registered mail to the following address:

Tribal Business Council Chairman
Spokane Tribe of Indians
P.O. Box 100
Wellpinit, WA 99040

- (c) Each party shall notify the other party of any change in addressee or address within 30 days of such change.

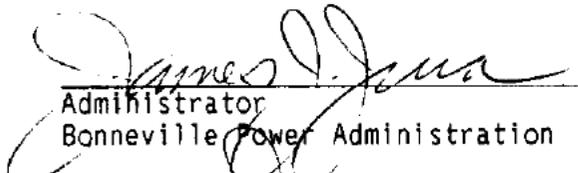
12. Miscellaneous Provisions

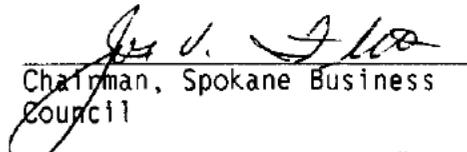
- (a) Employment. It is the intention of the parties to use their best efforts to offer opportunities for employment to qualified Native Americans in connection with operation and maintenance of the Hatchery, including application of Indian preference as allowed by law. This Section shall not prohibit or limit the Tribe from applying its Tribal Employment Rights Ordinance (TERO) to its own operation of the Hatchery.
- (b) Hold Harmless. The Tribe shall indemnify and hold harmless BPA from any claims or liability directly or indirectly resulting from the Tribe's operation of the Hatchery. If BPA operates the Hatchery pursuant to Section 8, then BPA shall indemnify and hold harmless the Tribe from any claims or liability directly or indirectly resulting from BPA's operation of the Hatchery, to the extent that those acts create a cause of action pursuant to the Federal Tort Claims Act, 62 Stat. 982, 16 U.S.C. §§ 2671 et seq., as amended.
- (c) Assignment. This Agreement can be assigned only upon the mutual consent of the Parties.

(d) Representatives of the Parties. Any person designated pursuant to the terms of this Agreement as a representative of either BPA or the Tribe shall not be authorized to act in a representative capacity under this Agreement until and unless the other party has been advised in writing, mailed to the other party at least five days before; which writing shall describe the name, address, telephone number and, as appropriate, title of the representative.

(e) Third Parties. This Agreement in no way expressly or otherwise implies a right of action by third parties for enforcement of any terms of this Agreement.

Dated this 7th day of June 1990.


Administrator
Bonneville Power Administration
Date Signed: June 7, 1990
Place where contract signed:
Portland, Oregon


Chairman, Spokane Business
Council
Date Signed: 6-1-90
Place where contract signed:
Spokane, Wash

This Agreement is hereby approved and declared to be made in accordance with the law and the rules and regulations prescribed by the Secretary of the Interior thereunder, and now in force.

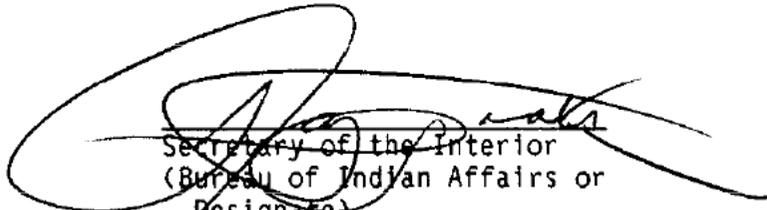

Secretary of the Interior
(Bureau of Indian Affairs or Designate)
Date: 6/5/90

Exhibit 1

Resolution of Tribe Approving this Operation and Maintenance Agreement

Exhibit 2

Operation and Maintenance Manual

Exhibit 3

The Annual Operating Plan

Exhibit 4

Hatchery Lease with Exhibits

Capital and Non-capital BPA Owned Equipment Inventory

Form Revised: 6 Oct 2009 stb/sdg

BPA Project Number: 1991-046-00	Date Updated: 5/1/2015
Contract Number: 67576	Person Who updated: Tim Peone
Contractor: Spokane Tribe of Indians	

Item ID	Item Description (Each item must have a separate line)	Model #	Serial Number (if applicable)	Date Acq'd	Type of Acquisition (check one)				Cost/Owner		Current Condition (Check one)					Physical Location	Disposition (R, A, T) (BPA decision only)		Other Comments	Ownership
					Purchased	From Surplus	Shop Built	Transferred in (from BPA contract #)	at time of purchase	% ownership this project	Excellent	Good	Fair	Inoperable	Missing		Disp Code	Contract #		
1	Residence			1990	X				\$90,000	100	X				Spokane Tribal Hatchery					
1	1,500 Gallon Fish Transport Tank and Truck	Husky 4900	IHTSDZ4N5MH 322148	1990	X				\$68,200	100		X			Spokane Tribal Hatchery			STOI Tag # SIR 065		
2	Arc Welder	L-Tech		1990	X				\$4,000			X								
2	Fish Tank Insulated	Eager	None	1991	X				\$5,168	100			X		Spokane Tribal Hatchery			STOI Tag # 10710		
3	16' John Boat	Crestliner	NOR41477F494	1992		X			NA	100	X				Spokane Tribal Hatchery			STOI Tag # 10696		
4	Ford Tractor	1720	YL11058	1995	X				\$15,000	100			X		Spokane Tribal Hatchery			STOI Tag # 10699		
5	Utility Truck	Chevy K3500	1GBJK34F7TE1 94746	1996	X				\$27,300	100			X		Spokane Tribal Hatchery			STOI Tag # SIR 356		
6	Utility Vehicle	Chevy Blazer	1GNDT13W4W K196964	1998		X			NA	100	X				Spokane Tribal Hatchery			STOI Tag # SIR 357		
7	Sanding Unit	Meyer		1999	X				\$3,900	100	X				Spokane Tribal Hatchery					
	Pressure Washer	Landa		1998	X				\$3,200	100			X		Spokane Tribal Hatchery					
8	Sotage/Cooler Unit			1999					\$10,000	100					Spokane Tribal Hatchery					
9	ATV	Prairie 300	JKAVF8A16YB 520045	2001	X				\$8,250	100			X		Spokane Tribal Hatchery			STOI Tag # 10693		
	Fish Pump	BP 60H		2001	X				\$30,365	100			X		Spokane Tribal Hatchery					
10	50 HP Line Shaft Pump with 460 Volt VSD	Robbco-Magnetek	None	2002	X				\$25,275	100	X				Spokane Tribal Hatchery			STOI Tag # 10667		
	Lawn Mower	Aerians 40		2004	X				\$3,350	100			X		Spokane Tribal Hatchery					
11	Fish Transport Truck	Husky 4300	IHTMMAAN66 H264214	2006	X				\$53,900	100	X				Spokane Tribal Hatchery			STOI Tag # SIR 431		
12	1,500 Gallon Fish Transport Tank	Aqua-Life	None	2006	X				\$24,862	100	X				Spokane Tribal Hatchery			Transport Tank fitted on Husky 4300 Truck listed above (item 7).		
13	Fork Lift	Toyo 8FGU30	11332	2007	X				\$25,093	100	X				Spokane Tribal Hatchery			STOI Tag # 11595		
14	Utility Truck	Dodge 3500	306WH4608765 8463	2007	X				\$32,428	100	X				Spokane Tribal Hatchery			STOI Tag # 474		
	Maintenance Shop			2008	X				\$86,698	100	X				Spokane Tribal Hatchery					
15	ATV	Polaris700	4XARH68A4482 380662	2007	X				\$10,318	100	X				Spokane Tribal Hatchery			STOI Tag # SIR 010		

Exhibit 5

Description	Cost
Surface Water Supply System - Becomes Back-up System Only	\$10,000
Ground Water Supply System	\$428,000
Aeration Headbox, Truck Fill and Distribution Piping	\$197,000
Oxygen System	\$110,000
Incubation	\$32,500
Raceways	\$566,000
Drains, Effluent Pond, and Outfall	\$200,000
Hatchery and Shop Buildings	\$20,000
HVAC Systems	\$70,000
Utilities	\$5,000
Instrumentation and Controls	\$130,000
Construct Onsite Residence for Assistant Manager	\$300,000
Reuse Module Expansion	\$1,080,000
Total Conceptual Level Cost (2014 Dollars)	\$3,148,500