

## Testimony of the Honorable Rebecca Miles

On behalf of the Columbia River Inter-Tribal Fish Commission before the Water and Power Subcommittee of the House Committee on Resources, United States House of Representatives

### Field Hearing on ***“Electricity Costs and Salmon: Finding the Balance”***

Columbia Basin College, Pasco, Washington  
July 7, 2006

I am Rebecca Miles, Chairman of the Nez Perce Tribal Executive Committee and a commissioner on the Columbia River Inter-Tribal Fish Commission. Thank you for allowing me an opportunity to offer testimony on behalf of the Commission.

The Columbia River Inter-Tribal Fish Commission (CRITFC) was formed by resolution of the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon and the Confederated Tribes and Bands of the Yakama Nation. The Commission's primary mission is to provide coordination and technical assistance to the member tribes to ensure that outstanding treaty fishing rights issues are resolved in a way that guarantees the continuation and restoration of our tribal fisheries into perpetuity.

The Tribes have had a seat at the Columbia River Basin's table for over 10,000 years. Salmon was so fundamental to our society that in 1855 when our four sovereign tribes and the United States collaborated and negotiated treaties, our tribal forefathers explicitly reserved—and the U.S. agreed to assure—our right to fish in perpetuity within our ancestral homelands as well as to “take fish at all usual and accustomed places”. We kept our word by ceding vast portions of our homelands to the U.S., and we fully expect the U.S. to honor their word. On the Columbia River and its many tributaries, our peoples have exercised this right since time immemorial. It was the expectation of our treaty negotiators then that the tribes would always have access to abundant runs of salmon; it is our expectation now that you will honor that commitment and take the steps necessary to protect our trust resource. This reserved right has not been diminished by time and its full exercise has been upheld and affirmed in several U.S. Supreme Court decisions.

It is important for members of this subcommittee as well as the region to understand how the four Columbia Basin treaty tribes feel about the relationship between our shared goal of maintaining access to affordable electricity and the federal obligation to restore salmon to healthy sustainable runs under our treaties, as well as under the Endangered Species Act (ESA) and the Pacific Northwest Electric Power Planning and Conservation Act—Northwest Power Act for short.

The ancestral homelands of our Commission tribes cover roughly one-third of the entire Columbia Basin in Washington, Oregon and Idaho. Along with the northwest states and federal agencies, we have been involved in an intensive collaborative effort to construct a salmon recovery plan for the Columbia River basin. It is our goal to deliver a plan to the region with hallmarks I feel you would support—certainty and accountability. We feel we have an opportunity to deliver a plan that can win regional support and be put into practice immediately. In our view, the element most crucial to success or failure, and lacking from the previous salmon plan, is sufficient funding. I appeal to you to work with our tribes and collaboration partners to ensure that all the needed ingredients for a successful salmon plan are realized.

As a region, we remain concerned over power rates and safeguarding a healthy environment. Often, salmon and economy are divisive words. One of the first steps to overcome this divisiveness is to squelch the fear that Endangered Species Act costs are the primary reason for electrical rate increases. Claims such as those found in your press release about the costs per fish are based on a long-discredited analysis and serves to weaken relations and pit salmon recovery against the economy.

The causes of Bonneville Power Administration (BPA) rate increases over the past 25 years are primarily from nuclear costs and over-commitments to utilities and aluminum smelters. For example:

- BPA's 2001 decision to over-commit to utilities and aluminum smelters added \$3.9 billion in costs based on BPA's own estimate.
- BPA's annual payments for nuclear plants average \$828 million a year.

By comparison, BPA funds the Northwest Power and Conservation Council's (NPCC) Fish and Wildlife Program and FCRPS Biological Opinion on the average of \$143 million dollars annually—roughly 5% of its total expenditures.

The region must consider salmon and ESA costs in another way: an economic investment in rural communities.

Full implementation of subbasin plans as recommended by a workgroup of the Columbia Basin Fish and Wildlife Authority (comprised of the basin's state, federal and tribal fish and wildlife co-managers) would inject approximately \$2 billion in Eastern Washington, Eastern Oregon, Idaho, and Western Montana. If this work is implemented over the next ten years, the annual funding would support more than 5,000 jobs (assuming \$40,000 per job).

This economic infusion could be realized and BPA rates would still be 29% to 38% below market rates. Over the past ten years BPA rates have averaged 27 percent below market, so the region could still increase investments in salmon recovery and still be further below market rates than the last ten years.

The pie could get bigger, and sweeter, at the same time. This could be achieved by the BPA building adequate salmon costs into their next rate case. Under the current rate case, costs were assumed to be an average of \$186 million. For the next rate case, covering the years of 2007 through 2009, the costs should ramp up to an average of \$240 million per year. The effect of including these costs on the hydroelectric power rates is minimal: for the average household that gets all of its power from BPA, building these costs in the power rate would mean an increase of about one dollar per month. BPA only provides about forty percent of the power in the Pacific Northwest, so most homes would see smaller monthly increases in power costs.

We also want to make you aware that irrespective of power rate increases or decreases, Eastern Washington is at risk of losing existing resources. Last week a different committee of the U.S. House of Representatives approved a spending bill that would reduce the Pacific Coastal Salmon Recovery fund by \$45 million. Much of that loss will be felt right here in the mid-Columbia.

As well, a proposal by the NPCC would transfer \$7 million per year for salmon restoration and mitigation OUT of Eastern Washington and redirect them to Montana and Idaho for resident fish projects (see map on page 9).

#### HR 4857 the Endangered Species Compliance and Transparency Act of 2006

We have read the text of HR 4857, the Endangered Species Compliance and Transparency Act of 2006. We do not dispute a need for transparency and reliable consumer information however no one should be unfairly singled out in this analysis. To aid the consumer on their overall power bill they must have a better understanding of all costs that constitutes their bill, including the cost to the consumer of implementing this legislation.

We cannot support this legislation as written for the following reasons:

- BPA's fish and wildlife funding is not exclusively for ESA compliance. BPA's fish and wildlife obligation is also required by a number of federal laws and treaties among which ESA is only one. The Northwest Power Act called for a program to mitigate, protect and enhance the fish and wildlife resources affected by the federal dams. There are many non-ESA costs within BPA's fish and wildlife funding making it difficult and costly to determine costs attributed exclusively to ESA. All non-ESA costs must be deducted such as wildlife, resident fish, and administration for example. On-the-ground projects with multiple benefits would also require that any costs attributed to ESA be separated.
- HR 4857 relies on the BPA's claiming of so-called "foregone revenues". Calculating costs in this manner implies that BPA can claim savings for violating federal laws. No other business or government agency calculates the revenues or profits that it could have made if it had violated Federal laws, regulations, or court orders as a part of foregone revenue and costs. The legislation should not put such a requirement into law. If lost revenues are used to analyze a power bill, consumers should also be told of lost revenues due to other public benefits: irrigation, flood control, transportation and recreation.
- The economic analysis required by HR 4857 does not address any associated benefits. In order to make a more fair assessment of costs, any analysis would be strengthened by including economic opportunities created by a salmon economy plus investments in on-the-ground salmon restoration work. We must not underestimate the economic importance of salmon.
- This legislation is likely to focus national attention on the fact that BPA's rates are currently about 60 percent below market rates.

We would support greater ratepayer understanding of all costs that constitute their utility bills, in effect true and full transparency which would include, for example, nuclear debt. Every year BPA customers pay \$828 million in annual costs associated with nuclear power. \$250 million goes to operate the Columbia Generating Station, \$275 million to repay the debt on that plant, and \$325 million to repay the debt on two nuclear plants that were never completed. Add to this amount the debt owed on the hydropower system, various subsidies and power provisions and a customer will see what constitutes 95% of their bill.

Also, if foregone revenue was a valid concept, consider the hydropower revenue losses caused by irrigation. In the NPCC's 4th Annual Report to the northwest Governors on the Fish and Wildlife Program, they stated irrigation is the largest non-power user of Columbia and Snake River water accounting for net water withdrawals of about 14.4 million acre-feet of water annually. According to their analysis, this volume of water, were it left in the river and used to generate hydropower instead of being withdrawn for irrigation, would yield about 625 average megawatts of electricity (that is, averaged across all 12 months). At BPA's rates, this additional power would be worth \$170 million per year or \$1.7 billion dollars over 10 years. A recent analysis by the NPPC calculated that at average market rates, the foregone revenue would be closer to \$250 million per year. At the market prices for the summer of 2005, the lost revenue associated with irrigation withdrawals was over \$380 million. BPA does not count irrigation as a cost or foregone revenue. It is interesting that we don't debate irrigation as decreasing revenues or raising electrical rates or classifying it as foregone revenue. Instead, we accept agriculture as a mainstay to the region's livelihood and so should we also accept salmon.

The Northwest Power Act requires equitable treatment between the purposes for which the dams are operated. The natural capital of water in the river cannot be claimed by a single interest. The Tribes have asked for river operations that provide for the natural needs of the fish. Yet, the legitimate use of spill for smolt survival is met with disdain and is characterized as lost revenues. In addition, BPA's purchase of electricity to meet their legal obligation to provide sufficient flows for salmon migration and habitat is also mislabeled as a cost in their fish and wildlife budget

The early settlers took a cue from the Tribes in recognizing the economic wealth contained in the salmon. Salmon, like timber and agriculture, provided an economic foothold in this region. We are accustomed to understanding the timber and farming communities' contribution to the economy and the imprint their rich family heritage and culture has given to this region—it is rightly so. And, just as passionately and determined, we should also defend the historic salmon economy and its legacy that stretches even deeper in history.

A study done by the Northwest Power Planning Council in the mid-80's found that the hydropower system is directly responsible for the loss of between five and eleven million salmon per year from the historic high of sixteen million. These losses are borne by communities and cultures in our region and beyond. We must not ignore these costs to the system. It is unfair when, at the same time, water that is needed to ensure the safe passage of salmon to the ocean is being charged as a cost against the ESA.

The Columbia River was built to support multiple purposes. What we need for salmon, and what rural economies need in terms of energy costs is the same thing, certainty. The salmon resource, and with it, tribal rights reserved under treaties with the United States must have a secure place on the list of considerations reviewed by the Congress and federal agencies in determining the appropriate costs to be borne by ratepayers and taxpayers.

We look forward to working with you and your staffs to find the appropriate sources of regional and national support to bring balance, certainty and ultimately success to our region. We need a commitment from the Congressional Delegation to support an aggressive effort to rebuild salmon runs to sustainable, harvestable levels. The U.S. must fulfill the commitments entered into by treaties with our tribes.

Tribes have the longest history of collaboration in the region beginning long before our ancestors negotiated treaties in 1855. Today, we are working along side our neighbors in the watersheds to restore salmon habitat, we share in the harvest with non-Indian commercial and recreational fisherman, and we share in the hope that we can overcome the divisiveness and strained relations by working through common understanding. And, we will continue to work with you to secure the resources necessary to get the job done.

Thank you for this opportunity to offer this testimony. A more detailed technical analysis is attached.

Technical Recommendations and Concerns of the

Columbia River Inter-Tribal Fish Commission for the

Field Hearing on *"Electricity Costs and Salmon: Finding the Balance"*

Friday, July 7, 2006

I. A STRONG FEDERAL COMMITMENT TO SALMON RECOVERY IS NEEDED

- We need a commitment from the Congressional Delegation that they will support an aggressive effort to rebuild salmon runs to sustainable, harvestable levels. The Federal government must fulfill its commitments in the Treaties signed with our tribes.
- Rebuilding salmon runs will provide thousands of jobs in eastern Washington and Oregon and in Idaho.
- Federal agencies should work with the fish and wildlife managers to develop a science-based plan that will protect and recover listed salmon species and rebuild salmon runs to sustainable, harvestable levels.
- The federal agencies should work with the fish and wildlife managers to develop a detailed workplan to implement these efforts. The plan should include:
  - An aggressive schedule,
  - A detailed budget,
  - An allocation of implementation responsibility, and
  - Funding commitments.
- We want to work with the Congressional delegation to secure federal appropriations wherever possible.

## II. TRIBAL EFFORTS ARE SUCCEEDING IN REBUILDING SALMON, MORE ARE NEEDED

The tribes' vision and their actions have been simple: "Put the salmon back in the rivers and protect the watersheds where they live." The following are a sample of tribal successes in carrying out this vision.

In the Clearwater River of Idaho, the Nez Perce Tribe has resurrected Coho salmon runs that went extinct in the 1970s. The tribe's efforts returned more than 1,100 Coho to the Clearwater River. The tribe also has taken the lead in restoring and protecting salmon habitat. It implemented its plan against great opposition and produced results in less than eight years. Coho are back in the river.

In the Methow River of Washington, the Yakama Nation, helped save thousands of spring chinook from destruction by federal and state agencies. The Yakama Nation led an effort to allow hatchery-reared spring chinook to spawn in the Methow River rather than be killed due to mismanagement over genetics. The tribe and others blocked the hatchery entrance, thereby allowing the nearly 2,000 adult salmon to spawn in the river. As a result, spring chinook redds (nests) increased in less than three years—from 15 redds in 1995, to 36 redds in 1999, to 368 redds in 2000, to 4,400 redds in 2001. Additionally, the tribe worked with local irrigators to help conserve water critical to spring chinook spawning and rearing. Spring chinook are back in the river.

In the Hood River of Oregon, the Warm Springs Tribe has led efforts to restore habitat and supplement wild steelhead and spring chinook through appropriate hatchery technology. The tribe is operating the low-tech, yet highly successful Hood River salmon acclimation and release facilities. The facility is designed to increase survival of spring chinook and steelhead juveniles and boost the naturally spawning population. Prior to 2001, the average size of the spring chinook run was 200 fish. But it jumped to 1,100 fish in 2001 and to 1,600 fish this year. The winter steelhead run also has increased dramatically on the Hood River. Last year—2000-2001—it reached about 2,250 fish, up significantly from the average run size since 1991 of 700 fish, and this year it climbed to 2,500 fish, making it the highest winter steelhead run on record since the tribe started counting it during the 1991-'92 season. Steelhead and spring chinook are back in the river.

In the Umatilla River of Oregon, the Umatilla Tribe has spearheaded one of the most successful models of salmon restoration. Since 1984, the tribe has worked with irrigators, state agencies, environmental groups, and local citizens to rebuild salmon runs from an average of 1,500 annually to as many as 30,000 fall and spring chinook, Coho, and steelhead annually. Working with local communities, water has been restored to the river, habitat has been improved, and hatchery technology is supplementing wild salmon populations. Today, once-extinct spring chinook salmon are returning to spawn. As much as 20 percent of the reintroduced spring chinook are naturally spawning. Spring and fall chinook, Coho, and steelhead are back in the river.

The Tribes have helped achieve significant accomplishments. Ocean harvest that intercepts Columbia River chinook has been reduced nearly 50 percent since the 1999 Pacific Salmon Treaty agreement. The tribes played a pivotal role in reaching

this agreement. The tribes have led the region's efforts to protect fish habitat on federal lands and restore habitat in cooperation with local landowners on private and tribal lands. They also have been in the forefront of efforts to require annual flow and spill over Columbia and Snake River hydroelectric dams, the most effective way of passing fish in the river. Today the tribes and other citizens of the Pacific Northwest are benefiting from the hard work.

#### A. MORE FISH AND WILDLIFE EFFORTS ARE NEEDED

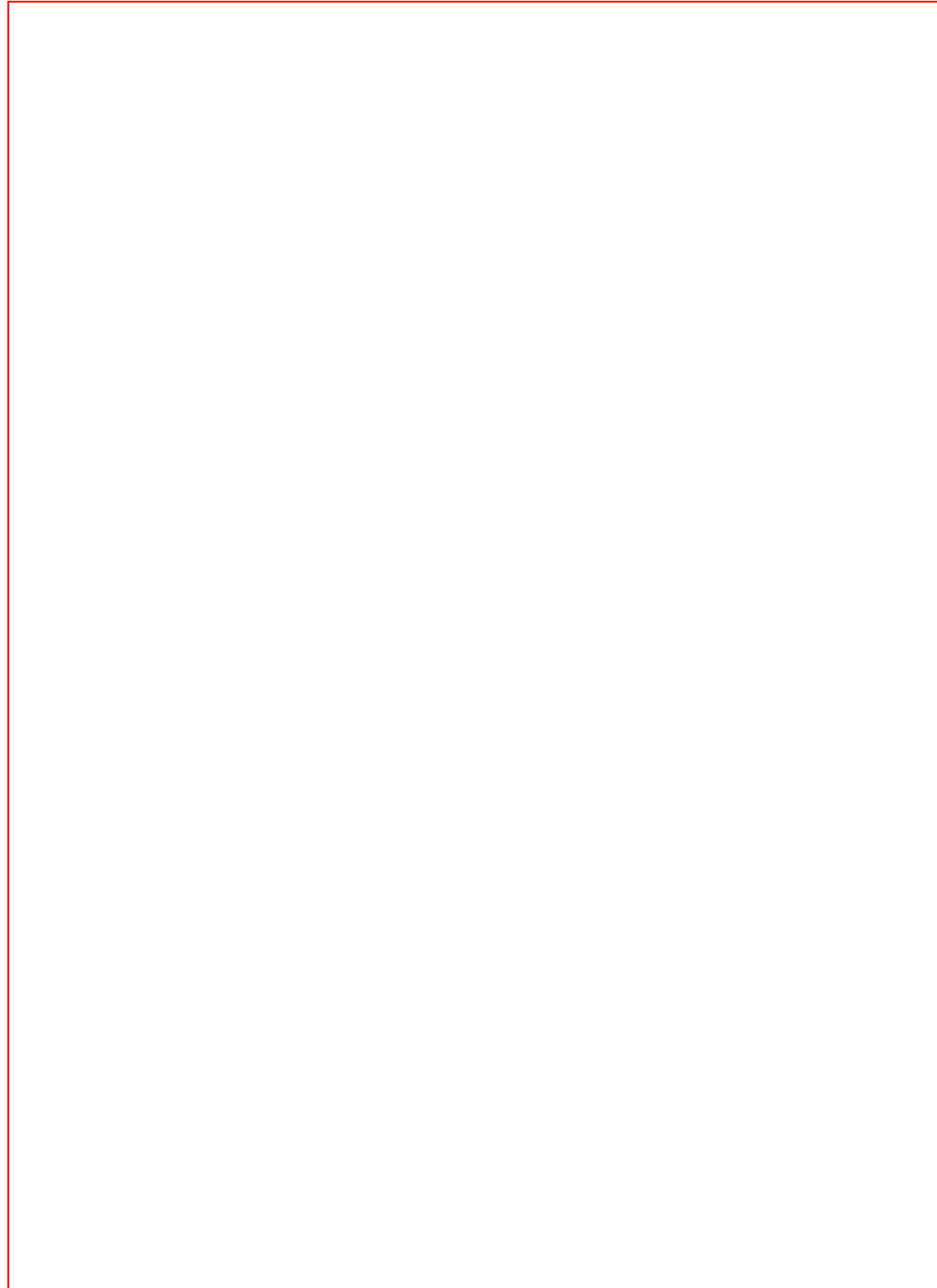
##### 1. The current funding problem

The NPCC and BPA are currently making decisions on fish and wildlife projects for 2007-2009. The fish and wildlife managers developed detailed recommendations for projects that are needed during this period. BPA's proposed funding level will require significant cuts in ongoing projects that affect listed species. The proposed funding levels and cuts are shown in the following table. These cuts will impact ongoing projects and significantly limit new projects.

#### CBFWA Annual Project Cost Information

Province	FY07 Ongoing	FY07 New	Council	Difference
			Allocation	
Blue Mountain	\$18,642,311	\$7,191,785	\$7,127,528	(\$18,706,568)
Columbia Cascade	\$10,610,100	\$15,559,446	\$3,001,663	(\$23,167,883)
Columbia Estuary	\$4,022,648	\$1,909,738	\$3,662,490	(\$2,269,896)
Columbia Gorge	\$14,603,364	\$3,316,245	\$5,312,554	(\$12,607,055)
Columbia Plateau	\$37,922,502	\$14,898,988	\$21,748,203	(\$31,073,287)
Intermountain	\$25,066,194	\$6,637,735	\$15,248,105	(\$16,455,824)
Lower Columbia	\$7,843,307	\$15,692,749	\$2,492,862	(\$21,043,194)
Middle Snake	\$4,677,822	\$7,684,883	\$3,374,079	(\$8,988,626)
Mountain Columbia	\$17,598,441	\$1,824,154	\$12,590,537	(\$6,832,058)
Mountain Snake	\$24,421,465	\$28,748,557	\$16,761,459	(\$36,408,563)
Upper Snake	\$2,696,379	\$1,265,100	\$1,575,022	(\$2,386,457)
Systemwide	\$57,608,224	\$23,740,672	\$46,055,498	(\$35,293,398)
Subtotal	\$225,712,757	\$128,470,052		
Total	\$354,182,809		\$131,822,472	(\$222,360,337)

The map on page 9 shows the reallocation proposed for FY 2007-2009 compared to the average for the Council's recommendation in FY 2004-2006. All of the areas that will lose funding have listed salmon and/or steelhead. Based on this reallocation, the funding available to implement projects under the Council Program and the FCRPS remand will be cut significantly. The reallocation will transfer \$7 million per year away from projects in eastern Washington and Oregon.



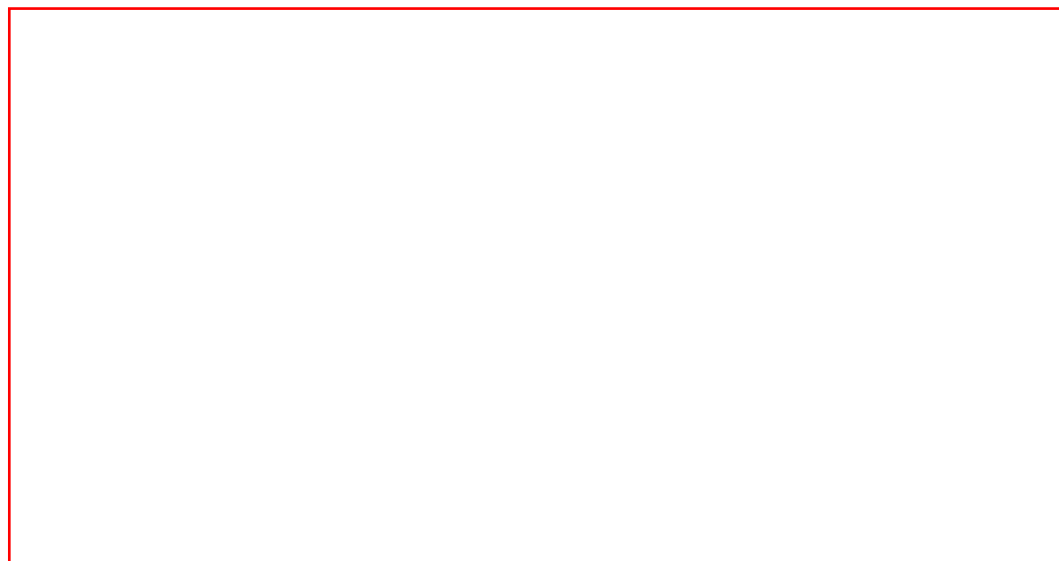
2. BPA can fully fund salmon recovery

Fish and wildlife managers have developed several estimates of fish and wildlife costs. The first was prepared by CBFWA in 1998 as part of the Multi-Year Implementation Plan. This effort developed costs for implementing all of the elements of the Council Program and FCRPS Biological Opinion. The annual costs at the time were \$200 to \$225 million—this would be approximately \$275 million today, adjusted for inflation.

In 2003, CBFWA and the NPCC conducted the Provincial Review to determine the costs of implementing projects that had been approved by the fish and wildlife managers, the Council, and the Independent Science Review Panel. The Provincial Review identified BPA revenue requirements (capital, reimbursable costs, and direct program) of \$310 million per year for FY 2003 through FY 2006 (\$329 million adjusted for inflation).

CRITFC, the Oregon NPCC office, and the Yakama Nation also developed estimates of the costs of implementing the 2000 FCRPS Biological Opinion and NPCC Program in January of 2001. This estimate was based on more aggressive habitat restoration activities to implement the “Aggressive Non-Breach Alternative” in the Biological Opinion and had an annual cost of \$356 million (approximately \$400 million adjusted for inflation to 2005 dollars). This figure assumed that all of the costs would be expensed; if CRITFC had assumed that some of the costs would be capitalized, the estimate would be similar to the recent CBFWA costs

The following figure has been adjusted for inflation and shows that BPA has never provided funding at the levels recommended by the fish and wildlife managers.



### 3. 2007-2009 Biological Opinion and Program cost estimates

The CBFWA formed a workgroup comprised of federal, state, and tribal fish and wildlife managers to prepare detailed estimates of the costs of implementing the subbasin plans and other Program measures.

The subbasin plans were the produce of a multi-year, \$13 million effort involving fish and wildlife managers, local stakeholders, and other interested parties. This effort developed plans for all of the subbasins in the Columbia River Basin. These plans assessed the current conditions in each watershed, the desired population levels, and the key limiting factors. The plans also included specific strategies and management plans to achieve the biological objectives for each subbasin. Each plan addressed the requirements of the Council's program (See the Columbia River Basin Fish and Wildlife Program, pages 39 to 43). The NPCC formed technical and policy level groups to oversee the development of the subbasin plans and the plans were reviewed by the Independent Science Advisory Board.

The CBFWA workgroup coordinated the efforts of the Columbia Basin fish and wildlife managers in the development of detailed budgets to implement the subbasin plans. The CBFWA workgroup effort was based on the detailed analysis of the fish and wildlife managers of the production and habitat costs associated with implementing the NPCC Fish and Wildlife Program and the FCRPS Biological Opinion. The workgroup compiled the cost estimates for 30 subbasins into province level costs; where costs were not available for a subbasin, the workgroup extrapolated costs from similar subbasins based on land area.

The workgroup incorporated the production and habitat costs into the other costs estimates that had been developed by the NPCC and BPA to develop an overall budget for the Integrated Fish and Wildlife Program. The CBFWA workgroup

circulated its draft report in beginning in January of 2005 to the fish and wildlife managers, the Council, Bonneville, utilities, and others. The workgroup incorporated all of the comments it received and the review process improved the quality of the analysis. The workgroup specifically requested comments on whether there were any better assumptions or costs for the report. We did not receive any analysis from Bonneville or its utility customers that provided alternative costs for implementing the subbasin plans and other elements in the Program and Biological Opinion.

The CBFWA workgroup report is the most detailed estimate of the costs of implementing the NPCC Fish and Wildlife Program and the FCRPS Biological Opinions available. In fact, it is the most detailed estimate ever produced on this issue. The Yakama Nation provided this report to BPA staff several times, including in our April 29, 2005 comments on the PFR and attached the CBFWA workgroup report.

The CBFWA workgroup found that implementing the habitat and production activities and other measures in the NPCC's Program had a total cost of \$1.5 billion and the cost of wildlife mitigation was \$300 million over the next ten years. Based on this work, CBFWA wrote to BPA and the NPCC on March 16, 2005 to support adequate funding for fish and wildlife in the next rate case. The letter states:

While CBFWA Members are continuing to review the detailed costs, the analysis completed to date provides a strong basis for increasing the funding for BPA's Integrated Program in the next rate case period to at least \$240 million per year. This figure assumes that BPA would use its borrowing authority for new production facilities and the acquisition of land and water to protect habitat. It also does not include a comprehensive assessment of costs for mainstem measures beyond those contemplated in the Updated Proposed Action or the NPCC Program. Additional mainstem measures are necessary to protect, recover, and restore anadromous fish impacted by the federal hydrosystem...

Based on our work to date, it is clear that the current spending levels are inadequate to protect, mitigate, and enhance fish and wildlife under the Northwest Power Act. Our analysis shows that at the current spending levels, it would take over 100 years to implement all the measures contemplated in the NPCC Program.

A key issue was the pace of implementation for the habitat and production activities. The workgroup developed realistic recommendations for implementation that would increase funding for implementation over the next four years. This would provide time to build the necessary staffing, programs, and other infrastructure for implementing the strategies in the NPCC Program.

The workgroup recommended that FY 2006 funding should be \$186 million—this is the level originally assumed in the 2002 Rate Case; we also understand that it is the approximate planning target being used by the BPA fish and wildlife division. We further recommended that funding should ramp up to \$200 million in FY 2007, \$225 million in FY 2008, and \$240 million in FY 2009. The figure below shows this ramp up.





This funding level would put the region on a path to implement the subbasin plans in about ten years. This pace of implementation would have much lower biological risk to listed species and offers some hope of progress on restoring the treaty fisheries of the Columbia Basin Indian tribes.

These recommendations would minimize biological risk to species in the Columbia River Basin; BPA should implement actions to provide the habitat conditions that these species need to survive as soon as possible. Many of the ESUs listed under the ESA have growth rates (lambdas) that are less than 1.0—that means these populations are not replacing themselves and will continue to decline toward extinction. This pace of implementation will also have the lowest long-term costs because expenses associated with acquiring or leasing land and water to protect and enhance habitat will increase significantly faster than inflation, especially the acquisition of land in riparian areas to protect habitat.

Therefore, we conclude that a ten-year implementation schedule for the subbasin plans has the lowest biological risk and the lowest long-term costs. We also note that implementation of the subbasin plans represents a small portion of the habitat protection and enhancements needs in the Basin. The CBFWA workgroup did a course grain analysis of the total habitat work needed to protect and enhance all of the habitat in the Basin and found that this effort would be significantly larger than the work identified in the subbasin plans. Completing the subbasin plans as quickly as possible will provide a good start to the long-term habitat work that is likely to be needed to meet our goals.

BPA has not incorporated these estimates in setting its budget for the Integrated Program. At the current pace of implementation, it would take 40 to 80 years to implement the Council Program and FCRPS Biological Opinion. BPA's estimate is not based on the costs of implementing the subbasin plans or meeting the goals and objectives of the Columbia River Basin Fish and Wildlife Program. The Bonneville budget uses unrealistic assumptions about inflation, and the funding needed to implement the Program and Biological Opinion.

#### 4. Costs could be higher

The CBFWA workgroup identified a number of uncertainties that could increase Bonneville's total system costs.

The remand of the current Biological Opinions will result in significant changes in required fish and wildlife activities, and will likely increase costs or affect revenues. We expect that other river operation, habitat, and monitoring and evaluation activities will be identified in the remand process.

NOAA Fisheries is developing recovery plans for salmon and steelhead listed under the Endangered Species Act. The recovery plans are likely to include more actions than are currently identified in the subbasin plans and therefore the costs of implementation are likely to be higher. We base this judgment on the fact that the subbasin plans were developed by fish and wildlife managers and stakeholders in each of the watersheds through a consensus process. In some cases, local landowners objected to some of the habitat and water quality actions identified by the fishery managers; as a result, measures that will be needed to recover listed species were not included in the final subbasin plans.

The CBFWA workgroup cost analysis assumed that other branches of the Federal government would provide contributions. For example, the costs for implementing plans in several subbasins (notably those in the Intermountain Province) assume funding from the federal land management agencies that may or may not be forthcoming. If additional Federal appropriations are not available, the region will need to address how to accomplish this work.

The prospect of shifting the cost of the Mitchell Act hatcheries to BPA is a substantial uncertainty, considering Congress's previous interest in this issue and increasing pressures on the federal budget.

Given this analysis, the Tribes are concerned that the BPA proposal for the Integrated Fish and Wildlife Program is not adequate to implement the Council Program and the Biological Opinions. Failure to make adequate progress could increase the risk of extinction for listed species and makes it unlikely that the region will achieve the fish and wildlife rebuilding goals in the Council's Program.

All of these uncertainties point to the likelihood of increasing costs for Bonneville to meet its fish and wildlife responsibilities during the FY 2007 through FY 2009 rate period. The Initial Proposal does not adequately address these uncertainties.

### III. HR 4857 IS UNNECESSARY

#### A. Substantial Information Is Already Available About BPA Costs

BPA's Power Function Review, 7i Rate Proceedings, and other publicly available reports document BPA costs and projected revenues. HR 4857 is not needed for this purpose.

In 2006, BPA rates are 59 percent below the market rate for electricity—based on the assumptions that BPA has used in its current rate case. Based on BPA's assumptions for future market rates, it will be 41 percent below market through 2009. The causes of BPA's rate increase over the past 25 years are primarily from nuclear costs and over-commitments to utilities and aluminum smelters. These factors don't get much public attention. For instance, BPA's 2001 decision to over-commit to utilities added \$3.9 billion in costs based on BPA's own estimate. BPA's annual payments for nuclear plants average \$828 million a year. Of this payment, approximately \$450 million per year is for nuclear power plants that were never completed and never produced electricity.

In addition, BPA subsidizes (in cash payments) Investor Owned Utilities of the Pacific Northwest \$324 million per year. BPA's subsidy to customers of investor-owned utilities is \$300 million per year. BPA's subsidy to Direct Service Industries over the next three fiscal years is projected by BPA to be approximately \$59 million per year. Finally, the "cost" to BPA of water withdrawn for irrigation uses in the Columbia Basin is \$250 million per year. Each of BPA's customer classes has and will strenuously argue that these costs either are or are not required by one or more federal laws depending on whether the class is benefited or impacted. See e.g. *Dept. of Water and Power of the City of Los Angeles v. BPA*, 759 F.2d 684 (9th Cir. 1985); *Aluminum Co. of Amer. v. BPA*, 903 F.2d 585 (9th Cir. 1989); *Assoc. of Public Agency Customers v. BPA*, 126 F.3d 1158 (9th Cir. 1997); *Central Lincoln Peoples' Utility District v. Johnson*, 735 F.2d 1101 (9th Cir. 1984); *Washington Utilities and Transportation Commission v. FERC*, 26 F.3d 935 (9th Cir. 1994).

#### B. Categorizing BPA's Fish and Wildlife Costs is Unnecessary and Impractical

BPA's investments in rebuilding fish and wildlife populations is required by a number of federal laws and treaties, including the Endangered Species Act, the Northwest Power Act, the Fish and Wildlife Coordination Act, the Clean Water Act and United States treaties with Indian Tribes and Canada. It is not possible to categorize which of the costs are related solely to the ESA since most fish and wildlife projects are undertaken to implement multiple federal authorities. For example, the rebuilding goals of the Columbia River Basin Fish and Wildlife Program are much higher than ESA recovery goals and will likely require all of the ESA related activities plus additional efforts to meet the Northwest Power Act related goal.

Moreover, most projects undertaken with BPA fish and wildlife funding support receive funding support from multiple entities including other federal agencies' appropriated funds, as well as state, local, tribal, and private funding sources. These funds are authorized by a myriad of authorities reflecting local and regional interests for many projects that provide multiple benefits, such as simultaneously increasing irrigation efficiency, reducing water consumption, reducing pumping costs, and increasing streamflows for salmon. These types of win-win projects enjoy sponsorship of the tribes in the Grande Ronde, Umatilla, Yakima, Walla Walla, John Day river basins. The art of assembling local support and funding from diverse sources is already fraught with delay and bureaucracy. We don't need more red tape challenges!

#### C. BPA's Approach to Estimating its Foregone Revenue and Replacement Power Cost is not consistent with the Northwest Power Act.

BPA states that its combined net costs include over \$300 million for hydro system operations for fish and wildlife. BPA counts the revenue foregone from operating the FCRPS to meet the requirements of the Endangered Species Act, the Northwest Power Act, the Clean Water Act, and other laws and regulations as a part of these costs.

Section 16 U.S.C. 839b(h)(6)(E) requires the Northwest Power and Conservation Council (NPCC) to include measures in the Program that:

- provide for improved survival of such fish at hydroelectric facilities located in the Columbia River system; and
- provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

The current NPCC Program includes these measures.

In addition, the FCRPS Biological Opinion requires specific flow and spill operation to ensure that the operation of the FCRPS does not jeopardize the continued existence of listed species under the ESA.

It is important to note that the flow targets in the Program and Biological Opinion are constrained by the current configuration of the hydroelectric system. Average spring flows in the Columbia before the dams were 450,000 cubic feet per second. The current target is roughly 200,000 cubic feet per second—less than half the historical average. Unfortunately, the federal agencies have not been successful in meeting the Columbia and Snake River flow targets 53 percent of the time between 1995 and 2005.

No other business or government agency calculates the revenues or profits that it could have made if it had violated Federal laws, regulations, or court orders as a part of foregone revenue and “costs”. The legislation should not put such a requirement into law.

#### D. BPA’s approach is not consistent for other federally authorized purposes

Given BPA’s practice of reporting foregone revenue for fish and wildlife protection, it is interesting that BPA does not report the foregone revenue associated with meeting other legal constraints on power generation such as providing irrigation water, flood control, transportation, or recreation. All of these other federally-mandated actions limit the ability to generate electricity and reduce BPA’s potential revenue. Hence, to be consistent, BPA would need to count them as “costs” as well.

For example, the NPCC has calculated that the 14.4 million acre-feet withdrawn for irrigation could generate an additional 625 average megawatts if the water remained in the river—about five percent of the total output of the BPA system. At BPA’s rates, this additional power would be worth \$170 million per year or \$1.7 billion dollars over 10 years. A recent analysis by the NPCC calculated that at average market rates, the foregone revenue would be \$250 million per year. At the market prices for the summer of 2005, the lost revenue associated with irrigation withdrawals was over \$380 million. BPA does not count these “costs.”

Columbia Basin Indian tribes have requested on numerous occasions that BPA stop its practice of singling out the costs of meeting one of the purposes of the dams—fish and wildlife—in reporting foregone revenue. It is not appropriate for BPA to report the costs of operating the FCRPS to meet Federal laws and regulations. If BPA believes it is required to report these costs, then it should calculate the costs of each of the other purposes of the dams and report all of them on a consistent basis.

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#### E. BPA’s calculation of foregone revenue is flawed

In the BPA handouts for its Power Function Review, BPA calculated that the average “cost” of river operations for fish and wildlife was \$357 million per year. This number was calculated using a base case where BPA eliminated all operations for fish and wildlife. This assumption is legally flawed. We are also concerned that BPA does not count the credits that it receives for these operations. Since BPA started taking these credits in 1994, it has reduced its U.S. Treasury repayments by more than \$1 billion, yet BPA does not offset the “costs” with these credits.

Finally, calculation of these costs is complicated and controversial. BPA did not share its methodology in calculating the operations “costs” cited above. In a Memorandum of Agreement signed in 1996, BPA committed to working with the tribes to develop a consensus methodology for reporting river operations and calculating foregone revenues and power purchases; this work is still incomplete.

#### F. Foregone Salmon

The NPCC found that 5 to 11 million of the salmon lost each year (compared to the predevelopment period) were attributable to damage caused by the hydroelectric system. Based on this estimate, the Columbia Basin Indian tribes and others have “foregone” 340 to 750 million salmon and steelhead since the dams were built.

Salmon and steelhead are invaluable to tribal culture and religion—the tribes would not put a price on this loss. Non-tribal economists, on the other hand, would value the annual losses in the hundreds of millions of dollars and the cumulative losses in the trillions of dollars.

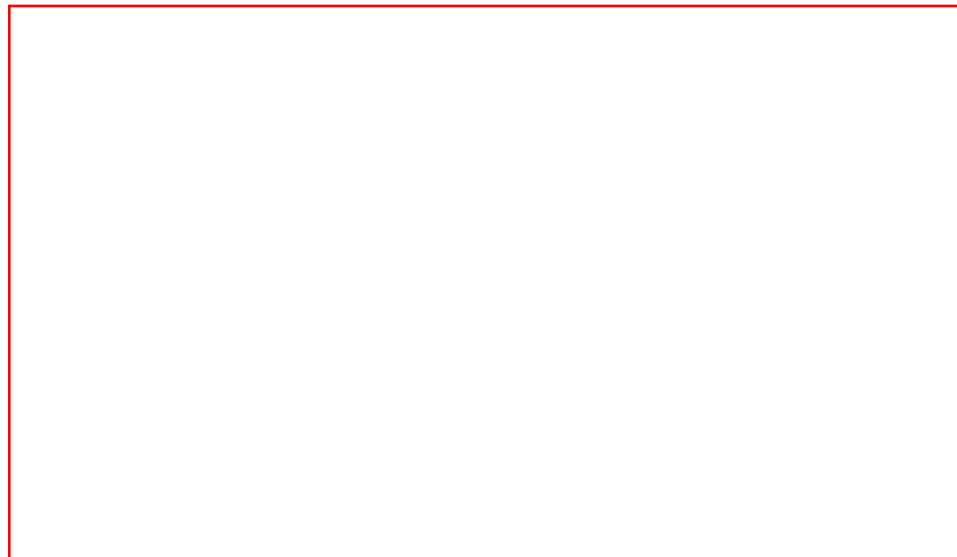
### IV. THE CAUSES OF BPA RATE INCREASES

BPA customers are concerned that BPA’s rates have increased over the years; much of the utility concern has focused on

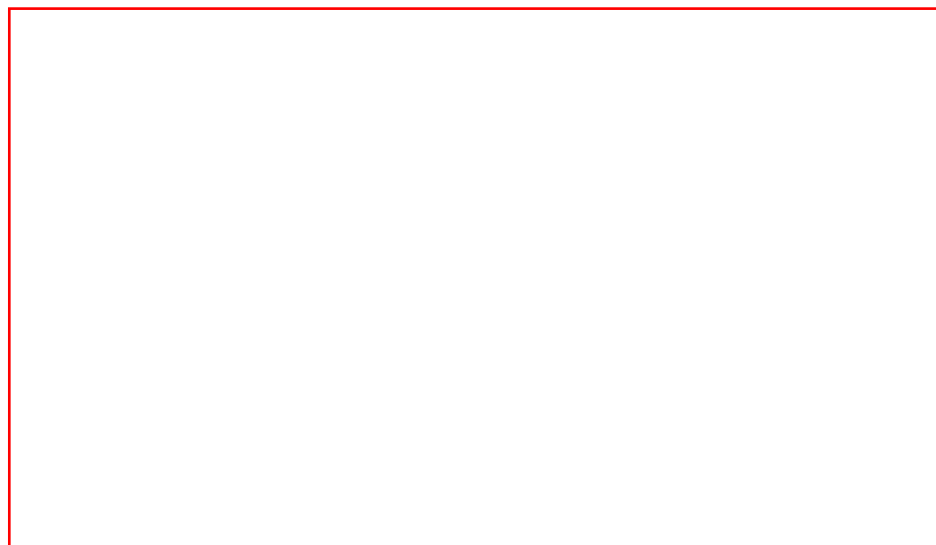
fish and wildlife costs. This section analyzes the history of BPA rates, the major causes of rate the increases, and the relative costs of various categories.

#### A. BPA Rate History

BPA rates declined, adjusted for inflation, between 1937 and 1975 as new federal dams were build in the Columbia basin. In October, 1980, BPA implemented an 88 percent rate increase, primarily to address the costs of three nuclear plants being build by what was then called the Washington Public Power Supply System (WPPSS).



The BPA webpage provides yearly rate information beginning in 1996. The figure below shows that between 1996 and the rates proposed for 2009, BPA rates will have increased by 25 percent in nominal dollars—about 1.8 percent per year.



When BPA's rates are adjusted for inflation, the analysis shows that they have actually declined by 9 percent over this period.



### Causes of BPA's Rate Increases

Even adjusting for inflation, the rates show a significant increase from 2001 to 2003. The primary cause of this increase was the cost of serving additional load that BPA committed to in 2001. In addition, BPA used optimistic assumptions about how much revenue it would receive from selling surplus electricity and underestimated a number of costs it would face.

The figure below shows the major categories that increased BPA's rates. In 2001, BPA decided that it would serve the entire load that its customers wanted to place on the agency. BPA committed to serve 3,400 average megawatts more power than it had available. It assumed that it could purchase additional power at market rates, which were then about \$30 per megawatt-hour. The manipulation of the California energy market by Enron and other energy providers increased market rates. BPA reported that it paid an average of \$185 per megawatt-hour to serve the additional load. The total cost of the over-commitment was \$3.9 billion.

BPA had also overestimated its revenue from surplus sales of electricity; a more realistic estimate prepared for BPA's Financial Choices process reduced BPA revenues by \$710 million. BPA entered into a settlement with investor-owned utilities that set the amount of subsidy for the residential and small-farm customers of these utilities; the settlement added \$370 million to BPA's costs. BPA had also used optimistic assumptions about its own administration and operating costs; in the 2003 Financial Choices process, BPA estimated that these costs would be approximately \$220 million higher than it originally had assumed. BPA also underestimated the costs of operating the Columbia Generating Station (the one nuclear plant that is operating) by \$194 million and the Corps of Engineers and Bureau of Reclamation costs for operating the federal dams by \$155 million. During the Financial Choices process, the integrated fish and wildlife program was below budget by \$18 million.



BPA Future Costs

This section summarizes the major categories for BPA proposed costs for 2007-2007.



Nuclear Costs

Of the \$828 million in annual costs for 2007-2009, \$250 million goes to operate the Columbia Generating Station, \$275 million to repay the debt on that plant, and \$325 million to repay the debt on two nuclear plants that were never completed.



## V. BPA CAN AFFORD ADDITIONAL FISH AND WILDLIFE INVESTMENTS

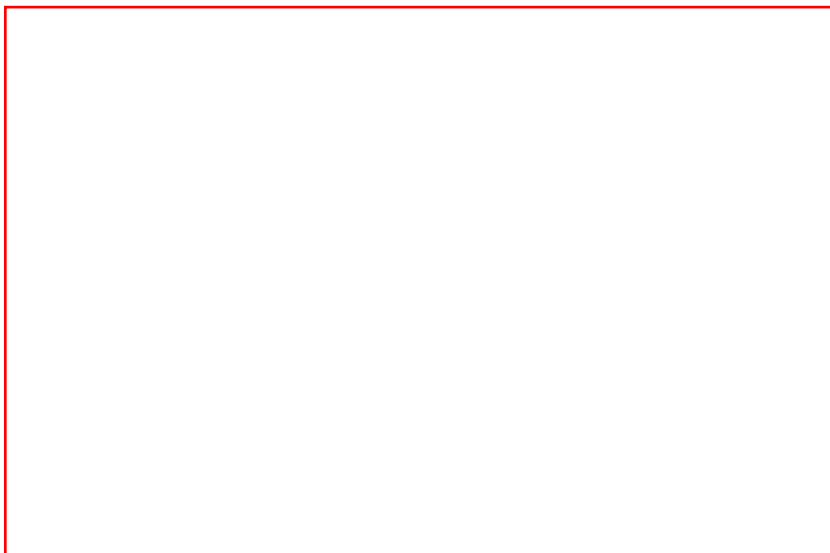
BPA can afford salmon recovery and still provide great benefits to Northwest ratepayers. Fish and wildlife managers are working with federal agencies to develop a new FCRPS Biological Opinion that complies with the Endangered Species Act. That effort should produce a science-based plan to protect and recover salmon and steelhead and must include actions that are reasonably likely to occur.

In July, BPA will make final decisions on setting its rates for 2007 through 2009. Its current proposal includes fish and wildlife funding levels that would force immediate cuts in ongoing fish and wildlife programs and delay full implementation of the subbasin plans. The remand process has assumed these ongoing projects are in the baseline and will likely result in additional habitat, hatchery, hydro, and harvest actions that will increase implementation costs.

BPA has asserted that it can adjust its rates to accommodate decisions that come out of the biological opinion remand. The treaty tribes have provided extensive evidence in the BPA rate case that BPA's proposal does not allow it to increase its costs and also assure repayment of its debt to the Treasury. In the past, when BPA has faced missing a Treasury payment it has deferred salmon recovery actions.

### A. BPA's Current rates

Bonneville rates are currently 59 percent below the market rates that Bonneville has assumed for FY 2006. BPA's current rates are 48 percent below the new resource rate that it has proposed.



Averaged over the past ten years, BPA rates have been 27 percent below market rates and 49 percent below the costs of

new resources.

## B. BPA Rates 2007-2009

In the current rate case, BPA has assumed that market rates will decline by approximately 27 percent between 2006 and 2009. BPA's assumption about a reduction in market costs makes BPA's proposed rates for 2007 through 2009 slightly closer to market rates. Using BPA's assumptions, its rates would be 41 percent below market rates on average over the next rate period.



## C. The Impact of Salmon Recovery on BPA Rates

This section describes the potential impacts of two alternatives for salmon recovery on BPA's rates. It is important to note that these costs will not necessarily cause a rate increase. For example, in 2005, BPA projected that additional spill at several dams to protect salmon would increase rates; however, BPA actually decreased its rates by 1.6 percent that year because of other factors.

The assumptions for the additional fish and wildlife costs are summarized here and detailed later in this paper.

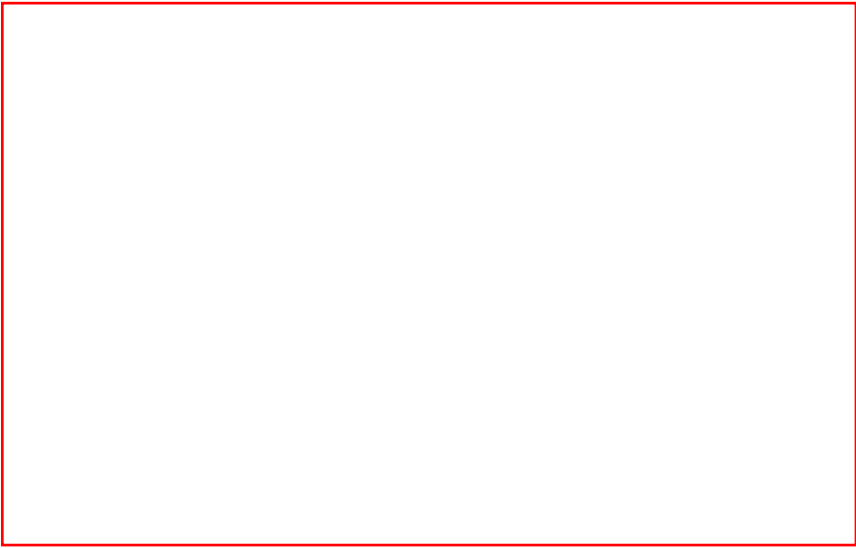
**Low Case:** This scenario is based on the costs of implementing the subbasin plans developed for the NPCC and the FCRPS Biological Opinion. The costs were prepared by a workgroup convened by the CBFWA. This case also assumes that the river operations ordered by the District Court as part of the FCRPS Biological Opinion Remand for 2006 would continue through 2009; this would reduce BPA's revenue from the sale of electricity. The scenario assumes total added costs would be \$93 million in 2007, \$114 million in 2008, and \$127 million in 2009.

**High Case:** The high case assumes the integrated fish and wildlife costs above plus \$70 million per year to cover the added costs if BPA does not use its borrowing authority for land and water acquisitions to improve habitat. The high case also assumes the river operations recommended by the plaintiffs in the FCRPS Biological Opinion litigation. The high scenario assumes total added costs would be \$376 million in 2007, \$363 million in 2008, and \$362 million in 2009.

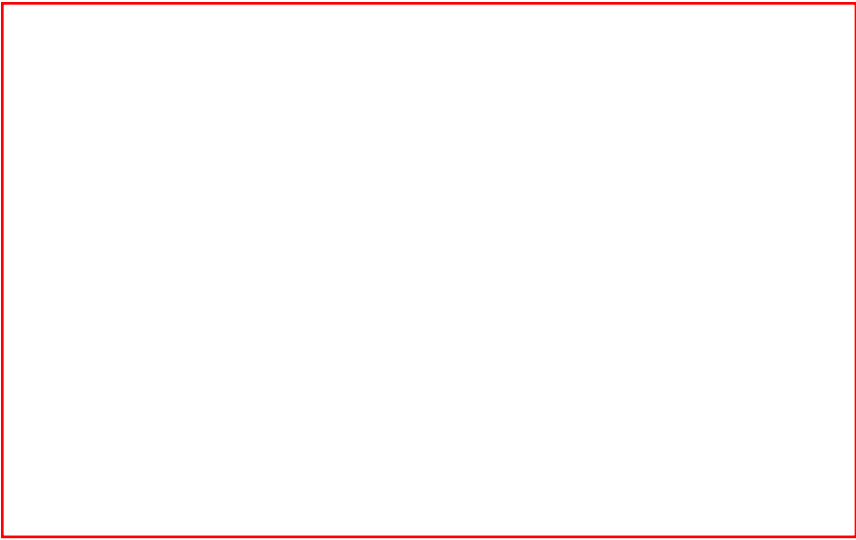
## D. BPA would be significantly below market rates

If these additional fish and wildlife costs are added to BPA's rates, BPA would be 37 percent below market rates on average over the next rate period in the low case and 29 percent below market rates in the high case.





The figure below compares the percent that BPA would be below market prices, on average, under its proposed fish and wildlife funding level and the low and high fish and wildlife funding scenarios described above.



Given that BPA's rates are significantly below market rates and lower than most other parts of the country, it appears that BPA can incorporate the costs to fully implement the NPCC Program and the Biological Opinion and still benefit the Northwest economy.

#### E. Rate Impacts would be small

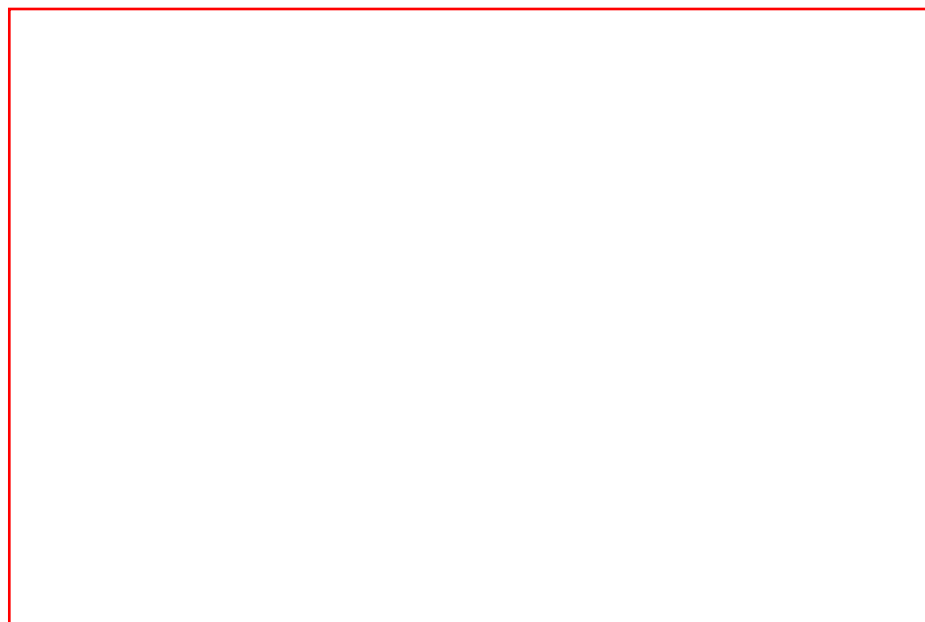
The potential rate impacts for residential customers would range from zero to \$1.90 per month in the low case and zero to \$6.22 per month in the high case.

Under a settlement agreement, customers served by investor-owned utilities would not pay any of the potential increase. As a result, all of the additional fish and wildlife cost must be allocated to a smaller group of customers and the impacts are more significant than the allocation in the 2002 rate case.

Based on our analysis, we found that the high case described above would result in a potential rate impact of \$0.00622 per kilowatt hour. For an average customer of a utility that purchases all of its electricity from BPA, this could result in an increase of \$6.22 per month—an increase of approximately 9 percent.

BPA serves approximately 40 percent of the region's power, so the impact on most ratepayers would be less. We analyzed three other cases: a utility that purchase 70 percent of its power from BPA, a utility that purchase 30 percent of its power from BPA (for example, Seattle City Light, Tacoma City Light) and investor-owned utilities. In the high case, the average customer of a utility that purchases 70 percent of its power from BPA could pay an additional \$4.35 per month—a 6.5 percent increase. A customer served by a utility that purchases 30 percent of its power from BPA could pay \$1.87 per month—a 2.8 percent increase.

In the low case, we assumed that BPA used its borrowing authority to finance some of the land and water acquisitions in the habitat measures under the Integrated Fish and Wildlife Program and that the Court-ordered river operation for FY 2006 would also be implemented during the rate period. In the low case, the average consumer that is served by a utility that that purchase all of its power from BPA could pay an additional \$1.90 per month—a 2.9 percent increase. If the utility purchased 70 percent from Bonneville, the monthly impact could be \$1.33—a 2 percent increase. Consumers served by a utility that purchases 30 percent of its power from BPA could pay an additional \$0.57 per month—a 0.9 percent increase.



Treaty with the Yakama Tribe, June 9, 1855, 12 Stat. 951; Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963; Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945; Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 957.

What Led to the Current BPA Financial Crisis? A BPA Report to the Region, April 2003.

BPA uses a rule of thumb that each \$59 million dollars equals about \$0.001 per megawatt-hour.