

memorandum

DATE: October 5, 2009

REPLY TO
ATTN OF: KEC-4

SUBJECT: Supplement Analysis for the Fish and Wildlife Implementation Plan EIS (DOE/EIS-0312/SA-03)

TO: Greg Delwiche
Vice President, Environment, Fish & Wildlife

The attached Supplement Analysis for BPA's Fish and Wildlife Implementation Plan Environmental Impact Statement (FWIP EIS) provides a review of whether BPA should prepare a new or supplemental FWIP EIS in light of the the Northwest Power and Conservation Council's (Council) newly amended 2009 Fish and Wildlife Program (2009 Program). The Supplement Analysis finds that actions that BPA may take to follow the guidance in the Council's 2009 Program are within the scope of the FWIP EIS and were considered in, and are consistent with, the Preferred Alternative (PA 2002) Policy Direction that BPA adopted in the October 2003 FWIP Record of Decision (FWIP ROD).

In addition, potential BPA actions under the Council's 2009 Program will not result in significantly different environmental effects than those considered and evaluated in the FWIP EIS. Accordingly, the Council's 2009 Program does not constitute a substantial change in the proposed action relevant to environmental concerns, and there are no significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts within the meaning of 10 C.F.R. § 1021.314(c) and 40 C.F.R. § 1502.9(c). Therefore, preparation of a new or supplemental EIS is not required.

/s/ Donald Rose for Bruce Hollen
Bruce Hollen
Environmental Protection Specialist

CONCUR:

/s/ Katherine S. Pierce
Katherine S. Pierce
NEPA Compliance Officer – KEC-4

DATE: October 5, 2009

Attachment:
Supplement Analysis to the Fish and Wildlife Implementation Plan EIS

SUPPLEMENT ANALYSIS
for the
FISH AND WILDLIFE IMPLEMENTATION PLAN EIS
(DOE/EIS-0312/SA-03)

This document evaluates whether potential Bonneville Power Administration (BPA) actions under the Northwest Power and Conservation Council's (Council) recently released 2009 Fish and Wildlife Program (2009 Program) represent a significant change in either the proposed action or the environmental analysis contained in BPA's Fish and Wildlife Implementation Plan Environmental Impact Statement (FWIP EIS) (DOE/EIS 0312, April 2003). This document has been prepared as a Supplement Analysis under U.S Department of Energy (DOE) National Environmental Policy Act (NEPA) regulations. See 10 C.F.R. § 1021.314(c). The two factors to be considered in a Supplement Analysis, pursuant to the regulations, are:

- If there are substantial changes in the proposed action that are relevant to environmental concerns; or
- If there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

10 C.F.R. § 1021.314(c)(1); see also 40 C.F.R. §1502.9(c). The consideration of these factors informs the determination by BPA of whether the agency needs to prepare a supplemental or new EIS, or whether no further NEPA documentation is required.

This document provides information about applicable statutory requirements for fish and wildlife and the Council's Program; describes the FWIP EIS and its Record of Decision (ROD); examines whether the 2009 Program represents a substantial change in BPA's proposed action identified in the FWIP EIS; examines whether there are significant new circumstances or information relevant to environmental concerns and bearing on this proposed action or its impacts; explains BPA's environmental review process for implementing fish and wildlife projects under the 2009 Program; and makes a determination concerning the need for further NEPA documentation.

STATUTORY REQUIREMENTS AND THE COUNCIL'S PROGRAM

BPA's responsibilities for protecting, mitigating and enhancing fish and wildlife resources in the Columbia Basin are defined by a collection of laws, treaties and executive orders. The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Northwest Power Act) requires that BPA use the Act and BPA's pre-Act legal authorities to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of the Columbia River Basin hydroelectric dams from which BPA markets power. In addition, BPA must avoid jeopardizing federally-listed species pursuant to the Endangered Species Act of 1973 (ESA), and must avoid destroying or adversely modifying designated critical habitat. The ESA also requires that BPA use its authorities for the conservation and recovery of listed species. BPA must implement actions pursuant to Biological Opinions (BiOps) issued pursuant to the ESA in order to avoid jeopardizing listed species through the operation of the Federal Columbia River Power System (FCRPS).

BPA seeks to integrate these BiOp activities with its on-going Northwest Power Act mitigation efforts. BPA also must uphold its share of the Federal government's tribal treaty and trust responsibilities to Columbia River Basin Indian tribes.

Under the Northwest Power Act, the Council, which is a four-state compact entity (with representatives from Oregon, Washington, Idaho, and Montana), develops the Columbia Basin Fish and Wildlife Program. The Program is intended in part to help guide BPA's fish and wildlife mitigation actions. Accordingly, BPA's fish and wildlife mitigation under the Northwest Power Act must be undertaken in a manner consistent with the purposes of the Act, the Fish and Wildlife Program adopted by the Council, and other laws as prescribed.

The Council adopted its initial Program in 1982, and regular amendments to the Program have been made thereafter. A significant Program amendment was made by the Council in 2000, with this amendment later supplemented by the 2003 Mainstem Amendments and the plans for 57 subbasins of the Columbia, which were adopted in 2004-05.

The Council initiated the amendment process, including an extensive public process, for the 2009 Program in November 2007 by soliciting recommendations from the region's state and federal fish and wildlife agencies, Indian tribes, and others, as required by the Northwest Power Act. The public and involved entities and organizations were given several opportunities to review the proposed 2009 Program and make suggestions and comments on its framework, objectives, strategies and measures. As a result of the November 2007 solicitation, the Council received more than 3,000 pages of recommendations and supporting information from 65 entities. The Council also received extensive written public comment on the program amendment recommendations.

In September 2008, after reviewing the recommendations, the supporting information, and the comments received on the recommendations, the Council released for public review a draft revised Fish and Wildlife Program. The Council received more than 1,000 pages of substantial written comments on the draft amendments. The Council also took oral testimony at a dozen public hearings around the region. Appendix F of the 2009 Program identifies recommendations and comments that were received throughout the amendment process, and explains how these recommendations and comments were incorporated into the Program.

In February 2009, and after deliberations in public over the course of several Council meetings, the Council amended its Program through the adoption of the 2009 Program. In June 2009, the Council updated the 2009 Program with specific findings on recommendations and comments relating to the 2009 Program.

Through the 2009 Program, the Council has adopted a wide range of potential fish and wildlife measures that could be implemented to provide for the protection, mitigation and enhancement of fish and wildlife in the Columbia River Basin. The 2009 Program is based on recommendations of the region's fish and wildlife managers and Indian tribes and reflects extensive public comments on the recommendations and on a draft program the Council circulated widely during the summer of 2008. The 2009 Program includes the following overall vision for the Program:

The vision for this Program is a Columbia River ecosystem that sustains an abundant, productive, and diverse community of fish and wildlife, mitigating across the basin for the adverse effects to fish and wildlife caused by the development and operation of the

hydrosystem. This ecosystem provides abundant opportunities for tribal trust and treaty-right harvest and for non-tribal harvest and the condition that allow for the recovery of the fish and wildlife affected by the operation of the hydrosystem and listed under the Endangered Species Act.

Wherever feasible, the vision will be accomplished by protecting and restoring the natural ecological functions, habitats, and biological diversity of the Columbia River Basin. Where this is not feasible, other methods that are compatible with naturally reproducing fish and wildlife populations will be used, including certain forms of artificial production. Where impacts have irrevocably changed the ecosystem, the Program will protect and enhance the habitat and species assemblages compatible with the altered ecosystem. Actions taken under this Program must be cost-effective and consistent with an adequate, efficient, economical, and reliable electrical power supply.

The development and operation of the hydrosystem is not the only human cause of adverse effects to fish and wildlife in the Columbia River Basin. However, improving conditions for fish and wildlife affected by the hydrosystem is a responsibility that the Council and its Program shares with citizens, private entities, and government agencies throughout the region.¹

The 2009 Program encourages implementation of fish and wildlife projects based on needs identified in locally developed subbasin plans included in the Program, and also on actions described in federal biological opinions on hydropower operations, hatcheries, and harvest, ESA recovery plans, and the 2008 Columbia Basin Fish Accords signed by BPA and other federal agencies, Indian tribes, and the states of Idaho and Montana. The 2009 Program:

- Focuses on protecting and restoring habitat in order to rebuild healthy, naturally producing fish and wildlife populations.
- Addresses specific issues such as the impacts of global climate change, toxic substances, and invasive species on fish, wildlife, and habitat.
- Addresses passage problems for lamprey and sturgeon at the mainstem dams.
- Proposes changes in some hatchery practices to create a more balanced, ecological approach to fish production.

[<http://www.nwcouncil.org/library/2009/2009-02.htm>]. The Council's 2009 Program is described as a "framework" intended to guide implementation over the next several years.² The framework consists of a series of biological objectives and the strategies intended to achieve the objectives. The Council also incorporated a wide variety of potential implementation measures that would be used to help achieve the Program's vision in accordance with the biological objectives and the identified implementation strategies.³

¹ See Section II.A, p.13 of the 2009 Program.

² See Section I.C. of the Council's 2009 Program (February 2009 pre-publication copy; as of the date of this Supplement Analysis, the final copy had not been published).

³ Section Appendix E to the Council's 2009 Program summarizes the measures and their origins; the Council's programmatic recommendation for implementing measures is found at Section VIII.A of the Program.

BPA'S FWIP EIS AND ROD

The FWIP EIS is a policy-level EIS completed by BPA in April 2003 that focuses on, and provides more specific direction for, BPA's fish and wildlife administration issues that originally were identified in BPA's 1995 Business Plan EIS (Business Plan EIS, DOE/EIS-0183, June 1995), and Business Plan ROD (August 15, 1995).⁴ The FWIP EIS also incorporates by reference the Columbia River System Operation Review Final EIS (DOE/EIS-0170, November 1995), which further described an approach to fish and wildlife mitigation related to the System Operation Strategy (SOS) adopted for operation of the FCRPS. In developing the FWIP EIS, BPA reviewed many ongoing fish and wildlife processes, identified key issues, and developed alternative policy directions based on multiple existing initiatives in the region. BPA also worked with the public and the agencies throughout the region to identify the key issues needing consideration in any comprehensive fish and wildlife mitigation and recovery plan in order for it to be successful.

The FWIP EIS was prepared to respond to BPA's need for a comprehensive and consistent policy to guide the implementation and funding of the agency's fish and wildlife mitigation and recovery efforts in the region. The FWIP EIS is intended to support a number of decisions related to fish and wildlife mitigation and recovery⁵ necessary to comply with BPA's responsibilities, including decisions by BPA related to implementing its share of the Council's Fish and Wildlife Program (FWIP EIS, Section 1.4.2).

The FWIP EIS considered a wide range of potential Policy Direction alternatives for BPA's fish and wildlife mitigation policy. Five basic alternatives were identified and evaluated in the EIS: Natural Focus, Weak Stock Focus, Sustainable Use Focus, Strong Stock Focus, and Commerce Focus. These five basic Policy Direction alternatives span the full range of reasonably foreseeable directions for fish and wildlife policy, ranging from policies perceived as favoring the natural environment to those that may be perceived as favoring the economic and social environments. Developed from within the range of the five basic Policy Direction alternatives, the EIS also includes a preferred alternative, the Preferred Alternative Policy Direction (PA 2002). In addition, the EIS includes a Status Quo alternative that serves as a baseline against which all alternatives can be compared.

The FWIP EIS assessed the environmental consequences on the natural, economic, and social environments of adopting a variety of policy directions. By design, the analysis in the FWIP EIS is a policy-level evaluation, and thus is more qualitative than quantitative. The analysis is based on relatively predictable relationships between changes to the environment (air, land, and water) and the consequences for fish, wildlife, and humans (FWIP EIS, Section 5.3.1.2). The analysis in the FWIP EIS compares the potential environmental impacts for the possible range of implementing actions for fish and wildlife recovery under each Policy Direction with the Status Quo.

⁴ In the Business Plan EIS and ROD, BPA adopted a market-driven approach to guide its overall business practices. In accordance with this approach, BPA fully participates in the competitive market for power, transmission, and energy services, and uses success in the market to ensure the financial strength necessary to fulfill its numerous and varied mandates and obligations. BPA also operates in a manner that is more cost-conscious, customer-focused, and results-oriented. As part of its market-driven approach, BPA has been working towards "reinventing" its fish and wildlife program to emphasize better results, effectiveness, and efficiency.

⁵ BPA uses the phrase "mitigation and recovery" to address its responsibilities to fish and wildlife under the Northwest Power Act ("mitigation"), the ESA ("recovery"), and other laws.

The FWIP EIS also collects and sorts the many and varied proposed and ongoing actions for fish and wildlife mitigation and recovery in the region (FWIP EIS, Volume III). These actions, as exemplified by the Sample Implementation Actions (SIAs), are organized in the EIS in Sample Implementation Action tables for each Policy Direction alternative. These Sample Implementation Actions are representative of the types of actions that are consistent with the various alternatives.

In addition, the FWIP EIS incorporates by reference BPA's Watershed Management Program EIS (DOE/EIS-0265, July 1997); and Wildlife Mitigation Program EIS (DOE/EIS-0246, March 1997). These two programmatic EISs were the result of an examination by BPA in the mid-1990s of the environmental consequences of its routine fish and wildlife program activities, including implementation of Council-recommended projects. In these programmatic statements and their associated RODs, BPA chose to adopt a set of prescriptions to standardize the planning and implementation for the majority of its projects. In accordance with these prescriptions, BPA completed a Supplement Analysis for each site-specific action under the appropriate programmatic EIS. In each Supplement Analysis, the agency considered the environmental consequence of a proposed project and made a determination concerning whether the project was generally consistent with the programmatic EIS. By adopting the prescriptions, BPA was able to implement its numerous watershed and wildlife projects with greater efficiency and consistency. Through BPA's experience in preparing these analyses, BPA found that the environmental consequences for routine activities are predictable and that, although there are short term adverse effects from fish and wildlife mitigation activities, the activities continue to have net positive and therefore increasingly beneficial impacts to fish and wildlife across the basin. These experiences were incorporated into and helped inform the analysis in the FWIP EIS.

In October 2003, the BPA Administrator issued the FWIP ROD, which adopted the PA 2002 as the policy direction for BPA's role in funding and implementing its fish and wildlife obligations. PA 2002 focuses on enhancing fish and wildlife habitat, modifying hydroelectric power operations and structures, and reforming hatcheries to both increase populations of listed fish stocks and provide long-term harvest opportunities (FWIP EIS, Section 3A). The PA 2002 Policy Direction is a blend between a weak stock focus and a sustainable use focus that incorporates both BPA's mitigation obligations and ESA obligations. The weak stock focus emphasizes human intervention to promote recovery of weak species of fish and wildlife that are listed or proposed for listing under the ESA or other legal protections. The focus is on actively protecting and enhancing habitat and controlling hydro operations to enhance survival of ESA-listed fish stocks and wildlife species at all lifecycle stages. The weak stock focus gives priority to restoring quality habitat for weak stocks over economic activity. The sustainable use focus emphasizes human intervention to achieve the goal of rebuilding and maintaining sustainable fish and wildlife populations to promote expanded harvest and recreation opportunities through increasing hatchery production, modifying hydro operations, and enhancing and managing habitat. Sample Implementation Actions for PA 2002 can be found in the SAMPLE IMPLEMENTATION ACTION tables for the Weak Stock Focus and Sustainable Use Focus alternatives. PA 2002 reflects regional fish and wildlife policy guidance and takes into account extensive public input. It is also consistent with the fish and wildlife component in BPA's earlier Business Plan decision.

BPA has since tiered a number of RODs to the FWIP EIS and ROD, finding the actions to be implemented to be within the scope of environmental effects assessed in the FWIP EIS and the

actions within the scope of PA 2002. In 2007, BPA tiered its FY 2007-2009 Fish and Wildlife Project Implementation Decision to the FWIP EIS.⁶ BPA also tiered its decisions to enter into the 2008 Columbia Basin Fish Accords and the Estuary Habitat Memorandum of Agreement (MOA) to the FWIP EIS and ROD.⁷ For each of these decisions, BPA provided opportunities prior to the decision for public review and input on the fish and wildlife projects that were included and other aspects of the decision to be made.⁸

REVIEW OF POTENTIAL CHANGES IN THE PROPOSED ACTION

As discussed above, one of the two factors to be considered in a Supplement Analysis is whether there are substantial changes in the proposed action that are relevant to environmental concerns. BPA has reviewed the Council's 2009 Program and compared it to the PA 2002. As discussed further below, the 2009 Program does not represent a significant change in BPA's selected fish and wildlife policy direction of PA 2002.

The Council's 2009 Program retains the framework that has been used since the 2000 Program to guide the development of objectives, strategies, and measures to achieve the vision the Council has for the Basin. These objectives, strategies and measures are further refined by basin and subbasin. The objectives of the Program may be succinctly summarized as: protect, enhance, or restore biological components and ecological processes that lead to achieving the goals of the Program. Strategies provide direction on how to achieve these objectives, while measures describe activity types that are implemented as projects consistent with the Program objectives. For example, the Program identifies typical project types for habitat protection and improvement as the following:⁹

- Removal of passage barriers
- Diversion screening
- Riparian habitat protections and improvements (fencing, vegetation planting, erosion control, best land management practices, easements, and other acquisitions) largely intended to improve water quality, especially with regard to temperature and sediments
- Water transactions and conservation activities to increase the amount, timing, and duration of instream flows
- Floodplain reconnections, passive and active improvements in channel structure and geomorphology and the re-establishment of natural river processes
- Acquisitions of, and enhancements to terrestrial uplands for wildlife habitat

Similarly, the Program describes other basinwide strategies for artificial production, harvest, hydrosystem passage and operations, wildlife, resident fish mitigation, resident fish substitution,

⁶ This ROD is available at http://www.bpa.gov/corporate/pubs/RODS/2007/FY07-09_FW_Record_of_Decision_Final.pdf.

⁷ The 2009 Columbia Basin Fish Accords RODs (May 2, 2008, and November 7, 2008), and the Estuary Habitat MOA ROD (September 16, 2009), can be found at: <http://www.bpa.gov/corporate/pubs/RODS/>

⁸ Description of the public involvement may be found at http://www.bpa.gov/corporate/pubs/RODS/2008/BPA_ROD_to_Implement_2008_FCRPS_BiOp_RPA.pdf and http://www.bpa.gov/corporate/pubs/RODS/2008/MOA_ROD.pdf respectively

⁹ Council 2009 Program, Section II.D.1.f (pp. 31-32).

and monitoring, evaluation, research and reporting.¹⁰ The Program also describes strategies for the ocean, the estuary, and the mainstem.¹¹

The FWIP EIS considered and built on the comprehensive and programmatic nature of the Council's 2000 Program, which was designed in part to facilitate implementation of a regional unified planning approach for fish and wildlife mitigation and recovery efforts. The 2000 Program incorporated subbasin planning guided by overarching strategies for the FCRPS area. The FWIP EIS considered a larger range of possible actions and their impacts to ensure that BPA was responsive to emerging policy and science. The 2000 Program also recognized the need to be able to incorporate new science and policy into its framework.¹²

The FWIP EIS analyzes the effects of and summarizes the types of activities that BPA expected to result from implementation of the various mitigation policy alternatives. The analysis and summaries are organized by resource category (FWIP EIS, Section 3A), as well as Sample Implementation Actions (FWIP EIS, Volume III). The Sample Implementation Actions represent those activities that could be carried out with the purpose of producing some type of beneficial effect for fish and wildlife. The actions that the PA 2002 covers, as well as other similar actions, may be implemented under the FWIP. General categories of actions that can be covered by the FWIP EIS include, but are not limited to:

- Aquatic and terrestrial habitat improvements
- Passage barrier removal
- Land and water right acquisition and
- Research and monitoring efforts to evaluate the efficacy of BPA actions.

The type of BPA actions that likely could occur under the 2009 Program are consistent with these categories of actions. In addition, when the Council adopted the basinwide mainstem amendments in 2003, and 57 subbasin plans into the Program in 2005, the Program expanded to include measures and actions BPA was already taking (e.g., the FCRPS BiOps), and also provided a broad menu of potential future actions for implementation.¹³ The 2009 Program amendment uses the same framework as its predecessor, and includes the same essential elements such as basinwide prescriptions and subbasin plans. Consequently, the Council's 2009 Program is consistent with the PA 2002 considered in the FWIP EIS and adopted in the FWIP ROD, and accordingly does not represent a substantial change in this proposed action.

REVIEW OF POTENTIAL NEW ENVIRONMENTAL CIRCUMSTANCES OR INFORMATION

The second of the two factors to be considered in a Supplement Analysis is whether there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. BPA has considered, at the programmatic level, the potential environmental impacts of BPA's actions under the Council's 2009 Program and whether this Program constitutes significant new environmental circumstances or information. As further

¹⁰ Section II.D.3 through D.4.

¹¹ Sections IV.A, V.A, and VI.C, respectively.

¹² Section 1C (p. 10)

¹³ Appendix E of the 2009 Program.

discussed below, a review of the FWIP EIS shows that the potential environmental impacts of these actions are adequately covered by the FWIP EIS, and that implementing the 2009 Program would not result in significantly different environmental effects from those described in the FWIP EIS.

The potential BPA actions under the Council's 2009 Program would be intended to mitigate the impacts of the FCRPS on fish and wildlife, similar to the potential fish and wildlife mitigation and recovery projects identified in the FWIP EIS and included in the PA 2002. Through its 10 years of experience with completing Supplement Analyses for hundreds of mitigation projects, and subsequent evaluation and validation through Pisces and project reviews, BPA has increased and refined its understanding of the adverse environmental consequences associated with fish and wildlife projects. These associated effects were also identified and evaluated in the FWIP EIS (FWIP EIS, Section 3A.3).

Projects helping to implement the Council's Program and funded by BPA are expected to have long-term beneficial effects on fish and wildlife, increasing habitat values within the Columbia River Basin and increasing and sustaining fish and wildlife populations. Some adverse environmental impacts associated with fish and wildlife projects are unavoidable. The impacts, however; are often temporary and short-term and can often be mitigated. Soils are typically disturbed during the implementation phases of most projects. This can cause sediments to enter adjacent surface waters during project implementation. Ground disturbing activities also have the potential to impact cultural and/or historic resources. In many cases it is not possible to avoid removing some existing vegetation as part of project implementation. Fish and wildlife can be disturbed by noise and human activity in project vicinities. Smoke from prescribed burning conducted to improve habitat or to manage fuel loads could cause local reductions in visibility and air quality. Some loss of local revenue and taxes could occur in cases where commercial land uses are halted as part of a fish and wildlife project (e.g. the cessation of grazing or farming activities) or land is acquired for the purposes of fish and/or wildlife mitigation. Access restrictions and impacts to recreation could also occur in an attempt to protect sensitive habitats or during project implementation.

While the selection procedures for new proposals will vary, BPA expects to implement hundreds of individual fish and wildlife projects within the Columbia River Basin under the Council's Program. Individual projects will range in size from fractions of an acre to several hundred acres or more. Relatively minor impacts that might occur at individual sites could occur over many hundreds of acres when all individual projects are considered together. However, when examined within the broad geographic extent of the project area (i.e. Columbia River Basin), cumulative adverse impacts are expected to be relatively minor, and the fish and wildlife mitigation actions throughout the Columbia River Basin will provide overall net benefits to water quality, fish and wildlife habitat, and other natural resources such as soils and vegetation.

The types of BPA actions that would occur under the Council's 2009 Program are largely the same as those considered in the FWIP EIS and, more particularly, those associated with the PA 2002 that was adopted by BPA in the FWIP ROD. These actions would be expected to have the same type and nature of potential environmental effects as described in the FWIP EIS.

BPA has considered generally the impacts of climate change as a result of potential BPA actions in a number of NEPA documents, including the FWIP EIS. The primary analysis, incorporated by

reference to the FWIP EIS, is in BPA's Resource Program EIS. This analysis has been further described in support of BPA's System Operation Review EIS and the FWIP EIS. Although the quantity and quality of information regarding climate changes and its current and expected effects on the environment has increased substantially in the recent years, the conclusions are similar to those generally described in earlier BPA NEPA documents. Given the global nature of climate change, many of the actions that BPA could support would not likely have direct measurable impacts to climate change, adverse or beneficial. However, an action recommended to be funded by BPA would be assessed by other parties as to the action's resiliency to the effects of climate change, in order to manage the resources in a way that will allow for the long term adaptation to changing climatic conditions. It is likely that this determination will be made early in the process prior to submittal to BPA for consideration.

BPA's ratepayers would continue to fund the agency's share of the Fish and Wildlife Program's implementation costs. BPA addressed the social and economic impacts fulfilling its mitigation and recovery responsibilities in the FWIP EIS (FWIP EIS, Section 3A.3.2 and Section 3A.3.3).

In sum, because the 2009 Program is largely consistent with fish and wildlife actions included in the FWIP EIS and as part of the PA 2002 that was adopted by BPA through the FWIP ROD, this Program does not represent significant new circumstances or information relevant to environmental concerns from what was already considered in the FWIP EIS. In addition, potential BPA actions under the 2009 Program would not be expected to result in significantly different environmental effects from those described in the FWIP EIS.

FISH AND WILDIFE PROJECT IMPLEMENTATION

Individual fish and wildlife projects that BPA may support or help implement in furtherance of the Council's 2009 Program include both projects already underway and projects that may be proposed in the future. Projects already underway include those already being implemented and those already selected for funding over the next several years, such as activities in support of the FCRPS BiOp for listed salmon and steelhead, other BiOps (e.g. the Willamette BiOp for listed salmon and steelhead, the Libby BiOp for bull trout and sturgeon, and the bull trout BiOp for the FCRPS overall), and the 2008 Columbia Basin Fish Accords. Where an existing NEPA ROD provides the analysis and coverage for a project implementation decision, it is expected to continue to apply.

For projects under the Council's 2009 Program that may be proposed in the future, how these projects are proposed and selected will vary depending on project selection processes in place at the time between BPA and the Council.¹⁴ For example, a new project could be proposed (and then considered by BPA) following a Council "categorical review"; as a "replacement" project under an Accord; or as a "gap filling" project to help implement the FCRPS or other BiOps. New projects will generally be evaluated in a Council recommendation process, including review by the Independent Scientific Review Panel. As new projects or activities are proposed for BPA to implement, BPA will review each project to determine if they fall within the scope of the FWIP EIS and ROD.

¹⁴ The Council outlined its expectations for implementation of projects under the 2009 Program in Section VIII of the Program, including development of "multi-year action plans."

BPA expects that a majority of new projects that may be proposed under the Council's 2009 Program will be routine fish and wildlife mitigation and recovery efforts. Because these routine projects have predictable environmental effects that have already been analyzed in the FWIP, Watershed Management, and/or Wildlife Mitigation Program EISs, these routine projects will require no further NEPA documentation prior to a final decision or implementation. Nonetheless, these projects will be required to go through a validation process in which BPA will review each project to ensure all applicable tribal, local, state, and federal laws and regulations in addition to NEPA have been addressed prior to implementation. Examples of typical compliance requirements that are addressed in the validation process include those of the Endangered Species Act, National Historic Preservation Act, Clean Water Act, Clean Air Act, and others.

Through the validation process, BPA staff will document compliance with these and other applicable laws and regulations as part of the contract management process for these projects, including any provisions and mitigation that are required as a result of these validation processes. BPA staff will work with project sponsors to ensure that all applicable requirements have been met and that all practicable mitigation measures have been adopted. Best management practices, restrictions, and mitigation measures imposed through the regulatory process will ensure that any project-specific adverse effects to water quality, habitat access, habitat elements, channel conditions and dynamics, flows, and watershed conditions will be brief, minor, and timed to occur at times that minimize adverse impacts. If a project results in an adverse effect on other natural resources, then those effects would be addressed and mitigated for through applicable laws and regulations as confirmed through the validation process.

Results of the validation process will be tracked and accessed through Pisces and Taurus¹⁵, which are web-enabled software applications available to the public for free. The Pisces and Taurus applications assist BPA and its fish and wildlife program participants with managing fish and wildlife projects throughout the Columbia River Basin. Opportunities for public involvement also will be provided in accordance with on-going Council and BPA processes. For example, the Council provides for public review and comment on ISRP recommendations made to the Council regarding BPA-funded projects. BPA also provides a variety of opportunities for public input on projects to be implemented. The degree of public involvement will be commensurate with the relative environmental impacts of, and public interest in, the site-specific action.

Although the majority of new projects likely will be routine and thus require no additional NEPA documentation it is acknowledged that some types of projects, if proposed, will require additional NEPA analysis and documentation beyond the validation process prior to implementation. These projects are not routine, and BPA's experience in evaluating and implementing projects is that these types of projects necessitate additional environmental review. Projects automatically requiring additional NEPA analysis are those with at least one of the following characteristics:

- (1) projects that are not consistent with the PA 2002 adopted in the FWIP ROD;
- (2) projects that meet the criteria for the Council's Step Review Process (such as new fish production facilities, or other large-scale capital-intensive projects) which includes review by the Council and the Independent Science Review Panel at three different phases, (see <http://www.nwcouncil.org/LIBRARY/2006/2006-21.htm>); or

¹⁵ Taurus is available to the public at <http://www.cbfish.org/Home.mvc/Index>.

- (3) projects that involve substantial modification to an ongoing fish production program (for example, expansion of the program to include a new species).

In addition to the projects automatically requiring additional NEPA analysis, BPA may determine during the validation process or otherwise that there are complicating factors that make the FWIP EIS and the validation process an inappropriate basis for providing NEPA analysis and documentation for a given project and therefore additional NEPA analysis is required. These factors may include controversy over effects on resources, special regulatory requirements (federal, state or local), the participation of other federal agencies (where environmental review methodologies may differ), unprecedented actions (with accompanying uncertainty in impacts), or extraordinary environmental circumstances. For such projects, BPA will determine the appropriate strategy to comply with NEPA on a case by case basis.¹⁶

DETERMINATION

As discussed in this Supplement Analysis, potential BPA actions under the Council's 2009 Program will not result in significantly different environmental effects than those considered and evaluated in the FWIP EIS. While BPA is not specifically selecting any fish and wildlife projects in this analysis, potential BPA actions under the Council's Program, including those for implementing the BiOps that are integrated in the Program, would be within the scope of the FWIP EIS and consistent with the PA 2002 that was adopted by BPA in the FWIP ROD. Accordingly, potential BPA actions under the Council's 2009 Program would not represent a "substantial change in the proposed action" considered in the FWIP EIS and ROD, nor does it represent "significant new circumstances or information" within the meaning of 10 C.F.R. § 1021.314(c) and 40 C.F.R. § 1502.9(c). Therefore, BPA finds that preparation of a supplemental or new EIS is not required.

This Supplement Analysis will be made available to all interested parties and agencies. Notice of the availability of this Supplement Analysis will be published in the BPA Journal and posted to BPA's website. Copies of the FWIP EIS, FWIP ROD and this Supplement Analysis are available from BPA's Public Information Center, P.O. Box 12999, Portland, Oregon, 97212. Copies of these documents may also be obtained by using BPA's nationwide toll-free document request line: 1-800-622-4520 and asking for the document by name.

These documents are also available on the BPA's Web site:

http://www.efw.bpa.gov/environmental_services/Document_Library/Implementation_Plan/.

¹⁶ For example, BPA prepared a separate Environmental Impact Statement when assessing the proposal to remove exotic species (through application of fish poisons) for the benefit of native trout from certain mountain lakes in Montana, including in wilderness areas. See http://www.efw.bpa.gov/environmental_services/Document_Library/South_Fork_Flathead/