



Department of Energy

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

FOIA/PRIVACY COMPLIANCE PROGRAM

September 9, 2022

In reply refer to: FOIA #BPA-2021-00513-F

SENT VIA EMAIL ONLY TO: amissel@advocateswest.org

Andrew Missel
Advocates for the West
3701 SE Milwaukie Ave., Ste. B
Portland OR 97202

Dear Mr. Missel,

This communication is Bonneville Power Administration's (BPA) response to your email dated July 12, 2022, requesting an explanation for each Exemption 5 redaction applied to the third partial response to your FOIA request, provided to you on June 28, 2022.

In its June 28th response letter, BPA explained that it relied upon Exemption 5 to protect deliberative and pre-decisional communications appertaining to the agency's interests in the Columbia River System Operations Environmental Impact Statement ("CRSO EIS") dated July 2020, the associated Endangered Species Act consultations, and the 2020 CRSO EIS Record of Decision.

In your July 12th email to the agency, you indicated that this explanation was insufficient and you asserted that "BPA must either (1) unredact and release the information or (2) provide 'a focused and concrete demonstration of why disclosure of' that *particular information* 'will, in the specific context of the agency action at issue, actually impede those same agency deliberations going forward.'"

Categories of Records and Foreseeable Harm

The information withheld under Exemption 5 is organized into the following categories:

- Discussions of study methods, possible areas of focus, and pros and cons of sources of SARs data; preliminary and brainstorming discussions by staff and contractors, many involving ongoing Columbia River System (CRS) issues.
- Discussions on data choices and influences on the study; preliminary and brainstorming discussions by staff and contractors, many involving ongoing CRS issues.
- Discussion of study aims and parameters; preliminary strategy discussions.
- General brainstorming regarding ongoing CRS issues.
- Discussions related to the study funding; deliberative strategy discussions concerning how to allocate limited funds.

- Discussions about the scientific basis for decision-making, including how analysis will inform decision-making.

All of the above categories are pre-decisional and deliberative. While the material contributed to decisions that have already been made, the issues that those materials pertain to in the CRS and decision-making informed by those materials are ongoing. Furthermore, the subjects of these discussions go beyond any one single decision and factor into a continuing series of decisions currently being made by BPA and that will be made in the future. These decisions include, but are not limited to, agreeing to alter 2021-2022 CRS operations as captured in the Term Sheet for Stay of Preliminary Injunction Motion and Summary Judgment Schedule and 2023 operations in the United States Commitments accompanying the Joint Motion to Extend the Litigation Stay for the *NWF et al. v. NMFS et al.* (3:01-cv-00640-SI) litigation.

Release of Previously Withheld Information

Upon further review by the agency's Office of General Counsel, some information withheld in the third partial response is now being released. Those records are attached and described below:

- Emailed titled, "Report – Survival estimates for the passage of spring-migrating juvenile salmonids through Snake and Columbia River dams and reservoirs, 2008" found on pages 530 and 657 of Part 5 of the third partial response.
- Emailed titled, "[EXTERNAL] FW: "Survival of migrating salmon smolts in large rivers..." – new citations" found on page 340 of Part 6 of the third partial response.
- Document titled, "Summary of Kintama's Major Findings on Salmon Survival" (file name, "Kintama-BPA Update (2 August 2018).docx") found on pages 730-732 of Part 3 of the third partial response. Please note that in the PDF originally released to you, the words at the end of the document, ("a. To add?") published to a separate third page. When produced as a separate PDF those words published to the bottom of the second page.

Questions about this communication or the status of your FOIA request may be directed to the FOIA Public Liaison James King at jjking@bpa.gov or 503-230-7621. Questions may also be directed to E. Thanh Knudson, Case Coordinator (ACS Staffing Group), at etknudson@bpa.gov or 503-230-5221.

Sincerely,

Candice D. Palen
Freedom of Information/Privacy Act Officer

[Attachments / Enclosures: Agency records responsive to FOIA request BPA-2021-00513-F accompany this communication.](#)