

# Bonneville Power Administration Fish and Wildlife Program FY99 Proposal Form

## Section 1. General administrative information

### Securing Wildlife Mitigation Sites - Oregon

**Bonneville project number:** 9705900

**Business name of agency requesting funding:** Oregon Department of Fish and Wildlife for the Oregon Wildlife Coalition (OWC): Oregon Department of Fish & Wildlife (ODFW), Confederated Tribes of the Warm Springs Reservation in Oregon (CTWSRO), Confederated Tribes of the Umatilla Indian Reservation (CTUIR), Burns-Paiute Tribe (BPT), US Fish & Wildlife Service (USFWS). In collaboration with the Trust for Public Land (TPL), The Nature Conservancy (TNC), Oregon Natural Heritage Program (ONHP), River Network, Metro, McKenzie River Trust (MRT) and others.

**Proposal contact person or principal investigator:** John Beck, Oregon Dept. of Fish and Wildlife representing the OWC: Carl Scheeler (CTUIR), Terry Luther (CTWSRO), Haace St. Martin (BPT), Bruce Wiseman (USFWS).

**Subcontractors:** The coordination and planning components of this project has no subcontractors. For the acquisition component, please see individual acquisition projects (attached) for specific subcontractors.

**NPPC Program measure number(s):** Section 11, specifically measures 11.3D and 11.3E.

**Other planning document references:** Oregon Trust Agreement (OTA) Planning Project, prepared by Oregon wildlife managers for BPA; BPA Wildlife Mitigation Program Final EIS; BPA Watershed Management Program Final EIS; Assessing OTA Planning Project Using GAP Analysis; prepared by ODFW for BPA; Status of the interior Columbia Basin: summary of scientific finding, USDA Forest Service; CTUIR Wildlife Mitigation Plan for the John Day and McNary Dams, Columbia River Basin; CTWSRO Integrated Resource Management Plan; ODFW District Wildlife Management Plans; Wy Kan Ush Me Wa Kush Wit, CRITFC.

**Subbasin(s):** Oregon portions of Lower Snake, Owyhee, Malheur, Burnt, Powder, Imnaha, Grande Ronde, Umatilla, John Day, Deschutes, 15 Mile Creek, Hood, Sandy, Willamette (and all tributaries), mainstem Columbia from McNary Dam to mouth.

**Short description:** Facilitate coordination and planning between Oregon wildlife managers via individual funding of wildlife planning and coordination staff for each of the parties involved. Use the GAP analysis, along with other federal, state and tribal wildlife mitigation plans to continue development and implementation of an Oregon wildlife mitigation strategy consisting of selection, scientific analysis, implementation (acquisition, enhancement, etc.), O&M, and monitoring and evaluation of wildlife mitigation projects.

As part of this proposal for FY99, submit to Bonneville, the WWG and the Council a specific suite of projects for acquisition, enhancement or O&M (attached) with specific budgets. Also submit for FY00 and FY01 potential mitigation areas/sites with budget estimates. Prepare initial HEP estimates and provide for NEPA as applicable.

**Section 2 Key words**

**Section 3. Relationships to other projects**

The following list of projects includes acquisitions, enhancement and O&M activities of the OWC for FY99 and beyond. They represent the acquisition component of this proposal and are dependent upon on this project being funded. They have been developed and proposed within the OWC planning framework and have received both scientific and policy review and have been agreed upon by all parties of the OWC. Specific proposals for each area/site are attached.

<u>Mitigation area/site</u>	<u>Project Proponent</u>	<u>Action</u>
Tualitan River Refuge Additions	USFWS, Metro, ODFW	Acquisition
Wapato Lake Additions	USFWS	Acquisition
Pine Creek	CTWSRO	Acquisition
Cox Butte	USFWS, ODFW, NRCS	Acquisition/easement
Multnomah Slough	Metro, ODFW	Enhancement
Wenaha WMA Additions	ODFW	
Acquisition/easement		
EE Wilson WMA Additions	ODFW	
Acquisition/easement		
Granite Creek	ODFW	
Acquisition/easement		
Mitchell Point	ODFW, CTWSRO	Acquisition/gift(?)
GI Ranch	TNC, CTWSRO, ODFW	Easement/enhance.
Logan Valley	BPT, ODFW, TNC	Acquisition
Trout Creek Canyon	ODFW, CTWSRO	Acquisition
Ladd Marsh WMA	ODFW, TNC	Acquisition
Irrigon WMA	ODFW	Acquisition
McKenzie River Island	ODFW, MRT, MRWC	Acquisition
McNary Dist. COE Lands	CTUIR	Enhancement
Malheur River	BPT, ODFW	Acquisition
Horn Butte	ODFW, TNC, BLM	Acquisition/trade

## Section 4. Objectives, tasks and schedules

### Objectives and tasks

<b>Obj 1,2,3</b>	<b>Objective</b>	<b>Task a,b,c</b>	<b>Task</b>
1.	Develop and implement statewide mitigation strategies based upon sound biological and technical principles.	a.	Maintain “active” list of potential projects for implementation prioritization.
		b	Evaluate and prioritize habitat mitigation opportunities utilizing federal, tribal, and state plans, the WWG ranking criteria, Oregon BPA funded GAP analysis.
2	Develop MOA between the Oregon Wildlife Managers to guide coordinated implementation and planning.	a	Integrate technical, administrative and policy issues associated with timely and effective implementation of coordinated state-wide wildlife mitigation into a Memorandum of Agreement for Policy approval and signing.
			Secure full Policy review and approval and submit the signed document to BPA and NPPC as formal documentation of Oregon Wildlife Manager’s concurrence on process for coordinated state-wide project implementation.
3.	Cooperate in the development and implementation of mitigation projects in the State of Oregon.	a.	Coordinate project planning and implementation with Oregon Wildlife Managers to increase efficiencies and reduce duplication of process.
		b	Provide technical coordination and support for the Oregon Wildlife Managers including aspects such as conducting Habitat Evaluation Procedures on projects.
		c	Develop and implement a consistent state-wide monitoring and evaluation program.
		d	Develop and implement coordinated public outreach and involvement strategies

4.	Establish and manage Oregon Projects Implementation Funding Vehicle to provide the flexibility and security required to meet changing financial and project implementation scenarios.	a	Develop funding process and interim agreement with BPA consistent with Section 11.3D of the NPPC Fish and Wildlife Program.
		b	Establish Oregon Mitigation Fund with associated investment policy .
		c	Coordinate development and approval of Annual Project Budgets for Oregon Fund

**Objective schedules and costs**

Partition overhead, administrative, support, and any other common costs shared among objectives. The cost percentages from all objectives should total 100%. Enter just the objective numbers from Column 1 in the above table. Enter start and end dates for each objective using the mm/yyyy format (e.g. 05/2002 for May, 2002).

If you need more rows, press Alt-Insert.

Objective #	Start Date mm/yyyy	End Date Mm/yyyy	Cost %
1.	01/1999	01/2000	20%
2.	01/1999	01/2000	20%
3.	01/1999	01/2000	40%
4.	01/1999	01/2000	40%

**Schedule constraints.** Identify any constraints that may cause schedule changes. Describe major milestones if necessary.

Possible constraints might include delays due to extensive landowner negotiations, NEPA requirements, slow response times from regulatory agencies regarding issuance of permits for proposed enhancement work.

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**Completion date.** Enter the last year that the project is expected to require funding.

N/A - on-going project

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**Section 5. Budget**

This section has two tables: 1) FY 98 budget by line item, and 2) Outyear costs. Instructions for each part follow the heading.

**FY 98 budget by line item**

List FY 98 budget amounts for each category. If an item needs more explanation, provide it in the Note column. If the project uses PIT tags, include the cost (\$2.90/tag). **Be sure to enter a total on the last line: this is the amount of your budget request.**

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<b>Item</b>	<b>Note</b>	<b>FY 99</b>
Personnel	Represents a composite of USFWS, ODFW, CTUIR, CTWS and BPT (Oregon Wildlife Managers) personnel needs as presented in individual contracts for state-wide coordination.	\$107,657
Fringe benefits	Represents a composite average of Oregon Wildlife Managers fringe rates proportional to their individual contract component amounts. (28.7%)	\$30,921
Supplies, materials, non-expendable property		\$2,445
Operations & maintenance	Represents administrative costs associated with the BPT coordination contract.	\$3,220
Capital acquisitions or improvements (e.g. land, buildings, major equip.)	Acquisition of lands, conservation easements, perpetual lease agreements, grazing leases, etc. estimated based on the balance of the annual earmarked funds in the "Columbia Basin Mitigation - Oregon" Regional budget line item after subtracting umbrella coordination contracts.	\$3,767,983
PIT tags	# of tags: N/A	
Travel		\$36,262
Indirect costs	Represents a composite average of Oregon Wildlife Managers indirect rates proportional to their individual contract component amounts. (28.5%)	\$51,512
Subcontracts		
Other		\$
<b>TOTAL</b>	Non-capital Coordination Costs Project implementation funds for individual projects proposed and implemented by Oregon Wildlife Managers under the umbrella Oregon Wildlife Coordination and Planning Project.	\$232,017 \$3,767,983

***Outyear costs***

List budget amounts for the next four years, and the estimated percentage of those costs for operations and maintenance (O&M).

<b>Outyear costs</b>	<b>FY2000</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>
Total budget	\$5,000,000	\$6,000,000	\$8,000,000	\$12,000,000
O&M as % of total	<20%	<50%	60%	70%

## **Section 6 Abstract**

Since 1991 Oregon's wildlife managers have been working together to coordinate the planning, selection and implementation of BPA funded wildlife projects under the NW Power Planning Council's Fish and Wildlife Program as outlined in Section 11, specifically measures 11.3D and 11.3E.

Over the past several years Oregon's wildlife managers have considered a Memorandum of Agreement (MOA) to coordinate the planning, selection and implementation of BPA funded wildlife projects in Oregon under the NW Power Planning Council's (NWPPC) Fish and Wildlife Program. The Oregon Trust Agreement (OTA) Planning Project was initiated by Oregon's wildlife managers in response to BPA's desire to use trusts as a mechanism to fund wildlife mitigation; the idea was to bring Oregon wildlife managers together to develop an Oregon trust similar to what was done in Montana and Washington. Later, this effort was expanded to include a statewide GAP analysis, a research project to identify potential wildlife mitigation sites in Oregon for possible acquisition. The results of this project, undertaken by the Oregon Department of Fish and Wildlife (ODFW), in coordination with BPA and other Oregon wildlife managers, will be used in the next phase of the OTA to identify and prioritize wildlife mitigation opportunities.

Since initiation of the OTA, two strategic issues have arisen that potentially alter the original intent of Oregon's wildlife managers. First, BPA currently is not using trusts as a mechanism for funding wildlife mitigation. Secondly, Oregon's wildlife managers have decided against a formal MOA at this time in favor of some less formal structure. Instead, Oregon wildlife managers, working within the Wildlife Working Group (WWG), have developed a budget proposal for BPA dollars for Oregon projects through the year 2001. Initially funds will be used for coordination and planning, with out-year funds intended to be used for project implementation. It should be understood that this commitment exists only for the purposes of budget planning within the WWG, and that this commitment may not come to fruition unless the Oregon wildlife managers come to some agreement on coordination and planning, whether via an MOA or some other arrangement. Having a unified voice will be critical to ensure implementation of BPA funded wildlife projects in Oregon.

The intent of this project is to facilitate coordination and planning between Oregon wildlife managers via individual funding of wildlife planning and coordination staff for each of the parties involved. A major component of this effort is having this staff use the GAP Analysis, along with other federal, state and tribal wildlife mitigation plans to start developing projects which Oregon wildlife managers can support and agree upon, such that they can be brought forth to the WWG and NWPPC for approval, leading to funding by BPA.

## **Section 7. Project description**

### **a. Technical and/or scientific background.**

#### **1. Council program**

## **2. GAP analysis**

The Bonneville Power Administration (BPA) GAP Project was conducted by the Oregon Department of Fish and Wildlife (ODFW) Wildlife Diversity Program. This project drew from the efforts of the Oregon Trust Agreement Planning Project (OTAP). Both projects were funded by BPA through the Northwest Power Planning Council (NWPPC) fish and wildlife mitigation program.

The BPA GAP project developed a series of databases and Geographic Information System (GIS) data layers which may be used for potential mitigation projects evaluation by the Oregon Wildlife Coalition (OWC) members. Combined with the findings of the OTAP a suitability analysis determined which projects were suitable for BPA mitigation and which remaining projects could be implemented in the near future. Multiple queries of landscape level GIS data were conducted as part of the GAP analysis portion of the project. The results characterize the potential contribution to the mitigation target species and habitats. In addition, the role a project might play in conservation planning, within the range of habitat types and conditions state-wide, was determined.

Some methods and data were borrowed from existing conservation mapping and planning efforts while others were created. Results which included ordering of projects, based on the GIS queries, is attached as tabular appendices to this report. Digital information is also available. Future work conducted by the OWC will involve the refinement of existing information and the generation of new projects based on criteria and methodology developed during this project.

## **Introduction**

In 1980, Congress passed the Pacific Northwest Electric Power Planning and Conservation Act. This act, in part, mandates that mitigation is to occur for fish and wildlife losses resulting from the construction and operation of federally-licensed hydroelectric facilities in Montana, Idaho, Washington, and Oregon. The act also established and charged the Northwest Power Planning Council (NWPPC) with the development of a comprehensive fish and wildlife mitigation program. The Bonneville Power Administration (BPA) is responsible for implementation of the NWPPC fish and wildlife program funding recommendations.

In October of 1995 the project known as Assessing Oregon Trust Agreement Planning Project Priorities Using GAP Analysis, hereafter referred to as BPA GAP, was initiated by the Oregon Department of Fish and Wildlife under contract with the BPA for the NWPPC mitigation program. Cooperators included the Oregon Natural Heritage Program (ONHP), the Confederated Tribes of the Warm Springs Reservation in Oregon (CTWSR), the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), the Burns Paiute Tribe (BPT), and the U.S. Fish and Wildlife Service (USFWS). Oversight, historical perspective, and additional project facilitation was provided by both the BPA and NWPPC. This project was considered an assessment and refinement of the Oregon Trust Agreement Planning Project (OTAP) which was completed in 1993 (BPA 1993).

Prior work, conducted during the OTAP, involved the identification of potential mitigation projects which were proposed to offset the losses caused by the construction of the four lower Columbia River and the eight Willamette River basin hydroelectric facilities. The assessments and calculations of wildlife losses mitigative credits are found in multiple documents written over a period of six years (Bedrossian et. al. 1985; Noyes et. al. 1985a, 1985b, 1985c, 1985d, 1986; Preston et. al. 1987; Rasmussen and Wright 1990a, 1990b, 1990c, 1990d). The current project drew from and enhanced the previous efforts through the use of a GIS and GAP Analysis.

## **The Precursor: The Oregon Trust Agreement Planning Project**

The BPA determined that beginning in 1992 so-called “wildlife agreements” would be pursued with the wildlife management agencies of each state. These agreements were intended to take the place of the annual project submittal and approval process which, by 1993, had resulted in only three wildlife projects implemented region-wide. The agreements between the BPA and each state would include signatories from each tribe and agency responsible for implementing mitigation measures within the respective states. In order to develop an effective agreement Bonneville stated it was necessary to determine what the mitigation objectives of the agreement would be, the economic costs of achieving those objectives and the possible outcomes. The wildlife managers and tribes in Oregon chose to develop the implementation team known as the Oregon Wildlife Coalition (OWC) and the OTAP as the means of achieving those objectives.

The OTAP consisted of two parts. The first was the compilation of a database which contained information about potential mitigation sites. This information originated from OWC project sponsors, various tribal and state management and mitigation plans, and the Oregon Natural Heritage Database. The second component of the OTAP consisted of gathering land values from recent land sales and appraisals within the geographic areas and habitat types where mitigation activities were likely to occur. A range of potential trust agreement costs was also calculated. This range was based upon the assumption of complete mitigation for the wildlife losses in Oregon.

The BPA GAP Project used the database component of the OTAP as a baseline information source for the purposes of analysis. The economic valuation information was not used for the GAP analysis but a current version of similar information is being compiled by the regional Wildlife Working Group (WWG) for project evaluation. Additionally, new economic information will most likely be incorporated in fiscal year 1998 during the implementation phase of the BPA GAP Project.

## **What is GAP Analysis?**

The National GAP Analysis Project began in 1988 with the states of Idaho and Oregon. It was coordinated by the USFWS from the Washington D.C. office (Scott and LaRoe 1993; Pennisi 1993). Today the U.S. Geological Survey spearheads the effort with over 200 collaborating organizations



including businesses, universities, and local, state, and federal governments representing 32 states (Scott 1994).

One of the primary objectives of the project includes establishing ecological and social datasets, based on geographic location within each state, which will eventually lead to an analysis of the health and degree of “protectedness” of biodiversity in the United States (Scott et. Al. 1993; Machlis et. Al. 1994). Thus, the term GAP refers to the gaps in protection designed for the biological ecosystems upon which all life is dependent. The fundamental unit of analysis and protection is the vegetation or habitat type. The vegetation/habitat types are considered catalysts and therefore predictors of wildlife occurrence and in general, biodiversity itself.

The GAP project is considered a proactive rather than reactive form of focusing and directing land management activities. Traditional wildlife management has dealt with individual species and often only after the species has reached an elevated level of peril (Scott 1994). In many cases the management or protection comes only after the species has been designated as “at risk of extinction” (Forman and Gordon 1986; Harris 1984). Reactive management is costly, narrowly focused (often a single species), occurs relatively frequently, species in the same habitat type are dealt with separately (eg. spotted owl and marbled murrelet), and in some cases may occur too late (eg. Snake River sockeye salmon).

The information compiled and generated by the GAP Analysis program is intended to be used for the development of a biodiversity management plan. This approach also differs from historic management by considering common as well as rare species through the realization that all species are equally worthy of management and protection (Scott 1994). Rather than waiting for complex ecological, social, and economic problems, which may drive species near to extinction, GAP gathers the known information about communities and the nature of their protection before it is too late. This allows land managers to 1) assess the current land management situation, 2) identify important areas in need of further research, 3) develop and analyze management options, and 4) take steps towards insuring protection of biodiversity before additional species become threatened or endangered with extinction.

The BPA GAP Project adopted many of the techniques and objectives of the national program described above. New methods were also developed which may assist with similar activities in the future. It is hoped that through the use of these tools the BPA wildlife mitigation projects in Oregon will continue to be planned using the most current scientific method available. And while providing necessary credits to BPA for the wildlife losses a robust network of protected areas will be dedicated to complement existing refugia for target species and others.

## **Description of the Project Area**

The project area remains the same as that which was used for the OTAP (*Figure 1*). That is, all watersheds in Oregon which drain into the Columbia River. There is one exception and it is the Harney Basin. A more detailed description is found in the OTAP final report (BPA 1993).

In all, there are 12 federally licensed hydroelectric dams and facilities which are considered for the purposes of BPA wildlife mitigation in the state. On the mainstem Columbia River these are: Bonneville, The Dalles, John Day, and McNary dams and associated facilities. On the Willamette River tributaries Big Cliff, Detroit, Green Peter, Foster, Cougar, Dexter, Lookout Point, and Hills Creek dams and facilities are found.

Potential mitigation areas associated with the Columbia River dams include the Hood River, Deschutes River, John Day River, Umatilla River, Walla Walla River, Grande Ronde River, Powder River, Silver Creek, Silvies River, and Malheur River watersheds. Numerous smaller watersheds scattered between these are also included. The Willamette region includes lower Columbia River tributaries and all of the Willamette River basin.

## **Project Goal**

The primary goal of the project was to prioritize and depict the contribution of each proposed mitigation site to target species and habitats as well as overall biodiversity in the state and/or ecoregion within which it is found. It is important to note that the primary objective of the mitigation program is to mitigate for habitats and species lost through inundation. That objective can be met and exceeded when potential mitigation sites are selected using a GAP analysis.

## **Objective 1: Review and develop criteria for prioritization of project sites.**

### Develop draft criteria

The first step towards developing prioritization criteria was to review the work which had been conducted for the OTAP. The previous project involved the formulation of a Joint Advisory Committee which decided to employ a “coarse filter/fine filter” approach using two sets of criteria. The first set was used as a coarse filter to “weed-out” some of the more than 500 potential project nominations. The second set of criteria was used to rank the remaining potential projects based on mitigative and biological qualities. The coarse filter criteria which were statutory or otherwise crucial consisted of the following:

1. Projects must be located within a pre-determined geographic area. A map showing the geographic limitations of consideration is included (*Figure 1*).
2. Projects must complement activities of regional, federal and state wildlife agencies, and tribes.
3. Project does not impose funding responsibilities of others on BPA.
4. Project does not adversely affect State or Federally listed Threatened or Endangered species.

The use of these criteria was effective at removing approximately half of the projects originally submitted. The remaining 287 projects were then ranked using the following fine filter criteria:

1. Directly mitigates impacts from hydropower development on-site. Score 0 or 1  
First consideration should be given to high quality on-site opportunities
2. Protect and/or enhance high priority habitat and indicator species as adopted by the Northwest Power Planning Council. Score 0 or 1.
3. Protect or enhance natural ecosystems and species diversity over the long term.  
Score: 1 = proposal addresses either naturally self-sustaining ecosystem or species diversity,  
2 = previously natural self-sustaining ecosystem that needs management actions to restore it to a natural self-sustaining ecosystem that will provide species diversity, and 3 = natural self-sustaining ecosystem that provides maximum species diversity.
4. Provides a direct benefit to State or Federal listed T&E, Federal and State Candidate, or sensitive animal species. Score 0 or 1
5. Provide habitat benefits to both wildlife and anadromous, State Sensitive, culturally significant, or T&E fish species. Score 0 or .5

During the review of the criteria and database products from the OTAP it became apparent that the previous project's strength was found in the use of existing BPA and NWPPC procedures. But, it lacked the use of current scientific methodology found in the fields of Conservation Biology and Landscape Ecology. To add those elements in this project, a series of OWC meetings was scheduled for the spring of 1996 after coordination with other conservation planning efforts (*Figure 2*) and a review of current literature pertaining to biodiversity conservation planning, GAP Analysis, and GIS techniques. A list of questions which would form the basis of project prioritization criteria was put together and discussed during the OWC meetings (*Appendix A*).

Report by Beak Consultants

**b. Proposal objectives.**

Two objectives:

1. Coordination and planning of wildlife mitigation in Oregon by Oregon wildlife managers
2. Acquisition

**c. Rationale and significance to Regional Programs.**

Two rationales:

1. Rationale for coalition, planning process  
Significance to Oregon obtaining a funding stream via WWG and the Council

## 2. Rationale for acquisitions

Significance to satisfying requirements of mitigation (HU's) for documented losses in Oregon

### **d. Project history**

The history of this project is two-fold: first is the history of Bonneville wildlife mitigation efforts, to give the reviewer an understanding of project structure and how it fits within the regional program. Second is the history of Oregon's efforts to work with Bonneville, the Council and the Wildlife Working Group (CBFWA Wildlife Caucus) to give the reviewer an understanding of how the project developed, current status and funding assumptions. This includes a history of the Oregon Trust Planning Project and GAP Analysis.

#### **1. History of Bonneville Wildlife Mitigation Efforts**

Under the Northwest Power Act, the Council is required to include in its Fish and Wildlife Program measures to "protect, mitigate, and enhance" fish and wildlife affected by the development and operation of hydroelectric facilities on the Columbia River and its tributaries. Bonneville's Administrator is required to use his funds and authorities to carry out such mitigation in a manner consistent with the Council's Program.

**Prior to 1988:** At the Council's direction, Bonneville funded wildlife loss studies for construction of and inundation by the major hydroelectric dams. The first studies completed were those for Libby and Hungry Horse Dams. The Council reviewed the losses, amended its Program to specify the number of acres of habitat and species that would constitute adequate mitigation and authorized Bonneville to proceed with mitigation projects.

Rather than carry out the mitigation itself, Bonneville undertook negotiations with the State of Montana with the intent of having Montana undertake the mitigation. Because year-to-year contracts with Montana were not viewed as an administratively practical way of acquiring and maintaining habitat, the Council and the region's utilities encouraged Bonneville to consider establishing a trust fund, giving Montana flexibility to acquire and maintain habitat as the opportunity arose.

Bonneville was initially reluctant to consider trust funds because they felt such arrangements would give them inadequate control over the outcome of the mitigation. Bonneville eventually decided that a trust fund would be a good idea. In exchange, it could get the state to agree to: 1) a once-for-all-time settlement of Bonneville's wildlife obligation and; 2) to a hold harmless clause which would make the state liable for any additional mitigation which might be required by the Council or anyone else during the next 60 years.

**Council position on wildlife agreements:** Bonneville asked for the Council's response to this type of mitigation trust, and the Council replied in a July 14, 1987 letter from Chairman Bob Duncan. Basically the Council said that trusts are a good funding vehicle, but that once-for-all-time settlements were not in tune with either the Northwest Power Act or with FERC practice regarding mitigation at private hydroelectric facilities. This position was reiterated in subsequent amendments to the Program and is reflected in the current Council Program, where the Council endorses agreements (short-term (Section 11.3D and long-

term Section 11.3E ) as the preferred method for implementing wildlife mitigation.

**Montana trust:** During 1988, Bonneville negotiated with Montana to reach an agreement on a wildlife mitigation trust for Libby and Hungry Horse Dams. The Council was not invited to participate in these negotiations and was not briefed on them by Bonneville. Shortly before the end of the Governor's term, the state reached an agreement with Bonneville, including a once-for-all-time settlement, and hold harmless conditions.

Although the mitigation to be achieved under the agreement was based on the Council's Program, and the Program called for Bonneville funding of a Montana trust "upon approval by the Council", the Council was not asked to approve this agreement and did not do so. Given Montana's determination to enter into the agreement before the end of the Governor's term, the Council did not attempt to block the agreement but did send a letter on December 20 from Chairman Trulove to Bonneville expressing concern that the proposed trust agreement had not received a public airing or Council approval. The Council noted that the Montana Trust should not be considered a precedent for future wildlife mitigation.

**Wildlife Rule:** In November 1989, the Council took up wildlife mitigation for most of the remaining federal hydroelectric projects in the Columbia River basin. Because there was widespread disagreement about the loss estimates and the hydropower share of those losses, the Council did not make any determination about the total mitigation due at any of these projects. Instead, the Council amended the Program to include a wildlife mitigation goal of achieving 35% of the agency-submitted losses during the next decade, using the agency estimates as a "starting point".

The Wildlife Rule established a two-track process (including project specific criteria) for implementation of wildlife projects. One track called for projects to be submitted to Bonneville under the Implementation Planning Process. Once projects are reviewed and selected for inclusion in the Bonneville Annual Implementation Workplan the Council's Wildlife Advisory Committee reviews them. The other track permits agreements if agreed to by all parties for a particular facility.

**Dworshak trust:** In 1990, the Nez Perce approached Bonneville about the possibility of an agreement for the Nez Perce portion of wildlife mitigation for Dworshak Dam. Following initial contacts with Bonneville, the tribe informed the Council and the state of Idaho of its decision to seek a settlement. At Bonneville's urging, the state and the tribe began working on a joint agreement and memorandum of understanding for the entire Dworshak project. Both parties worked with Council staff during this period and progress reports were made to the Council. Because of renewed interest expressed in agreements at this time Council Chairman Tom Trulove wrote to the Bonneville Administrator and other interested parties reiterating the Council's views on mitigation agreements (copy attached). In January 1991, the state and the tribe signed a memorandum of agreement delineating each party's share of the project and agreeing to negotiate jointly with Bonneville for an agreement. The parties negotiated extensively over the spring and summer, with a staff member from the Council present for the early discussions but excluded from the later discussions.

Once again, Bonneville insisted that the agreement be conditioned upon a once-for-all-time settlement and hold harmless agreement from the other parties. In this instance, Bonneville requested Council approval of the adequacy of the proposed mitigation (but not of the other terms of the agreement, such as the full settlement). Bonneville notified the Council that it needed advice from the Council at the Council's

February 26, 1992 working session so that it could meet a March closing date for a key parcel involved in the settlement, the Pene Lands. Because of the short time, the Council again was unable to provide adequate opportunity for public comment on the proposed agreement. The Council notified Bonneville that, based on the information available from the parties, the mitigation was likely to succeed and would satisfy Bonneville's wildlife obligation. However, the Council advised Bonneville that an amendment to the Program was needed, and that the Council would be required to give full consideration to comments received in the amendment proceedings before making a final decision on the amendment.

**Conforth Ranch:** In June 1991, the Council approved Bonneville implementation of the Conforth Ranch wildlife mitigation project. Because of concerns over the project by the Port of Umatilla, the Council instructed Bonneville to work with the Port to address the Port's concerns while proceeding with acquisition of the property. After several months of negotiating with the Port, (no agreement was reached) Bonneville announced its intent to acquire the Conforth property in early December 1991. Following the Bonneville announcement, Senator Packwood and Representative Bob Smith of Oregon, wrote the Secretary of Energy requesting that he overturn the Bonneville decision to acquire the ranch because of local opposition to the project. After meeting with the parties, the Bonneville Administrator announced that his decision to acquire the Conforth property was being put on hold for 45 days in order to continue discussions with the parties and to consider other alternatives.

On February 12, 1992 the Administrator announced his decision on the Conforth project in a letter to Chairman Hallock. Bonneville's decision was to purchase a one year option on the Conforth Ranch from the Trust for Public Lands. The letter also stated that it was Bonneville's decision to meet its responsibilities for wildlife mitigation "through long-term trust agreements with States, tribes, and other agencies." Though it was not clear in the letter what the extent of the policy was, Bonneville has since clarified that its intent is to do no more wildlife mitigation absent trust agreements. Discussions with Bonneville staff indicate that this policy will apply to previously Council approved projects as well as to new projects.

**Washington Interim Trust and Council rule-making to amend wildlife rule:** In 1993 Washington and BPA signed an interim five year agreement. The agreement guarantees \$45 million Washington's wildlife managers over a five year period. This was not a trust agreement, only a stream of funds. The Washington coalition and BPA agree to continue to negotiate for a long-term agreement. During this time the Council issued a draft rule which endorsed agreements as a preferred method to achieve wildlife mitigation and calls on BPA to enter into short term agreements, similar to the Washington agreement, with Oregon and Idaho and to negotiate long term agreements over the next 3 years. Bonneville states in comments on draft rule that it will not enter into short-term agreements. Bonneville then announces that its FY 94 and FY95 budgets contain no funds for new wildlife projects, including implementation of activities called for in Phase 4 of the draft wildlife rule.

The Council adopted the final rule in November 1993. The rule continued to call for short-term (Section 11.3D) agreements and states that if Bonneville cannot enter into such agreements in 90 days then the Council will solicit projects from the agencies and tribes and approve them for implementation. If short-term agreements are not in place thereafter the Council will call for project proposals each October thereafter; long term agreements are to be in place in 3 years. Bonneville failed to enter into short-term agreements with states and tribes and Council solicited project proposals in late February, 1994.

Since 1994 Bonneville has funded only a few new, individual wildlife mitigation projects outside the above agreements. This was due to the agreements using most or all of the available funds and a lack of any stable commitment from Bonneville to fund wildlife mitigation. In August of 1995 the Council completed a Wildlife & Resident Fish rule-making that included an amendment to establish specific funding percentages for Bonneville's Direct Program budget under the MOA: 70% for anadromous fish and 15% each for Resident Fish and Wildlife. Thus from FY96 through FY01 the region's wildlife managers have or will have approximately \$15M per year (plus interest) for wildlife mitigation. While most of the available funds through FY98 will be used finishing up the Washington Interim Agreement, some funds have been available for use on other individual projects, notably the Chief Joseph and Southern Idaho projects. Unfortunately, in the history of Bonneville wildlife mitigation under the Council's program, little of Oregon's losses has been mitigated.

## **2. Oregon Wildlife Coalition**

In 1991 the Oregon Wildlife Coalition (OWC) was formed made up of wildlife managers from the Oregon Department of Fish & Wildlife (ODFW), the Confederated Tribes of the Warm Springs Reservation in Oregon (CTWSRO), the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), the Burns-Paiute Tribe (BPT), and the US Fish and Wildlife Service (USFWS). The Coalition developed proposals to address Bonneville concerns for having an "outcomes" based approach and then submitted a proposal for an Oregon planning process to the Council later that year. From fall of 1991 to June of 1992 the OWC negotiated with Bonneville over funding the proposal, which in July of 1992 became the Oregon Trust Agreement (OTA) Planning Project (BPA #92-84).

In October of 1993, after a year of development the OWC publishes an Oregon planning document, the "Brown Book". Then in January of 1994 they begin meeting to formulate a strategy for trust negotiations with Bonneville and in February the Coalition requests in writing that Bonneville begin negotiations. This met the Council's deadline for trying to get to interim agreements within 90 days after the rule went into effect. In March Bonneville responded positively and identifies its' lead negotiators.

Between April and July five coalition sessions were held; Bonneville attended 3 of those meetings. At the initial meeting it was agreed that the parties would develop principles of negotiation. The parties exchanged documents on these issues and agreed that the negotiations should initially focus on technical issues that would define the biological basis for mitigation before the issue of money was to be discussed. Bonneville negotiators agreed to this strategy. It was agreed that the focus of the discussions would be the "Brown Book" losses and the Oregon mitigation planning proposal. It was proposed that a technical committee, including both Bonneville staff and coalition members would work together to develop the technical proposal. Bonneville stated that they would have to get the administrators concurrence before they could commit to such a procedure. The process then broke down when it became apparent that no funds would be available and that Bonneville was moving away from trusts. The coalition stopped meeting for over a year.

During these years the Council's wildlife advisory group had become the Wildlife Working Group (WWG, and also the CBFWA Wildlife Caucus), made up of all the wildlife managers in the Columbia Basin. They meet regularly to help implement the Council's wildlife rule and in doing so developed, reviewed and adopted habitat assessment tools and strategies. Once it became apparent from the Council's 1995 rule-making and the MOA negotiations that wildlife funding would become stable at approximately \$15M per

year through 2001, the WWG started discussions of both long- and short-term funding for future wildlife mitigation in the Basin. Various strategies were discussed, but all agreed that Oregon had not received a reasonable share of funds spent to date. In the end a budget was developed and adopted by the WWG covering Bonneville funds through 2001 (attached). This budget called for Oregon's wildlife mitigation to receive \$275K in FY97, \$500K in FY98, \$4M in FY99, \$5M in FY00 and \$6M in FY01. The first two years are for planning and coordination, the next three for project implementation.

In helping develop this budget as members of the WWG, Oregon's coalition members agreed to come together once again to start developing strategies on how best to implement wildlife mitigation in Oregon. Also at this time a project to reaffirm the original findings of the OTA Planning Project was completed. This project, Assessing Oregon Trust Agreement Planning Process Using GAP Analysis (BPA #95-65), provided a more rigorous scientific/policy filter on the sites originally identified in the "Brown Book" and demonstrated the validity and applicability of that effort.

The OWC has met continually since this time and developed a coordination and planning budget for FY97, which due to contracting problems was not initiated until fall of 1997. This allowed the entities involved to provide staff dedicated to this planning and implementation effort. For FY98, since much of the coordination for this year was using FY97 funds, the coalition developed and proposed the initiation of a small group of projects scattered throughout the state along with some continued funding of planning and coordination. For the current year specific project areas have been identified for purchase, enhancement or O&M along with a small coordination budget.

#### **e. Methods.**

1. For choosing sites: GAP & HEP, etc.
2. For enhancement, o&M, etc – see specific project proposals

#### **f. Facilities and equipment.**

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## **Section 8. Relationship to other projects**

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