

# FISH AND WILDLIFE IMPLEMENTATION PLAN FINAL ENVIRONMENTAL IMPACT STATEMENT

## ADMINISTRATOR'S RECORD OF DECISION

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### Summary

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The Bonneville Power Administration (BPA) has decided to adopt the Preferred Alternative (PA 2002) Policy Direction in its Fish and Wildlife Implementation Plan Environmental Impact Statement (FWIP EIS, DOE/EIS-0312, April 2003) as a comprehensive and consistent policy to guide the implementation and funding of the agency's fish and wildlife mitigation and recovery efforts. PA 2002 focuses on enhancing fish and wildlife habitat, modifying hydro operations and structures, and reforming hatcheries to both increase populations of listed fish stocks and provide long-term harvest opportunities. PA 2002 reflects regional fish and wildlife policy guidance and considers extensive public input. It is also consistent with the fish and wildlife component of BPA's earlier Business Plan decision to use a Market-Driven approach for participation in the electric utility market (Business Plan EIS, DOE/EIS-0183, June 1995, and Business Plan Record of Decision (ROD), August 15, 1995).

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PUBLIC AVAILABILITY: This ROD will be distributed to interested and affected persons and agencies. The FWIP EIS and ROD are also posted on BPA's website, [www.efw.bpa.gov](http://www.efw.bpa.gov). Copies of the FWIP EIS (in CD format or hard copy) and additional copies of this ROD are also available from BPA's Public Information Center, P.O. Box 14428, Portland, Oregon 97293-4428; or by using BPA's nationwide toll-free document request line: 1-800-622-4520.

### Supplementary Information

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#### 1. Background

For several decades, a variety of Federal, State, and Tribal entities have been managing the Pacific Northwest region's (Region) fish and wildlife resources. These management responsibilities stem from a number of obligations and laws, including the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), the Clean Water Act (CWA), and the Endangered Species Act (ESA). During this period, there have been a number of attempts to address the decline of some populations of fish and wildlife. Difficulty in coordinating these attempts has kept the Region from reaching a common goal of healthy, self-sustaining fish and wildlife populations. While some progress toward this goal has been made in recent years, it has often been slow for reasons such as different and conflicting values and priorities, no clear and

agreed-upon scientific answer, and conflicting directives and jurisdictions of regional authorities. (FWIP EIS, Section 1.1)

An increase in both the number of species listed under ESA and the demand for resources highlighted the necessity for comprehensive unified fish and wildlife mitigation and recovery planning. In response, there were renewed efforts at the regional level to address species mitigation and recovery. These efforts include the Federal Caucus, an assembly of nine Federal agencies with roles in anadromous fish recovery in the Columbia River Basin; the Northwest Power and Conservation Council's<sup>1</sup> (Council) Fish and Wildlife Program; State plans and the Governors' Recommendations (OR, WA, ID, MT); and Tribal plans. Despite these steps taken toward development of a regional plan, no clear, agreed-upon policy has emerged. However, as a result of the numerous on-going regional processes, a number of key issues has been identified. To be successful, any comprehensive fish and wildlife policy should address these key issues.

BPA has certain specific responsibilities for fish and wildlife mitigation and recovery,<sup>2</sup> including a Regional Act mandate to enhance fish and wildlife affected by the development and operation of the Federal Columbia River Power System (FCRPS) and specific duties under the ESA for listed species. BPA also has trust and treaty responsibilities to Columbia River Indian Tribes, and a Tribal Policy. The Federally recognized Indian Tribes of the Columbia River Basin encompass many different cultures, geographic locations, and relationships to natural resources. While there are over 50 tribes in BPA's service area, BPA works principally with the 13 Tribes of the Columbia River Basin, the area within which most of BPA's mitigation and recovery actions for the FCRPS are implemented.

BPA has been actively supportive of recent attempts to develop a unified planning approach for the Region's fish and wildlife mitigation and recovery efforts. BPA believes that a comprehensive and consistent policy will help foster coordination and efficiency in fish and wildlife activities throughout the Region. Even if the Region cannot come to agreement, BPA must still implement and fund fish and wildlife mitigation and recovery efforts, as one of the public benefits the agency affords to the Region. BPA is not unilaterally selecting a policy for the Region. Instead, the agency is seeking a policy that best meets its need.

Because BPA must use ratepayer money responsibly, it is important that any chosen plan achieve science-based mitigation and ESA performance standards, as well as biological objectives, in a timely, least-cost manner. BPA also believes that it is important to identify a clear fish and wildlife mitigation and recovery policy to more specifically address fish and wildlife administration issues that were identified in its Business Plan EIS. In particular, BPA identified three broad dimensions of fish and wildlife administration that help define its potential direction and assess potential impacts under its Business Plan. These dimensions include: (1) the relationship between BPA's responsibility to implement its mandated fish and wildlife responsibilities, and its accountability for results; (2) BPA's financial position—its ability to predict and stabilize its fish and wildlife costs; and (3) the administrative mechanisms for distributing the fish and wildlife dollars.

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<sup>1</sup> Previously known as the Northwest Power Planning Council.

<sup>2</sup> The phrase "mitigation and recovery" is an abbreviated means to reference BPA's fish and wildlife obligations under the Regional Act, ESA, and other laws.

All three of these issues identified in the Business Plan EIS underlie BPA's stated need in the FWIP EIS to move forward with a comprehensive and consistent Policy Direction to guide the implementation and funding of its fish and wildlife mitigation and recovery actions. In meeting this need, BPA is striving to accomplish several purposes:

- Facilitate adoption and implementation of a regional unified planning approach for fish and wildlife mitigation and recovery efforts;
- Fulfill statutory, legal obligations under the Regional Act, especially BPA's obligation to:
  - Protect, mitigate and enhance fish and wildlife;
  - Provide equitable treatment for fish and wildlife with other purposes of the FCRPS; and
  - Provide a reliable, adequate, efficient, and economical power supply for the Pacific Northwest.
- Fulfill obligations under other applicable laws;
- Continued fulfillment of the Administration's Fish and Wildlife Funding Principles; and
- Promote predictable and stable fish and wildlife costs and competitive rates, enhancing BPA's ability to provide funding for public benefits and remain competitive in the electric utility marketplace.

These purposes will be used to assess how well a given policy would meet BPA's need. For a complete discussion of the purposes see Section 1.2.2 of the FWIP EIS.

## **2. The Fish and Wildlife Implementation Plan EIS**

The FWIP EIS is broad in scope, designed to encompass BPA's mitigation responsibilities pursuant to the Regional Act and its obligations under the ESA and the National Environmental Policy Act (NEPA), among others. In accordance with the agency's Tribal treaty and trust responsibilities, BPA has incorporated into the EIS many of the Tribal ideas, issues, and concerns expressed in the Tribal plans. It is designed to meet the immediate and future needs of agency decisionmakers and the public for information regarding the environmental impact of mitigation and recovery actions proposed for implementation. The EIS is a cumulative analysis. It considers the effects on fish and wildlife from common human activities, including the multiple purposes of the FCRPS. It also examines the environmental effects on humans from actions taken for fish and wildlife mitigation and recovery.

The FWIP EIS encompasses the regional fish and wildlife mitigation and recovery processes, including the Federal Caucus, the Council's Fish and Wildlife Program, the Governors' Recommendations, and tribal plans (including the Tribal Vision and the Spirit of the Salmon), incorporating by reference other regional NEPA documents (FWIP EIS, Section 1.3.3). Key policy issues were identified from many ongoing discussions and evaluated in the FWIP EIS. Actions for fish and wildlife mitigation and recovery proposed throughout the region have been included in the EIS as Sample Implementation Actions (SIAs). The SIAs are categorized by Policy Direction and by key issue in Volume 3 of the FWIP EIS. These SIAs, as well as other similar actions, may be implemented if they are consistent with a chosen Policy Direction.

BPA, the Bureau of Reclamation, and the US Army Corps of Engineers (Corps), in managing the FCRPS, have developed a number of environmental documents related to the FCRPS. The Columbia River System Operation Review EIS (SOR EIS; DOE/EIS-0170, November 1995) and the Corps' Lower Snake River Juvenile Salmon Migration Feasibility Report EIS are EISs with ongoing utility that served as important source documents for the FWIP EIS. The SOR EIS provides detailed analyses of the environmental effects associated with hydrosystem operation strategies. The Lower Snake River Juvenile Salmon Migration Feasibility Report EIS provides the analysis of structural modifications suggested, but not pursued, in the SOR. In addition, the SOR EIS noted that actions outside its scope (harvest, hatchery practices, and habitat) would likely require additional NEPA documentation. The FWIP EIS provides that additional documentation. BPA may also use the FWIP EIS as a means of articulating the steps it has already taken, or is planning to take, to provide equitable treatment for fish and wildlife with the other purposes of managing and operating the FCRPS.

As a policy-level document, the FWIP EIS is a fundamental part of BPA's ability to meet its obligations under NEPA. As discussed above, it more specifically addresses fish and wildlife administration issues that were identified in the Business Plan EIS, and builds upon the analysis of these issues contained in that policy-level document. It also complements the agency's Wildlife Mitigation Program EIS (DOE/EIS-0246, March 1997), and Watershed Management Program EIS (DOE/EIS-0265, July 1997). In each of these two programmatic documents, BPA adopted prescriptions to standardize the planning and implementation of individual watershed and wildlife mitigation programs and projects. BPA will continue to use these two EISs, as well as other NEPA documents of more limited scope, to support related activities. In addition, BPA may use the FWIP EIS to make periodic updates to the previously mentioned programmatic EISs when the need arises. The FWIP EIS also provides the needed environmental analysis for many other types of actions taken for fish and wildlife mitigation and recovery.

### **3. Alternatives Considered in the FWIP EIS**

All the alternative Policy Directions evaluated in the FWIP EIS are based upon concepts for fish and wildlife policy set forth in numerous existing and ongoing policy initiatives within the Region. All of these alternatives are designed to be both comprehensive, addressing the regional processes and identified key issues, and flexible, accommodating changing conditions. The five basic Policy Direction alternatives in the FWIP EIS span the full range of reasonably foreseeable directions for fish and wildlife policy. This range of alternatives includes Policy Directions that may be perceived as favoring the natural environment, as well as Policy Directions that may be perceived as favoring the economic and social environments. However, each alternative addresses all the key issues identified in the regional processes. All of the alternative Policy Directions assume a unified regional planning approach.

Developed from within the range of the five basic Policy Direction alternatives, the EIS also includes a preferred alternative, PA 2002. In addition, there is a Status Quo alternative that serves as a baseline against which all alternatives can be compared. The EIS contains a description and philosophy for each alternative Policy Direction. It also illustrates, by component, how each alternative differs from Status Quo. The components address issues concerning habitat, overall harvest, hatcheries, hydro, commerce, and Tribal harvest. The Status Quo, the five basic Policy Directions, and PA 2002 are summarized below.

**Status Quo (No Action).** The Status Quo Alternative represents the "no action" alternative—continuing the ad-hoc approach to fish and wildlife policy that the Region appeared to be following before 2002. Human intervention is used to mitigate the perceived problems facing fish and wildlife populations and to aid their recovery, with no unified or single regional plan. Status Quo focuses on modifying hydro operations and increasing hatchery production to recover listed stocks of anadromous fish for increased harvest. (FWIP EIS, 3-18.)

**Natural Focus.** This alternative emphasizes removing the past major human "interventions" in the ecosystem and allowing the existing fish and wildlife to return to a natural balance without further major human intervention. The focus is on protecting habitat and controlling hydro operations to reestablish ecological processes. It gives priority to wild fish and ecosystem protection by placing the preservation of habitat quality ahead of economic activity. This Policy Direction would require major societal changes. (FWIP EIS, 3-19.)

**Weak Stock Focus.** This alternative emphasizes human intervention to promote recovery of weak species of fish and wildlife that are listed or proposed for listing under 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. It gives priority to restoring quality habitat for weak stocks over economic activity. Since ESA is the primary driver behind this Policy Direction, the emphasis would be on the implementation and enforcement of the law. (FWIP EIS, 3-20.)

**Sustainable<sup>3</sup> Use Focus.** This alternative emphasizes human intervention to achieve the goal of rebuilding and maintaining sustainable fish and wildlife populations to promote expanded harvest and recreation opportunities. The focus is on increasing hatchery production, modifying hydro operations, and enhancing and managing habitat. Available resources are used to maintain and expand harvest opportunities. (FWIP EIS, 3-21.)

**Strong Stock Focus.** This alternative emphasizes human intervention to avoid declines of strong fish stocks and strong wildlife populations, preventing weakened populations that require legal protection. The focus is on maintaining healthy fish stocks and wildlife populations within a stable ecosystem. Maintaining habitat and restricting further degradation is given priority over economic activity and new development. (FWIP EIS, 3-22.)

**Commerce Focus.** This alternative emphasizes human intervention to enhance the economic value of river uses. The focus is on increasing hatchery production and improving hydro operations to support the commercial values of the river. Increased revenues would be put toward funding fish and wildlife mitigation programs that do not directly affect economic efficiency. This Direction decreases government regulation and emphasizes voluntary actions, financial incentives, and market mechanisms to bring about desired results that can best meet the goals of fish and wildlife conservation, while still fulfilling economic needs. (FWIP EIS, 3-23.)

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<sup>3</sup> Sustainable is defined as the continued use of a resource at a stable rate over the long term.

**PA 2002 (Preferred Alternative).** The focus of PA 2002 is to protect weak stocks of fish and achieve performance standards and biological objectives<sup>4</sup> while sustaining overall populations of fish and wildlife for their economic and cultural value. PA 2002 is essentially a blend of the Weak Stock and Sustainable Use Policy Directions. PA 2002 focuses on enhancing fish and wildlife habitat, modifying hydro operations and structures, and reforming hatcheries to both increase listed stocks, and provide harvest opportunities in the long term. It gives priority to improving water quality and habitat for ESA-listed stocks of fish over economic activity, stopping short of breaching dams. It emphasizes human management, in a least-cost manner, to recover listed species and restore and maintain naturally sustainable populations of fish and wildlife, while recognizing that ultimately the fate of some listed species may now be determined by climate and ocean conditions rather than human action.

The principal guidance for this Policy Direction comes from the Federal Caucus' Basinwide Strategy, the FCRPS Action Agencies' (BPA, Corps, and Bureau of Reclamation), ESA compliance documentation including the 5-year implementation planning and progress reports, the Council's 2000 Fish and Wildlife Program and subsequent amendments, the Governors' Recommendations, the Tribal Vision, and the Corps' 2002 ROD on the Lower Snake River Feasibility Study. Where key issues were not specifically addressed in the Regional Guidance documents, BPA considered the overall themes of the Weak Stock Focus and Sustainable Use Focus Policy Directions, other regional fish and wildlife processes, and public input to determine the remaining aspects of the PA 2002. (FWIP EIS, 3A-1.)

#### **4. Environmental Analysis**

To facilitate an understanding of the environmental consequences of implementing the Policy Directions, both the discussion of generic environmental effects (FWIP EIS, Section 5.2) and the analysis of environmental effects of the alternative Policy Directions (FWIP EIS, Section 5.3) are presented from two perspectives—the effects of human activities on fish and wildlife and their habitats, and the effects of actions taken for fish and wildlife on the human economic and social environments. The description of environmental consequences is based not on numbers, but on a broader and more general qualitative analysis—an analysis built on predictable relationships among policies, people, and the environment. The analysis is organized by effect area.

##### Comparison of the Alternatives

The comparisons of the alternative Policy Directions to Status Quo are intended to show how the environmental consequences of each Policy Direction may differ from conditions under Status Quo for each of the effect areas. The environmental effects analysis considers both the short and long terms. The short term includes those effects likely to occur within 10 years. The long term generally includes effects that extend beyond the 10-year period. The environmental effects are described in terms of better, worse, or the same as Status Quo. The terms “better” or “worse” are equivalent to the NEPA terms “beneficial” and “adverse.” For the natural environment, the environmental effects on air quality, land, water, and fish and wildlife are evaluated for each Policy Direction. For the economic and social environments, the human perspective is considered in describing the environmental consequences.

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<sup>4</sup> The performance standards and biological objectives may include those set forth in the current or subsequent biological opinions (BiOps) governing BPA's actions and the Council's Fish and Wildlife Program.

For a summary comparison of the environmental effects of the alternatives, including the preferred alternative, see Table 1, below. For a discussion of the comparison of Status Quo and the five basic alternative Policy Directions against the purposes of the EIS, see Table 3.3-2 in the FWIP EIS (page 3-28). For a discussion of the comparison of PA 2002 against the purposes, see Table 3A-13 in the FWIP EIS (page 3A-42) and Section 6 below.

#### Environmentally Preferred Alternative

Due to the unique approach of the FWIP EIS, the PA 2002 is an environmentally preferred alternative. However, since different aspects of the five basic alternatives can be combined in different ways to achieve specific goals, more than one environmentally preferred alternative can be developed. These goals define what part of the human environment is being addressed. For example, if a goal is to primarily address the natural environment, then Natural Focus or Weak Stock may be perceived as the environmentally preferred alternative. However, if the goal is primarily to address social and economic environmental concerns, then Commerce Focus may be perceived as the environmentally preferred alternative. If the goal is to address all aspects of the human environment—natural, economic, and social—then PA 2002 is the environmentally preferred alternative at this time. See Table 1 below. Using the mix and match approach developed in the FWIP EIS, other environmentally preferred alternatives may be developed.

#### **5. Mitigation**

The FWIP EIS is, by its very nature, all about mitigation for the FCRPS. Each of the identified alternative Policy Directions could mitigate for the effects of the FCRPS on fish and wildlife to a greater or lesser extent, depending upon the focus of the alternative. If the fish and wildlife mitigation and recovery actions result in adverse effects on other natural resources, then those effects would be mitigated. As a policy-level EIS, the actual mitigation measures that would be undertaken for those potential actions are not known at this time. However, the types of possible mitigation measures to avoid or minimize environmental harm are identified in Section 5.2 of the EIS. If required for site-specific actions, all practicable mitigation identified in the EIS—within BPA’s authority to implement—would be adopted if appropriate. The individual, site-specific NEPA documents for future actions would identify the specific mitigation measures applicable to those actions.

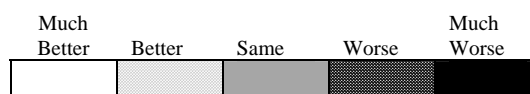
**Table 1: Comparison of the Alternatives Including the Preferred Alternative\***

Effect Area	Status Quo*	Natural Focus	Weak Stocks	PA 2002	Sustain-able Use	Strong Stocks	Com. Focus
<b>NATURAL ENVIRONMENT</b>							
<b>Air Quality</b>							
<b>Land Habitat</b>							
Upland							
Riparian/Wetland							
<b>Water Habitat</b>							
Nitrogen Supersaturation							
Non-Thermal Pollution							
Sedimentation**							
Temperature/Dissolved Oxygen							
Instream Water Quantity							
Amount Stream/River Habitat							
Reservoir Habitat							
<b>Fish and Wildlife</b>							
Naturally-spawning Native Anadromous Fish							
Hatchery-produced Native Anadromous Fish							
Native Resident Fish							
Native Wildlife							
Non-Native Species***							
<b>SOCIAL AND ECONOMIC ENVIRONMENTS</b>							
<b>Commerce</b>							
<b>Recreation</b>							
<b>Economic Development</b>							
<b>Funding Costs</b>							
<b>Tribes</b>							
Fish Harvest							
Health, Spirituality, and Tradition							
<b>Cultural/Historic Resources</b>							
<b>Aesthetics</b>							

\* Status Quo = Baseline conditions. For more information on existing conditions, please see FWIP EIS, Section 5.1.

\*\* The sedimentation evaluation is based on long-term effects. It should be noted that the short-term effects under Natural Focus and Weak Stock from dam breaching would be much worse than those conditions under Status Quo.

\*\*\* Under this analysis fewer non-native species is considered "better". For a complete discussion, see FWIP EIS, Chapter 5.





## **6. BPA's Decision**

The BPA Administrator is adopting PA 2002, the preferred alternative in the FWIP EIS. PA 2002 best reflects regional concerns as supported in Regional Guidance documents. Specifically, BPA used the Regional Guidance documents identified in Section 3 of this ROD and Chapter 3, Section 3A of the FWIP EIS.

### Preferred Alternative (PA 2002)

PA 2002 best meets BPA's need for a comprehensive and consistent policy to guide its implementation and funding of fish and wildlife mitigation and recovery actions. It reflects the past several years of regional fish and wildlife policy guidance and specifically considers the existing policies of other key decisionmaking entities. Consistent with the Market Driven alternative adopted in the BPA Business Plan EIS, PA 2002 is also flexible enough to respond to changes in BPA's business practices.

As described above, PA 2002 is essentially a blend of the Weak Stock Focus and Sustainable Use Focus Policy Directions. Similar to all alternative policy direction, the unified regional planning approach will be implemented to the greatest degree possible—a departure from Status Quo. Compared to Status Quo, the PA 2002 results in increases in habitat enhancement, harvest through selective fisheries, modifications at hydro facilities to increase adult and juvenile fish survival, and opportunities for commercial activity. PA 2002 also adopts a hatchery approach that incorporates two types of hatcheries. Some hatcheries will focus on genetic management and conservation of specific fish stocks, while other hatcheries will be designed to supplement harvest in a manner that does not jeopardize listed stocks. For areas where FCRPS projects block anadromous fish passage, PA 2002 allows for the substitution of resident fish species as mitigation. For a complete discussion of the differences of PA 2002 from Status Quo, see Chapter 3 of the FWIP EIS.

Under PA 2002, the BPA ratepayers would continue to pay a large part of the costs for the direct actions (e.g., habitat protection and enhancement, hatchery, harvest off-sets, and hydro modifications) taken to recover listed species. In addition, ratepayers would continue to fund other fish and wildlife mitigation and recovery actions to promote sustainable populations of harvestable fish and wildlife, such as increasing fish transport and managing habitat. Actions would be implemented at least cost—meaning where a performance or biological objective could be met in one or more ways, BPA will advocate for, and strive to choose, the one with the least cost. Implementation of measures will also be done using clarified contract management, budget, and accounting processes to better manage BPA's fish and wildlife responsibilities. Therefore, PA 2002 would help ensure predictability and stability in funding and accountability for results.

As the Region continues to pursue mitigation and recovery for fish and wildlife, it is possible that BPA's contribution will be limited by its maximum sustainable revenue—that is, the public benefits funding BPA provides for fish and wildlife and other program areas cannot exceed, or contribute to an exceedance, of the maximum amount of revenue BPA can generate without losing customers or load. While BPA should be able to meet its mitigation and recovery obligations using PA 2002, other funding sources may need to contribute additional funding in order to meet the Region's overall fish and wildlife goals as articulated

by the Council, the U.S. Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries), and the Federal Caucus.

#### Comparison of PA 2002 Against the Purposes

In making a decision, the Administrator has considered how well the PA 2002 addresses the purposes outlined in the FWIP EIS and summarized in Section 1 of this ROD. As documented below, this Policy Direction would best allow BPA to accomplish these purposes.<sup>5</sup>

#### **Facilitate implementation of a regional unified planning approach for fish and wildlife mitigation and recovery efforts**

PA 2002 represents an all-inclusive approach for BPA's fish and wildlife mitigation and recovery efforts. It consolidates the regional guidance from other Federal agencies, State governors, Council, and Tribes to assist BPA in achieving a more comprehensive policy for its fish and wildlife mitigation and recovery efforts. BPA will be able to more efficiently direct its funding for mitigation and recovery efforts in a coordinated and consistent manner. It focuses on all stages of the life cycles of ESA-listed and non-listed species, and attempts to help balance natural resource and social values—fish and power marketing mandates—so it is likely to be more regionally accepted. Because PA 2002 uses guidance from throughout the Region and tries to better balance the fish and wildlife needs with the social and economic needs of the human population, it is expected that it will have a much greater chance of facilitating a unified planning approach than the other alternatives.

#### **Fulfill statutory, legal obligations under the Regional Act**

By using performance standards and biological objectives, this approach allows BPA to evaluate how well the agency is meeting its obligations under the Regional Act, as well as other legal and business requirements.

The technical review, budgeting, and prioritization of the mitigation and recovery actions to be implemented through the Fish and Wildlife Program will be done in collaboration with the Council and fish and wildlife managers (through the Columbia Basin Fish and Wildlife Authority). Therefore, PA 2002 increases the likelihood that BPA will continue to meet its fish and wildlife obligations in a manner consistent with the Fish and Wildlife Program while taking the program into account at each relevant stage of decision making.

On a system-wide basis, FCRPS operations will continue to place flood control and fish concerns over power, as provided in the SOR EIS ROD and ESA compliance documentation including the 2000 BiOps.

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<sup>5</sup> In the FWIP EIS, the discussion comparing the PA 2002 to the purposes first evaluates the Weak Stock Focus, then the Sustainable Use Focus, and finally evaluates the PA 2002 Policy Direction (FWIP EIS 3A-42). Here the statement of each purpose (identified in bold) is followed by the evaluation taken from the EIS (identified by indented text) supplemented by additional discussion as appropriate (FWIP EIS Table 3A-13).

As noted in the FWIP EIS, pages 2-32 to 36 and 2-42 to 45, and by the Court in *Confederated Tribes of the Umatilla Indian Reservation v. BPA* (9<sup>th</sup> Cir. 2003), BPA has taken and continues to take many actions to provide equitable treatment for fish and wildlife with the other purposes for which BPA manages the FCRPS. By completing this EIS, and selecting an alternative designed to increasingly benefit weak stocks and build on the mitigation and recovery work done to date, BPA believes it continues to fulfill its equitable treatment obligation.

Because BPA can remain competitive in the electric markets through the continued marketing of low-cost hydropower, using PA 2002, BPA will be better able to provide a reliable, adequate, efficient, and relatively economical power supply. In addition, BPA has a better chance of maintaining its role as a major contributor to the Region's fish and wildlife recovery effort and meeting the costs associated with protecting, mitigating, and enhancing fish and wildlife pursuant to the Regional Act.

The decisions in this ROD and BPA's efforts as documented in Chapter 2 of the EIS indicate that BPA has fully embraced fish and wildlife as a core mission along with its obligations for power and transmission.

**Fulfill obligations under other applicable laws, including Federal treaty and trust obligations with regional tribes, ESA, CWA, and the National Historic Preservation Act**

PA 2002 tries to give more balance to the numerous competing laws, regulations, and related obligations. PA 2002 allows BPA to use science-based performance standards and biological objectives to assist in evaluating its progress under the ESA, Regional Act, Clean Water Act, and other statutes. Because this approach gives intense consideration of all relevant laws, regulations, and obligations, including those mentioned above, and benefits more fish and wildlife in the Region, it is likely that overall there will be less difficulty in meeting these legal obligations than under the other alternatives.

In acknowledging its Federal trust and treaty responsibilities, BPA engaged tribal members in discussions and used several tribal documents in writing the FWIP EIS. In fact, the Tribal Vision was used as regional guidance when developing the PA 2002. By selecting PA 2002, BPA is generally supporting Tribal recommendations for habitat improvement, hatchery reform, and harvest opportunities. BPA is committed to continue working with the Tribes, pursuant to the Tribal Policy, to fulfill BPA's trust and treaty responsibilities.

BPA believes PA 2002 will enable the agency to both continue implementing current biological opinions and also be able to adapt as necessary to comply with future ESA obligations while better integrating BPA's CWA responsibilities. It will also incorporate BPA's need to adhere to its National Historic Preservation Act obligations during site-specific project implementation.

## **Continued Fulfillment of the Administration's Fish and Wildlife Funding Principles**

PA 2002 does not include changes in hydrosystem operations that would substantially derate the FCRPS or changes that are likely to result in the substantial loss of generation and associated revenues. PA 2002 does include the protection and enhancement of habitat, especially for ESA-listed species, which would help BPA meet its other fish and wildlife obligations. Therefore, PA 2002 could increase the chance of BPA's comprehensive and consistent unified planning approach for fish and wildlife mitigation and recovery being widely accepted. This flexible fish and wildlife strategy would provide BPA's customers more certainty for fish and wildlife costs and power rates, and enhance BPA's ability to make timely Treasury repayments.

The PA 2002 falls within the funding range examined by the 13 alternatives under the Fish and Wildlife Funding Principles. The principles applied primarily to BPA's power rate-setting processes for the 2001-2006 rate period. Nevertheless, PA 2002 honors the commitments made in the principles by helping BPA continue to meet all of its fish and wildlife obligations, including trust and treaty responsibilities, within the budget levels set in other processes in a more efficient, business-like manner with a better understanding of the region-wide cumulative effects that may result.

### **Promote predictable and stable fish and wildlife costs and competitive rates, enhancing BPA's ability to provide funding for public benefits and remain competitive in the electric utility marketplace.**

Under PA 2002, BPA will more easily be able to articulate its obligations and how it intends to fulfill them. Funding may be provided for a broader array of listed and non-listed fish and wildlife species. Costs should be more predictable and stable over the long term as BPA's obligations are more clearly defined and BPA increasingly meets them with science-based actions and performance standards and biological objectives that assist in evaluating how BPA and others are meeting their obligations on an ongoing basis. Overall, this approach is expected to allow BPA to continue to meet its fish and wildlife funding obligations in a least-cost manner and remain competitive.

### Other Important Considerations

Several other public policy considerations must also be acknowledged in selecting a preferred alternative Policy Direction. A selected alternative must be one that is not only compatible with current laws and regulations, but also flexible enough to accommodate legal changes. The PA 2002 meets this requirement. A selected alternative must also recognize the diversity of regional values for fish and wildlife, and attempt to reflect the broadest range of these values. PA 2002 incorporates attributes from diverse regional value systems. Finally, a selected alternative should acknowledge that political pressure is likely to play a role in the selection and implementation of any successful fish and wildlife mitigation and recovery plan because of the trade-offs among the natural, economic, and social environments. PA 2002, as shown in Table 1 above, best

accommodates this pressure. By addressing these public policy considerations, PA 2002 best represents a policy direction that could overcome those factors that have resulted in the lack of progress until a clear, agreed-upon scientific answer has been established.

## **7. BPA's Intended Use of the FWIP EIS and ROD**

The FWIP EIS is intended to foster both informed decisionmaking and informed public participation before decisions are made on fish and wildlife mitigation and recovery actions. It is clear that the FWIP EIS provides the analysis to support decisions pertaining to the funding and implementation of BPA's fish and wildlife mitigation and recovery efforts. As with BPA's decisions concerning responses to changes in the electric utility market, time is of the essence for BPA's business decisions regarding fish and wildlife mitigation and recovery. By tiering decisions, the FWIP EIS will allow the Administrator to respond in a timely manner to decisions concerning fish and wildlife mitigation and recovery actions. BPA will continue to involve the public as the agency decides on specific actions for funding and implementation. See Figure 1 below.

### Potential Decisions to be Supported by the FWIP EIS

The Fish and Wildlife Implementation Plan EIS will support actions that BPA determines are necessary to comply with its responsibilities, including the following:

- Funding and implementing fish and wildlife mitigation and recovery efforts that support any selected Policy Direction;
- Integrating those efforts into a unified plan;
- Implementing short- or long-term FCRPS recommendations from NOAA Fisheries and USFWS BiOps and recovery plans;
- Developing and implementing biological performance standards to assist in meeting its obligation;
- Implementing the Council's Fish and Wildlife Program;
- Implementing capital improvements or operational changes at FCRPS projects;
- Fulfilling specific trust or treaty obligations;
- Supporting other fish and wildlife mitigation and recovery efforts:
  - research,
  - monitoring and evaluation,
  - education, and
  - enforcement; and
- Funding of cultural resource mitigation.

In addition to the potential decision listed above, these efforts also include regional funding agreements, habitat acquisition and improvement activities, and construction of new hatcheries. Specific examples of actions that may be implemented include SIAs that are consistent with the chosen Policy Direction. See Section 8 below.

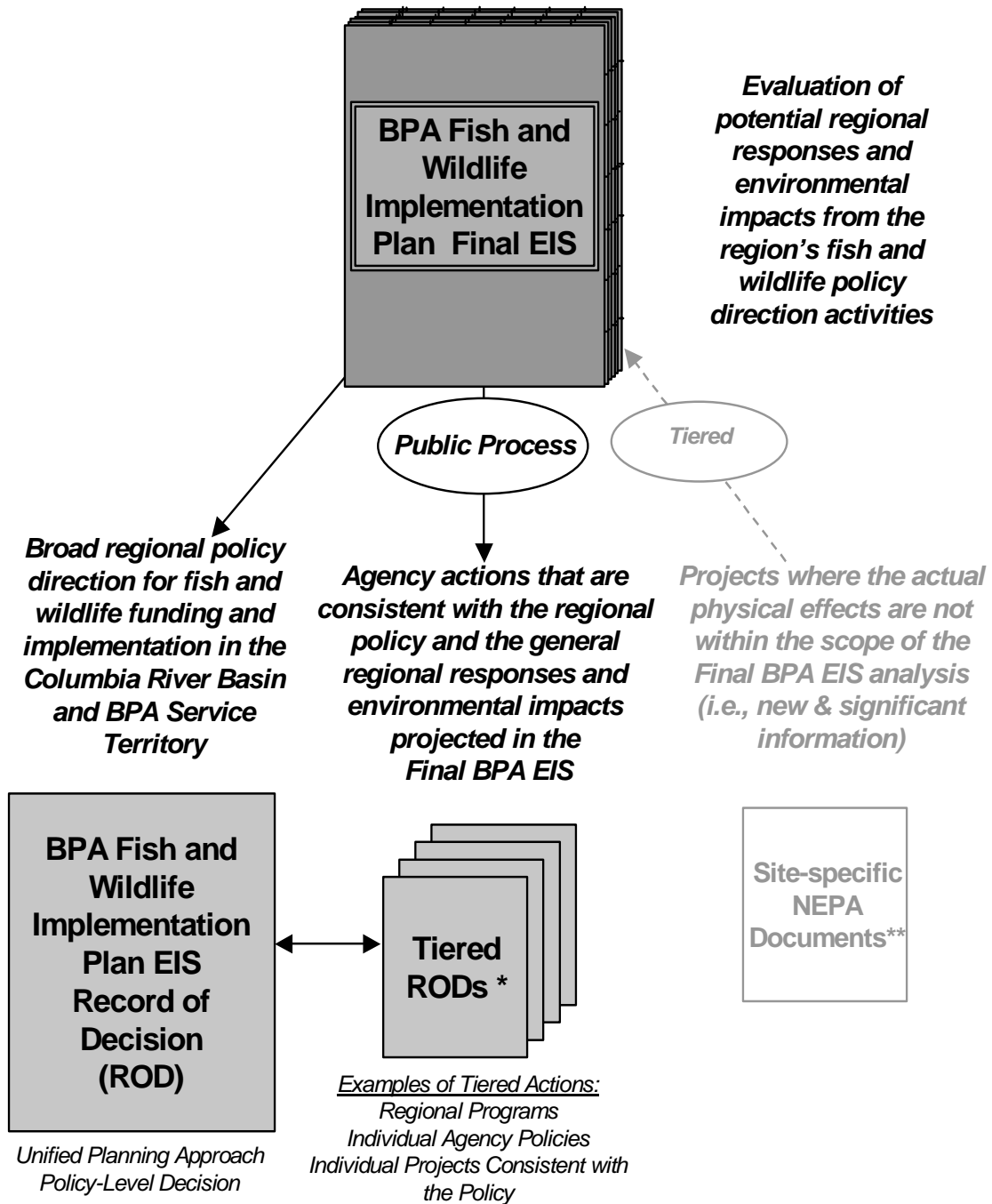
### Tiered Decisionmaking

In adopting a preferred alternative, BPA is articulating its Policy Direction for how it will continue to proceed with implementing and funding the mitigation and recovery of Columbia River Basin fish and wildlife. Specific fish and wildlife mitigation and recovery actions that are proposed will be compared to the preferred alternative for consistency. If the proposed actions are consistent with the preferred alternative, then BPA may prepare tiered RODs to cover the proposed actions.<sup>6</sup> If the proposed action is not consistent with the policy ROD, then BPA may decide either to make changes to its policy or to not fund the proposed fish and wildlife mitigation and recovery action. If it is unclear whether the impacts of a proposed action were considered in the FWIP EIS, a supplement analysis may be used to determine if further NEPA documentation is required. As necessary, BPA will review and explicate the relevant information in the site-specific analysis. This information would then be documented and tiered to the overall Policy Direction decision, as appropriate. If the proposed action is outside the scope of the FWIP EIS analysis, other NEPA documentation may be needed. These documents could include categorical exclusions, environmental assessments, or environmental impact statements.

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<sup>6</sup> In some cases, BPA may use a Supplement Analysis to determine whether any further NEPA documentation is needed to implement an action (see 10CFR1021, Section 1021.314(c)).

**Figure 1: NEPA Decision Process**



\* If BPA determines that the final EIS adequately evaluates the environmental impacts of its future actions, then the preparation of additional or supplemental EISs would be unnecessary. Instead, BPA would prepare tiered RODs to cover the subsequent actions related to the policy ROD. In some cases, BPA may use a Supplement Analysis to determine whether any further NEPA documentation is needed to implement an action. If other agencies or entities find the BPA EIS adequate to cover their actions, they could adopt the EIS and prepare RODs explaining their decisions and how the EIS analyzes the related environmental impacts.

\*\* These documents could include categorical exclusions, environmental assessments, or environmental impact statements.

## **8. Sample Implementation Actions**

During the development of the FWIP EIS, many proposed actions for fish and wildlife mitigation and recovery were collected and sorted by key issue and alternative Policy Directions. These SIA tables are included in Volume 3 of the FWIP EIS. The SIA tables will be updated periodically to keep track of new actions proposed for fish and wildlife mitigation and recovery.

No specific SIA table was created for PA 2002, as it is a synthesis of the other alternatives—primarily Weak Stock and Sustainable Use. Therefore, SIAs that are consistent with PA 2002 can be found across the SIA tables, particularly in the tables for the Weak Stock and Sustainable Use alternatives. To be consistent, an SIA would need to be compatible with the definition of, the philosophy behind, and the components of PA 2002.<sup>7</sup> The PA 2002 components are:

- Increasing enhancement of fish habitat (e.g., increases tributary streamflow, removes passage barriers, protects high-quality habitat, and screens irrigation diversions) to improve fish productivity and, where blocked areas remain, may use substitution of resident fish species as mitigation. Replacement of wildlife habitat lost to hydro development to continue in areas where full mitigation has not yet been achieved;
- Focusing on achieving biological performance standards in the mainstem of the Federal hydrosystem, and developing and achieving biological performance standards for protection and enhancement of fish and wildlife habitat that is not on the mainstem;
- Increasing overall harvest through transition to selective fisheries to reduce impacts to listed and weak fish stocks;
- Increasing tribal harvest through selective fisheries;
- Reforming hatcheries to both reduce risks to wild fish while continuing to supplement harvest and contribute to recovery of ESA-listed stocks by acting as a safety net to avoid extinction;
- Increasing adult and juvenile fish survival at dams (e.g., changes in flow, spill, passage, and water quality) to meet biological performance standards;
- Increasing opportunities for commercial activity except where priority is given to ESA-listed species (e.g., zoning changes for residential/commercial/industrial development, restrictions on water usage for commercial/industrial purposes, and recreational sport fishing and hunting).

The SIAs identified in the EIS are examples of actions that could be taken, consistent with a given Policy Direction.

## **9. Responses to Change**

BPA has considered the possibilities of factors outside human control such as climate, ocean conditions, species-specific disease, and social or economic crises that can change the predicted effects of a particular course of action. New decisionmakers, and the decisionmaking process itself, may also affect implementation. If any of these potential events or circumstances occur, it

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<sup>7</sup> Examples of SIAs that would not be consistent with PA 2002 include reservoir drawdown and dam breaching or adopting a supplementation-only hatchery policy, among others.



is particularly important to understand how the interaction of public process, political intervention, and judicial review may affect implementation of the fish and wildlife mitigation and recovery plans.

Regardless of the reason, eventually the chosen Policy Direction will likely need to be modified. The FWIP EIS is designed to facilitate BPA's ability to quickly accommodate such changes, extending its usefulness as conditions, values, and priorities change over time. To respond to change, BPA will periodically revisit and review the effects of its decisions on implementation of the selected policy alternative and make modifications, as necessary. Three tools help to make this process possible:

- Response strategies – Allow immediate corrections or improvements without changing the overall Policy Direction in effect. They represent management options within the agency's jurisdiction that have been contemplated, implicitly or explicitly, and evaluated in advance, allowing for immediate implementation. See Section 10 below.
- Reserve options – Fish and wildlife policy in the Columbia River Basin has changed over time, and is expected to continue to evolve. Future developments may necessitate changes beyond the specific actions currently considered “reasonable” under the Policy Directions. Reserve Options have been identified to ensure that those future decisionmakers have the needed flexibility to make changes. Public process would be conducted before such options were decided and implemented and a tiered ROD or other environmental document would be produced.
- Mix and match approach – Decisionmakers could revisit a chosen Policy Direction after it has been implemented and make changes. This EIS is designed to be broad enough to encompass any potential Policy Directions under consideration throughout the Region. By mixing and matching components of the different Policy Directions, decisionmakers could create a new Policy Direction. Because the mix-and-match approach is used to create a new Policy Direction, regional discussion and public process would likely be necessary.

These tools help make it possible to modify, extend, or create a Policy Direction (FWIP EIS, Section 4.2). All three of these tools are designed to provide full disclosure of related information and to further the public's understanding of the decisionmaking process, now and in the future. Future decisions on specific issues and actions may be the subject of subsequent tiered RODs, other environmental documents, or a new policy ROD, and distributed to the public.

## **10. Response Strategies**

In order to achieve its mitigation and recovery obligations, BPA needs to generate enough revenue to pay for all of its costs. As described in Section 2.5 of the Business Plan EIS and page 2-57 of the FWIP EIS, BPA's ability to generate revenue reflects the concept of maximum sustainable revenue, which recognizes that the market price for power sets limitations on BPA's potential firm power revenues. In order to fulfill its fish and wildlife mitigation and recovery efforts, while mindful of its maximum sustainable revenues, BPA has developed a set of representative response strategies that will allow BPA to mitigate for unforeseen or uncertain

events. Many of these measures were included in the Business Plan EIS; others were added in the FWIP EIS. These response strategies are categorized as Management and Operating Agency Response Strategies, BPA Funding Response Strategies, and Regional Response Strategies (FWIP EIS, Section 4.2.1).

Most of the response strategies BPA would be authorized to implement to mitigate unforeseen or uncertain events stem from the BPA Funding Response Strategies as outlined in Table 4.2-2 of the FWIP EIS. These strategies, or equivalents, will be initiated to enhance BPA's ability to implement its fish and wildlife mitigation and recovery efforts while balancing its revenues and costs—remaining competitive in the wholesale electric power market—and providing its other public services.

### **11. Potential Use of the FWIP EIS by Others**

Other Federal agencies and regional entities may use the FWIP EIS to evaluate and support their own decisions regarding fish and wildlife mitigation and recovery efforts. They may find the EIS useful because it looks at the effects of various fish and wildlife mitigation and recovery efforts throughout the Columbia River Basin. In addition, this EIS has a broad scope that covers essentially all of the substantive regional fish and wildlife issues. To support their fish and wildlife mitigation and recovery decisions, other Federal agencies, and others who may need to comply with NEPA requirements, could choose to adopt this EIS or relevant portions, consistent with the Council on Environmental Quality's Regulations for Implementing NEPA. Any entity adopting the FWIP EIS would likely need to evaluate the EIS against its own purposes and needs defined by its statutory mandates and guiding regulations.

### **12. Conclusion**

At this time, PA 2002 best reflects BPA's goal of implementing a Policy Direction that meets BPA's need for a comprehensive and consistent policy that, to the maximum extent practicable, is feasible, scientifically sound, legally defensible, and uses a unified planning approach. PA 2002 best accomplishes all of BPA's purposes and is one of the environmentally preferred alternatives. It considers the vast differences of opinions and values throughout the Region, the degree of scientific uncertainty that still surrounds fish and wildlife mitigation and recovery, and the difficulty of bringing together the diverse authorities and obligations of Federal, State, and Tribal entities. PA 2002 will guide BPA in the implementation and funding of the agency's fish and wildlife mitigation and recovery efforts. The Administrator will be able to tier future decisions to this policy ROD so long as the decisions are consistent with PA 2002.

Issued in Portland, Oregon.

/s/ Stephen J. Wright

10/31/03

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Stephen J. Wright  
Administrator and  
Chief Executive Officer

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Date