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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

<p><b>MICHELE DEHART, THOMAS BERGGREN, JEROME MCCANN, MARGARET FILARDO, DAVID BENNER and HENRY FRANZONI,</b></p> <p>Plaintiffs,</p> <p>vs.</p> <p><b>BONNEVILLE POWER ADMINISTRATION, and STEPHEN WRIGHT, Administrator, Bonneville Power Administration (in his individual capacity),</b></p> <p>Defendants.</p>	<p>Civil No. _____</p> <p>DECLARATION OF RODNEY W. SANDO</p>
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I, RODNEY W. SANDO, STATE AND DECLARE AS FOLLOWS:

1. My name is Rodney Sando and my declaration discusses the damage that will be caused in the Columbia River Basin if the Fish Passage Center (FPC) is shut down or altered in any significant way and if the FPC's highly efficient and knowledgeable staff is no longer permitted to carry out the duties of the FPC. The FPC's current duties are essential to managing the salmon populations in this Basin.

2. In July of 2005, I retired after more than forty years of public service. From June, 2002 to July, 2005; I was Executive Director of the Columbia Basin Fish and Wildlife Authority where I directly supervised the FPC Manager, Michele DeHart. In prior assignments I served as the Director of the Idaho Department of Fish and Game. Further, I worked for the Minnesota Department of Natural Resources in a variety of positions including the position of Commissioner for eight years. The Commissioner serves as the head of the agency and is a member of the Governor's Cabinet. I hold a Bachelor's degree in forestry and a Master's degree in forestry with a minor in fish and wildlife management. I currently serve as a science and policy advisor for the Northwest Sportfishing Industry Association.

3. The Fish Passage Center was initially designated the Water Budget Center from 1982 until 1987, by the first Northwest Power and Conservation Council's (NPCC) Fish and Wildlife Program, the FPC was then established in the NPCC's 1987 Fish and Wildlife Program and was addressed in the Council's mainstem amendments to its program in 2003. The FPC has four primary duties assigned to it. They are:

- Plan and implement smolt monitoring.
- Gather, organize, analyze, house, and make widely available monitoring and research information related to juvenile and adult fish passage.
- Provide technical information necessary to assist the agencies and tribes.
- Provide technical assistance and analysis as requested by the agencies and tribes and by other entities within the region and the general public.

4. The FPC maintains large databases and also manages a website which is a major access port to the data. The website is very popular and is widely used by the general public to obtain information about the status of fish passage on the river. Contact traffic reaches high levels through the spring and summer fishing seasons with thousands of contacts monthly.

5. The FPC is staffed with data analysts and data managers who are very well qualified to carry out the mission. The FPC has established highly efficient, extensive, and cost effective procedures for collecting this data and making it available to various public and private entities and Tribes. These entities have depended on this data for over twenty (20) years and have used it as the foundation for many of the analyses done by the region's fisheries managers and scientists as problems and issues were addressed.

6. The FPC staff is highly skilled at providing this data and analysis. If the FPC is altered or closed, and the FPC staff is lost, the State agencies and Tribes that rely upon FPC data to provide them with sound science regarding fish passage and mortality rates, will no longer be on equal footing with major federal agencies, like the Bonneville Power Administration (BPA), NOAA Fisheries, the Army Corp of Engineers and the Bureau of Reclamation, in regards to regional salmon recovery efforts. In addition, the transfer of the duties of the FPC to another, less experienced organization(s), will result in the implementation of much more expensive methods in order to develop the information previously supplied by the FPC.

7. I have reviewed information describing BPA's plans to replace the FPC. BPA's current plans to replace the FPC do not include the very critical service of providing analysis of fish passage data for the agencies and Tribes as it has been done in the past. Analysis services will now be screened by a committee fostered by the NPCC which in my opinion will screen all analysis topics and will likely introduce a significant bias into the process.

8. During the period when I supervised the FPC Manager I had the opportunity to observe the work of the entire FPC staff. I found them all to be highly professional and competent. They worked in an organization that was under pressure and scrutiny from the hydropower industry and they maintained their integrity under difficult circumstances. It was well understood that their work was viewed as controversial by the hydropower industry and its supporters, yet the FPC staff did their work to the best of their ability and carried out the analyses asked of them by the agencies and tribes with high standards and excellent protocols. They suffered many personal attacks on their integrity and worked under the threat of retaliation for several years. They have now been victimized by this elimination of the FPC. These are honest, hard working people who are being personally punished for simply doing their jobs as assigned.

9. The FPC is part of the Fish and Wildlife program funded by the Bonneville Power Administration to mitigate for the effects of the dams on the Columbia River and its tributaries. The program is broadly based and is carried out by the fish and wildlife agencies, Tribal governments and other entities with expertise in fish and wildlife management in the region. The controversy associated with the FPC has largely been caused by the continuing evidence produced by the data analyses provided by FPC staff regarding the impact of the hydropower system and juvenile fish transportation on fish passage and mortality.

10. The NPCC attempted to deal with the hydropower industry's concerns by establishing the Fish Passage Center Oversight Board in their Mainstem Amendment of 2003. This Board was assigned to review the work of the FPC and had a broad representation from the Region's stakeholders. After extensive review this Board did not find any substantial problems and the FPC staff diligently worked to implement all of the Board's recommendations. A significant controversy arose when the FPC produced a substantial critique of the analysis done by the federal agencies that was done in an effort to find fish offsets so that the spill of water required by the Biological Opinion (BiOp) could be reduced.

11. The results were found to be inadequate and summer spill was continued in 2004. Soon after the decision to continue spill in 2004 the NPCC established a special committee to review the budget and activities of the FPC. The committee was made up of three NPCC members and met several times to review the FPC program and budget. This was highly unusual since the NPCC already had the oversight board in place and establishing yet another committee duplicated the efforts of the oversight board. Also this was the only project out of the entire program that received this kind of attention that was outside the protocols of the established processes for this kind of project review. It is my opinion that this was done to harass and intimidate the members of the FPC and its users. The reaction to U.S. District Court Judge Redden's decision to implement spill in 2005 was swiftly carried out by BPA with help from Senator Larry Craig.

12. After Judge Redden's decision to implement the 2005 spill, Senator Craig placed language in a Committee Report that stated the BPA was to cut funding for the FPC and subsequently, the BPA terminated FPC funding. It is my opinion that the decision to impact the FPC is in retaliation for the evidence produced by the FPC that coincidentally benefited the plaintiffs, and which was relied upon in Judge Redden's decision.

13. Shortly after Senator Craig's language appeared in a Senate committee report, I became very concerned and sought the direction of the NPCC. The NPCC staff informed me that the NPCC was not planning to intervene because they had been advised that to do so would potentially anger BPA and Senator Craig who would probably retaliate against them by cutting programs or eliminating funding. I confirmed this with Mr. Mark Walker of the NPCC staff since he is the main coordinator of the NPCC's affairs in Washington, D.C. Needless to say, I was disappointed but not surprised that the NPCC did not support the integrity of its own program. I was convinced that given the opportunity the region could have solved the apparent problem if given a chance to work toward a better resolution.

14. Many of the Region's fisheries scientists work for entities that receive funding from BPA, including the Columbia River Inter Tribal Fisheries Commission (CRITFC), the Oregon Department of Fish and Wildlife, the Washington Department of Fish and Wildlife, and the Idaho Department of Fish and Game. Because they work for entities that are funded by BPA they are vulnerable to the same treatment and in my opinion there is a substantial chilling effect on these scientists and managers. This is the first time a decision has been



made to eliminate funding of a mitigation project that was performing its duties as assigned simply because the analysis results were inconvenient for some of the Region's policy makers. This will no doubt embolden these parties to take further steps if they deem it necessary in the future to shape science to meet their policy needs. This "flat earth" approach to science does not bode well for the management of fish resources in the Columbia. Many of these fish stocks are in serious trouble and the general welfare of all citizens will not be served by a community of fisheries scientists and managers who cannot carry out their responsibilities without fear of retaliation.

15. If the entities who rely on FPC fish passage and mortality data to develop their salmon recovery programs, do not have access to this data, the result may be a significant depletion of the salmon population in the Columbia River Basin. This loss will cost me and other sport fishermen in the area our recreational enjoyment and opportunities to fish salmon.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 10<sup>th</sup> day of March 2006 at Woodburn, Oregon.

Rodney W. Sando  
Rodney W. Sando

3 - 10 - 2006  
Date