DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NORTHWESTERN DIVISION
PO BOX 2870
PORTLAND OR 97208-2870

REPLY TO
ATTENTION OF

15 September 2006

District Support Team

Ms. Cheryl Niemi
Washington State Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Dear Ms. Niemi:

Thank you for the opportunity to review the Washington State Department of Ecology public review draft report "Guidance for Evaluating the Feasibility of Controls to Meet Water Quality Standards for Dams in Washington," dated August 2006. The U.S. Army Corps of Engineers' (Corps) comments on the report are contained in the attached document.

As an agency responsible for operating Federal dams located in the State of Washington, the Corps is interested in continuing to work with you and the other Northwest States and Tribes on a way forward on this very important matter. The Corps' primary point of contact for this review and related issues is Mr. David Ponganis (503-808-3828) and the alternate point of contact is Mr. Rudd Turner (503-808-3727) from the Corps' Northwestern Division office. Please direct questions or concerns about the Corps comments to these designated points of contact.

Sincerely,

for Witt Anderson
Chief, District Support Team
Portland/Walla Walla/Fish

Enclosure

CENWD-PDD-A 15 September 2006

U.S. Army Corps of Engineers (Corps) comments on:

Guidance for Evaluating the Feasibility of Controls to Meet Water Quality Standards for Dams in Washington. August 2006, Draft for Public Review. Publication No. 06-10-xxx. Washington State Department of Ecology, Olympia, WA. 96 pp.

General Comments:

1. This Guidance raises legal and policy issues of concern to the Corps. For instance, Chapter 6, page 6-1, the Guidance references a provision in the Clean Water Act, 33 U.S.C. §1323) pertaining to federal agencies' responsibilities. This is a complex legal issue, not readily amenable to the oversimplified statement as currently contained in the Guidance. The Corps suggests continuing to work through these complex issues with the State and regionally rather than attempt to capture these complexities in this Guidance. An example of the issues raised are discussed in the following 9th Circuit opinion: *National Wildlife Federation v. U.S. Army Corps of Engineers*, 384 F.3rd 1163 (9th Cir. 2004).

2. In Section 1.3, Ecology refers to "feasible" to include both engineering and economic feasibility. While we understand this Guidance applies only to the economic feasibility of engineering alternatives for dams, we would like to refer Ecology to a May 4, 2005 letter from the Corps, EPA Region X and Bureau of Reclamation to Oregon Department of Environmental Quality recommending that engineering, economic and environmental factors should be considered when determining feasible actions.

3. Chapter 6 of the Guidance on Financial Analysis for Federal entities does not accurately reflect guidance that the Corps follows in evaluating and recommending modifications to federal projects. For instance, interest rates and periods of analysis are defined in federal guidance. We would therefore proposed that the Corps meet with Ecology to review this section to better reflect Federal guidance and what is appropriate to be included in this analysis.

4. The site specific, single project approach called for in the Guidance may not be an efficient way to meet water quality objectives. The Corps recommends the Guidance provide for a water body or river reach approach when appropriate. It is possible that a water body with several facilities, whether owned by a single owner or multiple entities, may obtain the greatest benefit from water quality improvements at selected facilities. Focusing on the economic feasibility of actions at a particular facility may not be the most efficient path to the objective.

5. The Guidance appears to allocate project owners with the most resources to contribute more, which may not be appropriate if not reflective of the dam's contribution to non-attainment. Recommend considering tying costs to facilities contributing to non-attainment.

6. Detailed information on the costs and revenues of operating a dam can be costly and time consuming to obtain. This will pose an especially heavy financial burden on smaller entities operating facilities.

7. This guidance is focused on the financial analysis of the applicant (owner/operator) and ability to pay for water quality improvements or pollution abatement more then on the economic or non-monetary benefits reasonably expected to be obtained from improved water quality. It is not clear what incentives there are for an applicant to show they have the ability to pay for what could be very expensive solutions, especially for profit (investor owned) operations. There is little consideration of non-monetary benefits. Non-monetary benefits could include such things as improved habitat for fish, birds and other wild life, better conditions for vegetation, especially endangered native plants and improved recreation areas. Suggest some type of point scale or matrix be established to weigh these factors (both economic and financial).

Specific Comments

Page 3, Flow Chart: Boxes that use term "financially feasible." Suggest striking "financially." For dams owned and operated by the federal government, this term is inappropriate.

Page 4, #2, first sentence, parenthetical: strike term "affordable" and replace with "feasible."

Page 4, #4, second sentence: strike "where the dam had the ability to finance a costly project, but…" with "when a project is economically feasible, but…

Page 5, #6 Cost of the Economic Analysis: "Ecology expects that an economist or financial analyst will prepare these worksheets..." Economists and accountants (financial analysts) have different points of view when evaluating costs and benefits. Financial analysts tend to focus on the direct monetary costs while economists look at both the monetary and non-monetary costs. If WDOE desires an economic analysis, this Guidance could encourage the applicant to use the services of a qualified staff economist or contract with a consulting firm with experience in this area.

Page 1-2, 1.3 Background: "The second step is the economic analysis (in this case a financial analysis)," suggest defining the difference between economic analysis and financial analysis. Again, in the context of federal actions, a "financial analysis" is not appropriate, whereas, economic analysis is applicable.

Page 2-4, second paragraph: "Where an applicant demonstrates that it is both technologically and economically feasible to attain standards...." Will there be a third party review or concurrence to ensure that the applicant has considered all the possible options and the projected costs are reasonable?

Page 2-4, Exhibit 1, Summary of Economic Analysis Requirements: Suggest including an analysis of the anticipated water quality changes and the benefit/costs expected to be obtained. If a quantitative analysis is not done, then at least a written description should be included.

Page 2-5, last paragraph: A means test should be established to determine a community's ability to pay or absorb rate increases. What standard will DOE use to determine ability to pay?

Section 6, 1st paragraph, last sentence: The sentence states, "The Bonneville Power Administration (BPA) is another example of federal dam ownership." This is not correct. BPA is authorized to market and transmit electrical power generated at Corps and Bureau of Reclamation facilities. It does not own or operate projects.

Section 6.1: The discussion of financing for project costs for federal projects should reflect that funding for construction at Federal projects requires congressional authority and appropriations.

Page 7-2, 7.3, Estimate Baseline (Without Project) Conditions: Does "health of the community" refer to the income/social class, such as middle class? This needs to be clarified.

Page 7-2, 7.3 Economic Models: Are there preferred models WDOE would like to see used? Examples of appropriate models should be cited and their application described.

Page 7-3, Level of Geographic Aggregation: This should be consistent with "Relevant Geographic Area" in Section 7.2. Otherwise it would seem that conclusions could be reached based on inconsistent data sets.

Page 7-3, Exhibit 3, Potential Distributional Impacts from Expenditures on Pollution Controls for Dams, Revenues and Incomes:

1) First item: "Increased sales and incomes in sectors providing consulting and analytical services." For example, if a contract is awarded to a firm outside of the region, out of the state or to Canada would that still be included here, and would it be classified as an economic positive or negative?

2) The economic benefits of cleaner water should be considered.

Page 7-5, Improvements in Environmental Quality: WDOE should outline what are expectable measures or standards. Considering an applicant is responsible to prepare

their own application they could use data that supports their goals or objectives and may not be consistent with, or in the best interest of the environment, local community, and state or rate payers. Additionally, it would establish a baseline or standard for evaluating other applications by WDOE.