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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WILD FISH CONSERVANCY,  
  
Plaintiff,

v.

DAVE IRVING, in his official  
capacity as the Manager of the  
Leavenworth Fisheries Complex;  
UNITED STATES FISH AND  
WILDLIFE SERVICE; DANIEL M.  
ASHE, in his official capacity as the  
Director of the United States Fish  
and Wildlife Service; UNITED  
STATES BUREAU OF  
RECLAMATION; LOWELL  
PIMLEY, in his official capacity as  
the Acting Commissioner of the  
United States Bureau of  
Reclamation; BONNEVILLE  
POWER ADMINISTRATION; and,  
ELLIOT MAINZER, in his official  
capacity as the Administrator and  
Chief Executive Officer of the  
Bonneville Power Administration,  
  
Defendants.

No. 2:14-CV-0306-SMJ

**ORDER DENYING  
DEFENDANTS' MOTION TO  
DISMISS CLAIMS AGAINST  
BONNEVILLE POWER  
ADMINISTRATION AND ELLIOT  
MAINZER FOR LACK OF  
SUBJECT MATTER  
JURISDICTION AS MOOT**

19 Before the Court, without oral argument, is Defendants' Partial Motion to  
20 Dismiss Plaintiff's Complaint, ECF No. 9. This Motion, filed November 17, 2014,

1 seeks the dismissal of Defendants Bonneville Power Administration (“BPA”) and  
2 Elliot Mainzer as parties to the action pursuant to Federal Rule 12(b)(1). *Id.* at 2.  
3 Defendants argue that the Court lacks subject matter jurisdiction because “the  
4 Northwest Power Act, 16 U.S.C. § 839f(e)(5), vests exclusive jurisdiction over  
5 challenges to all “final actions” of Bonneville [such as the one tying the BPA to  
6 this case] in the U.S. Circuit Courts of Appeals.” *Id.* at 2.

7 On December 8, 2014, Plaintiff filed its First Amended Complaint, ECF  
8 No. 10. This Complaint did not list the BPA or Elliot Mainzer, the administrator  
9 and CEO of the BPA, as parties. That same day, Plaintiff also filed a response to  
10 Defendants’ motion arguing that it should be denied as moot because the First  
11 Amended Complaint supersedes the original.

12 Having reviewed the pleadings and the file in this matter, the Court is fully  
13 informed and denies Defendants’ motion as moot. Plaintiff has voluntarily  
14 dismissed any claims against BPA and Elliot Mainzer.

15 Accordingly, **IT IS HEREBY ORDERED:**

- 16 **1.** Defendants' Partial Motion to Dismiss Plaintiff’s Complaint, **ECF**  
17 **No. 9**, is **DENIED** as moot.

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1           **2.**    -The Clerk's Office is directed to **CHANGE** the case caption in this  
2 matter to:

3                               WILD FISH CONSERVANCY,

4                                               Plaintiff,

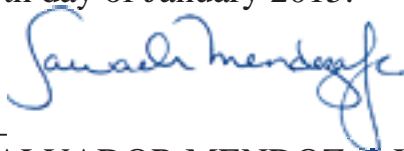
5                                               v.

6                               DAVE IRVING, in his official  
7 capacity as the Manager of the  
8 Leavenworth Fisheries Complex;  
9 UNITED STATES FISH AND  
10 WILDLIFE SERVICE; DANIEL M.  
11 ASHE, in his official capacity as the  
12 Director of the United States Fish  
and Wildlife Service; UNITED  
13 STATES BUREAU OF  
RECLAMATION; LOWELL  
14 PIMLEY, in his official capacity as  
the Acting Commissioner of the  
15 United States Bureau of  
16 Reclamation,

17                                               Defendants.

18           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order  
19 and provide copies to all counsel.

20           **DATED** this 8th day of January 2015.



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SALVADOR MENDOZA, JR.  
United States District Judge