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October 9, 2002

MEMORANDUM

TO: Council Members

FROM: Brian Allee and Bill Hannaford

SUBJECT: An Amendment to the Master Contract for Subbasin Planning

Proposed Action

Staff recommends that the Council approve an amendment proposed by the Bonneville Power Administration (Bonneville) to the Master Contract for subbasin planning that the Council entered into with Bonneville in June 2002. The amendment would replace purpose 2 under II. Project Goals, with the following language.

Guide Bonneville's expenditures to ensure the avoidance of jeopardy and progress towards recovery of ESA listed populations as affected by the Federal Columbia River Power System (FCRPS), while satisfying the requirements of the Northwest Power Act.

Background

The UCUT tribes, the Intermountain Province Group and some Council Members expressed concern regarding the original language for purpose 2 from II. Project Goals, "Guide Bonneville's expenditures by giving priority to strategies for ESA recovery activities as Bonneville implements the Council 2000 Program through subbasin plans." These parties were concerned that this expression gave precedence to funding projects for listed species over the protection, mitigation and enhancement obligations prescribed by the Northwest Power Act.

At its September meeting, the Council released this proposed change for public comment. Several members raised questions about certain words in the proposed amendment and staff explained that the words that appear were chosen either to track statutory provisions or to reflect what courts have said about the relationship between Bonneville and the Council's fish and wildlife program. When the comment period ended on October 4th, 2002, the Council had received no further comment. The parties that expressed concern with the original language now support Bonneville's proposed change. Therefore, the staff recommends replacing the original language with that proposed by Bonneville.