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February 8, 2005

MEMORANDUM

TO: Council Members

FROM: John Ogan, John Shurts, Doug Marker

SUBJECT: Status report on broader process issues related to subbasin plans and preliminary staff thoughts on how to address them.

ACTION: This is an update and no action or decision of the Council is sought.

Background/Introduction

The staff has been working a broad set of process/policy issues that relate to this subbasin plan program amendment process coincident with the draft subbasin plan amendments. These issues were initially presented by commentators and distilled by staff last summer and fall as the Council started into its work reviewing and evaluating the subbasin plans that were submitted as recommended amendments to the fish and wildlife program last May. In October, the Council developed an issue paper on these broader questions, and provided notice to the public of its opportunity to comment. That comment opportunity extended through January 31st.

This is a status update following the close of that extended comment period on the issue paper on the "process" questions. The staff is not asking for a Council decision here. Rather, we want to update the Council on these matters and provide some preliminary thoughts on how the Council might act to resolve and conclude the regional discussion. With the benefit of that conversation with the members, we will return to the Council in March with a more definite proposal on how to conclude these matters. Generally put, the process we suggest for allowing the Council to close on these matters is to accompany the last set of draft subbasin plan amendments ("Red plans") with a statement by the Council as to how it proposes to address/resolve each of those process issues we have been working on. We would then take public comment on that statement along with the comment we are collecting on the draft "Red Plan" program amendments. The

Council would then settle on resolutions/next steps at its May meeting as it also adopts the final set of subbasin plan recommendations.

The Legal and Fish and Wildlife Division have developed memoranda for the October and December Council meetings, and provided updates at those meetings characterizing these broader issues, and in the interest of brevity, we provide only a short summary here for all but two of the issues¹ -- those that relate to “province planning” or “roll-up” require more discussion and thought about potential resolution, and are addressed in the final section of this memo.

- **Specificity of the plans to support implementation and “measures.”** In adopting a description of the attributes of subbasin plans in its 2000 Program, and again in describing subbasin plans in various guidance documents, and in its description of plans in its Request for Recommendations Notice, the Council has already decided that subbasin plan documents, particularly in their objectives and strategies, contain “measures” as that undefined term is used in the Northwest Power Act.

Preliminary staff suggestion for resolution: Explain in findings and/or response to comments adopted by the Council why it believes that the subbasin plans are “measures” as that term is used in the Act.

- **Project selection process definition.** Some comments ask for more information on how the subbasin plans will be used in project selection processes. The Council and staff are working out in a separate discussion how it will conduct project review in FY2006 and FY2007 and beyond.

Preliminary staff suggestion for resolution: Explain in findings and/or response to comments document adopted by the Council that the 2000 Program and section 4(h)(10)(D) of the Act provide the general parameters of the project review and selection process. Explain further that project selection process design will make subbasin plans the key guiding features once they are adopted. We also suggest that a preface or introductory text be adopted as part of the program, preceding the plans themselves, that explains how subbasin plans will be used to guide Bonneville funding and potentially other implementation efforts.

- **Improving the plans over time, making them “living documents”.** Some comments recognize that plans will need to be updated and revised over time, and expressed concern that adopting them into the program formally means that any future adjustments would require a full-blown Northwest Power Act amendment process.

Preliminary staff suggestion for resolution: In program guidance that the Council would adopt at the same time as it adopts the final subbasin plans, staff proposes the Council include a procedure for minor amendments, corrections and updates to the subbasin plans that will allow for an appropriate level of public review but will not require a full-blown program amendment process.

¹ If members desire more information on the history or development of this, the staff is prepared to provide that during the presentation, with individual members at their convenience, and/or can supply those past memoranda.

- **Recovery planning.** Some comments sought clarification on how subbasin plans relate to ESA recovery planning that is the obligation of the U.S. Fish and Wildlife Service and NOAA Fisheries. The Council has always been clear on this point, and reiterated its position in the issue paper it distributed last October and received comment on through January 31st.

Preliminary staff suggestion for resolution: In general findings and/or response to comments adopted by the Council explain essentially the following: The Council believes that the Services ought to use the subbasin plans -- both the technical assessments and the management plans -- in recovery planning. Further, if the Services were to find its recovery plan documents coming to very different assessments and actions in the subbasins, the Council requests significant consultation before NOAA releases the draft recovery plans for public review. Make clear that the Council engaged in subbasin planning in order to provide the sufficient foundation in the Council's program for offsite mitigation under the Northwest Power Act, not to satisfy requirements under the Endangered Species Act, including recovery planning. In adopting the subbasin plans into the program, the Council is not making, and need not make a determination at the same time that the subbasin plans, singularly or collectively, constitute complete or final recovery plans under the ESA. This is a determination that the Services must make.

Province Planning/"Roll-Up" Related Issues.

These issues have generated, by far, the most attention interest and discussion throughout this amendment process. As might be expected, understanding the issues and then proposing a process to resolve or close on them requires significant Council and staff attention. There is no question that the resolution of this matter will require the most consideration by the Council as to how to proceed, out of several possible alternatives. It is also important to remember that the Council's own program contemplates the development of province level objectives once the subbasin level amendment process is completed.

Generally described, the "roll up" issue can be described as a collection of related sub-issues or questions: (1) now that the Council has adopted 59 subbasin plans as part of its program, what do those add up to as a collective body of work, (2) how will those subbasin plans and other information be used to develop program objectives at the *province level* adopted as part of the 2000 Program (what has been captured by the phrase "roll-up"); and (3) the adoption of subbasin plans and the ultimate setting of province level objectives should help define principles for allocation of Bonneville funding among subbasins and provinces. Again, we see near consensus among a broad range of interests in the region that the Council has more work to do on these issues before it can consider the program revision outlined in the 2000 Program complete.

Preliminary staff suggestion for resolution: A Power Act amendment process following a technical work phase. This is generally described as follows:

Province planning -- objectives and allocation principles -- the last step in the program revision.

The Council began a comprehensive revision of the fish and wildlife program with the 2000 Program framework and basinwide provision, and added main pieces to that framework with the mainstem amendments and, now, the subbasin plans, containing specific objectives and measures. But adopting the subbasin plans will not complete the full revision of the program, when looked at both from the

perspective of how the Council conceived of the concept in the 2000 Program *and* when we evaluate what substantive pieces are still missing that we need to be complete a functioning program. There are two key substantive pieces missing, and two process elements missing that are associated with the substantive pieces. The two key substantive things missing (and their associated process elements) are:

1. Population and habitat biological objectives at the province level. These need to be quantitative and measurable. The Council cannot effectively monitor and evaluate how the program as a whole is really doing without objectives at this level. These objectives need to be there to “benchmark” our progress toward the overall objectives set in the 2000 Program. There are a number of elements to this setting of objectives, as follows:

- The main goal will be the setting of quantified population and habitat objectives at the province level for the purpose monitoring and evaluating the performance of the fish and wildlife program.
- Deciding on these objectives is a two-phase endeavor. It should begin a *technical* exercise to integrate, aggregate and then assess the disparate technical information available and in the plans, and how those relate to existing activities in harvest, hydro and hatchery arenas. This effort should tell us roughly what objectives we are aiming at by the *default*, as we understand the cumulative impact of the various distinct activities across all “H’s”. The second phase is a *policy planning* decision-making process. This step allows us to ask the question if the *de facto* objectives revealed in the technical exercise are what the Council should have for the Program or if different objectives should be established. The two halves of this exercise are discussed below.
- The process of arriving at these objectives will require much better integration than the region currently has of habitat assessments and objectives (from the subbasin plans), artificial production objectives and activities (from subbasin plans, the APRE data base, and production master plans), and harvest and hydro impacts and ocean effects. This is ultimately part of setting integrated objectives and reviewing habitat, production and harvest policies at the population and basinwide level. Especially with the development of the subbasin plan technical assessments (mostly focused on habitat) and the APRE database, we have the information available to do this as never before.
- Integrating and aggregating the subbasin plans and other program elements should allow us to compare these aggregated objectives to the basinwide objectives in the 2000 Program. The Council will have to decide on what kinds of adjustments to make if the one does not match the other.

2. A statement of priorities/allocation principles. These would be used to help in deciding how and what to favor in allocating limited resources to provinces, populations, subbasins and program areas.

How might these things be accomplished -- what is the process vehicle?

Who. Developing this information is not like developing subbasin plans. Rather, this is a job for the Council itself as the planning entity under the Act, doing this to finish off the revision of its own program as outlined in 2000. We will need to make it absolutely clear that this effort does not take the place of, or change, or supersede, or reduce the importance of the subbasin plans. In fact, quite the

opposite is true -- this works depends upon and uses the subbasin plans and in a cumulative way, will embed them further in the fish and wildlife program as their objectives become part of the province scale objectives. Subbasin plans will continue to be the guiding documents for developing, prioritizing and funding project work funded through this program.

How -- likely a program amendment process, at least for the program objectives at the province level. It is nearly impossible to imagine how the Council sets usable and durable biological objectives for the program at the province/population level without using the Power Act amendment machinery and then adopting them into the program. This is probably true with a programmatic statement of allocation principles/priorities, too, *unless* whatever allocation principles or statement of priorities the Council is interested in are obviously derivative of and consistent with the principles already in the 2000 Program (or unless the Council decides the status quo allocations are sufficient). These two substantive elements relate to each other anyway -- quantified objectives at the province or population level should provide the Council with insights into how to recommend that dollars be allocated to program areas.

More on how -- technical piece first, then planning/program amendment exercise. There are a number of reasons to engage first in a technical exercise, and to do it outside the program amendment process. One is the need to clarify, pry out, derive where need be, and set out systematically what are the quantified assessment conditions and objectives (for habitat and population characteristics) in the subbasin plans -- some did better at this than others -- and get them on the same basis. Another is the need to integrate in some systematic way the artificial production and harvest (and mainstem and ocean and etc.) conditions and objectives with the habitat pieces where not in the subbasin plans. And a third is to aggregate these results at a province/major population group level to see where we stand, both in terms of the current condition and in terms of the derived objectives that appear to emerge from aggregation of the subbasin plans and the other areas. The Council does not absolutely have to run through the technical exercise first, but the effort to set province-level objectives in the program would be so much worse for its absence that it would hardly be worth doing. Also, the technical work does not necessarily require use of the AHA analytical method, but if not, it will require some similar analytical method.

Assuming we engage in the technical exercise first, and obtain a set of what are essentially derived or de facto objectives at the province level, the Council could then make these results available to the region in the nature of a strawman set of biological objectives. Not that these are what the Council believes are right or should be adopted, only that these are the de facto objectives we have in place absent a deliberate effort to develop some alternatives. We expect some will see the status quo results from the technical exercise and suggest that they are about right and should be formally institutionalized in the Program; others may have serious concerns and objection, and propose and justify different recommended objectives for the Program. As you can see, we would channel this policy/technical discussion through the Power Act amendment process by calling for recommendations for program amendments limited in scope to the two substantive elements described above -- biological objectives and program allocation principles/priorities. The Council and region would then begin to work out recommendations and amendments with the benefit of the technical information presented, the adopted plans, the 2000 Program.

When. Soon. We risk planning fatigue if we drag this out. We should finish this program revision and focus on implementing subbasin plans and measuring our progress against newly established province scale benchmarks. It is a technical and planning exercise that is probably a year to a year and a half long, maybe less if the Council really makes it a high priority.

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