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March 8, 2005

DECISION MEMORANDUM

TO: Council Members

FROM: Lynn Palensky and John Ogan

SUBJECT: Decision whether to adopt final four Track 2 subbasin plans as amendments to the Council's Fish and Wildlife Program

ACTION RECOMMENDED

In February of 2005, the Council adopted 25 of 29 proposed "blue" subbasin plans as draft amendments to the Council's fish and wildlife program. At that meeting, Council members requested that four of the subbasin plans be delayed one month to resolve some local issues not related to the adoptability of the plans themselves. Since then, Council members and staff have been working through the local issues and now the four plans are back before the Council for a decision to adopt.

The staff has reviewed all the public comment on these draft amendments and further reviewed the proposed subbasin plans in the light of these comments, and recommends that the Council adopt as amendments to the Council's Fish and Wildlife Program the management plan portions of the following subbasins:

Klickitat
Lower Middle Mainstem
Methow
Okanogan

The four subbasin plans proposed for adoption have been revised since they were submitted to the Council as recommendations for program amendments in May 2004. The revisions addressed specific areas where the staff believed additional work was required in order to find that the plans meet the adoptability standards based on the Act and 2000 Program. The four subbasin plan recommendations can be reviewed in their entirety on the website. The staff recommends that the technical assessments and inventories not be adopted formally into the program, but instead be included in appendices to the program.

Background

The Council's 2000 Fish and Wildlife Program amendments called for a complete restructuring of the fish and wildlife program through a framework of vision, objectives and strategies at different geographic scales (basinwide, ecological province, subbasin), tied together with a consistent scientific foundation. In the 2000 Program, the Council also adopted basinwide provisions, and described how it would add more specific objectives and measures at the subbasin and province levels and committed to future amendment processes to develop program provisions at those levels.

Although the 2000 Program suggested that the province scale provisions would be developed next, the Council deferred an amendment process for province level measures in light of advice that province goals and objectives would be difficult to develop without first obtaining a better understanding of the technical assessments and corresponding objectives at the subbasin level.

On August 12, 2002, pursuant to Section 4(h) of the Northwest Power Act, the Council broadly distributed a request for recommendations for amendments to the program at the subbasin level. The Council notified in writing the relevant fish and wildlife agencies and tribes and others that the Council sought recommendations for subbasin plans or subbasin plan elements as described in the 2000 Program. At the same time, the Council worked with a broad range of interests in the region and developed a non-binding Technical Guide for Subbasin Planners to help ensure that plans had a consistent format and content.

The Council worked with Bonneville to secure funding support for planning groups. This is the first time that funding has been made available to the public to help develop proposed fish and wildlife program amendments. \$15.2 million was made available by Bonneville to help planning groups develop subbasin plan recommendations that could be considered for amendments to the fish and wildlife program.

On May 28, 2004, the Council received recommendations for 59 subbasin plans from the various subbasin planning entities. The Council made those recommendations available for public review and comment. The public comment period on the recommendations ended on August 12, 2004. The Council received an extensive set of comments, including a report from a team of independent scientists organized by the Council. During this comment period the Council staff also conducted its own review of the plans, for consistency with the standards in the Northwest Power Act for program amendments and with the provisions in the 2000 Program.

Following the close of public comment on the recommendations, the Council staff and then the Council considered the plans and public comment against a consistent set of standards derived from the Power Act and 2000 Program, with a tentative proposal for the treatment of each recommended subbasin plan as a potential fish and wildlife program amendment. As one result of this review, the Council provisionally divided the subbasin plan recommendations into three categories or tracks, with a different schedule for considering draft and then final program amendments for each category or track.

Track 1 Plans: For the group of plans that met the adoptability standards as submitted ("green"/track 1), the Council staff prepared them to be adopted as draft program amendments.

On October, 13, 2004, the Council released for public review and comment this first set of 29 subbasin plan recommendations as draft amendments to the Council's Fish and Wildlife Program. The Council adopted 23 of those subbasin plans as final amendments to the program at its December 2004 meeting.

Track 2 Plans: The staff identified a second set of plans that required additional work before they could be adopted and released as draft amendments to the program ***The remaining four subbasin plans of this second set of plans ("blue" or track 2) are before the Council here, proposed to be adopted as amendments to the fish and wildlife program.*** These plans were modified after they were submitted on May 28, 2004 to meet adoptability standards -- they were revised under a "response period" to address the plan deficiencies. Statements of work and contracts for specific revisions and additions were developed and contracts were let in September 2004. By late November, the subbasin planners submitted all of the revisions requested. The staff and state coordinators met and systematically reviewed this material to ensure that it addressed the previously noted deficiencies in the plans. The staff determined that, overall, the revisions were on point and high quality and when added to the plans, the adoptability standards were met.

The Council released this second set of revised plans as draft fish and wildlife program amendments at its December 2004 meeting and released them for public comment. This second set of subbasin plans also includes the six Lower Columbia plans that were shifted from the green to the blue adoption schedule because of the timing of the final product delivered to the Council in December 2004. We received written comments on the draft program amendments, and held public hearings in all four states of the Columbia basin. The comment period on these draft amendments ended January 31, 2005. The staff and then the Council reviewed the public comments on the draft amendments, together with the draft amendments, the original recommendations, and the comments on the recommendations.

The Council did not receive extensive comments on the Methow and Okanogan subbasin plans and the comments the Council did receive were largely favorable to the proposed amendments and urged Council adoption, with few or no changes. At the request of the County Commissioners and the Colville Tribe we have been working through some final adjustments with the planning parties that dealt with prioritization of strategies. At the time of this writing, we expect to have completed those discussions successfully before the Council meeting, or if not, to have a recommendation nonetheless.

The Council did receive several comments from Klickitat County and others connected with the County on the draft program amendments for the Klickitat and the Lower Middle Mainstem subbasin plans urging the Council not to adopt these plans at this time. Concerns about the ability to participate were expressed. Council members and staff have made a concerted, good-faith effort to involve all interested parties, and in fact, the County was provided funding to help it participate in the process. At the time of this writing, one more meeting is planned for government officials, and our expectation is to conclude that with all parties understanding why these plans should be adopted by the Council. There was also a single comment submitted suggesting that the Lower Middle Mainstem plan contained a strategy not permitted by the Act itself.

The staff recommends that the Council adopt all four of the of these proposed subbasin plans as amendments to its fish and wildlife program as each one has met the adoptability standards in the Act and the program requirements for subbasin plans as amendments. What follows is a separate page on each recommended subbasin plan, briefly summarizing the public comment on each plan and addressing any plan-specific issues raised in the comments.

Subbasin: Klickitat

Description of subbasin plan:

The Yakama Nation prepared the Klickitat subbasin plan, with assistance from the WDFW and opportunity for input from Klickitat County. The staffs review of the Klickitat plan, the subbasin plan supplement, and related administrative record demonstrates that both its substance and public involvement aspects are consistent with the Council's 2000 Program, and was guided by informational materials provided by the Council, such as the Technical Guide for Subbasin Planners.

The vision for the subbasin includes rebuilding anadromous populations of salmon and steelhead to healthy and harvestable levels through natural returns and artificial production. Artificial production and supplementation efforts in the Klickitat Subbasin are described in the Yakama Klickitat Fisheries Master Plan and focus on Coho, fall Chinook, spring Chinook, and steelhead. The overall goals of the programs, objectives and strategies are outlined below by species. The programs were developed in consideration of general habitat goals for natural production and within a multi-species framework. Focal fish species include Spring Chinook, Steelhead, Bull Trout, and Pacific Lamprey. Wildlife planners emphasized an ecosystem approach through use of focal habitat types while including components of single-species, guild, or indicator species assemblages. Wildlife focal species include: Yellow Warbler, American Beaver, Rocky Mountain Mule deer, Columbia and Black Tailed deer, Grasshopper Sparrow, Western Gray Squirrel, Flammulated Owl, White Headed Woodpecker, Greater Sandhill Crane, and Oregon Spotted Frog.

Summary of public comment on the subbasin plan as a draft program amendment

Klickitat County Planning Department

- Klickitat County does not support the subbasin plan.
- Plan was produced without adequate participation by Klickitat County.
- None of the comments submitted by Klickitat County have been addressed.
- Council should return the plan to the 'lead entities' and provide adequate time to organize a planning process to develop a plan that is consistent with the vision statement.

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- Include notation that many shore bird species have been observed using wetlands during their migrations through the subbasin.
- Other comments from Klickitat County Board of Commissioners, landowners, Glenwood Community Council and the Conservation District each expressed the same concerns as the County, but came in after the comment period ended on January 31.

Staff recommendation: Adopt subbasin plan recommended to the Council in May 2004 incorporating the revisions dated November 26, 2004. The plan along with the revisions was released for public review as a draft program amendment in December 2004.

In response to comments or in findings adopted by the Council note that: (1) the fish and wildlife managers with jurisdiction in the subbasin support this program amendment and that the Act directs the Council to give significant weight to the recommendations of those parties; (2) that

the County was provided opportunity and resources to be involved in the development of this plan, and that significant efforts were made by the Council and state coordinator to address the County's concerns which focus more on process than on actual substance or provisions of the plan itself, and; (3) as the plan is updated in the future the Council will seek to involve the County and reconcile the its concerns with this version of the plan.

Subbasin: Lower Middle Mainstem Columbia

Description of subbasin plan:

The Yakama Nation prepared the Lower Middle Mainstem (LMM) subbasin plan, with assistance from the WDFW, opportunity for input from Klickitat County and, in the response period, ODFW added Oregon and mainstem Columbia information. The staff's review of the Lower Middle Mainstem plan and related administrative record demonstrates that both its substance and public involvement aspects are consistent with the Council's 2000 Program, and was guided by informational materials provided by the Council, such as the Technical Guide for Subbasin Planners.

The planning area of the subbasin extends upstream from The Dalles Dam only to the Walla Walla River. The Hanford Reach is not within current planning boundaries, but its healthy and naturally spawning fall Chinook are addressed because of their importance to the subbasin and the region. Also, Willow Creek and Juniper Canyon do not appear in this Plan, as they were included in the Umatilla Subbasin Plan.

The vision for the subbasin includes rebuilding anadromous populations of salmon and steelhead to healthy and harvestable levels, particularly in Rock Creek and other small tributary streams. Focal fish species in the LMM are Steelhead/rainbow, Coho, fall Chinook, and White Sturgeon. Wildlife planners emphasized an ecosystem approach through use of focal habitat types while including components of single-species, guild, or indicator species assemblages. Wildlife focal species in the LMM are: Yellow Warbler, Lewis's that, American Beaver, Mule/Black Tailed deer, Grasshopper Sparrow, Brewer's Sparrow, White Headed Woodpecker, and Western Gray Squirrel.

Summary of public comment on the subbasin plan as a draft program amendment

Klickitat County Planning Department

- Inadequate time for review
- Klickitat County disagrees with numerous findings, objectives, and strategies found in the subbasin plan such as the proposal to enact a moratorium on mainstem water withdrawals [ODFW]
- Council should return the plan to the 'lead entities' with adequate time to organize a satisfactory planning process

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- Consider including discussion of three industrial wind energy projects that are in the permitting/appeal stage: Bighorn, White Creek and Windricity Projects.
- Include notation that many shore bird species have been observed using wetlands during their migrations through the subbasin.
- Other comments from Klickitat County Board of Commissioners, landowners and the Conservation District each expressed the same concerns as the County, but came in after the comment period ended on January 31.
- Letter from Attorney James Buchal (not submitted as comment) stating that strategy dealing with water withdrawal moratorium not consistent with the Act.

Staff recommendation: Adopt subbasin plan recommended to the Council in May 2004 incorporating the revisions dated November 26, 2004. The plan along with the revisions was released for public review as a draft program amendment in December 2004.

In response to comments or in findings adopted by the Council note that: (1) the fish and wildlife managers with jurisdiction in the subbasin support this program amendment and that the Act directs the Council to give significant weight to the recommendations of those parties; (2) that the County was provided opportunity to be involved in the development of this plan, and that significant efforts were made by the Council and state coordinator to address the County's concerns which focus more on process than on actual substance or provisions of the plan itself, and; (3) as the plan is updated in the future the Council will seek to involve the County and reconcile the its concerns with this version of the plan.

The Council should also note that the fact that the simple act of adopting a plan that contains a strategy dealing with water withdrawal limitations does not in any way modify, affect, or abridge any water rights or laws and is not inconsistent with the Act.

Subbasin: Okanogan

Description of subbasin plan: The Colville Confederated Tribes and Okanogan County prepared the Okanogan subbasin plan. The Okanogan subbasin plan was developed in coordination with five other subbasin plans in the Upper Columbia region under the oversight of the Upper Columbia Salmon Recovery Board. The staffs review of the Okanogan plan, the subbasin plan supplement, and related administrative record demonstrates that both its substance and public involvement aspects are consistent with the Council's 2000 Program, and was guided by informational materials provided by the Council, such as the Technical Guide for Subbasin Planners.

This plan was developed simultaneously and in coordination with an ESA recovery plan for the subbasin. The plan was developed in coordination and consultation with WDFW, NOAA Fisheries, USF&W, and other state and local governmental entities.

The vision for the subbasin includes establishing self-sustaining and harvestable populations of indigenous fish and wildlife while enhancing the existing customs, cultures, and economies within the basin. Focal fish species in the Okanogan are Sockeye, Summer Chinook, Fall Chinook, Spring Chinook, Steelhead, Rainbow Trout, Okanogan Lake Kokanee, Bull Trout, West Slope Cutthroat Trout, Pacific Lamprey, White Sturgeon, Rainbow Trout, Eastern Brook Trout, Umatilla Dace. Wildlife planners emphasized an ecosystem approach through use of focal habitat types while including components of single-species, guild, or indicator species assemblages. Wildlife focal species in the Okanogan are: Brewer's Sparrow, Grasshopper Sparrow, Sure Killed Grouse, Mule Deer, Red Eyed Vireo, Yellow Breasted Chat, American Beaver, Gray Flycatcher, White Headed Woodpecker, Flammulated Owl.

Summary of public comment on the subbasin plan as a draft program amendment Okanogan County

- Recommended a local process for making decisions about which projects should be recommended for funding under the Northwest Power Act.

Note: the process recommended by the county cannot be included within the subbasin plan because it restricts the power act in a way that Congress did not intend, but can be used by the County for local decision-making purposes.

Staff recommendation: Adopt subbasin plan recommended to the Council in May 2004 incorporating the revisions dated November 26, 2004. The plan along with the revisions were released for public review as a draft program amendment in December 2004.

Subbasin: Methow

Description of subbasin plan:

Okanogan County and Washington Department of Fish and Wildlife (WDFW) prepared the Methow subbasin plan. The Methow subbasin plan was developed in coordination with five other subbasin plans in the Upper Columbia region under the oversight of the Upper Columbia Salmon Recovery Board. The staff's review of the Methow plan, the subbasin plan supplement, and related administrative record demonstrates that both its substance and public involvement aspects are consistent with the Council's 2000 Program, and was guided by informational materials provided by the Council, such as the Technical Guide for Subbasin Planners.

This plan was developed simultaneously and in coordination with an ESA recovery plan for the subbasin. The plan was developed in coordination and consultation with WDFW, the Colville Tribe, NOAA Fisheries, USFWS, and other state and local governmental entities.

The vision for the subbasin includes establishing self-sustaining and harvestable populations of indigenous fish and wildlife while enhancing the existing customs, cultures, and economies within the basin. Focal fish species in the Methow are Spring Chinook, Summer Chinook, Fall Chinook, Summer Steelhead, Bull Trout, West Slope Cutthroat, Coho, Pacific Lamprey, White Sturgeon, Rainbow Trout, Red Band Trout, Eastern Brook Trout. Wildlife planners emphasized an ecosystem approach through use of focal habitat types while including components of single-species, guild, or indicator species assemblages. Wildlife focal species in the Methow are: Brewer's Sparrow, Grasshopper Sparrow, Sharp Tailed Grouse, Mule Deer, Red Eyed Vireo, Yellow Breasted Chat, American Beaver, Pygmy Nuthatch, Gray Flycatcher, White Headed Woodpecker, and Flammulated Owl.

Summary of public comment on the subbasin plan as a draft program amendment

Numerous general and specific comments were copied to the Council before May of 2004. The subbasin planners responded as possible to the comments.

Staff recommendation: Adopt subbasin plan recommended to the Council in May 2004 incorporating the revisions dated November 26, 2004. The plan along with the revisions were released for public review as a draft program amendment in December 2004.

Note: The County proposed a project prioritization process that cannot be included within the subbasin plan, because it restricts the power act in a way that Congress did not intend, but can be used by the County for local decision-making purposes. A revised prioritization strategy is being developed in collaboration with WDFW and the Colville Tribe. This prioritization strategy will be used to determine which fish and wildlife projects will be proposed for funding.