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September 6, 2005

## MEMORANDUM

**TO:** Council Members

**FROM:** Lynn Palensky

**SUBJECT:** United States Forest Service and Bonneville Power Administration agreement

**ACTION REQUESTED:** None at this time. This discussion item is intended to bring the Council members up to speed on the arrangement that the two agencies are developing for funding projects on Forest Service land. The attached document lists principles that will be applied to project proposals prior to submission to the Council's project-solicitation process for fiscal years 2007-2009. Staff generally is supportive of this agreement so long as the points listed below continue to be emphasized. We intend to track the progress of both the principles and the actual Memorandum of Understanding and report back to the Council as it progresses.

### Background

The *Partnership Agreement between BPA and the USDA Forest Service In Cooperative Funding of Tributary Habitat Actions* was initiated by Bonneville and the USFS. This agreement represents the current thinking and progress made on the old "federal lands" issue and has been in front of the Council on and off since around 2000. The agreement represents good faith on the part of each agency to develop a fair approach and shared investment to funding priority projects on forest service land and applies to the land itself, rather than to a sponsor. The principles include prioritization and review requirements for projects on USFS land prior to being submitted for program funding. Projects submitted to the Council will undergo the same scientific review as all other projects. The principles also require a programmatic cost share of 30 percent for all projects proposed on USFS land. This means that there must be an *average* of 30-percent cost share for all projects funded on USFS land, regardless of sponsor. However, NEPA costs alone should cover any cost share on an individual non-USFS sponsored project on USFS land.

Bonneville and the USFS were open to Council staff recommendations and suggestions while they developed these principles. As we continue to work on and track this document, some overarching themes are important and need continued emphasis:

1. The MOU should be perceived as a matter of policy for good partnership rather than a requirement to participate in the program.

2. Projects coming in as proposals to the fish and wildlife program are reviewed and evaluated using the same criteria as all other proposals and not with additional criteria imposed by Bonneville. The detailed criteria in the agreement document are applied by the UFSF *prior* to submitting project proposals for funding through the fish and wildlife program.
3. We also want to ensure that all projects are evaluated against subbasin plans as our program has defined them. Consistency to other planning documents such as forest plans is important, but once project proposals are submitted to the Council, program requirements apply.
4. The agreement should remain clear that it does not imply that only the Forest Service can apply for work on Forest Service land.

*DRAFT (9/6/2005)*

**Partnership Agreement between BPA and USDA, Forest Service  
In Cooperative Funding of Tributary Habitat Actions**

Outline of MOU

*Preamble {in MOU}*: Intent {MOU} to formally document agreements reached between BPA and the Forest Service on principles that will be applied to project proposals prior to submission to the NPPC solicitation process (FY07 -09). The Principles apply, and are limited to, project proposals on National Forest System lands that are submitted under any of three sponsor scenarios listed below:

1. Forest Service, alone, proposes project; or
2. Tribe or other entity proposes project on NFS lands with Forest Service as the partner; or
3. Tribe or other entity proposes project on NFS lands without Forest Service as an active partner, except for compliance with NEPA.

Desired Outcome: applying the principles listed below will enhance the cooperating agencies' (BPA, Forest Service) flexibility for meeting offsite mitigation goals and aquatic habitat objectives on NFS lands. This cooperation will provide both the leverage and coordination among the agencies' restoration and mitigation funding sources needed to achieve regional mitigation and recovery goals for ESA-listed and non-listed fish and wildlife.

**Principles**

1. For projects the agencies implement together, the FS will ensure ***on a programmatic average basis*** at least 30% cost share or match (dollars or in-kind). Match can include other partners (such as states, tribes, other federal agencies, private landowners and NGOs. Tracking of cost-share information will be a shared responsibility by the NPCC, BPA and Forest Service;
2. The FS remains fully responsible for its legal obligations for management of fish and wildlife habitat on National Forest System lands (as defined in Forest Plans, existing and new Biological Opinions from NOAA Fisheries and USFWS, environmental (NEPA) documents, and other related documents;
3. The FS may contract to perform work using BPA funding on National Forest System land consistent with the Economy in Government Act. BPA may use its enabling statutes to contract with the FS. Neither agency may augment the appropriations of any other agency;
4. Other entities may also propose mitigation work in partnership with the Forest Service. Current examples occur on the Clearwater and Nez Perce National Forests where the Nez Perce Tribe has several aquatic habitat restoration projects on NFS lands, e.g., culvert replacement and road obliteration efforts. These ongoing efforts leverage Forest Service resources, both cash and in-kind services, that accomplish high priority mitigation geared towards improving habitat conditions for ESA-listed anadromous fish; and

5. All project proposals submitted on NFS lands, using BPA funds, will be subject to the same requirements as other proposed actions submitted to NPCC for funding including demonstrated priority in adopted subbasin plans.

Based on the above-described principles, an MOU will be developed to initially cover FY's 2007-2009. This MOU will be reviewed annually and modified as needed with mutual consent of BPA and FS, and may be renewed at the end on FY 2009.