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September 29, 2005

MEMORANDUM

TO: Council Members

FROM: John Shurts

SUBJECT: Update on the 2004 FCRPS Biological Opinion remand

During the latter part of September, I have been keeping the Council informed about the various proposals to Judge Redden about the remand of the 2004 FCRPS Biological Opinion to NOAA Fisheries to cure the ESA defects that the judge ruled on earlier in the year. On September 30, Judge Redden will hold a hearing on this topic, and either that day or sometime soon after issue a remand order. (He has already issued a final judgment on the particular claims against NOAA Fisheries to allow the federal government the opportunity to file an appeal with the Ninth Circuit.)

At the October meeting I will report on what the judge has settled on for the remand period, and discuss with the Council the implications of the remand order.

