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Montana

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March 7, 2006

MEMORANDUM

TO: Fish and Wildlife Committee

FROM: Patty O'Toole, Program Implementation Manager

SUBJECT: Discussion of the FY 2007-2009 project selection process

At the March Fish and Wildlife Committee meeting staff will continue it's monthly discussion with the Committee regarding the FY 2007-2009 Project Selection Process.

Rolling issue memo

"Old" programmatic issues

Attached to this cover memo is the current draft of the rolling issue memo (version 2). We will review the first three programmatic issues in the memo and the comments we have received to date. These issues are 1) Bonneville's funding commitment and allocation targets and principles, 2) BPA/FCRPS obligations and "in lieu", and 3) the integration of off-site mitigation requirements of FCRPS Biological opinions. Staff does not propose any changes to the staff recommendations. We seek a recommendation from the Committee on these three issues.

"New" programmatic issues

Staff will also introduce two *new* issues to the Committee in the March version of the rolling issue memo. These are issues **4) Transition to integrated regional monitoring and evaluation framework** and **5) Assumptions for use of Bonneville's capital borrowing authority to finance certain recommended proposals**

Following the issue memo are two documents. The first is a copy of the letter from Bonneville responding to the February draft (Version 1) of the issue memo. The second is a calendar that describes the approximate timeframe for discussing the various issues in the rolling issue memo. Please note that the timeframes are approximate. The order that issues will be addressed will likely change from time to time. Some issues may be resolved without needing Council attention and new ones may be introduced and need immediate attention.

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March 7, 2006

MEMORANDUM

TO: Council Members

FROM: Staff

SUBJECT: Fiscal Year 2007 through 2009 Fish and Wildlife Project Review and Recommendations -- **"Rolling Issue Memo" Version 2**

Background

The Northwest Power Act directs the Council to make recommendations to Bonneville for funding fish and wildlife projects. The Council has approved a project review and selection process that will yield funding recommendations for project funding for Fiscal Years 2007 through 2009 in October this year.

As the Council leads the region through this process, numerous issues will develop that require public notice, consideration, and resolution. This document is the first iteration of the "rolling issue memo" that will be used to identify and provide public notice of issues that bear upon the Council's funding recommendations. The memo is "rolling" because as the project selection process moves forward over time, the both the resolution currently identified issues will be "rolled" into and preserved in the document, and newly emerging issues will be "rolled" into the document and positioned for resolution. At the end of the project selection process, this rolling issue memo will become the Council's decision document that it will forward to Bonneville, including its project funding recommendations along with a record of the related issues considered throughout the process and their disposition.

All who are interested in the Council's project funding recommendation process need to appreciate the critical role that this rolling issue memo will play. This document is the vehicle to provide notice of the issues that the Council staff believes influence the Council's final project funding recommendations. Likewise, this document will include the Council staff proposals for Council treatment or resolution of those issues. When those participating or having an interest in this process share a perspective or opinion on the issues in the memo, those need to be communicated to Council staff through the Fish and Wildlife Division Director, Doug Marker so that they can be included in the memo for Council consideration and public notice.

While this rolling memo will play a critical role in issue identification, development, and resolution, it must be made clear that there is a limit to the subject matter that can be developed in this way. The Council will not establish or amend significant fish and wildlife policy in this process -- those significant policy issues, that are at or close to the core of the adopted Fish and Wildlife Program -- must be addressed in a formal Fish and Wildlife Program amendment process. For example, later in this document the distribution of the Bonneville fund among anadromous fish, wildlife, and resident fish (the “70/15/15” rule) is explained for context to help interested parties understand the province funding targets approved by the Council. It is possible that an interested party may believe that a different distribution policy would be favorable, or that this one be completely eliminated. However, because this “70/15/15” distribution policy is specifically called for in the adopted Fish and Wildlife Program, and could not be altered or eliminated by the Council in this project selection process. The most the Council could do is to explore alternative ways to achieve the “70/15/15” policy. Again, this is only an example.

In summary, this rolling memo plays a key role in focusing the Council and interested parties on important issues and Council decisions relating to project funding recommendations for Fiscal Years 2007 through 2009. Suggestions to add to the suite of issues presented herein, and comment on issues presented need to be routed through the Council staff so that they can be included in the next iteration of the issue memo. As issues become ripe for Council resolution over the next several months, the staff will make recommendations to the Council and it will make decisions. This will help keep the number of decisions made at the end of the process more manageable and focused on the actual project funding recommendations.

I. Schedule

On October 21, 2005, the Council and Bonneville issued a solicitation for project proposals to implement the Columbia Basin Fish and Wildlife Program. Proposals were submitted through January 10, 2006. The proposals are being reviewed by the Council’s Independent Scientific Review Panel (ISRP report due no later than June 16th) and prioritized by provincial work groups and a basinwide work group convened by Council staff. The Council will consider the ISRP report and the recommendations received by the local groups. Some proposals will be asked to respond to issues raised by the ISRP and the report for this second review will be provided to the Council by August 31st. The Council will make funding recommendations at its October meeting.

II. Programmatic Issues

*A “**programmatic issue**” transcends a single project or proposal -- it bears upon how the Council understands and implements its project review and recommendation process and/or it colors its funding recommendations broadly for all projects or a significant set of projects.*

1. Bonneville’s funding commitment during the 2007-2009 rate period; Council allocation targets and principles.

Last fall Bonneville and the Council agreed that it would use an annual average planning budget of \$153 million for Fiscal Years 2007 through 2009. In addition to that “expense” funding, Bonneville will also make available \$36 million in funds borrowed from the U.S. Treasury. This

latter amount often referred to as “capital” funding, is subject to particular rules and standards prescribed by Bonneville in its “Capital Funding Policy for Fish and Wildlife Projects”.

In order to ensure the ability for all areas of the Columbia Basin to participate, planning target allocations have been established for each Province. Similarly, for research, monitoring and evaluation, and coordination activities that are not linked to a particular province, a “basinwide” planning target was established. The allocations for each Province were based on historical Council recommendations and start from the average of the Council recommendations for Fiscal Years 2004 through 2006. That is, the Council surveyed how it, along with Bonneville, fish and wildlife managers, and others have traditionally committed funding under the Program. These patterns are the legacy of management emphasis and legal and policy considerations, and are not to be considered perfect or those that will be used in future years.

The Council’s 2000 Program carries forward the goal of ensuring that Bonneville funds are committed to all three of these Program areas. The Council made adjustments to the historical recommendations based allocation to reflect the 70/15/15 distribution. The Council notes that while in recent years the resident fish distribution has come close to 15% of the program, it appears that it is the wildlife component that has lagged behind. Therefore, where both resident fish and wildlife projects occur, the Council’s intent is to have both of these program areas approach their 15% allocation goal.

Bonneville articulated a goal in its Power Function Review of committing at least 70% of its annual fish and wildlife funding to “on the ground work”, and no more than 25% to research and monitoring and evaluation activities, and 5% to coordination actions. The Council considered these goals but decided **not** to use these targets to allocate funding for Fiscal Years 2007 through 2009. Nonetheless, the Council and Bonneville will work together in this project selection process, and into the future, to focus resources on activities that provide direct benefits to fish and wildlife while maintaining an efficient accountability framework of monitoring and evaluation, research directed at key priorities, and to streamline necessary coordination.

Preliminary Staff Recommendations: Most of this issue and description is provided primarily as background, and no near-term Council action is required. The staff notes that it would be helpful if Bonneville can work as quickly as possible to review the proposals that were submitted and identify those that may be eligible for capital funding. This would be important information for the local groups as they work to prioritize the expense targets allocations. As the project selection process moves forward over the next several months, if there are issues that develop with regard to the province allocations they will be identified here and brought to the Committee and Council for discussion.

Comment received: Bonneville provided comments (3/3/06 letter) that suggest that we keep two factors in mind. That funding capital projects often commits out-year funding for operations and maintenance and that this needs to be evaluated as a priority relative to other possible uses for that funding. Also, that capital funds must be repaid with interest so that capital project actually cost more in the long run, than expense projects.

Staff recommendations: No change from preliminary recommendations.

2. Ensuring projects recommended respond to BPA/FCRPS obligations without “in lieu” funding problems.

Bonneville has a legal obligation to protect, mitigate, and enhance fish and wildlife impacted by hydrosystem development and operation. This is Bonneville’s “responsibility.” To meet that duty, Bonneville has the *authority* to fund on-site protection and mitigation actions as well as offsite habitat and production actions--that offsite work now catalogued in subbasin plans.

As the Council stated in its public letter resolving broader process issues in the subbasin planning process, as long as an offsite mitigation project proposal funded by Bonneville addresses a species identified as adversely affected by the hydrosystem, that action is potentially within the authority of Bonneville to fund as part of its effort to satisfy its Power Act mitigation obligation -- in doing so, Bonneville is responding to its legal *responsibility* to protect, mitigate, and enhance fish and wildlife. The possible exceptions are those cases where Bonneville funding for a project replaces funding of another entity that is required or in place. The Act precludes Bonneville from funding this work “in lieu” of funding provided by another responsible party.

Preliminary Staff Recommendations: Determining which project proposals may run afoul of the Act’s in lieu funding prohibition has always been done by Bonneville. It would be extremely helpful to both the Council and the local groups developing project funding prioritization recommendations if Bonneville would quickly review the proposals and provide notice to the Council of the particular proposals that may present an in lieu funding problem. The staff suggests a date of March 6th for notice of which (if any) proposals may have in lieu funding issues.

Comment received: Bonneville noted in their response that they would provide the results of their review of proposals for in lieu concerns in April, not in March as the previous draft of the memo suggested.

Staff recommendations: No immediate change in the staff recommendations. As the result of Bonneville's proposal review will be available in early April instead of March, this issue may need to be re-visited at a later date.

3. Integration of off-site mitigation requirements of FCRPS Biological Opinions

In past project selection processes the Council has sought to deliver recommendations to Bonneville that satisfied its ESA-based objectives balanced with its broader Northwest Power Act obligation to protect, mitigate and enhance any fish and wildlife affected by the hydrosystem. A consistent message from the Council has been that Bonneville needs to make its ESA-based requirements known as early in the project selection process as possible so that those could be considered as part of the overall and broader fish and wildlife project recommendation package the Council develops.

Further, the Council has consistently stated that BPA’s ESA-based actions need to be held to the same level of scientific, public, and Council review as all other fish and wildlife actions funded by Bonneville, and that the best way to ensure this is to develop any specific ESA-based actions as part of the general project selection process. The Council believes that it has been very

successful in delivering the ESA-based projects sought by Bonneville in its project selection and within-year funding processes (the RPAs from the 2000 BiOP primarily).

The current project selection process began with substantial uncertainty attending Bonneville's ESA-based needs. The 2000 and 2004 Biological Opinions and the Action Agency Updated Proposed Action had been declared not legally sufficient by the Federal Court. Just as the Council and Bonneville released the call for proposals to be funded by Bonneville in this next cycle, Bonneville and the other Action Agencies were ramping up their work to respond to the Court's rulings, which may include securing needed survival improvements from off-site actions. The staff understands that the Action Agencies and NOAA seek to have a draft FCRPS Biological Opinion completed around June 1, and a final in October. It is unclear to staff when in the course of that work off-site actions (habitat, hatchery, etc) if any, may be identified as part of the Agencies' proposed action or the NOAA draft Biological Opinion.

Preliminary Staff Recommendations: The staff recommends that the Council adhere to its consistent position that Bonneville's ESA-based off-site mitigation projects be developed, as much as possible, within the general project selection process. Again, the benefits are substantial -- scientific rigor, public notice and comment, and budget scrutiny are products of this process. Moreover, once a project proposal is selected in this process, it will have secured scientific and public support, have a specific entity assigned to do the work and an implementation budget associated with it -- a strong case that the action is "reasonably certain to occur" can be made. In that light, the staff recommends that the Council continue to advise Bonneville and others working on the FCRPS Biological Opinion and Proposed Action that there are over 500 proposals that were submitted on January 10th that are candidates for consideration of any off-site mitigation element that may be part of the those ESA products being developed. These proposals are being reviewed by the ISRP and also local groups familiar with subbasin plans, and in many cases, recovery plans that have been built upon subbasin plans.

It is possible that Bonneville may make its best efforts to utilize the project selection process for meeting any off-site ESA requirements that are developed, but that there remain "gaps" that it believes it needs to address. Should this become a reality, the staff recommends that the Council ask Bonneville to fully coordinate its response to filling those gaps with the Council, and that any additional or modified process for filling "gaps" be designed to have the same high standards for scientific review and public review that attends the Council's general project selection process.

Comment received: Bonneville's response indicated general support for the staff recommendation of integrating Fish and Wildlife Program and ESA needs, but expressed some concern about province allocations: "We do have some concern that the existing province funding allocations may complicate priorities derived from subbasin plan assessments and the review and prioritization process currently underway. It will be important for NPCC and BPA to consider the impact and limitations of these allocations as the review of project proposals proceeds".

Staff recommendations: No change from preliminary recommendations.

4. Transition to integrated regional monitoring and evaluation framework

The Fish and Wildlife Program calls for a monitoring program to evaluate whether the individual actions in the subbasins are achieving the objectives of the program stated at the basin and province level. In making its project funding recommendations, the Council seeks to prioritize monitoring activities and methods to evaluate the effectiveness of Program activities and trends in fish and wildlife populations and habitat conditions.

When it approved guidance for the 2007-2009 project selection process, the Council recognized that regional parties have collaborated to define common protocols for monitoring watershed conditions, population trends and the effectiveness of Program measures. The promise of this collaboration is that the information from individual projects and subbasins can “roll up” to broader geographic scales for evaluation of the success of the Program in meeting its objectives.

While this collaborative effort continues, the Council is ready to confirm the priorities for funding monitoring within each of the “H’s” that affect salmon and steelhead survival as well as resident fish and wildlife response to Program measures. In the 2007-2009 recommendations, the Council can define expectations for the function that specific projects should perform in support of regional evaluation. The Council can also define which monitoring methods it will prioritize for Program funding and plan for a transition for currently funded methods over a specific period of time.

Preliminary staff recommendation: This recommendation is organized by the components of monitoring needed for Program evaluation. These components relate to each other to provide information on the overall status of fish and wildlife populations in response to Program measures.

1. Hydrosystem survival: The Council will confirm with NOAA Fisheries, the federal action agencies, and the region’s fish and wildlife managers that the design and methods of smolt and adult passage monitoring meets current management needs for guiding river operations annually and evaluating trends in passage survival. The staff has asked Bonneville to review these functions for meeting the requirements of the current Biological Opinion. The Council will determine that the data from passage monitoring is collected and made available consistent with the Program.

2. Habitat: The Council is developing priorities for the collection of data to evaluate changes in watershed conditions relative to the assessments used for the first set of subbasin plans. Because much of that data comes from other funding agencies, the Council will set priorities for collecting such data regionally and to support confirmation of monitoring protocols for regional consistency. The Council is also prioritizing limited research focused on fish habitat project effectiveness.

2a. Watershed condition data funded through the Program: Where projects are prioritized to collect data that indicate the condition of habitat for fish and wildlife, the Council recommends that such data be focused first on the priority indicators needed to inform future subbasin planning. For discussion purposes in this memo, those indicators are: water temperature, flow, passage, benthic macro-invertebrate assemblages, large woody debris, sedimentation, dissolved oxygen, nutrients, and stream morphology.

The Council intends to prioritize funding away from project tasks that collect data on other indicators, or that serve only to inform evaluation of the individual project without specific justification. This transition should be accomplished within three years or the next call for project recommendations.

2b. Aquatic habitat project effectiveness: The Council in its guidance for the 2007-2009 solicitation stated that monitoring for individual habitat projects should be limited to five percent of the project costs. The staff recommends that the strategy to obtain more information on the effectiveness of habitat restoration on fish survival be to prioritize three “intensively monitored watersheds” experiments. These are planned being developed in the Wenatchee, John Day and Salmon River subbasins and were initiated during the last Mainstem/Systemwide process. With PNAMP’s ongoing coordination, these three projects are linked to similar work on the Pacific Coast funded through other sources. In confirming future funding for these experiments, the Council should consider the strength of these experiments in being able to demonstrate that discrete habitat actions result in measurable change in fish survival.

3. Population status and trends: The Program currently funds a wide array of population monitoring which supports both management and ESA delisting analysis. Other work in the basin is funded from other sources such as license fee revenue and other mitigation programs.

For anadromous fish population monitoring proposed for funding in the Program, the Council expects the methods to be consistent with the randomly distributed sampling designs endorsed by the ISRP in its 2005 retrospective report. Prioritized proposals using other sampling designs should provide a transition plan as part of Bonneville contracting.

The appropriate distribution of monitoring sites for abundance, productivity and diversity needs more discussion as part of ESA recovery planning. Distribution may also be determined by the adoption of provincial objectives into the Council Program, currently planned for 2007. Pending those determinations, the Council staff proposes to complete a rough inventory of the distribution of monitoring in the currently funded program. When coverage to support ESA delisting requirements and provincial objectives is determined, the Council will plan a transition to support the prioritized distribution.

Where population monitoring for resident fish is prioritized for funding through the Program, the appropriateness of methods will continued to be reviewed by the ISRP. The staff does not propose a standard protocol at this time.

For wildlife population monitoring, the ISRP has continued to urge the Council to prioritize census monitoring to measure the response of target populations to acquisition and management of habitat. Currently, the Program calls for monitoring habitat value using the Habitat Evaluation Procedure (HEP) methodology. Periodic surveys of the quality of habitat protected by the Program are efficient and will be prioritized in the Mainstem/Systemwide Review. More directly counting estimating the changes in target wildlife species population and determining the specific influence resulting from habitat acquisitions is likely to be more expensive and will require the development of landscape level population estimates.

The staff recommends continuing to use the HEP methodology as an accounting mechanism for tracking Bonneville's obligations for wildlife mitigation in the Program but will continue to review alternative procedures for monitoring population responses as proposed by the ISRP.

4. Hatchery monitoring: The Program funds significant activities related to hatchery performance. There are two issues for Council guidance in the 2007-2009 project selection process: linking the Program's supplementation effectiveness monitoring into a more integrated regional experiment, and the level of funding for monitoring of hatchery performance against project objectives and effects on naturally spawning populations. The Council also continues to collaborate on regional hatchery review and reform processes.

4a. Prioritize Designate the design of an integrated supplementation experiment as a priority action: The monitoring designs for each of the Program's supplementation projects have received ISRP review for design and outcomes. The ISRP is reviewing each project's design again this year. However, both the ISRP and ISAB have urged that the monitoring of projects be linked together so that the results from one project might serve the needs of others and diminish the need for each project's design. For example, the control stream used for one project might serve others with similar applications of supplementation techniques. The staff recommends that the Council prioritize development of an integrated regional design for completion and scientific review in 2007.

4b. Hatchery performance monitoring: For 2007-2009, the staff recommends funding that the ISRP review determines is appropriate, subject to budget capacity. with ISRP review of the appropriateness of each hatchery's performance monitoring in 2007-2009 The Council staff and Bonneville should determine that the data from each project's monitoring is being reported to the region consistent with the Program's standards for timeliness and accompanying metadata.

5. Estuary habitat status and trend monitoring: As called for in the Program, the ecological status of the Columbia River estuary and plume has been treated as a planning unit in subbasin planning and project selection. The 2000 and 2004 Biological Opinions also assigned responsibility to the federal action agencies for monitoring of the estuary. Although there have been several successful estuary research projects, the design of a pilot estuary monitoring project has not been successful in independent scientific review. Proposals have been made for 2007-2009 and are being reviewed by the ISRP. Monitoring the conditions of the estuary involves a number of other funding partners so the staff will focus on the appropriate role for Bonneville funding in the 2007-2009 project selection process.

6. Ocean harvest monitoring: Program funding supports monitoring of harvest in the ocean through at least two methods: directly through funding of coded wire tag programs and indirectly through dam counts. The staff recommends addressing the adequacy of information and appropriate share of Bonneville funding in the Mainstem/Systemwide project review.

7. Data management: Collecting the data from each of these monitoring components requires specific commitment for delivery to regionally accessible sources. The Council has

a memorandum of agreement with other regional parties to confirm a work plan for a web-accessible data portal. The Mainstem/Systemwide project review will prioritize funding for a request for support of the portal with other funding partners. The review will also address the necessary scope and functions of the Streamnet project that is the primary collector and maintainer of data from Program-funded projects. The staff recommends working with sponsors and Bonneville project managers to determine if proposed ongoing projects deliver their data to regional sources consistent with the Program. The staff recommends that meeting this standard become a condition of future contracting and verified by Bonneville project managers as part of project performance review.

8. Basinwide and province performance evaluation: The Program calls for adopting province-scale objectives which will serve as benchmarks to assess how individual actions in subbasins are adding up at broader scales. The Council plans to open the Program for proposed amendments to adopt provincial objectives this year.

Performance against these objectives will guide future funding allocations and management emphasis. From the data collected from the monitoring components listed above, the staff recommends that monitoring of performance against provincial objectives use specific “high level indicators” and for discussion in this draft, those indicators be:

- Fish survival or productivity indicators
- Spatial distribution
- Annual population growth rates
- Ocean productivity indices
- Hatchery releases and return rates
- Habitat conditions, summarized from the watershed condition indicators
- Harvest rates
- Adult and juvenile passage survival through the mainstem dams

9. Reporting: The staff recommends prioritizing the production of an annual report that summarizes the data from the high level indicators proposed above. The Columbia Basin Fish and Wildlife Authority is funded to produce an initial summary report for 2006. The staff expects the content to evolve as provincial objectives are adopted into the Program and specific indicators are confirmed. In the meantime, the staff recommends that the Council review and approve the content for the initial report funded for 2006. CBFWA is presenting an initial content proposal to the Council’s Fish and Wildlife Committee at its March meeting.

The staff also recommends prioritizing funding for an on-line peer-reviewed journal for Program-funded research a priority. Specific proposals or an appropriate placeholder for an RFP for such a journal will be reviewed in the Mainstem/Systemwide proposal review.

5. Assumptions for use of Bonneville's capital borrowing authority to finance certain recommended proposals

For Fiscal Years 2007 through 2009, Bonneville has stated that it will make available up to \$36 million for "capital" investments. Bonneville has also stated that use of these funds is subject to particular rules and standards prescribed by Bonneville in its "Capital Funding Policy for Fish and Wildlife Projects."

The Council has differed with Bonneville for the last few years over these rules for access to Bonneville capital for the fish and wildlife program. The Council has stated its belief that Bonneville has read the governing legal requirements and accounting rules more strictly than warranted, resulting in more restricted use of capital funding than is necessary or prudent. Specific issues have included whether a project must cost more than \$1 million to be eligible for capital funding; whether and how separate but related actions that each cost less than \$1 million may be aggregated to reach the threshold; whether a "crediting" mechanism must be in place first for a project to be eligible for capital funding and of what type; when and how planning expenses for a capital project may be capitalized; and more.

In the last set of multi-year project recommendations (in the provincial review process), the Council recommended projects for capital funding based on our understanding of the rules of access for capital funding. This was just before the Bonneville rules and policy were clarified. The end result was that the Council recommended a number of projects for capital funding that Bonneville did not allow to be funded in that way. Projects either stalled or had to be funded out of the very tight expense budget if they were to go forward, while the available capital funds went largely unused.

The Council directly raised these capital policy issues with Bonneville in the Council's funding recommendation decisions in FY05 and FY06. Bonneville held firm to the rules of access in its capital policy. The only two types of projects that have managed to satisfy the capital rules in any systematic way have been the actual construction costs of major hatchery facilities and large land acquisitions for wildlife mitigation (and last year, Bonneville allowed certain related wildlife land acquisition projects to be aggregated to reach the \$1 million threshold). Project types that Bonneville has deemed *not* to satisfy the capital rules have included other wildlife land acquisition projects (as less than \$1 million); nearly all land acquisitions to protect habitat for fish, even if well over the monetary threshold, on the grounds that the program lacks a crediting mechanism for fish habitat acquisitions (outside of the context of the Hungry Horse and Libby mitigation programs); planning expenses for major capital facilities; and large coordinated investments in fish habitat protection through installation of fish screens or other passage improvements, water optimization and other similar work. The application of the rules for access to capital in this last category may be tightening.

The Council needs to decide how to proceed as it reviews project proposals for in all these areas for FY07 to 09. It seems pointless once again to include projects in the capital budget that we know Bonneville will conclude do not satisfy the rules for access to capital, and then write up the issue in the decision memo. The practical choices are to yield (for the moment) or elevate the issue in a more substantial way, through a higher profile political or legal strategy.

Preliminary Staff Recommendation:

The staff's preliminary recommendation is to acquiesce in the Bonneville policy for the purposes of constructing the FY 07-09 budget recommendations. Acquiescence does *not* mean giving up on seeking changes in the capital policy. What it would mean is that in constructing the planning budget recommendation for the coming fiscal years, the Council would develop the capital and expense parts of the budgets using Bonneville's interpretation rules for access to capital. At the same time, the Council could pledge to continue to try to get Bonneville to modify those rules or (more likely) be more flexible in their application, with the possibility of adjusting the set of projects in the capital side of the budget in the future if the capital policy changes or moderates in application.

III. Potential Programmatic Issues for Council Consideration in Future Iterations

The staff anticipates that the following programmatic issues will require some Council consideration and direction in the coming months. They are not critical at this point in the project selection process. However, the staff wants the Council and the public to see this list so that it may anticipate where the staff and Council will be going next.

- **Status and use of the Council's Research Plan in establishing research sequence and priorities**
- **Purpose of identifying funding and implementation partnerships in recommended proposals**
- **Recognition and use of cost-sharing MOU between USDA Forest Service and the Bonneville Power Administration**
- **Process for annual review and renewal of recommendations in Fiscal Years 2008 and 2009.**
- **Operations and maintenance**

Each year the Council will conduct a process to review and confirm the annual budgets recommended here. As part of that process, the Council asks Bonneville to present a summary from contractor performance reports, the accomplishments of each project relative to the proposal that was recommended by the Council. The report should explain any variances in actual performance from what was proposed.

- **Within-year budget adjustment process**
- **Integrate Step review with subbasin plans, and incorporate ISRP comments.**
- **Coordinated review of other direct funded programs**

The LSRCP program is not part of what is considered the traditional “direct program” funded by Bonneville. Historically, the program (U.S. Fish and Wildlife Service) received annual congressional appropriations, and Bonneville reimbursed the Treasury for those appropriations. This “reimbursable” program was not originally specifically subject to ISRP and Council review under the 1996 Gorton amendment to the Act. However, in 1998, the U.S. Congress’ Senate-House conference report on the fiscal year 1999 Energy and Water Development Appropriations bill directed the Council to have the ISRP to annually review all fish and wildlife projects, programs, or measures included in federal agency budgets that are reimbursed by Bonneville using the same standards and criteria of the 1996 amendment, and to report to Congress on those reviews. The LSRCP is no longer a true “reimbursable” project, and as part of the FY 2007 - 2009 process we have not initiated a review of the program.

- **Timing and Design of the Project Selection Process to Select FY 2010 and Beyond Projects**

[Excerpt from Memo to the Council explaining proposed FY 08-09 Process]:

The Council intends to renew a sequenced review of its program in the near future -- a format similar to the last provincial review process. This process will divide the program into several “tracks”. If the Council decides to initiate this sequenced review soon, it is possible that it could be completed in time to revise or replace some Fiscal Year 2009 funding recommendations -- the third and final year of the recommendations-- that will be made in this current project review. The Council has not established a schedule for the follow-on sequenced review process. The Council simply wants to note here that it is possible that the third and final year of the recommendations may be revised/replaced if the Council, in the future, decides to start the next review process very soon.”

IV. Project Specific Issues

The staff anticipates that most project specific issues will start to emerge as the local groups and the ISRP complete their work in early to mid-June 2006. We include this section as a placeholder so that the Council and public can see the full framework of this rolling memorandum.

Basinwide Projects

Blue Mountain Province

Columbia Cascade Province

Columbia Gorge Province

Columbia Plateau Province

Lower Columbia Province

Estuary Province

Middle Snake Province

Mountain Columbia Province

Mountain Snake Province

Intermountain Province

Upper Snake Province

IV. [Placeholder for Council determinations/findings that address 4(h)(10)(D)]

How the Council fully considered the recommendations of the ISRP

How the Council implemented other requirements of the 1996 Amendment to the Northwest Power Act.

Cost effectiveness

Taking into consideration effects of ocean conditions

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Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

ENVIRONMENT, FISH AND WILDLIFE

March 3, 2006

In reply refer to: KEW-4

Mr. Doug Marker
Northwest Power and Conservation Council
851 S.W. Sixth Avenue, Suite 1100
Portland, OR 97204-1348

Dear Mr. Marker,

At your meeting last month in Portland, the Northwest Power and Conservation Council (NPCC) began the process of developing a "Rolling Issue Memo" that will serve as a basis for the NPCC's project funding recommendations to the Bonneville Power Administration (BPA). You explained that the structure of a rolling policy decision memorandum (memo) is to identify and describe Program implementation issues, receive comment from others, develop viable alternatives that may best resolve these issues, and to serve ultimately as a record of the consideration and disposition of issues related to the 2007-09 Project Solicitation process.

We appreciate the opportunity to comment on both the issues that were raised in the initial memo (dated February 9, 2006) and others that BPA sees as critical influences on BPA's subsequent funding determinations, early in the solicitation process. We offer our comments in this and future letters to provide the Council with our early input, and anticipate the opportunity to discuss solutions for these Program solicitation issues.

For example, one of the topics raised in the February issue memo is BPA's capital policy. In this initial memo, NPCC staff recommends that BPA identify which project proposals could qualify for capital funds, in order to assist the provinces in prioritizing projects within their respective funding allocations. Although we have some reservations about this purpose, we have nearly completed a preliminary review of the application of BPA's capital policy to these proposals, and will soon submit the results of this preliminary analysis to the NPCC.

There are at least two factors to keep in mind in regards to recommending capital projects. First, because funding capital projects often commits the Program to funding related operations and maintenance costs in future years, it is important that each project be evaluated as a priority relative to other possible spending. Second, capital dollars must be repaid with interest, thus the project is actually costing more in the long run than expense projects. Given these considerations, we agree to review capital project purposes and objectives with the same high level of scrutiny as those projects in the expense spending category. In the future, we hope that NPCC's recommendation will include a list of projects prioritized on the basis of a clear hierarchy of biological and environmental performance objectives. With an agreed upon list of

project priorities, we would then have a better basis to ensure the most biologically-effective and efficient use of available capital dollars.

Another topic raised in your recent memorandum is the Northwest Power Act's in lieu prohibition. As the memo mentions, BPA has the latitude to fund off-site protection and mitigation work, so long as the funding does not run afoul of the in lieu prohibition. We agree that BPA has a responsibility to determine whether a project poses an in lieu problem, and we are currently reviewing new solicitation proposals for in lieu concerns. We will share the results with you and your staff in April.

However, as we noted in our December 2, 2005 letter addressing a number of solicitation-related issues, cost-sharing elements in project proposals can temper and potentially resolve in lieu issues, particularly where there are shared responsibilities for protection and mitigation (see additional information section 5 of that letter). We continue to believe that this pragmatic approach to the in lieu restrictions of the Act is preferable as a matter of "policy" – particularly where some disagreement can persist about the breadth of BPA's mitigation or project funding responsibilities. Where a project is or is not clearly our responsibility, there are no in lieu issues. Rather issues arise when the responsibility is gray or we have a shared responsibility. We think that those areas of BPA responsibility that are gray or are shared can be appropriate circumstances for the robust consideration of cost-sharing.

One example of how we can implement projects within the constraints of the in lieu prohibition is our memorandum of understanding with the U.S. Forest Service for projects located on Forest Service land. As in this agreement, cost-sharing is a necessary component of any project that is on federal land, above a non-FCRPS dam, or otherwise a shared responsibility. We hope to see NPCC incorporate these considerations in its treatment and recommended disposition of "in lieu" as a policy issue in the rolling decision memorandum.

A third consideration in the solicitation process is how to support the region's efforts to protect and enhance listed species affected by the FCRPS dams. For guidance in these efforts we rely primarily on the FCRPS Biological Opinions. While the solicitation and biological opinion collaboration timelines are not perfectly aligned, substantial opportunities exist nonetheless to take an integrated approach to meeting the region's mitigation and recovery needs, through the NPCC's process and while still preserving its integrity. Although we are currently focusing on implementing on-going projects addressed in the 2004 Biological Opinion, we are also reviewing proposals to identify those that could help achieve existing objectives for listed species, and are preparing to incorporate proposals that will best support the rehabilitation of the region's most vulnerable species, as defined through the collaboration process.

To these ends, we strongly support Chairman Karier's recent message to the Remand participants that NPCC will work to integrate any new biological priorities within the solicitation review process as they are known. As Dr. Karier indicated, there are many proposals that address ESUs across the Basin. With positive ISRP reviews, these are potential Program projects that could

simultaneously meet Biological Opinion and Fish and Wildlife Program needs. We will also be on sound footing, achieving the needs of both listed and non-listed species, if we prioritize projects that promote biological benefits focused on limiting factors, particularly where project outcomes benefit multiple target species. We do have some concern that the existing province funding allocations may complicate furthering some of the region's biological priorities derived from subbasin plan assessments and the review and prioritization process currently underway. It will be important for NPCC and BPA to consider the impact and limitations of these allocations as the review of project proposals proceeds.

As we move forward through the solicitation process, our letters will address additional critical policy issues, as they arise. In addition to those issues listed in this first policy issue memo, there are a number of other topics – including how to manage the transition between budget periods this Fall – that will warrant close coordination and careful consideration. We will return to you for your advice and assistance in addressing this “transition period” issue, for some projects, during the coming weeks.

We anticipate remaining actively involved with NPCC in discussing and refining solutions to solicitation issues, and working with your staff to review and prioritize proposals.

Sincerely,



William C. Maslen

Director of Fish and Wildlife

cc:

Mr. Doug Marker, Northwest Power and Conservation Council (electronic)
Mr. Mark Fritsch, Northwest Power and Conservation Council (electronic)
Ms. Patty O'Toole, Northwest Power and Conservation Council (electronic)
Ms. Stacy Horton, Northwest Power and Conservation Council (electronic)
Mr. Tony Grover, Northwest Power and Conservation Council (electronic)
Mr. Kerry Berg, Northwest Power and Conservation Council (electronic)
Mr. Karl Weist, Northwest Power and Conservation Council (electronic)
Ms. Joann Hunt, Northwest Power and Conservation Council (electronic)
Mr. Brian Lipscomb, Columbia Basin Fish and Wildlife Authority (electronic)
Ms. Amy Langston, Columbia Basin Fish and Wildlife Authority (electronic)
Mr. Tom Iverson, Columbia Basin Fish and Wildlife Authority (electronic)

Draft rolling issue memo calendar * (draft March 7, 2006)

*This chart represents an approximate timeframe for addressing programmatic issues in the FY 2007-2009 Project Selection Process. This is just an approximation. The order that issues will be addressed will likely change from time to time. Some issues may be resolved without needing Council attention and new ones may be introduced and need immediate attention.

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct
F4, 1	Confirm funding, FCRPS oblig. - In lieu, ESA integration	Integrated M&E framework, Capital use	Partnership/cost sharing, Next selection process	Coord w/ other direct funded prog, O&M	SOY 08/09, Within yr process, STEP rev	Project Specific Issues			
F4, 2		Confirm funding, FCRPS oblig. - In lieu, ESA integration	Integrated M&E framework, Capital use	Partnership/cost sharing, Next selection process	Coord w/ other direct funded prog, O&M	SOY 08/09, Within yr process, STEP rev	Project Specific Issues		
C			Confirm funding, FCRPS oblig. - In lieu, ESA integration	Integrated M&E framework, Capital use	Partnership/co st sharing, Next selection process	Coord w/ other direct funded prog, O&M	SOY 08/09, Within yr process, STEP rev	Project Specific Issues,	
other				Staff draft recommendation MS/Sys	ISRP prelim report Local priorities				Council recommendations

F4, 1= first discussion with F&W Committee, present preliminary staff recommendation

F4, 2=Green - second discussion with F&W Committee, present staff recommendation

C =Discussion with full Council, present F&W Committee recommendation