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May 25, 2007

DECISION MEMORANDUM

TO: Council members

FROM: Terry Morlan
Director, Power Planning

SUBJECT: Revision of the Independent Economic Analysis Board Charter

PROPOSED ACTION: Approve a revised charter for the Independent Economic Analysis Board (IEAB)

SIGNIFICANCE: The Council created the Independent Economic Analysis Board in 1997 to provide the Council with advice on incorporating economic considerations into fish and wildlife program decisions. The charter for this advisory committee sunsets every two years and must be renewed. Although the charter is not due to expire until 2008, staff has developed conflict of interest guidelines to add to the charter. These guidelines will make the IEAB guidelines consistent with those adopted for the ISRP and ISAB. In addition, a provision has been added to the charter to provide an approach to replacing IEAB members who resign before their terms have expired.

BUDGETARY/ECONOMIC IMPACTS

The Council's budget for the IEAB for FY07 is currently \$100,000. The actual amount expended depends on tasks assigned by the Council. The annual contract maximum for the Independent Economic Analysis Board is \$176,000 (\$22,000 individual contracts times 8 members). Larger individual contracts are needed to cover uneven task commitments among members of the IEAB, and also to cover potential outside funded tasks such as the IEAB has accepted in the past. For example, during the IEAB's participation in the Drawdown Regional Economics Workgroup review process, the Corps of Engineers reimbursed the Council for funding the IEAB for that task. Similarly, Portland METRO paid for the IEAB to serve in a review capacity for its Goal 5 economic analysis. In addition to the direct costs of the IEAB member contracts, there is about \$7,000 for meeting notes, and about three months per year of staff time is required to coordinate meetings, develop and manage task orders, process contracts, keep records, and process reimbursements.

BACKGROUND

The Northwest Power Act requires the Council to develop a fish and wildlife program for the Columbia River Basin. The Act requires the Council to “utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost.” (Section 4(h)(6)(C)). In addition, 1996 federal legislation requires cost-effectiveness evaluation in prioritization of fish and wildlife measures. The Independent Economic Analysis Board is intended to provide the Council with advice and an increased analytical capability to help bring economics to bear in assessing and prioritizing fish and wildlife measures.

ANALYSIS

Attached is a copy of the proposed charter for the Independent Economic Analysis Board. The charter was prepared in accordance with the Federal Advisory Committee Act and the Legal Division’s advice. The charter is the same one approved by the Council in October 2006 but with the two additions noted above. The additions are highlighted in yellow

ALTERNATIVES

1. Approve the charter as amended. This is the staff’s recommendation. It will put the conflict of interest guidelines into effect immediately.
2. The revision of the charter could be delayed until October 2008 when the current charter is due to sunset. This would not cause great problems because perceived conflicts of interest have been successfully addressed by the informal procedures used by the IEAB. However, there does not seem to be a good reason for delaying this change.
3. The charter could remain as it is with informal procedures to address conflicts of interest. It seems reasonable, however, for the Council’s independent science boards to operate under consistent guidelines.

ATTACHMENTS

A copy of the revised charter for the IEAB is attached. The new additions are highlighted in yellow.

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PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL:

CHARTER OF THE INDEPENDENT ECONOMIC ANALYSIS BOARD

1. **Official Designation:** This advisory committee will be known as the Pacific Northwest Electric Power and Conservation Planning Council's Independent Economic Analysis Board (Independent Economic Analysis Board).
2. **Background:** The Northwest Power Act, P.L. 96-501, 16 U.S.C. §839 *et seq.* (Act), in Section 4(h)(1)(A), requires the Council to develop a fish and wildlife program for the Columbia River Basin. The Act requires the Council to "utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost." (Section 4(h)(6)(C)). The negotiation of a federal memorandum of agreement on Bonneville spending for fish and wildlife measures also underscores the importance of cost-effective fish and wildlife investments. In addition, federal legislation adopted in 1996 requires cost-effectiveness evaluation in prioritizing fish and wildlife measures. The Independent Economic Analysis Board is intended to provide the Council with advice and an increased analytical capability to help bring economics to bear in determining and prioritizing fish recovery measures. This advisory committee is established as part of a network of advisory committees satisfying the Council's obligation under the Act to establish a Scientific and Statistical Advisory Committee. 16 U.S.C. §839b(c)(11). Under section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, Sections 1-14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. §839b(a)(4).
3. **Objectives and Scope of Activity:** The Independent Economic Analysis Board will advise the Council on the appropriate methods of economic analysis for proposed fish recovery measures. This advice will include the appropriate role and limits of economic analysis in making policy decisions. The Independent Economic Analysis Board will fulfill this role by:
 - (A) Interacting as a committee with the Council regarding methods of economic analysis for alternative fish recovery measures.
 - (B) Assisting the Council to evaluate new analytical tools, and advising on the most appropriate study designs.

- (C) Helping to identify sources of information and data.
 - (D) Performing specific tasks assigned by the Council on a cost reimbursement basis.
 - (E) Assisting in the review and interpretation of study results.
4. Official to Whom the Advisory Committee Reports: The Independent Economic Analysis Board will report to the Executive Director of the Council.
 5. Authority of the Advisory Committee: The Independent Economic Analysis Board will serve in an advisory capacity only. Neither the Committee nor its members are authorized to make statements or commitments on behalf of the Council. Committee members will not be considered to be members of the Council staff.
 7. Advisory Committee Management Officer: The Advisory Committee Management Officer for the Independent Economic Analysis Board will be the Director of the Council's Fish and Wildlife Division. The Management Officer will designate members of the Council's staff to attend meetings of the Committee.
 8. Staff Coordinator: A Staff Coordinator for the Independent Economic Analysis Board will be appointed by the management officer. The Staff Coordinator will be responsible for organizing meetings, coordinating work with the Council, and managing the business functions.
 9. Appointment of Independent Economic Analysis Board Members: Members will be appointed through a process of nomination, screening by a peer group of economists, and Council verification of independence. Nominations will be solicited through a public announcement of intent to appoint a new member or members. Applications will be screened and ranked by a nominating committee composed of 3 regional economists chosen, if possible, from the Board of Directors of the Pacific Northwest Regional Economic Conference and assisted by the Staff Coordinator. The nominating committee will submit its recommendations to the Council who will make the final selection based on the committee's recommendations and public comment regarding qualifications and perceived independence. **In addition to the candidate(s) recommended to the Council, the nominating committee will also name two alternates so that if a vacancy on the board occurs, the alternate candidates may be considered, in turn, for appointment.**
 10. Length of Board Membership: Independent Economic Analysis Board members will serve four year terms. Terms will be staggered to maintain some continuity to the board at all times. Members may apply and be reappointed to the board through the nomination process.
 11. Chairperson:
 - (A) The Chairperson will be elected by the Independent Economic Analysis Board.
 - (B) The Chairperson may be called upon to report to the Executive Director of the Council on appropriate matters, including the Advisory Committee's progress on the tasks described in Part 3 of this Charter.

- (C) The duties of the Chairperson will include presiding over Independent Economic Analysis Board meetings, ensuring that detailed minutes of such meetings are prepared and submitted to the Executive Director of the Council in a timely manner, and maintaining communication between the Committee and the Council's staff.
 - (D) The Chairperson will certify detailed minutes of meetings of the Independent Economic Analysis Board. The minutes should include a description of matters discussed, conclusions reached, actions taken, persons invited to meet with the Committee, and persons in attendance. The minutes also will include copies of reports received, issued or approved by the Committee. Minutes of meetings will be prepared and released within ten days of the meeting, unless an extension is granted by the Management Officer. The Management Officer will distribute copies of the minutes to members of the Committee and the other interested persons.
 - (E) Small sub-groups of the Independent Economic Analysis Board may be established by the Chairperson of the Committee to undertake particular aspects of the Committee's work. Methods for organizing the work and procedures of the Committee must follow the scope of responsibilities assigned to the Committee by the Council. The work of the staff for the Committee will include making arrangements for Committee meetings, solving logistical problems, and providing clerical services.
12. Vice-Chairperson: A Vice-Chairperson may be appointed by the Independent Economic Analysis Board. The Vice-Chairperson will perform the duties of the Chairperson of the Independent Economic Analysis Board in the absence of the Chairperson, and such other duties as the Chairperson of the Committee may assign.
 13. Policy: The advisory committee policy approved and adopted by the Council on May 17, 1982, as amended from time to time, will apply to the Independent Economic Analysis Board.
 14. Conflict of Interest Guidelines: For the Independent Economic Analysis Board (IEAB) to function effectively, it must maintain its status and credibility as a deliberative scientific board. Members must not only avoid activities that create a conflict of interest, but those activities that may represent a significant appearance of conflict of interest or otherwise impair the credibility or status of the board. In addition, members of the IEAB should not be perceived as having a bias in matters likely to be addressed by the board. Given the controversial nature of many of the questions and issues that the IEAB must deal with, questionable professional or personal activities could easily undermine the effectiveness of the individual members and ultimately the IEAB as a whole. The goal of establishing these conflict of interest and bias guidelines is to maintain the integrity of IEAB opinions. The conflict guidelines are based on a modified from ISAB Terms of Reference August 20, 1996, amended December 2, 2002, and provide consistent policies among the Council's independent scientific review boards (IEAB, ISRP, and ISAB).

(A) Definitions of "Bias" and "Conflict of Interest":

"Bias" relates to views stated or positions taken that are largely intellectually motivated or that arise from the close identification or association with a particular

point of view or the positions or perspectives of a particular group. Such potential sources of bias are not necessarily disqualifying for purposes of IEAB service. Indeed, membership of the IEAB is intended to include individuals with a variety of interests, backgrounds and expertise. However, where bias impairs a member's ability to view matters in a scientific manner and give fair consideration to new information it can jeopardize the member's usefulness to the board.

“Conflict of interest” means any financial or other interest that conflicts with the service of the individual because it 1) impairs the individual's objectivity or 2) could create an unfair competitive advantage for any person or organization. Conflict of interest requirements are objective and prophylactic. They are not an assessment of one's actual behavior or character, one's ability to act objectively despite the conflicting interest, or one's relative insensitivity to particular dollar amounts of specific assets because of one's personal wealth. Conflict of interest requirements are objective standards designed to eliminate certain specific, potentially compromising situations from arising, and thereby to protect the individual, the other members of the IEAB, and the public interest. The individual, the committee, and the IEAB should not be placed in a situation in which others could reasonably question, and perhaps discount or dismiss, the IEAB's work simply because of the existence of conflicting interests.

(B) Examples of Activities that Should Be Avoided:

1) Members should avoid direct involvement in or public endorsement of projects or activities that will likely be subject to IEAB review such as those connected to the Fish and Wildlife Program of the Northwest Power Planning Council. Such involvement would create a conflict of interest that would preclude participation of that member in the review of a project or activity, and could lead to questions regarding the ability of the IEAB as a whole to judge the merits of the subject research objectively or to provide objective scientific advice.

(2) Members should avoid financial relationships with organizations receiving substantial economic benefit from the programs and activities connected to the Fish and Wildlife Program of the Northwest Power Planning Council. Such a relationship could potentially create a conflict of interest, particularly if the IEAB is asked to review the scientific merits of a project being proposed or conducted by the employing organization.

(3) Members, as individuals, should avoid taking public positions on issues related to the Fish and Wildlife Program of the Northwest Power Planning Council. Members should be especially conscientious in ensuring that their opinions as individuals are not perceived or construed to be those of the board or to result from board activities.

(4) Members should to the extent practicable avoid identification as a major advocate for particular scientific, intellectual, or social causes that would give rise to the appearance of undue bias relative to matters likely to come before the board.

(C) Procedures:

(1) The selection criteria for IEAB members are intended to screen out applicants that may have significant real or perceived conflicts or bias. The specific selection criterion used is, "Ability to provide credible advice and analysis that are objective and independent, and widely perceived to be so."

(2) At the beginning of each two-year period following the renewal of the IEAB charter and appointment of four new members, each member of the IEAB will disclose his or her primary areas of activity and business associations. Any potential conflicts of interest or sources of bias will be proclaimed in a regularly scheduled meeting of the IEAB. It is not expected that any serious problems will be identified in this process because potential members are screened for obvious or apparent conflicts during the appointment process.

(3) During the conduct of any IEAB analytical task, members will disclose any potential conflicts of interest or bias they may have with regard to the analysis proposed. If it is clear that an actual or perceived bias or conflict of interest exists for an IEAB member, there are alternative remedies available depending on the nature and extent of the problem.

- The member can recuse him or herself from all deliberations and decisions on matters arising in the course of the review for which that individual has a conflict of interest. The IEAB will include such notification in the minutes of the meeting following such notice and recusal.
- The member can disengage from the outside activity that creates the conflict of interest;
- The member can resign from the IEAB.

15. Estimated Frequency of Committee Meetings: The Chairperson of the Independent Economic Analysis Board, after consultation with the Management Officer, or his designee, will call meetings as necessary. All meetings will be open to the public, unless closed pursuant to 5 U.S.C. §552b(c). Timely notice of meetings, including agendas, will be given. Interested persons may attend Committee meetings and appear before or file statements with the Committee, subject to such reasonable rules as the Committee may prescribe.
16. Reimbursement of Expenses: The Council will reimburse Independent Economic Analysis Board members for their time, as determined by the Council, and travel costs, including per diem in lieu of subsistence in accordance with the Council's travel regulations for contractors and advisory committee members, for the purpose of attending Committee meetings as authorized by 5 U.S.C. §5703. In addition, the Council may contract with Board members or others to carry out specific task assignments. In particular cases, and with Council approval, the Independent Economic Analysis Board may recommend the use of consultants to accomplish an assigned task.

- Duration: The Independent Economic Analysis Board will terminate two years from the filing date of this Charter, unless renewed in accordance with the Federal Advisory Committee Act. All members of the Committee serve at the pleasure of the Council.

This Charter for the Independent Economic Analysis Board was approved and adopted at a duly called meeting of the Pacific Northwest Power and Conservation Planning Council, _____, in _____, _____.

PACIFIC NORTHWEST ELECTRIC POWER
AND CONSERVATION PLANNING COUNCIL

By: _____
Tom Karier, Chair

Date Filed: _____