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March 5, 2013 (updated 3/12/13)

MEMORANDUM

TO: Council Members

FROM: Patty O'Toole, Program Implementation Managers
Tony Grover, Fish and Wildlife Division Director

SUBJECT: Update on Fish and Wildlife Program amendment process and draft announcement and request for recommendations (**Revised, see attachment**)

Under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Northwest Power Act), Congress charged the Council with developing and periodically amending a fish and wildlife program for the Columbia River Basin to protect, mitigate, and enhance fish and wildlife affected by the development and operation of hydroelectric facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. The Council's current Columbia River Basin Fish and Wildlife Program was last amended in 2009.

Consistent with the Northwest Power Act, the Council will need to complete an amendment of its Fish and Wildlife Program prior to the review and revision of the 7th Power Plan. Staff shared the amendment schedule with the Council at the February Council meeting. Based on that schedule, the Council is planning to initiate the Fish and Wildlife Program amendment process in mid April 2013 to provide adequate time for a new program to be adopted prior to the review of the next Power Plan. Please see the attached schedule.

The amendment process formally begins with a letter from the Council to the region requesting submission of recommendations to amend the program. In recent months the Fish and Wildlife Committee has been discussing the content of the recommendations request letter and will be reviewing a draft at the March Fish and Wildlife Committee meeting. The current draft of the letter will be circulated to all Council members on March 5th although a final Council decision to release the letter is not required until the April Council meeting. Any changes to the draft resulting from the Committee discussion at their March meeting will be shared with the Council at the March meeting.

At the April Council meeting staff will request a formal decision by the Council to approve the letter requesting recommendations to amend the 2009 Columbia River Fish and Wildlife Program.

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Request for Recommendations to Amend the Columbia River Basin Fish and Wildlife Program

April xx, 2013 [~~revised~~ draft Mar 12, 2013]

To interested parties:

The Northwest Power and Conservation Council seeks recommendations to amend the Council's [Columbia River Basin Fish and Wildlife Program](#).

To submit a recommendation, please fill out the [online form](#). You will receive a confirmation email after you submit your completed recommendation. The submittal deadline is **5:00 p.m. Pacific time on July 19, 2013**. All recommendations will be made available for public review and comment. News and updates regarding the amendment process will be posted at www.nwcouncil.org/amend.

Legal Background and Requirements for Recommendations

Under the 1980 Pacific Northwest Electric Power Planning and Conservation Act, Congress charged the Council with developing, and periodically amending, a fish and wildlife program for the Columbia River Basin to protect, mitigate and enhance fish and wildlife affected by the development and operation of hydroelectric facilities, while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. The Council adopted the current version of the program in 2009, which consists of the program framework; basinwide objectives and strategies; provisions relevant to the mainstem, estuary, ocean, and subbasins; and implementation guidelines. Also part of the program are the [subbasin plans](#) for nearly than 60 tributaries and mainstem reaches adopted in 2004-05 and 2010-11.

The Act requires the Council to call for recommendations to amend the program at least every five years prior to its review of the power plan.

The Council must begin a program amendment process with a formal request in writing to the region's Indian tribes and state and federal fish and wildlife agencies for recommendations for:

- “measures which can be expected to be implemented by the [Bonneville] Administrator, using authorities under this Act and other laws, and other federal agencies to protect,

mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project on the Columbia River;

- establishing objectives for the development and operation of such projects on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and
- fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.”

The Act also allows recommendations to be submitted by federal and state water management agencies, by the region’s electric power producing agencies and customers, and by the public.

Once the Council calls for recommendations, it must allow at least 90 days to receive recommendations. Parties submitting recommendations may recommend amendments to any part of the Council’s fish and wildlife program. All recommendations must be accompanied by detailed information and data in support of the recommendations. The Council must then act on the recommendations and amend the program within one year of the date set for submittal, July 19, 2013 under procedures and standards specified in the Act. The Council must allow for extensive public review and comment and consultations on the recommendations and on the draft program. An attachment to this letter contains some, but perhaps not all, of the various elements of the present Program on which you may wish to offer recommendations.

After the Council adopts its fish and wildlife program, the Bonneville Power Administration is obligated under the Act to fund fish and wildlife recovery efforts “in a manner consistent with” the Council’s program. All federal agencies operating or regulating Columbia River hydrofacilities have a separate obligation under the Act to exercise their authorities taking into account the Council’s program to the fullest extent practicable.

The Council’s fish and wildlife program will subsequently become part of the Council’s regional power plan. Bonneville has a separate obligation under the Act to acquire sufficient resources consistent with the Council’s power plan not only to meet electricity load demands, but also to assist in meeting the fish and wildlife protection and mitigation requirements in the Council’s fish and wildlife program.

Role of the Fish and Wildlife Program and the Council: A fundamental question recommending parties and others in the region should address is: What is the highest value of the Fish and Wildlife Program given the current policy and legal requirements. The Act, through the Council’s regional planning authority, elevated the importance of fish and wildlife in decisions on the river and used the expertise of fish and wildlife managers to shape a protection, mitigation, and enhancement program that the federal agencies would implement. Today, the program is extensive and multi-dimensional, addressing hydrosystem passage and operations, fish and wildlife habitat protection and restoration, and artificial fish production, non-natives species and anadromous and resident fish and wildlife affected by the hydrosystem.

The Council calls for a regional conversation about the future direction and oversight of the fish and wildlife program. Among many questions are the following: What should be the focus of the program over the next decade? In what way should the Council exercise its responsibilities to maximize policy and program benefits and minimize process costs? In what way can the Council and the regional program be more effective, efficient and streamlined, and generate more value for the resource investment? Whatever your perspective, the Council invites you to inform us on how best to use this unique regional planning and oversight entity in the years to come.

Sincerely,

Chair Signature

Potential Areas for Specific Stakeholder Feedback on the Current Program

In the decade prior to 2009 the program, the Council and the region as a whole focused their efforts on comprehensive planning. By 2009, the focus shifted to implementation and performance. While parties are free to submit recommendations to any part of the program, the Council invites parties to focus particular attention on certain elements:

- **Program Framework and Basinwide Vision, Scientific Principles, Objectives, and Substantive Strategies.** The program framework and most of the basinwide provisions continue to serve the program well, even if some provisions may need review and minimal revisions to update them. Possible exceptions to this general point include:
 - **Basinwide Artificial Production Strategies.** In the 2009 program, the Council promised that it would consider the Hatchery Scientific Review Group's recommendations when complete. The Hatchery Scientific Review Group has completed its review, and recommendations. We invite recommendations related to the report, or to other efforts to reform and evaluate artificial production since 2009. Over the past year, the Council has received extensive presentations from the agencies and tribes that operate hatcheries in the basin. These are being synthesized and will be available on the Council website [*add link*].
 - **Food Web concepts.** Recent scientific reports, especially from the program's Independent Scientific Advisory Board, have emphasized how much the physical changes in the basin have altered the food sources and food webs that fish and wildlife depend on. A fundamental concept in the program is that protecting and improving the habitat conditions that key species depend on will also result, over time, in re-establishing the necessary food sources and food webs. A question for parties making recommendations is how best to integrate food web concepts into the program.
 - **Program/Province Biological Objectives.** Measuring progress is a critical element of the program's focus on performance and implementation. The basinwide qualitative objectives for population performance and environmental conditions serve well for planning purposes, but are not focused on individual species. The Council would like input on how to set goals that will align with our mission to protect, mitigate, and enhance both listed, as well as non-listed, species.
 - **Species focus.** One focus of the program is on rebuilding native species. The Council seeks recommendations on how that native species focus can be improved through changes to the program itself or through its implementation provisions.
 - **Emerging Habitat Issues.** The 2009 program identifies several "emerging habitat issues" for consideration, collaboration and further monitoring. The Council now seeks input from respondents to this solicitation whether there may be other such issues not yet identified, as well as comment upon potential threats to the success of the program arising from all such emerging habitat

issues; and if so, what measures may be appropriate to enhance the long-term success of the program.”

- **Mainstem Plan/Estuary Provisions.** The Council believes the concepts, objectives, and measures in the mainstem plan and in the estuary section of the program remain generally valid; however, two areas may need additional focus:
 - **Mainstem habitat.** Scientific reviews in the 1990s stressed the importance of habitat in the mainstem and lower parts of the major tributaries (e.g., the ISG’s *Return to the River* and the National Academy of Science’s *Upstream*), identifying these mainstem habitat areas as an important key to long-term sustainable success in restoring the basin’s natural productivity and abundance for anadromous fish and key resident fish species. Since 2009, the Council has included provisions on mainstem habitat in the program. The Council now asks whether the region and the program should bring even greater focus to this component, and what options exist for increasing efforts to improve or restore mainstem habitat?
 - **Estuary habitat implementation and evaluation.** In the last five years, the relevant federal, state, and tribal entities and their partners have invested substantial effort and resources in planning, implementing, and evaluating habitat actions in the Columbia River Estuary. The Council seeks insights from this effort that could trigger revisions in the estuary section of the program or in the provisions on research and evaluation.
- **Ocean.** In 2011, the Council pushed for a synthesis of the research on the effects of ocean conditions on the survival, abundance, and productivity of Columbia River anadromous fish. The Council also recently facilitated a forum on ocean science to help the region understand how ocean strategies can be translated into actions taken in the freshwater areas of the basin and to understand what critical uncertainties and influences we still need to focus on with regard to the ocean. Parties submitting recommendations may want to consider whether the provisions in the ocean section should be updated, and whether the current set of strategies, objectives, measures, and actions are optimal.
- **Subbasin Plans.** The Council continues to rely on subbasin plans as a basis for implementing the offsite mitigation elements of the program. The Council encourages parties to use the subbasin plans as they shape their recommendations. Recommending parties may submit proposed revisions or updates to the subbasin plans to align them with planning developments in the last decade. Such recommendations should be accompanied by information linking revised management objectives or measures to the original or revised technical assessment. Recommending entities may also wish to address recovery plans for listed species, either as replacements for, or as supplements to, the subbasin plans. In addition, as noted in the current program, subbasin plans are a logical vehicle for addressing adverse effects of emerging habitat issues.
- **Monitoring, Evaluation, Reporting, Research and Data Management.** Parties making recommendations should consider whether the program’s provisions on monitoring and evaluation and related matters should be revised in light of these developments:

- **Guidance for monitoring activities, research efforts and for information management, evaluation, and reporting.** Under the directive of the 2009 program, Council staff and program partners have strived for a balanced and coordinated regional approach to monitoring and evaluation. Recommending parties should consider how [these concepts](#) may be appropriately included in the program.
 - **Council's comprehensive review of the program's monitoring and evaluation projects.** The Council's [final decision](#) in 2011 included considerations for reporting, overall project and program evaluation, a comprehensive approach to evaluating the effectiveness of habitat work, and a comprehensive approach to evaluating the cumulative effects of artificial production. The Council seeks advice on whether and how the program's provisions should be revised or supplemented along these lines.
 - **Evaluating habitat change and population response: Developments in habitat effectiveness monitoring and evaluation.** Along with the Council, federal agencies and other regional partners are now engaged in a large-scale effort to standardize and expand the scope of our efforts to monitor and evaluate habitat actions (e.g., the CHaMP and related projects). The Council invites recommendations for changes to enhance the effectiveness of monitoring and evaluation provisions of the program that address habitat change and effects.
 - **Fish Tagging Forum.** The Council-chartered Fish Tagging Forum expects to make recommendations to the Council before July 2013. Is there a need to clarify the program's provisions relating to the use of fish tags?
 - **Research plan.** The Council intends to update its 2006 research plan (see the [research plan documents](#)) to identify critical uncertainties which need further research. Council seeks advice from recommending parties on critical uncertainties that may merit further study in order to improve program design and overall effectiveness of fish and wildlife habitat and resource management, and on inclusion of all or part of the updated plan in the program.
- [The Independent Scientific Advisory Board issued its *Review of the 2009 Columbia River Basin Fish and Wildlife Program* on March 7, 2013. This report contains three major sections: 1\) the Fish and Wildlife Program as Adaptive Management; 2\) the Current Status of the Fish and Wildlife Program; and 3\) Moving Forward. This report is available as a resource as you develop your recommendations for the amendment process. The report can be found at: <http://www.nwcouncil.org/fw/isab/isab2013-1/>.](#)