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December 4, 2018

MEMORANDUM

TO: Council Members

FROM: Staff

SUBJECT: Briefing on Fish and Wildlife amendment process

BACKGROUND:

Presenter: Staff

Summary: Staff will brief the Council on the amendment process.

Relevance: The Council called for recommendations to amend its Columbia River Fish and Wildlife Program in May of this year. Recommendations are due on December 13th, 2018, two days after the Committee meeting.

The staff will brief the Council members on three areas related to the program amendment process: 1) the process to develop draft amendments, 2) initial key tasks and, and 3) timing of work. The briefing will focus on the first item, the process to develop draft amendments.

I. Process to develop draft amendments

General process:

The recommendations for amending the Columbia River Basin Fish and Wildlife Program are due just after the December Council meeting, on **December 13**. This is immediately followed by a comment period on the recommendations, both of which are the basis of the amendments to the program. Soon after, the Committee and Council will begin working through the recommendations and the comments on the

recommendations, and drafting amendments. The following discussion outlines how the staff recommends the Council complete this work.

In general, during amendment processes, the Council dedicates a portion of the Council meetings to amendment tasks. Depending on the task and the stage of the process, this generally requires anywhere from a few hours to several full days of meeting time for members and staff. In past amendment processes, the work to amend the Program was usually performed by the *full Council*, in public work sessions. Most recently in 2014, the Council's Fish and Wildlife *Committee* performed the bulk of the review and discussion and drafted many of the amendments. For the 2018/2019 amendment process, the chairs of the Council and the Fish and Wildlife Committee are supportive of the Committee performing the initial work of developing the draft Program. The decisions to release the draft amendments and to adopt the final Program must be made by the full Council.

Under Section 4(h)(5) of the Act, the Council must decide on amendments to the fish and wildlife Program based on:

- the recommendations,
- the comments on the recommendations, and
- consultations on the recommendations.

The Council adds the step of preparing a public review draft, thus the Council must also base their decision for the adoption of the final Program on:

- comments,
- public hearings, and
- consultations on the draft Program.

The full Council must make its decisions with appropriate consideration of the full administrative record (i.e. the bullets above) and not solely on the recommendation of the Fish and Wildlife Committee. Thus, adequate time must be provided for additional review and deliberation by the full Council after the Committee has completed its review.

Preparing draft amendments will impact Committee business from January through July of 2019 and will impact the full Council at various times throughout the year, with focused attention estimated to begin in August.

Detailed process:

Described below are more detailed steps for how draft Program amendments will be developed by the Fish and Wildlife Committee and reviewed and discussed by the full Council prior to any decision.

- A. For this process, the Committee will dedicate a portion of the regular meetings to amendment tasks. Depending on the task and the stage of the process, this generally requires anywhere from a few hours to several full days of meeting time per month for members and staff. These are referred to as *work sessions* and are

noticed and open to the public. As needed, specially-scheduled work sessions may be held either in person or via webinar to stay on schedule.

- B. The *purpose* of each work session of the program amendment process is for the Committee members and staff to work together in public systematically through the recommendations received, the comments on the recommendations, and issues, and to consider draft amendments to the program language.
- C. These work sessions are highly interactive and will be informed through work products such as *summaries or syntheses* of the recommendations received, *topic issue papers* of various program components, policy options and *draft program language*. Staff work products will be provided in advance of each work session, though in some instances may be updated through the course of a work session day or even overnight.
- D. As the Committee members develop draft amendments, they should provide regular briefings to the Power Committee members and seek their input. Concurrently, the staff will provide periodic updates to the full Council.
- E. Prior to the release of the draft program the Committee may decide to share all, a portion, or none of the *staff work products* and developing draft language with the public. Even though the Committee will do its work in public, sharing this information is not required and may not always be practical. Staff work products will rapidly evolve through conversations with the Committee, thus sharing these work products is not always helpful because they can change several times in a single work session. Staff will inquire as to the Committee's wishes about this at the appropriate time.
- F. The *duration* of each work session will depend on the needs at each stage of the process. This could range from a couple of hours to a full day or more.
- G. Committee members may attempt to reach *informal agreement* on issues presented during these work sessions at the appropriate times. This can be a simple head nod or indication of agreement on each section of the program as it is drafted. If informal agreement cannot be reached, or if more discussion is necessary on a particular topic, the Committee chair may choose to send that topic to a delegated set of members and staff for additional consideration and recommendation back to the Committee.
- H. Once the Committee has completed its work (a few months are allocated for this) the Committee will forward to the full Council draft amendments that may contain program areas of consensus and areas where consensus was not reached in the Committee. The decision to release the draft amendments will be made by the full Council.
- I. Staff recommends that *formal voting* be reserved for: 1) the Council decision to release the draft program for public review, and 2) the decision to adopt the final program.

- J. Staff suggests that a portion of each Committee and Council meeting be reserved for receiving *feedback from the public*. This could be accomplished through formal public comment at the end of the work session, through interaction with the public during the work session, and through informal discussions between Council members and members of the public after the work session.
- K. All program-related communications and documents relevant to amending the program need to be submitted to the *administrative record* and periodically will be circulated to all Council members and staff.

II. Key initial tasks

Post the recommendations and open public comment: After the December 13 deadline, the recommendations will be made available on the Council's website and a public comment period on the recommendations will occur through early February. An email notice will alert interested parties in the region about the comment period.

Read and organize the recommendations and comments: Once the recommendations are available, staff and Council members should take the time to read all the recommendations. Staff will work to organize the recommendations, probably by major topics, to allow for identification of key Program issues. Any comments received on the recommendations will also be organized in this manner.

Decide scope of amendment: The Council suggested in the request for recommendations, that *the amendment process could be used to focus and make progress on a few key issues rather than revise all the Program elements*. Accordingly, the Council posed some questions for the reader to consider as they develop their recommendations. Following the comment period, the Committee and staff will work together to confirm that an amendment process focused on a handful of key issues is still appropriate and to identify those key issues and update the full Council accordingly.

III. Timing of work

Staff circulated a draft planning calendar to members and staff in late November. Staff will review this calendar with the members at the December meeting if time allows.