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April 7, 2020

MEMORANDUM

TO: Council Members

FROM: John Shurts

SUBJECT: Brief discussion of Columbia River System Operations Draft Environmental Impact Statement

At the April Council meeting we have scheduled an agenda item for a brief discussion of the federal agencies' Columbia River System Operations Draft Environmental Impact Statement. Staff recommended not submitting a public comment, and scheduled instead this brief discussion with the Council members to make a few general observations about the NEPA process and DEIS and its relationship to the Council's fish and wildlife and power planning work under the Northwest Power Act. Even as a short item, we will have all three of us – myself and Patty O'Toole and Ben Kujala – make some brief comments.

The main point we want to make is an obvious one: We recognize circumstances drove the federal agencies under NEPA to produce a system-wide environmental analysis of a set of alternatives for operations and mitigation actions especially focused on salmon and steelhead listed under the federal Endangered Species Act and the power system impacts to the hydrosystem with regard to these alternatives. The agencies have produced a substantial amount of useful information under these circumstances that will help the agencies and others make follow-on decisions, especially under the federal ESA. At the same time, the DEIS is not a fish and wildlife program nor a regional power plan for adding new resources to the region's power system. And the NEPA process and follow-on decisions do not substitute for the planning and actions required under the Northwest Power Act, including the responsibilities of the Council with regard to the fish and wildlife program and power planning under the Act, and the responsibilities and obligations of the federal agencies towards those plans and programs under the Act.

With regard to fish and wildlife, the DEIS recognizes that the Northwest Power Act and the program under that Act to protect, mitigate and enhance all fish and wildlife adversely affected by the development and operation of the Columbia Basin hydroelectric facilities are a foundation underneath any and all alternatives. The DEIS contains a few general references to the *Council's* Fish and Wildlife Program, and to the federal agencies' responsibilities to that program, but there are few specific references or program details in the description or analysis of the alternatives. Virtually the only specific program details or references mentioned involve wildlife land acquisitions in Montana and the reservoir operations at Hungry Horse and Libby dams that originated in the 2003 Mainstem Amendments. On the other hand, the DEIS is replete with plenty of both general and detailed references to *Bonneville's* fish and wildlife program and to the fact of Bonneville implementing fish and wildlife protection and mitigation measures, with little or no mention of the relationship of Bonneville's implementation to the Council's Fish and Wildlife Program under the Act, nor to Council and ISRP's science and project review functions under the Section 4(h)(10)(D) amendment to the Northwest Power Act. This need not be a problem, so long as the federal agencies and others remember that the DEIS itself, including the preferred alternative and the "Biological Assessment" developed in Appendix V to reflect that alternative, is not a fish and wildlife program by itself, it is not developed and implemented under the Northwest Power Act, and it is not a substitute for that program and for ongoing project review under the Act.

The situation is a little different on the power side, as the DEIS makes use of a substantial amount of detailed information from the Council's 7th Power Plan, recent resource adequacy assessments, and other power system analyses and information. This is all good - the Council appreciates the recognition of the value of the Council's independent information and analyses of these power system matters. At the same time the Council staff has been making clear to others that the actual analysis and conclusions in the DEIS about the effects of various alternatives on the power system, including the costs and effects of replacing lost resources with new generation, were not performed by the Council and have not been reviewed by the Council staff. Also, the analysis that has been performed for the DEIS is not to the same extent as the power plan and the new resource power planning exercise that the Council engages in under the Northwest Power Act. And, the information used in the power system analyses for the DEIS may not be the most up-to-date in terms of matters such as the latest schedule for coal plant retirements in the west and the costs and amounts of replacement energy and capacity. The Council will be updating that information and performing the relevant new resource assessment in the 2021 Power Plan.