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Dick Wallace
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Melinda S. Eden
Oregon

Joan M. Dukes
Oregon

December 1, 2010

DECISION MEMORANDUM

TO: Council Members

FROM: Peter Paquet, Manager Wildlife & Resident Fish

SUBJECT: Approval of Wildlife Crediting Forum Advisory Committee Charter

PROPOSED ACTION: Extend the charter for the Wildlife Crediting Forum for 90 days.

SIGNIFICANCE: The Council's 2009 Fish and Wildlife Program calls for the establishment of the wildlife crediting forum to address a number of long-standing issues related to the crediting of wildlife mitigation activities funded by the Bonneville Power Administration. In August of 2009, the Council approved the charter for the Wildlife Crediting Forum and the Forum began meeting in January, 2010. The current charter will expire at the end of this month.

BUDGETARY/ECONOMIC IMPACTS: Staff estimates that continued contracting for facilitation of the Wildlife Crediting forum will cost between \$10,000 and \$15,000.

BACKGROUND: The Council chartered the Forum to provide advice on the crediting and accounting of wildlife habitat mitigation associated with the construction and inundation impacts of the Federal Columbia River Power System (FCRPS). The Forum consists of wildlife program managers representing tribes (14 in all) and state fish and game departments (Oregon, Washington, Idaho) impacted by FCRPS, the U.S. Fish and Wildlife Service (USFWS), and representatives from the Bonneville Power Administration (BPA) and BPA Customers. The State of Montana is not a participant as wildlife mitigation issues relating to FCRPS have been settled by prior agreement between BPA and the state.

The instructions to the Forum were to make recommendations regarding the NPCC Wildlife Crediting Program (Program) with respect to:

- Developing a commonly accepted "ledger" of habitat units acquired by BPA

- Developing a common database for tracking, assigning and recording habitat units
- Resolving issues about accounting for habitat units
- Other issues related to wildlife crediting, including the use of Habitat Evaluation Procedures (HEP) or alternative evaluation procedures

The charter also allowed for the development of strategies that will allow the parties to achieve long-term agreements.

The Forum has met seven times since January, 2010 to address Program issues. The Forum has also convened three sub-committees to date to discuss specific issues (credits for fish projects, Federal lands, and general ledger issues)

At the May, 2010 Forum meeting, the Forum discussed the difficulty of coming to collective agreement on all issues posed by NPCC. Program crediting issues were found to differ depending on geographic area, specific hydropower projects, and the entities involved in specific crediting decisions. The methodologies involved in crediting decisions have also changed and evolved over time, been interpreted and applied in differing ways, and in some cases crediting has been resolved through individual project agreements. Reflecting on these factors, the Forum felt that the many technical and recordkeeping issues with the ledger, overlaid with unresolved policy issues, would make full resolution at the Forum level difficult, and discussed the possibility of “agreements” as a more effective means of resolution. At the same time, the Forum indicated that the technical analysis of the ledger should continue to help resolve or make clear as many outstanding issues as possible. A considerable effort in this regard has been undertaken over the last several months.

The Forum met in June and July to continue this discussion. A status report was also provided to NPCC in July. In July, the Forum directed that a summary report be prepared that reviewed and documented the key issues taken up by the Forum. In September, the Forum considered an initial draft of this report, and directed a series of changes and additions be made for its meeting in November 2010 (subsequently re-scheduled to December, 2010). The Forum also directed that expanded technical analysis and “sorting” of existing mitigation credits be undertaken at a finer scale and summarized in varying ways (such as by reporting data sorted by possible settlement areas). This task has required a great deal of effort as a number of accounting discrepancies were discovered in various data sets. The forum will review and discuss this material at its December meeting.

In August 2010, a preliminary set of wildlife mitigation settlement “principles” was announced for the Willamette Sub-basin region of the FCRPS. The agreement is between BPA and the State of Oregon. The Forum heard a presentation on the Willamette Settlement from NPCC staff, and BPA and Oregon representatives, at its September 2010 meeting. In late October, 2010 the Willamette Settlement was executed. This required updating the ledger to remove the remaining Willamette habitat units.

ANALYSIS: Council staff believes that the forum is continuing to make progress in the development of a common ledger and set of guidelines that can serve as a basis for negotiated

agreements. Although there are several issues remaining that need more discussion before they can be resolved, staff believes that an additional 90 days should be sufficient time to address these issues and provide a report and recommendation to the Council by April, 2011.

ALTERNATIVES: The Forum could continue as an ad-hoc organization. As such, however, it would have no contact point or staff and facilities support that the Council can provide.

ATTACHMENTS: Charter of the Wildlife Crediting Forum

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PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

CHARTER OF THE WILDLIFE CREDITING FORUM

1. Official Designation: This Forum will be known as the Pacific Northwest Electric Power and Conservation Planning Council's Wildlife Crediting Forum.
2. Background: In the 2009 Fish and Wildlife Program, the Council called for the initiation of a Wildlife Mitigation Crediting Forum to: “1) recommend a commonly accepted ledger of habitat units acquired; 2) recommend to the Council ways to resolve issues about accounting for habitat units; and 3) develop a common data base for tracking, assigning and recording habitat units.” In addition, “[a]s part of the crediting forum, the Council will work with Bonneville and the managers to develop a comprehensive agreement on the proper crediting method for construction and inundation losses or strategies that will allow parties to reach long-term settlement agreements. Once completed, the Council will consider adopting the comprehensive agreement into the Program.”
3. Objectives and Scope of Activity: The Wildlife Crediting Forum will advise the Council regarding the following issues. Activities of the Forum will include:
 - (A) Developing and recommending to the Council a commonly accepted ledger of habitat units acquired by the Bonneville Power Administration.
 - (B) Recommendations to the Council on ways to resolve issues about accounting for habitat units.
 - (C) Developing a common data base for tracking, assigning and recording habitat units.
 - (D) Reviewing and issues related to wildlife crediting, such as the frequency and use of the Habitat Evaluation Procedure following the initial baseline evaluation. The forum could also provide recommendations on acceptable alternative evaluation procedures.
4. Official to Whom the Wildlife Crediting Forum Reports: The Wildlife Crediting Forum will report to the Executive Director of the Council.
5. Authority of the Forum: The Wildlife Crediting Forum will serve in an advisory capacity only. Neither the Forum nor its members are authorized to make statements or commitments on behalf of the Council. Forum members will not be considered to be members of the Council staff.

6. Estimated Annual Operating Costs in Dollars and Person-Years: \$25,000 to \$30,000 and one staff month.
7. Forum Management Officer: The Forum Management Officer ("Management Officer") for the Wildlife Crediting Forum will be the Director of the Council's Division of Fish and Wildlife. The Management Officer will designate members of the Council's staff to coordinate and attend meetings of the Forum.
8. Chair:
 - (A) The Chair of the Wildlife Crediting Forum will be appointed by the Chairman of the Council, with the concurrence of the Council members, and will serve at the pleasure of the Council.
 - (B) The Chair may be called upon to report to the Executive Director of the Council on appropriate matters, including the Wildlife Crediting Forum's progress on the tasks described in Part 3 of this Charter.
 - (C) The duties of the Chair will include presiding over the Wildlife Crediting Forum 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 Forum and the Council's staff.
 - (D) The Chair will certify detailed minutes of meetings of the Wildlife Crediting Forum. The minutes should include a complete and accurate description of matters discussed, conclusions reached, actions taken, persons invited to meet with the Forum, and persons in attendance. The minutes also will include copies of reports received, issued or approved by the Forum. 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 Forum and the other interested persons.
 - (E) Sub-groups of the Wildlife Crediting Forum may be established by the Chair of the Forum to undertake particular aspects of the Forum's work. Methods for organizing the work and procedures of the Forum must follow the scope of responsibilities assigned to the Forum by the Council. The work of the staff for the Forum will include making arrangements for Forum meetings, solving logistical problems, and providing clerical services.
9. Vice-Chair: A Vice-Chair of the Wildlife Crediting Forum may be appointed by the Chairman of the Council, with the concurrence of the Council members, and will serve at the pleasure of the Council. The Vice-Chair will perform the duties of the Chair of the Forum in the absence of that Chair, and such other duties as the Chair of the Forum may assign.

10. Rules: The Advisory Committee rules approved and adopted by the Council on March 17, 1982, as amended from time to time, will apply to the Wildlife Crediting Forum.
11. Estimated Frequency of Forum Meetings: The Chair of the Wildlife Crediting Forum, after consultation with the Management Officer, or his designee, will call meetings as necessary. The estimated frequency of meetings is monthly. 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 made. Interested persons may attend Forum meetings and appear before or file statements with the Forum, subject to such reasonable rules as the Council may prescribe.
12. Duration: The Wildlife Crediting Forum will terminate one year from the filing date of this Charter, unless renewed in accordance with the Federal Advisory Committee Act. All Members of the Forum serve at the pleasure of the Council.

This Charter for the Wildlife Crediting Forum was approved and adopted at a duly called meeting of the Pacific Northwest Power and Conservation Planning Council, August 12, 2009 at Spokane, Washington.

PACIFIC NORTHWEST ELECTRIC POWER
AND CONSERVATION PLANNING COUNCIL

By: _____
Bruce A. Measure, Chair

Date Filed: _____