



December 7, 2004

Ms. Judi Danielson, Chair
Northwest Power and Conservation Council
851 S.W. Sixth Ave Suite 1100
Portland, Oregon 97204

RE: Request for Additional Comment on Issues Related to the Program Amendment Processes

Dear Ms. Danielson,

Thank you for the opportunity to comment on the development of the Columbia River Basin Fish and Wildlife Program (Program) and the Northwest Power and Conservation Council's (Council) process for adoption of subbasin plans. We are responding to Steve Crow's letter of October 22, 2004 requesting additional comment on several issues and topics raised during the subbasin planning amendment process (see specific comments in Attachment 1). This letter does not address the question of whether certain subbasin plans should be adopted by the Council. This issue will be addressed by CBFWA's members individually. The fish and wildlife managers intend to work with the Council as you move forward in developing the next iteration of the complete fish and wildlife program.

The region has invested a large amount of resources in time, funding (both direct and contributed), and good will toward making the subbasin planning effort successful. The subbasin plans have generally accomplished several important tasks:

1. assessments and descriptions of the habitat needs within each subbasin,
2. coordination with local stakeholders and decision makers and an appeal for local involvement in fish and wildlife recovery and protection, and
3. a basis for a decision making infrastructure that includes local participation in proposing and prioritizing habitat actions within the subbasins.

Understandably, the expectations of the local groups have turned toward proceeding in a plausible way to implementation. However, subbasin plans are only one step in defining a Program that is consistent with the Northwest Power Act. The subbasin plans do not, and were not intended to, address regional and provincial issues critical to the Program including consistency with regional goals and ESA needs, mainstem passage, data and information management, monitoring and evaluation requirements at the provincial and regional scale, regional research needs, regional coordination issues, long term support for past investments, and regional/provincial budget allocation and prioritization. Consistent with the Council's direction, most of the subbasin plans do not contain measures as required by the Northwest Power Act.

We look forward to working with the Council to develop an approach to adopt a Program that is an integrated synthesis of the parts. One of these parts is a decision making framework that:

2501 S.W. First Avenue
Suite 200
Portland, Oregon 97201

PHONE 503 / 229-0191
FAX 503 / 229-0443
www.cbfff.org

COORDINATING AND PROMOTING EFFECTIVE PROTECTION AND RESTORATION
OF FISH, WILDLIFE AND THEIR HABITAT IN THE COLUMBIA RIVER BASIN

1. identifies both the short and long term goals and objectives for the Program at regional, provincial, and subbasin scales,
2. sizes and allocates resources among the Program areas and among the ecological provinces to achieve those objectives,
3. provides a mechanism for establishing a Program-wide monitoring and evaluation plan that ties subbasin plans with region-wide goals, objectives and accomplishments, and
4. defines a comprehensive, integrated project selection process.

We anticipate working closely with the Council to develop this approach. For discussion purposes, we have attached a draft describing an example of such a framework in concept (see Attachment 2).

We believe our recommended approach identifies a necessary step to define a complete and comprehensive Program. We look forward to working with you in this effort.

Sincerely,



Gary Aitken, Sr. Co-Chairman
Columbia Basin Fish and Wildlife Authority

cc: CBFWA Members & MMG
Bill Maslen and Greg Delwiche, BPA
Council Members
Doug Marker, Council
Jerry Leone, PPC

Attachment 1: CBFWA response to specific issues identified in October 22, 2004 letter from Steve Crow:

A. Level of specificity in the subbasin plans – some comments encourage the addition of more specific implementation plans or more specific implementation actions to the subbasin plans

At this time, we do not believe that the strategies identified in the subbasin plans are either complete enough for all subbasins, or consistent enough among subbasins, to adequately provide guidance for equitable project selection throughout the Program.

In the “Nested Decision Framework” (see Attachment 2), we describe a decision making framework that would guide and develop actions necessary to meet the goals and objectives of the Program. The decision making framework would clearly describe how subbasin plans will be used in setting priorities for actions within individual subbasins and prescribe a process for updating and improving subbasin plans over time.

B. “Roll Up” – The relationship of subbasin plans to province or ESU objectives, to the basinwide biological objectives in the Council’s Program, and to related matters of prioritization/allocation between subbasin plans

The “roll up” question needs to define biological objectives at the provincial and species levels. The roll-up also needs to address integration issues across all Hs, such as those associated with the use of artificial propagation and out of subbasin effects. We also see a strong need to identify benchmarks against which to measure Program accomplishments over the next five, 10, and 20 years. This would enhance efforts to “size” the Program, or determine what level of funding may be necessary.

Another level of roll up is a definition of a decision making process that provides how allocation will occur among specific types of projects described in the Program. We believe the attached decision making framework can assist with this roll up.

C. Project review and recommendation process

As we learned in the last Rolling Province Review process, if guidelines are not developed prior to engaging in project selection, and adhered to during the process, equity and effectiveness across the region can be severely compromised. We stand ready to work with the Council in developing this decision making framework.

D. Relationship to recovery planning under the federal Endangered Species Act

The Northwest Power Act states that the Council “*shall include measures which it determines will complement the existing and future activities of the Federal and the region’s State fish and wildlife agencies and appropriate Indian tribes.*” In the 2000 Fish and Wildlife Program, the Council stated that it would require “*subbasin plans to demonstrate their relationship to the Endangered Species Act and Clean Water Act requirements.*”

We also note that section 4(f) of the Endangered Species Act defines the elements of a recovery plan as including to the maximum extent practicable:

- A description of site-specific management actions as may be necessary to achieve the plan's goals
- Objective, measurable criteria which would result in a determination that the species be removed from the list
- Estimates of the time and cost needed to carry out the measures called for in the plan

Developing this information for each subbasin will address shortcomings in the existing plans.

E. Improving subbasin plans – the “living document”

Progress toward meeting goals will vary between subbasins, strategies (both within and between subbasins), and at aggregated spatial scales. An adaptive management approach must be flexible enough to accommodate these variable and unpredictable needs for modification. The challenge is to maintain transparency, scientific integrity, and flexibility in whatever process is used. We believe the nested framework attached is a good foundation from which a specific process can be developed. The resource managers will work with the Council to accomplish this in a timely manner.

Attachment 2: CBFWA Proposed Decision Making Framework

Nested Decision Framework For the Long Term Implementation of the Fish and Wildlife Program

As one element of an integrated Program, the fish and wildlife managers envision a “Nested Decision Framework” that would fully describe areas of implementation within the Program and cover biological objectives, scope and pace of actions, allocation and prioritization of resources, reporting of accomplishments, and coordination of the Program as a fully unified and integrated implementation plan.

This decision framework should be developed through collaborative efforts between the Council, the fish and wildlife managers, BPA, the Regional Coordination Group (RCG), and other stakeholders, at workshops and facilitated meetings consistent with the Northwest Power Act program amendment process. The fish and wildlife managers envision one complete document that addresses subbasin plan amendments to the 2000 Fish and Wildlife Program, subbasin plan implementation (project selection process), 2006-2010 BPA Rate Case negotiations, and the Council/BPA Memorandum of Agreement (MOA) for implementation of the Program.

Regional Level Decisions

The fish and wildlife managers recommend that a regional level decision framework be established to organize the Program. Decisions at the regional level may include allocation of resources: 1) between project categories, 2) across provinces and/or subbasins, or 3) across focus areas (i.e., 2000 Program goal of 70% anadromous fish, 15% resident fish and 15% wildlife, or BPA’s draft MOA proposed 70% on-the-ground, 5% coordination and 25% RM&E categories). Allocation of resources across these categories should occur through collaborative negotiations based on clearly stated objectives. General planning principles such as equity, proportionality, and addressing unmet needs should be applied to assign a percentage allocation of the total Program to each of the categories. In this way, a regional level planning strategy would be developed.

The fish and wildlife managers support pre-implementation planning by defining allocation targets. For example, since total funding of the Program post 2006 has not been determined, it may be easier to allocate a percentage of the Program to each category. By reviewing expenditures within each category, and comparing that with the projected allocation, this effort would assist in sizing the total Program funding, as well. Whatever the decision, it is imperative that funding be allocated to categories prior to solicitation so that project sponsors know precisely what the level of available funding is for new and ongoing projects.

Nested Decisions within Categories

For specific categories, a clear and concise decision making framework should be developed. The key information for organizing information within the categories should include: 1) description of the category and its general purpose for the Program including a list of types of projects that fall into this category; 2) clearly stated objectives for the actions contemplated in the category; 3) a general statement of measures or actions necessary to meet the stated objectives; 4) a project selection process with clearly stated criteria for evaluating projects including

identification of guidance documents (i.e., subbasin plans, research plan, etc.); 5) a set of common analytic procedures and tools to evaluate potential and actual movement toward the objectives, and 6) a method for reporting the success or failure of implementing this category.

1. **Category description:** The projects within the current Program can be relatively easily combined into discrete categories. While all of the projects are interlinked and very few actions can be taken without affecting others, for funding and administrative management purposes compartmentalization provides a mechanism for managing this large and complex Program.
2. **Measurable objectives:** Using the subbasin plans and other available documents, the region should develop clearly articulated objectives for each category. These objectives could be defined biologically, socially and legally, and should be developed at three scales – region, province, and subbasin.
3. **Proposed measures to meet the proposed objectives:** This category could express specific measures that should be pursued in order to achieve the stated objectives. These measures may include general statements or specific projects, depending on the need and the knowledge within each category. These measures should also be developed collaboratively with the fish and wildlife managers to help focus implementation of the Program and solicitation of projects on the highest priority actions for the benefit of fish and wildlife populations.
4. **Project selection process:** The fish and wildlife managers envision defining a discrete project selection process for each category; however, several category processes may proceed in parallel. A key factor in describing a project selection process is defining the roles and responsibilities of each of the participants in the process. The framework should contain questions to determine the adequacy of the planning documents in meeting certain needs. A project selection process should not be undertaken until the full context of that process within the whole Program can be determined.

Also, by clearly defining the decision making process for the Program, we can insure efficient use of all participants' time and resources. A Rolling Province Review may be a much more focused and discrete project selection process than the previous iteration, if a more developed regional review occurs concurrently for the projects that will not be guided by subbasin plans alone. These impacts could change the landscape of project selection for the next round of reviews. Finally, project selection should be based on principles such as best available science, long term benefits, past project performance, and strategies prioritized in subbasin plans.

5. **Reporting accomplishments:** Within each category, a high level monitoring and evaluation strategy should be devised to measure and report accomplishments toward stated objectives. This report should include quantified measures of progress.

The fish and wildlife managers do not support proceeding with a project selection process until the decision framework has been outlined in the Program.

Nested Decisions Geographically

The decision framework should also address the geographic distribution of resources and should be developed in concert with subbasin plan implementation. A province level project selection process is described in great detail in the 2000 Fish and Wildlife Program. The first Rolling Province Review process was generally very successful in project selection. However, many limitations of the first Rolling Province Review can be attributed to lack of pre-implementation planning. The fish and wildlife managers support the process described in the 2000 Fish and Wildlife Program, if the funding levels for each province or subbasin is identified ahead of time and if the specific roles of participants are clearly identified prior to implementation.

The provinces should include the Mountain Columbia, Intermountain, Columbia Cascade, Columbia Plateau North, Columbia Plateau South, Blue Mountain, Mountain Snake, Middle and Upper Snake, Columbia Gorge, Lower Columbia, and Columbia Estuary.

Subbasin plans obviously will prioritize activities at the subbasin level; however, some guidance will be required to focus expenditure of BPA funds (and other funding sources) at actions that will add up to a coordinated regional implementation plan. Also, if subbasin plans are unable to prioritize actions, additional planning efforts may become the highest priority within a subbasin.

Conclusion

The fish and wildlife managers are prepared to engage with very specific detail for this proposed "Nested Decision Framework." We wish to make it very clear that these are decisions that require collaboration by other regional entities, and therefore, we do not wish to prejudice our comments and input into the Council decision making effort by implying that there is not more than one way to accomplish this. We strongly encourage the Council to reach out and work with the regional groups (CBFWA, RCG, etc.) to complete the whole Program planning process within the existing subbasin plan adoption schedule.

Judi Danielson
Chair
Idaho
Jim Kempton
Idaho
Frank L. Cassidy Jr.
"Larry"
Washington
Tom Karier
Washington



Melinda S. Eden
Vice-Chair
Oregon
Gene Derfler
Oregon
Ed Bartlett
Montana
John Hines
Montana

October 22, 2004

Dear Interested Parties:

On October 13, 2004, the Council decided to release a set of 29 subbasin plan recommendations for public review and comment as draft amendments to the Council's *Columbia River Basin Fish and Wildlife Program*. On October 18, 2004, the Council issued a Notice of Opportunity to Comment on those draft subbasin plan amendments.

This letter is to invite additional comment on several issues or topics raised during the amendment process to date that relate more generally to subbasin planning and fish and wildlife program amendment processes. Specifically, the purpose of the letter is to initiate a subbasin planning dialogue related to issues variously addressed in terms of: 1) subbasin implementation specificity; 2) subbasin "roll-up" as related to basinwide fish and wildlife objectives; 3) project selection/prioritization; 4) recovery planning under the federal Endangered Species Act; and 5) adopting and then updating the management plan components of subbasin plans into the program. The Council is inviting views and comments from as broad a range of regional interests as possible on these matters.

Background and Context for this Issue Paper and Invitation for Comment

By May 28, 2004, 59 subbasin plan documents were submitted to the Council as recommended amendments to the fish and wildlife program. As required by the Northwest Power Act, the Council made these recommendations available for public review and comment and began to seek the views and information on the subbasin plan recommendations from regional interests. As the amendment record developed through the middle of October 2004, comments submitted were in two categories -- comments related directly to the adequacy of particular proposed subbasin plans, and comments about the subbasin planning and fish and wildlife program amendment processes generally.

The Council seeks to more fully develop the regional dialogue on that second category of comments addressing broader issues as part of this fish and wildlife program amendment process. The Council is not at this time committing to resolve any of the following issues within the current fish and wildlife program amendment proceeding that it formally initiated in August 2002, or alter the schedule the Council released on October 18, 2004, for adopting final subbasin plan amendments. The Council believes that additional regional dialogue is needed before it can make a decision on the appropriate substantive and procedural treatment of these issues, and is committed to the timely adoption of the subbasin plan recommendations it has received.

Issues for Comment

A. Level of specificity in the subbasin plans -- some comments encourage the addition of more specific implementation plans or more specific implementation actions to the subbasin plans.

This is an issue about the level of specificity of the actions included in the subbasin plans and the program. Several of the comments couch the issue in a legal position about the definition of the term “measures” as used in section 4(h) of the Power Act. The term “measures” is not specifically defined by the Act or the adopted fish and wildlife program. Some comments question if the objectives, strategies and other provisions currently included in the subbasin plans are adequate to serve as the “measures” for the fish and wildlife program as envisioned in the act.

The Council is not inviting a legal debate over the definition of the term “measures.” However, it is clear that the issue is raised out of a desire to ensure that subbasin plans well serve their fundamental function of guiding the allocation of Bonneville resources to the most biologically and cost-effective activities, and it is right to focus more attention on these matters.

At this point in time, and with careful consideration as to how the next project review and recommendation process will be structured, the Council believes that adopted subbasin plans have sufficiently detailed provisions (primarily their “strategies”) to guide a 4(h)(10)(D) project selection process. That is, a 4(h)(10)(D) process would call for proposals for particular projects that are demonstrably linked to the objectives and strategies in a subbasin plan.

The public is invited to comment on whether the strategies in draft subbasin plan amendments are sufficiently specific to guide the development of project proposals and then the review and selection of projects for Bonneville funding. If a reviewer forms the opinion that the plans cannot guide a project development and review process, the commenter should also suggest the appropriate process to employ to obtain this greater level of specificity for the plans. There are a number of process alternatives that the Council or others have noted as options, including, but not limited to:

- After the subbasin plans are adopted into the program, calling for more specific implementation plans *outside* of a statutory program amendment process, but prior to or as part of the 4(h)(10)(D) project review process;
- Using the period of review of draft subbasin plan amendments in this *current amendment process* to receive lists of more specific actions or implementation plans from interested parties that the Council would add to the subbasin plans before their final adoption into the program;
- Adopting a decision-making structure or management framework and the subbasin plans as “reference documents” and explaining how the plans will be used, and prescribe a process and schedule for adding specificity to the subbasin plans (outside of an amendment process) over the next few years;
- Having the Council follow the current subbasin plan amendment process with *another program amendment* process specifically calling for recommendations for program amendments to add specific implementation plans to the program that are consistent with the adopted subbasin plans.

B. “Roll-Up” -- The relationship of subbasin plans to province or ESU objectives, to the basinwide biological objectives in the Council’s program, and to related matters of prioritization/allocation between subbasin plans. Comments and consultations generally acknowledge that if each of the 59 subbasin plans is independently sound they will certainly improve our ability to guide actions -- particularly habitat related actions -- within each subbasin. However, commentors are asking two questions about the plans as a collective body of work: 1) do the plans “add up” to meet the objectives established at the basin level in the 2000 Fish and Wildlife Program, and/or 2) because there are always limited resources, can the plans inform decisions about dedicating resources to one subbasin or type of strategy over another?

With regard to the first question, the Council believes that the administrative record supports a finding that the proposed subbasin plans are generally consistent with the 2000 Program basin level objectives. Comments submitted by independent scientists and a significant number of others, including fish and wildlife managers, support this.

With regard to the second question, the Council thinks that there may be general trends or patterns emerging from the subbasin plans that could inform resource allocation across subbasins, but the trends would require additional study and regional discussion before they would significantly influence allocation choices across subbasins or alternative strategies. The Council believes that while subbasin plans at this time can provide a sound basis for allocating resources to priority areas *within* a subbasin, they do not give us a compelling basis to prioritize work in one subbasin over another.

Notwithstanding the current positions stated above, the Council acknowledges that working with subbasin plans as a collective body of work -- a “roll-up”-- may strengthen the relationship of the plans to broader fish and wildlife program objectives and help inform resource allocation issues. Therefore, the public is invited to offer views and information on the best way to accomplish a “roll up” of the subbasin plans. In providing advice, it would be important to carefully explain what purpose or purposes this exercise would serve. The Council is interested in hearing perspectives on the following: 1) what is the preferred process vehicle -- should it be initiated as a Power Act amendment process; 2) is there technical or scoping work that should be undertaken before a formal amendment process is started; and 3) should subbasin “roll-up” precede adding more specifics (Issue A above) to subbasin plans that have been developed?

C. Project review and recommendation process. Some commentors have asked questions and stated concerns about the design of future 4(h)(10)(D) project review processes. The questions have included: how will subbasin plans be used in project selection processes; what will be the timing and elements of that process; how will available resources be allocated among the provinces and subbasins; how will proposed projects be reviewed for consistency with subbasin plans and by whom; and will the planning groups or other subbasin level groups formed to develop and recommend subbasin plans also have a role in project selection? Some commentors make clear they are reluctant to support adoption and use of subbasin plans without more information on such questions.

Several of the fundamental project review particulars are clear and were set forth in the 2000 Program. For example, once adopted into the program, subbasin plans indeed will be the program’s cornerstone for project definition and review. That is, projects proposed for funding will be evaluated for consistency with the relevant subbasin plans, and not recommended for

funding if inconsistent. The Council has made this information available to the region over the last few years in guidance and informational materials. Additionally, it should be recognized that the subbasin planning initiative did not, and cannot, change the Act itself. The provisions of Section 4(h)(10)(D) will continue to supply the basic legal requirements and procedures for project review; including independent scientific, public and Council review of projects proposed for funding.

While commentors may provide advice on how the Council should conduct the project review process to implement subbasin plans in response to this letter, it may be more appropriate and timely for interested parties to be involved in shaping these issues in other places such as the Regional Coordinating Group meeting scheduled for November 1, 2004.

D. Relationship to recovery planning under the federal Endangered Species Act. A concern expressed in some of the comments appears to stem from statements in Council documents and from NOAA that subbasin plans might be the “foundation” for recovery plans or “interim local recovery plans” under Section 4 of the ESA for listed salmon and steelhead ESUs. Commentors’ level of concern about the subbasin plans would be high if the Council were in fact to offer plans in their current state as completed and fully adequate ESA recovery plans, or if NOAA Fisheries were to accept them as such.

The Council’s position always has been that it is pursuing the development of subbasin plans to meet the statutory obligation under the Power Act to protect, mitigate and enhance fish and wildlife affected by the development and operation of the FCRPS hydrosystem. If those plans also prove useful in the effort to address the requirements of ESA for those same populations, all the better. The Council believes the technical and planning work represented by the subbasin plans is of such a caliber and at such a depth that NOAA Fisheries would be remiss not to make use of that work in developing recovery plans. The products of subbasin planning are realistic “foundations” to build upon by those working on ESA recovery plans. The point is, the Council has no legal obligation, nor does it have any sort of commitment from NOAA Fisheries, to automatically make subbasin plans final ESA recovery plans. Commentors should let the Council know if this point is not clear or if they see or seek a different relationship between the subbasin plans and recovery planning.

E. Improving subbasin plans - the “living document.” The Council proposes to adopt the management plan portions of subbasin plans into the fish and wildlife program, not the technical assessments or inventories. Part of the reason for this is simply to ease the burden of managing the program. But another part of the reason has been that the assessments are technical documents that underlie the objectives and measures. Moreover, the assessments ought to be in a posture that they can be modified relatively easily if and when new information arises.

There is some concern that management plans will be made permanent by adoption into the program, and not subject to modification or improvement even if partially flawed or easily improved, without a major program amendment process. Commenters have suggested that the Council may want to establish a mechanism or procedure (short of the full program amendment process) for considering and approving modifications to any portion of a subbasin plan when appropriate, including modifications to the management plan portions that have been adopted into the program. If commentors believe this proposal is important, thoughts on the following types of detail are encouraged:

- On what basis should the Council approve a proposed modification to a plan
- How can the Council assure that management plan modifications are still derived from and linked to the technical assessments
- Regarding procedure, should the Council consider and approve minor amendments to the program through a notice and comment procedure that does not require all of the procedures for major amendments in Section 4(h) of the Power Act
- Should the Council write into the program at the time of adoption of the subbasin plans an adaptive management process for considering and approving modifications to the management plan portions of the subbasin plans outside of any program amendment process?

Schedule and process for providing comment on these issues

The Council wants to address these issues concurrently with comments on the 29 subbasin plans that have been proposed as amendments. Therefore, written comments on these issues should be received in the Council's Portland, Oregon offices at 851 S.W. Sixth Avenue, Suite 1100, by 5:00 p.m. PST, November 22, 2004. Send the comments to Attn: John Shurts and John Ogan.

If it finds that this "issues" comment process is profitable and requires more time, the Council may choose to extend the period of comment through December 2004, thereby running concurrently with anticipated comment periods that would be open for the second set of subbasin plan draft amendments. The Council also will consult with interested people and entities on these issues as well as receive written comment. Thank you for your continued interest and assistance in this important work.

Sincerely,

/s/ Stephen L. Crow

Stephen L. Crow
Executive Director