



COLUMBIA BASIN FISH AND WILDLIFE AUTHORITY

851 SW Sixth Avenue, Suite 300 | Pacific First Building | Portland, OR 97204-1339
Phone: 503-229-0191 | Fax: 503-229-0443 | Website: www.cbfwa.org

Coordinating and promoting effective protection and restoration of fish, wildlife, and their habitat in the Columbia River Basin.

The Authority is comprised of the following tribes and fish and wildlife agencies:

- Burns Paiute Tribe
- Coeur d'Alene Tribe
- Confederated Salish and Kootenai Tribes of the Flathead Reservation
- Confederated Tribes of the Colville Reservation
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Warm Springs Reservation
- Confederated Tribes and Bands of the Yakama Nation
- Idaho Department of Fish and Game
- Kootenai Tribe of Idaho
- Montana Fish, Wildlife and Parks
- National Marine Fisheries Service
- Nez Perce Tribe
- Oregon Department of Fish and Wildlife
- Shoshone-Bannock Tribes of Fort Hall
- Shoshone-Paiute Tribes of Duck Valley
- U.S. Fish & Wildlife Service
- Washington Department of Fish and Wildlife
- Coordinating Agencies**
- Columbia River Inter-Tribal Fish Commission
- Upper Columbia United Tribes
- Compact of the Upper Snake River Tribes

DATE: December 17, 2008

TO: Bill Booth, Chairman, Northwest Power and Conservation Council
Tony Grover, Fish and Wildlife Division Director, Northwest Power and Conservation Council

CC: CBFWA Members

FROM: Brian Lipscomb *Brian S. Lipscomb*

SUBJECT: Further clarification of recommendations and comments to the draft Fish and Wildlife Program

Thank you for the opportunity to discuss the CBFWA members' comments on the draft Fish and Wildlife Program over the past several weeks. For further clarification of their recommendations and comments on the draft Program, CBFWA staff has provided the attached redline mark-up of a few discrete sections of the draft Program.

Thank you, again, for your full consideration of the agencies' and Tribes' recommendations and comments and their incorporation into the final Fish and Wildlife Program. We look forward to working with the Council and Bonneville Power Administration in implementing the Program and promoting its successes in the future.

If you have additional questions, please contact me at (503) 229-0191.

Attachment 1:
CBFWA Draft Program Redline Mark-up

H:\WORK\MAG\2008_1216-17\Memo_fromBLipscomb_toMessrsGrover&Booth_Rec-CommentsClarification.doc

Suggested Changes

Draft – December 15, 2008

I. Introduction

* * * * *

B. The Program Framework

* * * * *

Throughout the basin, the NOAA’s National Marine Fisheries Service (NOAA Fisheries) and the U.S. Fish and Wildlife Service are administering the Endangered Species Act, which requires information gathering, planning, and mitigation actions. In addition, the Environmental Protection Agency, in cooperation with the other federal agencies, states and tribes, is taking actions to achieve compliance with the Clean Water Act (as used elsewhere in this program, “applicable federal laws” includes both the Endangered Species Act and the Clean Water Act). Federal, state and tribal fish and wildlife agencies have primary management responsibility for the region’s fish and wildlife. The four Northwest states and the Columbia Basin’s Indian tribes also all have fish and wildlife initiatives under way.

The Program framework is not intended to pre-empt the legal authorities of any of these parties, but it does provide an opportunity for each of these regional participants to coordinate information gathering, planning, and implementation of recovery actions on a voluntary basis. That is, the Council’s program is designed to link to, and accommodate, the needs of other programs in the basin that affect fish and wildlife. This includes meeting the needs of the Endangered Species Act by describing the kinds of ecological change needed to improve the survival and productivity of the diverse fish and wildlife populations in the basin.

Measures implementing this program are funded in large part by the Bonneville Power Administration through revenues collected from electricity ratepayers. Although Bonneville has fish and wildlife responsibilities under both the Endangered Species Act and the Northwest Power Act, both responsibilities are met in part in the same set of actions. Therefore, in recommending projects for funding under this program, the Council will address both sets of responsibilities wherever feasible. Again, knowledge of the plans and activities of other regional participants will be essential for the Council to be able to assure that the projects it recommends for funding are coordinated with, and do not duplicate, the actions of others.

* * * * *

Formatted: Space Before: 12 pt, After: 6 pt

Formatted: Space Before: 12 pt

Formatted: Space Before: 12 pt, After: 6 pt

Formatted: Space Before: 12 pt

II. Basinwide Provisions

* * * * *

B. Basinwide Strategies

* * * * *

6. Wildlife Strategies

Formatted: Space After: 6 pt

Primary strategy: Complete the current mitigation program for construction and inundation losses and include wildlife mitigation for all operational losses as an integrated part of habitat protection and restoration.

The program established wildlife loss assessments due to hydrosystem construction and inundation. See Table 11-45 in the Appendix. The Council expects the fish and wildlife managers and Bonneville to use this table as the starting point for wildlife mitigation measures as well as long-term mitigation agreements. The program also directs these parties to reach agreement on how wildlife mitigation projects and fish mitigation projects should be credited toward identified losses.

A portion of the habitat units identified in Table 11-4 have been acquired in wildlife mitigation projects to date, and some mitigation project agreements establish an interim basis on which the project will be credited toward construction and inundation losses. However, there is no agreement on the extent to which existing agreements preclude reevaluation of loss assessments, nor has agreement been reached on the full extent of wildlife losses due to the operations of the hydrosystem. Finally, there is no agreement on how to credit wildlife benefits resulting from riparian habitat improvements undertaken to benefit fish.

Deleted: the

Deleted: these

Deleted: nor has

Deleted: been

The extent of the wildlife mitigation is of particular importance to agencies and tribes in the “blocked” areas, where anadromous fish runs have been extirpated by development of the hydrosystem, and where full mitigation cannot be accomplished through resident fish substitution alone. Given the vision of this program, the strong scientific case for a more comprehensive, ecosystem-based approach, and the shift in focus to implementation through subbasin plans, the Council believes that the wildlife mitigation projects should be integrated with the fish mitigation projects as much as possible.

The Council adopts the following wildlife strategies:

a. Completion of Current Mitigation Program

Bonneville and the fish and wildlife managers should complete mitigation agreements for the remaining habitat units identified in Table 11-4 representing the unannualized losses of wildlife habitat from construction and inundation of the federal hydropower system. Bonneville and the fish and wildlife managers should develop agreements by 2011 and report back to the Council on progress. In addition, for each wildlife agreement that does not already provide for long-term

Formatted: Indent: Left: 36 pt, Space After: 6 pt

maintenance of the habitat, Bonneville and the applicable management agency shall propose a management plan adequate to sustain the minimum credited habitat values for the life of the project. Operational losses, while recognized, have not yet been quantified and will be formally added to the current status of losses following completion of loss assessments.

Beginning in the 2000 Program, the Council called for these mitigation agreements to equal 200 percent of the remaining habitat units (2:1 ratio). The Council chose the 2:1 crediting ratio to address the inability to precisely determine the habitat units resulting from acquiring an interest in property that already has wildlife value or the additional losses represented by annualization of the losses. The Council adopted and continues to endorse the 2:1 crediting ratio for all habitat units.

The Council recognizes that controversy over the program's crediting ratio and other policy issues continues. Specifically, the managers and Bonneville have not yet reached agreement on the following issues:

- How to credit wildlife benefits resulting from riparian habitat improvements undertaken to benefit fish.
- The full extent of wildlife losses resulting from operation of the hydrosystem.
- The extent to which existing agreements preclude the Council from adopting a basinwide policy on crediting ratios.
- Annualization of construction and inundation impacts.

The Council will work with Bonneville and the managers to address these and other issues associated with loss assessments and crediting and to develop a comprehensive agreement on the proper crediting ratio(s) or strategies that will allow the parties to reach long-term settlement agreements. This shall be completed within one year of adoption of the amended program. Once a comprehensive agreement has been reached, the Council will consider adopting it into the program.

Whenever possible, wildlife mitigation should take place through long-term agreements that have clear objectives, a plan for action over time, a committed level of funding that provides a substantial likelihood of achieving and sustaining the stated wildlife mitigation objectives, and provisions to ensure effective implementation with periodic monitoring and evaluation. Thus, wildlife mitigation agreements should include the following elements:

- Measurable objectives, including acres of habitat types and number of habitat units by species to be acquired, and a statement estimating the contribution to addressing the wildlife losses identified in Table 11-4 in the Appendix;
- Demonstration of consistency with the wildlife policies, objectives and strategies in the Council's program, including with the implementation priorities described in Tables 11-1, 11-2 and 11-3 in the Appendix;

Deleted: the remaining

Deleted: The ratio only applies when loss estimates are not inaccurate due to stacking

Formatted: Indent: Left: 36 pt, Space After: 6 pt, No bullets or numbering

Deleted: The

Formatted: Indent: Left: 54 pt, Space After: 6 pt, Bulleted + Level: 1 + Aligned at: 72 pt + Tab after: 90 pt + Indent at: 90 pt, Tabs: 72 pt, List tab

Deleted: how

Deleted: nor have they reached agreement on the

Formatted: Indent: Left: 36 pt, Space After: 6 pt

- When possible, protection for riparian habitat that can benefit both fish and wildlife, and protect high-quality native habitat and species of special concern, including endangered, threatened, or sensitive species;
- Incentives to ensure effective implementation of the agreement, plan or action, with periodic monitoring and evaluation (including a periodic audit) and reporting of results. At a minimum, annual reports to Pisces must continue in order for the Council to evaluate the mitigation benefits;
- Provisions for long-term maintenance of the habitat adequate to sustain the minimum credited habitat values for the life of the project; and
- Sufficient funding to demonstrate a substantial likelihood of achieving and sustaining the wildlife mitigation objectives.

b. Habitat Units and the Habitat Evaluation Procedure (HEP)

Methodology

The Council continues to endorse habitat units as the preferred unit of measurement for mitigation accounting and the Habitat Evaluation Procedure (HEP) methodology as the preferred method for estimating habitat units lost and acquired. Increasingly, however, the wildlife managers have argued that HEP does not adequately reflect management priorities or characterize ecological conditions. Consequently, the Council supports investigation of alternative, ecologically-based assessment methods that better represent ecological functions and conditions as a mean to monitor the effectiveness of habitat units (see below).

Formatted: Indent: Left: 36 pt, Space After: 6 pt

Deleted: . Parties to a wildlife mitigation agreement may develop and use another method for evaluating potential mitigation actions if, in the Council's opinion, that alternative method adequately takes into account both habitat quantity and quality adequate to mitigate for the identified losses.

c. Allocation of Habitat Units

Habitat acquired as mitigation for lost habitat units identified in Table 11-4 must be acquired in the subbasin in which the lost units were located unless otherwise agreed by the fish and wildlife agencies and tribes in that subbasin.

Inserted: .

d. Habitat Enhancement Credits

Habitat enhancement credits should be provided to Bonneville when habitat management activities funded by Bonneville lead to a net increase in habitat value when compared to the level identified in the baseline habitat inventory and subsequent habitat inventories. This determination should be made through the periodic monitoring of the project site using the Habitat Evaluation Procedure (HEP) methodology. Bonneville should be credited for habitat enhancement efforts at a ratio of one habitat unit credited for every habitat unit gained.

e. Operational Losses

Bonneville will fund operational loss assessments, including direct and indirect losses. The assessments will identify ecological impacts to wildlife from the reduction or loss of anadromous fish as part of the operational loss assessment. Neither the Council nor fish and wildlife managers have yet assessed developed an assessment of wildlife losses

caused by operation of the hydroelectric system. Operational loss assessments are necessary to quantify these impacts, including the ecological impacts to wildlife from the reduction or loss of anadromous fish. As part of the programmatic evaluation of the wildlife program described below, the Council will consult with the wildlife managers and Bonneville on the scope and appropriate methodologies for assessing operational impacts on wildlife habitat. Operations loss assessment work under way in the Kootenai Subbasin in 2008 may serve as a pilot project for this evaluation. The wildlife managers and Bonneville should also consider using mitigation agreements to settle operational losses in lieu of precise assessments of impacts. Revised subbasin plans will serve as the vehicles to provide mitigation for any identified direct operational losses and for secondary losses to wildlife due to declines in fish populations resulting from hydropower development.

Deleted: value of committing program resources at this time to

Deleted: direct

f. Mitigation Crediting Forum

In consultation with the wildlife managers, Bonneville, and other interested parties, the Council will establish a Wildlife Mitigation Crediting Forum. The purpose of the Crediting Forum will be to establish a commonly accepted ledger to document progress towards achieving mitigation obligations, and to recommend ways to resolve issues about accounting for habitat units. The Crediting Forum will develop a common data base for tracking, assigning, crediting and recording habitat units to mitigate for construction, inundation and operational losses. The following criteria will apply for a project to be credited against construction and inundation losses:

Deleted: Annualization will not be used in determining the mitigation due for these losses. However, where operational or secondary losses already have been addressed in an existing wildlife mitigation agreement, the terms of that agreement will apply.

Formatted: Space After: 6 pt

Formatted: Left, Indent: Left: 72

Deleted: of habitat units acquired

- Project areas must be permanently protected and dedicated to wildlife benefits through covenants, easements, fee title acquisitions or other appropriate agreements for the life of the hydroelectric project,
- Projects must benefit priority wildlife habitat, species, or populations as defined by federal, state, Tribal wildlife management plans or subbasin plans.
- A project area management plan must be completed.
- A long-term funding agreement adequate to support implementation of the management plan has been adopted.

Formatted: Left, Indent: Left: 72 pt, Space After: 6 pt, Tabs: 90 pt, List tab + Not at 72 pt

Formatted: Bullets and Numbering

The Council will establish the Wildlife Mitigation Crediting Forum no later than one year after the adoption of the revised Program. However, the development of the above-mentioned procedures and protocols must not be considered a prerequisite to continuing wildlife mitigation efforts. New and on-going wildlife mitigation projects will continue during the development and review of crediting protocols.

Formatted: Space After: 6 pt

g. Implementation Guidelines

Project selection will be guided by the management plan portion of subbasin plans, incorporating wildlife focal species, specific ecological objectives for the protected focal habitats, and management strategies. The subbasin plans will reflect the current basinwide vision, biological and ecological objectives and strategies and also will outline more specific short-term objectives and strategies for achieving specific wildlife mitigation goals. The ecological objectives will be the basis for determining management needs, building a monitoring and evaluation framework, and determining and tracking enhancement credits. The management plans will act as work plans for the fish and wildlife managers and tribes, with an emphasis on fully mitigating the construction and inundation and direct operational losses by a time certain, and will be revisited regularly as part of the provincial project review cycle. The state and tribal fish and wildlife agencies provide further guidance in recently-completed state conservation strategies.

Mitigation programs should provide protection of habitat through fee-title acquisition, conservation easement, lease, or other management strategies in management plans that provide for the protection of the habitat units for the life of the project. The Council assumes that protection of acreage and restoration of ecological functioning habitat will support and restore native wildlife populations to meet mitigation obligations of the region's hydropower system. Consistent with the Council's adaptive management strategy, to evaluate this assumption an adequate amount of land must be protected (represented by the identified construction and inundation losses and future loss assessments) to evaluate this assumption. Furthermore, a monitoring program needs to be in place to collect and analyze the biological information necessary to determine the habitat functionality which in turn allows the evaluation of the response in focal species abundance and use.

h. Long-term Funding Agreements

Long-term funding agreements are necessary to provide the certainty required to optimize wildlife benefits and cost efficiencies. They must also retain flexibility to address changing needs on the landscape and address known and unforeseen external threats (e.g. invasive species, wildfires, etc). Agreements for ongoing and future projects must include provisions for adequate management funding to sustain the ecological functions and the minimum credited habitat values for the life of the project. Funding of these long-term agreements must occur prior to formally assigning mitigation credit to the ledger.

Consistent with the 2000 Program, the project sponsor and Bonneville will propose for Council consideration and recommendation long-term funding agreements adequate to sustain minimum credited value and maintain ecological functions for the life of the hydroelectric project impact.

Formatted: Left, Indent: Left: 72

Bonneville will enter into long-term funding agreements for existing and future mitigation projects that:

- Assure continuity of funding for the life of the hydroelectric project impact.
- Assure sufficient funding levels to implement the habitat management strategies and monitoring and evaluation needs identified in project area management plans.
- Provide flexibility to respond to uncertainties and unforeseen events.
- Provide adjustment for annual inflation.

Formatted: Left, Bulleted + Level: 1
+ Aligned at: 72 pt + Tab after: 90 pt + Indent at: 90 pt

Funding needs to continue to maintain the base level of habitat and credits accomplished to date. Bonneville will fund existing wildlife projects at levels that are consistent with the project management plans. Funding must be sufficient for habitat maintenance and enhancement, and appropriate monitoring as agreed upon in the management plans. Where management plans are not in place BPA will provide interim funding to manage the wildlife projects and complete the management plans.

Formatted: Left, Indent: Left: 72

i. Monitoring and Evaluation

Bonneville will provide adequate funding for monitoring and evaluation of wildlife mitigation projects adequately to evaluate trends in ecological functions of managed ecosystems, provide managers the ability to assess the effectiveness of their strategies by evaluating species and habitat responses that contributes to broader monitoring efforts, and to implement the Council's adaptive management strategy. Where appropriate, project-level monitoring and evaluation will complement larger scale efforts -- including but not limited to State Conservation Strategies -- through use of compatible protocols and data sharing. Data summaries from each project should link to region-wide databases. Compatible protocols (across the Basin) should be developed and used to determine baseline wildlife and habitat conditions.

Formatted: Left, Indent: Left: 72

Deleted:

Inserted: level

* * * * *

Formatted: Space Before: 12 pt

VII. Subbasins

The preceding sections of this program address fish and wildlife needs at the basin and province level, and in the ocean, estuary, and mainstem. This section addresses the more than fifty subbasins within the ecological provinces.

During the period 2002-2004, fifty-seven subbasin plans were developed by subbasin planning entities consisting of fish and wildlife managers and other regional and local organizations. Each plan contains a vision and biological objectives for that subbasin and identifies specific actions necessary to protect, mitigate, and enhance fish and wildlife in that subbasin. The subbasin plans thus reflect local policies and priorities while remaining consistent with the basinwide vision, biological objectives, and strategies.

Subbasin plans provide the basis for review and funding of most fish and wildlife projects in this program. The Council expects that projects implemented through the program will be consistent with the goals, limiting factors, and actions identified in the subbasin plans.

A. Elements of Subbasin Plans

- A 10-15 year management plan (adopted into the program);
- A subbasin assessment providing a description of historical and existing conditions;
- A clear and comprehensive inventory of existing projects and past accomplishments;

Formatted: Indent: Left: 36 pt, Space After: 6 pt

B. Implementing Plans at the Subbasin Level

Subbasin plans provide the context for project review for Bonneville funding each year as well as by the fish and wildlife agencies and tribes, the Independent Scientific Review Panel (ISRP) and the Council. The ISRP will use the subbasin plans to determine if projects support, and are consistent with, the plans. Subbasin plans also provide an opportunity to integrate and coordinate projects and programs funded by entities other than Bonneville, including Canadian entities in transboundary areas of subbasins.

C. Development and Submission of Subbasin Plans for Areas without Subbasin Plans

The Council supports the development of subbasin plans in areas where a plan does not exist. Subbasin plans proposed for adoption in the program, whether funded through the program or not, must undergo scientific review and must follow the guidelines set forth on the Council's website at www.nwcouncil.org. All subbasin plans proposed for adoption must be consistent with the Council's program and should take into account, to the extent possible, impacts from climate change and human population growth and movement.

The Northwest Power Act does not require consensus for a recommendation to be submitted to the Council. It is possible that different parties will submit different plans for the same subbasin. The level of support within a subbasin for a particular plan can be an important factor in gauging how well the plan meets the standards of the Act and whether the plan can be effectively implemented. Thus, the Council strongly encourages interested parties to work together.

The Act directs the Council to give special consideration to the recommendations of tribal, state, and federal fish and wildlife management entities when considering matters related to fish and wildlife. Therefore, subbasin plans should be developed with the participation of fish and wildlife managers with jurisdiction in the subbasin.

D. Updating Existing Subbasin Management Plans

The Council did not seek recommendations to update existing subbasin plans as part of this amendment process. Nevertheless, the Council recognizes work has continued in some subbasins to refine and update subbasin management plans. The Council therefore

Deleted: The Council will consult with subbasin planners before the next amendment process to determine the need to update existing subbasin plans. ¶
The

will initiate a process to update existing subbasin management plans and to incorporate updates into the Program beginning in March 2009.

Deleted: accept recommendations

Deleted: until November 1, 2010. This is a voluntary process and will not have specific, dedicated funding.

The process for updating subbasin management plans will follow the applicable requirements of Northwest Power Act section (4)(h). Specifically, and in summary, the Council will solicit recommendations to update subbasin management plans from the region's Federal and state fish and wildlife agencies and appropriate Indian tribes, and will accept recommendations from other interested parties, particularly subbasin stakeholders. The Council will make recommendations and supporting documents available for public review and comment. The Council will adopt management plan updates that it determines are consistent with the requirements for all program measures in section 4(h)(6), and which successfully complete ISRP review under section 4(h)(10)(D). The Council will resolve any inconsistencies in the recommendations giving due weight to the recommendations of federal and state fish and wildlife agencies and Indian tribes, which will be adopted unless they are inconsistent with the requirements of section 4(h)(7).

Consistent with section 4(h)(9), the Council will adopt management plan updates within one year after they are received.

E. Developing Subbasin Summary Tables

Deleted: Recommendations to update existing management plans must be received by November 1, 2010. The Council will adopt or reject the recommended management plans by November 1, 2011. ¶ Updated management plans must undergo science review and follow all Council guidelines as set forth on the Council's website. ¶

The Council received recommendations from the Fish and Wildlife agencies and tribes to incorporate templates summarizing the Council's subbasin plans into the Fish and Wildlife program.

The Council supports the development of subbasin plan summaries and will initiate a process, separate from the program amendment process, soliciting public comment on the summaries recommended by the fish and wildlife agencies and tribes. The Council seeks comment on any data gaps and inconsistencies including any new data based on recovery plans that have come into existence since the subbasin management plans were adopted.

While new subbasin data can only be incorporated via the formal program amendment processes set forth above in the sections titled "Development and Submission of Subbasin Plans for Areas without Subbasin Plans" and "Updating Existing Subbasin Plans", the Council will review all comments and, depending on the nature of the public comments received, will consider posting the subbasin summaries on the Council's website.

F. Developing a Basinwide Management Plan

The Council received recommendations from the Fish and wildlife agencies and tribes and others that do not fall within the geographic subbasins described above. The Council supports efforts by the region's fish and wildlife management agencies and appropriate tribes to develop a Basinwide Management Plan. The Council expects the Basinwide Management Plan to include multiyear work plans for monitoring and evaluation, coordination and other overarching areas of the program, and to integrate the 2008 Biological Opinion and Accords with other fish and wildlife management initiatives. The process for adopting the Basinwide Management Plan will follow the process for updating Subbasin Management Plans.

VIII. Implementation Provisions

This program involves hundreds of projects and many millions of dollars per year in funding. A process is necessary to review, prioritize and select projects to be funded and to administer and track these projects over time. To the extent practicable, projects and actions should be coordinated throughout the region.

The procedures for implementing this program should ensure that planning results in on-the-ground actions and that those actions be reported to guide future decisions. The Council will use the procedures in this section to integrate Bonneville funding for this program with Endangered Species Act requirements and the collaborating programs of the states, tribes and federal and local governments. This section incorporates advances made in recent years to improve project selection and management practices for fiscal accountability and improved reporting.

A. Implementing Measures Recommended for 2008-2018

In 2007-08, Bonneville and other agencies of the federal government committed in a number of decisions, documents and agreements to fund an extensive set of actions over the next ten years to benefit listed and unlisted anadromous and resident fish across the Columbia River Basin. These include mainstem, estuary and tributary habitat, production, harvest, and monitoring actions committed to by the agencies as part of the consultation resulting in the 2008 Biological Opinion for the Federal Columbia River Power System and in the Columbia Basin Fish Accords (“Accords”) executed with certain Indian tribes and states.

These actions are largely built on the mainstem and off-site mitigation foundations developed in the Council’s program over the past 27 years, from the water management and passage measures in the original 1982 Program to the most recent adoption of subbasin plans. The Council recognizes these as measures that Bonneville and the other federal agencies have committed to fund and implement under Sections 4(h)(10)(A) and 4(h)(11) of the Northwest Power Act, even as these measures also address needs under other federal laws as well, such as the Endangered Species Act.

Deleted: ¹⁶

The Council’s program is broader in scope and covers a greater geographic area and a more extensive set of affected fish and wildlife populations than will benefit from the actions in the 2008 Biological Opinions and the Accords. The Council also received recommendations containing extensive lists of measures for implementation in the next 5-10 years relating to these other areas of the program. These recommendations include habitat and production measures to benefit resident and anadromous fish in the subbasins of the Intermountain, Mountain Columbia and Middle and Upper Snake provinces and the Clearwater subbasin in the Mountain Snake, as well as measures to implement the wildlife elements of the Program. Again, these recommended measures appear to be based on the foundations already developed in the Council’s program, including the adopted subbasin plans. The Council will work with recommending entities, Bonneville and others to shape the measures recommended for these other areas of the program into multi-year implementation plans similar to the implementation plans represented in the 2008 Biological Opinion and the Accords.

The Council accepts these recommendations as measures that are part of the fish and wildlife program. Implementation of all measures whatever their original source, must occur under the following conditions:

- All measures must be developed into detailed project proposals subject to review under Section 4(h)(10)(D) of the Northwest Power Act. First, all projects receive an independent science review of proposed work and, if on-going, of past performance. Second, the proposed projects and the science review report are subject to public review. Third, the Council develops funding recommendations for Bonneville based on the proposed projects, the program, the science review and the public review. The Council will review the project proposals carefully to ensure consistency with the Program's basinwide, mainstem, estuary and subbasin plans and provisions, and to ensure that they complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. The Council will incorporate project proposals from the fish and wildlife managers for implementation unless they are inconsistent with section 4(h)(7) of the Northwest Power Act or, as provided in section 4(h)(7)(C), are "less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife."
- Those responsible for implementing these projects must regularly report the results of implementation. Reporting must be sufficient for the purpose of evaluating the success of the projects, facilitating the science/performance review, and contributing appropriately to the program's broader monitoring and evaluation framework and reporting of program results. Reporting requirements must be included in the Bonneville contracts, and must include reporting in terms of performance metrics required by the Council.
- Implementation of these measures must allow for an on-going adaptive management approach and for future program amendment processes in which measures are modified or discontinued if not performing or no longer identified as a priority.
- Funding commitments already made by Bonneville and the other federal agencies to certain measures must not come at the expense of sufficient funding for other program priorities. For the program areas that do not yet carry Bonneville funding commitments, the Council will work with Bonneville and the project sponsors to estimate multi-year implementation budgets and secure funding commitments that assure adequate funding for these implementation plans.

The Fish and Wildlife Program is composed of measures for the purpose of protecting, mitigating, and enhancing fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries. Bonneville has an obligation to use its fund in a manner consistent with the Program. However, the Program is not a vehicle to guarantee funding for a particular project, entity, or individual. The fact that a specific measure is mentioned in the program or referenced by the program, as for example, in the Biological Opinions or Accords, does not by itself constitute a funding obligation for the associated project without further definition for implementation and review under Section 4(h)(10)(D) of the Northwest Power Act. Funding priorities have been determined

Deleted: the measures in

systematically by the Council in the program, but final funding recommendations for projects in any particular year still depend on the outcome of independent science review, a program consistency review, public comment and a Council recommendation to Bonneville. This process will convert the priority measures in the program into implementation plans that provide specific guidance for Bonneville to ensure that its actions are consistent with the program.

B. Project Review Process

The Northwest Power Act directs the Council to oversee, with the assistance of the ISRP, a process to review projects proposed for funding by Bonneville. The ISRP will review proposed projects and make recommendations to the Council as to whether these proposals are based on sound scientific principles, benefit fish and wildlife, have a clearly defined objective and outcome with provisions for monitoring and evaluation of results, and are consistent with the priorities in the program. The ISRP also reviews the results of prior year expenditures. The Council must allow for public review and comment on the ISRP's recommendations. The Council will then make final recommendations to Bonneville on projects to be funded. In doing so, the Council must fully consider the ISRP's recommendations, explain in writing its reasons for not accepting ISRP recommendations, consider the impact of ocean conditions on fish and wildlife populations, and determine whether the projects employ cost-effective measures to achieve program objectives. The Council is not obligated to accept every recommendation of the agencies and tribes, but must follow specified statutory criteria when it chooses not to follow their recommendations.

Deleted: choses

1. Objectives of Project Review

- Implement Bonneville's portion of the Council's Fish and Wildlife Program for anadromous fish, resident fish, and wildlife, including subbasin plans and other planning documents associated with the program.
- Allow the flexibility to incorporate Bonneville's ESA requirements and relevant agreements.
- Ensure review of projects (including those identified in the Biological Opinions and Accords) is consistent with the Northwest Power Act, sections 4(h)(7) and 4(h)(10)(D).
- Recognize differences in project types, specifically those with long-term funding commitments as compared to shorter term implementation (e.g., habitat). Each type may be set on different, but integrated, funding and review paths.
- Establish and communicate timelines, processes, and expectations.
- Focus on program performance by linking program spending with limiting factors.
- Increase transparency and accountability of project deliverables, durations, reporting requirements, performance metrics, and expectations.

2. Step Review Process

As one element of project review, the Council developed a Step Review process for review of major capital investments, including new artificial production programs. Step Review allows for review of scientific soundness, possible fish or wildlife benefits, environmental impacts, and design and fiscal considerations at appropriate stages in project development.

Step Review includes a thorough review by the ISRP and the Council at three different phases: master or conceptual planning, preliminary design, and final design. Projects do not move from one development step to the next without a favorable review. The Council intends the Step Review process be flexible and cost-efficient. Depending on the nature and status of the proposed project, the Council may allow for a review that combines two or more of the steps in a single submission and review, or for a submission and review that addresses just part of a step in the review process. The Step Review process is further described on the Council's website.

* * * * *

C. Role of Fish and Wildlife Agencies

The Northwest Power Act envisions a participatory process that depends on the expertise of the fish and wildlife managers. The Northwest Power Act envisions a strong role for fish and wildlife agencies and Indian tribes in developing the provisions of this program. In sections 4(h)(6)(A) and 4(h)(6)(D) of the Act, the Council is directed to include program measures that it determines “complement the existing and future activities of the Federal and the region’s State fish and wildlife agencies and appropriate Indian tribes” and which will “be consistent with the legal rights of appropriate Indian tribes in the region.” In section (4)(h)(7), the Act requires the Council to adopt the recommendations of federal, state and tribal fish and wildlife agencies as part of the Fish and Wildlife Program, unless the Council explains in writing that the recommendations are inconsistent with the Act or less effective than the adopted recommendations.

H:\WORK\MAG\2008_1216-17\Attachment(MemofrCBFWAtoNPCC)\CBFWA_redline_12-15-08_v3.doc