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February 9, 2006

## MEMORANDUM

**TO:** Council Members

**FROM:** John Shurts

**SUBJECT:** Possible Council participation in the Governing Committee proposed by Bonneville to oversee the reorganized mainstem analytical function

**The February meeting includes an agenda item to update the Council on the Fish Passage Center transition. The focus of the discussion will be on possible Council participation in the proposed Governing Committee for the analysis coordination role that Battelle will take on.**

As part of the Fish Passage Center transition, Bonneville proposes to contract with the Pacific Northwest National Laboratory (Battelle) to provide what Bonneville calls "non-routine technical analyses" that falls within the substantive scope of the mainstem passage analyses called for in the Council's 2003 Mainstem Amendments. Bonneville has proposed that the Council join with NOAA and the CRITFC and UCUT tribes in a governing committee overseeing this analytical function.

The Council has to decide whether it wants to play such a role, and what that role would really be. The purpose of this note is to flesh out the possibilities. The Council should think of this as a pilot project for FY06. The Council will recommend a long-term resolution for this and other elements in the FY07-09 project review process.

**What is "non-routine" analysis? The analytical function as described in the Mainstem Amendments.** The information from Bonneville is not as clear as we might wish as to the nature of the "non-routine" analytical function (and precisely how it differs from "routine" analysis), except to say that it will stem from the Council's Fish and Wildlife Program provisions. The Council's program describes the analytical and other functions of the Fish Passage Center in this way:

- 1) Plan and implement the annual smolt monitoring program;
- 2) Gather, organize, analyze, house, and make widely available monitoring and research information related to juvenile and adult passage, and to the implementation of the water management and passage measures that are part of the Council's program;

3) Provide technical information necessary to assist the agencies and tribes in formulating in-season flow and spill requests that implement the water management measures in the Council's program, while also assisting the agencies and tribes in making sure that operating criteria for storage reservoirs are satisfied; and

4) In general, provide the technical assistance necessary to coordinate recommendations for storage reservoir and river operations that, to the extent possible, avoid potential conflicts between anadromous and resident fish.

“Non-routine” analysis would seem to fit within the last two categories. What could be considered “routine” analysis has meant taking raw data from the dams and elsewhere, organizing and displaying that data systematically, and drawing the obvious or direct conclusions (e.g., in season, that the bulk of the juveniles are now moving through the xxx projects; or, in retrospect, that 95% of the juvenile passage occurred as of xxx date). Non-routine analysis would seem to include such matters as, prospectively in-season, the technical assessment of possible alternative actions given current conditions, and, retrospectively, what were the survival effects of certain actions under the given water conditions and fish numbers and movements.

**What will Battelle be doing? The process for non-routine analysis.** Bonneville describes what Battelle will be doing in this way: Battelle will establish a coordinator for handling requests for such analysis. Battelle will also arrange ahead of time, through some sort of RFQ process, to have a stable of expert analysts qualified, contracted with, and available to do this type of analysis. And it will establish and have ready an independent technical review team to review the analysis,

The process then is to work like this: As a request for such analysis comes in, the Battelle coordinator will decide whether the request is within the scope of the analysis called for in the Council's program. If so, the coordinator will arrange with one or more of the expert analysts already qualified to do the analysis. The coordinator will also arrange to have the independent technical review team review whatever analysis comes from the expert analysts. The coordinator will then make the final analysis available to the requester and the public. *See* the attached diagram from Bonneville's presentation on the transition.

**What is the role of Governing Committee, in Bonneville's view? Guidance.** Bonneville proposes a Governing Committee to oversee Battelle's handling of this analytical function, consisting of one member from the Council, one from NOAA (either from the Regional Administrator, or the Science Center, or both), and (apparently) one member jointly agreed to be the CRITFC and UCUT tribes (and perhaps by the other tribes with interests in system operations?). The Battelle coordinator would refer to the committee requests for analysis that appear (to the coordinator) to be outside the scope of his expected function and other knotty problems. The committee would in turn provide “guidance” to the coordinator in fulfilling his or her function.

**What might the Governing Committee actually do? Suggestions for the Council.** This analytical process will work only if it can credibly and quickly respond to requests for analysis to serve the needs of fish and wildlife managers and others. Assuming the Governing Committee can be established by the entities suggested, it could go a long ways toward making this happen by:

- establish a set of guidelines or criteria for the coordinator to use in identifying expert analysts, and possibly review and comment on (and perhaps even having a veto over) analysts Battelle proposes to engage for this function;
- similarly, establish guidelines and criteria for the independent technical review team, including how to set it up, what kind of members to seek and how to appoint them, what the procedures for the review team will be, etc. (with a strong suggestion that the independent review team be established under the purview of the ISAB in some fashion);
- establish criteria for how the coordinator is to evaluate and decide what types of analytical requests are within the scope of the analytical function called for here, and serve as a review body for requests deemed by the coordinator to be out of scope;
- describe a set of expectations for the steps and timing of the analytical process, to ensure that the process is responsive to the needs of those engaged in annual and in-season management;
- help the coordinator set priorities for handling competing requests for analysis;
- set up some sort of regular reporting requirements for the coordinator so the committee is able to monitor the progress of this process in serving the analytical needs of the interested entities -- and be ready to adjust how this works if it is not serving those needs; and
- be responsive to the requests of the coordinator for guidance on other matters, including resolving questions or disputes that arise from the handling of requests for analysis by the experts coordinated by Battelle.

The Council should be ready with this or a modified list of functions it believes the Governing Committee should undertake. Then, the Council should negotiate its possible acceptance of a role in this committee by insisting that the committee take on the list of functions, and ultimately decide whether to join based on the level of success we have in securing these functions in the committee.

**How the Governing Committee might work, and how the Council might staff its role.** People have suggested this committee would be similar to the ISAB Oversight Committee, and certainly its make-up is meant to suggest that. Frankly, it seems unlikely that this Governing Committee would function much like the ISAB Oversight Committee. The entities involved in the ISAB Oversight Committee were themselves responsible for setting up the ISAB, they established the Board very directly to help these entities carry out their statutory functions, and the entities on the ISAB Oversight Committee are *the* source (along with the ISAB itself) for the questions the ISAB reviews. None of this will be the same for the oversight of the analytical function described here, and the differences will make the experience quite different, or at least so it seems.

Even so, the details of how the ISAB Oversight Committee actually works might be a useful model here. The Council should itself choose how it wants to be represented, whether by the Chair or by another member. Then, while the official members of the Governing Committee would be a Council members and other high agency officials, the Council (and the other entities) should also name a staff member to staff this function within the Council and for the official committee member, and have that staff member work with the other staff representatives as the primary way in which the Governing Committee does its work. The suggestion for the Council would be to rely on the new mainstem staff person in the Fish and Wildlife Division. The higher level members of the committee would rarely meet -- once a year or so -- unless circumstances require something more. And the Council and its partners should begin the committee by establishing it by charter, spelling out how the committee members are to be named, what the functions of the committee will be, and how the committee is to operate.

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