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March 23, 2004

MEMORANDUM

TO: Regional Coordinating Group

FROM: Council Staff

SUBJECT: 1) Check-up on NOAA and USFWS participation in subbasin planning, and 2) Discussion of the relationship between subbasin planning and recovery planning to clarify expectations in advance of public comment process.

1) When we undertook subbasin planning over a year ago, a major discussion element for the RCG dealt with the expectations of states, tribes, local planning groups, and the Council for the participation in subbasin planning by the USFWS and NOAA Fisheries. We believe that we had a full discussion at that time, and that NOAA Fisheries and the USFWS explained the nature and level of participation that they could have in the subbasin planning effort.

As we approach the May 28, 2004 deadline for submission of subbasin plans we believe that it would be useful for the RCG to have something of a "last chance" discussion regarding the involvement of the ESA regulatory agencies in subbasin planning. That is, do the states and tribes believe that the participation by the USFWS and NOAA Fisheries has been as committed to when the process started? Similarly, do the USFWS and NOAA Fisheries believe that they have afforded the opportunity to participate at the level 1 or level 2 and level 3 to the extent that they wanted?

The goal of this discussion will be to identify any problems that may be perceived by any party about this element of subbasin planning while we still have time to remedy them. We will ask each state as well as NOAA Fisheries and the USFWS to report to the RCG on this item.

2) Another prominent discussion in the first RCG meetings centered on the topic of what ESA purposes may adopt plans serve. While the Council requires subbasin plans to fill in the subbasin level of its Fish and Wildlife Program, and to act as a guide for developing and prioritizing Bonneville expenditures, it was recognized early on that subbasin plans might also be able to serve ESA functions. For example, the 2000 Hydrosystem Biological Opinion

contemplates that subbasin plans will more particularly identify and prioritize off-site actions that mitigate for the hydrosystem to avoid “jeopardy” as part of a Reasonable and Prudent Alternative. Further, Regional Administrator Bob Lohn advised the Council that adopted subbasin plans could also be the “foundation” for the separate ESA Section 4 Recovery Planning process. Further, in the context of discussing possible “assurances” Mr. Lohn described that adopted subbasin plans may serve as “interim local recovery plans” even before full and final ESU recovery plans are developed.

As we approach that phase of the subbasin planning process where plans will be submitted and the NOAA Fisheries, USFWS, Bonneville and others will be commenting on those plans, we believe we should revisit the issue of what functions subbasin plans are primarily *required* to serve, and distinguish those from functions that subbasin plans submitted this May *might* serve. For example, both NOAA Fisheries and Bonneville recently submitted comments on the Clearwater subbasin plan, and both sets of comments made some reference to the use of subbasin plan for ESA recovery planning purposes. Council staff believe that if the federal agencies do intend to use the comment period to express their thoughts about the utility of subbasin plans being submitted this May for ESA purposes that are beyond their core function -- the Fish and Wildlife Program -- we should have a full discussion (or revisit those of early RCG meetings) about the expectations of the various parties.