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Ed Bartlett
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John Hines
Montana

October 25, 2004

MEMORANDUM

TO: Regional Coordination Group Members

FROM: Council Staff

SUBJECT: Update on Subbasin Plan Adoption Process

John Ogan will give an update on the subbasin plan adoption process that will include the schedule for plans in three "adoption tracks", the public comment period on subbasin plans, and the request for comment on other issues or topics related to the overall subbasin planning process. Attached are three documents for this discussion:

1. Letter from Council requesting comment on 29 subbasin plans as draft amendments to the 2000 Fish and Wildlife Program.
2. Letter from Council requesting comment on issues or topics that relate more general to subbasin planning Fish and Wildlife Program amendment processes.
3. Schedule of public hearing and process for adoption.

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October 18, 2004

Dear Interested Parties:

On October 13, 2004, the Council decided to release for public review and comment a set of 29 subbasin plan recommendations as draft amendments to the Council's Columbia River Basin Fish and Wildlife Program. The subbasin plan recommendations released as draft program amendments are for the following subbasins of the Columbia River Basin:

Asotin	Kalama	San Poil
Bruneau	Kootenai	Spokane
Coeur d'Alene	Lake Chelan	Tucannon
Columbia Gorge	Lake Rufus Woods	Umatilla
Cowlitz	Lewis	Upper Columbia mainstem
Elochoman	Lower Snake	Upper Mid-Columbia mainstem
Fifteenmile Creek	Malheur	Washougal
Flathead	Owyhee	Willamette
Grays	Pend Oreille	White Salmon
Hood	Salmon	

The 29 subbasin plan recommendations proposed as draft amendments to the fish and wildlife program may be found at www.subbasins.org. Copies on compact disc also are available by calling the Council's offices at 503-222-5161 or 800-452-5161.

We invite your comments on any and all aspects of the 29 draft subbasin plan program amendments. Written comments should be submitted by 5:00 p.m., November 22, 2004, to Mark Walker, Director of Public Affairs, Northwest Power and Conservation Council, 851 S.W. Sixth Avenue, Suite 1100, Portland, Oregon, 97204, or submitted by e-mail to comments@nwcouncil.org. Please write "subbasin plan comments" in the subject line.

The Council scheduled public hearings in the following locations to accept oral and written comments on the 29 draft subbasin plan program amendments:

Wednesday, Oct. 27: Wenatchee, Washington, and Eugene, Oregon
Thursday, Oct. 28: Kalispell, Montana
Wednesday, Nov. 3: Pendleton, Oregon
Thursday, Nov. 4: Ontario, Oregon, and Boise, Idaho
Monday, Nov. 8: Vancouver, Washington

Tuesday, Nov. 9: Portland, Oregon
Wednesday, Nov. 10: Hood River, Oregon
Monday, Nov. 15: Clarkston, Washington
Tuesday, Nov. 16: Coeur d'Alene, Idaho

For locations and other information about the hearings, please contact the Council or view the subbasin planning page on the Council's website, www.subbasins.org. Please check the website regularly, as we will post any updated information there.

The Council will consider all comments received on the draft program amendments as it decides whether to adopt them as amendments to the program. The Council tentatively has scheduled the decision on program adoption of these 29 subbasin plans at its December 2004 meeting in Portland.

Additional Request for Comment is Forthcoming

The Council is aware that there is a set of issues or questions that have been identified to date that do not apply to the particular subbasin plan recommendations identified above, but rather, relate to the subbasin planning process generally, the use of subbasin plans once adopted, and what, if any, future planning steps the Council anticipates. The Council is in the process of developing a paper that will be released in the next few days that frames those broader issues and invites comment on them. We intend to coordinate the schedule for comment on that issue paper with the comment period specified above for the subbasin plans.

Background

In 2000, the Council began a comprehensive revision of the fish and wildlife program. First, the Council amended the program by adopting a framework of vision, objectives and strategies at different geographic scales (basinwide, ecological province, subbasin), tied together with a consistent scientific foundation. The Council also adopted basinwide provisions and described how it proposed to add more specific objectives and measures to the program through integrated subbasin plans for the tributary subbasins of the Columbia and for specific mainstem reaches. The draft amendments now proposed for adoption would add subbasin plans to the general, basinwide provisions of the program as the next step in the comprehensive revision.

On August 12, 2002, the Council solicited recommendations for amendments to the program at the subbasin level from the region's state and federal fish and wildlife agencies, Indian tribes, and others, as required by the Northwest Power Act. At the same time, the Council worked with a broad range of interests in the region and developed a non-binding "Technical Guide for Subbasin Planners" to help ensure that plans had a consistent format and content. The Council also worked with the Bonneville Power Administration to secure funding support for planning groups, the first time that funding has been made available to help develop fish and wildlife program amendment recommendations. Subbasin planners were asked to develop subbasin plans that incorporate a technical assessment, an inventory of past and present activities, and then a management plan consisting of a vision, biological objectives and implementation strategies for the subbasin.

On May 28, 2004, the Council received recommendations for subbasin plans in 59 subbasins from various planning entities. The Council made those recommendations available for public review and comment, including review by a team of independent scientists. The public comment period on the recommendations ended on August 12, 2004. The Council received an extensive set of comments. The Council staff and Council also reviewed the plans during the comment period for consistency with standards in the Northwest Power Act for program amendments and with the provisions in the 2000 Program.

After its review of the recommendations and the comments on recommendations, the Council concluded that one set of subbasin plan recommendations was ready for release for public review as draft amendments to the fish and wildlife program -- the 29 subbasin plans currently proposed for adoption. To be more precise, the Council proposes to adopt the management plan portions of these subbasin plans as parts of the program. The underlying technical assessments and inventories will be placed in an appendix to the program.

Also based on its review, the Council concluded that the other subbasin plan recommendations not in this first group of 29 needed further work before they were ready to propose for public review as draft amendments. A schedule for consideration of the other subbasin plans is posted on the Council's website at www.subbasins.org.

Thank you for your interest in the Northwest Power and Conservation Council and its fish and wildlife program.

Sincerely,

sc/10/19/04

Stephen L. Crow
Executive Director

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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, commentators 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 commentators 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 commentators 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. Commentors 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



2004 calendar

May 28 Draft **subbasin plans** submitted (choose from drop-down at left)

June 4 - Aug 12 - **Scientific** and public reviews

Aug 13-17 Council develops "key issues" list from reviews

September Subbasin plans grouped into **3 categories**

Oct 1-Nov 22 Planners respond to comments

October Council adopts draft amendments on 29 "adoptable" subbasins

Oct/Nov Public hearings/comments on draft amendments

Oct 27 — Wenatchee and Eugene

Oct 28 — Kalispell

Nov 3 — Pendleton

Nov 4 — Ontario, and Boise

Nov 8 — Vancouver, Washington

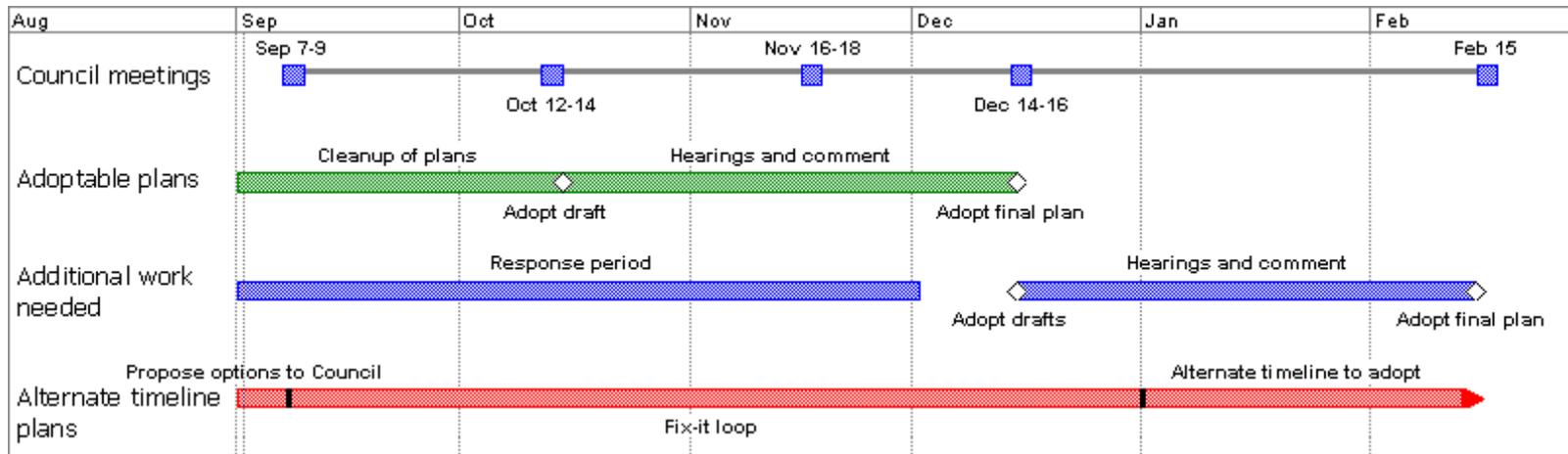
Nov 9 — Portland

Nov 10 —Hood River

Nov 15 —Clarkston

Nov 16 —Coeur d'Alene

December — Council adopts final amendments and next set of draft amendments.



Subbasins by Track

Adoptable plans			Additional work		Alternate timeline
Asotin	Kootenai	Umatilla	Boise	Methow	Crab Creek
Big White	Lake Chelan	Upper Columbia	Burnt	Okanogan	Grande Ronde
Salmon	Lake Rufus	Upper Mid-Columbia	Clearwater	Payette	John Day
Bruneau	Woods	Washougal	Columbia Estuary	Powder	Palouse
Coeur d'Alene	Lewis	Willamette	Deschutes	Snake Hells Canyon	Snake Headwaters
Columbia Gorge	Lower Snake		Entiat	Upper Mid-Snake	Upper Closed Basin
Cowlitz	Malheur		Imnaha	Walla Walla	Upper Snake
Elochoman	Owyhee		Klickitat	Weiser	
Fifteenmile Creek	Pend Oreille		Little White Salmon	Wenatchee	
Flathead	Salmon		Lower Columbia	Wind	
Grays	San Poil		Lower Mid-Columbia	Yakima	
Hood	Spokane		Lower Mid-Snake		
Kalama	Tucannon				