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"Larry"
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Idaho

W. Bill Booth
Idaho

Northwest Power and Conservation Council

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Vice-Chair
Oregon

Melinda S. Eden
Oregon

Bruce A. Measure
Montana

Rhonda Whiting
Montana

August 30, 2007

MEMORANDUM

TO: Council Members

FROM: Lynn Palensky & Patty O'Toole

SUBJECT: Program Amendment Preparations

PURPOSE:

Staff will provide an update on preparations for the upcoming program amendment process in the areas of the Science-Policy Exchange, the draft Call for Recommendations letter, and the schedule for program amendments. Brian Lipscomb will then give a brief update on the Columbia Basin Fish and Wildlife Authority's work in preparation for program amendments.

BACKGROUND:

Science-Policy Exchange
The agenda for the two-day Science Policy Exchange is complete and is posted on the website. The Exchange will begin on Wednesday after the Council meeting and go all day, both days September 12th and 13.th. The four sessions focus on new science or new information since our last program amendment process: Habitat Strategies; Mainstem Passage and Snake River Fall Chinook; Estuary Habitat; and Ocean Conditions. See attached agenda.

Call for Recommendations – draft letter
Based on the Council's April decision on the proposed schedule for the program amendment process (see below) the Council will need to approve and release a letter calling for program amendments at the October Council meeting. At the September Council meeting staff will present a draft letter for Council member feedback. Based on input received at the meeting and over the next few weeks, staff will revise the letter for Council consideration and decision in October. See attached draft letter.

Discussion of program amendment schedule
Council staff presented a proposed schedule for the amendment process that the Council approved unanimously at the April meeting. According to the proposed schedule, the process would begin on

November 1 and conclude at the end of 2008. In response to the proposed schedule, Bonneville customer groups and the Columbia River Inter-Tribal Fish Commission suggested that the Council would benefit from a schedule that would allow integration of the next Biological Opinion (BiOp) into the amendment process. The Council acknowledged the importance of integrating the BiOp into the process, but also confirmed its desire to start the process as planned – in the fall of 2007. One option that we always have is to extend the deadline for submitting recommendations. In this case the Council could consider extending the 90 days for submitting amendment recommendations for another 90 days, thus allowing *up to* 180 days total. That would allow for consideration of the BiOp in amendment recommendations if the BiOp is released at the end of January as anticipated. Here are the options to consider that would still keep us on track to begin the process on November 1:

1) Release the Call for Recommendations Letter on November 1, and decide later -- December or January, for example -- to extend the comment period if it looks like the BiOp will be released at the end of January. Or:
2) Release the Call for Recommendations Letter on November 1 and provide (from the onset) up to 180 days to submit recommendations.

In extending the comment period, we would extend the end date for the amendment process to February or March, 2009 at the latest. Please see the attached timelines. Staff will seek a recommendation from the Fish and Wildlife Committee for a Council decision at this meeting.

Attachments:
Science Policy Exchange Agenda
Draft Call for Recommendations Letter
Amendment Timelines

Science Exchange Policy

September 12 - 13, 2007

Northwest Power and Conservation Council
Portland State University, School of Business
Auditorium Room 190
1111 Broadway, Portland, Oregon

Wednesday

7:30 - 8:00: **Coffee and pastries**

Session 1: Habitat

8:00 - 8:20: **Welcome and overview**

8:30 - Noon

- **Intensively monitored watersheds**
- **Habitat strategies**
- **Nutrient enhancement**

Session 2: Mainstem

1:00 - 5:30

- **Mainstem passage survival rates**
- **Snake River Fall Chinook life history diversity**

Thursday

7:30 - 8:00: **Coffee and pastries**

Session 3: Estuary

8:00 - Noon

- **Survival estimates comparison of lower river and above Bonneville Dam**
- **Salmon life histories, habitats, and food webs in the Columbia River Estuary**
- **Current restoration activities**

Session 4: Ocean

1:15 - 5:00

- **Coastal and ocean ecosystem**
- **Northeast Pacific Basin — tagging data**

DAY ONE: Wednesday, September 12

Welcome and Exchange Overview: 8:00 - 8:20 – Dr. Karier and Rick Williams

I. Habitat Session: 8:20 am - noon

8:20 - 8:30	**Introduction:** Rick Williams Return to the River and Program Assumptions
8:30 - 8:45	**A. Intensively monitored watersheds:** Bob Bilby – Overview
8:45 - 9:00	Pete Bisson (Case Study)
9:00 - 9:15	Gordie Reeves (Case study)
9:15 - 9:45	**Discussion**
9:45 - 10:00	**Break**
10:00 - 10:15	**B. Habitat strategies:** Susan Hanna – Overview
10:15 - 10:30	Peter Paquet (strategies)
10:30 - 11:00	**Discussion**
11:00 - 11:15	**C. Nutrient enhancement:** Pete Bisson – Overview
11:15 - 11:30	Matt Mesa (Case study)
11:30 - noon	**Discussion**
Noon - 1:00	**Lunch** (on your own)

II. Mainstem Session: 1:00 - 5:30 pm

1:00 - 1:10	**A. Mainstem passage and survival – introduction:** Rick Williams
1:10 - 1:30	**Status trends and current management strategies:** Paul Wagner
1:30 - 1:45	1. **Direct dam and reach survival:** Steve Smith
1:45 - 2:00	2. **Adult passage:** Chris Peery
2:00 - 2:15	3. **RSW passage and survival:** Noah Adams and Gordy Axel
2:15 - 2:30	4. **Relationship of Snake River stream-type Chinook survival rates to in-river, ocean and climate conditions:** Howard Schaller
2:30 - 2:45	**Break**
2:45 - 3:20	**Discussion** (35 min)
3:20 - 3:30	**B. Snake River Fall Chinook introduction:** Rick Williams
3:30 - 3:50	**Status trends and current management strategies:** Paul Wagner
3:50 - 4:05	1. **Fall chinook productivity – Snake and Clearwater:** Jay Hesse and Billy Connor
4:05 - 4:20	2. **Life history characteristics – relative significance of yearling and sub yearlings and relative contribution to returning adults:** Billy Connor
4:20 - 4:35	3. **Flow/Spill – recent update of juvenile migration characteristics**: Jerry McCann
4:35 - 4:50	4. **Dworshak and Brownlee Operations – cold water release and flow augmentation:** Greg Haller
4:50 - 5:30	**Discussion** (40 min)

DAY TWO: Thursday, September 13

III. Estuary Session: 8:00 am - noon

7:30 - 8:00	**Coffee and pastries in the lobby**
8:00	**Welcome and opening remarks:** Council Chair, Dr. Tom Karier
8:05 - 8:20	**Overview of the Science/Policy Exchange:** Rick Williams ➢ Exchange overview and logistics ➢ Common threads: climate change and increase in human population ➢ Scientific principles
8:20 - 8:30	**Estuary and ocean introduction:** Rick Williams Big picture for hydro system, research needs
8:30 - 8:45	**Estuary overview:** Colin Levings
8:45 - 9:20	1. **Survival through the estuary:** John Ferguson & Don Lyons
9:20 - 10:00	2. **Salmon life histories, habitats, and food webs in the Columbia River Estuary:** Dan Bottom
10:00 - 10:25	**Discussion**
10:25 - 10:45	**Break**
10:45 - 11:10	3. **Current restoration activities:** LCREP
11:10 - noon	**Recap and discussion**
Noon - 1:15	**Lunch (on your own)**

IV. Ocean Conditions Session: 1:15 - 5:00 pm

1:15 - 1:30	**Oceans introduction:** Rick Williams
1:30 - 1:45	**Coastal / ocean ecosystem overview:** Bill Pearcy
1:45 - 2:15	1. **Ocean-entry timing and plume research**: Ed Casillas
2:15 - 2:35	2. **Ocean productivity, variability and Pacific decadal oscillation:** Ed Casillas
2:35 - 3:00	**Discussion**
3:00 - 3:15	**Break**
3:15 - 3:20	**Northeast Pacific Basin introduction:** Kate Myers
3:20 - 4:20	1. **Distribution and migration — coded wire tag and genetics studies** 2. **POST System data** 3. **Review of comprehensive tagging strategies**
4:20 - 5:00	**Discussion and wrap-up**

Request for Recommendations for Amendments to the Northwest Power and Conservation Council's *Columbia River Basin Fish and Wildlife Program*

Council Document No. 2007-__

To interested parties:

The Northwest Power and Conservation Council (Council) is requesting recommendations for amendments to the Council's *Columbia River Basin Fish and Wildlife Program*. The current Program may be found on the Council's website at http://www.nwcouncil.org/fw/program/Default.htm. This letter describes the Council's expectations, requirements, and schedule for the amendment recommendations. The letter, associated materials, news, and information relating to the amendment process may also be found on the Council's website at www.xxxx.

Legal Background

Under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Northwest Power Act), Congress charged the Council with developing and periodically amending a fish and wildlife program for the Columbia River Basin to protect, mitigate, and enhance fish and wildlife affected by the development and operation of hydroelectric facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. The Council's current fish and wildlife program consists of the program framework and basinwide provisions adopted as the 2000 Fish and Wildlife Program, the 2003 Mainstem Amendments, and the Subbasin Plans adopted in 2004-05.

The Northwest Power Act requires the Council to call for recommendations to amend the fish and wildlife program at least every five years, prior to the five-year review of the Council's power plan. That is the purpose for this request for program amendment recommendations.

The Council must begin a program amendment process with a formal request in writing to the region's Indian tribes and state and federal fish and wildlife agencies for recommendations for:

- "measures which can be expected to be implemented by the [Bonneville] Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project on the Columbia River;

- establishing objectives for the development and operation of such projects on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and

- fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams."

This letter serves as the required written request.

The Northwest Power Act also allows recommendations to be submitted by federal and state water management agencies, by the region's electric power producing agencies and customers, and by the public. Thus, this letter also serves as notice for members of the public and other interested parties to submit their program amendment recommendations.

Building on the existing Columbia River Basin Fish and Wildlife Program

In the 2000 Fish and Wildlife Program amendment process, the Council reorganized the program around a comprehensive framework of scientific and policy principles, the first step in what became a complete revision of the 20-year old program. The fundamental elements of the revised program framework are the *vision*, describing what the program is trying to accomplish with regard to fish and wildlife and other desired benefits from the river; *biological objectives*, describing the changes in environmental conditions and fish and wildlife population characteristics needed to achieve the vision; implementation *strategies*, guiding or describing the actions needed to achieve the desired ecological conditions; and a *scientific foundation*, linking these elements and explaining why the Council believes certain kinds of actions should result in desired habitat conditions and why these conditions should improve fish and wildlife populations in the desired way.

The 2000 program framework also organized the work of the program geographically, at four different levels: *basinwide*, 11 ecological *provinces*, the Columbia and Snake *mainstem* (cutting across the provinces), and the *subbasins* of the Columbia system consisting of the tributaries, estuary, and distinct mainstem reaches. In the 2000 program the Council adopted basinwide level program provisions, including the *vision* for the program, biological objectives, substantive strategies and implementation provisions for the program as a whole, and an overarching set of scientific principles tying the elements together.

The program framework amendments in 2000 set the stage for subsequent phases of the program revision process. In the 2003 Mainstem Amendments, the Council adopted specific objectives and measures for the river's mainstem, consistent with the program's basinwide vision, objectives, strategies, and underlying scientific foundation. The Council then followed with the adoption of 57 Subbasin Plans into the program in 2004-05, consisting of technical assessments and then specific objectives and measures organized in management plans for the tributary subbasins, mainstem reaches and estuary. *See* www.nwcouncil.org/fw/program.

Parties submitting recommendations are free to recommend amendments to any part of this program. At the same time, the Council believes that the program amendment process will be more fruitful if parties focus their recommendations at certain elements of the program and not at others, as follows:

- **Program Framework and Basinwide Vision, Scientific Principles and Substantive Strategies.** The Council believes that the program framework continues to serve the program well. The Council believes many of the Basinwide provisions retain their general validity, but may need review and minimal revisions to bring them up to date. This includes the Basinwide Vision statement, the associated Planning Assumptions, the Scientific Principles, and the statements of rights and roles in the 2000 Program.

- **Certain Basinwide Strategies.** The Council suggests that parties focus their attention on the elements of the program clearly in need of significant revision or elaboration. This includes the

Basinwide Strategies regarding Monitoring and Evaluation; Research; Data Management; Wildlife; Program Implementation, Management, and Coordination; and Project Review. Further guidance regarding these areas of the Program can be found on the Council's website at www.xxxx.

- **Performance Metrics and Reporting.** Should the Program goals only focus on performance metrics within the responsibility of the power system? What form would these goals and biological performance measures take for anadromous fish, resident fish and wildlife? Should the program focus more on trying to improve quantitative measurements of anadromous fish survival at and through the mainstem Snake and Columbia River hydropower projects or improved productivity in upstream habitat? How should the associated reporting requirements be addressed?

- **Province and Basinwide Biological Objectives.** The Council also requests that parties focus attention on confirming or revising the biological objectives of the program at the Basinwide level and on adding interim or long term Biological Objectives at the Province level that would be meaningful for evaluating and reporting program process. Further guidance may be found on the Council's website www.xxxx concerning the topic of biological objectives.

- **Mainstem Objectives and Measures.** The Mainstem portions of the Fish and Wildlife Program are open for recommended amendments. In the past, the Council deferred that portion of the program to a separate amendment process. The Mainstem objectives and measures will be integrated with the other parts of the Program during this amendment process. Parties should consider whether the overarching approach to the mainstem portion of the program that the Council followed in the 2003 Mainstem Amendments remains valid.

  In the 2003 Mainstem Amendments, the Council recognized and incorporated into the program the measures in the biological opinions from NOAA Fisheries and the U.S. Fish and Wildlife Service for the operation of the Federal Columbia River Power System for the benefit of populations of salmon, steelhead, bull trout, and Kootenai white sturgeon listed as threatened or endangered under the Endangered Species Act. But the mainstem provisions of the program also included a set of habitat considerations, biological objectives, and strategies intended to protect, mitigate, and enhance *all* the fish and wildlife of the Columbia River Basin affected by the development, operation and management of the hydrosystem, whether listed or not, as required of the Council by the Northwest Power Act. The Mainstem Amendments also included provisions to subject all the mainstem measures, including those from the biological opinions, to systematic and rigorous monitoring and evaluation to determine if the measures have the biological benefits expected, represent the most cost-effective actions to achieve these benefits, and coordinate with an adequate, efficient, economical, and reliable power supply. If this approach to the mainstem portion of the program remains valid, as seems likely, parties should focus their attention on updating and improving how the Program addresses all species and associated biological requirements beyond the biological opinion measures.

- **Subbasin Plans.** The Council continues to support subbasin plans as a basis for implementing the program. The Council encourages parties preparing recommendations to use the subbasin plans to help shape their recommendations. The subbasin plans can be found at www.nwcouncil.org/fw/subbasinplanning.

  The Council does not believe this amendment process is the appropriate place and time for amending the adopted subbasin plans. Instead, the Council encourages parties to recommend a

general process and schedule for how subbasin plans will be updated in the relatively near future. In general, the Council will defer to that subsequent process, recommendations that seek to change a particular subbasin plan.

The Council realizes there may be good reasons to recognize exceptions to this general principle. For example, it may make sense in this amendment process to consider adopting into the program and integrating into the subbasin plans the relevant portions of final recovery plans that are based on but have further developed the management plan elements of one or more subbasin plans. Please include in any such recommendations a clear explanation as to how a final recovery plan has added to or revised the subbasin plans that the recovery plan subsumes. The Council will continue to consult internally and with others on the most appropriate way to handle these kinds of recommendations.

The Council also anticipates receiving recommendations that will sharpen how subbasin plans are implemented in the next few years, either by recommending a near-term implementation action plan to add to the subbasin plans or by providing a more specific, definitive prioritization framework for a subbasin plan. Any such recommendations will be evaluated for consistency with the objectives, strategies, and priorities already in the subbasin plans. For more information, see the following section.

Possible Implementation Recommendations. The Council recognizes that recent events provide an incentive for parties to submit recommendations for measures that represent detailed, specific implementation action plans for the next five to ten years. These events include the implications of the January and May 2007 decisions of the Ninth Circuit in *Northwest Environmental Defense Center v. Bonneville Power Administration* and *Golden Northwest Aluminum v. Bonneville Power Administration* and the fact that the final Proposed Action for the upcoming revised FCRPS Biological Opinion is likely to include ten years' worth of actions related to the portion of the program addressing Endangered Species Act listed salmon and steelhead. The Council is continuing to consult internally and with others on the appropriate way to handle these recommendations, including the possibility of recognizing implementation action plans as part of the program if consistent with the program framework, the subbasin plans, and the other portions of the program and if accompanied by the right provisions for periodic scientific review, evaluation, and reporting to assure proper and legal accountability.

Developments to Consider in Formulating Recommendations

As you formulate the amendment recommendations, please consider the implications of a large number of recent and important policy, scientific, and legal developments that have occurred since the Council finished the last amendment process with the adoption of the subbasin plans. This includes:

- Developments related to the federal Endangered Species Act, including the culmination of a review of the Pacific salmon listings and re-listing of the Columbia ESUs, an approach to listing and to the review of hatchery influences on populations again called into question by the courts; the invalidation of the 2004 FCRPS Biological Opinion; more than two years of intensive work among representatives of federal, state, and tribal entities on a revised FCRPS consultation culminating at this point in a Proposed Action and draft 2008 Biological Opinion [draft is expected in November 2007]; and a wealth of technical analyses on the issue of recovery, and several draft and final recovery plans.

- A number of recent scientific reviews and reports that address many aspects of the Columbia River Basin, including the effects of climate change and population growth, the Council's research plan (2006-3) and monitoring and evaluation framework, a basinwide data center proposal, the results of a recent Science-Policy Exchange workshop hosted by the Council, and recent scientific reviews of key mainstem issues including latent mortality hypotheses and a new fish passage model, COMPASS. The Council's program amendment web page has gathered and made available many of these important reviews and reports at [www.xxxx]. In addition, throughout the past year or so the Council has heard numerous technical presentations on various subjects associated with the Fish and Wildlife Program. The technical information presented to the Council is posted on the Council's web page under the agenda headings for each meeting.

- Several decisions from the federal courts that have the potential to strongly influence the Council's fish and wildlife program.

- Policy developments regarding *in-lieu* limitations on funding by Bonneville, capital spending, and other areas have also emerged and have the potential to substantially influence fish and wildlife-related decisions.

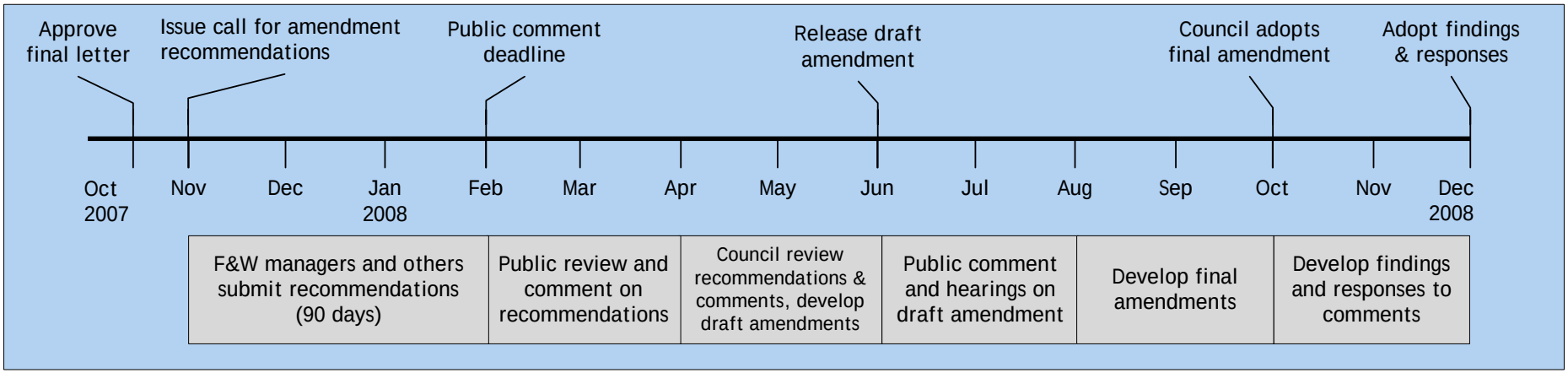
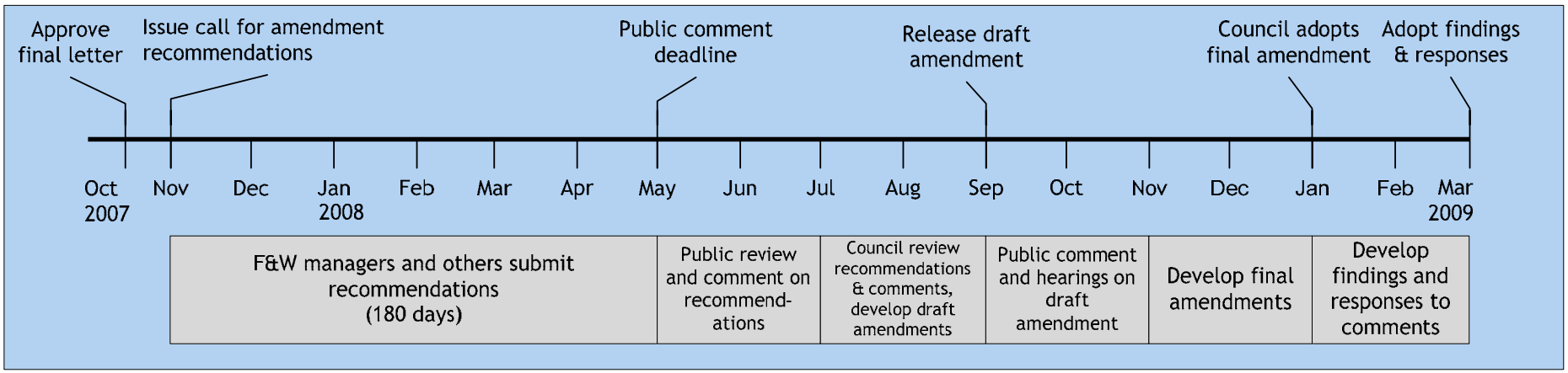
Parties should consider the implications of these developments carefully as they formulate program amendment recommendations.

A glossary of terms can be found on the Council's website at www.xxxx to assist anyone making program amendment recommendations.

Submittal of Program Amendment Recommendations

Recommendations for amendments must be submitted by 5:00 p.m. Pacific time on January __, 2008. If you are interested in submitting a program amendment recommendation, please fill out the online recommendation form. The form and instructions are [will be] at www.nwcouncil.org/fw/amendment. You will receive a confirmation email after you submit your completed proposal form. Completed recommendation forms will stored by the Council, and made available for public review and comment shortly after January __, as required by the Northwest Power Act. Check back at the above link for news and updates regarding the proposal development and review process.

Please remember recommendation forms must be completed and submitted to the Council by the close of business on January __, 2008.

Web link A -- Further guidance on monitoring and evaluation
Web link B -- Further guidance on coordination
Web link C -- Further guidance on the project selection process
Web link D -- Further guidance on biological objectives
Web link E -- Glossary of terms
Others

Possible program amendment process & schedules