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November 27, 2012

MEMORANDUM

TO: Council Members

FROM: John Shurts

SUBJECT: Explanation to accompany the Council's final decision in November 2012 on recommendations for a discrete set of data management projects and activities

Attached is a draft of an explanation and response to some of the comments in the data management review for the Council to consider approving to accompany the final decision made in November. This will come up for consideration during Council business at the end of the December meeting.

Thank you.

Northwest Power and Conservation Council

Explanation to accompany the Council's final decision in November 2012 on recommendations for a discrete set of data management projects and activities

December 2012

In 2011-12 the Council reviewed under Section 4(h)(10)(D) of the Northwest Power Act a set of ongoing projects in the program categories of resident fish, coordination and data management, making a decision on recommendations for how to proceed in July 2012. That decision was final in most respects, but for a certain set of data management projects and activities the Council deferred a final recommendation. Instead the Council delegated to a member of its Fish and Wildlife Committee (Bill Booth) and staff the task of collecting further information on the relevance and priority value of these activities and projects and reporting back to the Council with recommendations for future work and funding, working with whatever other program participants were inclined to assist the review in an ad hoc group called the Program Evaluation and Reporting Committee (or PERC).

The Council engaged the services of a facilitator (Kevin Kytola of Sapere Consulting, Inc) to help in the gathering of further information. Council Member Booth chaired two public meetings, one on August 22, 2012, in Spokane and the other on September 13 in Portland, at which project sponsors and data managers provided additional information on their activities, beyond the project proposals already reviewed by the ISRP and the Council during the original review. In the name of the PERC, Council Member Booth and the staff developed a set of recommendations and presented them to the Council's Fish and Wildlife Committee in public at a special meeting of the Committee in Portland on October 3, 2012. The Committee considered these recommendations at that meeting and the Committee's following meeting during the Council's regularly scheduled October 2012 meeting in Whitefish, Montana. During this period the Committee allowed project sponsors and others an opportunity to respond to the recommendations in writing and orally before the Committee. The Committee then concluded its considerations of these specific data management projects by making its own recommendations in public to the full Council as to how to proceed with each project or activity. The Committee largely followed the recommendations that came from the PERC effort, reshaped to a certain extent.

The Council considered the data management recommendations of the Committee and the information underlying the recommendations at the Council's October and November 2012 public meetings. The Council provided further opportunities for project sponsors and others to comment orally and in writing on the Committee's recommendations, and many took that opportunity. After full consideration of this record, the Council then concluded its review of these discrete data management projects and activities at its November 2012 meeting in Coeur d'Alene by making a decision on a recommendation to Bonneville and other program implementers for each project or activity. Those recommendations are documented elsewhere, in the staff decision memorandum to the Council for the November decision (and earlier staff memoranda and presentations to the Committee and Council) and in a November 8, 2012, letter

to Bonneville transmitting the Council's final recommendations. This explanation will be a follow-on attachment to that document.

The Committee and then Council considered and responded to the information and comments in its deliberations and in the way it shaped the final recommendations, as can be documented from Committee and Council meeting presentations, minutes and transcripts. Thus the Council is not responding to every comment here. But a certain set of comments concerning one project do prompt a brief response from the Council to accompany the decision. The project involved is the Integrated Habitat and Biodiversity Information System (or IBIS), which the program has funded for many years to house and make available a set of wildlife and terrestrial habitat data collected during past program planning activities, especially the subbasin planning process in 2002-05. Following the recommendation out of the PERC review effort and then the Committee recommendation, the Council's final recommendation to Bonneville is to discontinue the funding to the Northwest Habitat Institute (NHI) for the IBIS project and to transfer any unique program data held as part of the IBIS project to StreamNet.

The project sponsor NHI has been understandably displeased with this recommendation, as NHI was seeking not just continued but expanded funding. But the comments submitted by the primary representative of NHI, by an NHI board member, and by a couple of other commenters in support of NHI misunderstand both the nature of the review and of the public process required of and followed by the Council leading to the recommendation. The comments allege that the Council's decision took place in a non-transparent, non-public fashion. To the contrary, it is hard to imagine a process leading to the recommendation that would allow more opportunities than this one did for the affected entity to make its case to the Council, and to understand at each step of the way what were the developing recommendations to respond to. NHI submitted project proposals for initial review and had opportunities during that review for comments and input. More important, NHI had an opportunity (and took advantage of it) to present information orally and in writing to the PERC process; had notice of the recommendations of the PERC process to the Council's Fish and Wildlife Committee in plenty of time to formulate a response; took advantage of an opportunity to comment orally and in writing to the Fish and Wildlife Committee disagreeing with the PERC recommendation; heard the Committee deliberate in public and had clear notice of the Committee's recommendation to the full Council; and took advantage of an opportunity to comment in writing and orally to the full Council disagreeing with the Committee's recommendation, and to have its board member and other supporters submit comments. The Council provided notice and opportunities for comment to NHI well beyond what the law required, and considered the comments at every stage. (The Council also received comments from others, including fish and wildlife managers, in support of the recommendation regarding the IBIS project.) That the Council did not follow the course desired by NHI does not mean the public process was flawed.

The NHI comments also misunderstand the relationship of the Council's final decision to the review report on the project proposals by the Independent Scientific Review Panel during the initial review process. The ISRP did conclude that the IBIS project proposal met scientific review criteria, albeit with several comments of concern. The Council did not disagree with the ISRP on the scientific merits of the NHI proposal. But the ISRP does not decide on project funding recommendations to Bonneville. The Council does, and the Council's considerations as to whether to recommend continued funding for a project go well beyond the purely technical aspects of the project. The Council made its decision on the basis of what the Council concluded

was the priority data management work to fund going forward out of a set of technically sound projects, given a limited budget. This a perfectly appropriate consideration for the Council to base its recommendations on. The information presented to the Council indicated that no program entity or function actually used or depended at this time on the IBIS information housed at NHI or on the expertise of NHI in manipulating that data. Thus it is reasonable and not arbitrary for the Council to conclude that continuing the funding for IBIS is not a program priority. The Council does not believe its final decision is inconsistent with the ISRP's recommendation, but to the extent anyone believes differently, this is the explanation of that difference required by Section 4(h)(10)(D) of the Act.

The comments also argued that discontinuing funding for the IBIS project was inconsistent with the provisions of the Council's Fish and Wildlife Program regarding monitoring and evaluation, and with the possibilities under the program that the Council has discussed (but not acted on) to develop wildlife high-level indicators for the program or a more systematic and integrated wildlife management information system. The Council has not decided to pursue either course, and the Fish and Wildlife Program itself does not mention either concept directly. Nor does the program identify the IBIS project or work as an essential priority function for the program's wildlife monitoring, evaluation and data management efforts. The Fish and Wildlife Program does not obligate the Council or Bonneville to continue to prioritize an ongoing data management project for funding if the time comes when the Council concludes, as it did here, that this data management function is not important to the effective implementation of the program.

Finally, the NHI comments raised a "copyright" issue with the transfer of data to StreamNet for long-term storage. Intellectual property constraints would seem unlikely with regard to program data obtained through program planning activities and whose maintenance has been funded with program dollars. But if such concerns do exist, that is for Bonneville and NHI to work out during implementation.