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January 6, 2010

DECISION MEMORANDUM

TO: Council Members

FROM: Mark Fritsch, project implementation manager

SUBJECT: Council decision on Project #2008-301-00, *Deschutes River Restoration*, a Columbia Basin Fish Accord project.

PROPOSED ACTION: Council staff recommends the Council recommend Bonneville and the project sponsor (the Confederated Tribes of the Warm Springs Reservation of Oregon) continue working in Fiscal Year 2010 to develop an overarching or programmatic plan for the habitat restoration work on the Warm Springs Reservation that addresses the concerns identified by the ISRP and thus is consistent with the Fish and Wildlife Program's approach to habitat restoration and the Deschutes River Subbasin Plan. Funding of this project in Fiscal Year 2011 and beyond is dependent on the development and favorable review of an appropriate project proposal, including by the ISRP.

BUDGETARY/ECONOMIC IMPACTS

The total amount associated with this Accord project equals \$3,087,532 (e.g., ranges from \$281,850 to \$343,407 per year¹) in expense funds for Fiscal Years 2008 through 2017. A contract (#45553) is pending in the amount of \$338,594 and reflects a performance period of December 1, 2009 to February 28, 2011.

BACKGROUND

In 2008-2009, the Bonneville Power Administration, the U.S. Army Corps of Engineers, and the U.S. Bureau of Reclamation (the "Action Agencies") signed agreements with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO), the Confederated Tribes and Bands of the Yakama Nation (YN), and the Columbia River Inter-Tribal Fish Commission (CRITFC). The agreement with these Tribes and CRITFC is referred to as the Three Treaty Tribes MOA. The Action Agencies also signed agreements with the Confederated Tribes of the Colville Reservation

¹ This range includes the anticipated 2.5-percent annual inflation adjustment, beginning in Fiscal Year 2010.

(CCT), the Shoshone-Bannock Tribes (SBT), and the states of Idaho, Montana, and Washington. These agreements are known as the Columbia Basin Fish Accords.

As set forth in the guidance document outlining the review process for the Accords, the Council recognizes Bonneville's commitment to Accord projects. The Accords do not, however, alter the Council's responsibilities with respect to independent scientific review of project proposals or the Council's role following such reviews. As with all projects in the Fish and Wildlife Program, Accord projects are subject to review by the Independent Scientific Review Panel (ISRP), and the Council provides funding recommendations based on full consideration of the ISRP's report and the Council's Program.

On November 4, 2008, the Council received from Bonneville a Columbia Basin Fish Accord proposal from the Confederated Tribes of the Warm Springs Reservation of Oregon, #2008-301-00, *Deschutes River Restoration*. The goal of the project is to improve habitat for all aquatic species along with holistic watershed restoration aimed at factors limiting salmonid production. Four limiting factors were identified and include habitat complexity and quantity, fine sediment, water temperature and altered hydrology. Implementation actions developed through this project will address one or all of these limiting factors, as guided by the Deschutes River Subbasin Plan, the Mid-Columbia Steelhead Recovery Plan, and other Tribal planning efforts that prioritize projects on the Warm Springs Reservation.

The Council submitted the proposal to the ISRP for review. The ISRP provided its initial review report on December, 12, 2008 (ISRP document 2008-15). The ISRP found that the proposal needed additional detail and provided a recommendation of "Response Requested - Does Not Meet Criteria".

On July 28, 2009 the Council received a response from Bonneville, and on August 18, 2009 the Council received the final review from the ISRP (ISRP document 2009-35). The ISRP found that the proposal "Does not meet scientific review criteria." No public comment was received on the ISRP review.

On September 29, 2009 the CTWSRO requested a teleconference with the ISRP to clarify the concerns regarding the project's narrative. On October 15, 2009 a teleconference was conducted with CTWSRO, Bonneville, and the ISRP. On October 16, 2009 the ISRP provided a summary of the teleconference with CTWSRO regarding the project.

On November 17, 2009 the Council received a response from CTWSRO intended to address the concerns raised by the ISRP in their previous reviews and on December 1, 2009 the ISRP provided their follow-up review (ISRP document 2009-49). The ISRP continued to find that the information provided remained insufficiently detailed for the proposal to meet scientific review criteria.

The ISRP expressed concern that the three review iterations did not contain enough technical detail for the ISRP to conduct a review of the scientific merit for the proposed restoration actions. Though the Panel indicated that habitat restoration work in the project area is warranted, based in part on the information already in the Deschutes Subbasin Plan, the actions as presented

in the proposal were not yet justified and significant planning still is needed for a review to occur. The ISRP suggested that instead of another response the sponsor should submit a new project proposal that addresses the following five information points: 1) a reasonably detailed description of what be done and where the restoration activity will be implemented; 2) an explanation or rationale for why this action will be taken at the location in question; 3) a description of how the action fits into existing restoration priorities that have been established by subbasin plans, species recovery plans, watershed plans, state and Tribal plans, etc., 4) as completely as possible, an explanation of the benefits of the proposed project to target species; and 5) an outline of what will be done to monitor the habitat improvement and population recovery objectives of the restoration action. The ISRP also found need for additional information concerning the 10 project sites proposed.

ANALYSIS

The current proposal is not acceptable, and so the Council staff cannot provide a favorable recommendation at this time. As identified by the ISRP, the project sponsor has not yet developed the proposal sufficiently to display the necessary link of particular habitat actions to the broader context of priority limiting factors and objectives so as to demonstrate the potential for real benefits to fish from any particular action. At the same time, the Deschutes River Subbasin Plan generally identifies the project area as having potential for habitat restoration actions that will benefit species important to the program. The ISRP and Council staff thus agree on the potential utility of the proposed work. For this reason, Council staff recommends that during FY 2010 Bonneville and the CTWSRO work to develop and resubmit for further ISRP review an appropriate overarching or programmatic proposal, guided by the Deschutes Subbasin Plan, the general approach to habitat restoration inherent in the program framework, and the ISRP's comments. This review will need to occur prior to the Fiscal Year 2011 field season, and implementation of any habitat restoration actions in FY 2011 and beyond will depend on a favorable review.

The Warm Springs River and Shitike Creek are the last remaining stronghold for wild stocks (e.g., spring Chinook) in the Deschutes subbasin. There is a wealth of available information to develop an appropriate programmatic plan for the habitat restoration work in this portion of the subbasin, as guided by the subbasin plan and the program framework. What is needed is an overarching proposal that explains the linkage between the proposed habitat actions -- or any criteria developed for selecting priority habitat actions over time -- and the priority limiting factors and objectives identified in the Deschutes subbasin plan. The proposal will also need to explain whether and how the sponsor will monitor implementation and effectiveness, consistent with the work underway in the region to develop and review a monitoring and evaluation framework for the program. Bonneville and the project sponsor ought to focus the expenditure of funds reserved for this project in FY 2010 on completing the programmatic proposal.

Council staff understands that Bonneville and CTWSRO are considering implementing limited habitat actions in the project area in the interim, that is, in FY 2010. In the absence of a Council staff recommendation or particular guidance for individual actions given the unfavorable scientific reviews of the proposal, we anticipate Bonneville will manage any risks associated with the choice of actions that may be undertaken in contract implementation. As an example, Council staff suggests that Bonneville and the project sponsor employ at most limited or passive

techniques out of the stream channel to address obvious problems, such as actions on uplands that minimize fine sediment contributions to watersheds where the existing plans have identified serious sediment problems affecting Chinook or steelhead productivity.