

Staff summary of Issues & Recommendations

ESA / BiOps / Recovery Plans

*Preliminary draft, please refer to full recommendations for complete review

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2009 Fish and Wildlife Program Sections:

- Section I.C. Program Framework (page 3)
 - Section I.D. Implementation and Performance (page 5)
 - Section II.C. Biological Objectives (page 11)
 - Section D. Basinwide Strategies (page 14)
 - Section II. D. 9. Monitoring, Evaluation, Research and Reporting (page 26)
 - Section V.A. Estuary (page 32)
 - Section VI. Mainstem (pages 34-55)
 - Section VII. Subbasins (page 58)
 - Section VIII. Implementation Provisions (pages 59-60)
 - Section VIII. B. Project Review (page 61)
 - Section VIII. C. Project reporting and management (page 61)
 - Section VIII. D. Project funding priorities (page 62)
 - Section VIII. D. 2. Land and Water Acquisition Funds (page 62)
 - Section VIII.G. Coordination with other Other Regional Programs (page 64)
 - Section VIII. H.2. Independent Scientific Advisory Board (page 66)
 - Appendix E. Subbasin and Basinwide Measures (page 91)
- (for more detail see section III of this document)*

Overview

Many recommenders direct the Council include into the program all or substantial parts of the relevant biological opinions such including the FCRPS BiOp, both USFS and NOAA Willamette BiOps, the Libby dam sturgeon BiOp, the USFWS Bull Trout BiOp and the NOAA BiOp regarding the U.S. v Oregon harvest agreements. Several recommenders suggest recovery plans be included in the program, potentially as updates to subbasin plans. Some recommendations suggest the 2009 program 'got it about right' concerning the BiOps, other suggest the Council needs to include much more detail than the 2009 program had regarding BiOp schedules, actions, VSP criteria, habitat work and hydro operations.

I. Summary

- **ESA, in general**
Recommenders suggest the program go beyond recovery to emphasize sustainability, adaptability and resilience as goals for ESA listed species, and to go beyond ESA listed species and be inclusive of non-listed species as well, that were affected by the construction and operation of the hydrosystem.
- **ESA, Wild Salmonids**

Some recommenders suggest the program set aside wild Salmonids as a separate section, and to adopt a policy of minimizing risk to wild fish from harvest and hatchery effects.

- **ESA Recovery Plans**

Numerous and extensive recommendations call for the program to explicitly include the ESA recovery plan goals, objectives, criteria and measures throughout the program. Many also called for explicit adoption of the recovery plans into the program.

- **Willamette BiOp**

See the Willamette summary and synthesis.

- **Integrate the program with the Endangered Species Act.**

Recommenders suggest including a note that some resident fish losses occurred to species that are now ESA listed such as Bull Trout. Recommenders also suggest the program more thoroughly integrate the ESA into the program framework. Some tribal recommendations suggest the program reflect the principles of Executive Order 3206 to harmonize the ESA with tribal rights and interests.

- **Stay the course with the FCRPS Biological Opinion**

Some recommenders suggest the program should carry forward as in the 2009 program with support for the FCRPS BiOp.

- **Recommend adopting the Biological Opinions into the program.**

Several recommenders suggest adopting the FCRPS BiOp, its' supplements and also adopting the Bull Trout BiOp into the program.

- **The FCRPS BiOp is illegal and flawed and more actions may be needed to make it legal.**

Recommenders suggest the program anticipate needing to do more for the FCRPS BiOp by moving forward with engineering, transportation, flood risk and economic impact studies necessary prior to a proposal to removal of the four lower Snake River dams.

- **Hatchery programs and ESA**

Recommenders suggest the program rely on Hatchery Genetic Management Plans that have been appropriately reviewed and focus RM&E on critical uncertainties. Artificial production strategies should implemented in the context of recovery plans BiOps. Other recommendations propose a balance between hatchery mitigation and ESA requirements. Some other recommenders suggest the creation of "hatchery Free" zones and ask if it possible to .

- **ESA, Recovery and Harvest**

Recommenders suggest the harvest strategies in the program be designed to not impede recovery and selectively avoids harvesting ESA listed fish.

- **ESA and Hydrosystem Passage and Mainstem operations**

NOAA urges updates to the program that reflect the latest versions of the FCRPS BiOp. USF&WS recommends the program more fully integrate the Bull Trout BiOp which has many Mainstem habitat and operations requirement and RPAs. Montana FWP and the KTOI have suggestions about how the program can improve VAR-Q and other Hungry Horse and Libby operations.

- **ESA and Subbasins**

Many recommenders suggested the subbasin plans need to be updated to incorporate new goals and information found in recovery plans which have been adopted or will soon be adopted.

- **Estuary and recovery of ESA listed salmon and steelhead**

Many recommendations referred in general to the importance of the estuary and the lower Columbia River. Several specifically tied their recommendations to the Estuary Module of the FRCPS BiOp and its importance to not only ESA listed fish, including eulachon, in the lower river, but also to the other listed salmon and steelhead that pass through the lower river on the way upstream. One recommendation expressed a caution to not be too reliant on the % survival benefits for ocean and stream type salmon and steelhead that are postulated to result from habitat actions.

- **Other Species, including Eulachon, and ESA**

Many recommendations extensively addressed eulachon though only NOAA Fisheries (30) specifically connected eulachon to the ESA and the FCRPS BiOp. Another recommendation spoke to the need for the program to address newly listed species and those that are likely to be listed.

- **Use FCRPS BiOp metrics as program HLIs.**

BPA suggested the BiOp metrics serve as HLIs for the program.

- **ESA and CWT**

Two sportfishing organizations suggested the CWT program was required under the FCRPS BiOp.

II. ESA/BiOps/Recovery Planning Recommendations

1. ESA, in general

- a. NOAA Fisheries (30) recommends the program emphasize sustainability, adaptability and resilience, which correspond closely to NOAA's Viable Salmonid Population concept.
- b. NOAA Fisheries (30) recommends the Council consider long term strategic planning that goes beyond listed species and ESA recovery needs by considering the outcomes from the Columbia Basin Situation Assessment that NOAA announced in December, 2012 and expects to share a summary of the outcomes in November, 2013.
- c. The Cowlitz Tribe (22) (22) recommends the Council recognize the Fish and Wildlife Program, though tied to ESA listed species, is broader than recovery of those species.
- d. The Nez Perce Tribe (25) recommends the Council recognize the measures recommended by the Nez Perce Tribe are not limited to species listed under the ESA, but rather are inclusive of listed and non-listed species affected by the construction and operation of the FCRPS.

2. ESA, Wild Salmonids

- a. The Native Fish Society (60) and the Save our Wild Salmon (64) recommends the Council develop and adopt an amendment category that is focused on conservation and recovery of wild salmonids including those that are threatened or endangered under the federal Endangered Species Act. These amendments and actions would be directed at providing consistency within subbasin and ESU plans with the best available science regarding harvest and hatchery impacts on wild native salmonids in each watershed; habitat agreements with land and water managers to protect, maintain and improve the life history requirements supported by subbasin habitats, and a monitoring, evaluation and research investment in each subbasin to provide the quantitative data needed to secure the productivity and diversity of native wild salmonids while providing the basis for adaptive management. This approach to providing conservation management for wild native salmonids will require a coordinated approach among the fish agency managers so that the salmon and steelhead life cycle is less fragmented by institutional issues in the Columbia River basin.
- b. The Native Fish Society (60) and the Save our Wild Salmon (64) recommend the Council recognize the risk to wild salmonid conservation and recovery from naturally spawning hatchery origin fish in each subbasin, and recommends the Council ask the appropriate independent science panel to determine the scientific basis for existing stray rate standards and propose a standard that is protective of ESA-listed wild salmonids in the Columbia River basin.

- c. The Native Fish Society (60) and the Save our Wild Salmon Coalition (64) recommend the Council evaluate whether the multiple objectives of recovering ESA-listed and non-listed wild salmonids to establish healthy natural populations, and mitigating harvest opportunity using artificial propagation are in conflict and can be reconciled. If they cannot be reconciled explicitly address any trade-offs for wild salmonid conservation and recovery.
- d. The Native Fish Society (60) and the Save our Wild Salmon Coalition (64) recommend the Council evaluate the population status for wild salmon and steelhead in the Columbia River by species and run for each ESU and as a whole compared to the aggregate run composed of hatchery and wild fish to determine whether hatchery fish are replacing wild salmon and steelhead in the Columbia River basin. An annual report shall be provided to the public, media and agencies on the status of ESA-listed and non-listed wild salmon and steelhead in the Columbia River. This status report shall provide graphics that show the time series trend line for each wild salmon and steelhead ESU compared to and relative to hatchery salmon and steelhead. An annual accounting by species and ESU shall be conducted for the public and agency records that show the status of wild salmonids in each aggregate run.

3. ESA Recovery Plans

The Oregon Department of Fish and Wildlife (ODFW) (3) recommends the Council clarify that a) ESA recovery and delisting is consistent with Fish and Wildlife program goals and b) actions to achieve Fish and Wildlife Program goals should not impede ESA delisting.

NOAA Fisheries (30) recommendations:

Our recommendations underscore the need for explicitly linking the Program with recovery priorities for the thirteen species of Columbia River salmon and steelhead listed under the ESA. Our recommendations also acknowledge the desire to exceed ESA objectives, conserve strong populations, and provide for broader cultural and socioeconomic benefits that are consistent with other statutory mandates and our tribal treaty and trust obligations.

Recommend that the program explicitly incorporate into the Subbasin Measures section of the 2009 program ESA recovery plans for salmon and steelhead, which are complete for 9 of the 13 listed Columbia Basin salmon and steelhead.

Recommend inserting on page 5 of the 2009 program Implementation and Performance section the following: *Many ESA recovery plans for salmon and steelhead are now complete. Those recovery plans used the 2004-05 subbasin plans. This cycle should continue, so the subbasin plans should now incorporate the final ESA recovery plans.*

Recommend the Council incorporate into the Biological Objectives section of the 2009 program on, page 11, and implement the ISAB's recommendations on Biological Objectives and also incorporate ESA recovery objectives as minimum targets for threatened and endangered species.

Recommend the Council insert into the Basinwide Strategies section of the 2009 program, on page 14, the following: *The multiyear action plans will incorporate strategic prioritization frameworks and priority actions for recovering listed species as described in ESA recovery plans and implementation plans.*

Recommend the Council insert into the Habitat Strategies section of the 2009 program, pages 14-16, the following: *"Use a strategic multi-scale framework for prioritizing tributary habitat actions..."* Where recovery plans are complete, incorporate their strategic prioritization frameworks that include viability criteria, limiting factors and priority actions. This framework should be accompanied by a basin-wide multi-scale tributary habitat monitoring framework. Furthermore, BPA's project solicitation process should be updated so that solicitations specifically target priority limiting factors and actions.

Recommend the Council amend the Emerging Habitat Issues section of the 2009 program, page 16, with the following: *"...Habitat work is intended to be consistent with the Program's biological objectives and also with measures contained in subbasin plans and in ESA recovery plans."* And *"...Specific measures to deal with these emerging issues are included in the Mainstem plan and in many of the subbasin plans and in recovery plans."*

Nez Perce Tribe (25) and the Washington Department of Fish and Wildlife (WDFW) (4) recommend: Page 5 of the 2009 Program be reworded to: *"The Council comprehensively revised the Program in 2000 with the addition of the current program framework, added specific measures and objectives for the Mainstem in 2003, and then developed and adopted subbasin management plans into the Program in 2004-05. Together, these elements provide a coordinated and integrated plan for fish and wildlife across the basin. The federal, state and tribal governments have been working since then with local partners to expand the subbasin plans into ESA recovery plans for areas of the basin that include ESA-listed populations. Many ESA recovery plans for salmon and steelhead are now complete. Those recovery plans used the 2004-05 subbasin plans and this cycle should continue, so the subbasin plans should now incorporate the final ESA recovery plans."*

The Nez Perce Tribe (25), ODFW (3), Association of Northwest Steelheaders, Idaho Rivers United, Institute for Fisheries Resources, Pacific Coast Federation of Fisherman's Associations and Save Our Wild Salmon Coalition (65) recommend the Council, on Page 11, Bullet 3 of the 2009 program, reword to: *"Increase total adult salmon and steelhead runs, in a manner consistent with achieving recovery of ESA listed populations and prevents additional listings of listed species, above Bonneville Dam by 2025 to an average of 5 million annually in a manner that supports tribal and non-tribal harvest, achieving smolt-to-adult return rates in the 2-6 percent range (minimum 2 percent; average 4 percent) for listed Snake River and upper Columbia salmon and steelhead. Increase total adult runs for listed*

lower Columbia salmon and steelhead to achieve 75 percent of recovery goals (NOAA 2013) by 2025.”

Cowlitz Tribe (22), Burns Paiute Tribe (12), Upper Snake River Tribes Foundation (USRT) (28) recommendations:

- a. The Cowlitz Tribe (22) supports recovery of ESA listed salmonids, eulachon, and Columbian white-tailed deer as important interim measures of successful ecosystem restoration. Mere avoidance of jeopardy, however, is not adequate mitigation for operation of the FCRPS, which has wide-ranging and poorly understood ecosystem effects in the lower Columbia River region.
- b. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28) recommend the Council fully integrate the program with Endangered Species Act planning activities and products The Lower Columbia Salmon Recovery and Fish & Wildlife Subbasin Plan published by the LCFRB in 2004 was adopted by NOAA in 2006 as an interim ESA recovery plan and by the Council in 2005 as the subbasin plan for 8 lower Columbia subbasins. The plan was updated in 2010 and incorporated into the broader Lower Columbia ESU plan adopted by NOAA in July 2013. These plans provide the framework of goals, strategies, measures, and actions guiding recovery efforts throughout the Lower Columbia. This planning effort has been further refined with the development of site specific restoration assessments in several subbasins. The Council should incorporate the Recovery Plan and associated habitat strategies and project identification assessments to speed progress toward biological objectives, and support close coordination between recovery partners between plan updates.
- c. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), Washington Governors Salmon Recovery Office (WA-GSRO) (5) and the Lower Columbia River Estuary Partnership (LCREP) (11) recommend the Council maintain the existing language from the 2009 Program listed below with modifications shown in bold. These are important general targets for highest level Program evaluation and should be maintained.
 - i. ○ *“Increase total adult salmon and steelhead runs, in a manner consistent with achieving recovery of ESA listed populations and prevents additional listings of listed species, above Bonneville Dam by 2025 to an average of 5 million annually in a manner that supports tribal and non-tribal harvest, achieving smolt-to-adult return rates in the 2-6 percent range (minimum 2 percent; average 4 percent) for listed Snake River and upper Columbia salmon and steelhead. **Increase total adult runs for listed lower Columbia salmon and steelhead to achieve 75 percent of recovery goals (NOAA 2013) by 2025.”***
- d. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommend the Council maintain the current language under Program Framework, page 4, expressed in the 2009 Program with modifications shown here in bold:

“...That is, the Council’s Program is designed to link to and accommodate the needs of other programs in the basin that affect fish and wildlife. This includes meeting the needs of the ESA by ~~describing the kinds of ecological change needed to improve the survival and productivity of the diverse fish and wildlife populations in the basin.~~ implementing the Program to be consistent with ESA regulatory findings in biological opinions and rulemakings; incorporating ESA recovery criteria into Program biological objectives; and incorporating ESA recovery plans, including implementation plans, into Basin-wide and subbasin management plans and multi-year action plans.”

- e. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28) and ODFW (3) recommends the Council update the current language under Implementation and Performance, page 5, expressed in the 2009 Program with modifications shown here in bold:

“The Council comprehensively revised the Program in 2000 with the addition of the current program framework, added specific measures and objectives for the mainstem in 2003, and then developed and adopted the subbasin management plans into the Program in 2004-05. Together, these elements provide a coordinated and integrated plan for fish and wildlife actions across the basin. The federal, state, and tribal governments have been working since then with local partners to expand the subbasin plans into ESA recovery plans for areas of the basin that include ESA-listed populations. ~~The Council is planning a subsequent amendment process in 2009-2010 to update the subbasin management plans and Program objectives to reflect these and other recent planning developments.~~ Many ESA recovery plans for salmon and steelhead are now complete. Those recovery plans used the 2004-05 subbasin plans and this cycle should continue, so the subbasin plans should now incorporate the final ESA recovery plans.”

- f. The Cowlitz Tribe (22) (22), Burns Paiute Tribe (12), USRT (28) and ODFW (3) recommend the Council In addition to, and support of, the recommendations provided under Section 2.2 of this document for Biological Objectives, also:
- i. Adopt the ISAB’s recommendation to make the Basin-wide objective of 5 million salmon and steelhead by 2025 more specific with respect to wild and hatchery fish.
 - ii. Adopt the ISAB’s recommendation to develop productivity objectives that reflect differences among species and populations. Incorporate ESA recovery productivity objectives.
 - iii. Adopt the ISAB’s recommendation to establish quantitative biodiversity objectives for focal species and habitats. Incorporate ESA biodiversity objectives.
 - iv. Add language that states: *“The Council’s Program incorporates the quantitative recovery criteria from ESA recovery plans. It also incorporates the more qualitative broad sense goals in some recovery plans that go beyond ESA delisting.”*
- g. The Cowlitz Tribe (22) (22), Burns Paiute Tribe (12), USRT (28) recommend the Council incorporate ESA goals and objectives for recovery and delisting of

threatened and endangered species into the Fish and Wildlife Program. In most cases, ESA delisting is not an ultimate goal and Fish and Wildlife Program goals should exceed and be broader than achieving ESA delisting. However, for listed species, ESA delisting should be an intermediate step towards the Fish and Wildlife Program goals. At any rate, the Council should clarify that a) ESA recovery and delisting is consistent with Fish and Wildlife program goals and b) actions to achieve Fish and Wildlife Program goals should not impede ESA delisting.

- h. WDFW (4) recommends the Council add to the program Biological Objectives language that states: “***The Council’s Program incorporates the quantitative recovery criteria from ESA recovery plans. It also incorporates the more qualitative broad sense recovery goals in some recovery plans that go beyond delisting.***”
- i. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommend the Council maintain the current language under Basinwide Strategies, page 14, expressed in the 2009 Program with modifications shown here in bold: “*As discussed in the Program’s Implementation Provisions (Section VIII), the Council will work with Bonneville, fish and wildlife managers, and others to develop multi-year action plans for all areas of the Program. **The multi-year action plans will incorporate priority actions for recovering listed species as described in recovery plans and ESA recovery implementation plans.** The Council will work with Bonneville to ensure reasonable implementation of all multi-year action plans.*”
- j. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommends the Council Maintain the current language under Habitat Protection and Improvement Activities to Address Biological Objectives, page 16, expressed in the 2009 Program with modifications shown here in bold: “*Habitat work is intended to be consistent with the Program’s biological objectives and also with measures contained in subbasin plans **and ESA recovery plans.***”
- k. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommends the Council maintain the current language under Emerging Habitat Issues, page 16, expressed in the 2009 Program with modifications shown here in bold: “*...Specific measures to deal with these emerging issues are included in the mainstem plan, **recovery plans,** and in many of the subbasin plans.*”
- l. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28) and ODFW (3) recommend the Council under Artificial Production Strategies, page 19, at the end of the second sentence under “d. Restoration” insert “***and recovery plans.***”
- m. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommend the Council under Updating Subbasin Management Plans, page 58, insert “***A number of recovery plans have been completed. The subbasin management plans will be updated by 2014 to explicitly incorporate final recovery plans. For additional recovery plans completed after 2014, the Council will accept recommendations to incorporate those plans in the appropriate subbasin plans.***”

- n. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommend the Council under Implementation Provisions, page 59, continue to adhere to existing program language regarding integration of BPA funding for the program with ESA requirements.
- o. The Cowlitz Tribe (22), Burns Paiute Tribe (12), USRT (28), WDFW (4) and ODFW (3) recommend the Council under Appendix E: Subbasin and Basinwide Measures, add to Columbia Gorge Province the Mid-Columbia Steelhead Recovery plan and the Lower Columbia Salmon and Steelhead Recovery Plan.
- p. The Yakima Basin Fish & Wildlife Recovery Board (YBFWRB) (8) recommends the Council amend the 2009 program in the following manner:

The Program should specifically identify recovering all listed ESUs and DPSs to levels that meet recovery criteria in ESA-listed recovery plans as a Program goal (acknowledging that this is often an interim goal, and that full implementation of the Northwest Power Planning Act may require recovering species to abundance levels well above delisting goals, in order to support abundant harvest and meet the Act's broader mitigation goals).

The Recovery Criteria identified in ESA recovery plans should be specifically identified as Program objectives, while recognizing that meeting these objectives will require coordinating full implementation of the Program with implementation efforts driven by other mandates (such as actions by Action Agencies in other areas (e.g. Corp of Engineers management of levee systems and Reclamation management of the irrigation projects), federal land managers, state and local jurisdictions, etc.).

The Program should commit the Council and federal Action Agencies to continuing to work with local and regional partners (including Washington State's recovery boards) to develop long-term implementation plans that, if implemented, would recover target species to levels that meet both ESA recovery criteria and the broader mandates of the Northwest Power Planning Act. These implementation plans should build on the existing work described above and be consistent with existing subbasin plans. In places (e.g. areas where all anadromous species are listed) it may be possible to simply adopt ESA recovery plans and associated implementation planning efforts. In other areas, where significant actions are needed for non-listed target species and ecosystems, or to recover listed species to levels well beyond meeting delisting criteria, additional work will be needed to identify appropriate goals and criteria and identify the actions that will be needed to meet those goals. We believe that it is critical that broadly accepted implementation plans be available prior to 2018, so that they are able to inform 1) development of the next FCRPS Biological Opinion, 2) future Fish Accords, 3) the next round of Council project reviews, 4) subsequent NOAA 5-year status reviews and any associated recovery plan updates, and 5) other local and regional efforts.

The Lower Columbia Fish Recovery Board recommendations:

The Lower Columbia River Fish Recovery Board (LCFRB) (6) makes recommendations that are intended to strengthen the Council's participation in Lower Columbia salmon recovery efforts. In summary, we are recommending that the Council's F&W program:

- Integrate the NOAA approved recovery plan and enhance coordination with other Lower Columbia recovery efforts;
- Incorporate the Lower Columbia recovery plan, including associated implementation strategies and plans in Basin-wide and subbasin management plans and multi-year action plans.
- Include provisions in the F&W program calling for closer consultation and cooperation with the LCFRB and other Lower Columbia recovery partners in implementing the F&W program, monitoring and reporting progress, and conducting public outreach.
- Support implementation of hatchery measures and reforms consistent with [the] recovery plan.

The Pacific Fishery Management Council (34) recommendations:

Recommend the Council adopt the NOAA recovery goals for salmon and steelhead listed under the ESA as interim quantitative performance benchmarks for these populations, and fund data management strategies described in the Coordinated Assessments framework to report on population performance relative to these goals.

4. Willamette BiOp

- a. Grande Ronde Tribe (18) - see Willamette summary for details.
- b. ODFW (3) - see Willamette summary for details.
- c. BPA(35) - see Willamette summary for details.

5. Integrate the program with the Endangered Species Act.

- a. US Fish and Wildlife Service (33) recommends the Council revise the first paragraph under Resident Fish Losses on page 12 of the 2009 program to read: The development and operation of the hydrosystem has resulted in losses of native resident fish and resident fish diversity for species such as bull trout (*listed as threatened under the ESA*), cutthroat trout, kokanee, white sturgeon and other species.
- b. ODFW (3) and WDFW (4) recommend the Council integrate the ESA into the program framework (pages 3 and 4) and throughout.
- c. Kootenai Tribe of Idaho (24) recommends the 2009 program be amended to implement, and for BPA to fully fund, the **integrated Kootenai Tribe fish and wildlife program** ... to help meet Federal ESA responsibilities.
- d. CRITFC (14), CTUIR (19) and the Yakama Nation recommend the program reflect the principles of Executive Order 3206 to harmonize the ESA with tribal rights and interests.

- e. The Confederated Salish Kootenai Tribes (16) recommend the program framework include ESA integration and changes to the following two sections of the 2009 program be made:
 - i. Under Objectives for Environmental Characteristics strike “*Allow for biological diversity among and within populations and species...*” and insert “*Promote the increase of biological diversity among and within populations*”
 - ii. Under Habitat Protection and Improvement Activities to Address Biological Objectives insert “*...and ESA recovery plans.*” To the end of this sentence: ‘*Habitat work is intended to be consistent with the program’s biological objectives and also measures contained in subbasin plans...*’

6. Stay the course with the FCRPS Biological Opinion

- a. CRITFC (14), CTUIR (19), the Kalispel Tribe (23), the Colville Tribe (15) and the Yakama Nation (17) recommend the continued adoption of the measures and actions in the 2008 BiOp into the program. The Colville Tribe (15) adds recommendations to include the 2010 amended FCRPS BiOp and continued funding for the tribe to do ESA enforcement.
- b. BPA (35), CTUIR (19) and the Yakama Nation (17) recommend the Council stay the course within the fish and wildlife program regarding the FCRPS BiOp because their regional partnerships have proven highly successful in implementing the BiOp commitments.
- c. The Warm Springs Tribe (21) recommends continued commitment to the FCRPS and Upper Snake River BiOps.

7. Recommend adopting the Biological Opinions into the program.

- a. NOAA Fisheries (30) recommends the language in the program that incorporates the 2008 FCRPS BiOp explicitly incorporate the AMIP, and the 2010 and 2013 supplements to the FCRPS BiOp.
- b. US Fish and Wildlife Service (33) recommends the Council include the importance of the Bull Trout BiOp by changing the language of page 36, Overarching Objectives and Priorities for the Mainstem section to read: “*Achieving the biological performance standards and fulfilling the relevant RPAs and RPMs for listed species set forth in biological opinions is a key biological objective of the Council’s Program and this Mainstem plan.*”
- c. BPA (35), Bureau of Reclamation (36), CTUIR (19) and the Yakama Nation (17) recommend adopting the relevant BiOps into the program.

- d. BPA (35), CTUIR (19) and the Yakama Nation (17) recommends adopting the hydro spill and dam passage strategies, performance standards and in-river survival targets as well as the flow management actions reflected in the 2008 FCRPS BiOp, as modified by the draft 2013 Supplemental BiOp. BPA also recommends support in the program for recent NOAA and action agency ESA reports.
- e. BPA Customer groups (44) recommends the Council incorporate by reference and ensure consistency, and not conflict, with the FCRPS BiOp that will be completed by the end of this year.

8. The FCRPS BiOp is illegal and flawed and more actions may be needed to make it legal.

The Save our Wild Salmon Coalition (65) recommends the Council amend the program to conduct a comprehensive study of the lower Snake River restoration via removal of the four dams on the lower Snake River.

Components of such a study should include:

- An assessment and review of the biological impacts of lower Snake River dam removal on ESA listed salmon and steelhead.
- B) An assessment of the economic costs and benefits of lower Snake River dam removal, including a review of the various assessments conducted by federal agencies and others regarding the potential costs and benefits of removing the four lower Snake River dams versus leaving them in place. This review should include a comparison of the scope and methodologies used in, findings of, and recommendations made in those studies that have addressed any or all of the following:
- The economic effects of dam removal and recovered Snake River salmon and steelhead populations for communities near the dams, for communities upstream from the dams, and for downstream and coastal communities, including downstream and coastal communities located within the boundaries of Oregon, Washington, Idaho, Alaska, California, and Canada. This analysis should include the impacts on commercial fishing, sport fishing, and non-fishing recreation such as boating and camping, including employment gains or losses that would result from removing the lower Snake River dams and replacing their energy, navigation, and water supply benefits in the most cost-effective manner.
- The effects of dam removal on freight transportation, including the feasibility, costs, and sufficiency of various alternative transportation configurations utilizing existing or upgraded railroads, highways, Columbia River barges, or other means; the economic benefits and costs of various alternatives for replacing the dams' freight transportation benefits; the environmental impact, including those impacts related to changes in carbon emissions, of shifting to such alternatives; the means for mitigating any environmental harm that might be caused by the use of such alternatives; and any development or expansion of such alternatives that would be required in order to continue transporting the same amount of cargo that is currently transported on the lower Snake River.
- The effects of dam removal on existing irrigation, including the availability and cost of alternatives to replace irrigation water or to extend intake pipes and relocate pumps in order to facilitate continued irrigation at current levels.
- The effects of dam removal on flood risk to Lewiston, Idaho, compared to the risks of leaving Lower Granite Dam in place.

- The effects of dam removal on power production, including the regional effects of any changes in power production, identification of alternative renewable energy sources or energy efficiency measures that could replace any loss in power production, and the benefits and costs of such alternatives.
- The economic effects of extinction of the Snake River’s salmon and steelhead populations.
- The economic effects of continued ESA protection of Columbia Basin stocks.

The Northwest Resource Information Center (61) advises and recommends the Council:

- should propose in its draft program amendments and subsequently adopt an amendment which formally recants Council support for the provisions of the NOAA Fisheries (30) (Bonneville) Biological Opinion that do not comport with the salmon and fisheries restoration mandate of the NW Power Act and with federal court orders. To redress the damage of years of Council deception, the proposed and final amendment should unequivocally state that mainstem measures in the BiOp (including the current draft updated BiOp) cannot possibly meet the Snake River salmon and salmon fisheries restoration intent of the Northwest Power Act. In addition, and crucially, this amendment should eliminate BiOp mainstem-related measures as the “baseline” of the Program. The salmon and salmon fisheries restoration mandate of the Northwest Power Act should be substituted as the only appropriate baseline for the Program and the Power Plan the Program is supposed to drive.
- should propose in its draft program amendments and subsequently adopt an amendment formally recanting its support for the Columbia Basin Fish Accords¹⁴ which, among other fatal flaws, appear to: a. Violate the Ethics in Government Act; b. Constitute a conspiracy to illegally use federal funds to subvert the ESA and Northwest Power Act; c. Violate the recent Supreme Court decision holding illegal the use of federal funds for one purpose to force recipients to take unrelated actions. This program amendment should include a requirement that Bonneville pay the Accord/MOA-promised funds but declare null and void requirements that recipients support subverting the Northwest Power Act and other federal laws.

9. Hatchery programs and ESA

- a. NOAA Fisheries (30) recommends applying to the Artificial Production elements of the program site specific strategies that are developed through approved hatchery and genetic management plans and recovery plans. These strategies are tailored to address the specific biological, physical and other factors that influence the artificial production facility’s performance.
- b. NOAA Fisheries (30) recommends that the Council identify and prioritize research, monitoring and evaluation to address knowledge gaps that contribute to policy disagreements about the effect of artificial production on the viability of listed species.

- c. NOAA Fisheries (30) recommends adding the following strategy to the program: For threatened and endangered species, decisions on management of artificial production programs need to be made in the context of biological goals and objectives and strategies at the species, major population group, and independent population levels as described in ESA recovery plans and regulatory reviews.
- d. NOAA Fisheries (30) recommends adding the following language: *“Incorporate the need for consistency with recovery plans in decisions of whether to employ supplementation for restoration purposes.”* And also: *“Need to address the relationship of the artificial production activity to ESA recovery plans and biological opinions and permits”*, as well as *“prioritizing projects that address critical uncertainties”*.
- e. BPA (35) and the Yakama Nation (17) recommends the program acknowledge the balance between hatchery mitigation and ESA requirements.
- f. The Native Fish Society (60) and the Save our Wild Salmon Coalition (64) recommend the Council establish “Hatchery Free Zones” watersheds such as Wind River, Asotin Creek, Joseph Creek, John Day River, and Molalla River and implement a monitoring and evaluation of the biological response for wild native salmonid populations in these streams to provide a scientific basis for evaluating the hatchery experiment in the Columbia River Basin. Not all hatchery-free watersheds are being monitored so it is impossible to evaluate the hatchery and wild salmonid production investments in the Columbia River basin. Additional hatchery-free watersheds must be established in the Columbia River basin in each ESU, MPG, DPS, and SMU at a minimum.
- g. The Native Fish Society (60) and the Save our Wild Salmon Coalition (64) recommend the Council evaluate whether the multiple objectives of recovering ESA-listed species, establishing healthy natural populations, and mitigating harvest opportunity using artificial production can be reconciled and address any trade-offs explicitly.
- h. The ISAB recommends the Council through the program evaluate whether the multiple objectives of recovering ESA-listed species, establishing healthy natural populations, and mitigating harvest opportunity using artificial production can be reconciled and address any trade-offs explicitly.

10. ESA, Recovery and Harvest

- a. NOAA Fisheries (30) recommends the harvest strategy in the program be adjusted. The present strategy is to make sure subbasin plans are consistent with harvest and to increase opportunities for harvest wherever feasible. Harvest strategies should be more about providing and increasing meaningful harvest opportunities that do not impede recovery. The goal of a harvest strategy should

be to achieve escapement objectives that will not unreasonably impede recovery of listed salmon and steelhead.

- b. BPA Customer Group (44) recommends the Council support selective harvest methods and policies that reduce the incidental catch of ESA listed and naturally spawning fish but increase harvest of hatchery origin stocks. The program should assess the extent to which harvest slows recovery of naturally-reproducing populations and implement adaptive management strategies for harvest measures in the program.

11. ESA and Hydrosystem Passage and Mainstem operations

- a. NOAA Fisheries (30) recommends revising the Primary strategies on page 20 of the 2009 program: "...2) provide adequate levels of survival to support fish population *targets that at a minimum meet ESA requirements in biological opinions and recovery plans.*"
- b. NOAA Fisheries (30) recommends adding to the Mainstem Plan on page 32 of the 2009 program: "*Incorporate the 2009 update and the 2010 and 2013 Supplements to the 2008 FCRPS biological opinion.*"
- c. US Fish and Wildlife Service (33) recommends the Council add the following bullet to page 36, under C.2.a: ***Evaluate how projects, reservoir conditions and operations impact connectivity among basins for bull trout.***
- d. US Fish and Wildlife Service (33) recommends the Council add the following to page 39, within the fifth bullet c, Resident Fish and Wildlife: ***Additionally, on September 30, 2010, the U.S. Fish and Wildlife Service designated critical habitat for bull trout throughout their U.S. range. This listing included the entire Mainstem reaches of the Columbia and lower Snake Rivers. The Council's Program and this Mainstem plan recognize the importance of this critical habitat for bull trout and support needed efforts to maintain and/or improve this critical habitat where needed.***

And add another bullet...

Evaluate mainstem project specific impacts to migrating bull trout.

- e. US Fish and Wildlife Service (33) recommends the Council revise the first bullet on page 43: "*Identify the importance of protecting or improving **the critical** Mainstem habitat for recovering bull trout...*"

And add another bullet...

Evaluate reservoir conditions and operations on foraging, overwintering, and migrating bull trout.

- f. Montana Fish Wildlife and Parks (2) recommends the changes to the Mainstem strategies section of the 2009 program at pages 41 and 48-50 regarding Hungry

Horse and Libby Dam operations: *Systemwide analyses of Columbia River dam operations conducted for the Columbia River treaty review revealed opportunities to improve operations at Hungry Horse and Libby dams. We therefore recommend specific adjustments to how various components of the annual operation are modeled and coordinated. Most of our recommended changes pertain to Libby operations that can be modified to achieve mutual benefits to Canada and US. These recommended operations can be achieved within flexibility afforded by VARQ and Biological Opinions by the US Fish and Wildlife Service (USFWS) and NOAA-Fisheries, and are consistent with the Montana Fish Accord.*

Libby Dam recommendations (also recommended by the KTOI): We recommend retaining the “sliding refill date” to adjust refill earlier in dry years and later in wet years. This is common practice by dam operators under the current operating strategy; however, the sliding refill date based on inflow forecasts should be formalized.

The variable end of December draft point at Libby Dam should be further relaxed in less than average water years.

VARQ operation can be improved in slightly above average and below average water years by further reducing reservoir draft and by using improved coordination among headwater projects. Similar “sliding-scale” rule curves should be applied to other reservoirs throughout the Columbia Basin so that dry subbasins are drafted less to preserve local ecosystem functions, and wet subbasins are drafted deeper for local and system flood control.

Sturgeon tiered flows and the VARQ discharge protocol should be modeled as one volume, as VARQ was originally designed.

Recommend adjustments that are within the flexibility of the sturgeon BiOp. Specifically, half of the sturgeon tiered flow volume should be released before the end of May (during high water years, tiers 4 and 5). This strategy would reduce the potential for premature reservoir refill, spill and possible flooding downstream (a problem for BC stakeholders on the shoreline of Kootenay Lake).

At Libby and Hungry Horse, the trigger for summertime flow augmentation for anadromous fish recovery (10 or 20 ft from full pool depending on water supply) should be based on site-specific reservoir inflows (as originally designed), not flows at The Dalles.

Continue to implement stable or gradually declining Kootenai River flow after spring runoff. We ask the Council to Work with Montana, KTOI and Canada to improve riparian regeneration by gradually reducing flows after spring runoff.

Hungry Horse Dam Operations

VARQ operations at Hungry Horse Dam can be improved in slightly above average and below average water years by further reducing reservoir draft and by using improved coordination among headwater storage projects.

Downstream of Hungry Horse Dam, implement a sliding-scale, stable flow (minimum) during summer and fall to benefit bull trout and other native fish species. We recommend a linear adjustment of the minimum flow in the Flathead River at Columbia Falls during summer and fall (mid-June through September). The existing minimum flow at Columbia Falls adjusts from 3,200 cfs to 3,500 cfs based on water availability. During summer and fall, when reservoir storage is drafted for anadromous flow augmentation (10 to 20 ft from full pool depending on water supply), river flows should remain stable or gradually declining after the spring runoff and stabilize at a minimum of 5,000 cfs during above average water years and adjust linearly down to 3,500 cfs in the driest water years.

- g. BPA Customer Group (44) notes the draft FCRPS BiOp wherein NOAA looks into the “Spill Experiment” proposal and rejects it based on the lack of scientific validity.

12. ESA and Subbasins

- a. NOAA Fisheries (30) recommends revising the Subbasins section on page 20 of the 2009 program: Follow through on the Program’s intent to update existing subbasin management plans to recognize and incorporate updated science, strategic frameworks, limiting factors and priority actions, such as those found in completed recovery plans.
- a. The Regional Fisheries Enhancement Group Coalition (63) recommends the Council supplement the subbasin plan information with other local planning documents in addition for guiding strategies and priorities, such as salmon recovery plans and related work and/or implementation schedules. These reflect “adaptive management,” allowing for priorities to change with changing circumstances, including new threats and the achievement of habitat recovery goals.

13. Estuary and recovery of ESA listed salmon and steelhead

- a. NOAA Fisheries (30) endorses the ISAB recommendations for estuary strategies because these could further the estuary’s role in providing for recovery of all 13 ESA-listed Columbia River salmon and steelhead.
- b. NOAA Fisheries (30) recommends incorporating the Estuary Recovery Module of the FCRPS BiOp.
- c. The Pacific Fishery Management Council (34) recommends continued endorsement of restoration activities in the Lower Columbia River estuary to accelerate recovery of both up-river runs and lower-river priority salmon runs. In

addition, the estuary and lower river habitat is thought to be important to eulachon smelt, a species listed as threatened under the ESA and not an apparent consideration in the 2009 program.

- d. The LCREP (11) recommends the Council use caution in the use of the 9% fall Chinook (“ocean type”) and 6% spring Chinook, sockeye and steelhead (“stream type”) survival benefit estimates from habitat actions within the lower Columbia. These estimates were adapted from the Estuary Recovery Plan Module (NOAA, 2011).

14. Other Species, including Eulachon, and ESA

- a. NOAA Fisheries (30) recommend adding eulachon to the individual species that are highlighted in the program as threatened. NOAA released a recovery outline in July 2013, and anticipates releasing a proposed eulachon recovery plan within a few years.
- b. Water Watch of OR (68) recommends the Council amend the program to address ESA listing made since the last amendment and anticipates additional listings.

15. Use FCRPS BiOp metrics as program HLIs.

- a. BPA (35), CTUIR (10) and the Yakama Nation (17) recommend the program High Level Indicators use FCRPS BiOp metrics.

16. ESA and CWT

- a. Northwest Sportfishing Industry Association and the Association of Northwest Steelheaders (62) believe the action agencies committed in the FCRPS BiOp to use coded wire tags as a necessary tool to monitor status to populations, harvest management and hatchery effectiveness.

Section III. Additional detail from 2009 Fish and Wildlife Program

The Endangered Species Act (ESA) is first mentioned in the 2009 **program framework** section (pg. 3) in the context of the Council’s intention bring together as much as possible the requirements of the ESA and the broader Northwest Power Act (NPA). The framework language also acknowledges the lead role of NOAA Fisheries and USF&WS in ESA compliance and their recovery plans for listed species.

The **implementation and performance** section of the 2009 program (pg. 5) recognizes recovery plans and their close tie to the program’s subbasin plans. This section also recognizes the actions designed to implement the FCRPS BiOp as being a multi-year commitment to do work that partially covers needs of the program in some areas.

The **biological objectives** section of the 2009 program (pg. 11) conditions efforts to increase harvest in a way that must be consistent with recovery of ESA listed populations and preventing additional ESA listings.

The **basin wide strategies** of the 2009 program, (pg. 14) recognize the implementation commitments made by BPA and other federal agencies in the FCRPS and Willamette BiOps.

The **Monitoring, Evaluation, Research and Reporting** (MERR) section of the 2009 program subsection 'd' (pg 26) expresses an expectation that MERR efforts will be consistent with relevant BiOps and recovery plans.

Under the **Estuary** section of the 2009 program (pg 32) the Council committed to use the *Columbia River Estuary ESA Recovery Plan Module for Salmon and Steelhead* to guide actions in the estuary and the lower river.

The **Mainstem Plan** section of the 2009 program (pp 34-55, note in particular, footnote 10) contains broad language largely deferring Mainstem operations, migration and habitat improvements and monitoring details to, and extensive reference to, various ESA BiOps and recovery plans.

The section on **updating subbasin plans** in the 2009 program (pg 58) recognizes recovery planning efforts will generate updated information and planning within some subbasins.

The **Implementing Provisions** of the 2009 program (pg 59) attempts to integrate funding for the program with ESA requirements. The 2009 program also acknowledges actions to implement BiOps are measures under the program, but also recognizes the program is broader in scope and geographic area than the BiOps and recovery plans. The 2009 program (pg 60) makes clear that the existence of an action in a BiOp or recovery plan is not a guarantee of funding under the program, and conditions that funding on the outcome on independent science review, program consistency review, public comment and a Council recommendation.

The section on **project review process** of the 2009 program (pg 61) ensures a consistent review process for all projects, including those identified in BiOps.

The section of the 2009 program on **project reporting and management** (page 61) adopts by reference the reporting and project management standards of relevant BiOps for projects intended to meet the needs of those BiOps.

The **project funding priorities** section of the 2009 program (pg 62) states an expectation of equitable treatment of high priority fish and wildlife projects regardless of whether or not they are in a BiOp.

The **land and water acquisition** funds section of the 2009 program (pg 62) acknowledges the need for such projects and funding was driven by both the program and the FCRPS BiOp.

The **coordination with other programs** section of the 2009 program (pg 64) states the Council's commitment to continue to work with national programs that influence our work such as the ESA.

The **Independent Scientific Advisory Board** section of the 2009 program (pg. 66) says one of the functions of the ISAB is to evaluate NOAA Fisheries recovery plans and aspects of the recovery process when requested.

Appendix E. Subbasin and Basinwide Measures of the 2009 program (pg 91) states that recovery plans are not yet adopted into the program and therefore are sources of measures to implement the program only they are consistent with subbasin plans and broader program elements.

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