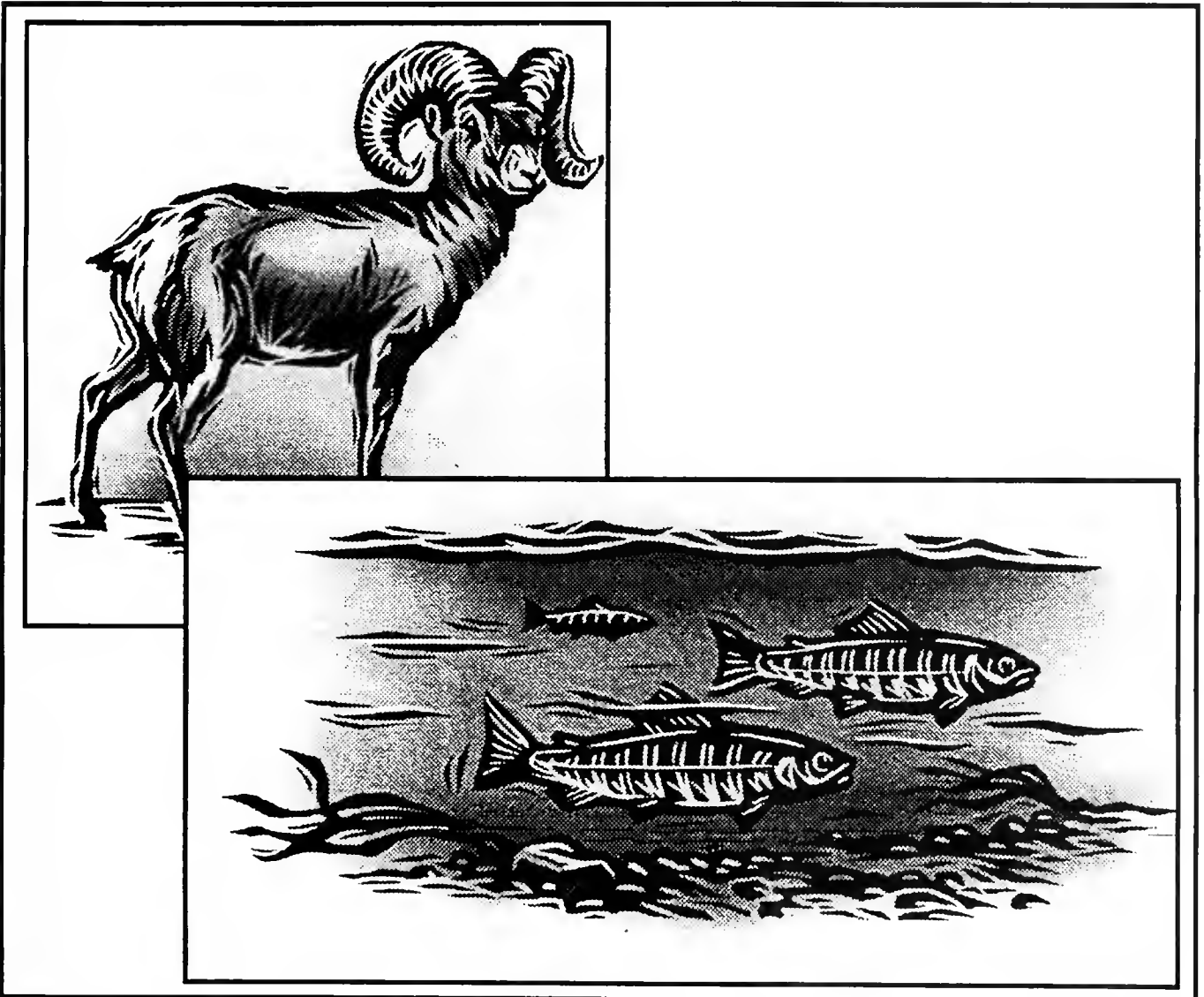


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PROPOSALS FOR FISH AND WILDLIFE GOVERNANCE IN THE COLUMBIA RIVER BASIN

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NORTHWEST POWER PLANNING COUNCIL

851 S.W. SIXTH AVENUE, SUITE 1100
PORTLAND, OREGON 97204-1348

Phone: 503-222-5161
Toll Free: 1-800-222-3355
FAX: 503-795-3370

KEN CASAVANT
VICE CHAIRMAN
Washington

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Washington

Joyce Cohen
Oregon

John Brogoltti
Oregon

February 21, 1996

To interested parties:

I am pleased to invite your comments on the enclosed paper, "Proposals for Fish and Wildlife Governance in the Columbia River Basin."

In the energy and water appropriations legislation for 1996, Congress directed the Northwest Power Planning Council to report to Congress within 180 days "regarding the most appropriate governance structure to allow more effective regional control over efforts to conserve and enhance anadromous and resident fish and wildlife within the Federal Columbia River Power System." The enclosed paper summarizes the themes and strategies on which the Council proposes to base its report to Congress.

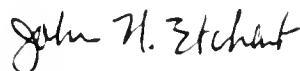
Please submit any written comments to the Mark D. Walker, Director of Public Affairs, Northwest Power Planning Council, 851 S.W. Sixth Ave., Suite 1100, Portland, Oregon 97204, by April 1, 1996. Further instructions for commentors are provided in the enclosed paper.

In addition to seeking written comments, the Council may consult with interested parties up to the time of its submission of a final report to Congress in mid-May, 1996.

Also enclosed is a copy of a report from the Workshop on Fish and Wildlife Governance, prepared by Professor David H. Getches. This report provides valuable background on the issues addressed by the Council's proposals.

We look forward to hearing from you.

Sincerely,



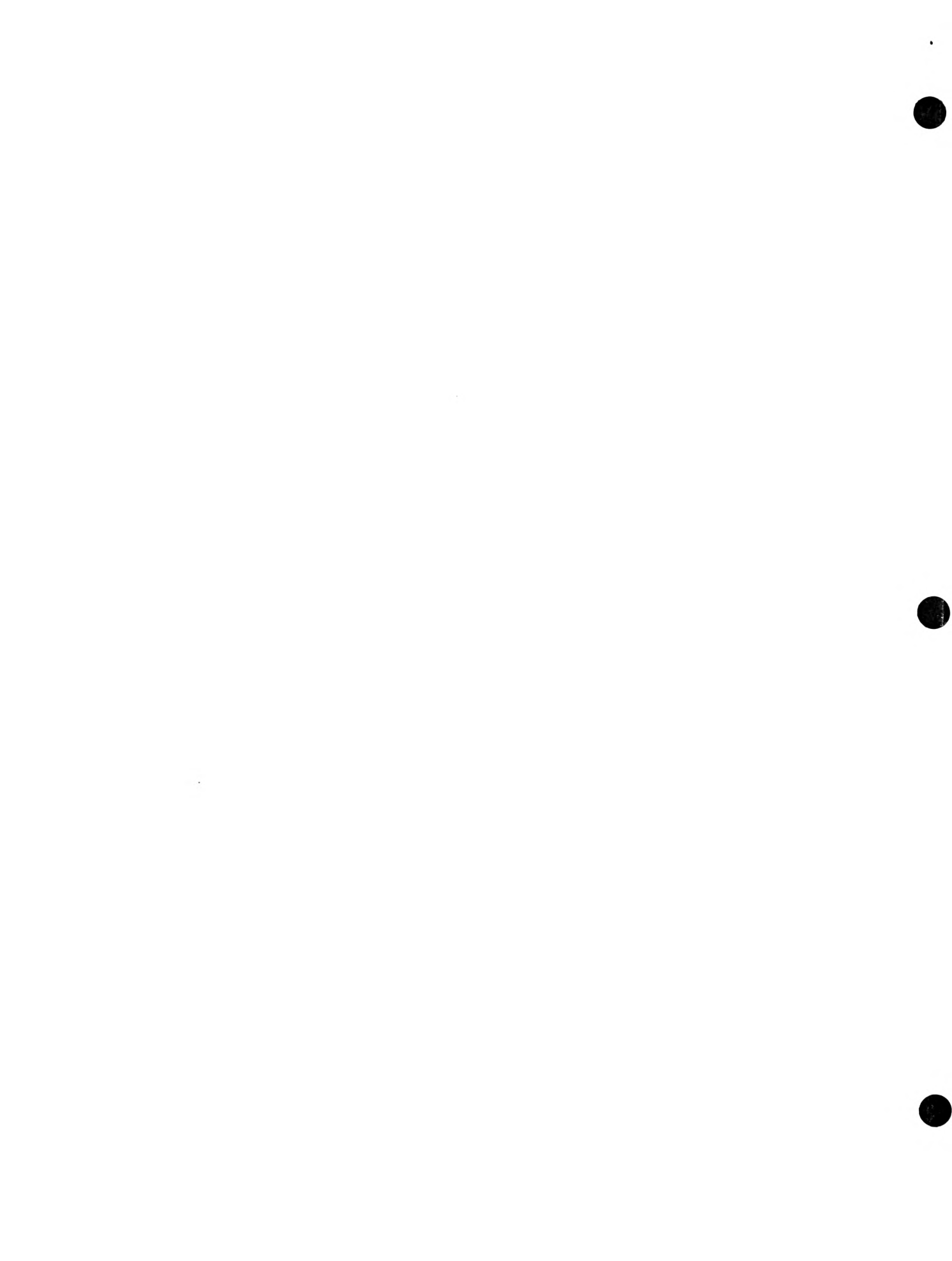
John N. Etchart
Chairman



**Proposals for Fish and Wildlife Governance
in the Columbia River Basin**

Northwest Power Planning Council

February 21, 1996



I. Introduction

In the energy and water appropriations legislation for 1996, adopted November 13, 1995, Congress directed the Northwest Power Planning Council to report to Congress within 180 days "regarding the most appropriate governance structure to allow more effective regional control over efforts to conserve and enhance anadromous and resident fish and wildlife within the Federal Columbia River Power System."

This document summarizes the themes and strategies on which the Council proposes to base its report to Congress and invites public comment on a number of issues and proposals.

PUBLIC COMMENT: Written comment will be received through April 1, 1996 and should be addressed to the Northwest Power Planning Council Public Affairs Division, 851 S. W. 6th Ave., Portland, Oregon 97204. In addition to receiving written comment the Council will conduct public meetings in Idaho, Montana, Oregon and Washington throughout the month of April. The Council will provide times and locations for these meetings through *Update* and other Council publications. **The Council particularly invites comment on the questions highlighted below in bold.**

The Council will prepare a final report and may initiate further consultations with interested parties up to May 14, the date on which the report to Congress is due.

FOR FURTHER INFORMATION: Contact the Northwest Power Planning Council Central Office, 851 S. W. 6th Ave., Portland, Oregon 97204 or telephone 1-503-222-5161 or outside the Portland area, 1-800-222-3355. In addition to copies of this paper, the Council will provide on request the *Report of the Workshop on Fish and Wildlife Governance* by David H. Getches (request document no. 96-3) and *Background Materials for the Workshop on Fish and Wildlife Governance* (request document no. 96-1).

II. Background

To respond to Congress's instructions, the Council adopted the following process: During December 1995 and early January 1996, the Council sought advice from diverse parties on alternative approaches that might be taken to fish and wildlife governance reform. On February 1-2, 1996, the Council conducted a facilitated workshop in which key alternatives were probed, elaborated and evaluated. A report by David Getches, the workshop facilitator, was submitted to the Council on February 12. In preparing the following proposal, the Council has relied heavily on the recommendations resulting from the workshop. Written public comment will be received through April 4. The Council will prepare a final report and may initiate further consultations with interested parties up to May 14, the date on which the report to Congress is due.

For the February 1-2 workshop, the Council invited representatives of federal, state, tribal, industrial, agricultural, environmental and other sectors to meet in Portland, Oregon, on February 1 and 2. The workshop participants explored the strengths and weaknesses of alternative approaches to governance. Small groups discussed criteria by which any approach to governance should be evaluated (see next section), the strengths and weaknesses of five specified alternatives and what changes should be made in each. The alternative approaches as they were revised by workshop participants are found in Appendix 2 of the workshop report. The workshop participants also identified several themes that recurred throughout the workshop. Finally, the workshop facilitator, David Getches, summarized several short and long-term strategies, which are in Section VI of the workshop report.

III. Criteria for evaluating governance proposals

The workshop participants developed a list of criteria by which any approach being considered should be evaluated:

1. Appropriate authority: Do the entities with responsibility for fish and wildlife decisions have authority that is appropriate to their responsibility? Can legal commitments and requirements be met while pursuing planning and effective management?
2. Clear goals: Is it clear who is in charge and what goals are being pursued?
3. Comprehensive: Does the process address the needs of all species and the whole Columbia River Basin ecosystem?
4. Appropriate representation: Do the bodies exercising authority have appropriate membership drawn from sovereigns in the basin? Is there an appropriate connection with interest groups and Canada?
5. Cooperation: Does the governance structure encourage cooperative action and avoid unnecessarily divisive processes?
6. Dispute resolution: Is there an effective means of resolving disputes?
7. Accountability: Are there ways to ensure that actions and program plans are implemented effectively? Is responsibility for implementation clearly defined? Is there appropriate accountability for results?
8. Adaptability: If a strategy for recovery and management of multiple species does not deliver what it promised, is there a way to adjust it in light of new information?
9. Scientific foundation and management: Are appropriate scientific standards built into policy planning and implementation? Are research, monitoring and evaluation

part of the organizational structure, so that decisionmakers can tell whether recovery measures are working?

10. Financing: To what extent do the alternatives appropriately spread financial responsibility for species conservation? Does the alternative provide a mechanism by which budget constraints and tradeoffs can be made clear?

11. Public participation. Presumably the public involvement and open meetings provisions of the Northwest Power Act will continue in effect. Is the overall decision-making process sufficiently open, understandable and inclusive of all interested members of the public?

12. Implementation time: How long does it take to implement governance mechanisms? Is this time frame appropriate to the nature of the problems?

13. The long view: Does the governance structure facilitate a long-term, sustainable vision, not just for the current generation, but for generations far into the future?

COMMENTORS: Is this the right list of criteria? How well do the governance approaches described below satisfy the criteria? How could the Council provide better access to its decision making processes?

IV. Objectives for governance reform

One of the important accomplishments of the fish and wildlife governance workshop was to identify a handful of tasks that, if accomplished, would improve the region's fish and wildlife governance. There is not necessarily agreement about who needs to do these things and how they should be done. Section V of this paper explores the "who" and "how" questions. In this section, we reiterate areas where there seems to be agreement about what needs to be done.

Based on the workshop report, we have identified seven things that, if accomplished, would substantially improve the region's fish and wildlife governance:

1. Integrate plans and planning. There are now at least three major plans -- either adopted or in draft -- that address fish and wildlife management throughout the basin: the Council's fish and wildlife program, the National Marine Fisheries Service's Biological Opinion and draft Recovery Plan and the lower river tribes' draft recovery plan. While there are many common elements in these plans, they differ markedly on several significant points. There is a widespread sense that these plans need to be integrated so that the region and the federal agencies are working in a common effort. Integration need not lead to a single plan or a single planning process -- plans for particular watersheds or

resources may be needed. But plans do need to be integrated so that they are compatible with one another and provide a single blueprint for implementation efforts.

2. Establish clear responsibility for implementing plans. The greatest failing in regional governance of fish and wildlife, expressed repeatedly by workshop participants, has been the failure to implement plans. It was generally agreed that *actions* must be taken if salmon recovery is to be effective. For this to occur, the objectives of plans must be *simplified*. Implementation responsibilities should be *spelled* out. Those charged with carrying out plans should be *accountable* for doing so promptly and effectively.

3. Establish dispute resolution mechanisms. While common ground is frequently found among scientists, sovereigns and other interests, there are ample opportunities for disagreement. There are also conflicts where technical issues and policy intersect. Fair and efficient means of dispute resolution are necessary to avoid paralyzing fish and wildlife mitigation planning and implementation.

4. Support watershed processes and integrate them into basinwide decisionmaking. Not all planning and implementation should be directed from a basinwide level. Particularly for habitat restoration efforts, local watershed plans are likely to be effective in ways that top-down plans cannot be. These watershed efforts must be supported and accorded flexibility in achieving restoration objectives. At the same time, watershed efforts must be compatible both with other watersheds and with the Basin's overall strategies. Incentives and funding should promote the *coordinated efforts* of local planning to achieve basin-wide goals.

5. Establish monitoring and evaluation programs that measure results and ensure accountability. One of the frustrations with current governance is the lack of accountability for results. Policy planners lack authority to implement plans. Implementers are not responsible for policy planning. As a result, neither planners nor implementers can be held accountable for results. High priority should be given to the development of an effective program to monitor and evaluate mitigation efforts and tell the region what is working and what is not.

6. Ensure credible scientific foundations for planning and implementation. Independent scientific advice should be available to help develop monitoring and evaluation mechanisms, address scientific disputes, provide scientific advice relevant to policy questions, and review research designs and proposals.

7. Secure and allocate a reliable budget. Stable and predictable funding not only makes fish and wildlife efforts more efficient but provides funders with certainty. The region must also continue the development of a coordinated process for prioritizing and allocating that budget to fish and wildlife needs. Because there are multiple funding sources involved in fish and wildlife mitigation, it is essential that funding be coordinated to ensure that funds are strategically and efficiently invested.

COMMENTORS: Is this the right list of objectives? If these objectives were accomplished, would fish and wildlife governance be significantly improved? Are there other objectives that should be on this list?

V. Proposals for governance reform

To accomplish these objectives the Council sees three basic possibilities for governance reform: one involving no legislation, one involving limited legislation and one involving broad legislation.

In reviewing these possibilities, two points merit special emphasis: First, although these alternatives appear to correspond to workshop alternatives one, two and three, in fact each incorporates various features of the revised workshop alternatives. Second, the alternatives are not necessarily mutually exclusive. In particular, many of the steps outlined in the first alternative should be taken regardless of whether legislation is pursued.

As readers review the first alternative, they should ask whether the region can accomplish the stated objectives with existing authorities. If not, consider what are the weak links in existing governance and, finally, what assistance, legislative or otherwise, is needed to achieve the objectives?

A. No legislation

There was agreement among workshop participants that fish and wildlife decision makers should convene, resolve important differences between fish and wildlife plans and, especially, develop a cohesive and accountable implementation structure.

1. Convene principals.

The Council invites commentors to consider two possibilities for convening decision makers:

A meeting of sovereigns. The Council or any other party could convene a meeting of sovereigns with jurisdiction over fish and wildlife: that is, the federal government, the four Northwest states and the region's Indian tribes. Canadian, environmental, utility and other river interests could be included in a consultative capacity. The sovereign interests could organize a process to address critical planning and implementation issues. The sense of the workshop participants was that such a process would have to be conducted on a basis of equality -- in the sense that no single party could dictate to the others. At the same time, it must be recognized that some interests have legal responsibilities that others do not and this puts a special burden on the process. As the workshop facilitator put it, "[t]he National Marine Fisheries Service in particular must

seek ways in which the [Endangered Species] Act's mandates can be satisfied consistent with the region's need for collaborative decisionmaking."

A Council fish and wildlife committee. Alternatively, the Council could establish a subcommittee of all the region's fish and wildlife managers (state, federal and tribal) to develop coordinated planning recommendations for the Council. The Council could use this process to develop a reconciled program responsive not just to the standards of the Northwest Power Act but also to the other relevant statutes. This is because the Council's program must consist of measures "which can be expected to be implemented" by the federal agencies, and so the fish and wildlife committee's recommendations could not conflict with the major federal laws that govern federal agencies: the Endangered Species Act, the Clean Water Act and other federal laws. And because the Council must give "due consideration" to the authorities and expertise of the region's fish and wildlife agencies and Indian tribes in resolving differences between fish and wildlife recommendations, the Council would give significant weight to the committee's recommendations.

COMMENTORS: Is one of these approaches to convening the principals likely to be more productive than the other? Is another approach more promising?

2. Resolve differences among plans.

Once convened by either method, decision makers would appoint technical panels to review current fish and wildlife plans, identify points on which there is agreement or disagreement, and develop a process aimed at agreement on a single, coordinated plan. A major task for decision makers would be to establish effective dispute resolution procedures. Substantial differences involving policy might be referred to a policy-level panel. Important scientific disagreements could be referred to an independent scientific group convened by the Council/NMFS Independent Scientific Advisory Board. To address disputes that cannot be resolved by these bodies, decision makers should create a dispute resolution mechanism that is as legally binding as possible.

The reconciled plan should make special provision for watershed efforts, including financial incentives with local cost sharing. The plan must envision both bottom-up and top-down processes: watershed groups must have flexibility to find their own ways to achieve restoration objectives as long as compatible with the Basin's strategies. The plan should include watershed planning guidelines to ensure that watershed and basinwide efforts are compatible.

COMMENTORS: Given the different standards and processes of the Northwest Power Act, the Endangered Species Act and other laws, how realistic is it to think that differences among plans can be resolved with no changes in law? How important is it to do so? What approaches can be taken to dispute resolution that are likely to be effective but do not compromise legal responsibilities? Would the Council's subbasin plans serve as a vehicle for watershed management?

3. Establish a clear, integrated implementation process.

The workshop report puts special emphasis on problems of implementation:

The greatest failing in regional governance of fish and wildlife, expressed repeatedly by workshop participants, has been the failure to implement plans. It was generally agreed that *actions* must be taken if salmon recovery is to be effective. For this to occur, the objectives of plans must be *simplified*. Those charged with carrying out plans should be *accountable* for doing so promptly and effectively.

Accordingly, the bulk of the principals' attention should focus on devising efficient implementation arrangements and formalizing them in an interagency agreement. While the details of an agreement necessarily would be determined by the principals, the following is a suggested list of subjects to be addressed:

- Creating a management group assigned to integrate and coordinate future critical decisions about fish and wildlife activities, including a rolling, multi-year workplan to guide decisions and responsibility for "directing traffic," ensuring that issues are being addressed and not bogged down in an unproductive process;
- Establishing a process for integrated budget management and setting funding priorities. Currently, federal agencies are formalizing a process for accounting for all Bonneville fish and wildlife funding. Principals should seek to bring other funding sources, state, federal and otherwise, into a similar arrangement so that funds for related fish and wildlife activities can be managed together. Similarly, the principals should implement a process by which fish and wildlife funding priorities can be determined.
- Assuring that habitat and production planning and implementation occur in a coordinated watershed-based process;
- Consulting with an independent scientific advisory board to review scientific questions;
- Allowing for appropriate public input, consultation with Canada and interest groups;
- Ensuring accountability for results (see number 6, below).

COMMENTORS: Given implementation difficulties in the past, how realistic is it to assume that implementation activities can be effectively coordinated with no changes in law? Can disparate implementers reasonably be expected to agree, or are they more likely to be pulled in different directions by their own missions?

4. Identify dispute resolution processes.

There may be no one-size-fits-all dispute resolution process for implementation disputes. However, dispute resolution is necessary to ensure that implementation is not paralyzed by disagreements. Processes that currently are working effectively should be left intact. Where there are no such processes, processes should be established.

There is considerable interest in processes using technical and policy panels to resolve disagreements where possible, and an "action-forcing" mechanism such as an Administrative Law Judge (as in the Mid-Columbia FERC model). Short of an action-forcing mechanism, mediation or non-binding arbitration processes could be developed. With non-binding arbitration, for example, a dispute could be submitted to a neutral arbitrator. A well-considered arbitrator's opinion could have a significant influence on agency decisions. At the very least, if an agency disagrees with the arbitrator, it would have a burden of justifying its action.

COMMENTORS: To what extent can action-forcing mechanisms be created to resolve implementation disputes with no change in law? Would it be possible to create such a mechanism judicially and would this prospect justify the risks associated with litigation? Could the principals jointly create an Administrative Law Judge with enough authority to resolve disputes?

5. Work with the Independent Scientific Advisory Board.

Workshop participants saw a clear need for an independent scientific advisory entity to help design a monitoring and evaluation program, address scientific disputes, provide scientific advice relevant to policy questions, and review research designs and proposals. The current Independent Scientific Advisory Board established by the Council and the National Marine Fisheries Service should perform these functions unless there is agreement on modifications to the Board.

6. Create an effective monitoring and evaluation program.

Decisionmakers need to put a high priority on establishing an effective monitoring and evaluation program. To ensure its integrity such a program should be insulated from those with planning and implementation responsibilities, provide adequate funding and commit all implementers to cooperate in the program. Locating the program with the Independent Scientific Advisory Board may be advisable. The monitoring and evaluation program must also have a clear and direct connection with decision makers. Decision makers must learn the results of mitigation actions, and the monitoring and evaluation program must be well aware of the expectations of decision makers.

7. Create a stable fish and wildlife budget that can be managed in an integrated manner.

Stable funding for mitigation efforts is essential not only for an efficient mitigation program, but to provide funding entities with some certainty regarding funding obligations. The fish and wildlife budget agreement regarding Bonneville funds is a critical step in this direction. While completely integrating Congressionally appropriated, state, utility and other funds into this budget arrangement may not be possible, it should be possible to take steps in this direction. Decisionmakers should explore ways to do so. The goal should be to organize Columbia River fish and wildlife mitigation financing so that funds can be managed in an integrated manner.

8. Consider an executive order.

If an interagency agreement on these points is infeasible or ineffective, the Council and others could seek a federal executive order committing federal agencies to the above processes, and seek the equivalent at the state level.

COMMENTORS: Are there other innovations that decision makers should pursue? Is it likely that these innovations could be effected? If these steps were taken, would they make a substantial difference in the effectiveness of fish and wildlife governance? Is it likely that they would make enough difference that legislation would be unneeded?

B. Limited legislation.

Alternatively, to accomplish the objectives discussed in section IV the region could pursue limited legislation aimed primarily at implementation rather than making significant change in governing structures or authorities. The following section outlines such legislation:

1. Require all federal agencies to be consistent with the Council's fish and wildlife program.

Currently, only one federal agency -- the Bonneville Power Administration -- is required to be consistent with the Council's fish and wildlife program. Certain federal agencies have other obligations with respect to the program, and many others do not. The workshop report characterized the resulting problem:

There are multiple managers and programs within the Basin. To the extent that they are pursuing basinwide goals they should act consistently with a single plan. For instance, federal law does not now require that agencies other than Bonneville Power Administration be consistent with the plan of the Power Planning Council (although federal agencies responsible for the hydropower must take the Council's

plan into account to the fullest extent practicable). Without consistency the plan may not achieve maximum effect because the Corps, National Marine Fisheries Service, Bureau of Reclamation, Environmental Protection Agency, U. S. Fish and Wildlife Service, and other agencies may exercise their respective authorities independently of one another and of the Council's plan. A similar issue arises with regard to state agencies.

One way to address this problem is to require *all* federal agencies to be consistent with the Council's fish and wildlife program. Section 4(h)(11)(A)(ii) of the Northwest Power Act would be amended as follows:

4(h)(11)(A) The Administrator and all other Federal agencies responsible for ~~managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall--~~

4(h)(11)(A)(i) exercise their responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such ~~projects or~~ **Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries** in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

4(h)(11)(A)(ii) exercise ~~such~~ their responsibilities in a manner consistent with the program adopted by the Council under this subsection.

At the same time, the Council's program would still have to be developed in a manner that respects the prerogatives of the fish and wildlife managers and the federal agencies' statutory responsibilities. The Northwest Power Act accords a special place for fish and wildlife managers' recommendations, responsibilities and expertise and these would be unaffected by the proposed amendments. The Act also requires the Council to solicit recommendations for "measures which can be expected to be implemented by the Administrator, using authorities under this chapter and other laws, and other Federal agencies . . ." Accordingly, the Council's program would have to anticipate the major federal laws that govern these agencies: the Endangered Species Act, the Clean Water Act and other federal laws. Federal agencies would continue to follow these laws and processes, together with the Council's program.

Many of the arrangements discussed in connection with the "No legislation" alternative, above, could be carried out in the context of this amended statute: creation of a fish and wildlife committee to whose recommendations the Council would defer, an integrated implementation structure, a monitoring and evaluation program, etc.

The purpose of these amendments is to establish a single planning process -- the Northwest Power Act process -- as the focus for fish and wildlife governance, but preserving the "creative tension" that has characterized the relationship between Bonneville and the Council and extending it to other federal agencies. This arrangement would bring agencies that now have little obligation vis-à-vis the Council's program, such

as the National Marine Fisheries Service, the U. S. Forest Service and others, under the same obligation that now applies to the Bonneville Power Administration.

COMMENTORS: Would these amendments strike an appropriate balance between planners and implementers? Between planners and fish and wildlife managers? Would the lack of accountability that workshop participants identified in current arrangements be lessened or worsened by these amendments? Should states and tribes be subject to the same requirement of consistency? Would the potential benefits of such legislation justify the effort required to obtain it? By opening up the Northwest Power Act, would the region risk losing more than it might gain?

2. Other limited legislation:

Workshop participants discussed several other areas in which limited legislation could be useful:

Establish an action-forcing dispute resolution process. As mentioned above, there is considerable interest in processes using technical and policy panels to resolve disagreements where possible, and creating an “action-forcing” mechanism. Examples of such processes include:

- The Federal Energy Regulatory Commission licensing process for the Mid-Columbia projects has standing technical and policy committees to address issues and, where possible, resolve disputes. Where disputes cannot be resolved at technical and policy levels, disputes can be submitted to an Administrative Law Judge in an evidentiary hearing. Appeal from the Administrative Law Judge can be taken to the Federal Energy Regulatory Commission itself and to the federal courts.
- The *U. S. v. Oregon* litigation has a series of technical and policy panels that have been used to reach broad harvest settlements and to manage harvest allocations each year. The federal court maintains continuing jurisdiction over the litigation and has retained a technical advisor to advise the court on technical matters and to assist the parties in settlement. When disputes cannot be resolved by the parties the court can hold hearings and issue binding orders.

Legislation could specify an analogous process for Columbia River fish and wildlife issues. For example, Congress could require federal agencies to submit planning or implementation disputes first to technical and policy panels and then to a neutral arbitrator. Such an arbitrator could be given authority to enter a binding order subject only to limited judicial review.

Alternatively, section 4(i) of the Northwest Power Act could be amended to give Council additional authority to oversee implementation of its fish and wildlife program. The Council could be authorized to make a finding of consistency or inconsistency with

the Council's program. This finding could create a presumption in any litigation that might be brought to review an agency's consistency with the Council program.

COMMENTORS: Would this amendment accomplish the objectives in section IV? Would the potential benefits of legislation limited to this subject justify the effort required to obtain it? Would even this limited legislative initiative open up the Northwest Power Act more broadly and if so, would the region risk losing more than it would gain?

Require federally appropriated funds to be managed with Bonneville fish and wildlife funds in an integrated manner. As noted above, without legislation it may not be possible to completely integrate Congressionally appropriated or state funds into a single budget account that can be managed in an integrated way. Integrated management of funding for mitigation efforts could lead to substantial efficiencies in the mitigation program.

COMMENTORS: Is there precedent for integrating Congressionally appropriated funds with other funds? Would the potential benefits of such legislation outweigh the risks inherent in the federal (and possibly state) legislative process?

C. Broad legislation. It may be that limited legislation would not be sufficient to achieve the objectives stated in section IV. If that is the case, significant changes in governing structures and authorities could be considered. A broad legislative proposal was discussed at the February 1-2 workshop that would:

- Create a council with voting representatives of federal, state and tribal governments and consultation with Canada.
- Vest this broad council with full responsibility for planning, implementation (including management of all funds), monitoring and evaluation of all fish and wildlife decisions associated with the Columbia River hydropower system, including decisions under the Endangered Species Act and the Northwest Power Act.
- Make the broad council subject to appropriate public involvement procedures and judicial review.

This idea is discussed in more in the appendix to the *Report of the Workshop on Fish and Wildlife Governance*, Approach Number 3.

Other broad changes have been discussed. To take a single example, in 1995, some members of Congress discussed a proposal that, among other things, would have created a regional fish and wildlife council with state, tribal, utility and fishing interests. This Council would have prepared a "resource plan" for fish and wildlife in the Columbia

and Snake River systems, subject to limited review by the Northwest Power Planning Council. A fish and wildlife fund would have been created with revenues from the Bonneville Power Administration, the Mid-Columbia public utility districts and the Idaho Power Company. The resource plan, the payment of funds into the fish and wildlife fund and the expenditure of funds to implement the plan would have been deemed sufficient to satisfy the Endangered Species Act, the Northwest Power Act, the National Environmental Policy Act and other federal laws, for utilities contributing to the fish and wildlife fund.

It is important to note the issue of state legislative concurrence in any material changes in the Northwest Power Act. The Northwest Power Act represents a compact of the four Northwest states and Congress. If the terms of the compact are significantly altered, it can be argued that each state legislature must consent to the amended compact before it can take effect.

COMMENTORS: Should these or other broad legislative proposals be pursued this year? Would it be more advisable to proceed with more limited innovations in the short term and have a more extended debate over broader changes?

