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August 7, 2018

DECISION MEMORANDUM

TO: Council members

FROM: Patty O'Toole, Program Implementation Manager
Tony Grover, Fish and Wildlife Director
Laura Robinson, Program Liaison Coordinator

SUBJECT: Council decision on request for extension on due date for Fish and Wildlife Program amendment recommendations

PROPOSED ACTION: Extend the deadline (September 14, 2018) for recommendations to amend the Columbia Basin Fish and Wildlife Program up to 90 days.

SIGNIFICANCE: The Council has received one written request to extend the recommendation period for amendments to the Columbia basin Fish and Wildlife Program by 90 days. The request was from the Spokane Tribe of Indians. Bonneville verbally expressed interest in a 30-day extension to staff. Staff has heard that other states and tribes may be considering proposing an extension, however none have been received at this time.

BACKGROUND

The Council has received one written request, from the Spokane Tribe of Indians, to extend the recommendation period for amendments to the Columbia basin Fish and Wildlife Program by 90 days. Bonneville verbally expressed interest in a 30-day extension to staff. Staff has heard that other states and tribes may be considering

proposing an extension, however none have been received at this time. This topic is scheduled for decision during the business portion of the August Council meeting.

The Council's amendment recommendations period opened on May 16, 2018. The Northwest Power Act directs the Council to provide 90 days for recommendations unless the Council opts to extend this period. The Council decided to extend that period to 120 days, with the deadline occurring on September 14, 2018.

ANALYSIS

An extension up to 90 days will not delay the anticipated schedule of adoption of a new Power Plan, now scheduled for the fourth quarter of 2021. Nor will an extension cause the Council to abbreviate the development, consideration or adoption of amendments. The Council has one year from the closure of the amendment recommendation period to adopt a final amended Columbia Basin Fish and Wildlife Program. For example, a 60-day extension would result in the new deadline for recommendations being November 16, 2018 (nearest Friday) and would result in final Council amendment deliberations occurring in the late fall of 2019, with the final amendments likely adopted in November 2019. A 90-day extension would result in recommendation due December 14th, 2018 (nearest Friday) and the final amendments likely adopted in December 2019.

RECOMMENDATION

The schedule can accommodate up to a 90-day extension. A consideration for the Council is that travel during the winter months can be more challenging and is necessary in the final months of an amendment process. The Committee may want to discuss and make a recommendation to the Council for its decision on Wednesday.



Spokane Tribe of Indians

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August 2, 2018

James A. Yost, Chairman
Northwest Power and Conservation Council
851 S.W. Sixth Avenue, Suite 1100
Portland, Oregon 97204-1348

RE: Request for Extension of Time to File Amendment Recommendations for the 2014 Fish and Wildlife Program

Dear Chairman Yost,

The Spokane Tribe of Indians ("Tribe") received the Northwest Power and Conservation Council's ("Council") request for amendment recommendations for the 2014 Fish and Wildlife Program ("Program"). As a fish and wildlife manager and owner of portions of the Spokane and Columbia Rivers, the Tribe is very interested in and also able to provide a unique perspective on potential amendments for the 2014 Program. As you are aware, the Tribe participated in the development of the 2014 Program, and publicly expressed strong support for the Council's adoption of it. The Tribe went so far as to expend its limited resources in joining in the defense of the 2014 Program by intervening and assisting the Council in defending against the unsuccessful litigation attack on the 2014 Program's adoption in *Northwest Resource Information Center v. Northwest Power and Conservation Council, et al*, No. 15-71482, (9th Cir. 2017). In short, the Tribe has invested time and energy into the 2014 Program's adoption and implementation over the past five years, and plans to share its unique perspective on the Program and its implementation during this amendment process.

Unfortunately, due to the Tribe's small staff and limited budget we are unable to spend the necessary time and energy over the next several weeks to develop our proposed amendments. The Tribe's key staff is currently attending to fieldwork and other necessary priorities that they cannot be pulled away from without jeopardizing the Tribe's current projects and priorities. Accordingly, the Tribe respectfully requests that the Council extend the deadline for amendment recommendations to December 15, 2018. This extension will allow the Tribe's staff to focus on the necessary work that can only be conducted in the summer months, and will allow them the time to focus and provide the Council with a thoughtful set of amendment proposals. The Tribe hopes that the Council will utilize its broad discretion under 16 U.S.C. 839b(h)(3) to provide this necessary extension to ensure the Tribe adequate time to provide its proposed amendments to the Council. If you have any questions regarding this request please feel free to reach out to me at (509) 458- 6504.

Sincerely,

Carol Evans, Chairwoman
Spokane Tribal Business Council