

## **FISH PASSAGE CENTER OVERSIGHT BOARD**

Meeting Notes for October 15, 2007 – Missoula, Montana

Members present were Bruce Measure, Steve Yundt, Sue Ireland, Dan Goodman, Doug Taki, Tony Nigro, and John Ferguson. Chairman Bruce Measure welcomed the members of the Fish Passage Center (FPC) Oversight Board and reviewed the agenda. The board approved the minutes of the previous meeting held on August 2, 2007. Measure noted that the Northwest Power and Conservation Council voted at its August 14-15 meeting for Doug Taki to become a full-fledged member of the Board, instead of an ex-officio member.

### **Discussion of Operating Rules**

Measure said the Council's legal staff suggested the Board not have formal bylaws, but instead adopt a set of operating rules to govern its activities. The group agreed that was a good idea and proceeded to review a draft statement of "Purpose, Expectations, and Operating Rules" prepared by staff. Tony Nigro circulated a set of changes he proposed for that document.

### Membership, Meetings, and Conduct of Business

The Board made several editorial changes to the section of the draft operating rules dealing with "membership, meetings, and conduct of business." The Board approved language indicating that "in the absence of consensus," its decisions would be made by majority vote. The Board also approved Nigro's suggestion that the rules state that "when decisions are made by majority vote, the minority will be given the opportunity to prepare, for the record, a minority report."

The Board decided not to have a vice-chair and that Kerry Berg would serve as its secretary, responsible for giving notice of meetings and keeping all records.

### Expectations for 2007-2008 Work

The Board then discussed the section of the draft operating rules titled "expectations for the work of the Board during 2007-2008." Dan Goodman expressed concern about language saying that the Board would conduct an annual review of the performance of the FPC. He said that is an "enormous responsibility" and one that is inconsistent with quarterly meetings.

Goodman suggested the operating rules say that "the Board will present an annual report to the Council summarizing the reviews conducted by the Board that year, along with recommendations based on those reviews." The Board should set up protocols, but we are not here to burrow into all the details to judge the FPC's performance and accountability to the region, said John Ferguson. Technical reviews are not feasible to do annually, said Taki.

Nigro suggested the Board could structure the annual report to determine whether the FPC is doing what it is supposed to do. That's different from a technical review, he said. We can shape what we want the FPC to present to us annually, and we could start with the FPC's contract with the Council, Nigro added. We need to ask ourselves what the FPC is contractually being held accountable for, and who is requesting their services – the Board is here to determine if the FPC has the resources to do what the region expects it to do, he said.

For example, if the FPC did 300 technical analyses in a year, could the Board do a Quality Assurance/Quality Control (QA/QC) review of all of those? Nigro asked. I'd say that 95 percent of what the FPC does is routine and "not in the eye of the storm," he said.

This Board is an advocate for the FPC, stated Nigro. We might look at its contract and say there are other things that need to be done that aren't in the contract, he added. We don't need to do contract oversight, said Ferguson.

BPA's Pisces system takes care of a lot of oversight, said Sue Ireland. The Board needs to be sure it sets priorities for the FPC that are appropriate and achievable, she added.

The Board agreed to adopt the language proposed by Goodman about an annual report. Measure said he would have the Council's legal staff review it.

The Board discussed what the operating rules should say about its making recommendations to the Council for amendments to the Fish and Wildlife Program's provisions for the FPC. If I were on the Council, I'd want the Board to tell me if amendments were needed, stated Ferguson. Nigro said he wasn't sure the Board has the standing to make such recommendations.

Measure asked Brian Lipscomb of the Columbia Basin Fish and Wildlife Authority (CBFWA) about the issue. Lipscomb said no one is precluded from making recommendations. I'm uncomfortable with having a separate bulleted item in the operating rules that states the Board will recommend to the Council amendments to the Program's provisions with respect to the FPC, Nigro said. I don't want to obligate this Board to look at the FPC in the context of the amendments as a separate charge, distinct from any other recommendations the Board might make, he stated.

It seems to me there should be a separate bulleted item on this, said Steve Yundt. I agree, Ferguson said. If we see that a change is needed, we as a board should recommend it, he stated.

Measure said he will discuss this issue with the Council's legal staff and bring back suggestions for discussion by the Board.

The Board took up the item in the draft rules that says the Board would "work to ensure that the database of fish passage information developed and provided by the FPC

conforms to appropriate standards for data management and is completely open and accessible to the public." Ferguson suggested "appropriate standards" be defined.

The language "work to ensure" gives me pause, said Goodman. I would suggest saying "oversee review of the database of fish passage information," he stated. Scientifically, there are well known standards about whether a database is functioning properly, and whether people can get the data out of it, Goodman added.

The Board accepted Goodman's recommendation. Measure asked Board members to send any additional changes to this portion of the draft rules to Berg, who will incorporate them into a new version of the document.

### Technical Advisory Committee (TAC)

The Board took up the question of selecting a Technical Advisory Committee (TAC) "to establish and review technical protocols and scientific requirements for the FPC and review the scientific and technical aspects of the FPC's performance."

Taki inquired how the TAC would differ from the Fish Passage Advisory Committee (FPAC). Ferguson questioned whether a TAC was needed. It's not clear to me we need another body, he said.

There are two schools of thought on this issue, noted Measure. One is to have a TAC, and the other is to use the Mainstem Peer Review subgroup of the Independent Scientific Advisory Board (ISAB), he said.

The Council's program says the TAC will review the technical aspects of FPC products, not the ISAB, Lipscomb stated. "The TAC is your technical expertise," he added.

If the Board contemplates having a QA/QC role with respect to FPC deliverables, the Board will need technical advice, either from a new committee we create, or we'll have to look to the ISAB or Independent Scientific Review Panel (ISRP) or their subcommittees, said Nigro.

My main comment is that the TAC isn't necessarily peer review, and it's not independent, said Ferguson. I think the Mainstem Review group is a good route for an independent review, he stated. The TAC could help us set up protocols and raise issues, Ferguson said. We should clarify what the TAC would do in support of the Board, he added.

Since we appoint the TAC, CBFWA could provide us with a list of candidates, and CBFWA could nominate Mainstem subgroup members as TAC candidates, Nigro suggested. Measure said the next draft of the operating rules would provide for that option. He said he will discuss this section of the draft rules with the Council's legal staff and circulate new language for review by the Board before the next meeting.

## Performance Review

The Board then considered the section of the draft rules that says the Board would "facilitate the review of the performance of the FPC's manager by the Council chair and CBFWA's director." I recommend we delete that item, said Nigro. The Board can't play that role due to Oregon labor law, and the Council's program doesn't contemplate such a role, he added.

Measure noted that the Pacific States Marine Fisheries Commission (PSMFC) is the contracting agency for the FPC, and there are questions about whether it is a federal or state entity. We need to resolve this issue one way or another, he added.

Accountability of the FPC as an entity is one thing, but here you are talking about performance evaluations of personnel, Nigro said. Who does oversee the FPC manager? Ferguson asked. The PSMFC, replied Nigro. Does the Board want to evaluate the manager or the FPC? Yundt asked. The FPC manager has to take responsibility for the FPC's performance, and I think this issue needs to be discussed, Ferguson said.

We need legal advice, Nigro said. Goodman suggested eliminating the bulleted item that deals with reviewing the FPC manager's performance. As a working scientist, I won't comment on anything except science, he said.

There is a general consensus that we are all nervous about this item, said Measure. Let's talk to the Council and see what they want to do about this issue, he recommended. Measure said he will also meet with Randy Fisher of the PSMFC and report back to the Board at the next meeting.

## **Other Topics**

### Smolt Monitoring

At the last meeting, I pointed out that the Smolt Monitoring Program is ripe for review, Ferguson said. The FPC, which has been around for 25 years, is also ripe for review, he stated. There's a different environment today, and the Board may want to ask whether we need the FPC to function as it has, or whether its scope should change, Ferguson said. I'm not saying it should change, but it's time to look at what the FPC does for the region, he added. The Program isn't asking whether the region needs the FPC, and we operate under the Program, said Nigro.

Should the Board encourage review of the Smolt Monitoring Program? Measure asked. It's been around for 25 years -- maybe it's fine, and maybe it could be changed and result in some cost savings to the region, said Ferguson.

Michele DeHart, director of the FPC, pointed out by phone that the Smolt Monitoring Program was a measure in the 2000 Biological Opinion and that it is not just in the Council's Program. There's a lot of information out there we could use to have a detailed

discussion about it, she said. Lipscomb noted that smolt monitoring is part of the work being done by the Collaborative Systemwide Monitoring and Evaluation Project (CSMEP). The CSMEP report is going to the ISAB for review in the next few months, he said.

I'm glad to hear someone is digging into the data to see how the Smolt Monitoring Program is doing, said Ferguson. We should clarify the FPC's role in smolt monitoring so that all Board members understand it, Nigro stated.

Ferguson suggested the Board get a report from CSMEP about smolt monitoring. Nigro recommended that DeHart brief the Board on the Smolt Monitoring Program and the CSMEP report. Measure said that could be done at the January meeting.

### FPC Products

There's a suite of products, reports, data analysis, and System Operation Requests that the FPC puts out, and it would be good for the Board to get a better idea of what all of those products are, Ferguson said. Measure asked DeHart for a quarterly compilation of all of the FPC's products.

She said that could be provided and noted that the FPC will give the Board an annual accomplishments report on November 1. DeHart suggested that she prepare a quarterly report for the fourth quarter of this year as a prototype that the Board can review. If you have that and our annual report, then we'll be able to talk about what changes could be made that would be helpful, she said.

### **Upcoming Meeting Dates**

Measure said he would send out a proposed schedule of quarterly meeting dates for 2008 for the members to review. Our next meeting is tentatively set for the afternoon of January 14 in Vancouver, Washington, the day before the Council's meeting, he noted.

Measure also said he would circulate a new draft of the operating rules with the minutes from the meeting. The meeting adjourned at 4:30 pm.

Prepared by Susan Whittington, NWPCC Contractor