

**Council Meeting
Portland, Oregon**

December 14, 2005

Minutes

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Reports from Fish and Wildlife, Power and Public Affairs committee chairs:

Rhonda Whiting, chair, fish and wildlife committee. Tom Karier, chair, power committee; and Larry Cassidy, chair, public affairs committee.

Rhonda Whiting, Fish and Wildlife Committee chair, reported on the committee's discussion of funding for Updated Proposed Action habitat proposals. She said staff recommends funding for the Whitehall Wells and Entiat 4-Mile Wells projects. Committee members raised concerns about the Little Bridge Creek fencing project, Whiting said. Staff also recommends approval of a funding adjustment for the evaluation of Libby and Hungry Horse dam operations, and the F&W committee agreed the full Council should pass that recommendation, she reported.

We reviewed the history of the step-review process for major projects, Whiting continued, noting staff thought the time was right to consider the process as the Council gears up to select projects for 2007-2009. No action was taken, she added. With regard to project selection, there are 340 proposals under consideration for the next funding period, Whiting reported. She said NOAA Fisheries is concerned about whether the project selection process will move swiftly enough to respond to orders coming from the federal court.

Tom Karier, Power Committee chair, said his committee discussed the proposed Grid West bylaw changes. The committee did not think there was any need to have the Council respond to the proposal, he said. We had a briefing on the Regional Dialogue, Karier continued, adding that the process is lagging behind the original schedule. A draft Record of Decision is likely to be issued in March, not January, he reported.

Meetings of the region's Adequacy Forum have been ongoing, and I have joined Paul Norman of BPA in co-chairing the effort, Karier continued. We are on schedule to have a proposal out next month, he said, adding that the proposal would be available for the Council's January meeting. The committee also had a presentation from staff on the technology of integrating gas and coal for power generation, and on efforts to develop a means of analyzing carbon emissions under the Council's Fifth Power Plan, Karier said.

Larry Cassidy, Public Affairs Committee chair, reported on Council publications that are in production, and he said work was progressing on a video that documents the history of the Council.

1. Briefing on Pacific Ocean Shelf Tracking and Survival

- **Project 2003-114-00, The Pacific Ocean Shelf Tracking Array (POST): Results from 2004-2005 and a Roadmap for the Future: Dr. David Welch, Kintama Research Corp, Malaspina University**

Welch reported on the Pacific Ocean Shelf Tracking Array (POST) project, which directly measures salmon migration. The Council was integral to the funding of the POST project, which aims to install a permanent array of tracking devices along the continental shelf to measure the movement of fish, he explained. We are putting a series of listening posts out to sea to track

tagged fish to see where they go, Welch said. So far, we've put out an array that stretches from north of Grays Harbor in Washington to Southeast Alaska, he said. The sensors sit on the seabed and "listen" for what goes by overhead, Welch stated.

He presented results from 2004 and 2005, noting that the project grew from the first to the second year, with tagging of significantly more smolts. Last year, we detected 96 percent or 19 of 20 tagged fish, Welch said. We are measuring survival in the ocean, which has not been done before, he added. Welch also pointed out that researchers have completed a wireless data-collection system, an improvement on the previous method that required retrieving devices from the seabed.

He showed a computer simulation of the migration of Cultus Lake sockeye, an endangered run in Canada, from their spawning ground in British Columbia to the north end of Vancouver Island. This narrow migration corridor for the Cultus Lake sockeye has shown up in the data for two years, Welch explained. This and other data indicate that individual stocks of salmon have precise migration patterns, he said.

According to Welch, researchers can now track the speed of the migration, which fish go where, and what percent of the runs reach a particular destination. The data suggests that only one in 30 Snake River chinook that reaches Vancouver Island will return as an adult, he said. Welch pointed out that there is a large variation in the survival figures among Fraser River stocks and in the survival of a single stock from year to year. We don't know why, but we can measure what is going on, he indicated.

The in-river survival from the Columbia "does not seem unreasonable," but the adult returns from the ocean are unreasonable, 0.5 percent versus the 2 to 4 percent needed, Welch said. We need to understand the ocean survival so we can determine what freshwater changes are important and can be "manipulated successfully," he stated.

Tom Karier asked about integrating river and ocean effects. Welch said all of the research fish used in the POST studies were barged to Bonneville Dam. But the dam mortalities in the river are insufficient to explain the survival shortfall, he said. I'd encourage you to think about how your technology could be used in-river to track survival, Karier said. We would like to see Columbia River biologists start using the POST system, Welch responded. The Columbia River has a great research effort, but it is focused on the river, and "what about the other effects?" he asked.

Larry Cassidy pointed out the value of the POST studies. For example, when coastal coho declined, we responded by planting a lot of fish, but we may have turned them out into an ocean that lacked the nutrients to feed them, he said. This research helps us to know these things, Cassidy added.

- **Project 2003-009-00, Canada-USA Salmon Shelf Survival Study: results from 1998-2005 and future directions: Dr. Marc Trudel/Canada Department of Fisheries and Ocean.**

Canadian researchers Dr. Marc Trudel, Canada Department of Fisheries and Oceans (DFO), and Dr. David Welch, Kintama Research Corporation, presented results of their studies of salmon

survival in the ocean and migration along the coast of British Columbia and Southeast Alaska. Trudel noted that in the 1980s and 1990s, there was “a drastic decline” in adult salmon returns to Bonneville Dam. Some of the decline could be explained by conditions in the river, he said. But evidence also suggests ocean conditions affected the marine survival of these stocks, according to Trudel. Our BPA and DFO-funded research aims at understanding ocean effects, he said.

Since 1998, we have been conducting juvenile salmon survival surveys off Vancouver Island and Southeast Alaska, Trudel explained. The surveys are done three times a year, with salmon caught by trawl, and data is collected on both the fish and ocean conditions, he said. The researchers are aiming to determine where the salmon go, how much time they spend in different locations, what environmental conditions they encounter, and how these factors affect growth and survival, Trudel said. In the end, we hope to improve the forecasting of adult returns, he stated.

Trudel went over trawl data that illustrates the distribution of migrating Columbia and Snake River fall and spring chinook. He explained that the spring and fall chinook migration behavior differs both in speed and destination. The data suggests that even salmon stocks with the same life history migrate to different areas at different speeds – they do not all behave the same in the ocean, Trudel said. Coho salmon migrate in a pattern that is similar to the spring chinook, he said, while fall chinook have a slower migration.

Researchers have collected data on ocean conditions, including temperature and nutrients, and related them to salmon growth, Trudel continued. We found that coho in Southeast Alaska were growing at a much faster rate than in Southern British Columbia, he said. Further analysis indicated there was not much difference in the amount of food salmon consume in the two areas, but the quality of the food was different, and that made a big difference in the size of the fish, according to Trudel. The marine survival of Columbia River coho in Southeast Alaska was much greater than in Southern British Columbia, which suggests the growth rate might be a big factor in survival, he indicated.

The data and analyses that are uncovering these relationships offer potential for improving the forecast of adult returns, Trudel stated. He emphasized that temperature also appears to be a big factor in survival.

Temperatures have been increasing in coastal waters, and we are also seeing new predators, including a tropical species of squid that reaches 60 to 100 pounds in a year’s time, Trudel went on. We don’t know the impact of this predator yet, but it could be significant, he stated.

Trudel laid out a list of research needs that could lead to improved forecasts for Columbia River salmon returns. We need to integrate the various ocean research programs, he said. The Canadian researchers have a work plan for 2007-2009, which includes continued monitoring and assessing of the effects of ocean conditions on survival, Trudel wrapped up.

“The take-home theme” with regard to temperature is that Columbia River salmon do well in the cold years and not so well in warm years, Welch stated in response to a question from the audience. The projections are for continued ocean warming, he added.

2. Council Decision on concluding Step review of the *Johnson Creek Artificial Propagation Enhancement*, Project #1996-043-00:

Mark Fritsch, manager, project implementation.

Staffer Mark Fritsch went over the history of the Johnson Creek Artificial Propagation Enhancement Project, which was proposed by the Nez Perce Tribe as an enhancement project for ESA-listed summer chinook in the Johnson Creek tributary to the South Fork of the Salmon River. In 1996, this was one of 15 high-priority supplementation projects under F&W Program Measure 7.3, he said, going on to list several steps in the evolution of the project to the present. The tribe responded in June 2005 to 22 points raised by the Independent Scientific Review Panel (ISRP) in its review of the project, Fritsch said. In a final review, the ISRP still had questions about the science underlying the project and the monitoring and evaluation (M&E) plan, he added. To date, the project has cost \$10.3 million, Fritsch said.

With regard to the ISRP issues, they are “recurring themes” on artificial production projects, and the region as a whole is dealing with them, he continued. We hope the region will come up with an overall approach to M&E, rather than addressing it project by project, Fritsch said. We would recommend that there be no more response or review required from the tribe and that the Council acknowledge the requirements at this step of the project have been met by the sponsor, he said. Fritsch also pointed out that funding for the project would be subject to review in the FY 2007-2009 project selection process.

A representative of the Nez Perce Tribe gave an overview of the Johnson Creek project. He pointed out that the ISRP looked at the project in 2001, when after years of low runs, a large number of fish returned to the creek. But in 2005, the numbers of fish declined again – the project is needed, he said.

Jim Kempton made a motion that the Council approve the results of the Step 2 review for the Johnson Creek Artificial Propagation Enhancement Project, acknowledging that the requirements the Council set for the project in this stage of the Step review process have been satisfied and that the scope and objectives of the project and proposed future funding for the project will be reviewed and prioritized in the FY 2007-2009 project selection process. Cassidy seconded the motion, which received unanimous approval, with all eight Council members present.

3. Status report on data management projects and demo of data portal:

Peter Paquet, manager, wildlife and resident fish; and a representative from the Bonneville Power Administration

Staffer Peter Paquet gave an update on the Northwest Environmental Data Network (NED), which is being developed in response to the Scientific Applications International Corporation’s recommendations for regional data management. The goal of NED is to improve the quality, quantity, and availability of regional data and information on F&W management in the region, he said.

Paquet reported that state, federal, tribal, and provincial agencies are participating in NED and have entered into a memorandum of understanding (MOU). Several federal agencies, including the Bureau of Reclamation, U.S. Fish and Wildlife, and U.S. Forest Service, and two Northwest states, Idaho and Montana, have not officially signed on, he acknowledged.

Eden asked whether NED had sought participation from upriver tribal interests. We are working with the upriver tribes, particularly with the Colvilles, Paquet responded. I don't see any upriver participation, Bruce Measure stated. There aren't any upriver tribes on your list, and the states of Montana and Idaho haven't signed the MOU, he said. Paquet said the states were likely to sign once they decide which agency would be the most appropriate participant.

A steering committee made up of representatives of the MOU signatories was established, along with a number of subcommittees, Paquet said. He and Stewart Toshach of NOAA Fisheries described each subcommittee and its accomplishments.

Paquet said about 75 people attended a 2005 workshop on NED. There was consensus that the effort needs executive-level support and that more formal arrangements are needed across geographic and jurisdictional boundaries to make NED a success, he said.

Toshach outlined the regional data network strategy, which includes building participation and working on data standards and stewardship. We need serious FTE support to get this done, he pointed out. Toshach said the data standards would be kept in an on-line "data dictionary," and he described the "distributed database management system approach," upon which NED will be based.

Tom Pansky of BPA demonstrated the National Spatial Data Infrastructure, which is aimed to help people use information the government generates. The NED portal is part of the national system, he said. Pansky demonstrated the layers of data that can be retrieved from various sites. The national datasets link to NED – all of the data is available from a single portal, he said. We have made a lot of progress in a short time, Pansky added.

Paquet said the bottom line for NED's success is that people have to agree to put their data in certain formats and post it on the web. That requires "top-down" support within agencies, he stated.

This effort is very important, Cassidy said. My goal would be to reach out to F&W managers to see if they are using the system and to see if it has a practical application, he said. Karier pointed out the importance of participation and getting people to meetings. The real work is getting things consistent so the data is useful, he said.

4. Briefing on litigation issues:

John Shurts, general counsel.

Staffer John Shurts prefaced an update on the Biological Opinion (BiOp) litigation with an overview of cases against BPA that are pending before the Ninth Circuit Court of Appeals. The dozens of complaints, which, according to a Shurts memo, have been consolidated into seven

groups, date back to BPA decisions in 2001. People have suggested these questions need to be resolved before the region can get to an agreement in the Regional Dialogue, but some of the cases have been before the court for a period of years and may not be decided right away, he indicated.

The first issue has to do with the treatment of the residential exchange in BPA's rates, Shurts explained. Petitions filed with the court challenged BPA's authority "to settle" the exchange, rather than precisely follow the provisions in the Northwest Power Act for determining benefits, he noted. According to Shurts, the Ninth Circuit could decide the case in one of several ways: the settlement is okay; BPA should have followed precisely what is in the Act; or it is okay for BPA to settle the exchange, but in a way that more closely follows the Act.

A second issue relates to the Slice of the System contracts, he continued. There has been a dispute over the "true-up" costs, and customers thought such disputes could be arbitrated, Shurts said. BPA has said no, that these are rate issues and not subject to arbitration, he said. The Ninth Circuit will have to decide what is a rate and what is a contract issue, Shurts explained.

The third issue pertains to the "litigation penalty" charge of \$200 million that was part of a failed residential exchange settlement proposal in 2003, he said. The issue here is what constitutes a BPA final action – can it be a letter and a press release – for purposes of starting the clock for judicial review, Shurts said.

Moving on to the BiOp litigation, he recounted that a motion was filed with Judge Redden for further injunctive relief on 2006 river operations. The federal government has objected to the motion, which proposes new operations for spring, summer, and winter, and "a regional coalition we have not seen before in these proceedings" has filed a brief, Shurts said. Oral arguments are tomorrow, and the judge has sent out questions he wants people to address, he reported. One possibility is that the judge will put pressure on the parties in the litigation to come up with an operating plan for spring 2006, Shurts suggested.

The new BiOp is being prepared in a collaborative process, and the judge has periodic briefings on the progress, he continued. What is taking shape looks more like the 2000 BiOp, Shurts said. The timeline for the new BiOp is very short, with a deadline in December for species viability determinations; actions needed to close the viability gaps are due in January, he said.

The litigation poses a potential problem for the Council's 2007-2009 fish and wildlife (F&W) project selection process, Shurts said. There is a concern that the federal agencies will just give BPA a list of projects that they say must be funded, he said. Our staff has "thumped back" on that, Shurts added. The federal agencies still say they are going to appeal Judge Redden's initial decision on the BiOp, but they have not done so yet, he wrapped up.

There is a wide range of potential orders from Judge Redden, Karier commented. Last time, it was helpful to have John Fazio do an analysis of what the orders could mean, he said. I think that could be valuable again, Council chair Melinda Eden agreed.

5. Presentation of the 2005 Bob Olsen Memorial Pacific Northwest Conservation Eagle Award from the Northwest Energy Coalition:

Sara Patton, Northwest Energy Coalition.

Sara Patton of the Northwest Energy Coalition (NEC) presented the Council with the 2005 Bob Olson Memorial Pacific Northwest Conservation Eagle Award. She said the NEC board voted to give the award to the Council, particularly in recognition for the Fifth Power Plan. The plan is one of the best we've seen from the Council, and the analytic work that is detailed in the appendices is attracting the attention of other organizations around the world, Patton said. Eden accepted the award on behalf of the Council and thanked staff members, including Dick Watson, who came out of retirement to attend the award presentation, for their contributions to the plan.

6. Update on critical habitat designations for bull trout:

Lynn Palensky; and Scott McCarthy, Chief of Listing - Region 1, U.S. Fish and Wildlife Service.

Scott McCarthy of the U.S. Fish and Wildlife Service briefed the Council on the critical habitat designation for bull trout. He described the provisions of the Endangered Species Act (ESA) that pertain to designating critical habitat and the requirement for consultation with other agencies. For bull trout, most of the federal agencies that would take actions that affect the species were already working with us, McCarthy said.

He went through a chronology of events since the bull trout was listed for ESA protection in 1998, culminating in the September 2005 designation of nearly 4,000 stream miles, over 100,000 acres of lakes and reservoirs, and 985 marine shoreline miles as critical habitat. McCarthy referred Council members to the USFWS' bull trout web site, which he noted has detailed information and interactive features.

"Stay tuned," he added. On November 1, the USFWS received an "NOI" [notice of intent] to sue over the latest critical habitat designation, McCarthy reported.

7. Update on Fish Passage Center:

Doug Marker, director, fish and wildlife division.

Staffer Doug Marker reported that BPA is soliciting proposals for carrying on key functions of the Fish Passage Center (FPC). Responses to the solicitation, which went out December 8, are due December 30 and will be subject to Independent Scientific Review Panel (ISRP) review, he said.

Karier pointed out that BPA and NOAA Fisheries had written memos addressing technical issues in the FPC's analysis of 2005 in-river smolt survival. He suggested the Council submit those memos, which deal with the methodology used in the analysis, to the Independent Scientific Advisory Board (ISAB) for its evaluation. "We need to get this right" for the new group that will take over the FPC data functions, Karier said.

Would we also submit the FPC's response to the memos? Eden asked. Yes, I think we should send all of the information and documents on the topic, Karier responded.

Joan Dukes asked if the Council automatically sends queries to the ISAB when a contractor has issued something with which people disagree. When disputes about science rise to a particular level of importance, they go to the ISAB, Karier replied. "This looks like a technical statistical debate that needs to be resolved at the ISAB level," he said.

The ISAB would give its view of the scientific integrity of the analytical approach, Marker said. He also noted that BPA's solicitation makes it clear that responders would have to go through the Council's project solicitation process.

The Council's F&W program specifically mentions the FPC, and we ought to think about a limited amendment to make the program "consistent with reality," Karier stated. We need to discuss that, Eden agreed, but she noted that the Council does not know what "the new configuration" will be. This could be premature, she added. The amendment could focus on the function, not on a particular entity, Karier responded. Jim Kempton suggested the Council talk the issue over with its legal counsel before opening the program for amendment.

8. Briefing on Regional Dialogue on the future role of Bonneville:

Terry Morlan, director, power division.

Some progress is being made in the Regional Dialogue on BPA's role post 2011, but significant issues remain, according to staffer Terry Morlan. He listed several issues that are still being worked over, including whether and to what extent non-load-following customers can declare and undeclare resources during the 20-year contract period.

The IOU residential exchange is another big issue, not to mention the publics' right to exchange, Morlan said. At first, it seemed that BPA's concept paper and the public utility proposal were pretty close, but that's not necessarily the case now, he indicated, adding that there are a lot of talks going on to try to resolve the differences.

It looks like there may be a delay in the Regional Dialogue schedule, with a slowdown in January to accommodate the BPA rate case and a return to the intensive schedule of Dialogue meetings in February, Morlan reported. The concern for the Council is whether any slowdown interferes with resolving issues in time for post-2011 contracts, he stated.

Is there any way to push on this? Eden asked. Morlan suggested that Council Power Committee members could address the schedule at the Regional Dialogue principals' meeting on December 16.

9. Update on regional transmission issues:

Wally Gibson, manager, system analysis and generation.

Grid West is moving forward without BPA participation, staffer Wally Gibson reported. The organization's bylaws are being revised to remove some of the items that were included to gain BPA and public power participation, he said. Gibson described the bylaw revisions, which include eliminating "the developmental bylaws" and a separate process for adopting operational bylaws and streamlining decisionmaking by the independent board. The bylaws retain state approval as the primary remaining formal public review process, he said. A Grid West technical review group is evaluating the changes needed in market design, since BPA is no longer a participant, and the workability of a stand-alone market design, Gibson explained.

"The big question is, can it work without Bonneville," and Grid West will make a decision on its ability to move forward in January, he continued. The Grid West participants control a substantial amount of transmission of their own, Gibson pointed out. All major transmission owners are in Grid West except BPA, he noted.

Most of the Grid West participants have stressed the importance of developing solutions that can work with BPA, Gibson said. BPA has not said how it intends to go forward, but still says it wants something that merges the Grid West and Transmission Improvements Group proposals, he said.

The key question with the uncertainty is how to move forward to resolve the problems noted in the Council's power plan and elsewhere, Gibson indicated. There would need to be mechanisms to coordinate and integrate Grid West with Westside planning and operations dominated by BPA, he said. My sense is that it's unlikely there will be a single organization any time soon, according to Gibson. Governance has been a divisive issue, and it will require a concerted effort to integrate the solutions, he commented.

10. Council business

– Approval of minutes

Kempton made a motion that the Council approve for the signature of the Vice-Chair the minutes for the November 16-17, 2005 Council meeting held in Coeur d'Alene, Idaho. Cassidy seconded the motion, which passed unanimously.

– Retirement plan update

Staffer Sharon Ossmann explained the proposed change to the Council's retirement plan and reported that with Council approval, she would replace Jim Tanner as trustee for the retirement and deferred compensation plans. Kempton made a motion that the Council approve the changes to the Retirement Plan Document as outlined by staff and name Sharon Ossmann to replace Jim Tanner as trustee for the retirement and deferred compensation plans. Cassidy seconded the motion, which passed unanimously.

The meeting adjourned at 4:05 p.m.