

JUDI DANIELSON
CHAIR
Idaho

Jim Kempton
Idaho

Gene Derfler
Oregon

Melinda S. Eden
Oregon

Steve Crow
Executive Director



TOM KARIER
VICE-CHAIR
Washington

Frank L. Cassidy Jr.
"Larry"
Washington

Ed Bartlett
Montana

John Hines
Montana

Council Meeting Fairmont, Montana

August 12-13, 2003

Minutes

Reports from Fish and Wildlife and Power Committee chairs

Ed Bartlett, chair, fish and wildlife committee; and Jim Kempton, chair, power committee.

Fish and Wildlife Committee chair Ed Bartlett said his committee unanimously supports the revamped Methow Valley Irrigation District proposal for screens at two canal sites. He said committee members are deeply frustrated with Bonneville's request for additional fish and wildlife project budget adjustments, adding that it was not so much concern about the dollar amounts, "but the process." We need another fish and wildlife committee meeting between now and September to discuss Bonneville's proposed fish and wildlife accounting protocols, he said.

Bartlett briefly commented on several other items that came before the committee, including the Umatilla Hatchery, subbasin planning, provincial reviews, and the artificial production review and evaluation. The committee also discussed an issue that has arisen in the region about how to interpret the Council's mainstem amendments with regard to the draft at Libby and Hungry Horse during drought years, he said. I believe it is up to the full Council to determine what our plan means, and it is not for some other entity to make that interpretation, Bartlett stated.

Power Committee chair Jim Kempton said the committee approved extensive minutes from its July 15 meeting, and he urged Council members to read them. He said staffer Dick Watson briefed the committee on the status of the Regional Dialogue and related issues. Kempton asked for approval of a letter to Steve Wright, the latest version of which was circulated to Council members last week. No objections were raised to sending the letter out.

We also discussed the treatment of transmission issues in the fifth power plan, and staff will be refining those issues, Kempton reported. The draft transmission section of the plan will be ready for review in September, he added. The committee had an extensive briefing on developing geothermal generation and a presentation from POWREX on transmission interconnections, he said, adding there was also a discussion of the Council's legal authority under the power plan.

Larry Cassidy said he would have been interested in hearing the last three topics on the Power Committee agenda, and suggested the Council might want to reconsider how it determines which presentations should be on the full agenda. “Sometimes you have to test drive these presentations” before you determine whether they would be appreciated or appropriate for the entire Council, Kempton responded.

Reports on Council bylaws committee, public affairs committee, wildlife crediting committee, Fish Passage Center Oversight Board, and Regional Coordination Group.

John Hines reported on the work of the bylaws committee, noting that a package of proposed changes to the Council bylaws would not be available until the September meeting. He said the committee went from addressing several technical changes to taking on some “meaty issues,” including the election of officers and rotation of the chairmanship among the states.

Cassidy, Public Affairs Committee chair, said notifications went out on the Council name change, and committee members are reviewing the text of materials to commemorate the 20th anniversary of the fish and wildlife program. Cassidy also reported on the Fish Passage Oversight Board, which met recently for the first time since passage of the mainstem amendments. He noted that bylaws have been suggested for the board, along with a statement of work.

Council chair Judi Danielson said the Regional Coordinating Group, which is advisory to the Council on regional issues, will be meeting more often than quarterly. She said topics the group is discussing include: what happens after May 28, 2004, the deadline for subbasin plan; the remand of the Biological Opinion; assurances from NOAA Fisheries; and the role of the Hatchery Genetic Management Plans.

1. Presentation on proposal for modified river operations in 2003

Jim Litchfield, Litchfield Consulting Group, Inc.

Jim Litchfield, Litchfield Consulting Group, briefed the Council on Montana’s July request to the Technical Management Team (TMT) to approve an operation that would have begun implementation of the Council’s mainstem amendments and reduced summer spill. The Montana System Operational Request (MT SOR) sought to stabilize the flows out of Libby and Hungry Horse from July to September and reduce reservoir draft so the reservoirs would be within 10 feet of full by the end of September, he explained. We also proposed beginning a multiyear set of experiments to evaluate the results of the proposed changes, Litchfield said. Under the MT SOR operation, reservoir drafts would have been made to maintain minimum bull trout flows, he added.

The economic impacts of summer spill are critical because of Bonneville’s financial situation, Litchfield continued. Bonneville estimated in May that summer spill would cost about \$110 million in July and August, he said. Litchfield described the MT SOR operation, including the proposal to limit spill levels and end summer spill at John Day Dam by August 1 and at

Bonneville and The Dalles dams by August 15. We called for the use of an “adaptive management process” to evaluate the effects of the curtailed summer spill operation, he explained.

The impact of the operation’s more gradual drop in flows would be very small, according to Litchfield. The flow at McNary Dam would have changed by four or five thousand cubic feet per second (kcfs), and the juvenile survival changes “are basically zero,” he continued. The CRiSP model shows there would be no difference in survival for Snake River or Hanford Reach fall chinook as a result of the reduced flow, and the CRiSP and SIMPAS models tell us survival impacts would likewise be small as a result of reducing spill, Litchfield went on. The survival impacts for ESA-listed fish would be “incredibly small numbers,” and for Hanford Reach fall chinook, the effects “are still very small,” he said. The motivation behind Montana’s request is, “the range of effects on fish is very small,” but the effects on Montana are large, Litchfield said.

Montana presented its request to the TMT on July 2, he recapped. The TMT wanted more time to consider the proposal, so we came back on July 9, and Bonneville and the tribes asked for more time, Litchfield said. On July 16, the TMT rejected the MT SOR, mostly due to the comments of NOAA Fisheries related to the federal court’s remand of the Biological Opinion (BiOp), he explained. Montana then appealed to the Implementation Team (IT), but the appeal was rejected July 24 for the same reason cited by the TMT, Litchfield said. The Nez Perce Tribe was successful in getting the TMT to shift some water at Dworshak, despite the BiOp remand, and the MT SOR was essentially the same type of request, he noted.

After the IT rejected the MT SOR, Montana’s governor sent a letter asking the Executive Committee to consider the request, Litchfield said. The committee “hadn’t met in years,” he commented, but called a meeting for August 5. At that meeting, the executives, who represent five federal agencies, declined to overrule the IT and TMT, given the current litigation over the BiOp, Litchfield said.

He described the organization of the Regional Forum process, which includes the TMT, IT, and Executive Committee. The TMT decides in-season operational issues, and if the TMT comes to a consensus, the issue does not advance to a higher level in the process, Litchfield explained. The TMT is primarily fish and wildlife (fish and wildlife)-agency directed, he stated. There are no utilities or other levels of government on the TMT, and the tribes have chosen not to participate, Litchfield said.

What would constitute a better representation of hydro interests in the process? Larry Cassidy asked. The federal dams are multipurpose projects that are tightly integrated with the Northwest economy, Litchfield responded. There should be broader representation beyond a single dimension for these operating decisions, he contended. The TMT decisions are now based on one question, Litchfield said: “what is best for fish?” What was best for fish in the 2001 power crisis was to continue the lower river spill and black out California, he noted. But there are other interests and that means other views need to be represented, Litchfield said.

But Steve Wright acted to stop the spill in 2001, Cassidy pointed out. Yes, he did, and in doing so, he ignored a TMT request to the contrary, Litchfield indicated. But it isn’t a good way to implement policy to have to get to that point, he added.

When the four governors met this spring, their interest in the hydro system was two-fold, John Hines said. They wanted to ensure that the fish and wildlife program is accomplishing its mission and also that the four Northwest economies are moving forward, he said. If biologists alone make the decisions, they only consider the biology, Hines continued. But these decisions affect the Northwest economy, and you need other interests there to represent policy concerns, he stated.

Litchfield said the Regional Forum contemplates an executive-level committee that “does not exist.” We are missing the discussion between the federal executives and the governors, he added. We need that policy-level connection, Litchfield indicated.

It is interesting to hear the concept of an executive forum raised, commented Mary Verner, of the Upper Columbia United Tribes. A lot of effort went into the Three Sovereigns process, she pointed out. We are also interested in a regional executive forum, where our executives could meet with the governors and federal executives, Verner said. I am glad to see the idea revived, she added.

We need to have firm protocols for research, monitoring, and evaluation (RM&E), Hines said. Some opponents of the MT SOR said there was not enough RM&E in the proposal, he added.

Chair Judi Danielson asked about Washington’s tentative proposal on spill. The Executive Committee said at its meeting on the MT SOR that it was concerned about taking the operation before the federal judge because the agencies didn’t have the RM&E in place or a way to mitigate the impacts, Tom Karier explained. The federal agencies had a chance to develop the components of the spill tests, but they didn’t do it, and this failure makes the opportunity for experiments with spill this season “nil,” he said. We may have lost the opportunity this year to provide benefits and learn from the experiments, Karier stated. We need to make sure this doesn’t happen again, he said.

In our tentative proposal, we had three criteria for a summer spill test, Karier continued: ensure that 95 percent of the fish are out of the river before the test takes place; earmark a portion of the power savings for experiments and the benefit of fish that are impacted; and get the monitoring components in place to measure the impacts.

So you are not suggesting spill reduction this year? Danielson asked. There isn’t consensus on the Council that the issues could be resolved in the time remaining, Karier responded. Would you support spill reductions this year? Danielson asked. “Definitely,” Karier replied. The experiments should have been in place, but very little has been done by the federal agencies, he said. We’ve seen little movement from them, and “they say they are done” with spill experiments this season, Karier indicated.

When you see the numbers of fish that would be affected, it appears the impacts are very small, Danielson said. Whatever savings there would have been could have been used for RM&E that needs to be accomplished for the BiOp, she said.

There is “a trap in this debate,” Karier said. We heard from the federal agencies that there was not enough in the MT SOR proposal for fish, but when we offered a proposal for a 50/50 split in the power savings, they said that it was too much, he explained. If policymakers operate based on the threat of lawsuits, it does not bode well for the river, Hines observed.

Whether we do something now or “are posturing for 2004,” I want to see some fish benefits if we reduce the spill, Cassidy said. There needs to be mitigation, he added. We have “dueling science” here, and we don’t know who is right, Cassidy indicated. For the future, we need to keep some funds for mitigation if we reduce summer spill and “punish fish,” he said. We need better equity for fish if we do this in the future, Cassidy added.

“In case my silence is taken as a sign that we’ve given up, we haven’t,” Ed Bartlett stated. We are not “punishing fish” – we are looking for the proper balance between the fish and ratepayers, he said. We have to push if we want our mainstem plan to be implemented, Bartlett said. We haven’t given up on this year, but the chance of something happening “is less than 1 percent,” he acknowledged.

“I’m still reeling from the cost of those five Snake River fish,” Danielson commented. Right or wrong, that money could fund the Council and Bonneville out of a crisis, she said. If what we are doing with spill is the wrong thing, we are missing opportunities this year, Danielson added. I commend Montana for having the courage to take this to the IT and getting this issue out in front of the region, she said.

The federal executives said the Council could provide guidance on this issue, Karier noted. I think we need to point them back to our mainstem program, he stated.

Should the Council take on this discussion of process and membership of the TMT and IT? Bartlett asked. We’ve seen that there needs to be a different process, Hines said. The TMT serves a good biological purpose, but when there are other issues at stake, it’s imperative that we have representatives of other interests and higher levels of policymakers, he stated.

I agree, Gene Derfler said. We are just hearing one side of the argument under the current structure, he added.

There are wide-ranging impacts to species if spill is reduced, Paul Lumley of the Columbia River Inter-Tribal Fish Commission (CRITFC) stated. There is still a big difference of opinion on the impacts to fish, and I would caution you that a deal that can be made financially can’t ignore the real needs of fish, he said.

Why don’t the tribes participate in the TMT process? Danielson asked. We were invited “to come along for the ride,” but we were not given any funding, and there was no opportunity to have government-to-government consultation, Verner replied.

2. Briefing and potential Council decision on Montana fish and wildlife acquisitions

Lynn Ducharme, Confederated Salish and Kootenai Tribes; Alan Wood, Montana Fish, Wildlife and Parks; and Susan How, Flathead Land Trust.

Staffer John Shurts reported that Bonneville, the Montana Department of Fish, Wildlife and Parks, and the Flathead Land Trust have come to terms on a Memorandum of Agreement (MOA) that would allow two Council-recommended habitat acquisition projects in Montana to go forward. The Salish-Kootenai Tribes and the Kootenai Tribe of Idaho also have an interest in the

MOA since they were affected by construction and operation of the Montana dams, he said. Shurts said the Council helped facilitate the MOA, but is not a party.

As part of the draft MOA, Bonneville requested a letter in which the Council states its support for the way Bonneville has handled the matter of capitalizing the land acquisitions in question and crediting for fish and wildlife losses, he explained. Shurts presented the Council with a draft letter in which the Council expresses its support for the mode of capitalization and for the way the Libby loss statement is used in the MOA.

There was great sensitivity in the negotiations about crediting for fish and wildlife losses and about binding the region to a methodology or precedent for crediting losses or capitalizing acquisitions, Bartlett pointed out. In our letter, we want to be very careful not to tread on issues and sensitivities that the negotiators were careful to avoid, Shurts agreed. He recommended the Council, in a brief letter, simply support implementation of the projects and the provisions of the MOA and note that while the Council has not formally adopted the Libby loss statements into its fish and wildlife program, it sees this MOA as an appropriate way to make use of the construction and inundation habitat-loss assessment for the dam.

Alan Woods of the Montana Department of Fish, Wildlife and Parks said parties have reached agreement on all the key issues involved in the acquisition. The projects are “time sensitive,” he noted, adding that a purchase option on one of the two parcels to be acquired expires at the end of August. Lynn Ducharme of the Confederated Salish and Kootenai Tribes said she expects the MOA will go before the tribal council next week.

Bartlett made a motion that the Council approve for the signature of the Chair the letter to Bonneville regarding fiscal year (FY) 2003 resident fish habitat acquisitions in Montana as presented by the staff. Hines seconded the motion. Eden asked whether the acquisition would be made in FY 2003 or 2004. Bartlett revised his motion to remove the reference to FY 2003. Hines seconded the change. The Council voted unanimously to approve the motion.

3. Council decision on letter documenting the completion of the provincial review process

John Ogan, senior counsel.

Staffer John Ogan presented the Council with a letter he described as cataloging the decisions the Council made over the three-year provincial review process. This is a single document that knits together the Council’s funding recommendations made to Bonneville for the 11 provinces and the mainstem/systemwide group, and it incorporates by reference the numerous documents approved by the Council to explain the basis for its funding recommendations, he said. This letter also deals with the Council’s approach to ocean conditions, Ogan added.

Who is the extended audience for this letter? Does the audience include litigants? Hines asked. It is for anyone who participated in the fish and wildlife decisions, and it’s a one-stop resource for staff on what has been approved, Ogan responded. He said litigants in lawsuits related to the Council program might also be an audience. How will we keep it up to date? Hines asked. Ogan said staff was discussing that matter.

Kempton asked if in the 2000 fish and wildlife program, the mainstem/systemwide projects were to be considered on the same rotation basis as the other provinces. I don't recall that they were, he added. That's correct, Ogan said, adding that the summary letter, Section F, does not lock the Council into a particular rotation with the mainstem/systemwide projects. We could add language to make that clear, he offered. I'd be more comfortable with it if we did, Kempton replied.

Karier made a motion that the Council approve the summary of its project funding recommendations of the provincial review process for fiscal years 2001 through 2006 as presented by the staff. Kempton seconded the motion, which passed unanimously.

4. Council decision to adopt Council Fiscal Year 2005 budget and Fiscal Year 2004 revisions (Council document 2003-05)

Jim Tanner, administrative officer; and Sharon Ossmann, business manager.

Staff recommends the Council adopt the draft FY 2005 budget of \$8,689,000 and the FY 2004 revised budget of \$8,499,000, according to staffer Jim Tanner. He said staff also requests the Council authorize reprogramming of available FY 2003 funds for unanticipated costs, including personnel actions and increased medical claims. 8

Karier made a motion that the Council adopt the fiscal year 2005 budget and the fiscal year 2004 revised budget as presented by the staff and authorize reprogramming of available fiscal year 2003 funds for unanticipated fiscal year 2003 costs. Kempton seconded the motion, which passed unanimously.

5. Council decision on Methow Valley Irrigation District project design

Doug Marker, director fish and wildlife division.

The Council acted in May to approve a design change for fish screens the Methow Valley Irrigation District (MVID) proposes to install, according to staffer Mark Fritsch. MVID has returned to the Council for final approval of a traveling belt fish screen for the East Side Canal Site on the Methow River and a rotating drum screen for the West Side Canal Site on the Twisp River, he explained. The total project cost is \$957,983, Fritsch said.

The fish and wildlife Committee members all strongly support this project, Bartlett said. Will the project be done by the end of the year? Karier asked. The sponsors will do the cement work this fall and install the screens by May 1, 2004, Fritsch responded.

Eden made a motion that the Council recommend that Bonneville fund from FY 2003 capital funds a traveling belt fish screen at the Methow Valley Irrigation District (MVID) East Side Canal Site on the Methow River in an amount not to exceed \$421,106 and a rotating drum screen in an amount not to exceed \$516,477 at the MVID West Side Canal Site on the Twisp River, with the proviso that all operation and maintenance costs will be assumed by MVID. Karier seconded the motion, which passed unanimously.

6. Council decision on subbasin planning contracts

Lynn Palensky, subbasin planning coordinator.

Staffer Lynn Palensky explained the recommended amendments and additions to subbasin planning contracts in three areas: Snake Hells Canyon; Kootenai; and Klickitat, White Salmon, and Lower Middle Mainstem. Karier made a motion that the Council authorize the Executive Director to negotiate an amendment to contract number SSII47 with the Nez Perce Tribe to supplement the development of the Snake Hells Canyon Subbasin assessment in an amount not to exceed \$40,000. Kempton seconded the motion, which passed unanimously.

Kempton made a motion that the Council authorize the Executive Director to negotiate an amendment to contract number SSIM31b with the Kootenai Tribe of Idaho to supplement the Idaho portion of the Kootenai Subbasin assessment in an amount not to exceed \$50,000. Derfler seconded the motion, which passed unanimously.

With regard to the Klickitat amendment, Cassidy said Klickitat is the only county on the river that has no organized fish interests, but the county is now getting involved. So we'll see another contract amendment for this area? Danielson asked. Yes, Cassidy responded.

Karier made a motion that the council authorize the Executive Director to negotiate contracts with the following entities to develop subbasin plans for the Klickitat, White Salmon and Lower Middle Mainstem Subbasins: with the Yakama Nation in an amount not to exceed \$210,466; with the Washington Department of Fish and Wildlife in an amount not to exceed \$100,980; and with Normandeau Associates Inc. in an amount not to exceed \$49,999. Eden seconded the motion, which passed unanimously.

7. Council decision to release for public comment the draft revisions to Council By-Laws

Steve Crow, executive director; and Bill Hannaford, senior counsel.

Staffer Steve Crow said the package of bylaws changes expected this month will not be ready until September. The bylaws committee reached consensus on a number of recommendations, but some key issues remain, he reported. We've had a number of meetings and discussions, and the bylaws changes "have not wanted for attention," staffer Bill Hannaford agreed. The central issue that remains unresolved is the sharing of leadership among the states, he acknowledged. The committee is struggling with how best to provide some language on that in the bylaws, and the proposals range from "an absolute rotation of leadership" from state to state, to language that expresses an aspiration to share leadership regularly among the states, Hannaford explained. In addition, there is the issue of what to do if the vote for a chair is evenly split and whether under that circumstance, the vice chair should ascend to chair, he said.

We believe in the sharing concept – that all states over time should share leadership – but I don't support a fixed rotation or a fixed time period for that sharing, Bartlett stated. The eight members of the Council should have discretion to elect the best chair to serve the region at the time of the election, he said. I'm opposed to the vice chair becoming the chair if the vote is split, Bartlett added. In that event, the current chair should remain until a new chair can be elected, he said.

I'm against a forced rotation, Cassidy agreed. He said he thought the bylaws should say that rotating the chair among the states is something to which the Council aspires. We should be entitled to pick the best chair for the moment, Cassidy contended. Forced rotation could result in having a newly appointed, inexperienced member of the Council ascend to chair, he pointed out. If the vice chair does not ascend to chair in the event of a split vote, we could require that when we elect officers, the meeting does not adjourn until a chair is elected, Cassidy suggested.

I have asked that we add a provision in the bylaws that would provide for dismissing the chair, Cassidy said. We did talk about removal of officers, Hines, who chairs the bylaws committee, responded. We proposed a two-step process, he said. We could raise the issue with a simple majority. Within a month of raising the issue, we'd take a vote to remove the officer, with passage requiring six votes in favor, including at least one vote from each state, Hines explained. No cause for removal would have to be stated, he added. While members did not want to lay out grounds for removal in the bylaws, the initial motion must state the grounds, Hannaford clarified.

Cassidy questioned whether each state should be required to have a vote in favor of removal, adding that it's unlikely a member would vote to remove from leadership another member from his/her state, particularly if the grounds hinged on carrying out the political agenda of a governor at odds with others on the Council. We now have no way to rein in someone who takes a position that is contrary to the will of the Council, he said.

If we don't require that one person from each state vote for removal, we could end up pitting three states against one for political purposes, Jim Kempton pointed out. The likelihood of that occurring seems greater than our being faced with a removal "for true cause," he said. If you try to get into the definition of cause, you get into a tricky area, Kempton added. He suggested the Council consider a "no confidence vote." If we get too prescriptive, it could cause problems, Danielson agreed.

Hines indicated the bylaws committee would continue to work on the issues and get a package ready for the next Council meeting. Once the bylaws changes are approved by the Council, they will go out for public comment, he said.

8. Presentation by NOAA Science Center on spill tests at Ice Harbor Dam

Brad Eppard, NOAA Northwest Science Center.

Brad Eppard of NOAA Fisheries began his presentation on the spillway survival results at Ice Harbor Dam with background on the BiOp and spill regimes of the past. Flow deflectors were installed at Ice Harbor in 1997, which allowed for a higher level of spill within the total dissolved gas (TDG) limits, he said. Research results show spill was very effective in guiding fish through the spillway, Eppard reported.

In the 2000 survival studies, PIT-tagged fish were released in three spillbays at night only, and in 2002, fish were released in all 10 bays at the dam, he continued. In 2000, 98 percent of the yearling spring chinook survived past the dam, and 89 percent of the subyearling fall chinook survived, Eppard said. Spillway passage survival in 2002, with the day and night releases combined, was 89 percent for both yearling spring chinook and subyearling fall chinook, he said.

We had four studies in those two years, and results were lower than expected in two of the studies, Eppard went on. The big difference was that flows were lower in 2002 than in 2000 and that led to a couple of hypotheses, he said: 1) predation rates could be higher when flows are low; and 2) there could be a mechanistic factor affecting fish passage through the spillways when flows are low. The second hypothesis led researchers to consider the spillway flow deflectors at the dam, Eppard said. Before the deflectors were installed, the water plunged into the stilling basin at the base of the dam, he explained. The deflectors break the plunge and cause a “skimming” effect when water reaches the bottom of the spillway, Eppard said. But the increased spill that the deflectors enabled could have caused conditions to revert back to the plunge, he explained.

Research in spring 2003 focused on testing hydraulic conditions under the 2000 BiOp spill regime versus a 50 percent spill operation, and on evaluating spillway and powerhouse survival, Eppard said. The summer research focused on changing the operations to a more concentrated spill pattern, using three rather than all spillbays, he pointed out.

Preliminary 2003 results for yearling spring chinook show 96 percent spillway survival; 100 percent bypass survival; and 89 percent turbine survival, according to Eppard. The subyearling fall chinook survival results are not yet available, he said. If the preliminary results hold up, you may have solved your problem – put more water through fewer spillbays, Karier commented.

Mark Smith of the Corps briefed the Council on the Corps’ 2003 spill studies at Ice Harbor Dam and laboratory work conducted to find an operation that would decrease TDG and result in the “skimming” flow that spillway deflectors were designed to create. The Corps modified its 2003 summer study plan when results of spring studies indicated there was serious injury occurring to the fish at low flows per spillbay, he said. The summer spill was concentrated to increase the flow in fewer spillbays, Smith explained.

Balloon-tag studies indicate that a higher rate of injury occurs at the lower discharges when fish pass lower in the water column, he said. Likewise, preliminary results suggest that a high discharge per bay may reduce the potential for injury *if* fish pass higher in the flow, Smith said. The Corps tested survival with spill gates open at various widths, finding that the larger the opening, the fewer injuries seemed to result, he reported. Summer PIT-tag survival estimates will be available soon, Smith said.

As part of its research, the Corps looked at the design criteria for the spillways and found that with the concentrated spill patterns (more spill through fewer bays), spill exceeds the criteria, he said. There is potential for damage to the stilling basin and other parts of the structures, Smith stated. As a result, the Corps altered its operations, moving spill to the middle bays to address concerns about erosion and damage to fish ladders, he explained.

Smith said the Corps will present its findings at the next TMT meeting, when a decision will be made on spill at Ice Harbor through August. Further research needs for 2004 will be identified this fall and winter, he added.

Hines urged the Corps to look at all alternatives to increase passage, including through the turbines and bypass system. Kempton asked if the Corps is still working on a removable spillway weir (RSW) at Ice Harbor. Yes, we’re proceeding with an accelerated RSW program,

and we will be integrating this information with that program, according to Jim Athearn of the Corps.

9. Council decision on revisions to 2003 Bonneville fish and wildlife spending plans

Doug Marker.

Bonneville has identified a number of projects that need more money than the Council approved in February when it made its funding recommendations for FY 2003, staffer Patty O'Toole told the Council. We've recommended the changes be approved, but we want Bonneville to identify project-by-project where the funding will come from to cover each change, she said. The majority of the adjustments are fairly small, but one is a NOAA Fisheries project in the ocean/estuary province, and additional expenses of \$836,841 from work done in FY 2002 have now been billed, O'Toole explained.

What would happen if we don't approve this? Hines asked. The project sponsor would have less money to do work in 2003, O'Toole replied. So a federal agency would not do the projects we recommended for 2003 – that raises issues, Hines commented. He questioned how money tied to contracts that outline specific tasks could be shifted.

We are working on new protocols under which contractors would have to submit bills within 90 days of work being done, Bob Austin of Bonneville told the Council. Federal agencies don't bill that regularly, but we're hoping to solve this and adopt new practices, he explained.

There have been three groups of reallocation requests since March, Melinda Eden pointed out. This raises contract management issues, she said. "It's beyond the pale" that if the contract officer on this NOAA project was in touch with the sponsor, he or she did not know this work had been done, Eden stated. I still do not have an answer to my question about whether all project sponsors have been told they have to have their bills in on time, she added.

I understand that we have room to cover this amount under the \$139 million cap, Cassidy commented. But I want to know whether we are treating everyone the same, or "does NOAA Fisheries have a sweetheart deal?" he asked.

Austin said Bonneville has been calling project sponsors that are slow to bill for their projects. We have put out draft rules on new contracting procedures, but they are not in place yet, he said. They will be in place by the end of the year, Austin added.

Does this mean that NOAA Fisheries did this work in 2002, and we're just now finding out about it? Karier asked. Despite talking with the project manager, "they just forgot to mention this \$836,000?" he inquired. If we can't get these numbers right, who is tracking what gets done? Karier asked.

I'm glad the full Council is hearing this, Bartlett said. We have to do a reallocation in 2003 for this, "as distasteful as it is," he said. This problem "is more than frustrating," and this just should not be acceptable, Bartlett stated.

It's inconceivable that Bonneville accounting could be so lax, Derfler said. I'd like assurance that Bonneville is setting up a system that ensures this won't happen again, he said. We are working on a system, but it's not there yet, Austin acknowledged. Therese Lamb of Bonneville offered information about the work Bonneville is doing to insure good project management oversight in the future.

Kempton asked about the communication between the fish and wildlife program and the contracting officers (CO) and CO technical representatives (COTRs). You are building a process to correct the accounting problems, but that does not fix the relationship between you, the COTRs, and project sponsors to make sure the fish and wildlife program is being carried out, he said. This is a tough issue, Lamb acknowledged. We're working on both the contract management system and culture change, she said. Is there attention focused on this from the top down? Kempton asked. Yes, Steve Wright has a strong interest in this, and people at my level in Bonneville and below are leading the change, Lamb responded.

The role of the COTRs and their relationship to the project sponsors is a problem, Karier said. On this particular NOAA Fisheries project, the COTR did not know it was finished in 2002, and the project sponsor didn't tell the COTR, he said. Are you considering an audit of why this happened? Karier asked. Austin said Bonneville is looking into it. Report back to us on this, Karier requested.

There is incredible pressure on Bonneville rates and a lot of talk about the costs of fish and wildlife, Hines said. This type of situation does not give us confidence in the program, he added. Hines asked if an audit is continuing on what has been accomplished with the hundreds of millions in fish and wildlife dollars that have been spent in the past. The region needs to be able to take comfort in those numbers, he added. It has been a slow process to reconstruct the history, staffer Doug Marker acknowledged. Therese is working on the present, and going forward, we're seeing a lot of progress and commitment, he said. I agree it's important to move forward, but a lot of ratepayer dollars have been spent, Hines stated. It's not just the dollar issue, but also accountability, he said.

Derfler asked how tasks written into the contracts are tracked. We're restoring the quarterly reports, and we're working with Bonneville to let them know what we want in terms of reporting information, Marker responded. Does someone go out on the projects to see that something is getting done? Derfler asked. That's the job of the COTR, Marker said. Derfler asked if there were times that an invoice is rejected and not paid because work isn't getting done. That does happen, Austin assured him. This NOAA Fisheries project is very important to us for the Endangered Species Act, he added.

This is an area in which I have had a strong interest, Columbia Basin Fish and Wildlife Authority (CBFWA) director Rod Sando said. He described CBFWA's accountability project. We're trying to clean up the reporting and accountability, Sando stated.

Your reallocations are having an impact on funds that can be delivered to FY 2003 projects, he continued. There is an issue of fairness here – other projects have been turned down, Sando pointed out. Bonneville gave clear notice it wanted estimates on the accruals, and on this \$800,000 project, someone didn't do that, he said. "It's time we got tougher," Sando urged, suggesting the Council send a letter to the federal executives asking them to straighten out the situation. The problem could be solved if Bonneville encumbered funds against projects, he

added. They operate with maximum flexibility, and “it gives rein to the chaos and havoc” that is occurring, Sando stated.

Bartlett “reluctantly” made a motion to approve the reallocation of funds, and “with reluctance,” Eden seconded. “This situation puts the Council in a box,” Hines commented. We are impacting other projects this year, he said. The \$836,000 “is too big a number,” and I won’t be able to support the motion, Hines stated. The Council voted seven to one to approve the reallocations, with Hines voting no.

“If you think we’re micromanaging, we are,” Eden told Bonneville. If you want us to stop, get better systems in place, she said. I don’t want to see any more of these reallocations this year, and I hope for very few and very small amounts of dollars in 2004, Eden concluded.

10. Briefing on progress of the regional dialogue about the future role of the Bonneville Power Administration

Dick Watson, director, power division.

Staffer Dick Watson briefed the Council on efforts to restart the Regional Dialogue on Bonneville’s future role in the region, noting that the dialogue was tracking along until this spring, when Bonneville’s Safety Net Cost Recovery Adjustment Clause (SN CRAC) proposal diverted the region’s attention. He told the Council that during the hiatus brought about by the SN CRAC rate case, the momentum behind a joint utility proposal on the future of Bonneville has “dissipated significantly.”

Watson outlined a number of key points related to the Regional Dialogue, including the status of customer contracts (most expire in October 2011, but DSI and some public contracts end in 2006). He also noted that Bonneville is not legally required to serve DSI load. Without the DSI load, and if the benefits to the IOUs are in the form of dollars rather than megawatts (MW), Bonneville could serve the public utility load with little augmentation of the federal base system, Watson explained.

Bonneville’s future load is a key uncertainty that needs to be resolved since it bears heavily on who will be responsible for developing resources in the future, he continued. Resource decisions for power supplies after 2011 have to be made sometime between 2008 and 2010, so getting to certainty on Bonneville’s obligation to serve is an important goal, Watson said. He pointed out that Bonneville will have a rate case in 2005 to establish rates for existing and new contracts. This would be an opportunity for Bonneville to go to a cost-based, tiered-rate system, if it seems appropriate at the time, Watson said.

If customers do want new long-term contracts beginning in 2007, as the joint utility proposal indicated they would, those contracts will have to be negotiated in the 2004 to 2006 time frame, he went on. That means resolving a number of issues, Watson said, including allocation of the federal system, provisions for new public loads, provisions for DSI load and IOU benefits, a mechanism for oversight of Bonneville’s costs, and Bonneville’s role in developing conservation and renewables.

If customers choose not to give up their existing contracts, it will be important to negotiate “umbrella contracts” that form the basis of new contracts post-2011, he stated. The umbrella contracts “could pin down time-critical issues,” such as how Bonneville will serve loads above the capability of the existing federal system, Watson explained. It’s important to nail down issues related to resource development sooner rather than later, he added.

Watson said as a next step in the dialogue, members of the Council’s Power Committee and Bonneville management will consult with representatives of customer groups and public interests. For now, we want to keep the meetings small to focus the Regional Dialogue on the most important issues, he concluded.

11. Update on revision of regional power plan

Dick Watson.

Watson updated the Council on the progress being made toward a fifth regional conservation and power plan. He described the Northwest Power Act requirements for the plan, noting, “it’s a fairly daunting charge we have under the Act.” The Council’s plan has had broader influence than the statutory requirement that Bonneville’s resource acquisitions and actions be consistent with it, Watson said. In addition, the plan has influenced such areas as state building codes and utility regulation, he explained.

Watson outlined basic elements of the plan, including: information on loads, resources, and fuel prices; portfolio analysis to determine the resource mix; issue analysis; and an action plan. Much of “the heavy lifting” begins when the plan is complete, he noted.

Watson said current planners are being driven by the experiences of 2000-2001, when extremely high prices “did significant and lasting damage to the regional economy.” The failed California market design played a major role in the crisis, he said, but the situation was exacerbated by under-investment in new resources and over-reliance on the spot market; the onset of poor hydro conditions; a slow demand response to wholesale prices; and vulnerability to the correlated markets of gas and electricity. The region failed to plan adequately for the inherent risk in the system, Watson stated.

The direction of the fifth power plan is toward addressing key policy issues from the 2000-2001 experience and providing insights into how to better manage risk through resource choices, he continued. Watson described the key issues for the plan as: the adequacy of incentives for resource development; the link between retail demand and wholesale prices; strategies for investing in energy efficiency; the value of diversity in the resource portfolio; transmission requirements for a well-functioning power system; fish and power; global climate change; information for assessing resource adequacy and market performance; and the future role of Bonneville in the region’s power supply. Assessing risk is another important part of developing the plan, he pointed out.

Watson summarized the data and forecasts for the plan that have been developed, including the draft fuel price and demand forecasts, and an issue paper on DSI loads. He said work is under way on the conservation supply curve and on generating resources. The portfolio computer model is operating, and we’ll begin testing portfolios in September and October, Watson stated.

We are in the process of issue analysis, and in September and October, you will start seeing the products of this work, he said.

You should expect to have “fairly intensive engagement with the issues in the plan and the analysis” from October through December, Watson told the Council. The draft plan will be delivered to you in January, with public review in the late winter and early spring, he said. A final plan is scheduled to be out in spring 2004, Watson concluded.

12. Briefing on confirmation of Bonneville accounting protocols for fish and wildlife activities for 2004-2005

Doug Marker.

Therese Lamb of Bonneville went over proposed FY 2003 to 2006 budget rules for the expense portion of the fish and wildlife program. She said the proposed rules aim to: align the Council, CBFWA, and Bonneville budgeting activities; enable greater flexibility in the fish and wildlife program to adapt funding to match the timing of work; support timely and consistent contract management practices; provide transparency in project management activities and resolve implementation issues; enable Bonneville to manage its financial operation and exposure; and work in concert with the multiyear provincial/subbasin review schedule.

Lamb explained a graph of how Bonneville proposes to manage fish and wildlife spending to an average of \$139 million per year. According to the graph, Bonneville would manage expenditures in a range from \$125 million to \$153 million per year, which is plus or minus 10 percent of \$139 million. According to the proposed rules, the up or downward fluctuation in expenditures would never be more than 10 percent of \$139 million.

Several Council members questioned the approach, quizzing Lamb on what would happen if Bonneville’s expenses in a year drop below \$125 million and what would happen if Bonneville spends less than \$556 million over four years. If expenditures fall below \$125 million in a given year, the amount below \$125 million would be made up, but \$14 million would be lost, Lamb explained.

This doesn’t make sense, Karier contended. What Bonneville spends in a year is up to Bonneville, so if you fall below \$139 million, it’s your choice, he said. If we offer enough projects to meet \$139 million in spending, it’s your choice whether you meet that level of spending or not, Karier reiterated. You need a mechanism that works in the right direction, he stated.

Lamb also indicated that with the current CRACs in rates, there could be a rate impact if Bonneville tries to make up significant under spending from one year to the next. If the way rates are calculated is a problem, you have to fix the models, Cassidy said. There is flexibility in the ratemaking process to handle this, Hines said, adding that Bonneville can forecast its fish and wildlife revenue needs in setting rates. I will be very unhappy if future CRAC increases are blamed on under spending in the fish and wildlife program, he added.

Lamb went on to explain Bonneville’s proposal for how to use unspent funds and how funds could be “rescheduled” to match the timing of work. With regard to unspent funds that come

about because they are “de-committed” from a project, Lamb said savings would go back into the fish and wildlife program. We’re trying to create incentives for sponsors to complete projects within or under budget, she stated.

I think you’ve done a good job, Derfler said. You have to control your cash flow to keep things operating, he added.

O’Toole cited several issues related to project funding that need to be resolved in the coming months. She pointed out that project recommendations for the Intermountain and Columbia Gorge provinces expire in 2003 and that sponsors throughout the basin have delayed work on many projects because of the spending limits imposed by Bonneville’s fiscal crisis. Other issues O’Toole raised include: land acquisitions; projects that request rescheduling work in 2004; requested budget increases; accounting protocols; and the transition into subbasin plans in 2005.

13. Presentation on Bonneville’s plan to address recommendation to review internal operations and to focus Bonneville’s resources

Ruth Bennett, chief operating officer, Bonneville Power Administration.

Bonneville’s chief operating officer Ruth Bennett said Bonneville is intent on making a culture change in which “being frugal becomes a way of life.” She described efforts within the agency aimed at: cost control and management; implementing the lessons learned report; increasing efficiency; managing risk; benchmarking; and addressing external review requests Congress has made to the GAO and the Secretary of Energy.

Bennett said Bonneville has a number of efficiency projects under way. One such project in our information technology area yielded \$40 million in cost cuts, and we identified \$25 million in savings that could be achieved if we changed in the way we acquire supplies, she noted. Bennett said Bonneville’s generation supply department and Energy Northwest have strong benchmarking efforts and can share their expertise with others in the agency. With regard to risk management, we are setting up an agency-wide effort and are interviewing candidates for a risk-management position in Bonneville’s “front office,” she said.

According to Bennett, Bonneville has met with a customer cost review board to hash out what type of financial reports the customers are interested in seeing. We’re meeting once a month, she said, adding that the next meeting is in September, and Bonneville’s third-quarter financials will be on the agenda.

Management sets the culture of a company, Derfler pointed out. How are you undertaking this culture change? he asked. It takes decades to make this kind of change – it doesn’t happen fast, Bennett responded. We want to put discipline into our costs and into our decisionmaking, she said, adding that Bonneville has developed a standard approach to these issues that will be used throughout the agency.

14. Update on development of new funding agreement (MOA) for fish and wildlife spending

Doug Marker; and John Ogan.

Marker said no formal discussions on a long-term MOA for fish and wildlife funding have gotten under way, but he circulated a list of issues for MOA negotiators. The list includes funding, stability, management, and accounting. He said other issues, including those submitted by CBFWA, would be added to the list. Marker suggested that the fish and wildlife budget proposal Bonneville made could provide funding certainty and stability for the short term, and the upcoming rate case offers an opportunity for longer-term stability.

The governors were clear that they are looking for certainty and stability for fish and wildlife funding, Bartlett pointed out. I'm not certain we have that without an MOA – I believe we need one, he added. The governors want us to get as much predictability into this process as possible, Karier agreed. I didn't see the governors as wanting an interim agreement now and something else in five years, he said. Some of these areas need immediate attention, Karier stated.

15. Council Business

– Discussion of IEAB mainstem analysis task

Karier made a motion that the Council approve a task order for the Independent Economic Analysis Board, allowing the board to develop guidelines for cost-effectiveness analysis of mainstem spill and flow programs. Hines seconded the motion, which passed unanimously.

– Approval of minutes

Bartlett made a motion that the Council approve for the signature of the Vice Chair the minutes for the July 15-16, 2003 meeting held in Warm Springs, Oregon. Eden seconded, noting a spelling correction that needed to be made on page 8 of the minutes. The motion passed unanimously.

– Annual disclosure of members' earned outside income and notice of availability of financial disclosure forms

Shurts said Council members are required to make an annual disclosure of earned outside income. Cassidy is the only member who has filled out a financial disclosure form, and it will be available August 18, he stated.

The meeting adjourned at 4:05 p.m.

Approved September 11, 2003

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Vice Chairman

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