

JUDI DANIELSON  
CHAIR  
Idaho

Jim Kempton  
Idaho

Frank L. Cassidy Jr.  
"Larry"  
Washington

Tom Karier  
Washington

Steve Crow  
Executive Director



MELINDA S. EDEN  
VICE-CHAIR  
Oregon

Gene Derfler  
Oregon

Ed Bartlett  
Montana

John Hines  
Montana

## **Council Meeting Clarkston, WA**

**June 8-10, 2004**

### **Minutes**

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

Ed Bartlett, chair, fish and wildlife committee; Jim Kempton, chair, power committee; Larry Cassidy, chair, public affairs committee; and Melinda Eden re Columbia Basin Trust.

Ed Bartlett, chair of the Fish and Wildlife Committee, reported on a roundtable discussion on fish and wildlife funding that began with addressing the questions raised by the Upper Columbia United Tribes at the May Council meeting. There were participants from a number of groups, he said. The committee also discussed 2005 fish and wildlife budget issues, and we felt those issues needed an airing in the full Council, Bartlett said. Greg Delwiche of Bonneville briefed the committee on the federal agencies' latest spill proposal, and we went over several proposed changes in fish and wildlife project funding and implementation, he continued. We expect to have a draft issue paper to consider in July on the Artificial Production Review and Evaluation, Bartlett reported. With regard to fish habitat crediting, we had "a discouraging report" from our staff and from Bonneville that progress isn't being made, he said. We'll hear more on this in a month or so, Bartlett concluded.

Jim Kempton reported that the Power Committee is deeply immersed in the development of the Fifth Power Plan. Staff continues to brief us on risk analysis and related issues, and the committee has reviewed and accepted staff papers on a number of topics, he said. The schedule for releasing a draft plan appears to be holding, and staff expects we can get a draft out and have 60 days of comment from mid-August to mid-October, Kempton explained. A discussion of regional transmission issues got bogged down in details, such as the voting percentages members would have in various RTO committees, he said. We will take up the topic again at a future date, Kempton summed up.

Larry Cassidy gave an update on the Public Affairs Committee and evolving plans for public notice and comment on subbasin plans and the Fifth Power Plan. The current edition of the

Bonneville/Council fish and wildlife spending report is ready, and staff has suggested a new approach to the report, he said. Because of the cost and time required to do an extensive annual report, staff suggests there be an annual summary, with a full report produced every five years, Cassidy said. The committee is leaning in that direction, he reported. Cassidy aired a 12-minute video that provides an overview of the Council's role and achievements in the region. He pointed out that the video was produced in-house and can be updated when needed. The video is available for distribution, Cassidy said.

Melinda Eden reported she had arranged for the Council to meet with the Columbia Basin Trust in July. The plan is for the Council to drive to British Columbia after its Spokane meeting and attend the annual meeting of the Trust on Friday, July 16, she said. I hope all of our members will be able to attend, Eden said.

### **1. Possible decision on specific project funding and implementation issues:**

Doug Marker, director, fish and wildlife division; and Mark Fritsch, manager, project implementation.

Staffer Mark Fritsch explained five fish and wildlife funding and implementation items that Bonneville brought to the attention of the Council. While all of the items require Council action, only three involve project funding, he said. Fritsch pointed out that the money required for additions to the three project budgets is available as a result of Bonneville "fine-tuning" budgets and capturing funds that had not been committed in contracts.

#### **– Fish and Wildlife Program Implementation, Project #1989-062-01 - Regional Habitat Evaluation Procedures (HEP) Team**

Bartlett moved that the Council recommend that Bonneville increase the budget for Project Number 1989-062-01 to address the tasks and costs associated with the Regional Habitat Evaluation Procedures Team, as proposed by Bonneville and presented by the staff, in an amount not to exceed \$80,000. Cassidy seconded the motion, which passed on a unanimous vote.

#### **– Tucannon River Spring Chinook Captive Broodstock Program, Project #2002-019-00**

Eden moved that the Council recommend that Bonneville increase the budget for the Tucannon Chinook Captive Broodstock Program, Project Number 2000-019-00, as proposed by Bonneville and presented by the staff, in an amount not to exceed \$24,955. Cassidy seconded the motion, which passed on a unanimous vote.

#### **– Colville Tribal Fish Hatchery, Project #1985-038-00**

Tom Karier moved that the Council recommend that Bonneville increase the budget for the Colville Tribal Hatchery, Project Number 1985-038-00, as proposed by Bonneville and presented by staff, in an amount not to exceed \$150,000. Eden seconded the motion.

Danielson said that she had voted against approving the increase in the fish and wildlife committee. I was not convinced about the need for this funding, she said, which would be used to purchase a new truck for transporting resident fish to stock lakes on the Colville reservation. A Bonneville staffer explained that the truck would require stainless steel tanks, which are more expensive but more durable than aluminum tanks. He also said that Bonneville's contract

officer's technical representative (COTR) had looked into the request and felt it was cost-effective.

The motion passed on a 6 to 2 vote, with Danielson and Kempton voting no.

– **Lower Columbia River Ecosystem Monitoring and Data Management, Project #2003-007-00**

Eden moved that the Council recommend that the water quality section of the Lower Columbia River Ecosystem Monitoring and Data Management Project, Project Number 2003-007-00, be implemented and that the contracts be designed to address the concerns raised by the Independent Science Review Panel (ISRP) as presented by the staff. Cassidy seconded the motion, and it passed on a unanimous vote.

– **Scope of review for Chief Joseph Dam Hatchery Program, Project # 2003-023-00 Master Plan**

Eden moved that the Council recommend that the Spring Creek component of the Chief Joseph Dam Hatchery Program, Project Number 2002-023-00, be reviewed by the ISRP. Cassidy seconded the motion, and it passed on a unanimous vote.

– **Yakima Habitat Improvement Project #2002-038-00**

Staffer Patty O'Toole briefed the Council on efforts to nail down a fiscal year (FY) 2005 fish and wildlife budget recommendation. We estimate \$145 million will be needed in 2005 to keep the Council's fish and wildlife program on track to fund projects approved in the last round of provincial reviews, she said. We put a \$145 million budget out for comment and got feedback from a number of project sponsors that it was not enough, O'Toole said. Council staff, Bonneville, and the Columbia Basin Fish and Wildlife Authority (CBFWA) ultimately agreed on \$145 million for a 2005 budget recommendation, she reported.

We are working with a target of \$139 million in average annual fish and wildlife spending during the Bonneville rate period, so we reviewed 2004 spending to see how it would affect what we will have in upcoming years, O'Toole explained. It looks like 2004 spending is proceeding slowly, with some projects delayed by things like holdups in permitting, she indicated.

Bonneville has said that what we have to spend in 2005 could be affected by an additional \$8 million in federal agency needs and \$5 million in previous capital spending that may be re-categorized as expense, according to O'Toole. It's difficult "to get our arms around a budget number," she said, adding that Bonneville said it would prefer a \$131 million budget recommendation in 2005.

There was "a strong sense" on the Fish and Wildlife Committee that the Council should not engage in Bonneville's cash flow issues, and instead, Bonneville should establish a number and come to us with it, staffer Doug Marker reported. The feeling is that we should stay focused on our recommendations to Bonneville "and not try to chase the cash flow," he added.

It is time for us to move on and make our decisions, Danielson stated. We can set a budget, but the cash flow is beyond our control, she said. We need to do what the Council is supposed to do, Danielson stated: "make decisions at the policy level and not micromanage." When we micromanage, "we get into the mud," she added.

Bartlett indicated the Fish and Wildlife Committee feels the \$145 million budget recommendation is appropriate. Bonneville would prefer we come in at \$131 million, but at this stage, there is no basis to say that is the right number, he said.

I concur, Hines said. It is really important that we adhere to the \$139 million in average annual spending, he added. “This feels like déjà vu” on the capitalization versus expense issue, Hines said. Are the rules still changing? he asked.

Bonneville’s view is that the rules have always been there, but I would say the interpretation of how they apply was not, Marker responded. Bonneville is interpreting the rules more conservatively than in the past, he said. For example, in the past, planning costs for capital projects were considered capital expenditures, but now Bonneville is categorizing them as expense, Marker added.

Could the savings from a reduction in spill potentially help with meeting these costs? Hines asked. Yes, but that’s still ambiguous at this point, Marker indicated.

The policies did not change, but implementation did, Danielson stated. We got used to their practices, and when they reverted to strict enforcement, they did not tell us, she added. It’s difficult to budget when the rules are not clear, Hines commented.

What’s the next step? Karier asked. Marker indicated that the \$145 million budget is based on completing our current project recommendations, but the Council can’t forecast when Bonneville will have bills to pay. This budgeting is “a risk assessment exercise” – it’s a question of whether we are at risk of exceeding the \$139 million per year average in the rate period, he explained. Perhaps you could come up with a 90 percent budget and then allocate the remainder after the accruals come in, Karier suggested.

Would it help if you resolve the issue of wildlife crediting? Derfler asked. Unfortunately not, Marker replied. There wouldn’t be a big impact on managing the expense side of the ledger, he said.

I agree we need to stick to the budget, but we can’t ignore the cash flow, Eden stated. Bonneville is going to start providing us weekly information about invoices so we can track this, she indicated. Eden also said Bonneville has project priorities, and if the Council goes to a \$131 million budget recommendation in 2005, Bonneville could still impose its spending priorities. A Bonneville staffer said he would share the agency’s priority list with the Council when it is complete.

## **2. Review of draft sections of the Fifth Power Plan and discussion of the results of the portfolio analysis:**

Dick Watson, director, power division; and Michael Schilmoeller, senior power systems analyst.

Staffer Dick Watson offered a status report on development of the Council’s Fifth Power Plan, describing the major chapters and where they are along the path to readiness for a draft document. Several chapters have gone through an initial edit by the Council’s public affairs

staff, he said. These include the introduction, current status and future assumptions, resource alternatives and characteristics, risk assessment and management, transmission issues and requirements, fish and power, and the future role of Bonneville in power supply.

Watson went on to describe the chapters in greater detail, noting that the current status and future assumptions chapter incorporates the Council's forecasts for electricity demand, fuel prices, and electricity market prices. The resource alternatives chapter describes the demand-side and generating resources considered in the plan, including a large discussion of conservation, he said. "The big take-home message" here is that we have identified an additional 2,800 average megawatts (aMW) of conservation at an average cost of 2.4 cents per kilowatt-hour, Watson stated. This is in addition to the 2,600 aMW the region has already achieved, he said. There is much left to do and much that is cost-effective, Watson added.

He outlined the structure of the report in terms of a set of "building blocks" or inputs, such as forecasts, resources, and risk assessment, upon which is built the portfolio analysis. From the analysis, we formulate a specific plan that addresses resource adequacy, conservation, demand response, renewables, other generation issues, and transmission, Watson continued. He described other issues and considerations that must be factored into an action plan, including fish and power, the future role of Bonneville, and Bonneville's implementation of the Council's Power Plan. The executive summary and action plan may be the most important pieces of the document, Watson acknowledged. This is where we detail how we will achieve the plan, he said.

In terms of the schedule, "we're charging for August," Watson stated. The Council will release a draft plan at that time and begin the public comment process, he indicated.

Kempton said the Power Committee will be going through each chapter of the plan, and he encouraged members of the Fish and Wildlife Committee to read the chapters and raise any questions they have about the information. We'll find a way to make it clear, Kempton said. I think we can meet the schedule that has been laid out, he added. Watson said Fish and Wildlife Committee members should pay particular attention to the fish and power chapter, and Bartlett said he would put discussion of that chapter on the committee's July agenda.

Watson described how the portfolio analysis is done and the initial results. The computer model used for the analysis "tests the performance of a large number of alternative plans over a large number of possible futures," he explained. The performance of the alternative plans is measured on two scales – average cost and risk, according to Watson. The costs are those associated with a particular plan in a particular future, and risk is the interplay between uncertainty about the future and the choices we make, he explained.

We translate these cost and risk results into desirable plans, Watson continued. We are looking for the lower cost, lower risk scenarios, and the challenge is making the tradeoff between cost and risk, he pointed out. Watson added that the resources being considered for the plan are conservation, demand response, combined and single-cycle combustion turbines, coal-fired steam generation, and wind turbines. All of these resources have different characteristics in terms of capital and fuel costs, emissions, and lead time to build, he said.

As for where the portfolio analysis stands, we are examining results and testing sensitivities, Watson said. The primary sensitivities, he explained, are: how the model makes decisions about

resources, different resource assumptions, and different assumptions about future uncertainties. This is not “a push-button process,” Watson stated. There is a fair amount of judgment and trial and error involved, he underscored.

The staff has general observations at this point about the results, Watson said. So far, aggressive conservation, about 150 aMW annually, holds up in virtually all of the plans analyzed, he reported. We don’t see much resource development in this decade beyond conservation, demand response, and wind developed with the system benefit charge, Watson said. Subsequent development looks like it would be largely combined-cycle combustion turbines and wind, he added.

Watson offered observations related to several resources and issues, including conservation, natural gas, climate change, and wind. Uncertainty regarding climate change “swings the results a lot,” he said. The variable with climate change is whether and at what level might a carbon penalty be imposed, Watson pointed out. “The model likes wind,” he said, noting that wind development would be influenced by the persistence of a tax credit and the costs of integrating and shaping a wind resource to make it useful.

Revisions in the portfolio analysis are currently under way, according to Watson. We are revising wind assumptions and uncertainties about prices for gas, the electricity market, and aluminum, he said.

Melinda Eden asked if the hydro output analysis incorporates the potential for increased water withdrawals from the river system. Watson said staff would take a look at that issue. Hines said he was concerned about there being substantive analysis between the draft and final plans. That could be a problem, he indicated. Gene Derfler noted that a sixth Power Plan would be developed in five years and could address new information about issues considered uncertainties today.

### **3. Report on submission of subbasin plans:**

John Ogan, senior counsel; and Lynn Palensky, subbasin planning project manager.

Staffer Lynn Palensky announced that all of the region’s subbasin planners met the May 28 deadline for completing their work. Fifty-nine plans, one more than was expected, are now posted on the Council’s subbasin planning website and available for public comment, she reported. “It was an amazing effort,” Palensky said, noting that the planning came in under budget. We have enough money to take us through the adoption period, she reported.

The Council’s workload increases from here on out, Ogan pointed out. The comment period extends through August 12, and presentations to the Independent Scientific Review Panel (ISRP) on the plans start next week, he said. The schedule calls for the Council to adopt draft plans in November, open a second round of public comment, and adopt final plans into the fish and wildlife program in December and January.

We’ve seen unprecedented coordination on developing subbasin plans, and now people are asking when there will be funding for implementation, Karier said. We are working on

implementation for FY 2006, Marker replied. At this time next year, we will be working through project proposals and coming up with recommendations, Danielson added.

#### **4. Update on long-term fish and wildlife funding agreement with Bonneville:**

John Ogan; and Doug Marker.

Ogan briefed the Council on ongoing talks to develop a long-term agreement on fish and wildlife funding. The first step was to establish what costs have been committed to and what costs will be needed to maintain “plant” funded through the program, he said. The figure we came up with is \$60 million to \$70 million annually, Ogan reported. We will be making adjustments to get a more accurate estimate, he said, noting there is concern about how such funds would be used and what the figure says about future commitments. This does not represent a base program or minimum legal obligation, Ogan stated.

The group has now turned its attention to “a construct” for developing an overall cost estimate, Marker said. Staffer John Shurts is leading the construct subgroup, he added. A part of this task will involve surveying the subbasin plans and confirming the types of work people are proposing, Marker explained. Once we survey what people are expecting to do, we can work on getting to a cost figure, he said.

If you are developing a cost figure for Bonneville to use in its rate case, would the Council get involved in the rate case to support the figure? Kempton asked. Our approach doesn’t presuppose the Council’s involvement in the rate case, Ogan responded. Bonneville is at the table with others to jointly develop a figure for the rate case, he said. Hopefully this process will get us to a number that everyone can say, “this feels like the right figure to do the work we want to do in this rate case,” Ogan explained.

I think you’re on the right track to create a defensible number, one you can justify, Cassidy said. The number has to be linked with the funding reality, Hines pointed out. I’m concerned about who is participating in developing the number, he said. The rate case participants won’t necessarily support it unless they are involved, Hines said, adding that he would like to see “a holistic approach” that includes the cost of the hydro operations used to protect fish. Bonneville needs to have the entire number, he stated.

I’d suggest you be inclusive and bring all parties into the discussion, Karier said. It’s important to link up with the subbasin planners and talk about costs and priorities, he stated. We’ve developed this constituency, and we need to keep it going, Karier added.

Another of the subgroups is addressing management issues – the rules for managing the funds, which would accompany the cost figure, Marker explained. Bonneville is interested in including the reimbursables figure, which would bring in additional funding provided to other federal agencies, he added.

Including reimbursables “may be tricky,” Cassidy pointed out. Why did they throw that in? he asked. “It just muddies the water,” and we need to focus on the direct program, Cassidy added. He also noted that “sooner or later” we are going to have to face some serious inflation in fish and wildlife program costs.

Delwiche offered the Council several reasons for bringing the reimbursables figure into the discussion. It “levels the playing field” in terms of scrutinizing expenditures for other parts of the program, provides opportunities for reallocating dollars, and allows for more integration of strategies for salmon recovery, he said. We’ll likely have a two-or-three-year rate period, Delwiche added, and he said “a program-level review” of Bonneville expenses will begin in the fall.

## **5. Briefing on long-term budget instability for Council operations:**

Steve Crow, executive director; Jim Tanner, administrative officer; and Sharon Ossmann, business manager.

Executive Director Steve Crow explained that the Northwest Power Act contains a formula that links the Council’s budget to Bonneville’s firm power sales forecast. There is flexibility for interpreting the formula, and Bonneville has been flexible in the past, he acknowledged. The Council has been fiscally responsible and kept its spending as low as possible – we’ve underspent our budgets by \$2.9 million over the past eight years, Crow said.

The Act envisioned that Bonneville would continue to be the dominant power provider in the region, staffer Jim Tanner said. But, he continued, that has not happened. Tanner provided figures to illustrate how Bonneville sales forecasts have and will continue to decline over time. Inflation has risen 75 percent in the past 20 years, but the Council’s budget has risen only 29 percent, he added. “We’ve held the line,” but we are now to the point of cutting our capabilities, Tanner said.

Bonneville’s 2002 White Book forecasts a decline in firm sales, he pointed out. By 2007, the forecast is for about 8,500 aMW, which would cap the Council’s budget at \$7.5 million under the current formula, Tanner explained. That is nearly \$1 million less than our 2004 budget, which is based on sales of about 9,600 aMW, he said.

We have developed several options for a new formula, Tanner continued, including basing the Council’s budget cap on Bonneville revenues or some figure other than the firm sales forecast; using the Consumer Price Index to adjust the Council’s budget; and applying credits or budget offsets to the formula in the Act. The next step is to engage Bonneville in a discussion of the issue, he stated.

In the past, we’ve had “ad hoc bilateral negotiations” to adjust our budget cap, and the agreements that have been reached were with the sitting Administrator, Crow pointed out. We need something more durable, he added.

We need something more solid, Cassidy agreed. Our staff deserves to be paid fairly, and “we should not be shy about seeking this out,” he stated. We may need to get support from our governors for this, Cassidy added. Bonneville rates are a key focus in the region, so for anything that affects Bonneville’s costs, we need to acquaint people with the problem and get support and buyoff, Hines commented.

You’ve gotten the word to proceed to consult with Bonneville on this, Danielson summed up.



## **6. Presentation of Snake River Salmon Recovery Board:**

Steve Martin, director, Snake River Salmon Recovery Board.

Steve Martin, director of the Snake River Salmon Recovery Board, presented an overview of the next steps for subbasin planning. I set up this presentation to answer the question Tom Karier posed in Walla Walla, he said: “What happens next – What is the next step?”

In Washington, the 1998 legislature answered that question by determining that “extinction is not an option” and enacting a framework for developing and funding habitat restoration projects, Martin continued. He described how Washington’s extensive salmon recovery effort could be rolled up into chapters for NOAA Fisheries to incorporate into basinwide recovery plans for salmonids listed under the ESA.

Martin detailed the role of the Snake River Salmon Recovery Board, noting that it involves a wide swath of participants, and he said the board intends to be around for the long term. For that reason, we would like to be written into legislation, Martin stated. He also pointed out that the Snake River board is depending on NOAA Fisheries for the science it uses in developing strategies and plans.

As an example of the challenges the recovery board faces, Martin pointed out that the geographic areas inhabited by listed species don’t align with political boundaries. Getting assurance that plans meet NOAA Fisheries requirements is also a challenge, as is keeping people involved in “a 20-to-50-year effort,” he said.

## **7. Update on 2004 summer river operations for fish and wildlife, including spill and river operations:**

Doug Marker, director, fish and wildlife division; and Bruce Suzumoto, manager, special projects.

Staffer Bruce Suzumoto outlined the federal agencies’ latest proposal to reduce 2004 summer spill. The proposal differs from one released at the end of March in that it would reduce spill by 39 percent, rather than 55 percent, he said. The offset measures in the proposal are designed to compensate for all impacts to fish listed under the ESA, but are not categorized by individual stocks, Suzumoto explained. Impacts on non-listed fish are lower than under the previous proposal, he added.

The proposed operation would provide full Biological Opinion (BiOp) spill in July at Ice Harbor, John Day, The Dalles, and Bonneville dams, Suzumoto continued. The only deviation from the BiOp would be for spill tests at Ice Harbor and Bonneville, he said. The proposal provides for spill at Ice Harbor and John Day through August 21, but discontinues August spill at The Dalles and Bonneville, Suzumoto said.

I don’t understand the proposal for The Dalles, where there is no fish passage, and you would impact fish entering the system from the Deschutes and John Day rivers, Larry Cassidy commented.

There is an ice-trash sluiceway at The Dalles that provides non-turbine passage, Greg Delwiche of Bonneville responded. Witt Anderson of the Corps of Engineers said survival through the sluiceway is 89 percent, providing there is a reduction in water over the spillway.

We modeled spill regimes after the previous proposal, and the outcome was that it made sense to add back three weeks of spill for John Day, but not for The Dalles and Bonneville, Delwiche explained. One of the objectives in our hatchery and habitat offset proposals is to offset effects to the fish Mr. Cassidy mentioned, he added.

Suzumoto outlined the federal agencies' proposed offsets, including adding more water to the system from Brownlee Reservoir in July to improve conditions for juvenile migrants. In addition, Hanford Reach flow operations and an increase in the pikeminnow control program are part of the offset package, he continued. The federal agencies are also proposing a hatchery offset that calls for raising 200,000 fall chinook to yearlings before they are released at one hatchery and providing a \$2 million set-aside for habitat actions and a \$3.3 million set-aside for the Council's fish and wildlife program, Suzumoto said.

If spill is reduced according to the proposal, the value of the additional generation would be between \$33 million and \$44 million, he said. The cost of the offsets is \$13 million, so Bonneville would realize a net revenue gain of \$20 million to \$30 million, Suzumoto summed up.

The federal agencies will hold a public meeting June 14 in Portland on the spill proposal, Delwiche announced. That morning, the agencies will meet with the tribes, he said. After the meetings, the federal agencies will get together and issue a final proposal on June 21, Delwiche stated. NOAA Fisheries will issue a finding, and the Corps of Engineers will issue a Record of Decision, he said.

There has been an issue over whether Idaho Power would have been drafting Brownlee anyway, Tom Karier said. Is that argument settled? he asked. Idaho Power has provided us with all of its operating plans for the summer, and they said the project would have passed inflow only, Delwiche responded.

What about harvest or a commercial fishing buyout? Council chair Judi Danielson asked. We talked to lower river commercial fishing interests, and we couldn't get anything into place in this timeframe, Delwiche responded. I don't consider that "a dead issue," Cassidy said, noting that commercial fishing interests are concerned about the effect that reduced spill would have on outbound migrants and whether there would be an impact on adult returns in 2007. They want "to ease into" the buyout idea, he added.

We got a lot of input on our March 30 proposal, and we worked hard to address the issues raised, according to Anderson. We think this proposal is responsive, and we will be very interested in the feedback we get on Monday, he said. We want to have "solid confidence" in the analysis, we want to be able to implement the offsets, and we want them to bring about results, Anderson stated.

Cassidy said recreational and commercial fisheries, which are often at odds, teamed up on the spill reduction proposal. Bonneville proposed buying out the fisheries, but then required the money be used to purchase fishing equipment that is illegal in Washington and Oregon, he

pointed out. Bonneville suggested going to the legislatures to get the laws changed on this, but “I think that is a bad idea,” Cassidy stated.

John Hines reported that Montana received a letter from the federal agencies indicating they would not proceed with new summer operations at Libby and Hungry Horse this year. In a subsequent meeting of Montana officials, NOAA Fisheries, and the Corps last week, we came to an agreement, he said. The agreement will keep flows out of the Montana projects flat in July, August, and September, Hines explained. He outlined other features of the agreement and said there is still an issue to address related to coordinating water flow out of the Canadian projects and Grand Coulee.

Before adjourning on Thursday, the Council discussed how it would approach participation in the June 14 meeting with federal agencies. “I assume you will all be there representing your governors,” Danielson said to the other Council members. There is not much the Council can say as a body, she added.

I think we could jointly address the habitat and mitigation funds outlined in the proposal, Karier suggested. We could acknowledge the funding proposal and offer to make it work, he said. And I hope the Council would support having the additional mitigation funding administered through our existing fish and wildlife program, rather than having the region create some other mechanism, Ed Bartlett commented.

The Council needs to signal that the mitigation funding part is workable and could be administered through our process, Karier urged. I’m comfortable with that, Hines responded, and Bartlett agreed. It’s important that the governors also signal they would rely on the Council’s process, Danielson commented.

Staffer John Ogan suggested the Council put out a public notice of members’ intention to participate in the meeting to allay any concerns about the open meetings law. Danielson agreed.

## **8. Presentation on NOAA Fisheries status review and hatchery policy:**

Bruce Suzumoto; and Rob Walton, NOAA Fisheries.

On May 28, NOAA Fisheries released its proposed hatchery listing policy and listing determinations, Rob Walton of NOAA Fisheries’ Salmon Recovery Division told the Council. NOAA Fisheries’ policy for delineating evolutionarily significant units (ESUs) was not changed in this proposal and remains the same as it was in our 1993 artificial propagation interim policy, he said: “Genetic resources important to the species’ evolutionary legacy may reside in hatchery fish as well as in natural fish, in which case the hatchery fish can be considered part of the biological ESU in question.”

Two federal courts have ruled that once NOAA Fisheries lists an ESU, it cannot subdivide the ESU and list only a subset, Walton explained. He cited the two cases: *Alsea Valley Alliance v Evans* and *Modesto Irrigation District v Evans*.

As a result of the court rulings, NOAA Fisheries received petitions seeking changes to ESA listings, Walton said. NOAA Fisheries subsequently initiated a status review of all 27 West

Coast ESUs, which culminated in a revised hatchery listing policy published in the June 3, 2004 Federal Register, he explained. We've asked for public comment on the policy within 90 days, Walton stated.

NOAA Fisheries' proposed listing determinations are based on the two federal court rulings and the proposed hatchery listing policy, and they incorporate updated scientific information, he continued. Our review resulted in only two proposed changes in the Pacific Northwest, according to Walton: the Upper Columbia steelhead was moved from endangered to threatened, and the Lower Columbia coho, which was not previously listed, is proposed as threatened, he reported.

This hatchery listing policy was three years in the making, and with it, "the Administration has reaffirmed its commitment to habitat protection and restoration," Walton said. We intend to "apply this policy in support of the conservation of naturally spawning salmon and the ecosystems upon which they depend," he stated, quoting language from the ESA.

In terms of "what we'll do differently," Walton said that status determinations will be based on the likelihood of extinction of an entire ESU. Artificial propagation presents both potential benefits and risks to the biological status of salmon and steelhead ESUs, he said. We've tried to take "a scientific approach" to hatcheries and decide about the benefits and risks, Walton added.

The potential benefits of artificial propagation have been shown to be effective in bolstering the numbers of naturally spawning fish in the short term, under certain conditions, he went on. Genetic resources can reside in hatchery-origin fish, Walton said, noting that NOAA Fisheries evaluated every hatchery program in the West in making its listing proposals. Captive broodstock programs for sockeye and other ESUs are an example of benefits, he explained. Risks include "long-term deleterious consequences" that may outweigh short-term advantages; ongoing research, monitoring, and evaluation are needed in this area, Walton said.

In determining the status of ESUs, NOAA Fisheries considers abundance, productivity, spatial distribution, and genetic diversity of populations, he explained. A high abundance of one population by itself is not adequate to show that the ESU as a whole is viable, Walton said. As to whether hatchery fish are to be included in an ESU, "hatchery-origin fish will be included in an ESU provided the level of genetic divergence between the hatchery stocks and the local natural populations are no more than what would be expected between closely related populations within the ESU," he stated.

Walton outlined the ESA status-review process NOAA Fisheries used, describing four major steps: determination of species; ESU status assessment; evaluation of protective efforts; and proposed ESA listing determination. And he provided a chart with the number of artificial propagation programs that exist within 18 ESUs of salmon and steelhead, identifying how many were used in the 2004 listing proposals.

Will the relative genetic divergence of a hatchery stock from local natural populations become "a new battleground" in this debate? Jim Kempton asked. My understanding is that scientifically, there isn't a lot of debate about this, Walton responded. He said NOAA Fisheries has asked for comment on where to draw the line between "moderately" and "substantially" diverged stocks.

I'm hearing you say NOAA Fisheries made a major change in the way it counts hatchery fish, but it doesn't make a difference in whether a species is listed, Karier stated. Why is that? he asked.

If there is a fundamental ecosystem problem and it continues to persist, adding hatchery fish will not cure it, Walton responded. NOAA Fisheries' emphasis is still on conservation of naturally spawning salmon and the ecosystems upon which they depend, he said. There are examples of modern, well-run hatchery operations that benefit natural spawners, according to Walton. But for many ESUs, hatchery programs continue to pose a risk, he said. NOAA Fisheries needs the Council's help in continuing to improve the performance of hatchery programs, with such efforts as your Artificial Production Review and Evaluation (APRE), Walton stated. We want to see all of the region's efforts, from Hatchery and Genetic Management Plans to the Council's APRE, line up as much as possible, he said.

With regard to protective regulation for ESUs listed as threatened, NOAA Fisheries will exercise its authority under section 4(d) of the ESA, where appropriate, to allow the harvest of listed hatchery fish that are surplus to the conservation and recovery needs of the ESU "in accordance with approved harvest plans," Walton stated. We envision a role for hatcheries in the future for many reasons, including the need to meet tribal trust and treaty obligations, he pointed out. Walton said 4(d) could streamline the process for states that have become frustrated with seeking section 10 permits for harvest.

Suzumoto asked if NOAA Fisheries considered the extent to which hatcheries encourage harvest. Our policy document says that to the extent hatcheries encourage harvest, it can be a problem, Walton responded. It's an important issue, he added.

## **9. Discussion of Corps of Engineers response to Independent Scientific Review Panel's review of the Anadromous Fish Evaluation Program (AFEP):**

Doug Marker; and Bruce Suzumoto.

The ISRP reviewed the Corps' Anadromous Fish Evaluation Program (AFEP) and presented its findings to the Council in May, Marker said. The ISRP made a number of observations about AFEP, including that it saw overlap and redundancy with the Council's fish and wildlife program, he said. The ISRP suggested project designs be more consistent with the Council's program, and while the Corps' mission with fish and wildlife is narrower than the Council's program, the ISRP said addressing "more generic" questions could be useful, Marker explained. The ISRP also called for scientific peer review of AFEP and said a written summary of AFEP accomplishments would be a good idea, he said. The Corps wants to be on our agenda next month to respond to the ISRP's comments, Marker added.

We've had very positive discussions with the Corps staff, and we will look for opportunities to coordinate, he continued. The Council's draft research plan leaves a place for the Corps' AFEP, and we will work closely with the Corps to better integrate their efforts with the fish and wildlife program, Marker said.

Eden said she understood from a recent Sounding Board meeting that AFEP wasn't completed "until the last minute" and required emergency changes in hydro operations to implement. A longer-term strategic approach might alleviate emergency changes, which would be less costly to ratepayers, she indicated.

As the year unfolds, water conditions change and can dictate the feasibility of certain types of research, Suzumoto explained. There is merit in the long-term approach, but you can't get away from the need to make adjustments based on water conditions, he said.

## **10. Public comment on the draft Council budget for Fiscal Year 2006 and revised Fiscal Year 2005 (Council document 2004-06)**

There was no comment offered on the Council's draft FY 2006 and revised FY 2005 budgets. Staffer Sharon Ossmann said the Council had not received any written comment on the budgets.

## **11. Council business:**

### **– Approval of minutes**

Eden made a motion that the Council approve for the signature of the Vice-Chair the minutes for the May 11-13, 2004, Council meeting held in Walla Walla, Washington. Karier seconded the motion. Danielson asked that the minutes reflect that she said a response should be made to Mary Verner's letter at the next fish and wildlife committee meeting. The motion passed unanimously.

### **– Approval of subbasin planning contract**

Marker explained that staff needed additional assistance to process subbasin plan submittals and prepare them for adoption over the next six months. We are going to need to have issue papers, issue summaries, and amendment language written, he said, and we anticipate a huge volume of work. A request for proposals went out for this assistance, and we selected Sharla Moffett Beall, a former Congressional staffer, Marker said.

Eden made a motion that the Council authorize the Executive Director to negotiate a temporary services agreement with Sharla Moffett Beall to assist in Council review and adoption of subbasin plans in an amount not to exceed \$90,000. Bartlett seconded the motion, which passed unanimously.

### **– Possible approval of letter endorsing Pacific Northwest Aquatic Monitoring Partnership**

Marker explained that he had worked with staffer Steve Waste on the wording for a letter of support for the Pacific Northwest Aquatic Monitoring Partnership (PNAMP). The letter signals PNAMP's achievements over the last year and indicates that the ISRP has been very supportive of the PNAMP approach, he said. Marker also noted that the Council would continue to provide in-kind support through Waste's participation. This letter is a gesture of support for PNAMP, he stated.

Eden made a motion that the Council approve for the signature of the Chair the letter to the Regional Executives in support of PNAMP as presented by the staff. Karier seconded the motion, which passed unanimously.

Meeting adjourned at 9:55 a.m.

Approved July 15, 2004

/s/ Melinda S. Eden

Vice Chairman

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