

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 Spokane WA

July 13-15, 2004

Minutes

Melinda Eden made a motion that the Council meet at the call of the Chair to discuss matters related to participation in civil litigation. Gene Derfler seconded the motion, and it passed unanimously.

John Hines made a motion that the Council add to the agenda discussion of a letter from the Council chair to NOAA Fisheries regarding Montana's system operation request on summer operations at Libby and Hungry Horse, and find that Council business requires the discussion and no earlier notice was possible. Bartlett seconded the motion. Eden said she disputed the notion that no earlier notice was possible, and Cassidy asked why the motion was being made.

Hines explained that NOAA Fisheries asked for an indication the Council agrees the Montana request on Libby and Hungry Horse is consistent with the Council's mainstem amendments to the fish and wildlife program. The letter addresses that point, he indicated. The motion passed 7-1 on a roll call vote, with Eden voting no.

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

Ed Bartlett, chair, fish and wildlife committee; Jim Kempton, chair, power committee; and Larry Cassidy, chair, public affairs committee.

Jim Kempton, Power Committee chair, reported that Kevin O'Meara from the Public Power Council (PPC) gave a briefing on a strawman proposal for allocating the power assets of the Federal Columbia River Power System (FCRPS). We anticipate that Bonneville and other utilities will get involved in this topic, but PPC took the initiative to get the discussion started, he said.

The committee discussed resources and resource adequacy, Kempton said, referring to adequacy as “the lynchpin that makes everything else we do in the region work.” He noted that the committee made a couple of tweaks to the draft power plan. We added language in the chapter on the future role of Bonneville, noting the relationship between the IOU residential exchange and the Council’s budget, Kempton said. The formula for our budget is affected if the transaction is money rather than power, he pointed out. We also talked about “the Council-Bonneville interface” and the Administrator’s responsibility to address the provisions in the power plan, Kempton concluded.

Bartlett reported on the Fish and Wildlife Committee’s discussion of the 2005 budget. We spent some time talking about the difference between a start-of-year planning budget and Bonneville’s accrual budget, he said. We are recommending the Council adopt a 2005 planning budget of \$145 million, according to Bartlett. He listed several other topics that the committee discussed, including Bonneville’s process improvements, hatchery-related proposals, the Artificial Production Review and Evaluation draft report, the relationship between fish and wildlife and the power plan, and how to proceed with the regional implementation forum suggested in the mainstem amendments.

With regard to the fish and wildlife budget, Hines asked if the recommendation is to be voted on as a whole or in the form of separate projects. We’re viewing the start-of-year budget as a whole, Bartlett said. I’d encourage you to raise any issues about line items if you have them, Council chair Judi Danielson added. So there are two issues here, Hines said: the total funding amount and particular line items, Hines clarified.

Staffer Doug Marker reported that Bonneville is working on a data system to support specific fish and wildlife reporting requirements and is looking at tailoring something to fit those needs rather than purchasing the PRISM software it has considered.

2. Presentation of Bonneville’s policy regarding its future role:

Paul Norman, Bonneville Power Administration.

Paul Norman and Helen Goodwin of the Bonneville Power Administration summarized the agency’s recently released proposal for its role in the region’s power supply. There is a short-term and a long-term component to our proposal, Norman pointed out. Most of the proposal deals with 2007 to 2011, but we also have some recommendations for the long term, he said.

For the long term, our policy proposal is to limit sales of firm power at embedded cost to what the present system can provide, Norman stated. Our goal is to write new 20-year contracts based on that policy, he said. Norman presented a proposed schedule that calls for Bonneville to release its long-term proposal for public review and comment in July 2005, followed by the Administrator’s decision in January 2006. New contracts would be offered in December 2006, with a signature deadline in April 2007 and an effective date in fiscal year (FY) 2009, he said.

That sounds like a lot of time, but there are many issues to resolve, Norman continued. Getting there will require lots of engagement with our customers, the Council, and many others, he

acknowledged. The Council can help move this along by continuing to engage on the issues, and your power plan will provide guidance, Norman added.

He encouraged the Council to continue to consider the issue of resource adequacy “in a world without a big federal agency” taking on that responsibility. Conservation and renewables are key to adequacy, and your involvement is needed on how to carry out our goals in this area, Norman indicated. Our proposal “is extremely consistent” with views the Council expressed in its recommendations for the future role of Bonneville, he concluded.

Goodwin said Bonneville released its short-term proposal July 7 and set a comment deadline of September 27. We have scheduled six public meetings in the region; locations are Seattle, Eugene, Spokane, Boise, Portland, and Kalispell, she said. After the meetings, we plan to do extensive comment analysis and get to the Administrator’s decision on the short-term policy by December 2004, Goodwin explained.

She began a summary of Bonneville’s short-term proposal by noting that there would be no tiered rates in the next rate period. Long term, they are important, but there is much involved in developing tiered rates and postponing that discussion allows us to move forward now, Goodwin explained. We are also proposing a two or three-year rate period, and “an open window” for new publics to get in under the low-cost PF rate until June 30, 2005, she said. After that, new publics could be served under a rate with a “targeted adjustment charge” (TAC) component, Goodwin clarified. Service to new publics “is up in the air” for the long-term proposal, she added.

With regard to products, Goodwin said Bonneville does not propose to offer new products for the next rate period or to allow customers to switch products. This would be a major distraction, she indicated. Bonneville is also involved in litigation with customers over the current Slice of the System product, and that needs to be resolved before opening Slice to more customers, Goodwin said.

Bonneville’s proposal recommends 500 average megawatts (aMW) for the DSIs, and Bonneville is considering offering a limited financial incentive for the DSIs to operate, she continued. Service to the IOU exchange load has been settled for the 2007 to 2011 period, but if the settlements are set aside, we’ll fall back to the current contracts, according to Goodwin.

We want to encourage conservation to be developed at the lowest possible cost, and we expect to get together with interested people and define how to handle the conservation and renewables discount, she stated. Our policy aims to reduce barriers to developing renewables, and we’ll look at using the flexibility of the hydro system to integrate them into the system and also focus on transmission improvements, Goodwin explained.

Bonneville proposes to continue its customer collaborative structure to allow for transparency and for input into cost control and other financial matters, she wrapped up.

Your proposed policy is very consistent with what the Council recommended, Tom Karier commented. The results of the technical analysis for our power plan indicate we could avoid building new generating plants if we concentrate on conservation and renewables, he said. How would your proposal affect Bonneville’s commitment to conservation and renewable resources? Karier asked.

We intend to signal that we view it as our responsibility to see that cost-effective conservation is developed, Norman responded. We hope to use your power plan to set a goal for cost-effective conservation, he said. With regard to renewables, we see our role as facilitating others to develop the resource, Norman stated. The market for renewables is working, and we see our role as facilitation and helping others to be successful, he said.

Karier pointed out that customers have come up with an allocation proposal for conservation, and he suggested Bonneville may resolve some issues in the long-term proposal faster than anticipated. “That would be great,” but the allocation proposal is incomplete, and “knotty” issues remain concerning allocation of costs and treatment of the DSIs, Norman replied.

I appreciate you opening this process to the public, Gene Derfler said. It’s a good step for Bonneville to be more transparent, he added.

3. Decision on Fiscal Year 2005 Fish and Wildlife Program implementation budget:

John Shurts, general counsel; and Patty O’Toole, program implementation manager.

We worked with Bonneville and the Columbia Basin Fish and Wildlife Authority (CBFWA) to come up with “a set of work” for FY 2005 and a start-of-year planning budget, according to staffer Patty O’Toole. She said staff is recommending a planning budget of \$146 million in expense and \$82.6 million in capital. In developing the list of projects and budgets, we did not see a valid reason to stray from the provincial review recommendations, O’Toole noted.

Staffer John Shurts said the Council has been trying for a number of years to work with Bonneville’s accrual target for fish and wildlife spending. We’ve tried to get into this in some detail, without success, he added. Shurts said the approach this year is to establish a set of work and a starting budget of \$146 million, and then to manage to the accrual target of \$139 million.

According to a staff memo, “Experience in the past couple of years has indicated that it is impossible at this stage of the year to know how much will actually be spent in FY04, let alone FY05, except that it is likely the amounts spent will be less than the planning budgets.” The memo said that the Council should plan to reduce or slow spending only if and when it becomes clear that the risk of spending over an average of \$139 million per year for the rate period is near certain. “We are not there yet,” the memo states.

There are many ways to manage to the target, Shurts said. Bonneville is comfortable with this approach and can work within it, he added. Our proposal is to get your approval on the planning budget as it has been established and make a list of issues to explore later, Shurts explained.

Karier suggested the Council earmark \$1 million for a pilot program in conservation easements. The easements are popular with local governments for tax and maintenance reasons, he said. This would allow the Council to zero in on riparian areas, Karier stated.

Derfler said he would like to see a discussion of the Fish Passage Center, noting that there is duplication between the center and a program at the University of Washington. Shurts said the

issue of the center's role and transparency of its work comes up every year. The fish and wildlife program set up an oversight board for the center, so maybe you could bring issues to this new body to be handled, he suggested.

We should examine any duplication and consider whether one entity could be rolled into another for efficiency purposes, Hines said. "I was a major critic of the Fish Passage Center because of the lack of transparency," but the oversight board is helping, Karier said. The duplication may just be an overlap in the use of data, he added.

The Fish Passage Center is built around the fish managers from states, tribes, and federal agencies, Cassidy said. I don't know if you would get that same type of representation from something that is part of the UW, he pointed out. It's worthy of consideration, but "you'd get a big reaction from the states and tribes," Cassidy said. It would take "prudent and careful consideration, not just a casual conversation," he added.

Hines suggested a couple of categories of issues: Bonneville-proposed funding of projects that have not been approved by the Council and Council-approved projects that Bonneville chose not to fund. I also want to look into USFWS projects related to salmon and that agency's statutory responsibility for salmon, he said. USFWS is a managing entity in the Lower Columbia River Compensation Plan, Shurts noted. He said Bonneville funds some things the Council does not recommend, primarily on the mainstem.

I'll support the starting budget, but only if the projects are subject to review, Cassidy said. In Washington, we want to look through the individual projects, he said. I agree with that, Karier said. I don't feel we have had the opportunity to comb through the projects, and we need to factor in communication with subbasin planners, he added.

"We are trying to make a clean break" in the way we work the financial issues, Shurts said. The staff has spent too much time on those issues, and we want to provide Bonneville a project list and budget, and let them manage it, he stated.

Bonneville's Greg Delwiche said the latest estimate for 2004 accruals is \$141 million. He cautioned that additional pressures from subbasin plans, a new BiOp for anadromous fish, and hatchery reform could come to bear on the 2005 budget. In visiting with project managers around the region, I'm hearing a consistent concern about flat budgets, Delwiche continued. I'm beginning to conclude that while we've spread our funds widely, the program is overextended in that regard, he stated. Cost-sharing would be helpful, Danielson commented.

Judge Redden may also want a commitment on the ESA, Delwiche said. We won't be the sole source of money, but the judge may want a definitive commitment, he added. That issue baffles us, Karier responded. The judge may not be aware of the harm in diverting funds away from our program and to the ESA, he said.

Bartlett made a motion that the Council recommend to Bonneville the list of projects and estimated budgets presented by the staff and recommended by the Fish and Wildlife Committee with changes adopted by the members at today's meeting to implement the Council's Columbia River Basin Fish and Wildlife Program in Fiscal Year 2005 on a start-of-year planning basis. The staff outlined a set of policy issues that complicate the funding and implementation of projects and management of the budget. The Council directs the staff to work with Bonneville

staff and others to address these issues, on the basis presented by staff and recommended by the Committee and Council. Karier seconded the motion, which passed unanimously.

4. Comments by U.S. Army Corps of Engineers on Independent Science Review Panel review of the Anadromous Fish Evaluation Program (AFEP):

Steve Waste, manager, program analysis and evaluation; Witt Anderson, Chief, Fish Management Office - Northwest Division; Paul Ocker, Fishery Biologist - Northwest Division; Rock Peters, AFEP Coordinator - Portland District; and Rebecca Kalamasz, Chief - Environmental Analysis - Walla Walla District.

Paul Ocker, a Corps biologist, explained that the Corps' Anadromous Fish Evaluation Program (AFEP) focuses on fish passage at the eight mainstem dams. It provides the Corps with data to support configuration and operation changes in the system, he said. Our work is focused on getting survival at those eight dams, Ocker stated. Another application for data from the program is monitoring and evaluation; AFEP gives us information after the fact about decisions we've made, he added.

The Corps works with others to determine what the research needs are, and "we pride ourselves on the openness of the program," according to Ocker. He said the Corps is happy to engage in a discussion of how to improve AFEP and to provide regular briefings to share the results of its research.

Ocker proceeded to respond to the issues and recommendations made by the ISRP in its AFEP review. He noted that the complexity of AFEP makes it difficult to do a one-time evaluation. Our projects occur across multiple years, studies are often very site-specific, similar problems often require different solutions at different dams, studies are often dictated by river conditions, research is often supported by other Columbia River fish mitigation projects, and studies are always subject to fish requirements, Ocker elaborated. We take input from many entities in determining what to study, he added.

Ocker said the Corps expected a review of three research projects from the ISRP, but instead got an overall review of AFEP. We believe the ISRP had some valuable input and "missed the mark" at times, he stated.

The ISRP provided seven conclusions and recommendations, and Ocker provided a Corps response to each. On the recommendation for long-term strategic planning, he said the Corps is working with the Council to improve coordination of long-term research plans. The ISRP made a recommendation that the Corps include researchers on its Study Review Work Group for AFEP, and the Corps will review that idea, Ocker said.

As for "incomplete" or "insufficient" proposals for research projects, many preliminary proposals are incomplete until we determine the research is needed, and then we do a more detailed proposal, he explained. Also, many proposals are updated late in the year to reflect new information, in particular river conditions and other research results, Ocker said. We will

attempt to rework the program to ensure that independent research proposals are as complete as possible, he stated.

The Corps will look into contracting out some level of independent scientific review in response to an ISRP recommendation, Ocker continued. But as for the way proposals are selected, he said the ISRP recommendation missed the mark. AFEP prioritizes proposal selection based on research needs, and if final proposals do not meet program needs or money is not available, they are deferred or remain unfunded, Ocker said. We think our system works well and aren't prepared to change it, he added.

We agree that there are opportunities for better collaboration between AFEP and the Council's fish and wildlife program, Ocker went on. "Keep in mind that the programs have different purposes," but the Corps will improve communication with the Council about AFEP and work to better coordinate the programs, he stated.

We disagree with the ISRP that "mechanism-oriented studies" are underfunded, he said. AFEP's primary purpose is to study site-specific fish issues, and we have done many recent mechanistic studies, Ocker pointed out. He indicated the Corps doesn't plan any changes in this area. Karier encouraged the Corps to provide an annual summary of the end product of its research, and Rock Peters of the Corps said that could be done.

5. Report on summer operation decisions:

Doug Marker; and Bruce Suzumoto, manager, special projects.

[not discussed at this meeting]

6. Briefing on portfolio analysis and recommended plan; draft summary and action plan; analysis, conclusions and recommendations regarding: conservation; and demand response - for the Fifth Power Plan:

Dick Watson, director, power division; Michael Schilmoeller, senior power systems analyst; Tom Eckman, conservation resources manager; and Charlie Grist, senior analyst.

Staffer Dick Watson went over draft pieces of the upcoming power plan, including the executive summary, portfolio analysis, and action plan. It is important that the executive summary communicate effectively since 80 percent of those who read the plan will focus on it, he said.

Watson proceeded with an update of the portfolio analysis, reporting that staff has reviewed and refined the data and assumptions. "The good news" is that the basic conclusions have not changed, he said: aggressive conservation is justified and reduces the costs and risks for power supply; demand response is valuable if it is available; no large-scale generation development is needed until the next decade, and then, it should be combined-cycle combustion turbines; coal generation is risky due to the potential for carbon emission controls; and a large commitment to wind makes sense, with some modest level of development over the next few years. We are still

working on a number of sensitivities, including the risk of carbon penalties, higher gas prices, the removal of market price caps, and wind development costs, he reported.

One area of uncertainty with regard to resources is how to treat the 3,200 average megawatts (aMW) of “uncommitted generation” in the region, Watson pointed out. These resources are not committed to load in the region, and there is a question about how they should be addressed in the plan, he added.

Watson said the action plan calls for developing lost-opportunity conservation resources now and confirming the availability and cost of demand-response, wind, oil sands cogeneration, coal gasification, and other resources. There is also a need to establish a policy framework for determining resource adequacy, for transmission planning, and for the relationship between fish and power, he explained. Watson asked for Council members to submit their comments on draft pieces of the plan within a couple of weeks.

Staffer Tom Eckman went over the draft conservation targets, starting with how they were derived. We used a portfolio model to develop the least-cost and least-risk level of conservation development, he explained. The annual conservation targets are separated into lost-opportunity and non-lost-opportunity resources, Eckman said. Still to come is a case illustrating the benefits and costs of sustained orderly development of conservation resources and a case incorporating the 10 percent credit for conservation called for in the Northwest Power Act, he added.

Eckman outlined the various cases for conservation that have been analyzed. Our preliminary annual acquisition target is 130 to 150 aMW, compared to a “business-as-usual” case of 50 aMW, he said. About half of the target could be met with lost-opportunity acquisitions, according to Eckman. The total cost to meet such a target would be \$380 million annually, he said. “That’s everyone’s costs, not just the utilities,” Eckman explained. It includes costs such as consumers buying appliances, he added.

In order to meet the annual targets, the region will need new initiatives, Eckman continued. Aggressive utility action and a mix of mechanisms will be needed, he said, pointing out that local acquisitions would have to increase 50 percent over 2002. We have no central mechanisms for regional coordination and administration of the initiatives, Eckman pointed out. We need regional investment in infrastructure with regard to research and development, evaluation, codes and standards, and education and training, he said.

Watson called a recent letter from PNUCC about the heavy emphasis on conservation “good news.” The utilities are paying attention, and we will be having discussions with them, he said.

Ed Bartlett said he was skeptical about meeting the total resource need with conservation. “The stars would have to line up perfectly” for this approach to work, he indicated. We are being too optimistic about the price of gas and not optimistic enough about the role of coal, Bartlett stated.

Watson said the analysis has evaluated the risk of a carbon penalty, which would affect the development of coal generation. “There is a policy call here,” he acknowledged.

The Council has to be proactive about conservation, Jim Kempton said. We need to look at the future – energy costs are going up and transmission projects are getting more difficult to site and

build, he pointed out. Kempton indicated the Council's plan should incorporate flexibility. If we're wrong, we can make adjustments, he said.

Staffer Ken Corum briefed the Council on demand response and how it is being incorporated into the power plan. This is a resource we haven't planned for in the past, he said. Demand response is a change in demand that corresponds to power system costs, but end users don't see the fluctuations in power costs, Corum said. In most cases, "we've got half a market," he explained, noting that the supply side sees changes in costs, but the demand side does not.

Corum laid out the potential benefits of demand response, including the long-run avoided cost of building and operating generation to meet peaks that occur for 10 to 100 hours a year. The presence of the demand-response resource lowers the expected cost and risk to the system, he explained.

We've laid out recommendations to move ahead on the next steps to effect demand response, Corum said. These include such things as refining estimates about the size of the resource, resolving regulatory issues that obstruct its implementation, and fully incorporating demand response into utility integrated resource plans, he noted. The real benefit is not to keep peaking plants from operating, but to avoid building them, according to Corum. Price mechanisms are an important element of demand response because they provide the incentive, he pointed out. But there are concerns about creating an unfair burden and increasing the volatility of utility bills, Corum acknowledged.

7. Council decision to release Artificial Production Review and Evaluation issue paper:

Bruce Suzumoto.

A paper on the Council's Artificial Production Review and Evaluation (APRE) focuses on three issues, according to staffer Bruce Suzumoto. First, to meet harvest and conservation needs, changes to hatchery programs are required; second, prompt implementation of hatchery reforms is needed; and third, a results-oriented, performance-based management system is needed to guide hatchery reforms. Staff has made recommendations to address these issues, he said.

For the first, the Council, NOAA Fisheries, and Bonneville should facilitate a regional discussion to clearly identify basinwide hatchery goals and priorities for salmon and steelhead, according to Suzumoto. In addition, the region should use the subbasin planning effort to design and implement long-term strategies to reduce disparities in the production policies among existing hatcheries, he said. Some goals need to be re-examined in light of current circumstances, Suzumoto pointed out.

He noted how the pattern of adult salmon returns has changed over time, with a moderate peak for spring chinook returns in April and a huge spike in fall chinook returns in September. While habitat changes, hydro operations, and harvest have had an influence, hatchery production has exacerbated the situation, Suzumoto said. Hatcheries are a tool in salmon production, but there is no clarity right now about how we want to use that tool, he added.

Our recommendations for prompt implementation of hatchery reforms include adopting priorities to reduce the risk that hatchery fish pose to weak natural stock, Suzumoto continued. We recommend developing an action plan derived from subbasin plans and Hatchery Genetic Management Plans (HGMPs), he explained. The priorities for reform could be established through the HGMPs, Suzumoto said.

To guide hatchery reforms, our recommendation is to establish periodic hatchery reviews for all subbasins, and structure the review process with an emphasis on performance and results, he stated. We have a large database of hatchery information, and we want to keep it current and alive, Suzumoto added.

After comment and discussion on the issue paper, we want to plan for implementation of reforms, he told the Council. We plan to have discussions with the co-managers, subbasin planners, and other stakeholders and to develop a budget for implementing the recommendations, Suzumoto said.

We are proposing a 30-day comment period on the paper, ending in August 2004, after which we will draft a report to Congress, he stated. Our schedule calls for finalizing that report in October, Suzumoto concluded.

I would like to see more specifics and detail “in lieu of ambiguous goals,” Derfler said. That’s what we’re trying to do, and we’re putting together specific steps to implement the recommendations, Suzumoto answered. Some of the detail will come from the subbasin plans, he said. We’re also trying to integrate this with other efforts in subbasin planning and hatchery reform, Suzumoto added.

Karier pointed out that one of the striking results in the APRE is the lack of information that exists on hatchery performance. The need for more performance information is profound – it’s necessary if we’re going to have improved accountability, he said. Hines said he appreciated Suzumoto’s willingness to take some risks in conducting the evaluation and “to step out of the box” to present new ideas.

Bartlett made a motion that the Council authorize the staff to issue for public comment the Artificial Production Review and Evaluation issue paper presented by the staff and direct the staff to schedule opportunity for public comment for 30 days from the date of issuance. Karier seconded the motion, which passed unanimously.

8. Council decision on program implementation actions:

Mark Fritsch, manager, project implementation.

– Amazon Basin/Eugene Wetlands Phase Two, Project #1992-059-00

Staffer Mark Fritsch explained a proposed scope and budget change for a Eugene area wetlands project sponsored by the Nature Conservancy. The proposal is to add an additional 65 acres to an already-recommended wildlife easement, he said. The project is mitigation for the Corps’ Willamette Basin hydro projects, Fritsch explained. The additional purchase would boost the

cost of the project from just over \$400,000 to \$1.2 million, and the funds would come from the FY 2004 capital budget, he said.

I understand the Bureau of Land Management (BLM) declined this purchase, Bartlett said. The previous acquisition price was \$4,000 an acre, but the price for the proposed additional acreage is \$20,000 an acre. Why is that? he asked.

This is a key piece of property in west Eugene, Catherine Macdonald of the Nature Conservancy responded. This additional tract was not available when we made the original proposal, but now it is, she said, adding that BLM did not have the funds to purchase the easement.

I thought we were in the mode of closing out existing projects in 2005, Hines commented. This looks like a new project, he said. This expansion was approved by the ISRP, Fritsch responded. The acquisition will make good on something the Council previously committed to – I look at it as trying to accomplish something we started, he said. It's a total change in scope, Hines replied.

Do we have an assurance from Bonneville that this will be capitalized? Bartlett asked. Delwiche of Bonneville said the amount would be capitalized.

I urge you to support this project, Eden said. It's a good property, she added.

Danielson questioned the way the scope change came about. Because of Bonneville's policy not to capitalize purchases of less than \$1 million, there was an effort to get the project up to a million dollars, she said. "We need to be darn careful about how these things come about," Danielson said. "This has morphed immensely, and it is a very expensive project," she stated.

I'm confused about Bonneville's capitalization policy, Hines said. You are willing here to capitalize interest, he pointed out. It seems like a change in policy to include interest and due-diligence costs in the capitalization, Hines said.

I hope people won't see this as setting a precedent, Delwiche responded. The Nature Conservancy bought the land and needs to be made whole, he said. "The fair thing to do is to make them whole" and "to be a good business partner," Delwiche added.

I am going to vote no, Bartlett stated. "I don't like what I am hearing," and I don't like the increase in costs, he said. Cost is my primary reason, Bartlett added, but I'm also concerned about the Bonneville capital precedent. We have other capitalization issues that can't be solved, but here it seems we can, he said. Bartlett also commented that Bonneville's dollar floor for capitalization could mean that every project proposal is \$1 million or more. We need to solve that, he said.

I too will vote no, Hines agreed. The cost is very high, and it's a bad precedent on capitalization, he added.

The cost is on the high end, Karier acknowledged. But the Willamette Valley has not been fully mitigated, and I'd like to see this go forward, he said.

It may be wise to hold on this, Kempton said. I'm concerned about the capitalization policy, and I'd like clarification on it, he added. Danielson agreed to hold the item over.

I'd like to know what needs to be clarified, Eden requested. There is the scope of the project, the dollar amount, the increase in price, the easement versus acquisition, and the relationship to the local subbasin plan, Danielson ticked off. It's valid to hold it over until next time "unless you want to try to swing it now," she said. No, Eden replied.

– **Hood River Production Program: Powerdale, Parkdale, Oak Springs Operations and Maintenance (O&M), Project #1988-053-07**

Fritsch said staff recommends the Council approve a \$200,000 expenditure for an additional residence at the Confederated Tribes of the Warm Springs' tribal hatchery at Parkdale, Oregon. Eden made a motion that the Council recommend that Bonneville increase the budget for the Hood River Production Program, Project Number 1988-053-07, as proposed by Bonneville and presented by the staff, in an amount not to exceed \$200,000, using FY 2004 funds for an added residence at the Parkdale Fish Facility. Bartlett seconded the motion, which passed unanimously.

– **Evaluating stream habitat using the Nez Perce Tribe Fisheries/Watershed Watershed Monitoring and Evaluation Plan (Proposal #38045), Project #2002-068-00**

A condition was placed on a Nez Perce tribal study on stream habitat during the FY 2002 project funding deliberations, Fritsch explained. The tribe submitted a response to the condition, and staff is now recommending \$213,831 be approved for the study, he said. Was the fish and wildlife committee satisfied that the issues raised by the ISRP would be addressed during the contracting process with Bonneville? Bartlett asked. Yes, Fritsch responded. Eden made a motion that the Council recommend that Bonneville fund the study design of Evaluating Stream Habitat using the Nez Perce Tribe Fisheries/Watershed Watershed Monitoring and Evaluation Plan, Project Number 2002-063-00, as presented by the staff, in an amount not to exceed the recommended FY 2005 budget of \$213,831, with the understanding that the issues raised by the ISRP be addressed during contracting. Derfler seconded the motion, which passed unanimously.

9. Report on development of long-term Bonneville fish and wildlife funding agreement:

John Ogan, senior counsel, Doug Marker; and John Shurts

Staffer Doug Marker gave an update on progress toward achieving a long-term fish and wildlife funding agreement. The first step was an appraisal of the current program, and the second step has been to develop "a coarse definition of strategies" and put cost numbers to those, he said. We want to make sure the strategies mesh with what has been submitted with subbasin plans, Marker added.

We have a third step for working out management issues, he said. A work group is coming up with "the rules" for the money, including allocation of capital versus expense, Marker explained, noting that project selection also needs to be addressed.

The staff work is going well, but "we'll need a higher level of involvement soon," he stated. We've had some discussion about whether Bonneville programs, other than the direct fish and

wildlife program, should be included, Marker said. These are such things as reimbursables for the Corps and Bureau, he said. Bonneville thinks that would be a good idea, Marker noted.

Are your meetings open? Karier asked. The meetings are not closed, but we need to know the role in which people are participating, Marker responded. The governors have said the Council represents the states, and we have to be clear about “who’s speaking for whom,” he added.

Karier said there is a big interest among subbasin planners about what is being discussed. Can you post meeting minutes? he asked. We need to talk about what is needed in terms of communication so folks can understand what is going on, Marker agreed.

10. Briefing on Council long-term budget requirements:

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

Staffer Mark Walker reported on a meeting with Karen Hunt of Bonneville to talk about the formula for setting the level of the Council’s budget. We revisited the issues affecting our budget and the reasons why the formula doesn’t work any longer, he said. Karen asked how we would propose to effect a formula change, and we suggested amending the 1981 agreement, Walker said. We also told her we wanted to resolve the issue within two months, he added. Karen agreed to convene a group of people at Bonneville to work on the issues, and we will get together again the first week of August, Walker stated.

It’s very important that we address this, Danielson stated. I hope to see something productive in August, she said.

11. Update on subbasin plan reviews:

John Ogan.

Staffer John Ogan said public comment on the subbasin plan submittals closes August 12. Then there will be a response period, during which staff will work with state coordinators, subbasin planners, and others to identify issues that affect the adoptability of a plan, he said. The response period will extend to late October/early November, Ogan explained. In November, the Council will adopt draft plans and release them for public comment and then move to adopt final plans in December and January, he said.

Of the \$15.2 million budget for subbasin planning, \$14.4 million has been contracted for and invoices have come in for \$10 million, according to staffer Sharon Ossmann. Planning entities have until August 15 to get their bills to us, she said. Some money has been earmarked to keep the state coordinators involved through December, Ossmann said. She explained the arrangements being sought to provide funding during the response period, noting that there will likely be a blanket contract with Bonneville under which the Council can issue task orders for specific work.

Ogan said he has been to a number of the presentations subbasin planners are making to the ISRP and is optimistic about what he is hearing in terms of the adoptability of the plans. He also said questions about implementation and funding are being raised. We propose to get the regional coordinators together again in August to talk about those issues and about coordination with NOAA Fisheries, Ogan said.

Danielson said it would be a good idea to have the regional coordinators meet to start addressing implementation issues. Karier urged the Council to engage subbasin planners as soon as possible in selecting projects for funding and implementation.

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

No one commented on the Council draft budgets.

13.Council Business:

– Approval of minutes

Derfler made a motion that the Council approve for the signature of the Vice-Chair the minutes for the June 8-10, 2004 Council meeting held in Clarkston, Washington. Eden seconded the motion, which passed unanimously.

– Change in terms of reference for the ISAB

Eden made a motion that the Council renew the terms of reference for the Independent Scientific Advisory Board with the two changes outlined by the staff. The two changes are to make the reference to the tribes a permanent part of the terms and to give the director of the Northwest Science Center authority to represent the NOAA Fisheries director. Derfler seconded. The Council voted unanimously in favor of the motion.

14.Notice: Council Members will meet with the Board of the Columbia Basin Trust on Friday, July 16, 2004, at the Trickle Creek Marriott Hotel in Kimberley, British Columbia.

15.Letter to NOAA Fisheries [added agenda item]

Early in the meeting, John Hines made a motion that the Council add an agenda item to discuss a draft letter that Montana proposed be sent to NOAA Fisheries regarding a system operation request (SOR) for Libby and Hungry Horse. Melinda Eden said earlier notice should have been given and voted against the motion, which passed 7 to 1.

When the Council took up discussion of the letter, Hines described the issue as “very time-sensitive.” Since passage of the Council’s mainstem amendments to the fish and wildlife (fish and wildlife) program, Montana has been trying to implement the experimental summer flow regime for Libby and Hungry Horse, he explained. We’ve tried to address this through the TMT without success, Hines said. Last week, Montana submitted a request to the TMT, which ultimately was bumped up the ladder to the Federal Executives, he said. During a conference call Monday, comments were made “that gave the Federal Executives pause as to whether the Council was in support of the SOR,” Hines continued. We have drafted a letter for the signature of the chair, saying that the SOR is consistent with the Council’s mainstem amendments, he stated.

This draft letter says the operation would have significant benefits for resident fish in the reservoir without doing harm to anadromous fish, Derfler said. Could you quantify the benefits to resident fish? he asked. Experts in the area have used models that indicate there would be significant biological benefits, such as improvements in the food chain for resident fish, and they have put measures in place to test that hypothesis, Hines replied. The mainstem amendments set this up as a hypothesis to test, and the Independent Scientific Review Panel (ISRP) said the proposed monitoring is adequate to test the effect of the operation on resident fish, Hines added.

We couldn’t quantify this in terms of numbers of resident fish, Bartlett acknowledged. But the test will show whether there is benefit and biological improvement, he said.

We lack documentation about whether there will be an effect on anadromous fish, and we need assurance from the federal agencies about that, Karier said. He suggested two changes in the letter, the first to change the phrase “consistent with the Council’s fish and wildlife program” to “not inconsistent” with the program. The second was to insert a paragraph asking for written assurance from NOAA Fisheries that this operation “is not expected to have an adverse effect on listed salmon and steelhead” and that adequate monitoring is in place to assure this expectation is met. I’d favor that change, Hines agreed.

Kempton said the new language asks for assurances NOAA Fisheries has said it can’t provide without 200 to 400 years of experiments at a cost of millions of dollars a year. We’re asking the agency to say “they do not *expect* an adverse effect,” Karier responded. I don’t think that’s a standard that’s too high, he said.

Eden asked for a delay in finalizing the language. This request is very time-sensitive, Council chair Judi Danielson responded. We need to relay the results of the decision to the Corps well before the close of business today, Hines added.

I’m concerned about the timing of raising this issue, Eden said. I saw this letter five minutes before the start of the meeting, and I’ve since received an explanation of the events that led to it, she said. Oregon does not believe the proposed operation is consistent with the mainstem amendments, Eden stated. “If we sign on to this, we will be amending the mainstem amendments with a five-minute conversation,” she said. I can’t support this, even with the language proposed by Washington, Eden stated.

We believe what Montana is proposing *is* consistent with the mainstem amendments, Bartlett responded. The difficulty in determining downstream effects may not be what we envisioned when the amendments were adopted, but that does not make the proposal inconsistent, he said.

The Council heard from NOAA Fisheries' director Bob Lohn about the difficulty of determining the effect on the system of the small amount of water that would be involved with the proposed Montana operation, Bartlett said. This is clearly *not* a change to the mainstem amendments, Hines added.

I support the letter and would encourage stronger language than the Washington language would provide, Kempton stated. When we wrote the mainstem amendments, we were frustrated with the U.S. Fish and Wildlife Service (USFWS) for not seriously implementing the BiOp measures for listed resident species below Libby and Hungry Horse, he said. The experiments in the lower river to determine the effects of this would cost too much and take hundreds of years, Kempton pointed out. The language in the Montana request is consistent with the mainstem amendments, he said.

I support the letter as amended by the Karier language, Larry Cassidy said.

Eden asked what assurances the Corps and the Bureau of Reclamation had sought during the Federal Executives' call. The Corps said it did not object to the SOR operation, but that "the clock is ticking" on an arrangement that would have to be made with Canada to carry it out, Witt Anderson of the Corps responded. We also said we need in writing NOAA Fisheries' determination that it is consistent with the 2000 BiOp, and we said we need something from USFWS on bull trout, he said. We subsequently learned we did not need anything from USFWS, Anderson added.

Can we give assurance that the Montana SOR would not adversely affect listed salmon? No, we cannot, Rob Walton of NOAA Fisheries told the Council. The science at this point does not allow us to give that kind of assurance, he said.

Karier's proposed language doesn't ask NOAA Fisheries to assure there will be no effect, but to assure that "the expectation" is there would be no adverse effect, Bartlett pointed out. There's a big difference, he said.

In terms of monitoring, we have difficulty seeing the difference in effects with a volume of 50 kcfs versus 150 kcfs, Anderson pointed out. From our perspective, it's extremely difficult to get an experimental design that could tell you the effects with a volume as low as what you are talking about with this operation – "we get that amount of leakage at a dam," he stated.

After postponing action for a couple of hours, the Council returned to the debate. "I could not effect a compromise that would allow me to support this," Eden stated. Oregon's position is that there would not be adequate research going on in the lower river to assure that the operation does not harm anadromous fish, she said.

Derfler said he had been instructed by his governor not to support the letter. The governor said this was not an attack on Montana, but he felt Oregon could not support this because of the potential for effects in the lower river, he explained.

Hines said he was disappointed in Oregon's position. The research requirement that is being put in place by Oregon "is an impossible bar to meet," he stated. We are concerned that we will never be able to meet that bar, Hines added.

I agree with John Hines and would express even stronger disappointment in Oregon, Bartlett stated. “They’ve set an impossible bar for us to meet,” he indicated. It is wrong not to implement something we agreed to in our fish and wildlife program, Bartlett said.

Eden responded that she did not intend Oregon’s position as a bar and thought there were things that could be done as a remedy.

“I’m concerned about red herrings, I’m concerned about this body, and I’m concerned about our decisionmaking,” Danielson stated. This is “the ultimate in ridiculousness,” she said of the dissent. We’re talking about “a miniscule amount of water,” and “we’re talking about testing that cannot be done,” Danielson said. I have great frustration over reaching this point – “there are decisions made in the TMT that have much more impact than this,” she stated.

Bartlett offered a motion that the Council send a letter, amended by the Washington language, to NOAA Fisheries indicating that the Hungry Horse and Libby operations are consistent with the Council’s mainstem plan. Hines seconded the motion. Karier pointed out that Washington is not endorsing the operation, but saying it is not inconsistent with the mainstem amendments. We reserve the right to support or oppose it, depending on NOAA Fisheries’ response, he said. The motion carried on a 6 to 2 vote, with both Oregon members voting no.

The Council meeting adjourned at 12:40 pm on July 15.

Approved August 17, 2004

/s/ Melinda S. Eden

Vice Chairman

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