



COLUMBIA BASIN FISH AND WILDLIFE AUTHORITY

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Final

Coordinating and promoting effective protection and restoration of fish, wildlife, and their habitat in the Columbia River Basin.

The Authority is comprised of the following tribes and fish and wildlife agencies:

Burns Paiute Tribe

Coeur d'Alene Tribe

Confederated Salish and Kootenai Tribes of the Flathead Reservation

Confederated Tribes of the Colville Reservation

Confederated Tribes of the Umatilla Indian Reservation

Confederated Tribes of the Warm Springs Reservation

Confederated Tribes and Bands of the Yakama Nation

Idaho Department of Fish and Game

Kootenai Tribe of Idaho

Montana Fish, Wildlife & Parks

National Marine Fisheries Service

Nez Perce Tribe

Oregon Department of Fish and Wildlife

Shoshone-Bannock Tribes of Fort Hall

Shoshone-Paiute Tribes of Duck Valley

U.S. Fish & Wildlife Service

Washington Department of Fish and Wildlife

Coordinating Agencies

Columbia River Inter-Tribal Fish Commission

Upper Columbia United Tribes

Compact of the Upper Snake River Tribes

DATE: May 7, 2008
TO: CBFWA Members
FROM: Brian Lipscomb, CBFWA
SUBJECT: Final Action Notes for the April 2, 2008 Members Meeting

Columbia Basin Fish and Wildlife Authority (CBFWA) Members Teleconference Wednesday, April 2, 2008 @ CBFWA Office, Portland OR

Support material is posted at http://www.cbfwa.org/committee_main.cfm.

Final Action Notes

Attendees: Karl Weist, NPCC; Mark Bagdovitz, USFWS, Brian Lipscomb, Jann Eckman, Tom Iverson, Neil Ward, Dave Ward, Pat Burgess, CBFWA

By Phone: Chairman Larry Peterman, MFWP; Lawrence Schwabe, BPT; Ronald Peters, Cd'AT; John Platt, CRITFC; Lynn DuCharme, CSKT; Paul Ward, YN; Gary James, Jay Minthorn, CTUIR; Brad Houslet, Ron Suppah, Elmer Ward, CTWS; Paul Kline, IDFG; F&W Director Sue Ireland, KTOI; Joe Mentor, Mentor Law Group, PLLC; Dave Statler, NPT; Elizabeth Gaar, Ritchie Graves, Rob Walton, NOAA Fisheries; Tony Nigro, ODFW; Claude Broncho, SBT; Nate Pamplin, WDFW

Time Allocation:	Objective 1. Committee Participation	100%
	Objective 2. Technical Review	%
	Objective 3. Presentation	%

ITEM 1: Introductions and Approve Agenda

Action: The Members approved the agenda as presented. No objections.

ITEM 2: Final Draft Program Amendment Recommendations and Transmittal Letter

Tom Iverson, CBFWA, reviewed the substantive changes requiring Members approval.

Section 1.5 Integrate the Program with the Plans of the Fish and Wildlife Managers (including Endangered Species Act)

NOAA Fisheries would like a sentence added at the end of the second paragraph: "These specific ESA recovery plan components will be utilized during the project selection process." (This was previously added but inadvertently dropped from the March 18th version.)

Action: The Members added the following sentence to the end of the second paragraph of Section 1.5: "These specific ESA recovery plan components will be utilized during the project selection process." No objections.

Motion Discussion: Tony Nigro, ODFW, suggested that "utilized" be replaced with "considered."

Action Amended: The action was amended to change "utilized" to "considered" within the sentence. No objections.

NOAA Fisheries submitted a list of proposed modifications to the amendment document:

[http://www.cbfwa.org/Committees/Members/meetings/2008_0402/NOAArecommendations\(Ma](http://www.cbfwa.org/Committees/Members/meetings/2008_0402/NOAArecommendations(Ma)

[rch%2031st\).doc](#)

Section 1.8 Clearly Define BPA’s Obligations in the Program, Consistent with the Northwest Power Act

NOAA proposed the removal of the last sentence: “The analysis by the fish and wildlife agencies and Tribes is an illustration of the linkage between impacts of the FCRPS and potential offsite mitigation actions.” Rob stated that the reason for this request is because the analysis has not been reviewed and most of our recommendations in the CBFWA document don’t hinge on that analysis.

Action: The Members deleted the sentence as requested by NOAA. No objections.

Section 2.1.2 Biological Objectives

Tom Iverson advised that initially NOAA requested a change to this section but decided to withdraw their request. Rob Walton, NOAA, explained that the issue is the smolt to adult return interim objective, which has been the subject of fairly intense debate. One observation is that this may or may not be achievable depending on ocean conditions. NOAA, in its own separate recommendations, will make a comment relative to ocean conditions. Rob clarified that NOAA will not propose a change in their own comments but will point out that this may not be achievable due to ocean conditions. In conclusion there were no changes made to Section 2.1.2.

Table 2.1.4. Hydrosystem-related strategies and measures

NOAA proposed an alternate Table 2.1.4.1. The proposed alternate condenses the three strategies in the current document into one strategy. Rob Walton, NOAA, stated that it is NOAA’s belief that the strategies as stated in the document are imprecise, inaccurate, or in conflict with the BiOp. (Go to proposed table on page five: [http://www.cbfwa.org/Committees/Members/meetings/2008_0402/NOAArecommendaions\(Ma rch%2031st\).doc](http://www.cbfwa.org/Committees/Members/meetings/2008_0402/NOAArecommendaions(Ma rch%2031st).doc).)

John Platt, CRITFC, asked why NOAA wants to remove latent mortality from the strategies and measures. Rob explained that the subject of latent mortality has a variety of perspectives and viewpoints and rather than trying to perfect that language NOAA opted for the universal language of “Manage to increase juvenile survival and adult returns” (which includes latent, delayed, timing, etc.).

Tony Nigro, ODFW, commented that delayed mortality has not been lost as it is included under limiting factors. Tony requested that NOAA consider changing 2.1.4.1. Strategy to state: “Manage to increase juvenile survival, juvenile passage, and smolt-to-adult returns.” Rob stated that NOAA would agree to Tony’s suggestion.

Elmer Ward, CTWS, requested under 2.1.4.1. Strategy that NOAA insert “hydrosystem” after the word “manage.” NOAA agreed to the change.

Claudio Broncho, SBT, commented that SBT was in agreement with this section in its previous version. Claudio added that it appears a lot of changes were made to this section to end up with much of the same information as was in the table in the beginning.

Action: The Members agreed to the requested changes by NOAA and the suggested changes by Members to 2.1.4.1 Strategy within the table.

Motion Discussion: Gary James, CTUIR, commented that upon doing a comparison of the old and new versions, all the previous general measure language is mentioned in the new. The only specific language missing is the reduced delayed and latent mortality. It seems that there should be a measure equivalent to the old strategy. The Members deferred Gary’s comment until the discussion of the table’s strategies and measures.

John Platt, CRITFC, stated concern that deleting this language may send the wrong message to the Council by creating an assumption that we no longer believe that this is a problem. John stated that he does not think the agencies and Tribes would agree with that. Tony Nigro, ODFW, stated that he understood the concern about not specifically referring to delayed and latent mortality in the strategy section and the

preference would be to retain it in that section, but for the sake of consensus the strategy statement regarding smolt to adult returns basically deals with the latent mortality issue, i.e., delayed and latent mortality is identified as a limiting factor in the revised table.

Tony Nigro, ODFW, suggested approving changes to the entire section all at once. Chairman Peterman agreed and directed that the motion to accept changes within the table under 2.1.4.1 be withdrawn.

Motion Withdrawn: The following motion was withdrawn: “The Members agreed to the requested changes by NOAA and the suggested changes by Members to 2.1.4.1 Strategy within the table.”

Members will approve changes to the entire section after completing their review.

Dave Statler, NPT, stated that he appreciates the fact that most of the language that was in the original table was retained but some mention should be made with regard to delayed and latent mortality and included in the general measure section as well.

Rob Walton, NOAA, suggested that in the General Measures column, Section 2.1.4.1d, that “and bypass” be deleted and add in its place “improve bypass survival.” The measure would read “Reduce Turbine passage and improve bypass survival.”

Brian Lipscomb communicated that to address Gary James and Dave Statler’s concerns and comments to address latent mortality, a suggested change could be added to the General Measures section of the table. NOAA agreed to the addition of 2.1.4.1.f: “Reduce delayed and latent mortality of juveniles.”

Rob Walton and Ritchie Graves, NOAA, requested discussion on 2.1.4.1.e: Implement “spread the risk” transportation. Ritchie stated that with all the work done over the last few years and the additional information gained in last 4-5 years with increased PIT-tags, NOAA does not think that spread the risk transportation is appropriate anymore. We know more about how SARS of transporter versus in-river fish vary within season and it is our intent through the BiOp to take advantage of that to try to increase overall SARS of especially Snake River spring Chinook. Ritchie stated that NOAA could support “align transport strategies with SAR information.”

Dave Statler, NPT, stated that he was not questioning that more information is available but that is not across the board for all. In certain situations, particularly with Snake River fall Chinook, there is much uncertainty, and at minimum a spread the risk strategy is appropriate.

Tony Nigro, ODFW, agreed that spread the risk has different interpretations. Tony suggested “Manage risk associated with transportation.” NOAA agreed to the revised language.

Action: The Members approved Table 2.1.4 as discussed and revised. No objections.

Section 2.1.5.3 PIT Tag Table

NOAA requested a change to the first paragraph of the section. After some discussion the Members agreed on the following paragraph:

PIT-tagging to support Level 2 monitoring of salmon and steelhead will occur in three general release areas: the Snake River and its tributaries, the Columbia River and tributaries upriver from Priest Rapids Dam, and the Columbia River and its tributaries downstream from Priest Rapids Dam. Table 2.1.5.3.1 provides initial estimates of tagging levels that would enable monitoring of status and trends and estimates of overall FCRPS effects. These estimates build on and include ongoing and existing programs. Specific PIT tag release numbers may be modified under the adaptive management framework.

Action: The Members approved the alternative paragraph in 2.1.5.3. No objections.

Section 2.1.5.5. Life Cycle Monitoring

Tom Iverson advised that NOAA is proposing to add “Consistent with the FCRPS

BiOp” before “Bonneville will Fund” at the beginning of the first paragraph.

Rob Walton added that he would like to amend this request to delete the “fund” to “support.” Rob said the reason for this is that there are other sources of funding for life cycle monitoring besides Bonneville.

Tony Nigro, ODFW, commented that “report” is weak and requested a substitute of “Bonneville will fund elements of the life cycle monitoring. “

Action: The Members accepted the change from “Bonneville will fund” to “Bonneville will fund elements of...” No objections.

The remaining proposed changes by NOAA for Section 2 were editorial in nature.

Section 2.3.4A Fund Operational Loss Assessments

Kootenai Tribe of Idaho requested that “(direct and indirect)” be removed from the first sentence because they feel the use here is vague. The intent was to take this out in the beginning but it was missed.

Action: The Members agreed to delete “(direct and indirect)” from the first sentence. No objections.

Section 3.0 Anadromous Fish

CBFWA staff presented a memo to the Members proposing changes to Section 3 of the amendment recommendations:

[http://www.cbfga.org/Committees/Members/meetings/2008_0402/Section3recommendations\(April1st\).doc](http://www.cbfga.org/Committees/Members/meetings/2008_0402/Section3recommendations(April1st).doc).

Dave Ward, CBFWA, advised that at the beginning of Section 3, a paragraph has been inserted that briefly summarizes the intent of Section 3, with text indicating that the subbasin-specific objectives are not comparable (or additive) to the basin-wide objectives for a number of reasons. This addition was discussed previously by MAG and Members.

Mark Bagdovitz, USFWS, stated that presumably we want Section 3 inserted into the Program and presumably we want any introductory or explanatory language inserted into the Program as well. The language that has been crafted and in particular the sentence Dave Ward pointed out is an important explanation and should be part of the Program.

The Members briefly discussed the language in the amendments relative to subbasin plans. Brian Lipscomb advised that CBFWA is not suggesting that the subbasin plans be revised according to what we are recommending but instead we are stating that this is a summary of the existing plans which includes recovery plans and the existing subbasin plans and as such organizes the various plans into one table.

Dave Statler, NPT, referenced Amendment 1.3 in the recommendations which specifically state that the subbasin plans remain a part of the Program in their entirety. Brian Lipscomb confirmed that the intent of language in Amendment 1.5 is to convey that the subbasins plans will remain unchanged and will be taken into context with other distinct plans. Brian further explained that the updated summaries provided are intended to be included in the Program and used in implementation processes. The updated summaries reflect the most current set of plans that we are all working from whether they are recovery plans or individual management plans. We are not saying that the subbasin plans should be tossed out and we are not saying that we should go through another planning process, but we are saying let’s move forward with implementation using the subbasin plans with the updates because they include the most recent information from an objectives, limiting factors and measures standpoint.

Brian summarized that the action is to consider adding the introductory paragraph in Section 3.0 and add the appropriate language to the tables in Section 3 that is consistent with this introductory paragraph.

Action: The Members accepted the addition of the introductory paragraph and the update of

the Section 3 tables to reflect consistency with the introductory paragraph. No objections.

Motion Discussion: Mark Bagdovitz, USFWS, asked if it may be worthwhile at some point to explain to the NPCC what we've intended here so there is no misunderstanding of what we are doing as it relates to the subbasin plans. Brian Lipscomb suggested that it would be best to address these points in the presentation in April at the NPCC meeting.

Section 3.1.3.1.

NOAA Fisheries is suggesting a new title for Strategy 3.1.3.1. "Operate the FCRPS to more closely approximate the shape of the natural hydrograph and to enhance flows and water quality to improve juvenile and adult fish survival." This title is intended as a clarifying comment.

Mark Bagdovitz, USFWS, suggested that "FCRPS" be changed to "hydrosystem."

Action: The Members accepted the change from "FCRPS" to "hydrosystem." No objections.

Section 3.9.3. Lamprey conservation initiative and efforts needed for success

Dan Diggs, USFWS, requested that a paragraph be added to Section 3.9, Pacific Lamprey, stressing the importance of the USFWS lamprey conservation initiative, and stressing that efforts in addition to those of the Program are needed for success. See page 1 and 3 of the linked document:

[http://www.cbfwa.org/Committees/Members/meetings/2008_0402/Section3recommendations\(April1st\).doc](http://www.cbfwa.org/Committees/Members/meetings/2008_0402/Section3recommendations(April1st).doc).

Dave Statler, NPT, suggested that in the second sentence (The Plan...) that the word "should" be changed to "will."

Mark Bagdovitz, USFWS, added that the last sentence in the paragraph was added as a result of conversations with Bonneville. This was inserted at the request of Bonneville. They have stated willingness for action toward lamprey but they are hesitant if they are the only ones making the effort. Bonneville has stated that they will move forward with lamprey if they get assistance from the Tribes, states, and federal agencies as well.

Dave Statler In Section 3.9.3 there is no direct verbiage identifying BPA to fund these measures but in other sections there are. This is the only place in the Program recommendations where the mainstem lamprey are addressed; wouldn't it be appropriate to be more explicit on the recommendations for Bonneville to fund. Is that required or is it inferred that Bonneville funds all of the stuff that is being recommended.

Joe Mentor stated that where we use the term BPA will fund in an active voice, and we have in many cases, it is clear that this goes to the consistency provision dealing with the use of the Bonneville Fund. The NPCC does not have that authority for expenditures by any other entity. When you say "should be funded," you are leaving it to interpretation whether you are directing BPA through the consistency provisions in (4)(h)(10) of the Northwest Power Act or if you are leaving it as discretionary.

Based on Dave Statler and Joe Mentor's comments, the Members questioned why the last sentence is needed. It is implied in many of the recommendations and measures in the Program and that success is going to depend upon efforts beyond what just the Fish and Wildlife Program brings to the table.

Action: The Members moved to adopt the paragraph in Section 3.9.3 without the last sentence requested by USFWS "The following strategies. . . funded through the Program."

Motion Discussion: Mark Bagdovitz, USFWS, stated objection to the motion; as a result, the motion failed.

Action: Mark Bagdovitz moved to include the entire paragraph inserted into Section 3.9.3 in its entirety. The motion was not seconded. Motion failed.

Action: Mark Bagdovitz moved to insert the paragraph into Section 3.9.3 with the deletion of the last sentence beginning “The following strategies. . .funded through the Program.” suggested by USFWS. Seconded by Tony Nigro. No objections.

Mark Bagdovitz thanked the Members for their patience for the foregoing process.

Section 5 Amendments to the Implementation Provisions

Abstention to 5.1 Rob Walton, NOAA, advised that NOAA will abstain from Section 5.1 Implementation Funding Provisions. The reason given is that NOAA is reluctant to advise another federal agency how to conduct its financial business. Rob was instructed that NOAA did not need to object to 5.1 but must abstain.

Tom Iverson asked direction at how to characterize abstention. NOAA requested that no reason be given. Tony Nigro, ODFW, suggested that the abstentions be placed as a footnote to Section 5.1.

Abstention to 5.1 **Abstention to 5.1** Mark Bagdovitz, USFWS, stated that USFWS will also have to abstain from Section 5.1 for similar reasons as NOAA (i.e., reluctance to advise another federal agency how to conduct its financial business).

Joe Mentor questioned if it was the intention of USFWS and/or NOAA to submit recommendations on this subject matter? Both USFWS and NOAA stated their agencies were not intending on submitting recommendations on this subject. Joe suggested that since there is no inconsistent or conflicting recommendation, that we are aware of, it would be best to keep the abstention wording simple.

Section 5.2

Tom Iverson advised that CRITFC is proposing alternate language to replace all language in section 5.2.

Brian Lipscomb advised that Section 5.2 and 5.2.1 are general descriptions of a project solicitation and implementation process. At the March 28th Members meeting, Gary James, CTUIR, offered additional clarifying language. Brian stated that based on conversations among entities contemplating specific recommendations or Memorandum of Agreements (MOA) with, it appears that it may be best to put in placeholder language.

John Platt, CRITFC, advised the language requested by CRITFC is suggesting a thorough overhaul of the process to take place during the consultation process.

Nate Pamplin, WDFW, questioned the appropriateness of the language in the opening sentence. Nate commented that this was a late entry into the process and Members have not had time to review and digest the language.

Gary James, CTUIR, reiterated that clarifying language for this section evolved late in the March 28th Members teleconference. Gary added that the language being suggested by CRITFC is an enhancement to what was offered on March 28th.

Tony Nigro, ODFW, stated that he was not comfortable with the language relative to the ISRP at this late date as it does not allow time for review and vetting through the agencies.

After considerable continued discussion, the Members decided to strike all language from 5.2 and 5.2.1 and replace it with the following under Section 5.2 The Project Solicitation Process:

The fish and wildlife agencies and tribes intend to consult with BPA and Council to refine the project solicitation process during the Program amendment cycle. The agencies and Tribes expect that this consultation will be based on full recognition of their deference due under the statute, including the principles articulated in sections 4(h)(2), 4(h)(6), and 4(h)(8).

Action: The Members move to accept the revised paragraph as a replacement to all the existing language under amendment 5.2.

Gary James, CTUIR, offered that language other than “refine” be used. The Members offered “streamline and improve.” Tony Nigro revised his motion to accept the new language. No objections.

Rob Walton, NOAA, added that in the NOAA’s own recommendations, they intend to state that local recovery boards and stakeholder groups be included in the implementation process. Rob stated that he does not see this as a conflict but asked for Members’ feedback. Rob confirmed that the intent is coordination but not to have the groups review projects. Tom Iverson added that we make reference to coordination with the OR and WA recovery boards in Section 1.5 at the end of the first paragraph.

Action:

The Members moved to approve the amendments as an entire package and recommend it to the NPCC as it has been revised today. No objections.

The USFWS representative, Mark Bagdovitz, was not present in the room at the time the motion to approve the amendments as an entire package was passed.”

Transmittal Letter

NOAA Fisheries proposed revisions to the Transmittal letter on April 1st. In the fourth paragraph, NOAA stated concern about the appendix not being fully reviewed and suggested language to that effect and in paragraph five, NOAA requested that “with some abstentions” be added after consensus in the first sentence.

After some discussion, NOAA agreed to the letter moving forward without their requested change in paragraph five. With regard to paragraph four, NOAA agreed to the verbiage “Also included with our recommendation is an appendix that includes supporting documentation as qualified by the statement on its cover page.” In addition, the Members revised the statement on the appendix cover to state “THE DOCUMENTS IN THE APPENDICES, AND IN SOME CASES, PORTIONS OF THE PRELIMINARY DRAFTS OF THESE DOCUMENTS, WERE DISCUSSED BY THE FISH AND WILDLIFE AGENCIES AND TRIBES IN THE DEVELOPMENT OF OUR RECOMMENDATIONS BUT ARE NOT A PART OF THE CONSENSUS RECOMMENDATIONS. THESE DOCUMENTS DO NOT NECESSARILY REFLECT THE VIEW OF THE AGENCIES’ AND TRIBES’ TECHNICAL, POLICY, OR LEGAL STAFF.”

Joe Mentor reviewed the changes to the letter and the appendix statement and did not state objection.

Action:

The Members approved the transmittal letter as reviewed. No objections.

Jann Eckman will email the letter to the Members the morning of April 3rd requesting that they provide an electronic signature or provide their signature via fax. CBFWA staff will then cut/paste the signature electronically into the transmittal letter.

ITEM 3**Assignment to the Members Advisory Group (MAG)****Action:**

The Members directed the MAG to reschedule the April 15th MAG Meeting to April 8th to develop a NPCC Presentation for the April 15-16th NPCC meeting in Whitefish, MT. No objections.

Chairman Peterman advised that he has MFWP Management Team meetings over those couple days and will not be able to attend the April NPCC meeting.

Upcoming Meetings:

The Next Members Teleconference is scheduled for May 7, 2008, 1:00-4:00 p.m.

Amendments Due to the NPCC on Friday, April 4, 2008

Next NPCC Meeting, April 15-16, 2008 in Whitefish, MT