



COLUMBIA BASIN FISH AND WILDLIFE AUTHORITY

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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 Department of Fish, Wildlife and 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: July 26, 2007
TO: CBFWA Members Advisory Group (MAG)
FROM: Mark Bagdovitz, USFWS and Brian Lipscomb, CBFWA
SUBJECT: Final Action Notes for July 17, 2007 MAG Meeting

MAG Teleconference

Tuesday, July 17, 2007 8:30 a.m. - 12:00 p.m.

@ Columbia Basin Fish and Wildlife Authority (CBFWA), Portland OR
The support material and reference documents for the meeting is posted at <http://www.cbfga.org/committees/Meetings.cfm?CommShort=MAG&meeting=all>.

Final Action Notes

Attendees: Mark Bagdovitz, USFWS; Phil Roger, CRITFC; Carl Scheeler, CTUIR; Brian Lipscomb, Tom Iverson, Ken MacDonald, Neil Ward, Dave Ward, Trina Gerlack, Pat Burgess, CBFWA

By Phone: Dale W. Chess, Cd'AT; Laura Gephart, CRITFC; Lynn DuCharme, CSKT; Brad Houslet, CTWS; Michele DeHart, FPC; Dave Statler, NPT; Gary Sims, NOAA Fisheries; Tony Nigro, ODFW; Doug Taki, SBT; Nate Pamplin, WDFW

Guests: Greg Delwiche, BPA; Bruce Schmidt, StreamNet
Via phone: Lynn Palensky, NPCC

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

ITEM 1: Introductions and Approval of Agenda

Action: • The MAG approved the agenda as presented. No objections.

IDFG and MDFWP were not in attendance; however, Brian Lipscomb reviewed the discussions and actions with Pete Hassemer, IDFG on July 20th, and received concurrence.

ITEM 2: Approve the June 19, 2007 MAG Meeting Draft Action Notes as Final

Action: • The MAG approved the 6/19/07 MAG meeting notes as final. No objections.

ITEM 3: Review revised draft CBFWA comments on U.S. Army Corps of Engineers (Corps) 2007-2001 Draft Lamprey Passage Plan

Dave Ward provided the background on the draft letter stating that the Lamprey Technical Workgroup (LTWG) and Fish Passage Advisory Committee (FPAC) were directed by the MAG to review the Corps passage plan and provide comment. The joint comments were compiled into what is now draft version #5. This letter was originally scheduled to obtain Members approval at the July 10th meeting; however, a considerable amount of comments came through from the MAG immediately before the Members meeting so the letter was redirected to the MAG for completion.

The MAG briefly discussed the edits that were requested to the letter and suggested additional edits as follows: 1) cc: the Corps' Walla Walla District and Division group, 2) incorporate a general policy level statement regarding developing performance standards and measures (into the 2nd paragraph of the letter as #1 of the recommendations)and, and 3) add a statement following the recommendations

requesting that the Corps work with the LTWG when developing Lamprey passage plans and strategies. Dave Ward advised that he would draft the edited letter allowing ample time for review prior to the August Members meeting.

Action: • The MAG moved to forward the draft comment letter with changes discussed for Members consideration at their August 1st meeting. No objections.

Action: • The MAG moved to assign the LTWG the task to develop a set of specific passage objectives and related performance standards and metrics for inclusion in the Corps Lamprey Passage Plan.

Motion Discussion: Within the motion, “standards” reflects the expected values of the measures as they relate to the objectives or specific quantitative aspect.

CBFWA Comments to Corps (version #5 presented to the MAG):

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/LampreyPassageCorps_CBFwAcomments_10July2007DRAFTver5.0.doc

U.S. Corps of Engineers Plan for Addressing Pacific Lamprey Passage:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/LampreyPassagePlanCorpsMarch-26-2007Draft.doc

ITEM 4: Bonneville Power Administration (BPA) *In lieu*

Greg Delwiche, BPA, began by reprising the *in lieu* process to date stating that BPA released preliminary *in lieu* ratings for new project proposals in August 06 and for existing proposals in October 06 and subsequently modified some of the ratings as a result of discussions with project sponsors. Greg stated that BPA used the *in lieu* ratings when making their project funding decisions in February 07. In that letter BPA committed to entering into regional collaborative dialogue on the *in lieu* policy.

Greg stated that the *in lieu* provision is a unique part of the Power Act relative to other fish and wildlife provisions in terms of a role reversal between BPA and the NPCC. Greg added that under most elements of the F&W language of the Power Act, BPA is required to be consistent with the NPCC; however, the *in lieu* provision applies specifically to BPA. Greg stated that it is BPA’s view that the NPCC could not develop language in the Program that would require the administrator (BPA) to violate the *in lieu* provision of the Power Act as the *in lieu* provision applies to the Administrator. Greg stated that the consistency provision does not give the NPCC grounds to pass an amendment that would require BPA to violate elements of the law that applies to BPA.

Greg provided a BPA guidance document containing information and a series of policy questions for the purpose of gaining input from CBFWA and other regional program stakeholders:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/BPA_In_lieu%20InterpretativeKey_Ratings_Sys_GDelwicheJune-07.doc.

Greg stated that BPA intends to take feedback received and develop draft policy positions that will be distributed as a modified version of the document by late summer/September followed by a formal comment period. At the close of the formal comment period, they will review the input and finalize the document for release in late autumn (Nov).

Additional comments by Greg Delwiche:

- The intent of the *in lieu* provision was to make sure there was more mitigation than had occurred prior to the passage of the Act. When BPA speaks of cost-share as one way to handle over-lapping authorities and responsibilities, they see it as an approach toward a bigger mitigation program.
- With regard to FCRPS nexus and under the Act, BPA has the discretion to fund offsite mitigation. That offsite mitigation can occur even if BPA is mitigating for a limiting factor that is not related to the existence and operation of the FCRPS. For example, funding restoration of degraded habitat. The degraded habitat is the limiting factor. FCRPS did not cause the degraded habitat but the effect to fish and wildlife populations downstream of the areas of the funded habitat improvement

activities creates a FCRPS nexus.

- This policy is intended to guide in situations that require a case-by-case determination.

Comments expressed by the MAG:

- This policy assumes that the mitigation responsibilities are defined under some other policy and that there has been a determination made as to who is responsible for a specific mitigation program.
- The *in lieu* determination could be complicated by different interpretations by BPA and others as to what their mitigation responsibilities are; however, if BPA and the regional Managers agree on what BPA's mitigation responsibilities are, it would be easier to determine whether or not a project raises *in lieu* issues.
- Implementation of this policy would be better informed by a clear delineation of BPA's mitigation responsibilities relative to other entities.
- The policy should state up front that the operating assumption is that there would be an independent or separate process by which the relative responsibilities of the involved parties had been determined followed by implementation of the policy.

Brian Lipscomb advised that the CBFWA draft *In lieu* Summary dated 12/14/07 detailing the impacts of the in lieu ratings to various projects that are part of CBFWA Members programs is also posted for review:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/In-LieuSummaryByCBFWA121406.pdf

- Action:**
- The MAG moved to task CBFWA Staff to develop an initial set of responses to the questions within the BPA draft document that reflects the content of today's conversation for review by the MAG at the August 21st MAG meeting and for Members endorsement in September.

Motion Discussion: Brian stated that CBFWA staff would attempt to get the response document out to the MAG electronically for review prior to the August 21st meeting.

ITEM 5: Science Policy Exchange Update

Science Policy Exchange Program:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/SciencePolicyExchangeEventProgram2007Sept12-13.doc

Update: Brian Lipscomb advised that the Science Policy Exchange is moving along. At the July 10th Members meeting, Rick Williams, Science Policy Exchange conference facilitator, provided an update on the steering committee process and what is planned for the sessions. Brian advised that the conference sessions would be structured around what hypotheses are in the program relative to the topics under discussion, although that is not articulated in the conference program layout and format. CBFWA staff presented a briefing paper to the Members at the July 10th meeting:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/SciencePolicyConference_IssueBriefingPaper.pdf.

Referencing a memo from the Fish Passage Advisory Committee (FPAC) technical staff to the NPCC:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/SciencePolicyExchangeMtg_FPACmemoToNPCC_070207df.pdf. Brian advised that the conference mainstem subcommittee met with FPAC regarding their input expressing the need to consider a weighted evidence

process for the Snake River Fall Chinook life history diversity issue. Although the weighted evidence approach is a good idea for Snake River Fall Chinook life history issue, there is not enough time for it to be established prior to the September conference.

Brian advised that the July 10th Members discussion resulted in an assignment back to the MAG and FPAC to develop and define CBFWA's commitment to the conference.

The Members instructed the MAG to work with NPCC's central staff to look within the existing F&W program and determine assumptions with regard to the topics, presenters, and overall participation. The Members requested that consideration be given to 1)

what hypotheses or management questions are currently within the Program, 2) review of the suite of presenters to determine if they are the appropriate presenters with regard to the specific topic areas, and 3) formulate how the agencies and tribes would participate in each of those areas given the format and layout.

The MAG was instructed to define the habitat, estuary, and ocean topics. FPAC was instructed to work on the mainstem topic with Jim Ruff, NPCC, serving as liaison between FPAC and the conference steering committee.

Discussion: Michelle DeHart, FPC, stated frustration and confusion regarding a different interpretation of the conference structure from Jim Ruff, and discussed within FPAC, from what Brian outlined. Michele requested that the MAG provide clear direction to FPAC on how to proceed.

Michele's request for clarification prompted a lengthy discussion by the MAG resulting in the restating of the task assigned by the Members but with further clarification and direction that CBFWA go on record with an alternative agenda.

Action:

- The final assignment was clarified as follows: 1) Determine what hypotheses are implicitly or explicitly are/are not in the Program, and 2) Review the suite of presenters to determine if they are the appropriate presenters for the specific topic areas and provide feedback.
- In creating an alternative agenda, direct FPAC to identify additional topics that would reflect the full suite of hypotheses contained within the mainstem amendment, not just the two topics planned by the NPCC. Whether the NPCC chooses to spend any time on the other topics is a choice for them to make but provide the feedback that the two planned topics are far from a comprehensive review of what is necessary to inform the next amendment process as it relates to mainstem.

The third part of the assignment originally discussed at the Members meeting: *"Formulate how the agencies and tribes would participate in each of those areas given the format and layout"* will go back to the Members for further consideration and discussion at the policy level.

Due to time constraints, further discussion and finalization of this assignment will be completed electronically rather than wait until the MAG meeting on August 21st. Brian Lipscomb will clarify in writing the mainstem assignment for FPAC, as requested by Michele DeHart, and will include FPAC and the MAG Members in the email. CBFWA staff will proceed with the assignment on the topics of habitat, estuary, and ocean.

Update: *The following is the text of the email Brian Lipscomb sent to FPAC:*

Working from the understanding that given time limitations the Science-Policy Exchange would provide the best benefit to the region if it followed a focused outline that:

- 1. Identifies the assumptions or hypotheses contained either explicitly or implicitly in the current NPCC Fish and Wildlife Program;*
- 2. Presents the scientific information that has become available since the current program was written that speaks to these assumptions; and,*
- 3. Provides opportunity for the fish and wildlife agencies and tribes to discuss policy implications of this science.*

At the July 17, 2007 MAG meeting action was taken assigning CBFWA staff and FPAC to:

- 1. Identify the assumptions or hypotheses contained either explicitly or implicitly in the current NPCC Fish and Wildlife Program. ; and,*
- 2. Review the suite of scientific presentations contained in the current draft synopses for these sessions and comment on the completeness and appropriateness.*

The FPAC is to focus their efforts on the Snake River Fall Chinook Life History Diversity, Mainstem Passage Survival Rates, and Survival estimates comparison of

lower river and above Bonneville Dam. The CBFWA staff will focus their efforts on the remaining topic areas of the exchange. If there are other topic areas that would also benefit from a science-policy exchange such as this please provide that information as well. Consolidated comments back to the MAG via e-mail by COB August 3, 2007 would be appreciated.

ITEM 6: Status Report from CBFWA Technical Committee Chairs

Brian Lipscomb advised that the technical committees are on track with information to be presented at the July 24-25th Amendment workshop. The Resident Fish Advisory Committee (RFAC) and Anadromous Fish Advisory Committee (AFAC) have been deliberating the linkages at the local level between objectives, limiting factors and threats, and measures/strategies. The Wildlife Advisory Committee (WAC) has a different approach because the Wildlife program is based on BPA's obligations; therefore, WAC is looking at the problems within the implementation of the Program as currently written.

Dave Ward added that as directed by the Members in the February meeting, the technical committees were to define the terms used in the amendment process. At the May 9th Amendment workshop, definitions for *biological objective* and *strategy* were agreed upon leaving *measure*, *limiting factor*, and *threat* to be defined. The MAG directed that a subcommittee (AFAC/RFAC chairs & members) develop the final three definitions.

Term Definitions:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/TermDefinitionsAFAC-RFAC_Final.doc

Action:

- The MAG moved to approve and adopt the definitions, *Measure*, *Limiting Factor*, and *Threat* for use in the Amendment workshop next week.

Motion Discussion: Dave Statler, NPT, referenced *limiting factors* and *threat*, stating that both have the word "condition" within the definitions and asked that the MAG consider a distinct separation between the *limiting factor* (life history association) and *threat* (situation or activity that causes that limiting factor). Dave Ward explained that the reason "condition" has been used in the definition of *threat* is because some threats are left over from legacy issues, not current activities.

Amended Motion:

- The MAG modified the motion to approve the definitions but to substitute "legacy" in place of "condition" under the definition of *Threat*.

Motion Discussion: Gary Sims questioned the use of "legacy" and suggested that if used, it should be used with parentheses, as he is not convinced that all conditions are due to legacy conditions.

Amended Motion:

- The MAG modified the motion again to approve the definition for *Threat* adding "legacy" in parentheses: "Activity or condition (e.g. legacy) that contributes to or causes one or more limiting factors." The motion passed without further objection.

ITEM 7: Amendments Workgroup Update

Brian Lipscomb advised that the Amendment workgroup continues to meet and conversations have been positive. CBFWA staff has requested that the conversation be expanded to include resident fish and wildlife before the group discusses linkages from the local to the programmatic level.

The customer groups provided a draft concept paper with the purpose to provide a structure for defining FCRPS responsibility used in conjunction with Regional Fish and Wildlife Biological Objectives. The two key principles of their concept include 1) FCRPS responsibility is based on FCRPS impacts, and 2) the measurement of mitigation success is not based on population numbers. The concept piece identifies specific FCRPS impacts, a mitigation approach for addressing the impacts, and a measurement for how progress would be determined.

CBFWA staff will provide a presentation of the concept pieces at the July 24-25 workshop in Spokane and develop a response to the customer groups for the next

Amendments workgroup meeting scheduled for July 26th.

Brian added that the original objective was to also interact with other community entities (Save our Salmon, Sport Fishing Industry Assn.). Although prior conversations with those entities took place, they have not been involved recently, although the opportunity has been open to them. Brian said that he would contact them to revisit their participation.

Tony Nigro added that with regard to the concept paper that is on the table by the customer groups, he cautions CBFWA staff to be careful in their response within that forum making sure that they do not speak on behalf of CBFWA Members.

ITEM 8: Northwest Power and Conservation Council (NPCC) Consultation Panel

Brian Lipscomb advised that the NPCC has created an opportunity for “Consultation Panels,” providing a forum to discuss issues with regard to the Amendment process. MAG members stated concern about the term “consultation” because of the legal implications around the use of the word consultation as it is applied within the Power Act. Lynn Palensky advised that “consultation” has been dropped from the title and it is now just “Panel.”

CRITFC has requested presentation time for the August Panel discussion and Lynn asked if the others could let her know who will be attending, for the sake of coordination. Brian advised that CBFWA is scheduled to provide a presentation in the August NPCC Panel. The Members have directed the MAG to develop a presentation for their review at the August 1st Members meeting. The presentation will be developed at the July 24-25th workshop and coordinated with CRITFC’s presentation.

ITEM 9: Data Management Framework Subcommittee (DMFS) /Strategy Update

Tom Iverson advised that at this stage of the DMFS process, the DMFS is focused on writing a strategy document containing the context and priorities for F&W Program data management projects. A recent update laying out a general outline of the strategy document was provided to the NPCC

(http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/DataMgmt_NPCC_07-2007-finalNED.pdf). The strategy document will highlight what is driving the data management needs, what the current data content/business rules are and what systems are being used, and what is needed to fill the existing gaps (the SOTR fills the first gap). The DMFS anticipates completing the strategy document for review by the MAG at the August 21st meeting. Project recommendations will accompany the data strategy.

The DMFS is meeting on Thursday, July 19th to specifically review the StreamNet and Northwest Habitat Institute projects. The DMFS requested MAG feedback prior to their meeting on July 19th and provided a guidance document containing questions for MAG comments.

Action:

- The MAG moved to direct the MAG members to 1) provide guidance to CBFWA staff participating in the StreamNet discussion to ensure that the draft SOW meets the SOTR and CSMEP data needs as a priority (but not exclusively). Upon providing that guidance, the MAG requests the opportunity to review a rough draft of StreamNet’s SOW before it is submitted, and 2) provide Tom Iverson feedback on the seven questions presented in the DMFS guidance document: http://www.cbfwa.org/Committees/MAG/meetings/2007_0717/DMFSmemo071607Ver1.pdf. Feedback should be emailed to Tom at tom.iverson@cbfwa.org.

Motion Discussion:

Phil Roger stated that StreamNet should be looking at meeting the data needs of the CSMEP type function as something will be in place that addresses those needs.

Bruce Schmidt asked for detailed guidance from CSMEP on their needs. Brian Lipscomb added that the CSMEP steering committee is working out the details and Ken MacDonald will work directly with Bruce.

Nate Pamplin asked if anything is being considered regarding requests for additional funds. Tom replied that a high/med/low budget request for StreamNet will be

suggested providing funding level options to the NPCC with the understanding that the funding level will determine the amount of information available for decision making. Brian Lipscomb stressed the need to proceed without delay as the 20M surplus has been reduced to 5M because of decisions being made in other arenas. Brian stated that Tom Iverson would provide a summary on that topic at the August MAG meeting. The motion was passed without objection and further discussion.

ITEM 10: Land Managers Meeting Update

Brian Lipscomb advised that over the last couple years, the Land Managers of the United States Forest Service (USFS) and Bureau of Land Management's (BLM) participation within CBFWA has been slight; however, it is anticipated that these Member groups will participate in the September Members meeting. USFS participation will most likely include representatives from Region 6 and possibly Region 1.

ITEM 11: Next Meeting

The next MAG meeting is scheduled for August 21, 2007.

The next CBFWA Amendment Strategy Work Session is scheduled for July 24-25, 2007 in Spokane Valley, WA.

The next NPCC meeting is scheduled for August 14-16, 2007 in Spokane, WA.

The summer CBFWA Members meeting is scheduled for September 18-19, 2007 in Polson, Montana.

Meeting Adjourned.