



# 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 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: March 3, 2008  
TO: Members Advisory Group (MAG)  
FROM: Brian Lipscomb, Executive Director, CBFWA  
SUBJECT: Final Action Notes for the February 19, 2008 MAG Meeting

## Members Advisory Group (MAG) Meeting Tuesday, February 19, 2008 @ CBFWA Office, Portland OR

*Support material for the February 19, 2008 MAG Meeting is posted at:*  
<http://www.cbfgwa.org/committees/Meetings.cfm?CommShort=MAG&meeting=all>

### Final Action Notes

**Attendees:** Brian Marotz, MDFWP; Lawrence Schwabe, BPT; Gary James, CTUIR; Brad Houslet, Elmer Ward, CTWS; Dave Statler, NPT; Doug Taki, SBT; Brian Lipscomb, Kathie Titzler, Tom Iverson, Ken MacDonald, Neil Ward, Dave Ward, Pat Burgess, CBFWA

**By Phone:** Laura Gephart, CRITFC; Lynn DuCharme, CSKT; Angela Sondena, NPT; Elizabeth Gaar, NOAA Fisheries; Tony Nigro, ODFW; Tom Rien, ODFW; Mark Bagdovitz, USFWS; Mike Faler, USFWS; Nate Pamplin, WDFW

**Guest:** Joe Mentor, Mentor Law Group, PLLC

**Time Allocation:**

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

### **ITEM 1: Introductions and Approve Agenda**

The gavel was passed from Mark Bagdovitz, US Fish and Wildlife Service (USFWS), to Brian Marotz, Montana Department of Fish, Wildlife, and Parks (MDFWP).

Elizabeth Gaar, National Oceanic and Atmospheric Administration (NOAA), expressed her appreciation for the great job Mark Bagdovitz has done over the last year in his role as MAG Chair. Brian Lipscomb also expressed his gratitude to Mark Bagdovitz for keeping everyone heading in the right direction.

**Action:**

- The MAG approved the MAG Chair rotation from USFWS to MDFWP and the rotation of MAG Vice-chair from MDFWP to Confederated Tribes of the Warm Springs Reservation (CTWS). No objections.

**Discussion:** Chairman Marotz suggested that the MAG implement a process of meeting face-to-face four times per year, and meeting remotely the remainder of the year. The remote meetings would be structured around the use of the online interactive tool WebEx. Chairman Marotz stated that in view of the Northwest Power and Conservation Council's (NPCC) recent recommendation of a 200K budget cut for CBFWA, reducing travel will lessen the effect of that deficit and in addition to the cost savings from decreasing travel, we will be reducing our carbon footprint. The remote meetings would no longer include an option to meet at the CBFWA Portland office; instead everyone would meet remotely, placing everyone on a level playing field. Chairman Marotz stated that it is hoped that MAG members on the perimeter will feel less disenfranchised. It is hoped that with only four face-to-face meetings each year, MAG members will make more of an effort to attend in person. This change will also promote efficiency by eliminating the downtime currently

experienced traveling.

Chairman Marotz added that he would also like to implement the elimination of word-smithing within the meetings to enhance productivity. To achieve this, MAG members will need to review the documents outside of the meeting time, compile their edits, and discuss the final product during the meeting.

Chairman Marotz also suggested that participants utilize the protocol of pressing the # key once on the key pad to be acknowledged for those participating remotely, and raised hands for those in the room. In a spirit to move through things faster, comments should be stated once and stated well. If something has been stated once, assume that it has been heard.

Brian Lipscomb added that the WebEx tool is most efficient when using the interactive board or when providing remote presentations. For MAG members that join the meeting via telephone conferencing but opt to not join via WebEx, Brian L. confirmed that documents will continue to be posted on the MAG website for reference and independent review during the meetings.

Summarized comments from the MAG members on the change in meeting protocol:

- MAG members must be willing to do their home work ahead of time to make the teleconference meetings more productive.
- Attempt to anticipate issues that require face-to-face interaction and plan as such, but be willing to be flexible in the event face-to-face meetings need to be called; however, that should be the exception rather than the rule.
- It is possible that this could create more disenfranchisement instead of less and may not accomplish the objective. Face-to-face meetings often promote a constructive approach in bringing out issues instead of MAG members remaining separate and stewing.
- Try this over the next year with the intent to re-evaluate where we stand.
- Don't wait a year to evaluate but do process checks as we go along in the event Members think we are dropping the ball or the distance meetings are not working for certain issues.
- This puts greater onus on the MAG members to ensure that they fully engage. It also puts greater onus on the Chair and Vice-chair to ensure that communication is occurring and that everyone understands the topic being discussed.

Brian Lipscomb will meet with Chairman Marotz to create a strategic plan on how to lay out the meetings over the next year and work with Binh Quan, CBFWA Systems and Data Manager, to explore all the capabilities of WebEx to make it as efficient and user-friendly as possible. This can be reviewed at the next meeting for MAG members' concurrence of the utilization of WebEx as a meeting tool and also plan training if need be.

**Action:** • The agenda was approved as presented. No objections.

**ITEM 2: Approve as Final: Draft Action Notes from the December 17-18, 2007 MAG/Amendment Workshop**

**Action:** • The December 17-18, 2007 MAG/Amendment Workshop action notes were approved as final. No objections.

**ITEM 3: CBFWA Response to Northwest Power and Conservation Council (NPCC) Regarding Independent Economic Advisory Board (IEAB) Tasks 116 and 117**

Angela Sondenaa, Wildlife Advisory Committee (WAC), advised that the NPCC charged the IEAB to investigate O&M costs for Wildlife management areas and to look at alternative strategies for habitat acquisition. (IEAB Task 116: IEAB Investigation of Wildlife O&M Costs: [http://www.nwcouncil.org/news/2007\\_11/8.pdf](http://www.nwcouncil.org/news/2007_11/8.pdf) and IEAB Task 117: IEAB Report on Alternative Strategies for Habitat Protection: [http://www.nwcouncil.org/news/2007\\_11/9.pdf](http://www.nwcouncil.org/news/2007_11/9.pdf).)

Angela advised that the NPCC expressed their desire to take action on some of the IEAB's

recommendations contained in the reports, via a draft letter from T. Karier, NPCC to G. Delwiche, Bonneville Power Administration (BPA): <http://www.nwcouncil.org/news/2008/01/2.pdf>. The draft letter was on the NPCC January 15<sup>th</sup> meeting agenda for discussion. Ken MacDonald added that the request in the draft letter from the NPCC to BPA was initiated without consultation with the fish and wildlife managers and the WAC felt that the NPCC took some of the recommendations out of context. In a memo to Brian Lipscomb, the WAC recommended that CBFWA Members request that the NPCC delay comments to BPA regarding the IEAB Task Orders (#116 and 117) and request consultation with the WAC. At the January 15<sup>th</sup> meeting, the NPCC agreed to postpone action for 90 days. During the 90 day period, the WAC will work with NPCC staff to decide the next steps.

Angela stated that the letter presented to the MAG for recommendation to the Members on February 20<sup>th</sup>, gives an overview on the issues presented in the IEAB Task 116 and 117 and the attachments provide a thorough review of the WAC's interpretation and perspective on the recommendations made in the reports.

The WAC intends to meet with NPCC staff on February 25-26<sup>th</sup> to begin the process to create joint recommendations on the IEAB Tasks 116 and 117 comments.

**Action:** • The MAG approved the letter and attachments for forwarding for Members' review and approval. No objections.

**Update:** Final letter approved by the CBFWA Members sent to Chairman Booth, NPCC on February 20, 2008:  
[http://www.cbfwa.org/Committees/Members/meetings/2008\\_0220/IEAB\\_116\\_and\\_117\\_CBFWatoNPCC\\_20Feb2008FINALsig.doc.pdf](http://www.cbfwa.org/Committees/Members/meetings/2008_0220/IEAB_116_and_117_CBFWatoNPCC_20Feb2008FINALsig.doc.pdf)

**ITEM 4:** *Executive Session: Coordination Funding*

**Action:** • The MAG moved to hold the coordination funding discussion in closed executive session, without CBFWA staff present. No objections.

**Action:** • The discussion and formal action was handled during the closed executive session with the action captured by Brian Lipscomb using the white board. View white board image:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAGCoordinationFundingwbimages2008\\_0219.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAGCoordinationFundingwbimages2008_0219.pdf).

In summary, the MAG directed Brian Lipscomb to consult with all CBFWA Members individually to assure that the funds requested for FY08 are true figures to achieve deliverables in view of the NPCC proposed budget recommendation. Once Members have confirmed their needs, Brian L. will do an assessment of responsibilities of CBFWA staff utilizing the remaining funds. The assessment of responsibilities will look at whether or not all of the tasks can be completed within the reduced budget and if additional efficiencies could be achieved. Included in the information for Members' consideration will be a draft communication to the NPCC expressing the Members overall frustration with the NPCC's arbitrary decision. This information will be presented to the Members at the March 5<sup>th</sup> teleconference.

Brian L. provided the MAG with a spreadsheet detailing what the Members requested for FY07, budget requests for FY08, and the difference between the two. A reserve was added back in, and the Members requesting an increase was added, with the difference at 114K.

Tom Iverson added that when CBFWA staff was talking with Members on the initial budget exercise, several Members kept their budget the same with the understanding that there would be a reserve account. As a result, we can't just cut that reserve without communicating that to Members during this budget exercise.

**ITEM 5:** **Amendment Document and Timeline Review**

Brian Lipscomb referenced the initial amendment recommendation document emailed to the MAG on February 12<sup>th</sup> requesting their review and comments. Brian L. stated that the amendment recommendations are based on the best available science with rationale

explained. CBFWA staff believes that they have laid out a structure that provides opportunity for that level of organization. Brian L. advised that although some initial conversations have taken place with NPCC central staff, more discussions must take place with CBFWA Members before any additional proactive outreach is done.

**Overall  
Amendment  
Structure:**

Brian Lipscomb reviewed the overall structure of the amendment recommendations (see page one of the white board images:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAG021908AmendRecStructurewbimages.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAG021908AmendRecStructurewbimages.pdf)).

**Discussion:**

Brian L. stated that the majority of the substantial changes being made to the subbasin plans will be in the anadromous fish arena with justification that recovery plans exist now that did not exist in 1999-2000. As the recommendations are put out for public comment, CBFWA could do outreach to the subbasin planning groups and ask them to provide feedback and comments on the appropriateness of our recommendations to alleviate an impression that agencies and tribes are going off on their own.

- Tony Nigro, ODFW, articulated that it is not up to CBFWA to go to NPCC staff to ask what they want but instead CBFWA needs to decide how we want to build the record and how best to facilitate NPCC staff's briefing to the NPCC members.
- Dave Statler, NPT, stated that it is anticipated that individual Members will submit recommendations in addition to the CBFWA consensus recommendations. One presumed goal is that we should strive for the consensus recommendations to be consistent and supportive of the other Member recommendations to avoid legal issues. If the NPCC recognizes discrepancies, that may undermine the weight of the deference to the F&W managers.
- Liz Gaar, NOAA, stated that she appreciates the concern and need for specificity but there are a lot of actions in recovery and subbasin plans that must be reconciled with more attention toward implementation and what we say in the recommendations and the relationship between implementing the F&W Program, recovery plan, and all the funding programs. Liz continued stating that there are local groups formally set up, in some cases by statute (i.e., in WA, and others forming in OR and ID). All of those groups intend to have a strong role by implementing coordinating actions and many of our Members participate in those groups. Liz expressed two concerns; 1) can a level of specificity and what's realistic to incorporate into the document still make it useful and meaningful and, 2) what's the relationship to our recommendations to implementation, and specifically with regard to the recovery plan relationship? Liz added that she thought that this presents an opportunity to show some real adherence and leadership on how to proceed.
- Chairman Marotz suggested that the format be easily digestible utilizing internal links for an in depth view of the information.

**Action:**

- The MAG moved to adopt the structure that Brian Lipscomb laid out on the interactive white board as the structure to recommend to the Members. No objections.

**Discussion:**

Brian Lipscomb reviewed the structure of Volume I Program Recommendations referencing the strawman table of contents, page 2-3:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/TOCdraftstrawman21208draft.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/TOCdraftstrawman21208draft.pdf)

Brian L. outlined the structure of Volume I Section 1-5 Table of Contents on the white board (see page two of the white board images:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAG021908AmendRecStructurewbimages.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAG021908AmendRecStructurewbimages.pdf)). Brian L. stated that Volume I follows the same structure of the current Program with the exception that in the current Program Section 6 covers trust, treaty obligations, and water rights. Since that has not been discussed by Members yet, it has been added in the draft being reviewed today.

- Gary James, CTUIR, suggested that 1.7 Statutory Basis be moved to the front of the chapter.
- Mark Bagdovitz, USFWS, and Elizabeth Gaar, NOAA, both agreed that their agencies

would *probably* be in agreement with the statutory language if worded in a way that is not legalistic and stays in line with what is in the Power Act.

- Tony Nigro, ODFW, suggested that Clean Water Act be included in 1.4 as that was the subject of previous Program recommendations. Tony added that earlier Programs contained specific language relative to the roles of the fish and wildlife agencies and tribes and suggested that as a reference point, the federal Members' review the earlier previously agreed on versions of the language.
- Dave Statler, NPT, referenced 1.2 recalling that in the initial unveiling of the process, NPCC made a statement to the effect that this was not the time to comment on the subbasin plans and if they received such comments, they would shelve them until a later date. Dave stated that he presumes that the work CBFWA is doing relative to the subbasin plans are not suggesting modifications but just using that information. Dave asked how that relates to what we think the NPCC is expecting. Brian L. responded that despite what the NPCC has asked for, the entire Program is open for amendment and we have advised all along that we plan to provide recommendations for modifying subbasin plans, in some cases as it pertains to areas in which the fish and wildlife managers have authority; specifically, the biological objectives and confirmation of the limiting factors quantified effects on the biological resources.
- Lynn DuCharme, CSKT, stated that for the record she would like to revisit section 1.4 at some point with CBFWA staff with the intent of clarifying that section. Lynn stated that as she moved further into the section she found it confusing and it appears that we are stressing ESA requirements instead of the Program.
- Joe Mentor, Mentor Law Group, suggested that a cover letter or executive summary be included to introduce the recommendations.
- Gary James, CTUIR, questioned whether 1.5 *Implementation* was mislabeled. Gary stated that the fine level of implementation is under 1.4 where the measures per subbasin plan per species are contained, so wouldn't 1.5 be *Process*? Brian L. responded that we recognize that some of the titles are not exactly right but if we want them to be different we need to first recommend that Section 5 be labeled something else in the Program because that is what is it titled in the current Program.
- Elizabeth Gaar, NOAA, noted that in the 2000 Program outline, Implementation is under Section 6 (Section 1 is an executive summary in the 2000 Program), and it reads more like what is expected to be seen in an implementation section, i.e., project selection, coordination with other regional programs, and project management, rather than what is in the CBFWA recommendation document. Liz asked if CBFWA would include a chapter that would contain more of what would be expected under implementation. Brian L. responded that Liz was correct in her observations and that the Member discussions will get into that further. Brian added that Tom Iverson has been working with BPA and NPCC staff to flesh out what an implementation and management process would look like under a revised Program. Brian L. stated that there's still a lot more information that needs to be added to Section 5.
- Tony Nigro, ODFW, stated that the subheadings under Section 5 do not appear familiar and he asked if they are currently in the Program. Brian L. explained that these are issues that CBFWA has come to action on or has nearly come to action on, with the exception of the in lieu issue. Tom Iverson added that those topics were added because these are five areas where BPA uses their discretion to make policies that directly impact the implementation of the Program. This section contains placeholders for those issues too see if the Members want to address any of the issues through the amendment process or defer to BPA's decision making. Tony Nigro cautioned that this section will need some work to achieve endorsement under ODFW.

**Action:**

- The MAG moved to accept the structure of Sections 1-5 as presented by Brian Lipscomb on the whiteboard with the flexibility to talk through the detail and work on the next level of the document (e.g., create another title or subheading of Chapter 5, etc.). No objections.

Brian Lipscomb moved on to review section 1.3 in detail stating that this section talks through the elements of adaptive management and builds the basis for the rest of the recommendations (see page 3 of the white board images: [http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAG021908AmendRecStructurewbimages.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAG021908AmendRecStructurewbimages.pdf)). Brian L. asked that the MAG review this section to make sure that CBFWA staff has accurately captured, from the Members' perspective, the elements for adaptive management. Developed in the Remand framework is an overall structure of how to proceed and that will be articulated more in the Monitoring & Evaluation section.

Brian L. stressed that this is not an easy step. Across the country and at the regional scale, adaptive management has been talked about as the most effective tool toward resource management but it has not been successfully implemented at this large scale. The elements are based on conversations with the Members and from reviews of the adaptive management literature.

- Chairman Marotz and Gary James, CTUIR both commented that this approach has been suggested by the ISRP/ISAB in the past. Tony Nigro, ODFW, agreed that it would be good to integrate literature generated by the ISAB/ISRP. Brian L. stated that the ISRP/ISAB references could be included as Volume II & III are created.
- Dave Statler, NPT, stated that the structure of 1.3 is good. Prior to the list of the seven elements, the verbiage contains some key things but the word "gap," as a concept should be there. Dave added that he did not see the word threat, which is different than limiting factors and threats in essence create the limiting factors. Dave suggested that the threat concept be added there as well.
- Tony Nigro, ODFW, questioned the rationale for putting reporting before evaluation. Brian L. responded that the report is the tool to achieve evaluation. Tony Nigro asked where we report results of the evaluation. Brian L. added "adjustment" to evaluation.
- Liz Gaar, NOAA, commented that combining evaluation and adjustment could be trouble because adjustment tends to get mumbled through and the hard part is actually responding to the evaluations. Liz requested that adjustment be a distinct step in itself. Brian L. stated that has been included in Section #5 but adjustment may need to be a recognized step that points to section 5.
- Dave Statler, NPT, brought up a scenario where the impact or the threat is the dam totally blocking access to a given population of anadromous fish and stated that he didn't think that this fits the paradigm. Brian Lipscomb responded that the limiting factor is blockage for restoring anadromous fish in those areas and in lieu of re-establishing those populations and setting those biological objectives, we would need to do two things: 1) complete a feasibility study to see if it is feasible to do reintroduction and, 2) incorporate resident fish substitution in the blocked areas (building the basis for resident fish substitution).
- Dave Ward, CBFWA, articulated that the limiting factor is passage and the threat is the dam. Dave Statler added that it would fit but forced somewhat and the objective becomes a harvest objective for a number of fish to reach which is more of a people thing than a critter thing because you are not going to do anything to re-establish those populations.
- Tom Iverson added that the importance of having this framework is that you have the explicit linkage of why it is you are doing that social activity, i.e., to mitigate a biological objective that can't be reached because of the existence of the threat. This allows the linkage of every action we are taking up to the biological objective.

**Timeline:**

In response to MAG members' timeline concerns, Brian Lipscomb outlined the following timeline (see page 4 of the white board images: [http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAG021908AmendRecStructurewbimages.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAG021908AmendRecStructurewbimages.pdf)).

In addition, Brian L. stated that at the NPCC's April 15<sup>th</sup> meeting in Whitefish, MT, it is anticipated that the NPCC will allow time for a presentation on recommendations. Brian L. added that if there is ever a time for Members to attend an NPCC meeting en masse, this

is the time.

Angela Sondena, NPT, raised a concern about the timeline and whether or not there will be enough time for the internal review and approval processes for resolutions of support. Brian L. responded that meetings have been arranged or are being arranged with the agencies and tribes for appropriate conversations to that end.

The conversation regarding Volume I continued with Joe Mentor, Mentor Law Group, stating his concerns about Section 1.5:

- The Act covers BPA but also hydro operators, which BPA is not (i.e. BOR, COE) and it also covers the non-federal hydro so it applies to BPA, BOR, COE, and FERC, and under that there are different provisions.
- Since the 1982 Program, there's been an emphasis on trying to address the federal hydro operators. There is a statutory feature that is being overlooked which explains part of the focus on BPA, and the consistency requirements that apply to all and it is a specific provision requiring the consistency of BPA and the use of the BPA fund. There is nothing like that that applies to any of the other agencies. In addition to protect, mitigate, and enhance there is an additional responsibility imposed on BPA exclusively to use the BPA fund, which is a regional rate payer resource, to act in a manner consistent with the Program. If they feel like they are being singled out, and there's a focus on BPA funding, that's because that is what the law requires. Joe stated concern that we are moving away from that.
- The 9<sup>th</sup> Circuit Court has said that BPA, as the agency that was responsible for drafting the hydro and the power related provisions, is responsible for implementing those provisions and is entitled to deference but that the F&W Managers are entitled to deference on the F&W provisions and the interpretation of the F&W provisions. The area that is in between is the question of how are these things being financed and I think there's some overlap that is not the exclusive territory of the BPA.
- Concerns about the way this section describes measures to be implemented and suggesting a catalog of activities of others. NPCC is required to include measures to be implemented and that it is an action oriented statute. The whole concept and the justification for adaptive management is to not wait for years until we have studies but take action, learn from that action, and not wait for the perfect answer.
- Concerns that the NPCC include measures that are not action measures, i.e., measures that are not directing one of those agencies that are responsible for action under the statute to take action.
- Concern about the direction toward others besides those in the hydro arena as that is getting off topic.
- Joe stated that he has finished the white paper but it is not yet posted to the CBFWA website. Joe added that one focus of the white paper was to explain more of what's happened since 2000 as it relates to the 2007 Program Amendments and the historic justification. Joe added that he read the opinion on the 2000 BiOp and feels that we are just going down the same path again where we are going to be describing actions taken by those that we have no control over and rely on those somehow to protect, mitigate, and enhance for the effects of the hydro system.
- Tom Iverson responded to Joe stating the idea of this section is to describe a Program, not describe other's responsibilities. Section 1.5 says here is what restoration in the basin looks like and all the activities going on and section 1.6 defines BPA's obligations to fund specific activities. The first part is about the context; the second part is about the Program and it should be very authoritative about what BPA's responsibilities.
- Mark Bagdovitz, USFWS, commented that he had a lot to do with crafting sections 1.5 & 1.6 with the intent of communicating to BPA that they are not the only ones doing work out on the ground.

In conclusion Joe suggested that staff keep working on this section because it is important that it be historically accurate and that all bases are covered.

- Brian Lipscomb suggested that with regard to Section 1.5 and 1.6 that we adhere to the Power Act language. The Program applies to BPA, BOR, COE, and FERC and the mitigation program is to mitigate, restore, and enhance the fish and wildlife that are affected by the hydropower system across the Columbia.
- The basis of 1.6 is that we need the Program to articulate BPA's obligation. It is to fulfill the language in the Act that says BPA is going to establish a fund and they are going to use that fund to implement the Program. In order to do that you have to have articulate BPA's obligations.
- The coordination of the implementation of the habitat and in some cases supplementation of off site out of kind mitigation and the need to be coordinated with other Programs so that BPA's efforts are not chasing off funding that would otherwise be those other entities responsibilities.

Brian L. stated that this would encapsulate the in lieu conversation and this can be included in the basinwide section. Brian L. stated unless there are objections, that is how we'll draft sections 1.5 and 1.6.

(See page 5 of white board images laid out by Brian L.

[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAG021908AmendRecStructurewbimages.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAG021908AmendRecStructurewbimages.pdf).)

- Brian Lipscomb stated that he agrees, as suggested earlier by Gary James, CTUIR, that moving 1.7 up front is a good idea as it establishes context.

Brian Lipscomb continued on with the review of the document. One comment received when the draft went out for comment was to split Section 3 into three subsections: anadromous fish, resident fish, and wildlife, leaving Section 3 for just anadromous fish because from the provincial perspective that's the only species that requires biological objectives at the provincial level.

- Dave Statler, NPT, suggested that if our technical committees concur, then there should be some sort of explanation as to why we see only anadromous fish at the provincial level. Brian L. stated that the technical committees do concur.

Brian L. stated that the entire wildlife recommendation for mitigation for construction inundation losses is embedded in the basinwide provisions and it is implemented at a basinwide level not at a subbasin by subbasin level.

- Dave Statler, NPT, stated that he understands that embedded within some subbasin plans are wildlife elements. Dave cautioned about losing some important elements.
- Mark Bagdovitz, USFWS, concurred with Dave's concerns about elements being lost. Mark stated that he has suggested formatting that would outline in bold or in some fashion exactly what it is we're asking the NPCC to put into the Program. As in 1.5 or 1.6, if you see a box with some bold language in it, that is what we are recommending. If you have a problem with what we are recommending in that section, stop and review it, if not, move on with the review of the document.
- Angela Sondenaa, NPT, stated that some explanation of why there are no subbasin specific wildlife elements in this Program amendment should be added. Angela suggested adding a section 4.3 stating why wildlife does not have subbasin wildlife elements and refer back to subbasin plans, or as another alternative, list the information that we pulled from the SOTR and include a summary of the key focal species and focal habitat by subbasin listing current wildlife projects.

Brian Lipscomb stated that another area that requires discussion is the recommendations for minimization of the hydropower system operations on the fish and wildlife resources - what recommendations are we going to make to change the Program, if at all, from an operations standpoint?

Brian Lipscomb stated that the AFAC and the MAG subgroup came to the conclusion that we give a recommendation based on the overall groupings that were analyzed in the AHA



analysis. This would articulate that if you operate at BiOp, here's the expected biological response, or if you operate beyond BiOp, here's the biological response, at least for anadromous fish; resident fish would need to be added to that to the point that some of the operations beyond BiOp might reach into resident fish resources, i.e., more flows. Based on that conversation and the first decision on how to operate the hydro power system, state a set of habitat actions that can offset in some cases the hydro operations and in cases where it can't, provide a list where you will have positive effects for implementation and in five or ten years do a reassessment.

- The MAG agreed to meet on March 13<sup>th</sup> for a special MAG session to discussion hydro power operations at it applies to the amendment recommendations (see page 6 of the white board images:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0219/MAG021908AmendRecStructurewbimages.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0219/MAG021908AmendRecStructurewbimages.pdf)).
- Tony Nigro, ODFW, suggested that the Wildlife Ecology Team recommendations be referenced for this meeting.

In conclusion, due to time constraints, the MAG agreed that CBFWA staff would do revisions on Section 2 based on the MAG's conversations and send it out to the MAG for review with comments due by March 5<sup>th</sup>. (Section 2.1, 3.0, 4.1, 4.3, and 5.0 will be released for comment on March 5th).

***Meeting adjourned.***