



# 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 27, 2008  
TO: Members Advisory Group (MAG)  
FROM: Brian Lipscomb, CBFWA  
SUBJECT: Final Action Notes for the May 20, 2008 MAG Meeting

**MAG Meeting**  
**Tuesday, May 20, 2008**  
**9:00 a.m. – 12:30 p.m.**

**Via WebEx (CBFWA Office, Portland OR)**

All support material is posted at [http://www.cbfwa.org/committee\\_mag.cfm](http://www.cbfwa.org/committee_mag.cfm)

#### Final Action Notes

**Attendees:** Ronald Peters, Cd'AT; Brian Lipscomb, Jann Eckman, Tom Iverson, Ken MacDonald, Kathie Titzler, Neil Ward, Dave Ward, Patricia Burgess, CBFWA

**By Phone/WebEx:** Brian Marotz, MFWP; Laura Gephart, Phil Roger, CRITFC; Brad Houslet, CTWS; Paul Kline, IDFG; Joe Mentor, Mentor Law Group, PLLC; Tony Nigro, ODFW; Tom Rien, ODFW; Doug Taki, SBT; Mark Bagdovitz, USFWS; Nate Pamplin, WDFW

**Time Allocation:**

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

**ITEM 1: Introductions and Approve Agenda**

**ADDED ITEM:** Chairman Marotz, MFWP, requested an addition to the agenda to discuss the availability, toxicity, and relicensing of the piscicide Antimycin. Chairman Marotz stated that at this time, Antimycin is produced by a single source and it is unsure if production will continue. Chairman Marotz added that Antimycin is an important tool in fisheries management, for anadromous and resident, nationally and internationally, with properties that can surpass the effectiveness of Rotenone under certain conditions (e.g. stream and spring source applications, natural detoxification by gradient/turbulence). Chairman Marotz advised that Antimycin must go through the FDA re-registration process, which is expensive and complicated.

**Action:** The MAG directed CBFWA staff to draft a letter, with the assistance of Chairman Marotz, to the state American Fisheries Society (AFS) Chapters requesting that they raise this as an issue with the national AFS. Any information on the product Antimycin, such as its availability and toxicity, should be forwarded to Chairman Marotz to be compiled into an information packet to be shared with the MAG on June 17<sup>th</sup>.

**Motion Discussion:** Mark Bagdovitz, USFWS, asked if it was known how much Antimycin is currently being used and why and added that his past experience with piscicide was in the Great Lakes region where it was being phased out and at that time it was difficult to get attention and funding. Neil Ward, CBFWA, responded that he is aware that the Kalispel Tribe is in the process of planning the use of the chemical to eradicate brook trout. The motion passed without objection.

**Action:** The MAG accepted the agenda with the addition of the discussion on Antimycin. No objections.

**ITEM 2: Approve March 13, 2008, March 18-19, 2008, and April 8, 2008 MAG Meeting Draft Action Notes as Final**

**Action:** The MAG approved the March 13, March 18-19, and April 8, 2008 MAG Meeting Action Notes as Final. No objections.

**ITEM 3: Update on April 15-16, 2008 and May 13-14, 2008 Northwest Power and Conservation Council (NPCC) Meetings**

Brian Lipscomb and Tom Iverson provided the updates as follows:

**April 15-16<sup>th</sup> Meeting:** The amendment recommendation presentation was well attended and the CBFWA submission obtained positive feedback from NPCC staff and members.

Discussion of the Independent Economic Advisory Board (IEAB) report on wildlife projects was deferred to the programmatic review for wildlife. Tom advised that the May 22<sup>nd</sup> Wildlife Advisory Committee (WAC) meeting will include a full briefing of the programmatic review process.

**May 13-14<sup>th</sup> Meeting:** During the amendment workshop session Council members formed a subgroup with the intent to continue the workshop sessions with NPCC staff in between monthly meetings to discuss how to address the amendment recommendations.

Rob Walton, NOAA, provided a presentation on FCRPS/Snake BiOps, U.S. v Oregon, recovery plan completion and implementation, and recommendations to amend fish and wildlife program.

The Independent Scientific Review Panel (ISRP) provided a 2007 retrospective report. Brian Lipscomb encouraged MAG members to review the report stating that it may warrant response: <http://www.nwcouncil.org/library/isrp/isrp2008-4.pdf>.

Tom Karier, NPCC, provided an update on M&E and data management high-level indicators (HLI) stating that most of the information would be summarized through the Status of the Resource (SOTR) report. A follow-up meeting has been scheduled to develop the HLI with anticipated adoption at the June NPCC meeting.

The Budget Oversight Group (BOG) process was revised and adopted providing Bonneville Power Administration (BPA) the discretion to make adjustments (not to exceed 10% or \$75,000) without having to review each request by the NPCC, unless the review is requested by at least two NPCC Members. Brian Lipscomb stated that CBFWA staff will provide a summary of the BOG process change and the possible role of CBFWA staff at the June 17<sup>th</sup> MAG meeting.

**ITEM 4: Consideration of Strategies to Complete 2007 Vision**

At the May 7<sup>th</sup> Members Teleconference, the Members directed the MAG to discuss and consider comments to the NPCC suggesting that the amended Program include ten year work plans consistent with the Memorandum of Agreements (MOA) that have been signed with BPA at this point in time, and give consideration to providing proactive comments to clarify the CBFWA amendment recommendations and reactive comments (i.e., commenting on other entities recommendations, such as BPA's).

Brian Lipscomb provided a presentation *Using the Fish and Wildlife Agencies and Tribes' Program Amendment Recommendations*: [http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/AmendmentCommentPresentation.ppt](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/AmendmentCommentPresentation.ppt).

Tom Iverson presented a draft letter for MAG consideration that detailed the benefit of having ten-year work plans. Tom advised that the letter was written on the premise that the F&W Managers would submit project lists with budgets in the June 12<sup>th</sup> comments to the NPCC for their individual agencies and Tribes. Tom also provided a template to be used to facilitate the submission of project lists and budgets:

[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/WorkPlanTemplateSummary.xls](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/WorkPlanTemplateSummary.xls).

The MAG held a lengthy discussion, expressing differing comfort levels regarding communicating the development of ten year work plans and providing comments to the amendment recommendations. Tony Nigro, ODFW, referenced language in the 2000 Program subbasin plans regarding the intent to develop ten year work plans. CBFWA staff agreed that reference could be used as a point to build on.

Joe Mentor, Mentor Law Group, raised concerns about the NPCC inviting additional recommendations outside of the scope of comments on the recommendations. Joe stated that it would be best to try to find some link to the recommendations submitted; otherwise it appears we are submitting information with a scope as wide as the original submission. Tom Iverson commented that the link would be made to the CBFWA amendment recommendation submission of the framework with general measures for each population and the comments to the NPCC would provide the specifics to implement the general measures.

In conclusion, the MAG resolved to direct CBFWA staff to revise the letter to state that the submission of specific projects by CBFWA Members are consistent with the intent of the Program and that we stand ready to develop management plans with that level of detail.

**Action:** The MAG moved that CBFWA staff simplify the letter as discussed to make two points: 1) recognize that the NPCC has received specific recommendations that include project specific measures and CBFWA Members believe those recommendations are consistent with the intent of the NPCC to develop specific management plans for subbasin plans, and 2) advise that CBFWA stands ready to work with the NPCC to develop the management plans as called for in the existing Program.

**Motion Discussion:** Mark Bagdovitz requested clarification of the motion. Tony Nigro clarified that the intent is to state that if specific projects are submitted, CBFWA believes the submission of specific projects is consistent with the intent of the Program, not necessarily endorsing the comprehensive list of projects but that the submission of projects are consistent (i.e., that our individual Members have submitted) and that CBFWA stands ready to develop management plans to that level of detail. Mark suggested that CBFWA staff make sure that the letter clearly states that point.

Chairman Marotz added that the letter should state as its premise that not only is the ten year work plan consistent with the intent of the Program, but that we believe this is an important way to get more of the effort on-the-ground. Tony concurred that comments as such are consistent with the intent of his motion. The motion passed without objection.

## **ITEM 5: Comments on 2008 Program Amendment Recommendations**

### **Technical Committee Reports:**

**Anadromous Fish Advisory Committee (AFAC):** Dave Ward, CBFWA, presented a draft spreadsheet example to relate what the subbasin specific objectives mean in terms of total numbers of fish at Bonneville. Dave added that the AFAC will provide input to him by May 30<sup>th</sup>.  
[http://www.cbfga.org/Committees/MAG/meetings/2008\\_0520/ObjectivestoBasinwideLinkageJune5-2008.xls](http://www.cbfga.org/Committees/MAG/meetings/2008_0520/ObjectivestoBasinwideLinkageJune5-2008.xls).

**Resident Fish Advisory Committee (RFAC):** Neil Ward, CBFWA, reviewed a streamlined example of the resident fish amendment recommendations for the Clearwater subbasin:  
[http://www.cbfga.org/Committees/MAG/meetings/2008\\_0520/Resident\\_Fish\\_AmendRecStreamline\\_UpdatedClearwater.doc](http://www.cbfga.org/Committees/MAG/meetings/2008_0520/Resident_Fish_AmendRecStreamline_UpdatedClearwater.doc). In addition to streamlining the recommendations, Neil added that the RFAC will be discussing and developing language in response to the three resident fish specific BPA's recommendations. The RFAC is also in process of reviewing and responding to the Independent Science Advisory Board's (ISAB) white paper with regard to resident fish substitution.

**Wildlife Advisory Committee (WAC):** Ken MacDonald, CBFWA, advised that

the only amendments that do not appear consistent with the CBFWA recommendations are in the Kalispel and Spokane Tribes submissions regarding coordination. With regard to the Members direction to the WAC to review the BPA proposal for recommendations that may be inconsistent or in conflict with the CBFWA amendments, Ken presented a table listing seven areas of concern in comparing the BPA and CBFWA amendments:

[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/WAC\\_BPA\\_CBFWA\\_Amendment\\_Comparison.doc](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/WAC_BPA_CBFWA_Amendment_Comparison.doc). Ken advised that the WAC has not reviewed this table formally but will review it at their meeting on May 22<sup>nd</sup>.

Mark Bagdovitz, USFWS, suggested that rather than trying to address specific policy issues with NPCC serving as the referee, advise the NPCC that the RFAC will work with BPA to resolve the issues. Mark suggested that comments by the WAC also be addressed in a similar fashion and differences of opinion with regard to crediting and policy be resolved within the Wildlife Crediting Forum.

**BPA Customer Groups White Paper:** Brian Lipscomb called attention to Joe Mentor's white paper and stated that initially the Joe's white paper was placed within the CBFWA amendment recommendations appendix as supporting documentation; however, CBFWA was encouraged by an NPCC Member to remove the white paper from the submission on the premise that the CBFWA amendment recommendations would be received more positively without the white paper. Brian Lipscomb, Joe Mentor, and Chairman Larry Peterman made the decision to remove Joe Mentor's white paper from the April 4<sup>th</sup> amendment recommendation (appendix) submittal.

It was later learned that the Public Power Council submitted a white paper in their amendment recommendations which parallels Joe Mentor's white paper, titled "Legal Outline of the Requirements for the NPCC Fish and Wildlife Program" ([http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/5\\_Customer%20F&W%20Amendments%20-%20Legal%20Outline.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/5_Customer%20F&W%20Amendments%20-%20Legal%20Outline.pdf)) available from the NPCC webpage: <http://www.nwcouncil.org/fw/program/2008amend/recs.asp> (under Public Power Council).

Joe Mentor reviewed the white paper stating several statements or suggestions of concern contained within the paper.

- Project specific recommendations are inappropriate and should be rejected by the NPCC.
- Offsite enhancement measures are appropriate only to the extent that onsite protection and mitigation endeavors are insufficient and that measures that address non-hydro related impact are appropriate only if they are paired with outside funding agreements.
- The paper suggests that the Power Act does not authorize restoration of past losses and that existing environmental conditions should be described as a baseline. Joe added that it appears that they are arguing that the only losses that BPA is obligated to mitigate for are operational in nature and do not include losses caused by construction of the federal hydro system.
- The paper states that F&W Managers are entitled to deference only when there are conflicting recommendations and that there is no deference provided for specific project recommendations.
- The paper suggests that recommendations that do not meet the procedural and substantive requirements of the Power Act should be rejected; in particular recommendations that are not accompanied by supporting information and data.
- Measures that significantly increase the funding levels of the NPCC Program compromise the liability or otherwise degrade the hydro system must be rejected.
- Recommendations that are less effective than adopted recommendations should be rejected and that the NPCC is obligated with each recommendation

to determine if a more effective recommendation exists and if so it is required to adopt that recommendation.

- Recommendations that do not address the impacts of hydro projects should be rejected.

Joe suggested that Members may want to consider formulating a reply.

**Action:** The MAG moved to direct Joe Mentor to draft a letter for consideration for MAG review and then to the Members for consideration.

**Motion Discussion:** Brian Lipscomb suggested from a time standpoint, that the MAG request that Joe complete the letter for consideration by the Members at the June 4<sup>th</sup> meeting with a MAG review in the interim, if needed.

**Amended Motion:** Tony amended his motion with the intent for the letter to be put forth to the Members for their consideration and discussion on June 4<sup>th</sup>.

**Motion Discussion:** Mark Bagdovitz, USFWS, suggested that the letter include a statement reflecting how we arrived at this point. The motion passed without objection.

**ITEM 6: Wildlife Categorical Review Summary of Schedule and Process**

The May 22<sup>nd</sup> Wildlife Advisory Committee (WAC) meeting will include a full briefing of the programmatic review process and will discuss participation. CBFWA staff will update the Members on the June 4<sup>th</sup> teleconference.

**ITEM 7: RM&E Framework Development Update**

The Collaborative Systemwide Monitoring and Evaluation Project (CSMEP) workgroup will hold a meeting to discuss and provide a summary of high level indicators to be used in conversations with Tom Karier based on the amendment recommendations. Brian will update the Members on June 4<sup>th</sup> and will request Tom Karier's attendance either in person or via teleconference at the Summer Members' meeting.

**ITEM 8: 2006 SOTR and Website Presentation for June 2008 NPCC Meeting**

The 2006 SOTR report is complete and ready to be distributed. The Members directed CBFWA staff to put together a presentation for the NPCC June meeting. CBFWA staff will review this with Members on June 4<sup>th</sup> for their final approval and contemplation of who will do the presentation.

**ITEM 9: BPA Rate Cases for FY 2009 and FY 2010-2011**

Tom Iverson provided a link to Integrated Program Review (IPR) (formerly Power Function Review) process on BPA's website:

<http://www.bpa.gov/corporate/Finance/IBR/IPR/> for information regarding BPA Rate Cases for FY 2009 and FY 2010-2011. Tom referenced the letter CBFWA sent in November 2007 identifying significant new work and suggested that CBFWA could provide new information for FY 09 on the current critical and essential project list:

[http://www.cbfwa.org/RegionalIssues/Correspondence/CBFWA/CBFWAtr\\_BPA-NPCC\\_WP07RateProceedings112107Final-Encl.pdf](http://www.cbfwa.org/RegionalIssues/Correspondence/CBFWA/CBFWAtr_BPA-NPCC_WP07RateProceedings112107Final-Encl.pdf). Tom stated that he has reviewed that list against the CBFWA framework and it would be easy to show the linkage and the expected biological benefit.

**Action:** The MAG moved to direct CBFWA staff to update the analysis provided in the CBFWA November 2007 correspondence ([http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/CBFWAtr\\_BPA-NPCC\\_WP07RateProceedings112107Final-Encl.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/CBFWAtr_BPA-NPCC_WP07RateProceedings112107Final-Encl.pdf)) and substantiate the analysis with amendment recommendations that were provided to the NPCC and provide that information in a package to BPA for consideration for establishing their F&W costs for FY 09 for Members consideration on June 4<sup>th</sup>. No objections.

Mark Bagdovitz, USFWS, stated that USFWS would support the creation of the document but will probably need to abstain from signing the letter if it is presented

to the Members. The motion passed without objection.

Brian Lipscomb suggested that if the MAG is in agreement CBFWA staff would prepare strategy for discussion for the BPA IPR FY 2010-11 at the June 17<sup>th</sup> MAG meeting.

- Action:** The MAG moved to direct CBFWA staff to begin the process of developing ten year work plans from the amendment recommendations submitted to inform the FY 2010-11 BPA IPR process.
- Motion Discussion:** Tom Iverson advised that to complete this task, CBFWA staff will need Members' budgets and project lists from those who have not submitted anything within the amendments. Chairman Marotz concurred that this will require Members to assemble their budgets and refrain from ballooning to maintain credibility. Tom Iverson confirmed that he will review the amendment recommendations and will contact individual CBFWA Members to fill in the blanks. The motion passed without objection.
- Follow-up:** Tom Iverson agreed to circulate a summary of the current BPA cost estimates for the Fish and Wildlife Program for FY2009-2011. Tom sent that information via email on May 21<sup>st</sup>:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/Email\\_toMAG\\_RE%20BPA\\_CostEstSummary2008\\_0521.doc](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/Email_toMAG_RE%20BPA_CostEstSummary2008_0521.doc)
- ITEM 10: Predation Workshop**
- Dave Ward advised that a workshop on predation by exotic fish predators is included as an action in the draft Biological Opinion. To that end, Dave stated that he and Neil Ward met with John Skidmore, BPA, and brainstormed about a potential workshop. Dave provided a draft workshop summary for review:  
[http://www.cbfwa.org/Committees/MAG/meetings/2008\\_0520/PredationWorkshop\\_2008.pdf](http://www.cbfwa.org/Committees/MAG/meetings/2008_0520/PredationWorkshop_2008.pdf)
- Recommended Action:** The MAG moved to recommend to the Members that CBFWA staff work with the action agencies and others as appropriate to develop a workshop on predation.
- Motion Discussion:** Mark Bagdovitz, USFWS, requested clarification that this workshop would focus on predation by non-native fish. Dave confirmed and advised that they would begin discussing both native and non-native fish for context but the concentration would be on non-native fish. Dave added that the workshop will cover all other non-native species that are causing problems without restrictions on species. The motion passed without objection.
- ITEM 11: July MAG Meeting**
- Given that the NPCC is scheduled in Kalispell, Montana for July 14-16<sup>th</sup>, CBFWA staff suggested that the MAG may want to consider moving the July 15<sup>th</sup> date to July 14, 2008 in Kalispell, Montana.
- The MAG decided that they would not change the July MAG meeting date. The July MAG meeting will be held on Tuesday, July 15<sup>th</sup> as scheduled, in Kalispell, MT.
- Upcoming Meetings:**
- June MAG (WebEx) Meeting: June 17, 2008, 9:00 a.m.–12:00 p.m.
  - July MAG (face-face) Meeting: July 15, 2008 in Kalispell
  - Members Teleconference: June 4, 2008, 1:00-4:00 p.m.
  - Summer Members Meeting: June 25-26, 2008 in Warm Springs, OR
  - NPCC Meetings: June 10-12, 2008 in Spokane, WA and July 14-16, 2008 in Kalispell, MT
  - NPCC Program Amendment Public Comment Period Ends: June 12, 2008

*Meeting Adjourned.*