



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

DATE: August 16, 2007
TO: Members Advisory Group; Anadromous Fish Advisory Committee; Resident Fish Advisory Committee; Wildlife Advisory Committee
FROM: Brian Lipscomb, CBFWA
SUBJECT: Final Action Notes from July 24-25, 2007 Amendment Strategy Work Session

Amendment Strategy Work Session
Spokane Valley, WA
July 24, 2007 and July 25, 2007

The support material for the 7/24-25/07 Amendment Workshop are posted at
<http://www.cbfwa.org/committees/Meetings.cfm?CommShort=MAG&meeting=all>

Final Action Notes

Attendees: Mark Bagdovitz & Mike Faler, USFWS; Joe Mentor, Mentor Law Group, PLLC; Quanah Spencer & Ronald Peters, Cd'AT; Phil Roger, CRITFC; Tracy Hames, YN; Matthew Berger, Sheri Sears, Ed Shallenberger, Stephen Smith, & Richard Whitney, CTCR; Paul Kline & Gregg Servheen, IDFG; Alan Wood, MFWP; Angela Sondenaa & Dave Statler, NPT; Gary Sims, NOAA Fisheries; Tony Nigro & Michael Pope, ODFW; Doug Taki, SBT; Teresa Scott, Jim Uehara & Nate Pamplin, WDFW; CBFWA Staff: Brian Lipscomb, Ken MacDonald, Kathie Titzler, Dave Ward, Neil Ward, Tom Iverson, & Trina Gerlack

July 24, 2007
July 25, 2007 Mark Bagdovitz & Mike Faler, USFWS; Joe Mentor, Mentor Law Group, PLLC; Quanah Spencer & Ronald Peters, Cd'AT; Phil Roger, CRITFC; Joe Peone, Matthew Berger, Sheri Sears, Ed Shallenberger, Stephen Smith, & Bill Towey, CTCR; Carl Scheeler, CTUIR; Paul Kline, IDFG; Dave Statler, NPT; Gary Sims, NOAA Fisheries; Tony Nigro, ODFW; Teresa Scott, WDFW; CBFWA Staff: Brian Lipscomb, Ken MacDonald, Kathie Titzler, Dave Ward, Neil Ward, Tom Iverson, & Trina Gerlack

By Phone: No phone line was provided.

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

Day One: Tuesday, July 24, 2007 - Amendment Strategy Meeting in Lilac Room

ITEM 1: Introductions / Roll Call

Mark Bagdovitz, USFWS chaired the meeting and Brian Lipscomb gave an overview of the tasks and updates planned for the work session.

- Review of the February 2007 Members' assignment/actions to the MAG and Technical Committees at

http://www.cbfwa.org/Committees/Members/meetings/2007_0207/CBFWAFeb7MbrsFeb2ACTIONS.ppt#2

http://www.cbfwa.org/Committees/Members/meetings/2007_0207/Feb07MembersMtgActionNotesFINAL.pdf

- Joe Mentor's legal review and revised white paper update
- Program Amendments presentations and progress reports from the CBFWA Technical Committees
- New Items:
 - Presentation by Gary Sims, NOAA-F on Recovery Planning Web-links and ArcReader program analysis.
 - Update from Brian Lipscomb, CBFWA on 7/25/07 Tom Karier and Peter Paquet, NPCC Meeting regarding the effectiveness of the F&W Program data.
 - Presentation by Tom Iverson, CBFWA on Development of Fish and Wildlife Program Amendments.
- Next steps

ITEM 2:**Legal Review**

Joe Mentor, Mentor Law Group, PLLC shared his legal background and history with CBFWA.

As outlined in the NW Power Act, Program Amendment recommendations from the F&W Managers must be included in the Program. The deference owed by NPCC to the Tribes, agencies, and F&W Managers is unique. There are two levels of deference in the Act: the deference the NPCC is afforded by BPA and the deference of the agencies and tribes that the NPCC is required to follow. BPA is required to defer to the NPCC and the NPCC is required to defer to the F&W Managers.

Joe is revising the draft White Paper he presented to the CBFWA Members at the 2007 February meeting which is linked at http://www.cbfwa.org/Committees/Members/meetings/2007_0207/JoeMentorAuthorityWhitePaper02-08-07.pdf.

The revised White Paper will include references to the recent decision regarding the Fish Passage Center, deference owed, more details on the F&W Managers role in the planning process and their expertise input for the Program, attention to measures, input from John Shurts on ESA's issues and NW Power Act. BPA will use the Program as means to meet ESA obligations. The final White Paper will be ready for review in September.

Joe advised the group to start with the existing 2000 F&W Program and make edits to it. Do not assume that the things you like in the Program will stay, so include "like" comments in your recommendations. Maintain CBFWA solidarity in your recommendations in the amendment process. CBFWA's strengths are in deference owed, solidarity, and building the best record possible.

Joe is developing a Fish and Wildlife Program Amendments checklist and format for organization of recommendations to guide the Tribes, Agencies, and F&W Managers' consensus message.

The amendment checklist questions relate to measures descriptions, implementation timeline and costs, what are biological objectives, what is the best available science and equal science alternatives, is the measure consistent with Tribal legal rights, is the measure complementary to future F&W management entities, and how does the measure relate to efficiency and economics of power supply in the region.

Joe Mentor reminded the group that following the amendment process is the Rate Case Process. The amendment process is the best place to build justification for Rate Case funding.

ITEM 3: Progress Reports

- Wildlife Advisory Committee
- Resident Fish and Anadromous Fish Committees

ITEM 3 cont. Wildlife Advisory Committee

Michael Pope and Carl Scheeler presented the Wildlife Advisory Committee's progress report, presentation, and draft white papers to the group. Review the Wildlife Program Amendments presentation at

http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/Wildlife_Program_Amendments_Revised_072407cScheelerPresentation.pdf.

The WAC is requesting full mitigation for wildlife losses caused by the impacts of the hydro systems' construction, inundations, and operations. Carl outlined the 2000 Program objectives and wildlife attributes. What does HEP assess? Habitat Unit (HU) equals number of acres times HSI (measure of habitat quality on a scale 0 to 1). The Fish & Wildlife Service does not support the use of the outdated HEP tool.

The priority wildlife amendment issues are Crediting including addition of secondary and operational losses, Operations and Maintenance, and Monitoring and Evaluation. See Wildlife draft white papers posted at

Crediting White Paper:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/Wildlife_Crediting_AmendDraft2WhtPaper071707.doc

O&M White Paper:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/Wildlife_OM_AmendDraftWhtPaper071707.doc

M&E White Paper:

http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/RME_History_BackgroundDraftWhtPaper071707.doc

Concerns with Crediting are that BPA does not recognize the 2:1 crediting ratio, MOAs with BPA stressed 1:1 crediting ratio, and unaddressed Operational losses. Credit issue relating to non-wildlife projects, no loss ledger for fish habitat, is it a wildlife priority need, and credit application disagreements.

Concerns with O&M are the NPCC's variable costs, funding based on historical allocations, lack of long-term agreements, inefficient annual contracts, and confusion with O&M verses enhancement.

Concerns with M&E are limited to HEP assessments, HEP doesn't determine success of desired habitat or ecological conditions attained, most wildlife M&E is not funded, and participation in regional monitoring programs are not supported.

Action: The MAG approves the general direction that the Wildlife Advisory Committee is going with the Wildlife Program Amendments. The MAG provided the following comments:

- Continue evaluating the existing 2000 F&W Program, include today's comments, edits, and additions to the Program
- Support your recommendations with Joe Mentor's checklist
- Incorporate a Crediting ledger and description into the Program and draft crediting white paper. The ledger should not be controlled by any one entity, recommend a regional based determination.
- Define a regional oversight group and provide purpose of the group to reflect policy position principles. Not all WAC members are in agreement

with an O&M body to oversee work.

- Draft remedies for the Crediting, O&M, and M&E white papers issues and include purpose and function.
- WAC needs to resolve 2:1 issue and restate what's already in the Program and rebuild the record by linking it with deference owed.
- Demonstrate the value of WAC to the rate payers. Illustrate the amount of funding is not tied to outcomes and obligations. BPA's obligation is to acquire credits not mitigation.
- Provide evaluation of HEP and habitat units (HU) and provide alternative measures.
- Need something in place for long-term funding
- Describe consequences of no M&E and provide M&E framework to include alternative M&E database
- Articulate Wildlife goals
- Draw links from O&M back to the crediting strategy to identify needs for RM&E

Item 3 cont.

Anadromous Fish and Resident Fish Committees

Dave Ward and Neil Ward, CBFWA, presented the Anadromous and Resident Fish term definitions, progress on assignments from the Members, and a draft fish Amendment Template. These documents are posted at

- http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/Fish_Anadromous_Resident_Amendments_Presentation2007July24-25_DW-NW.pdf
- http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/TermDefinitionsMAGApproved_071707Final.doc
- http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/AFAC_DraftAmendmentTemplateSteelheadMidColumbiaCombined071307.doc

Dave reviewed the February Members assignment to the technical committees, then Dave and Neil reported that term definitions for biological objective, strategy, measure, limiting factor and threat have been approved by MAG. Dave and Neil then provided an update on the substantial progress made by the AFAC and RFAC on confirming focal species, biological objectives, and limiting factors. Dave then presented a draft template for Program amendments, using John Day steelhead as an example. Dave also showed the potential for using the template to develop provincial or ESU amendments. Neil showed that the same template can be used for resident fish, using bull trout and kokanee in the Lake Pend Oreille area as examples.

The AFAC and RFAC are requesting direction to continue to formulate program amendments using the template as the framework and linking amendments to recovery planning and viability analysis.

The RFAC will be meeting next week to complete their tasks and will provide a report at the next MAG meeting. They will be developing an objective that deals with harvest and mixed populations. The RFAC is using the same approaches as AFAC.

Action:

The MAG supports the direction and work that the AFAC and RFAC presented with the following comments:

- Add Pacific Lamprey data when available
- Include information on past, present and future population trends

- Inform region on status and budget
- Identify timeline for performance measures and standards
- Articulate biological objectives via the Act
- Add linkages to biological objectives
- Include local biological objectives to programmatic level and link to BPA obligations
- State qualified objectives supported by experts
- Add the word “Interim” before populations numbers
- RFAC is using same approach as AFAC
- Identify measures that address hydro and other out-of-subbasin impacts
- After looking at populations scales develop links to BPA’s responsibilities
- Graph program goals that articulate BPA’s responsibilities
- Review Power Act for BOR obligations for mitigation for fish passage and BPA obligation for listed and non-listed fish

Next steps

- Fix the biological objectives thru the MAG and Members
- Take local biological objectives to programmatic level and link to obligations
- Review 1986 Anadromous fish loss statement and build ideas for technical committee direction
- Include NOAA Fisheries presentation as it is related to ESA
- Develop linkages to larger level
- Oct. 07 thru Jan. 08 timeline to identify amendment issues clearly

Day One: Meeting adjourn

Day Two: Wednesday, July 25, 2007 - Amendment Strategy Meeting in Lilac Room

8:00 a.m. NOAA Fisheries Presentations by G.S. Sims

- Recovery Planning Web-links
http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/Recovery_Planning_Web_Links_gSimsNOAA_072507.doc
- ArcReader
http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/072407_Arc_Reader_Project_gSimsNOAA_Presentation.pdf

New Item 4: Recovery Planning Web-Links

Gary Sims presented a list of Recovery Planning Web-Links that are available to assist CBFWA in preparing proposals for the NPCC Amendment Process. The web-links provide recovery planning information for ESA listed anadromous fish populations within the Columbia River Basin and Puget Sound. The document contains several NOAA’s National Marine Fisheries Service (NMFS) Northwest Region website links that provide information relating to recovery planning by geographic recovery domain.

New Item 5: ArcReader

Gary Sims presented ArcReader, a mapping application and data sharing program. This program can make comparisons to unrelated datasets and documents. The program can identify limiting factors, threats, and proposed actions associated with major and minor spawning areas, and links to external documents, maps, and web pages. This tool will facilitate development of program amendments for listed anadromous fish that are consistent with recovery plans. The ArcReader is available to download free at <http://www.esri.com/software/arcgis/arcreader/about/features.html>.

David Crouse, NOAA Fisheries, GIS Services [david.crouse@noaa.gov] is the lead programmer on this project. David could be finished by mid September, if he can dedicate a 100% of his time on this project.

The group agreed that the ArcReader is a good tool for in-basin actions, analysis, and displaying information to help make decisions. Keeping it tied to the SOTR, building measures, and project selection criteria supplies a need for a database in the basin. The NOAA, Fisheries ArcReader analysis is lacking out-of-basin objectives for artificial production and creates a big gap if the data only covers natural production.

New Item 6: Development of Fish and Wildlife Program Amendments Presentation – Tom Iverson, CBFWA

- http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/CBFWA_DevelopmentFWprogramAmendments2007July24-25_tlverson.pdf

Tom Iverson provided the conceptual presentation on the development of F&W Program Amendments that includes the CBFWA vision, timeline for decisions affecting fish and wildlife, CBFWA approach for draft amendments, hierarchy, losses/mitigation, BPA's customer groups proposals, questions and objectives regarding mainstem survival, habitat, and blocked areas, wildlife recommendations and objectives.

The meetings with customer groups (i.e., PPC, River Partners, PNUCC, Grant Co. PUD and staffs from BPA, NPCC, and CBFWA) are positive. The customer groups are better informed about the Program Amendment process and appreciate the work being done by the Amendments workgroup. The customer groups have requested that the NPCC not start the Amendment Process until January 2008 and wait for the BiOp process to conclude and continue meeting with the Amendment workgroup to collect best available information to write their recommendations. Tom I. distributed a handout to the group titled "CBFWA staff comments to FCRPS Responsibility Concepts Piece" dated 6/27/07. He stated the importance of having the customer groups' support and is requesting MAG's comments on working with them. MAG expressed concerns considering past experiences surrounding these issues.

Action: The MAG requested that the word "or" be changed to "and" in the Mainstem Survival Objectives presentation slide, first bullet: "Establish juvenile survival targets for each species (by project "or" and" through system depending on ability to monitor, BiOp)". Change outdated language for Spring and Summer Chinook. The next step is to link subbasin population objectives to the mid-level/province level objectives.

New Item 7: 7/25/07 Meeting Update with Tom Karier, Peter Paquet, and Brian Lipscomb

Brian Lipscomb reported on his teleconference call with Tom Karier and Peter Paquet, NPCC regarding the effectiveness of the F&W Program data.

A few weeks ago, Tony Grover, NPCC stated that he needed 6-reports on RM&E and abundance before he could make any decisions. Brian Lipscomb responded and referenced the SOTR abundance information and the data in CSMEP analysis. In addition, hatchery supplementation information is available by US v. Oregon and habitat and productivity data will be reported in the next phase of the SOTR.

Tom K. and Peter P. will report back the NPCC on abundance, productivity, measures, habitat indicators, research, cost relationships with habitat, and how to track, collect,

access, and report on abundance. Tom Karier recognizes now that the way the Program is built, it is not easily understood or does it provide information for performance standards, production, habitat, hatchery, TFW, and the database. CBFWA can provide reasonable data to help precede data management. Peter P. is looking at hatchery data.

Action: The MAG is assigned to summarize the abundance information and frame up a conversation to measure productivity (i.e., spawner to smolt; spawner to spawner for productivity; spawner to spawner for productivity of life cycles and trends). Introduce RM&E as related in the 2008-2009 Project Selection. Include the value of the expertise of the F&W managers, Tribes, and agencies and identify CSMEP as a source to show efforts and benefits of the CSMEP project that addresses Tom Karier's key concerns. The MAG agreed that a well thought out response to NPCC is important.

Item 3 cont: Progress Reports Discussion Continued

The group had a long discussion on why biological objectives are needed, how to use them, and how to express them? The MAG agreed on the substance of draft amendments and they decided that adults and harvest are a good measurement for abundance trends related to limiting factors and threats for anadromous fish and resident fish.

- Define measures to address threats.
- Define Adults abundance and harvest.
- Define Adults productivity.
- Achieve what we can do now and supplement with existing data.
- Utilize the draft fish template.
- Concentrate on adult abundance and out-of-basin.
- Next step is to define strategy and measures.
- Define policy framework for amendment process and how to present it.
- Provide directions to the technical committees on M&E at the local level.
- Utilize the Feds M&E Plan and other M&E reports.
- Define assumptions to establish linkages to monitor, evaluate, and track effectiveness.
- What is the strategy and main points to formulate the recommendations to the NPCC?
- Determine the Program Amendments with measures and biological objectives. What are BPA's obligations?
- The group had a long discussion on BPA's obligations. They agreed to identify BPA's obligations with regards to the losses and prepare for the next rate case to spell out the path for customers.
- Define rate/pace of implementation.
- Define BPA obligations in quantified terms related to funding.
- Caution on what metrics to use.
- Joe Mentor references the Act. Develop the recommendations to deal with hydro system obligations. 1. Address measures to protect fish and wildlife; 2. Establish objectives for projects affected by the hydro system, (e.g., look beyond measures to protect F&W, resolution process for contract terms, payment plan). 3. Include F&W coordination, research and development. The Act lays out process for NPCC to follow on measures.

- BPA obligations are defined in two levels. 1. Programmatic level (interim target based on loss) 2. Specific measures at the project level
- Direction for RFAC is to layout a vision that is interrelated with anadromous and resident fish obligations to develop loss assessments. Discussions should occur with Tribes and agencies to define a process for accessing resident fish losses across the basin, how much substitution for resident fish for amount of loss in the basin, and off-site mitigation. What are the mitigation principals? What are the losses and opportunities to fix them? What are BPA's off-site responsibilities to replace on-site damages caused by the hydro system? What are the efforts to mitigate for implementation?
- Link obligations with Tony Nigro's flip chart diagram. Tony defined Interim Definition on the flip chart and the diagram is posted at http://www.cbfwa.org/Committees/MAG/meetings/2007_0724/InterimDefinitionFlipChartDiagramByTonyNigro.pdf.
- Customers are seeking certainty for BPA's financial responsibilities with a timeframe.
- Subbasin threats are not tied to BPA's obligations.
- Define in-basin and out-of-basin threats using analysis and lifecycle models for effects of escapement.
- Check for benefits and reporting duplications on AHA analysis.
- Focus on limiting factors and threats by assigning priorities to threats.
- NPCC will use the AHA tool to evaluate measures.
- Define a process for accessing resident fish losses for hydro systems.
- Identify losses above blocked areas to quantify off-set anadromous fish in blocked areas blocked by hydro dams. What else it is going to take, or what is needed to mitigate for anadromous fish losses with resident fish substitution.

What will it take to mitigate for fish losses?

- Identify loss adult fish
- Establish terms and conversion rate.
- Assess Resident fish losses in entire basin.
- Define clear picture for obligations for resident fish.
- Make relationship with only 12% going toward the efforts and it is not enough to mitigate.
- Is it feasible to reintroduce anadromous fish back into the blocked areas? Is the Resident Fish program providing a solution to the problem?
- Some resident fish projects are related to resident fish losses.
- Is the large substitution efforts for anadromous fish losses enough. What are portion percentages? What percentage of losses are being mitigated?
- List issues and limitations: 1) 3M construction losses 2) Separate operational losses 3) Losses assessed on annual basis.
- Resident fish substitution is partial compensation for loss of anadromous fishing opportunities.
- Add to the Program Amendments: There is no dollar amount or formula to compensate for the loss of anadromous fish in the blocked areas. The Tribes

value the numbers of fish and their cultural legacy.

- Define the benefits for resident fish substitution.
- Some benefits of resident fish substitution are that the Tribes or agencies choose native and/or exotic for fishing opportunities. Cost of doing big management is part of Resident fish substitution program. The Tribes are getting mitigation for fish and wildlife impacts. BPA doesn't mitigate losses for fish and wildlife impacts. Wildlife is only mitigated for losses not gains.
- Identify losses to the ecosystem
- Include objectives for harvest as benefits for fish and wildlife with the other biological objectives and trend monitoring to justify rate of implementation for prioritization for actions.

ITEM 8: Where Do We Go From Here?

- Prepare a presentation to update the NPCC at the August Meeting on the Amendment workgroup's status to include the draft fish template, a brief wildlife presentation, and discussions on RME and CSMEP in the Program Amendment process. Invite Members to August NPCC meeting to support presentation and answer questions.
- Set date for Amendment Workgroup to meet again to review draft amendment outline and progress report to present at the September Members Meeting.
- Utilize information in existing reports (i.e., the Remand, draft proposed action, BPA jeopardy analysis, TRT threat analysis, AHA analysis, Recovery Planning, and court documents).
- Review and apply Joe Mentor's checklist and organizational structure to Amendment data.
- WAC, RFAC, & AFAC will continue collecting data and revising Amendment recommendations and prepare for MAG and Members review.
- Technical committees add more details the draft fish template.
- Technical committees begin process to define BPA's obligations.
- Prepare draft Amendment outline for review at the September Members Meeting.
- Prepare Technical committees' progress reports for Members Meeting.

ITEM 9: Next Meeting

CBFWA staff will check on flight schedules and contact the facility in Polson, Montana for meeting availability to schedule the next MAG Meeting on Monday, September 17, 2007 from noon to noon Tuesday, prior to the September 18-19, 2007 Members Meeting.