



NORTHWEST POWER AND CONSERVATION COUNCIL

November 13 - 14, 2007

In Coeur d'Alene, NOAA Fisheries' Bob Lohn hit the high points of the draft Biological Opinion, and Council members quizzed the feds on what the massive new missive means for the Fish and Wildlife Program. Council staff called the BiOp's hydro operations changes for fish "good news," and the Council and BPA joined hands to count conservation. Next Meeting: December 11-13 in Portland, Oregon.

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FOR OPENERS

Idaho Governor Butch Otter welcomed the Council and told them, "nothing is more important than what you folks work on." He said Jim Yost, whom Otter recently appointed to the Council, has served his state well and is particularly knowledgeable about water issues. Yost is now chair of the Council's Power Committee.

Otter said he just returned from a trip to China, where a new coal plant of at least 250

MW comes on line every week, and the damage to the environment and water are tremendous.

In Idaho and the Northwest, we are planning for cleaner energy than we've used in the past, he stated. There are huge opportunities in the Western states for renewable energy, according to Otter. Hydro is always going to be the source of energy in the Northwest and the West – we'll protect it and do what we can to supplement it, he added.

The "lowest-hanging fruit in the energy orchard" is conservation, Otter said. In Idaho, we are discussing what we can do to encourage more conservation, and we'll soon announce additional private-sector help to enable us to do that, he stated. Otter said he doubts there will be a new coal plant built in Idaho until technology improves, and he noted the state has a new geothermal plant, which will eventually provide up to 60 MW of energy.

We can work together to overcome the natural resource problems of the region and resolve the problems we've had with the Endangered Species Act (ESA), Otter stated. The toughest problems for the Council to handle are those that are politically manufactured, he said.

THE AGENDA



Lohn Hopes Third Time's the Charm

NOAA Fisheries regional administrator Bob Lohn kicked off a presentation on the draft Federal Columbia River Power System (FCRPS) and Upper Snake Biological Opinions (BiOps) by noting that the strategies they contain "assume an active and major Council role" in the future. "This is my third FCRPS BiOp to explain, and this time we really hope we get it right," he said.

Lohn noted that the 2000 BiOp was invalidated because the court said the actions in it weren't reasonably certain to occur. When the 2004 BiOp was invalidated in 2005, the issue was the standard to determine jeopardy, he said.

There are some major differences this time around, according to Lohn. Previous BiOps were internal products, while this time we've worked closely with the region, he pointed out. Judge Redden said "engage in collaboration," and our staff participated in over 300 meetings, Lohn said. I want to give credit to the states and tribes who engaged seriously in this collaboration – there was a genuine effort in the region to identify common ground, he added. This draft BiOp is deeply informed by this regional process and represents a broader approach than was taken in the past, Lohn said.

Another difference with this BiOp is that we have raised the bar for determining jeopardy, he noted. We focused particularly on seven Evolutionarily Significant Units (ESUs), Lohn said. For each of those fish stocks, our goal was to see that they are moving steadily toward recovery – so that at the end of the 10 years the BiOp covers, we could determine whether those stocks are noticeably better off, he explained.

A third difference is that we have taken a much more detailed approach to the problem, Lohn told the Council. We were helped in this by the subbasin plans, which were launched by the Council, he stated. Those plans informed the consultation process and helped determine the limiting factors for each fish population and what solutions there are, Lohn said. This BiOp is essentially the subbasin planning process made specific for each ESU, he noted.

We think the BiOp makes a solid scientific case as to why the actions it contains are leading us toward recovery, Lohn said. The picture that emerges is that some ESUs have problems that are not amenable to quick fixes and will require long-range efforts, and that it's not the same story for each ESU, he explained.

Turning to the four Hs, Lohn said for hydro, the BiOp incorporates information on new technologies, such as fish slides, and tries to optimize the use of the available water in the basin. For hatcheries, the BiOp relies on the major hatchery reform efforts going on in the region, including work of the Hatchery Scientific Review Group, he noted.

For harvest, we used the basic regime of the *U.S. v. Oregon* agreement, Lohn said. Since it will soon expire, we've been part of the negotiations for the next version, he added. Tentative agreement on a new version of *U.S. v. Oregon* has been reached, and this BiOp is intended to accommodate that, according to Lohn. Some of the measures in the new agreement are better for fish than what is in the current agreement, he stated. The Council's "robust process for selecting F&W projects" will play a key role in seeing that the habitat goals of the BiOp get implemented, Lohn said.

We tried to be very conservative in our assumptions about climate change in the BiOp, he continued. As for the question of dam breaching, to me, the picture for breaching is even less convincing than it was in other times, Lohn said.

Overall, what matters for the region is having an action plan for the next 10 years that focuses on the large areas of agreement we found in our collaboration, he stated. I hope the region can come together to carry out the opportunities for the future contained in the BiOp, Lohn concluded.

Other Feds Weigh In

Dave Ponganis of the Corps of Engineers and Sarah McNary of BPA described the proposed Reasonable and Prudent Alternative (RPA) and related actions in the BiOp. The RPA is based on collaboration

with the sovereigns, is performance-based, and contains actions to address each ESU's limiting factors, Ponganis said.

There have been significant changes to the dams over the last 10 to 15 years in terms of physical features and the way they are operated, he stated. We've upped our performance standards this time around, with commitments to achieving 96 percent average or better survival per dam for spring migrants and 93 percent average for summer migrants, Ponganis pointed out. We've included the Council's mainstem amendment for Montana projects and the Nez Perce water rights settlement agreement, he noted.

In terms of hydro actions to improve survival, we'll try to achieve surface passage at all Columbia and lower Snake dams by 2009, and we'll continue spill for fish passage, Ponganis said. We'll transport fish when the science shows it is best for the fish, and we have included a new strategy for kelt steelhead management, including reconditioning, he added.

The habitat program focuses on the needs of the fish and targets populations most in need, said McNary. The RPA calls for an additional layer of review for F&W habitat projects, including a "benefit analysis," she noted. Project reporting would be done at a finer scale than the Pisces accounting system currently being used, McNary said.

The habitat program for the estuary focuses on riparian and off-channel habitat and reconnecting floodplains, and we've added a new program to remove pilings and dikes that are blocking fish passage, she reported. Predator management programs have been ramped up, McNary noted.

The RPA has an extensive research, monitoring, and evaluation component and

includes annual progress reports and check-ins in 2009, 2012, and 2015, she continued. In our collaborative effort, we worked with a Regional Oversight Group made up of state and tribal representatives, and we will continue that collaboration, McNary said.

Karl Wirkus of the Bureau of Reclamation said the proposed actions in the Upper Snake BiOp are consistent with flow augmentation in the Nez Perce Settlement. That settlement and the ESA consultation reflect an extraordinary collaboration, he noted. We are looking at adjusting flow augmentation timing under that agreement to be consistent with fish needs, Wirkus added.

Questions from the Council

Larry Cassidy asked McNary about the new review of F&W habitat projects and asked, "is this another process beyond ours?" We need to work with the Council to set up an "expert review panel" to estimate each project's relationship to the limiting factors and calculate an estimated benefit before the Council makes a decision on the project, she replied.

The Independent Scientific Review Panel (ISRP) conducted science reviews in the past, but this BiOp takes it a step further by requiring a quantitative analysis, McNary said. Cassidy asked what the role of the Regional Oversight Group would be. It's still under discussion, but the parties who participated in the collaboration leading up to the BiOp want to carry through into implementation, McNary stated.

The Council has responsibility and authority under the Power Act, said Bill Booth. How do you see the F&W project selection and funding process moving forward relative to the Power Act? he asked. We will incorporate what is needed to deliver on our

commitments under the RPA into the design of the next F&W project solicitation, said Greg Delwiche of BPA. What's the timing? asked Booth. If additional work needs to begin in the FY 2007-2009 time frame, we'll have to decide how to work with you on that, Delwiche said, adding that there is funding available for such needs.

We are the only game in town unless you are going to create a new project funding process, observed Rhonda Whiting. It sounds like there will be a considerable number of changes to our F&W program if we implement all that you have outlined, she said. Maybe we should ask you to give us comments on amending our program – these are major changes, Whiting told the federal representatives. If you want us to handle all the actions proposed, are you going to increase our budget? she asked. BPA thinks there will be increased funding needs associated with this undertaking, McNary replied.

Bruce Measure asked how the Regional Oversight Group would be funded and who would be represented on it. We haven't made a proposal to fund an oversight group – we made a proposal to continue a sovereign collaboration group going forward, replied McNary. We anticipate coming together at least annually, if not twice a year, to "maintain the nexus between the parties" in terms of focusing on implementation and whether it is successful, and whether any new information should be brought into the process, she stated.

You have a body representing the balance of the sovereigns before you now, Measure said. Why aren't the federal agencies considering the oversight as part of the Council's program? he asked. We need to hold the action agencies accountable to achieve a certain amount of benefits, said

Lohn. NOAA Fisheries expects to use existing institutions as much as possible as long as the needs are met, he added, recommending the Council work with the federal agencies to decide how best to achieve the goals.

BPA's relationship with the Council is extremely close, and we intend to operate in that fashion in the future, said McNary. She noted that the BiOp remand process brought the tribes to the table as collaborators and "full voices," along with a number of federal agencies that have salmon recovery responsibilities, but are not action agencies. There was an overlap with the Council, but not a complete overlap, McNary said. There is a desire to have the sovereign-level discussions continue, and the trick for us is to figure out how to have the Council be part of that, she added.

How will the Regional Oversight Group interact with the in-season regional forum? Measure asked. If an issue is not resolved by the Technical Management Team, we could use the oversight group on an ad hoc basis, said Ponganis. I've said at Policy Working Group meetings that there should be more integration of the activities of the TMT and in-season regional forum with those of the Council, Measure stated.

Council chair Tom Karier asked if the federal agencies envision continuing to integrate the Council's work with ESA work. Delwiche said they do. It's imperative that the Council and BPA work together on this and make sure the process is streamlined and clear to the region, Karier stated.

This BiOp is closer to what we need than any previous BiOp, and I urge the Council to be positive about it, said Cassidy. It's "a real hard look" at individual fish populations that

we haven't seen before, and we'll have to see whether it flies or not, he added.

There are a lot of impressive elements in this BiOp, agreed Karier. You've pushed much further than in the past, and it's the kind of approach to science that the Council has supported all along, he said.



Good News in 2008 BiOp Hydro Ops?

We took a preliminary look at the differences in salmon operations at the FCRPS hydro projects between the new draft BiOp and the 2004 BiOp, staffer Jim Ruff said. One notable change is that the new BiOp includes implementation of the Council's plan for the Libby and Hungry Horse projects, including drafting evenly to 10 feet from full for salmon flows from July through September 30, staffer John Fazio reported. That's good news since operations at the Montana projects have been a continuing annual issue, said Ruff.

At Grand Coulee, the new BiOp calls for drafting an additional one foot in non-drought years and 1.8 feet in drought years, as called for in Washington's Columbia River Water Management Program, Fazio stated. At Dworshak, there would be a draft to meet salmon flow objectives during July and August, with a limit of 1,535 feet by August 31 and 1,520 feet by September 30, he reported. The 2004 BiOp called for a draft limit of 1,520 feet by August 31, Fazio noted. This change is tied to the Snake River adjudication process and the Nez Perce settlement, Ruff said. "It's all good news," Fazio commented.

Ruff reported that spill dates have changed slightly in the new BiOp. This is the first

BiOp with performance standards, and that should help the System Configuration Team focus on projects that are not meeting the standards, something similar to what the Mid-Columbia dam operators do, he said.

Summer spill in the draft BiOp is closer to what's been done recently than what was in the 2004 BiOp, Ruff noted. He highlighted specific spill changes called for at Bonneville, McNary, Ice Harbor, Lower Monumental, and Little Goose dams. One big change is the provision for summer spill at the Snake River projects, Ruff said.

He explained changes in fish transportation strategies under the new BiOp, noting that the BiOp says transport operations can be adjusted through adaptive management or for research purposes. Ruff said he asked NOAA Fisheries about the difference between the new BiOp and the 2004 version, and NOAA said: under the old operations, 88 percent of steelhead and 78 percent of spring chinook were transported, while under the new BiOp, 83 percent of steelhead and 73 percent of spring chinook would be transported.

The new BiOp calls for spill at the collector dams in the summer and for adaptive management, such as turning spill on and off depending on the number of fish, Ruff said. That's a big difference from the way it's been, he noted. We will look into this further and present a power impacts analysis that compares the two BiOps at the December meeting, Ruff told the Council.



Exchange Agreement Hailed as "Huge Step Forward"

Staffer Terry Morlan reported that public and private utilities have reached agreement on a "value structure and framework" that would settle the issues related to distribution of residential exchange benefits. "It's a significant development," he said.

The purpose of the agreement is to allow for reinstatement of BPA's payment of exchange benefits to utilities, retroactive to October 1, 2007; the range for the proposed benefits is between \$200 million and \$220 million annually, Morlan stated. The intent is to settle all the claims with this agreement and put it in place as part of the Regional Dialogue, he added.

BPA will still have to do all the tests required in the Northwest Power Act, including 7(b)(2) and the average system cost methodology, according to Morlan. The agreement has been characterized as an "all-or-nothing agreement," he noted.

"This is a huge step forward in settling an issue that's been bugging the region for a long time," Morlan told the Council. There are a lot of details to work out, but it is a major accomplishment, agreed Karier.



Utilities Make the Conservation World Go Round

In an effort to avoid misunderstandings in the future, BPA asked the Council to review how it plans to count conservation in the 2007-2011 period and post-2011, staffer Charlie Grist said. Staff has done that and proposes the Council write a letter to BPA agreeing with the approach the agency will take, he stated.

To encourage conservation between now and 2011 when the new BPA power contracts will start, BPA plans to credit utility-funded conservation toward a utility's "High Water Mark," which allows for the purchase of Tier 1-priced power in the post-2011 time frame, Grist explained. BPA is trying to move its conservation activities to the utilities themselves, he noted. After 2011, BPA will base its conservation target on the entire load of its public utility customers, not just the share of that load supplied by BPA resources, Grist said.

BPA will continue to use the Council's plan to establish its conservation targets, he pointed out. If there is a shortfall in conservation achievements, BPA will step up and help utilities hit those targets, Grist said.

Joan Dukes moved that the Council approve a letter to BPA setting out the Council's understanding and recommendations on conservation accounting under the Regional Dialogue policy. Yost seconded, and the motion passed.

"This is another big accomplishment," said Karier. In the past, BPA and the Council were considering accounting for conservation differently, but now we will be

doing it the same way, he noted. "It's great progress," Karier stated.



Footprint Paper Finished

Morlan reported on comments the Council received on its draft paper, *Carbon Dioxide Footprint of the Northwest Power System*, and changes made to the paper in response to the comments. Almost all the comments were favorable, and many asked for additional information and analysis, he said. We added new information to the paper on how the region's emissions compare to other parts of the country and the world, and we added a section on the kinds of actions required to meet various CO₂ targets, Morlan noted.

We removed one scenario dealing with utility Integrated Resource Plans (IRPs) because since the paper was written, utilities have prepared new IRPs "which look like the Council's plan," so we didn't think we needed that scenario any more, he said. We also added sensitivity analyses related to higher fuel prices and carbon prices, Morlan stated.

Cassidy asked how Removable Spillway Weirs factor into the spill scenarios analyzed in the paper. That wasn't addressed in this paper, but it will be in the next power plan, Morlan replied.

I still have concerns about some of the scenarios included in the paper and some that were left out, stated Melinda Eden. But the bottom line is that the paper is fairly complete and is balanced, she said. Its most important message is that to achieve the targets, we'll have to do some serious

reduction of CO₂, and it should start with conventional coal plants, Eden stated. Dukes moved the Council approve release of the final CO₂ footprint paper, Eden seconded, and the motion passed.

F&W Amendments: The Postcards Have Landed

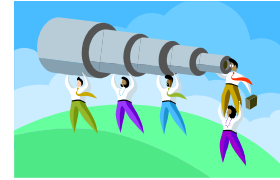


Staffer Patty O'Toole said the Council sent out postcards to 8,000 people in the region announcing the call for recommendations to amend the F&W program, as well as 400 letters and a series of press releases. "We've saturated the region," she told the Council.

A lot of new information related to the amendments has been posted on the Council's website, and we have asked people to submit recommendations through the website, O'Toole said. We'll make all the recommendations we've received public on the website on February 1, she noted.

A set of provocative questions that arose from the Council's Science Policy Exchange will be posted on the website the week after Thanksgiving, staffer Lynn Palensky reported. Once we have a set of draft amendments, we will hold public hearings in each state, she noted. Staff is also setting up consultations for Council members with the sovereigns, Palensky said.

Council Will Get a Peek at Non-Major Resource Acquisitions



Under Section 6(c) of the Northwest Power Act, the Council is to review BPA's acquisitions of major resources (over 50 MW) and determine if they are consistent with the Council's power plan, but there is no provision for the Council to review non-major resource acquisitions, Morlan said. Under the Regional Dialogue policy, BPA expects to acquire some additional generation resources over the next several years to augment the Federal Base System, he noted. Staff has worked with BPA to develop a policy under which the Council could review non-major resources for consistency with the power plan, Morlan said.

This would be an informal process that would enhance the Council's ability to follow what BPA is doing with resource acquisitions, he explained. Dukes moved the Council approve the proposed process for reviewing BPA's proposed non-major resource acquisitions. Yost seconded, and the motion passed.



IEAB Finds Wildlife Costs Hard to Benchmark

Dr. Roger Mann of the Independent Economic Analysis Board (IEAB) described the panel's recent investigation of wildlife operations and maintenance (O&M) costs undertaken in response to Council concerns about growing O&M costs for F&W projects. We tried to examine wildlife project cost data using information from Pisces to see what we could determine about cost benchmarking, and we looked at other wildlife projects in the region to see what data they could provide, he said.

We found that in its current form, Pisces can provide useful information on relative costs of wildlife projects, but only at a very coarse level of resolution, Mann stated. We recommend that project reporting and BPA's Pisces system be modified to include cost shares from non-BPA sources by work element and the expected life of any investment expected to last more than one year, he said. Some projects look cost-effective only because other entities are paying some of the costs, Mann added.

We found, after looking at data from other projects in the region, that "very generally, BPA wildlife project costs are not far out-of-line," he said. We made recommendations that might improve cost management, such as requiring more competitive bidding, possibly having budgets of longer duration, and allowing for carryover of funds, Mann reported.

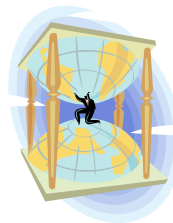
We are looking for better ways to achieve fiscal accountability, Booth said. Did you determine how far BPA drills down on this – do they have annual audits? he asked. Bill Maslen of BPA told the Council individual

projects are not audited, but a project can be selected for an audit if there is concern about it.

Yost asked if the IEAB had compared BPA-funded wildlife projects with what Idaho Power, Avista, PacifiCorp, or other private companies would do with a similar project. Did you look at private sector efforts, where you have to do things cost-effectively and make a profit? he inquired.

We were asked to develop a system of cost benchmarks, and given the current state of information, we found we can't do that, replied Mann. We recommend such a system be based on all the projects in the region, not just Pisces projects, he added.

Are there private sector projects you could look at for comparison? Karier asked. Yes, there are land trust projects, and they may be managed at a lower unit cost, replied Mann.



Could BPA Sell Hummer Drivers Environmental Credits?

Mann described a recent IEAB report on strategies for habitat acquisition and land values. We found that having the F&W program seek new partnerships with local governments and landowners is crucial for protecting and restoring habitat in areas with high land values, he stated.

The IEAB thinks that emerging markets for environmental attributes, such as carbon sequestration, water quality, and biodiversity credits, provide opportunities to generate revenue and/or reduce costs, Mann said. The Council should clarify who has the right to sell environmental attributes generated by projects funded by BPA, he recommended.

Mann said wildlife habitat accounting policies are not consistently applied or understood and noted that the Council uses a 2:1 ratio while BPA uses a 1:1 ratio. Under BPA's accounting in some regions, we've acquired all the habitat units we need, while the Council's accounting says we have not, he pointed out.

The idea of sorting out who gets environmental credits is a good one because those markets are emerging very quickly, said Karier.

Helping Naïve Pinnipeds Kick the Habit



Ruff reported on NOAA Fisheries' Pinniped-Fishery Interaction Task Force and its recent recommendations regarding lethal removal of California sea lions. At a meeting in October, 17 out of 18 of the task force members agreed sea lions are having "a significant negative impact" on listed salmonids and recommended two alternatives that allow for some lethal take of the sea lions, he said. The task force member who disagreed is filing a minority report, Ruff noted.

The first lethal-take option sets a goal of reducing the predation to a rolling three-year average of one percent or less over a six-year period, and the second option, which is more aggressive, would target problem animals to "minimize new recruitment of naïve animals into becoming problem animals" and allow for lethal removal of up to 2 percent of the sea lions, he explained. If NOAA approves one of the alternatives, and there isn't litigation, implementation could take place next spring, although NOAA has indicated funding may be an issue, Ruff noted.

Booth said he had met with NOAA officials, and the same team that worked on sea lion predation at the Ballard Locks is being used on this issue. They are committed to finishing the environmental work by March, but they do expect litigation, he noted. By March, there may be a bill in Congress on this, Booth added.

Could this effort result in an unexpected increase in the population of sea lions just as coyotes subject to eradication programs respond by having larger litters? Eden asked. That's a good question, replied Ruff. What we do know is that sea lions learn from each other, and that the habituated ones teach the naïve ones "to come up here for an easy meal," he stated. We think this program will discourage the recruitment of naïve animals and may in time mean that few animals overall will need to be taken, Ruff said.

END NOTES _____

Care to Comment on the Electricity Price Forecast? The Council approved the release of its Revised Electricity Price Forecast, which estimates future wholesale power prices and capacity values and will be used to guide the initial resource assessment for the next power plan. Staff said the forecast explores the possible effects of renewable portfolio standards on resource additions and electricity prices. Comments are due December 14.

Upper Snake Tribes Get Dollars. The Council approved just over \$320,000 to pay for "regional coordination" activities of the Upper Snake River Tribes Compact for two years, starting in FY 2008. The Council will be making more decisions about regional coordination funding in the coming months, but this early approval allows the new three-tribe compact to hire an executive director and set up an office.

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<u>Council 2007 Calendar</u>	
December 11-13	Portland, OR

<u>Council 2008 Calendar</u>	
January 15-17	Vancouver, WA
February 12-14	Portland, OR
March 11-13	Boise, ID
April 15-17	Whitefish, MT
May 13-15	Walla Walla, WA
June 10-12	Spokane, WA
July 15-17	Montana
August 12-14	Spokane, WA
September 16-18	Astoria, OR
October 15-16	Missoula, MT
November 18-20	Coeur d'Alene, ID
December 9-11	Portland, OR