



## Lower Columbia Fish Recovery Board

---

June 7, 2019  
Board Meeting  
Clark County WSDOT, Room CR124  
11018 NE 51<sup>st</sup> Circle  
Vancouver, WA 98682

Draft Minutes  
For Approval: July 26, 2019

**Present:** Taylor Aalvik, Mike Backman, Lee Grose, Tom Linde, Richard Mahar, Hal Mahnke, Don Swanson, Olaf Thomason, Jade Unger, and Dennis Weber

**Absent:** Gary Medvigy, Todd Olson, Gary Stamper, and Dean Takko. Chairman Linde excused the absent members.

### **PUBLIC COMMENTS:**

Eli Asher: Item #2 - Lewis River In-Lieu: Mr. Asher is providing his comment as a member of the public and not representing the Cowlitz Tribe. Mr. Asher sits on the Lewis River Aquatic Coordinating Committee (ACC) which is an implementation committee for the hydropower license on the Lewis River. He stated he supports the Director's request to intervene in post license proceedings and to initiate alternative dispute resolution proceedings. He noted that the LCFRB was formed in 1998 to perform guidance in salmon recovery planning, and that county commissioners on the Board believed that local decision making would be superior to decisions coming out of Washington DC. Mr. Asher encouraged the Board to approve the agenda item and allow the Director to engage in discussions. He added he felt it would be embarrassing to engage in the dispute resolution and not have the local sponsor of a Salmon Recovery Plan at the table providing the technical background needed for productive conversations with the utilities.

- Board member Swanson asked if the current method is Trap and Haul. Mr. Asher stated currently adult fish are captured below Merwin Dam on the Lewis River. A portion of those fish are transported above Swift Reservoir. He explained that the Settlement Agreement (SA) outlined a plan in which there would be upstream and downstream passage provided at each one of the three reservoirs facilities. PacifiCorp's preferred alternative is to maintain the status quo with regard to adult salmon and steelhead passage and that would block access to miles of potentially productive habitat feeding Merwin and Yale Reservoirs. Mr. Asher thanked the Board for the opportunity to comment on this item.

### **DIRECTOR'S REPORT**

- Director Manlow stated we are midway through the grant round process. The Board received 16 draft applications. On May 21 & 22, the TAC reviewed the draft applications and made recommendations to the sponsors. Final applications are due on June 10, and on July 10 the TAC will review and score the applications to prepare a draft ranked list. Staff will present the ranked list to the Board for your meeting on July 26 for review/approval.
- This is the first year we have paired the SRFB grant round with the Cowlitz Restoration and Recovery Fund (CRR) process. The TAC will review the CRR application and make recommendations to Tacoma Power for funding. The Cowlitz Tribe has applied for CRR funds for a project on the Cispus/Yellowjacket Creek.
- Small Grants Program: The Board received four Letters of Interest. In late April, three were asked to go to final application submittal. Those three projects were funded. These projects will utilize all the funding that was available from Chinook Ventures and Wal-Mart Mitigation funds.

- Student Intern Update: Staff began advertising in early May at local colleges and universities for Communication and Technical & Data positions. We received 5 applications for the Communications position and 19 for the Technical & Data position. Staff is reviewing the applications and interviews are scheduled for June 19, 20, & 21.
- The Board began advertising to the Mayors and City Clerks to fill the City Representative position on the Board. Nominations are due on June 21.
  - Board member Mahnke stated he received an email from a friend of his, Scott Vydra, who is a Longview City Council member. Mr. Vydra stated the Mayor has nominated him for the City Representative position and he asked to meet with Board member Mahnke to discuss the position.
  - Board member Weber stated he began service on the Board as the City Representative. His understanding is that the Mayors of the largest city in each county will make the selection. Ms. Smee added that the RCW doesn't specify mayors. She noted that the mayor or city council could appoint a member to represent the cities. Nominations will be made by ballot.
- Capstone Position: The Capstone position for Environmental Studies and Science Program has been filled. Alex Zhen is a Geography and Environmental student from the University of Washington. He will be working on a mapping project for habitat actions and a subset of the region by creating visual tools to help us better tell what information we have. This will be an 11-week position beginning the end of June and free labor for the Board.
- Hydro Front: We have been spending quite a bit of time as staff working in the different hydro forums. One of the agenda items today is related and the second is working with the Fisheries Technical Committee (FTC) and Tacoma Power to update their fisheries management plan for the basin. Our role is to integrate the Recovery Plan and Conservation Sustainable Fisheries Plan (CSFP) priorities, actions, and measures into that process.
- Conservation Sustainable Fisheries Plan (CSFP): The first annual report will be ready for review in a couple of months. A meeting has been scheduled for July 3<sup>rd</sup> at the Ridgefield WDFW office to review abundance targets for each of the populations as well as what hatchery/harvest reform actions have been implemented across the region.
- The Upper Cowlitz-Cispus Strategy (UCC) is scoped to wrap up in December this year. The project is focused on restoration and conservation strategies for the Upper Cowlitz and Cispus watersheds above the hydropower system in the Cowlitz and looking at habitat actions to benefit spring Chinook, coho, and steelhead. The strategy report will be used to develop projects. A workgroup meeting is scheduled for July 23<sup>rd</sup> at the Morton WDFW office.
  - Board member Weber asked if the UCC Strategy will be able to note an increase in fish populations. Ms. Johnson stated the strategy will not show the changes in fish populations but will show habitat actions to support recovery goals.
  - Board member Swanson stated, back in the early to mid-1990's, Fish First worked in Cedar Creek and added that he feels the creek has been improved from where it was.
  - Board member Weber stated he is looking forward to seeing the fish recovery data to support public opinion.
- The Program Review is wrapping up the end of July. PC Trask has been the consultant working with Steve West on the project evaluating land use programs in the basin.
- LCFRB Policy Review: Staff is continuing to review policies and have received sample policies from other regions and Lead Entities. Ms. Smee stated we are also proposing to create additional Financial Policies. Currently, the Board doesn't have a written financial policy to determine process to pay vendors or process payroll.
- Council of Regions (COR) directors met with NOAA Fisheries on May 10. Director Manlow stated the meeting went well and the outcome of the meeting was that NOAA will work close with the regions on the next 5-Year Status Review. The information being collected in the CSFP and

Program Review will carry forward into the next 5-Year Status Review. NOAA committed to meet again at the policy level and also have follow up discussions with each of the regions. A meeting between LCFRB staff and NOAA Lacey staff has been scheduled for June 18 in Lacey.

- Board member Swanson asked if the other Boards have more NOAA representation at their meetings. Director Manlow stated there is more participation by NOAA on the East side of the state than on the West side.
- SRFB Meeting is scheduled for July 10 & 11 in Yakima. The regions are working together on a proposal to present to the SRFB on monitoring priorities.
- Columbia Basin Partnership (CBP): Director Manlow is still serving as representative on the CBP board. This is NOAA's effort to set broad based recovery goals across the Columbia River Basin and all the states that it flows through. The CBP has gone through the goal setting process, identifying what healthy and harvestable targets might look like. Director Manlow added he wants to visit with the Board on this process and determine whether we should integrate results into the Recovery Plan so it's not just delisting targets. The next phase of this process includes NOAA conducting life cycle modeling for each stock in the Columbia River Basin to determine the key limiting factors, and to inform future implementation strategies and scenarios.

Board member Weber asked if the WRIA is looking at opening the Rule. Director Manlow stated he has met with Greta Holmstrom in the County Building and Planning Department to get an idea of the growth needs in the County, utilization of the reservation, and water management approaches. The next step is for staff to set up a meeting with Ecology to get a better understanding of their perspective on the reservation use issue, and then to meet with all the parties to discuss a path forward in light of the watershed plan priorities and strategies. Board member Weber added there are three counties utilizing the Lewis River drainage. Cowlitz County has used 50% of the allocation due to the growth in the county and the other two counties have used 0%. Director Manlow stated during the planning process, more emphasis was put on utilizing community water systems and not just permit exempt wells.

## **BUSINESS MEETING**

### Item #1 Consent Agenda

Board member Weber moved and Board member Aalvik seconded to approve the consent agenda as submitted. No discussion.

Motion carried.

### Item #2 Lewis River In-Lieu

Director Manlow presented the item. He stated as a matter of record he received an email from Board member Olson recusing himself from voting on this issue due to his employment with PacifiCorp and his employment responsibilities. Director Manlow read the email into record.

Board member Aalvik stated he was personally involved in Settlement Agreement negotiations with Jeff Breckel back in the day. He noted that the Cowlitz Indian Tribe as well as a number of other folks that have signed on are filing a separate ADR filing with FERC, and that he therefore he must recuse himself from voting on this issue as well.

Director Manlow stated this is a complex issue. He noted that it is important for the Board to have a seat at the table in this process to represent the interest of the Board with regard to what these

decisions mean to recovery efforts. He reviewed the recommended action and Action Summary with the Board.

Staff is requesting approval to provide written notice to the Commission under ADR provisions, file a motion with the Commission to intervene in post-licensing proceedings, and participate in related discussions and negotiations that can be accomplished within the existing budget. Any future legal support, if pursued, would require separate authorization from the Board. Staff is currently investigating options for joint support with other Lewis River Settlement Agreement Parties.

He explained that the Lewis River Hydroelectric Systems consists of four operationally coordinated projects owned and operated by PacifiCorp and Cowlitz PUD. Collectively, these projects created Merwin, Yale and Swift Reservoirs, from downstream to upstream. He noted that in response to the FERC relicensing process, interested parties collaborated on establishing a settlement agreement (SA) concerning future operations and mitigation measures, which was signed by 26 parties including the Lower Columbia Fish Recovery Board (LCFRB).

Mr. Manlow explained that in 2011, PacifiCorp initiated multiple studies and analyses to inform the Services' decision regarding the In Lieu determination. PacifiCorp convened the Aquatic Coordination Committee (ACC), which was created via the SA, to review the new information and provide recommendations on the various options for reintroduction and/or in lieu. He noted that ACC members, including the LCFRB, provided their recommendations in the spring of 2017. Based on a technical review of the options presented, the LCFRB staff determined that alternative 1B, which includes transporting adults into Yale Reservoir, collection of juveniles that are produced, and providing volitional upstream passage into Swift Reservoir, would best align with recovery goals and objectives outlined in the Lower Columbia Salmon Recovery and Fish & Wildlife Subbasin Plan (Recovery Plan) (2010). He commented that fish access into Merwin Reservoir would not be required under this alternative.

Mr. Manlow noted that on April 11, 2019, NOAA and USFWS made preliminary In Lieu determinations. The Services determined that fish passage facilities in Merwin Reservoir should not be provided, a decision on upstream passage facilities from Yale to Swift Reservoir would be deferred until 2031, and that a decision on downstream passage into Yale Reservoir would be deferred until 2035. The deferred decision on whether the Yale passage facilities would ultimately be constructed would depend on fish population responses to \$20 million in habitat restoration work that would occur in the upper basin (above Swift Reservoir). This \$20 million habitat restoration fund would be provided by PacifiCorp via the in lieu provisions stemming from not providing fish access into and out of Merwin Reservoir.

He further explained that the Upper North Fork Lewis River plays a key role in the regional recovery of salmon and steelhead. The upper Lewis River supports a "primary" population of spring Chinook, "contributing" populations of winter steelhead and Coho, as well as a "primary" population of bull trout. These populations must be restored to high or medium levels of viability to meet regional recovery objectives. The Recovery Plan also identifies the upper NF Lewis Subbasin as one of the two most significant areas for spring Chinook recovery in the region, and highlights providing upstream and downstream passage throughout the hydro system as the highest habitat recovery priority in the NF Lewis subbasin.

He also described that the Recovery Plan uses a planning period horizon of 25 years for action implementation, starting with initial ESA-listings in 1998/1999. Although it is recognized that some species are not expected to meet all biological viability criteria within this timeframe, the goal is to fully implement all actions needed to achieve recovery by 2024. The Services' decision to delay decisions on

downstream passage facilities in Yale Reservoir and upstream passage facilities between Yale and Swift Reservoirs until 2031 and 2035 respectively, is therefore inconsistent with the implementation time frame of the federally approved Recovery Plan. He explained that this delays important recovery work, whether it is construction of fish passage facilities or implementation of additional habitat work if the full in lieu approach is ultimately selected. This not only jeopardizes achieving recovery targets for the Upper North Fork Lewis, but also has implications for Evolutionarily Significant Unit (ESU)-wide goals, given the importance of affected populations to the region as a whole.

Questions and comments from the Board:

- Board member Grose stated he supports the idea. He noted that hydro companies are “kicking the can down the road”. He is in favor of supporting the action item and moving forward.
- Board member Weber asked if the Board would qualify for state AG advice. Director Manlow stated that we are pursuing this avenue. He has corresponded with Kaleen Cottingham, RCO Director, and have had a brief discussion with WDFW to see if they will be initiating the dispute process. If so, would the Board be able to leverage support from the agencies because technically, we work under the umbrella of RCO due to funding.
- Board member Weber asked if \$30 million is enough to complete restoration on the lower NF Lewis River. Director Manlow stated the amount of \$30 million was negotiated as part of the Settlement Agreement in 2004.
- Board member Swanson wanted to remind the Board that NOAA has made some poor decisions on the EF Lewis River. He explained that the Habitat Conservation Plan and Incidental Take Permit allows the dynamic river to be mined and this river holds the state record for Steelhead. Currently, there is a head cut going halfway up the Lewisville Bridge that has been caused by the Ridgefield Pits. He stated he feels that Tacoma Power’s decision on this matter is purely monetary and political.

Board member Weber moved and Board member Swanson seconded to approve the Director to:

- 1) Provide written notice to the Federal Energy Regulatory Commission (FERC) under Section 15.10 (Alternative Dispute Resolution (ADR)) of the Lewis River Hydroelectric Project Settlement Agreement (SA) (November 30, 2004), of a dispute with the National Oceanic and Atmospheric Administration (NOAA) and United States Fish and Wildlife Service (USFWS) (Services) Settlement Agreement regarding their April 11, 2019 preliminary fish passage determinations; and,
- 2) File a “Motion to Intervene in Post-Licensing Proceedings” pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure, to become a party with full rights and ensure the Board’s interests are protected during post-licensing proceedings relating to the Services’ fish passage and in-lieu decisions, and any FERC license or Settlement Agreement revision requests associated with implementation of those decisions.

Motion carried with Board member Aalvik and Board member Olson recusing themselves.

At 2:10 p.m. the Board adjourned.

/lc

Approved in open session on \_\_\_\_\_

Signed: \_\_\_\_\_

Tom Linde, Chairman