

"Notes by Resource Writers. Supplements may be provided."

**Regional Executives Meeting on System Operations
With State and Tribal Representatives
Friday, March 16, 2001
Airport Sheraton Hotel, Portland, Oregon**

The Regional Executives met with state and tribal representatives on March 16 from 9 a.m. to noon. Forty-three people signed in; a number of others participated by telephone. Donna Silverberg, DS Consulting, facilitated the meeting.

Donna Darm of the National Marine Fisheries Service (NMFS) opened the meeting, welcoming the attendees and noting that members of the press were present in the audience. Eric Mogren of the Corps of Engineers said the meeting was "an interesting experiment" that reflected the growing move toward regional decisionmaking. I hope this will be a positive step toward collaborative decisionmaking and discussion, he stated. Steve Wright of the Bonneville Power Administration (BPA) said in his view, the meeting was primarily for information sharing. It's crucial today that we get feedback on the principles for operating the hydro system, he said. The principles will be dynamic, and I expect we will meet regularly as we move through this difficult year, Wright stated.

1. Financial Outlook for BPA. Wright went over a packet of information entitled *Updated 2001 Power & Operations Outlook*. BPA determined that 53 million acre-feet (MAF) is the runoff threshold below which the agency could not meet its load obligations; at 53 MAF we can *only* meet load, he explained. Right now, we have forecasts that exceed 57 MAF, according to Wright. If 2001 conditions exceed the 53 MAF threshold, there are more choices about how to run the system to meet various objectives, he said.

Wright outlined the region's water situation, using graphs in the packet, and gave a brief summary of efforts BPA has made to reduce load, including encouraging conservation, purchasing direct service industrial load, and accelerating the implementation of its conservation and renewable resources programs. He also went over the outlook for the agency's finances, explaining that if the region fully implements the BiOp measures under this year's extremely low water conditions, BPA is likely to lose \$400 million by the end of fiscal year 2001. BPA analyzed a contingency operation calling for reduced spill and lowered flows (detailed on p. 7 of the packet), but still would not meet its cash flow targets, Wright said. Even with a significant rate increase later this year, BPA will be facing cash flow issues, he stated.

Wright went through a summary of BPA's "meet load study," pointing out that above 53 MAF, there is "flexibility in the system" that could be used for spill, to enhance the amount of water in storage, or to generate energy that could be sold to improve BPA's

financial picture. Using the “meet load” assumptions, our expectation is we would be fine with cash flow at 59 MAF, he stated. The big question is what kind of cash flow position we would be in during the first quarter of 2002 – we could have difficulties, according to Wright. He went on to talk about the historical forecast error and “confidence band” around the current forecast. This is critical information in helping us determine the best way to operate, Wright indicated, noting that “our ability to predict is not that great.”

The financial analysis assumes a 260 percent rate increase, he continued. I hope that does not come true, but it is the trajectory we are on absent big changes in the market, Wright said. A key element in the analysis is where BPA will start the fiscal year in terms of reserves, he said. Wright explained several reserve scenarios, noting that a financial cost recovery adjustment clause would trigger if BPA’s reserves fall below \$300 million.

He laid out the options for using storage if the runoff is greater than 53 MAF: generate energy and revenue to build cash reserves; spill to improve fish passage and survival; draft storage reservoirs deeper to enhance summer flows; and store excess water for FY 2002. If the flexibility were used to generate power and build cash reserves, BPA could have a very good year financially, depending on the flow scenarios and market prices, Wright explained. But we don’t intend to do that, he added. If the system flexibility were used for spill, BPA would forego generation, Wright said. A runoff volume of 62 MAF or better is needed to meet spill levels in the contingency operation BPA analyzed; a volume greater than 62 MAF is needed to meet BiOp spill levels, he said. We have to decide how to operate the system and how much risk we want to take, Wright stated.

A runoff of 53 MAF is “the bottom of the barrel” for BPA, and if runoff is greater than 53 MAF, the region has several choices about how to use the flexibility, he summarized. Even with a substantial rate increase October 1, 2001, BPA has a cash flow problem in the first six months of the new rate period, Wright stated. We are still working on getting a good picture of storage in the system, he concluded.

Don Sampson of the Columbia River Inter-Tribal Fish Commission (CRITFC) asked if BPA has considered deferring its 2001 payment to the U.S. Treasury. We are not making that proposal – It could end up that way this year, but it is not our proposal, Wright responded. He explained that BPA’s financial analysis is the result of 2,100 “Monte Carlo” computer simulations. There are scenarios within the 2,100 that say we won’t make our Treasury payment, Wright indicated.

Jim Litchfield, representing the state of Montana, pointed out that the reservoir content at the end of the operating year is an important consideration for Montana. We may have to get through another dry fall and winter, he said. Litchfield expressed concern about whether Hungry Horse and Libby reservoirs would refill this year. Wright said storage figures would be available in a couple of weeks.

What is the probability of being above 53 MAF? asked Eric Bloch of the Northwest Power Planning Council. If we aren't above that, our discussion here is more constrained, he added. We think there is a 95 percent confidence level we will be at or above 53 MAF, Wright said. Bloch pointed out that according to media reports, the National Weather Service is predicting a wetter than usual spring. Our analysis assumes average precipitation April through July, Wright responded.

The point is that we don't know what will happen, and we need a decision on spring spill soon, Darm indicated. If we decide to spill, we risk putting BPA in a bad financial situation; but if we don't spill, we will kill a lot of fish – and then it could rain all summer, she said. So we would end up with lots of money and lots of dead fish, Darm added.

Tim Weaver of the Yakama Indian Nation suggested the agencies “remodel” their thinking on spring operations. The tribes are also concerned about fish that are not listed under the Endangered Species Act, he said. What are the potential benefits to fish if BPA misses a Treasury payment? Keith Hatch of the Bureau of Indian Affairs asked. Darm said NMFS' survival analysis would get at that issue.

When do we need to make a decision about the way to go? Curt Smitch of Washington asked. The operations in the BiOp begin April 10; a significant number of fish will soon be moving, Darm responded.

In the last few years, we have had lots of discussions with BPA, and BPA staffers have pledged the agency would defer its Treasury payment if needed to meet fish protection obligations, Randy Settler of the Yakama Indian Nation stated. Paul Norman made that pledge, and now we are hearing something different – that's a big political concern, he stated. In the principles, we see several laws acknowledged, but there is no recognition of the tribes' Treaty rights, Settler continued. What does it take for the federal agencies to recognize Treaty rights in a document like the principles? he asked. Wright suggested the tribes and BPA meet at another time to talk about what Paul Norman said. He also said a reference to Treaty rights should be included in the principles. That was an oversight, Wright indicated. We talk about trust responsibilities in our meetings, and we've considered them, Darm agreed.

The primary vehicle for meeting the trust responsibilities in the region is vested in BPA, Mogren pointed out. He suggested it would not bode well for meeting those responsibilities if BPA misses a Treasury payment. I would submit that a consideration for the tribes is what would happen if BPA's finances tank, Mogren said. It's hard for us to accept that the entire trust responsibility is BPA's, Settler replied. The tribes' major economy is completely decimated – our way of life is gone because of the dams, he said. Settler pointed out there have been years in which there were only 500 spring chinook to allocate among all of the tribes for ceremonial purposes. There is a history that needs to be brought up, he added. The tribal harvest is at record lows, and we are seeing restrictions and hardship on the tribes, Settler said. A poor water year could decimate the fish even further, he stated.

Joe Peone of the Colville Tribe noted that the federal agencies have the same trust responsibility to Executive Order tribes as to Treaty tribes. The Treaty and Executive Order tribes need to form an alliance on these issues, he said. The Colville Tribe recognizes BPA's need to meet its financial obligations, Peone indicated, adding that a low water year is not something new to tribes in the basin.

What remedies are available to you if you end up short of money in October? asked Smitch. We are looking at the tools and talking to OMB, Jim Curtis of BPA said. At some point we would have to look at a cash conservation plan, he added. Curtis indicated that BPA would share information on the financial tools in two or three weeks.

On page 22 of your packet, you set out the goals you are trying to achieve with risk management, Bloch said to Wright. In an area like this, we should look for guidance in the law, he stated. Under the law, avoiding biological harm to fish is a valid goal, and the Northwest Power Act directs us to establish power system reliability, Bloch said. But to display BPA's financial health as co-equal to these other goals is wrong, he contended. BPA has to have financial health to meet the goal of power system reliability, but the financial health goal is derived from the need for reliability, Bloch said.

We need to focus on risk management, Litchfield commented. A financially unviable BPA is not very reliable, he pointed out. Litchfield urged planning conservatively and changing operations if conditions change, as opposed to using water now and gambling on recovery in the reservoirs. Last June, we took actions based on runoff predictions that proved to be wrong, and we couldn't recover, he said. Shape your decisions around management actions that will not put the reservoirs at risk, Litchfield advised.

2. Survival Analysis Under Reduced Spill and No Spill Proposals: Jim Ruff of NMFS presented an analysis comparing salmonid survival under the 2000 BiOp spill regime to survival under reduced spill and no-spill scenarios. He said the flows used in the analysis came from BPA's system models and are lower than those evaluated during consultation on the BiOp last year. They are slightly above the 1977 water year, according to Ruff.

With spring flow conditions as low as those expected in the Snake River in 2001, the BiOp concluded that the risk of in-river migration is greater than the risk of transportation, he explained. Collection and transportation will be maximized under the circumstances, Ruff said. The BiOp calls for spill at non-collector projects to improve the survival of fish remaining in the river, he continued. The fish in the river in 2001 will be exposed to low water conditions, and the study concludes that with reduced or no spill, in-river survival rates will be lower than expected in the BiOp analysis, Ruff said.

The entire run of upper, mid, and lower Columbia River endangered fish populations above Bonneville Dam will be in the river, and 80 to 85 percent of the Snake River fall chinook run is expected to migrate in river, he said. Tens of thousands of smolts will be passing the lower Columbia River projects during spring and summer, and with reduced

spill or no spill, would suffer higher mortality rates, according to Ruff. The survival study does not take into account extra mortality, predation, or the stress and mortality associated with warm water conditions that are likely to occur during low flows in 2001, he added.

NMFS also looked at total system survival rates, which factors in the transported fish, he continued. The prediction for total survival for the Snake River spring chinook and steelhead is similar to projections in the BiOp, Ruff reported. The main factor influencing overall system survival is the number of fish that go into a barge, he said. For the Snake River fall chinook, survival in 2001 under the reduced or no spill scenarios will be about one-third the average system survival estimated in the BiOp, Ruff said.

Did you analyze the effects on upstream-bound adults? Weaver asked. No, we don't have a quantitative analysis, Ruff responded. We expect warm water temperatures, and the TMT/IT has taken the flows and asked EPA to run them through its temperature models, he explained. The federal agencies want to refill Dworshak and use the water to cool the Snake this summer – we are evaluating ways to mitigate for adults, Ruff stated. Because we are in a low water year and because of the spill scenarios, we would expect less of a problem with adult fallback than in higher water years, he added.

Two years ago, our harvest was restricted so the adults could spawn and rebuild the runs, Weaver said. Have you made any analysis of how much of those savings “will be squandered” this year? he asked. Our spring chinook harvest was limited to about 7 percent, when we wanted 12 percent, Weaver said. We assumed those saved fish “would go into the bank for the future,” but now a significant number of this year's smolts “will be squandered,” he stated. Is NMFS looking at any accounting on that basis? Weaver inquired. What you see is our analysis, Darm replied.

Larry Cassidy, NWPPC, asked about the outlook for the upriver fall brights. In-river survival is on the order of 35 percent under full spill and without spill, it's about 31 percent Ruff replied. About 17 percent of those fish get transported, he added. We'd like to see a SIMPAS analysis of the Hanford brights, and we also need to see a lifecycle analysis that recognizes delayed mortality and the thermal stress, Settler stated. I can get the information on the upriver brights to CRITFC, so you can calculate the survival, Ruff said, adding that he would share that information with Bob Heinith. Brian Brown of NMFS said given the uncertainty in the analysis, NMFS did not try to attach an adult survival figure to the results. We'll work with you to do a lifecycle analysis, Settler said. We'll look at what you want to do, Brown agreed.

We need to pin down the spill operation as soon as possible, Ruff concluded. He noted that the reduced spill alternative doesn't reflect that much change from the BiOp; it cuts back spill at John Day, McNary and Ice Harbor, but leaves it at the BiOp level for Bonneville and The Dalles.

3. Operating Strategy: Wright referred to page 21 in the handout, saying the federal executives wanted to put several operations issues on the region's “radar.” He asked if

anyone had other issues to add to the list of seven items. Darm suggested adding a McNary transport study and a summer migrant transport study. Another critical issue is understanding how we are going to make the best decisions on water temperature, Mary Lou Soscia of EPA stated. We are working with the Corps and the states on the dissolved gas issues, and I feel we are already on track with them, she added. Another issue would be impacts on adult fish, suggested Brian Allee of the Columbia Basin Fish and Wildlife Authority.

Bill Shake of the U.S. Fish and Wildlife Service said minimum flows for bull trout ought to have a place on the list. Could we get into a position that we would not have those flows? he asked. Our assumption is that those flows are being met, Ken Pedde of the Bureau of Reclamation stated. There are also issues at the upper river dams, at Lake Roosevelt and Rufus Woods Lake, Peone said. Let's capture that as a Grand Coulee elevation issue, Wright commented.

Is it necessary to include regional reliability and meeting the power load? asked Rob Walton of the Public Power Council. All three of our "dials" – biological harm to fish, power system reliability, and BPA's financial health – are assumed to be included, Wright replied.

What percentage do the federal agencies propose for juvenile salmonid survival? Sampson asked. We have a percent probability for Treasury payment and BPA reserves, so don't we also need to have a percent probability for salmon survival? he inquired. That gets back to Jim Ruff's presentation, Darm responded. Survival will be at the bottom of the BiOp range because of the bad water year, and reducing spill makes it even worse, she said. We tried to capture those percentages in the BiOp, not in these principles – the principles identify priorities in the hydro operations for fish this year, Darm added.

The analysis NMFS presented today was just developed, Wright said. Our goal is to try to mitigate for the actions we have taken, such as declaring the power emergencies, he explained. We are not saying we are going to accept something less than the BiOp survival level – we are asking whether there are mitigation alternatives that can get us to the BiOp, Wright said. I'd encourage you to think more broadly than the BiOp and to consider lower river fish, Rob Lothrop of CRITFC stated. There are fish to protect other than those addressed in the BiOp, he indicated. We don't have that kind of analysis, Wright said. Could the tribes bring it forward? he asked.

Litchfield said he was unclear how the principles and the list of operations issues were going to link up. The principles set the priorities, and decisions on the list of operations issues will determine what, if anything, will happen for fish, Darm indicated. The federal agencies offered a TMT/IT handout with a matrix presentation of the operating priorities.

Bloch presented a handout outlining the State of Oregon's recommendations for the 2001 operating strategies and priorities. Are we trying to prioritize because, in the agencies' view, there will be flexibility in the system? Or is this an academic exercise? he asked.

Do we think there is some latitude here? Am I right in making that assumption? Bloch inquired. Darm described her view of how the principles and priorities would work together: we might, for example, conclude that the highest priority for fish operations this year is spring spill, so it ranks high in the priorities. But when we rank the priorities based on the principles, spring spill may result in the greatest uncertainty with regard to BPA's financial situation.

If we are in a 53 MAF situation, we are in a strictly meet-load scenario, Mogren explained. If there is flexibility, the question is, what use will we make of it? What path will we take? he said. What makes this even more complicated is that you have to make a decision about which path to take by the end of the month, Smitch commented.

The most important thing we need today is to get a good list of the operations issues, what should be on our screen, Wright said. Then we need to decide how we are going to have the discussion about that list, he stated. There is a sequencing problem, Smitch said, noting that the Vernita Bar operation is on the horizon in late March or early April.

I'd like to remind everyone that the tribes have taken a hammering, Weaver said. There has to be an equal sharing of the conservation burden, he stated. The tribes are in an economic crisis because the fish are gone, and now BPA has an economic crisis, Weaver said. You can't balance our Treaty rights off against someone else's economic crisis, he stated. There has to be an equal sharing of the burden, Weaver reiterated.

Is there a general view that spring spill is important? Darm asked. If so, we need to talk about it and determine if, based on the impacts, are we going to start spilling in April, she stated. When you have a discussion with the tribes, it always takes the form of "tribes, if you get spill, what will you give up later?" Weaver commented.

In applying the principles to the priorities, we need to know whether to err on the side of risk to fish or risk to the power system, Smitch said. Do we agree up front on which side we will make that call? he asked. How will we come to resolving that? Smitch inquired.

The Bush Administration is offering up a tax rebate, and here is BPA paying \$500 million a year to the Treasury – we are frustrated with that, Sampson said. We are already jumping to the question of how many fish are we going to kill; why don't we consider deferring the Treasury payment this year and using the money to help salmon? he asked. We should be talking about a Treasury payment deferral, Sampson stated.

What is the implication of missing a Treasury payment? Mogren asked. There would be political fallout, Wright replied. We want to operate without creating the view that taxpayers are subsidizing the federal Columbia River system, he said. If Congress thinks there's a subsidy, the region could lose control of the federal system, Wright indicated. The consequences are uncertain, he acknowledged, asking NWPPC executive director Steve Crow for his view.

Last time the region missed paying Treasury was in the late 1970s and early 80s, when we missed payments three years in a row, Crow responded. Even though we paid the amount back with interest, it started OMB's annual attack on BPA, and "it got David Stockman going," he recounted. There were a couple of bill amendments introduced on the Senate floor that would have turned BPA into an agency with market-based rates, Crow said. There would be serious fallout, and I'd urge us not to reduce the repayment probability, he concluded.

We've been told not to worry about interests like the Northeast-Midwest Coalition, Bloch said. We've been told we can protect the region because it's easy to stop something in the U.S. Senate, he continued. Bloch suggested there may be ways to deal with the Treasury in a manner that doesn't expose us to "big political risk." Let's not discard the idea out of hand, he said. With the current Administration, I don't want to invite scrutiny from Washington, D.C., Peone commented. Depending on hydro conditions, the region could end up faced with missing two years of payments, he cautioned.

The reason we opened the executives' meeting is we realize there is a lot of paranoia in the region, Darm said. The TMT/IT was not adequate to make all of the decisions in this emergency situation, and issues were being regularly kicked up to the executive level, she went on. That transferred the decisionmaking from a public forum to "the closed-door feds-only forum," so we invited the states and tribes to participate in this discussion, Darm stated. But that also presents a couple of problems – there are a lot of people with an interest, which makes it hard to make a quick decision; yet the situation is changing quickly, and we need flexibility, she explained. I would ask the states and tribes, how would you like to have the rest of this conversation? What role do you see for yourselves for the rest of the year to provide for participation in the decisionmaking? she asked.

Generally, "we put in our two bits" and then we get back a document that says "we consulted, now here's your decision" – we're worried about that, Weaver said. My question is, are we going to give you our thoughts, then BPA and NMFS will make the decision, saying "we invited the tribes, so that's that," Weaver added. What use will you make of the tribal participation? Is this consultation? he inquired.

The best I can offer is that the federal agencies will talk to you about what representation we will make of your having participated, Darm responded.

These federal decisions affect the resource managers – we see this year's decisions affecting the resource for many years to come, Settler said. The difficulties this year could prohibit us from higher harvests down the line, he indicated. Settler said the tribes had already raised the issue of missing a Treasury payment, but BPA does not want to defer a payment. We might bring up the idea of deferring creditor payments, he continued. Settler suggested BPA ought to give the public notice there might be power blackouts. People don't want an interruption in power, and we don't want an interruption in rebuilding the salmon runs, he said. We do want a voice, Settler stated. In your discussion, you say you want to keep BPA in good financial health and don't want to provoke the political interests, but "if we have any crumbs, we'll give them to the tribes,"

he went on. We want to advocate for our Treaty rights – what we hear you saying is that there is too much risk of political fallout for you to do your job, Settler concluded.

From the Washington governor's point of view, we would like you to describe a decision process to work through this unprecedented situation, Smitch said. We would like something that allows us the opportunity to discuss our concerns with you, and, then, you will make the call, he stated. The four governors are also trying to coordinate among themselves, and we would like you to come up with a process we could work with you on, Smitch said. The governors are very concerned about these decisions and want to know about the opportunities to influence them, he concluded.

Montana supports that sentiment 100 percent, Litchfield said. Montana is looking to integrate the Council's decisionmaking process into this, he added. Litchfield said reservoir management is a high priority for Montana. We don't want to end the season with reservoirs unable to recover – managing reservoir storage is crucial, he said. None of your studies have included an operation for California support, Litchfield pointed out. I would be stunned if we don't hear from California, he added, predicting that “the full political clout of California could knock on our door in July.”

I support Smitch's comments on process, Bloch stated. Ordinarily, we would want a full collaborative process, but it doesn't seem that will work in this situation, he said. We now have this matrix, which has the inputs from key players, Bloch said, referring to an earlier handout. I'd suggest the federal agencies put together a straw proposal outlining a prudent strategy, including such things as spill or no spill, he said. Then bring it back to this table, and we'll go through and talk about the assumptions and suggest ways to change the proposal, Bloch recommended.

You are talking about risk, Roy Sampsel of CRITFC stated. You need an analysis of your actions and what impacts they could have on future decisions, he said. I'd suggest you go to a fairly basic decision model and lay out the issues, Sampsel advised. From this discussion, it isn't clear when decisions have to be made on which points, he said. And it isn't clear how much room there is for participatory democracy, Sampsel pointed out. If you lay this out with a decision model, it will size the box on what you can do, he added. These are policy and management decisions – they have economic impacts and they affect the stability of the region, Sampsel continued. Are the assumptions you have made being properly reviewed? he asked, suggesting they will have to be, if the decisions that result are going to have political support.

Peone said UCUT members take the money BPA gives each tribe and pool it to cover the costs of participating in federal processes. We need to sit down with Steve Wright and talk about getting funds equal to the amount CRITFC receives, he indicated. We also need to talk about the low elevation at Grand Coulee and the prospects for project mitigation, Peone stated. Wright said he had a visit scheduled to meet with the UCUT tribes.

Mike Field of the NWPPC asked if NMFS would be conducting PIT-tag studies related to transport survival. We are still discussing that, Brown answered. We have been talking to our Science Center and are continuing to pursue sources of fish to do those studies, he said. We need to know, even with transportation, what the survival is, Field stated.

At what point does NMFS issue citations on river operators if they fail to meet the jeopardy standard? asked Keith Kutchins of the Shoshone-Bannock Tribes. The remedy for that would be reinitiating consultation, Darm responded. The BiOp contemplated deviations from the operations we outlined, along with the idea of looking for opportunities to mitigate for deviations, she said. In the BiOp, we also set up an annual review, and after the 2001 review, we will decide if consultation needs to be reinitiated, Darm stated. We won't make that decision until the year plays itself out, she added.

We are inclined to think Eric Bloch's suggestion makes sense, so we will prepare a straw proposal for you to chew on, Wright said. Also Roy Sampsel suggested we define the key decision points, he stated. Our goal is to put those together and call another meeting, Wright said, noting that may not happen before the Vernita Bar decision needs to be made. If the region can't come to consensus on the proposed operating strategy, we will make the decision, he said.

Smitch asked the federal agencies to contact the governors directly on the key operations issues. The TMT/IT is not adequate for this level of decision, he added. We'd like to be sure the TMT/IT members represent the governors, Wright said.

There is a window here for collaborative decisionmaking, facilitator Donna Silverberg summarized. But that window comes down when an emergency is upon us, she concluded.

Darm thanked the participants for attending on short notice and announced the next meeting also may be called on short notice.

The meeting was adjourned at 12:10 p.m.

Adjourn