

## **FISH PASSAGE CENTER OVERSIGHT BOARD**

Meeting Notes for August 10, 2009 – Spokane, Washington

Present at the meeting were Doug Taki, Kerry Berg, John Shurts, and Karl Weist. On the phone were Sue Ireland, John Ferguson, Bill Tweit representing Tony Nigro, and Michele DeHart.

In the absence of Chairman Bruce Measure, Berg called the meeting to order.

### Language in the Council's New F&W Program

Berg asked if there were questions or comments about the language dealing with the Fish Passage Center (FPC) or Oversight Board in the Northwest Power and Conservation Council's new fish and wildlife (F&W) program. Ferguson brought up the provision that says the Board will conduct an annual review of FPC performance. Where does that stand and when does that review have to be done? he asked. Nothing has been resolved on this yet, replied Berg. We'll have to figure out when it should be done and what the scope should be, Ferguson said. Let's try to do that before the next Board meeting, Berg suggested.

Ferguson asked about the language in the program that says the FPC manager will be supervised by a contractor selected by BPA. There were discussions about having a Memorandum of Agreement between the Pacific States Marine Fisheries Commission (PSMFC) and the Columbia Basin Fish and Wildlife Authority (CBFWA), but nothing went forward, said Michele DeHart. So my supervision is done by Randy Fisher at the PSMFC, she stated.

Why didn't the MOA go forward? Ferguson asked. You should direct that question to someone at CBFWA or to Randy Fisher, DeHart suggested. Having Michele supervised by Randy is fine, but we need to know where this issue stands, Ferguson said. I'll follow up with Brian Lipscomb and let you know more, Berg said.

Has the Board expressed a preference for supervision by one entity versus another? Tweit asked. This topic was not driven by the board, said Ferguson. It relates to some language that we took out of the previous F&W program, noted Taki.

Does the language in the program generate any new "to-do" things for the Board? Tweit inquired. Not really, it was more of a clarification from the previous program, replied Berg. Peer review is the most important topic right now, said Taki.

### FPC Peer Review

Berg said the Council's F&W program adds a peer review function to the provision about the FPC, and that Shurts had circulated a memo in June outlining a way to carry out the new function. Dan Goodman sent out an e-mail in July that said the approach described in Shurts' memo "looks eminently reasonable," Berg said. Goodman recommended having a "pre-filter" to reduce the volume of traffic that gets sent to the Independent Scientific Advisory Board (ISAB) for review, Berg stated. Goodman's memo suggested some criteria for FPC products that would require review, such as those that use a new statistical approach, draw a new kind of

interpretation from statistical results, make new decisions about data inclusion or exclusion in the analysis, and those that have been flagged as controversial.

Ferguson asked if the ISAB has set up a mainstem peer review subgroup, and Shurts said nothing formal had been done yet. Ferguson suggested the names of several people who might serve on the subgroup, including Rich Alldredge, Peter Smouse, and Dennis Scarnecchia. Erik Merrill of the Council staff will be involved in setting something up, Shurts noted.

Ferguson said he liked the distinction in Shurts' memo between reviews of "final" products versus "draft" products. Ferguson said an element of particular importance is the bullet suggesting after peer reviewers review a draft analysis and provide comments to the FPC, that the FPC use those comments to finalize its analysis before release. I wonder what would happen if the peer review comments are substantive, he said.

Our reports are required by contract to have a 45-day review period during which they are posted in draft on the Web site and people can comment, noted DeHart. We are required to append information on how we addressed all the comments, she added. DeHart said she would like to know more about how the ISAB review would work.

My memo is about how to fit this peer review into what is going on now, Shurts said. The main point is to build on what already exists, rather than invent something new, he added. That makes a lot of sense, and the question is what needs to be added to the existing processes, said Ferguson. I don't think the ISAB needs to look, for example, at the FPC's annual report, he stated. We are really talking here about memos, miscellaneous documents, and special reports that someone requests, like the sockeye report or spill analysis, Ferguson said. The question is which of those the ISAB should look at, he added.

We should distinguish between in-season and data requests versus other products, said Taki. An example is the PIT tag versus acoustic tag report -- there should be some type of review of those kinds of reports, he stated.

Controversial reports or reports being developed as a resource for the region need to go through ISAB review, recommended Ferguson.

In my mind, there are distinctions between a fairly routine question with time urgency that has a simple data answer, a routine question that has a complicated answer, and a question that breaks new ground and its answer will break new ground, said Tweit. For those types of questions, I know "I can't take it to the bank" unless it has been reviewed, he stated.

Tweit asked how the NOAA Fisheries Science Center distinguishes between routine items and those that are ground-breaking. If we are reporting data at the request of the Administrator or the Regional Office, we can put it out as a memo that is not formally reviewed, although there is an internal review, Ferguson said. For journal articles, we have quite a structured signoff process, he noted.

If the Board is going to make sure that influential products get reviewed, then it is the special memos and reports that we've been discussing that need it, he continued. When an analysis picks from different data sets, then a review process is helpful, Ferguson added.

We all agree there needs to be a balance between timeliness and the need for peer review, Tweit said. There are times when I ask a question and the answer may depend on assumptions that are made, but I need a timely answer, he stated. We need to be able to flag items where the debate is not settled, and it would be good to flag issues that are evolving and emerging, Tweit said.

There is a desire for timely products, but at the same time, the region wants them reviewed, Ferguson stated. We'll have to sort it out and see how it works, and some of it may depend on the ISAB -- there's no clear answer -- we need to proceed and try it out, he said.

When we need to, we could give the ISAB a deadline, Ferguson suggested. Taki pointed out that Shurts' memo calls for alerting peer reviewers of the impending completion of a draft analysis so they are ready to do a timely review.

Tweit referred to the sentence in Shurts' memo that says "we assume the focus may be more on retrospective and year-end analyses and less on analyses relating to in-season management, although we are not precluding the idea of a timely review of in-season analyses." Most of the controversies have been about in-season memos -- those have raised the most vigorous debates, Tweit stated. The question is how Michele can confidently say, "I can send this one out"; "this one needs peer review"; and then she is left with "some in the middle," he said. And "she's damned if she does and damned if she doesn't," added Ferguson. And it's not easy to describe that middle ground, said Tweit.

In-season adjustment requests can be pretty controversial, said Ferguson. We could try to provide more specificity, or we could leave it generic and let Michele make the calls -- I'm not sure what is best, he stated. I'm not sure either, but we all know the difference between memos that provide a definitive answer and those that begin a dialogue, Tweit said. I don't want to be precluded from asking the FPC a question that will start one of those debates, he added.

Maybe we can agree it's the kind of "one-off" product that is controversial that needs review, said Ferguson, adding "Michele knows which ones will raise red flags." You need to be careful here, DeHart advised. We have a contract requirement to respond to all requests from agencies and from the public, and I can't block a response, she said.

The question is which of the requests should go to external reviewers, said Ferguson. I think it is memos and miscellaneous documents that: 1) implement a new statistical analysis; 2) analyze a complicated question that people are interested in; or 3) involve a management action with large implications, such as flow, he stated.

There isn't a problem with the ISAB reviewing everything -- the problem is there won't be a response until the ISAB reviews it, DeHart said. I can give the Board all the requests and you decide which get reviewed, she stated.

The critical question is who is going to make the call, Ferguson said. We are talking about broad guidelines on what should be reviewed -- I'm thinking it would be memos that are controversial, new, or management-influential, he stated.

Some requests we get are "I need this in three hours," and some are "in two weeks," DeHart noted. At Lake Roosevelt where the Washington Dept. of Fish and Wildlife (WDFW) has multiple objectives, sometimes we need to estimate the impact of actions very quickly, and we

have to think about balancing risks and benefits, Tweit said. The FPC's suggestions on biological benefits and impacts and on negative impacts are useful, and they help us make decisions, he added.

I would think that, after the fact, the states would want an analysis of how good a product was, Ferguson said. People are saying they need timely responses, but isn't there also a need to have the ISAB analyze after the fact? he asked. So you are talking about a post-hoc review, rather than a pre-release review? Tweit asked. At WDFW, we revisit things retrospectively when people raise objections to them, he noted.

DeHart asked how the Council decides what requests go to the ISAB for review. It's not quite a formal process -- we have an oversight panel that consists of the Council chair, a NOAA Fisheries representative, and a tribal representative, Shurts replied. Staff representatives for the oversight panel and the executive committee of the ISAB get together and discuss it, he added.

In setting up the FPC peer review, we'll need to talk with Erik and the executive committee of the ISAB and try to work something out, Shurts said. Instead of setting up something new, could we work within the ISAB's existing process? DeHart asked. That's quite possible, Shurts replied.

It could be helpful to get a small group together to follow up on today's discussion and flesh out more details than were in my memo, he suggested. The group could include Michele, Erik, and a Council staff representative, Shurts said. That sounds good, Ferguson stated.

Tweit suggested the group have access to information on policies for similar situations that are in place elsewhere, maybe even from entities beyond the region, and he promised to dig further to find out what's being done at WDFW. Taki recommended it would be useful to have information on what kinds of requests the FPC receives.

Shurts pointed out that the Council uses the Independent Scientific Review Panel (ISRP) to do major F&W project reviews, but "we've also become adept at using the ISRP for quick issues too." We could build on that model and bring that experience to bear on these questions, he said.

Keep in mind you are talking about a policy that affects our technical capabilities as an agency, stated Tweit. He said he or Nigro would want to serve on the small group, and Ferguson volunteered too. Shurts said he would send out a memo about setting up the small group meeting.

#### Next Meeting

The next meeting is scheduled for December 7 in Portland. Berg said he would send out an e-mail to confirm that date is convenient for all Board members.

The meeting adjourned at 2:30 pm.

Prepared by Susan Whittington, NWPPC Contractor