

Judi Danielson  
Chair  
Idaho

Jim Kempton  
Idaho

Frank L. Cassidy Jr.  
"Larry"  
Washington

Tom Karier  
Washington



Melinda S. Eden  
Vice-Chair  
Oregon

Gene Derfler  
Oregon

Ed Bartlett  
Montana

John Hines  
Montana

**Council Meeting  
September 22, 2004  
Portland, Oregon**

All were present, except Larry Cassidy. The meeting was called to order by Council chair Judi Danielson at 9:20 a.m. on September 22, 2004, and adjourned at 1:10 p.m.

## **1. Council decision to release the Draft Fifth Power Plan for public comment:**

Dick Watson, director, power planning division.

Jim Kempton reported that the Power Committee had discussed the draft of the Fifth Power Plan at a meeting that morning, and that the committee had encountered "no huge issues." Staffer Dick Watson explained the most recent changes that had been made to the draft document, noting that an additional sensitivity analysis regarding DSI loads had been added to Chapter 7. Kempton pointed out that there would be some additional editorial changes to the document, which the Power Committee would review prior to its release.

Watson walked the Council through the chapters of the plan, indicating what each contains, and Council members asked questions. John Hines suggested the plan needs to address the in-state need for baseload resources in each state in the future. I'm not sure the independent power plants (IPPs) are going to be competitive, said Gene Derfler. Local utilities are going to need generation, he added. Ed Bartlett suggested that the Council ask for specific comment on its resource supply curve and the cost estimates it contains.

Hines asked if the plan would provide any more detailed, specific conservation information for different utilities in different regions. There will be a technical appendix available on the web for utilities, replied staffer Tom Eckman.

Our purpose today is to release this draft, said Bartlett. I have lots of questions and very few answers, but those don't dictate whether I support release of the draft today, he stated. We need to ask the region "what if our assumptions aren't correct?" Bartlett said. I think our assumptions are optimistic, he added. It is not the region that should answer that, it's the Council, said Kempton. If things don't turn out as the plan assumes, it is our responsibility to re-open the plan, he stated.

Bartlett said the plan does not thoroughly discuss whether utilities in the region are surplus or short. What matters is that there is a supply for the load-serving utilities to get, and that is treated in the plan, Watson responded. The plan can't get down into each utility's individual situation, he added. Hines said the plan does not sufficiently address the ability of IPPs to move power outside the region and that it would be useful to seek comment on that issue.

Melinda Eden asked about a sensitivity analysis she had asked staff to carry out, dealing with proposed water withdrawals from the Columbia River in the next 20 years and how those would affect hydropower supply. The Power Committee decided the results of that analysis should not be included in the draft because the information has just become available and because the committee hasn't had time to analyze the implications of including it, said Kempton. We could put it in the plan, but we would have to decide where, he added.

The staff position is that we haven't explored the issue sufficiently to include it in the draft at this time, said Watson. We might want to pose this issue to the region and see if the region thinks we should look at it, he suggested.

Eden recommended the Council include the water withdrawal issue in the list of "issues for special attention" that will accompany the draft plan. This is a big issue, and "it warrants more than a quick cut at it," said Tom Karier. If we do look at additional water withdrawals, we would need to look at the economic benefits of them, as well as the fish and wildlife (F&W) impacts, he stated. To what degree is such an analysis feasible? Hines asked. Maybe the Independent Economic Analysis Board (IEAB) could take a look at this issue, suggested Watson. I'm interested in hearing the region's view on this, said Eden.

This is a big question that deals with the value of irrigated agriculture in the Northwest, noted Karier. If the Council is interested in the costs and benefits, the IEAB should help develop this issue, he said. I'd be happy if the Council would decide that it will frame this issue and determine what needs to be analyzed about it, responded Eden, adding that it doesn't have to be in the context of the power plan at this point.

The plan has been improved as it has been developed, and as we have gotten input from utilities and interest groups, stated Karier. Staff has responded well to that input, he said, citing the example of the revised treatment of IPPs in the draft plan. The plan is responsive and sophisticated, and it's ready for prime time, Karier added.

Kempton moved that the Council authorize the staff to publish for public comment the draft Fifth Power Plan, subject to editorial changes to be approved by the Power Committee; direct the staff to arrange public hearings in each of the four Northwest states; and direct the staff to give appropriate notice of today's actions. Hines asked if the changes made by the Power Committee that morning would be covered in the motion, and Kempton said yes. Karier seconded, and the motion passed unanimously.

Kempton thanked the staff, the Power Committee, and the Council for the work they had done to prepare the plan.

## **2. Council business:**

### **– Approval of subbasin planning contracts**

Staffer Kierstan Myers explained the accounting tabulation and final invoice analysis for subbasin planning. After adding up what has been invoiced and closed out, we have found that there is \$1,663,973.63 available to be deobligated, she said. That is more than twice as much as we thought, Danielson pointed out.

Staffer Lynn Palensky updated the Council on progress in subbasin planning, noting that the plans had been reviewed and placed in three categories, based on the level of work they need prior to their adoption. She explained the proposed schedule for adoption of the plans. In response to a question from Kempton, staffer Doug Marker said today the Council is being asked to approve \$773,195 in funding to complete the work on the subbasin plans, and that the balance of the \$1.6 million would be deobligated and available to be used elsewhere in the Council's F&W program. Could the Council direct that some of the balance be used for more subbasin planning work? Kempton asked, and Palensky replied yes.

Palensky explained the 11 subbasin planning contracts for which staff is seeking Council approval. The state coordinators and staff have prepared detailed statements of work for the contracts and a pretty reasonable budget, she said. Are you recommending these 11 contracts as the appropriate amount to finish the subbasin planning effort? Bartlett asked, and Palensky replied yes.

Some of these contracts are quite large, compared to their original budgets, observed Hines. What kind of oversight do you plan to ensure the work gets done right this time? he asked. We have set out a series of discrete tasks that have to be done in a short time frame, replied Palensky. The contractors have said they think they can step up to the plate and get it done, she added. One project is 50 percent over its original budget – can the work there be done in a couple of months? Hines asked. We've done due diligence on whether this work can be done, and in some instances, there have been adjustments in who will be doing the work, replied staffer John Ogan.

I want to hear you say you are comfortable that the work can get done with this amount of funding – I don't want to see another request for another \$100,000 come to us later, Hines stated. There needs to be monitoring to make sure the work is getting done, he said. We will put the burden for that on our subbasin planning coordinators, as we have in the past, Ogan responded.

This is impressive work, Karier told the staff. "Closing out accounts is an innovative way to do projects and contracts," he said. How will we know when the plans in the third category are completed? he asked. They have to be done by December 31, 2004, which is when all funding authority for subbasin planning ends, replied Marker. We intend to review the plans and see if we need to re-engage the Independent Scientific Review Panel (ISRP), he added.

Eden moved that the Council authorize the executive director to negotiate 11 contracts, in an amount not to exceed \$773,195, to address adoptability issues identified in the review of subbasin plans, as presented by the staff. Karier seconded, and the motion passed unanimously.

Several state coordinators thanked the Council for its “unrelenting” enthusiasm and support for the subbasin planning effort and the Council staff for their hard work. Bob Austin of BPA also thanked the Council and said the agency is prepared to move ahead with this phase of subbasin planning.

### **3. Council decision on comments and recommendations for the draft FCRPS Biological Opinion:**

John Shurts, general counsel.

Staffer John Shurts gave a presentation on the structure and contents of the draft 2004 Biological Opinion (BiOp) and noted that the comment deadline on the draft is October 8. After my review of the draft BiOp, I’ve found that there are several items that could be written up as staff comments, he said. It will be up to you to decide if those should be presented to the federal agencies as staff comments or as Council comments, he told the Council.

Shurts presented two schematics that reflect the analysis and approach used in the BiOp, and Council members asked questions. Derfler asked how the agencies think there will be certainty that the actions outlined in this BiOp will occur, given what happened with the previous BiOp. The federal agencies only selected actions that they think they can implement with relative certainty, replied Shurts. In response to a question from Hines, Shurts explained how operations of the Montana reservoirs are treated in the BiOp. Kempton said it is not clear in the BiOp how subbasin plans will be factored in.

Shurts discussed the draft BiOp’s decision to separate the baseline effects of the hydro system from the proposed action’s hydro effects. It’s a different legal construct and a change in the legal understanding of what you are consulting on, he noted. That will be the big issue people will be commenting on, and it will be litigated, Shurts said.

He presented a list of items the staff comments could include, such as asking for clarification on how the BiOp’s treatment of research, monitoring, and evaluation would integrate with the Pacific Northwest Aquatic Monitoring Partnership (PNAMP). The staff comments could be signed by the Council’s director of F&W, Shurts suggested.

If we thought the draft BiOp had “really got it wrong” in laying out how the federal agencies will interact with the Council, then we would recommend that the Council submit comments, he stated. But we didn’t see that, Shurts added.

Having the staff submit the comments is appropriate, Derfler said. We are only asking for information and clarification, and the Council doesn’t need to do that, he added. What you propose sounds good to me, Karier told Shurts.

If these comments are to be submitted during the official comment period on the document, I think the comments should be from the Council, not the staff, said Kempton. Eden suggested the Council’s comments should say that 30 days to comment on the draft BiOp is insufficient.

Staff will draft a set of comments on the BiOp and circulate them to you, and you can see what you think and how you want to handle them, Shurts told the Council.

Approved:

November 17, 2004

/s/ Melinda S. Eden  
Vice-Chair