

Meeting of the Regional Executives

Bonneville Power Administration Headquarters

August 5, 2003

1. Introduction and Purpose of the Meeting.

The Regional Executives convened at Bonneville Power Administration headquarters in Portland, Oregon on August 5, 2003; the purpose of this meeting was to render a decision on Montana's SOR 2003 MT-1. The following is a distillation (not a verbatim transcript) of items discussed at the meeting, together with the decision that was ultimately made. Please refer any questions regarding these notes to Suzanne Cooper of Bonneville (503/230-5077).

Bryan Johnston welcomed everyone to the meeting and led a round of introductions.

On behalf of the other executives present (Steve Wright of Bonneville, Jim Fodrea of the Bureau of Reclamation, Fred Olney of the U.S. Fish and Wildlife Service and Col. Dale Knieriemen of the Army Corps of Engineers), Regional Administrator Bob Lohn of NOAA Fisheries noted that today's meeting was convened on very short notice at the request of Montana Governor Judy Martz. This short notice has particularly disadvantaged many of the region's tribes, said Lohn, who were already scheduled to attend another important meeting in the state of Washington. It is our schedule that has disadvantaged the tribes, he said. We acknowledge that we have trust and treaty responsibilities, said Lohn; we acknowledge, also, that if our decision today affects tribal treaty rights, we may need to consult with the tribes before we make our final decision.

Johnston noted that the Montana SOR has been discussed at both the Technical Management Team and the Implementation Team levels. Johnston then outlined the agenda and ground rules for today's meeting.

2. Montana Request.

Ed Bartlett of the Northwest Power and Conservation Council thanked those in attendance today for accommodating Governor Martz's request so expeditiously; he noted that the reason for this urgency is the fact that the Montana SOR was dated July 1 and has not yet been resolved. This request focuses on 2003 operations, Bartlett said, and much of the time period targeted by the request has already passed. We haven't lost August and September, however; that is why you are here today, and again, Montana appreciates your willingness to convene on such short notice, Bartlett said.

Bartlett introduced Bruce Suzumoto, John Fazio and Doug Marker from the Northwest Power and Conservation Council staff, noting that they are available to answer any questions the participants may have about the mainstem amendments to the Council's Fish and Wildlife Plan adopted in April, upon which the Montana SOR is based. From the beginning, said Bartlett, what we were trying to present to you was a balanced approach to 2003 operations. I did not envision that the Council's mainstem amendments would be adopted and implemented through the Regional Forum process, said Bartlett.

When the mainstem amendments were adopted, those of us in Montana immediately began to think about what could be implemented in 2003, he said; that was the genesis of Montana SOR 2003 MT-1. We saw an opportunity to do something beneficial for the region in 2003, for resident fish, power interests, the regional economy, the environment, upriver and downriver interests. We were cognizant of the financial impacts on Bonneville; to us, this proposal represents a wide array of interests, and modifies the spill program without harming salmon and steelhead. It makes sense for the region as a whole; it does create tremendous benefit for the state of

Montana, but does so without harming downstream interests, Bartlett said.

This truly was a package idea, said Bartlett, and I hope that's how you'll consider it. It is not intended to be picked apart. Accommodation is important to us, however, and if the Regional Executives put forward an alternative plan, it will receive due consideration by the State of Montana, Bartlett said.

Let me also make a personal comment on the experimental aspects of this proposal, said Bartlett. In my opinion, what is important here is not the experiment – it is the operation. You start with the operations, and do the best you can to evaluate their effects as thoroughly as possible under the circumstances. I recognize that the operation we're putting forward for 2003 has its theoretical deficiencies, in terms of the evaluation process, said Bartlett. However, it is still possible for the action agencies to do some evaluations in 2003. You should do the operations, and design your experiment and evaluations around that, he said, not the other way around.

I also want to strongly emphasize that the greater good of the region is in your actions and in the Council Fish and Wildlife program, not just what's in this SOR, Bartlett said. He encouraged the other participants in today's meeting to ask questions freely.

In closing, Bartlett noted that Governor Martz always wears a turtle on her lapel; it has to do with an interesting personal motto, he said: "Behold the turtle – it never makes any progress unless it sticks its neck out."

With that, Bartlett yielded the floor to Jim Litchfield, who noted that one of the goals of today's presentation is to give the Regional Executives a sense of what the region looks like as Montanans peer downstream.

Litchfield said Montana's objectives of today's meeting included the following:

- Discuss and resolve the Montana SOR
- Discuss alternative dispute resolution – balancing all regional interests in system operational decisions
- Discuss the future involvement of state and tribal executives in federal system operational decisions

Litchfield then went briefly through the contents of the Montana SOR. On July 1, the State of Montana submitted SOR 2003 MT-1, covering Montana's proposed summer operations at Libby and Hungry Horse Dams, to the federal action agencies and the Technical Management Team. This SOR, supported by Montana Fish, Wildlife and Parks, requests the following specific operations:

- During July, adjust Libby outflows until refill has been achieved while avoiding significant risk of filling and spilling or in failing to fill to less than five feet from full
- Adjust Libby's target outflow as necessary to maintain a stable weekly average outflow that results in drafting Libby to elevation 2449 by the end of September. It is preferred that outflows are held flat or are reduced gradually from July through September
- Establish a weekly average target of 3.7 Kcfs at Hungry Horse Dam
- Adjust the target outflow as necessary to maintain a stable weekly average outflow and draft Hungry Horse to elevation 3550 by the end of September. It is preferred that outflows are held flat or are reduced gradually from July through September.
- Maintain flows out of Libby and Hungry Horse that are at least the minimum flows for bull trout. Minimum bull trout flows are a higher priority than the ending elevations targeted for the storage reservoirs by the end of September.
- Continue to implement bull trout research to measure changes in fish survival and productivity.
- Reduce summer bypass spills at Bonneville Dam to a daily average of 50 Kcfs, ending on August 15 (rather than the planned date of August 31)
- Reduce summer bypass spills at The Dalles Dam to 30 percent of river flow, ending August 15 (rather than the planned date of August 31)
- Limit spill at John Day Dam to the July spill experiments -- no spill in August.

Litchfield reiterated that the actions called for in this SOR are fully consistent with the Council's recommended mainstem operations; the overall goal of the Montana SOR is to stabilize summer flows out of Libby and Hungry Horse from July through September. Despite the fact that it will not be possible to put a detailed

evaluation in place in 2003, he said, Montana's approach essentially says, let's use adaptive management, and let's get started.

Litchfield touched on current operations at Libby, which include outflows of 18 Kcfs until the project reaches elevation 2439 feet on August 31, followed by a rampdown to 7 Kcfs outflow on September 1. Under the Montana SOR, Libby outflow would be reduced to 10 Kcfs beginning immediately; that rate of outflow would be held through September 30, at which time Libby elevation is projected to be 2449 feet, 10 feet from full. The net result, in terms of flow, is forecast to be a 4.7 Kcfs reduction in the summer seasonal average flow at McNary.

Litchfield moved on to a table showing the estimated change in survival for Snake River and Hanford Reach fall chinook as a result of implementing the Montana SOR: between 0.00% for average or high flows and -0.07% (less than 1/10 of 1%) under low flows. These numbers were generated by the Council's CriSP model, Litchfield added.

Litchfield noted that, at the July 24 IT meeting, a compromise was suggested: draft Libby at a rate of 14 Kcfs during August and September, which would result in a 15-foot Libby draft by August 31 and a 30-foot draft by September 30. He touched on estimated changes in the flow regimes at Libby, Hungry Horse and McNary under the Montana SOR and compromise operations, in comparison to the current operation.

Litchfield reiterated that one of the goals of the Montana SOR is that it be revenue-neutral for Bonneville. He provided a chart comparing the lower river spill operation proposed in the Montana SOR with the "NMFS 400 MW-month option" implemented in 2001; Litchfield noted that the Montana SOR would provide more summer spill than the 400 MW-month option. He also provided modeling results of the survival impacts of these spill changes, according to NMFS SIMPAS, NPCC SIMPAS and NPCC CriSP for Snake River, Hanford Reach and Lower Columbia fall chinook.

Litchfield presented the following recommended operations:

- Biological and economic impacts on Montana of current operations are large and immediate
- Reduce flows out of Libby – at least to 14 Kcfs, preferably 10 Kcfs
- Increase use of Non-Treaty storage in August
- Begin Phase 1 physical evaluation of changes in flows in the Lower Columbia
- Eliminate spill on August 15 due to the early outmigration and the small numbers of listed fish in the lower river.

Litchfield noted that, from Montana's perspective, there is a more important principal at issue here: namely, the effectiveness of the Regional Forum process. He noted that, in Montana's view, current participation in the TMT and IT processes is not representative of the broader regional interests. States are represented by fish and wildlife departments, but there are far broader implications for hydro operations, Litchfield said. Tribes are usually not present and only participate on specific issues, such as Dworshak.

In Montana's view, what is needed is an executive-level policy group, Litchfield continued. The Regional Forum bylaws anticipate an "Executive Committee" that does not exist; there should be a mechanism for providing executive input from the states and tribes, he said. The hydropower system is critical to the region's environment and economy, said Litchfield; the Governors of the four states should be represented directly in important policy decisions.

One technical question, said Steve Wright – with respect to the additional use of non-treaty storage, the Canadians have indicated that they are unwilling to do a Libby/Arrow swap this year. If no additional non-treaty storage is available, does that drastically affect your proposal? No, Litchfield replied, we weren't really referring to the Libby/Arrow swap in this section of the proposal. The basis of our proposal is the fact that we really don't see biological benefits accruing to the lower river as a result of summer spill that are commensurate with the cost of that program to BPA and to Montana. What we were referring to in this section of the proposal is the possibility that Bonneville could increase its non-treaty storage draft to compensate for the reduced Libby and Hungry Horse drafts in order to make the operation flow-neutral -- we weren't talking about a Libby/Arrow swap, Litchfield said.

Larry Cassidy noted that the Council reluctantly supported the 2001 spill reduction with the certain

knowledge that it would punish fish. Why compare the operation called for in your SOR with the worst water year in the past 70 years, unless you're saying that your operation is going to punish fish as well? he asked. Wouldn't it be better to compare the flows in the Montana SOR to a year in which flows were more in the normal range? We're just picking up the small tidbits of specific survival information readily available to us, Litchfield replied; the point was to show that the 2001 NMFS spill operation was more draconian than the current Montana proposal, but actually resulted in a small negative biological impact on Snake River and Hanford Reach fall chinook. The biological impacts of the Montana proposal would be even less, Litchfield said.

Tom Karier asked about the net financial impact of the Montana proposal on Bonneville. Litchfield replied that the information presented by Bonneville at the most recent IT meeting was that, if the Montana proposal was implemented as written, it would result in about \$500,000 in lost power revenues to BPA in FY'03. Bartlett added that, according to a recent memo from John Fazio, the operation of Libby and Hungry Horse reservoirs has a net financial impact to Bonneville of about \$4 million per year. Steve Wright said Bonneville's analysis shows that the average is closer to \$6 million; the impact is significantly larger in 2003, however, due partly to a very volatile market situation, and because of Bonneville's financial situation. Bartlett said that Montana recognizes that the requested operation could impact BPA's decision about whether or not to implement safety-net CRAC in 2003; he urged Wright, however, to consider a wider viewpoint than simply FY'03.

3. Federal Perspective.

Lohn said that, first, the biggest issue for NOAA Fisheries falls outside the presentation Montana has provided today: the fact that NOAA Fisheries is currently involved in litigation over the 2000 FCRPS BiOp. Most of us sitting at the table today were not in our current positions when the 2000 BiOp was written, Lohn said; nevertheless, it established certain procedures and placed certain requirements on the system and its operators. To some degree, what we're struggling with today is the dead hand of past decisions, he said; if we were to make those decisions again, based on what we know now, they might well turn out differently.

The effect of Judge Redden's decision was to 1) invalidate the current Biological Opinion and 2) to allow the continued operation of the FCRPS under the equitable jurisdiction of the Court, Lohn said. The idea that there is currently in place an Opinion that is controlled by the National Marine Fisheries Service and the federal action agencies is a pleasant fiction, but is probably not a legally sound position. What the 2000 BiOp argued is that salmon populations were in widespread decline, and that the lambda, or rate of replacement, for many of these populations was less than one to one, Lohn said. The Opinion said we need to make very substantial changes to the hydrosystem, seeking every benefit we could confer on the listed species, said Lohn, but also that the region should pursue an aggressive program of offsite mitigation.

More recent information tells a different story, Lohn continued – for many of the populations of concern, the situation is much better, the lambdas have turned greater than 1 to 1, and there are indications that some of these populations are recovering. Certainly the absolute number of adult returns is much better today than it has been in the recent past. That is not to say that is solely due to the changes implemented under the BiOp, said Lohn -- obviously, ocean conditions and other factors play a huge role.

What Montana is arguing in this SOR is that, while the biological benefits of summer spill are very small, the costs of that program are quite substantial, Lohn continued. In reading the SOR, Montana isn't saying "Don't do anything for fish –" it is saying "That's not the most efficient thing to do for fish." Montana is also arguing, in essence, that we got it wrong in the 2000 BiOp, said Lohn -- that it would make more sense to choose a different form of mitigation for FCRPS operations. One of my tests is, what does the Opinion say about this? Lohn said -- if we're not following the requirements of the BiOp, then we have a situation that is really at Judge Redden's discretion, not ours. My reading of Judge Redden's ruling is that, unless such a departure from the BiOp operations enjoys very broad regional support, he would be unlikely to be sympathetic to such a request. My sense is that Judge Redden is more interested in seeing the Opinion continue to be implemented while the issues raised in litigation are addressed, said Lohn – he is less interested in delving into these types of technical issues.

NOAA Fisheries, too, is very interested in the question of how to provide the same benefits for fish at a lower cost, said Lohn. We are reworking the BiOp, and we will have those revisions in place in time for implementation next summer. Do we feel that we have the freedom to make the changes requested by Montana in

2003? Lohn asked. My sense is that we do not, absent broad regional consensus.

The next point is, do we have the operational discretion to make the changes Montana suggests in the lower river spill program under the concept of adaptive management? said Lohn. Absent broad regional consensus, I think that is an issue that is likely to go to court and lose immediately. Another issue, said Lohn -- I agree that we need to put studies in place that will enable us to refine spill levels. One question, however, is how you would measure the effects of any changes to the spill program during the remainder of the summer period. Any suggestions the Council and others in the region might have about how we should conduct an effective long-term monitoring program to optimize spill would be most welcome.

Lohn closed with a legal point, noting that, ironically, NOAA Fisheries has nothing to do with the implementation of the BiOp; that responsibility rests with the action agencies.

Bartlett thanked Lohn for his thoughtful comments; he noted, however, that Lohn had focused his concerns on the needs of anadromous fish downstream, not on the benefits to resident fish in Montana. Bartlett said that, in his view, Montana's proposal, and the Council's mainstem amendments, fit within the four corners of the BiOp, specifically, the ability, called for in the BiOp, to conduct experiments and make changes. We think that needs to happen now, Bartlett said, in spite of the fact that you are under scrutiny due to the lawsuit. You're under constant litigation, he said; however, that shouldn't and doesn't stop you from doing what you need to do when you need to do it. Bartlett added that there are two Biological Opinions, the second of which, the Fish and Wildlife Service BiOp, has to do with resident fish species in Montana.

Tom Karier said that, in his opinion, the flexibility laid out in the BiOp is underutilized -- the action agencies have used that flexibility in the past to conduct spill tests, for example, some of which have shown some rather surprising results.

Lohn noted that the termination date for spill is one area that has received considerable discussion in recent years -- the BiOp is more specific about spill levels than it is about when spill should end. The question here is not whether we disagree with the Council's recommendations, Lohn said -- it is, how would we monitor the effects of the changes Montana would like to see in 2003, because that is a requirement of the BiOp?

One of the interesting things that came out this year was a report from NOAA Fisheries made to TMT about fall chinook September outmigrants, said Litchfield -- you noted that these fish had the highest SARs of any component of the run, despite the fact that there is no spill during this period and flows through the system are at their lowest ebb of the year. Maybe we need to expand the no spill, low-flow September experiment to see whether those September SARs were an aberration, or if their success could be improved, Litchfield said. That seems to me to be the most rapid response we could make, he said; obviously, however, we would need to do a multi-year study in order to obtain scientifically valid results.

We have done some biological analysis, said Lohn while I wouldn't say it matches exactly with Montana's assessment, in terms of general agreement, we have seen low biological benefit -- small numbers. The problem with numbers that are on the edge of these models is that small changes in the models can affect the numbers, Lohn said, but are the numbers substantial? No. We would concur that the benefits are relatively low, he said.

Wright thanked Montana for bringing this issue to this level. The biological side is certainly relevant to this issue, he said, but the biological side isn't really what Bonneville does -- we look to NOAA Fisheries for that. I would say, however, that the biological benefits do seem extraordinarily small compared to the cost of summer spill, Wright said. That said, however, after spending a huge amount of time examining this issue, I am advised by our federal counsel that there is limited flexibility to implement the types of changes requested in Montana's SOR this year, he said. Given the wording of the judge's order, we have sought regional consensus on the Montana proposal, but have been rebuffed, Wright said. It would seem that there are opportunities to provide a biological offset that would provide similar benefits to the spill program at a lower cost, said Wright; I'll be interested to hear from the other parties here today whether they think such opportunities exist. It is difficult for Bonneville to go down the path of changing Libby and Hungry Horse operations without the reduction in the Lower River spill program, Wright said.

Jim Fodrea said Reclamation is on record as implementing the operational actions for Hungry Horse and

Grand Coulee laid out in the Biological Opinion. We also endorse the concept of adaptive management called for in the BiOp, said Fodrea, but adaptive management requires strong regional consensus that such operational changes are warranted. When we have deviated from the 20-foot draft at Hungry Horse in the past, there has been some form of consensus, at TMT or IT, that this should occur. We also look to NOAA Fisheries and the Fish and Wildlife Service to concur that we are in compliance before taking any action that deviates from those called for in the BiOp, Fodrea said.

In response to one of the recommendations in your presentation today, Fodrea added, we have looked at the impacts to other reservoirs; if we want to make this operation flow-neutral, that would likely impact operations at Grand Coulee. We aren't anxious to entertain proposals that would exchange reservoir benefits in Montana for impacts at Grand Coulee, Fodrea said. That was not our proposal, Bartlett replied -- what we're suggesting is that it would be possible to reduce the drafts at Libby and Hungry Horse without making those kinds of accommodations.

With respect to the decision-making process, said Wright, speaking solely for myself, there is a concern about whether TMT and IT are implementing decisions that truly represent senior-level views at the organizations represented at those forums. I'm not sure I want to endorse regular regional executives meetings to fill that gap, said Wright, but some change is needed if decisions are to be made in real-time.

4. State and Tribal Input.

Karier thanked the Executives for convening this meeting, and Governor Martz for initiating the process. Karier said Washington supports the implementation of the Power and Conservation Council's mainstem program, which contains 45 specific actions designed to produce the maximum benefits for fish at the lowest possible cost. It is not realistic for the action agencies to selectively implement parts of the program, because it is a comprehensive strategy, and is intended to be implemented as a package, Karier said. It is also important for the federal agencies to implement a summer spill test, he said; the Council acknowledges that the summer spill program is very expensive, and there may be more effective and less-costly measures for improving fish survival. While there is broad support for this approach, the response from the federal agencies has been slow and not particularly effective. We need to see a comprehensive operation proposed which will provide much-needed relief for ratepayers, as well as essential protection for fish, by redirecting some portion of the spill cost to more-productive fish projects, Karier said.

The Montana proposal is a good start, he continued; it got the ball rolling but, while it tries to implement part of the Council program, it is incomplete. It needs to be fully developed with an experimental design, as well as a policy for redirecting a portion of the spill savings to salmon recovery. We recommend that Montana work with the Council to develop a full-fledged experiment as soon as possible, with regional support. We would prefer, in the future, to see a consensus SOR coming from the Council, rather than the individual states, Karier said. Finally, he said, Washington objects to any effort that makes Lake Roosevelt pay for the operations that hold Montana's reservoirs higher in the summer. Transferring adverse biological impacts from Libby and Hungry Horse to Lake Roosevelt is bad biology and bad politics. It is inconsistent with the Council program, and is fundamentally untenable, Karier said.

Melinda Eden said Oregon agrees with Washington's position; she emphasized, also, that a better decision-making process is needed for issues raised to the executive level. Oregon supports the Council's mainstem amendments; the section of the amendments dealing with summer spill calls for a carefully-crafted experimental design, monitoring and mitigation for any losses that might result from reduced spill, she said, and all of those elements need to be in place, and to be vetted by the region, before they are implemented.

Next, Gene Derfler said that, in his view, adaptive management means you make experiments, and from those experiments, you make changes. Derfler said he had recently visited several of the Mid-Columbia projects; he noted that, while a great deal of information has been collected at those dams, the project operators find it very difficult to make changes. The process we use needs to be changed such that, if information is available, and changes are warranted, we should be able to make changes that would yield improvements in a timely manner. That's not the way the process is set up right now, Derfler said. .

Next, Council chair Judi Danielson of Idaho said that, although the Council has not yet had an opportunity, as a body, to take an official stand on the Montana SOR, the federal executives understand how serious the Council

is about the implementation of our mainstem amendments. As a representative of the State of Idaho, however, said Danielson, I want to say that we support Montana in this request. Idaho understands the need for good science to support decision-making and believes there is enough flexibility in the BiOp to accommodate at least part of Montana's request. Conducting a scientific evaluation of the spill program clearly has great economic and biological significance to the region; we agree that the issues raised by Montana deserve a full airing before the region, Danielson said.

Dave Statler of the Nez Perce Tribe said the Columbia River Inter-Tribal Fish Commission finds the proposal to eliminate spill starting in the second half of August to be unacceptable. He read the following excerpts from a July 23 letter from CRITFC to the action agencies:

"We have assessed the probable impacts to the naturally-spawning component of the Hanford Reach fall chinook using the best information available to the Commission, and find that the resulting increase in direct and indirect mortality will reduce returns by 16,000 to 56,000 adults for that stock alone...

"The Nez Perce Tribe and other Lower Columbia River tribes do not believe salmon should be sacrificed to meet Bonneville's subscription and cost control values. With respect to an evaluation of spill, the tribes have long believed that spill is the best passage route for juvenile salmon. Spill and flow provide vital normative conditions for juvenile and adult salmon passage and habitat in the mainstem Columbia and Snake Rivers. While the flow and spill measures called for in the 2000 BiOp are not adequate to recover salmon, they are certainly much better than no spill at all.

"The Council's recently-adopted amendments in the mainstem section of its fish and wildlife program call for the evaluation of spill effectiveness. In our view, the critical Lower Snake River summer spill and salmon transportation test that is scheduled for 2005 under the 2000 BiOp is just such a test. The study methodology for this test has been under development for over five years. In contrast, we see no similar methodology associated with the proposal to curtail spill in August 2003. Curtailing spill in August 2003 without a regionally-accepted study methodology will not yield useful biological information... Rather than curtailing spill in 2003, we urge Bonneville to assure that financial resources will be available to provide the 2005 Snake River summer spill test, and to do other activities at hydro projects to increase salmon survival."

Carl Merkle of the Umatilla Tribe said that, as Bob Lohn noted, the efforts to assure policy-level tribal participation in this meeting were deficient, to say the least. I have two questions, said Merkle: first, have there been any efforts to quantify the expected benefits of the Montana proposal on bull trout, and second, has the Fish Passage Center analyzed the various effects of the Montana proposal?

Litchfield replied that the Fish Passage Center will need to answer the second question. With respect to your first question, said Litchfield, we have spent a lot of time and money in recent years to quantify the effects of Montana reservoir operations on fish. That information is contained in a report that I emailed out to those who expressed interest, Litchfield said. He then read an excerpt from this report, a series of ISAB comments found on Page 6 of the Montana SOR:

"It is a well-established fact that storage reservoir drawdown results in adverse effects on resident fish populations and their associated fisheries. In earlier reports, we recommended that an effort be made to balance the needs of resident fish upstream against those of juvenile salmon downstream. We identified the rule curves developed in Montana as being reasonable approaches to resolving difficult policy issues with biological implications. The subject of tradeoffs of the benefits to salmon vs. detriments to resident fishes is one of the subjects deserving high priority action by the Council." In other words, said Litchfield, the ISAB is on record as saying that the effects of annual drawdown on the Montana reservoirs and the resident fish in those reservoirs are well-documented and well-supported in the literature they have reviewed several times.

We have heard your assessment that the harm to salmon if the Montana proposal is implemented would be a fraction of one percent, said Merkle – are there similar hard numbers available from Montana regarding the quantifiable benefits that would accrue to resident fish if your proposal is implemented? Yes – I'll send you the file, and you can send any comments you may have to me, Litchfield replied. My point is that you have not presented those numbers at today's meeting, said Merkle, and frankly, I'm disturbed to hear only about the expense and

marginal biological benefits of the summer spill program in the lower river. I don't doubt there are benefits to bull trout, said Merkle, but we don't see the type of attention paid to the supposed benefits of the Montana proposal for that species.

Dave Danner from Gov. Locke's office said Washington would prefer that, in the future, issues such as this one be decided through the Council, rather than meetings such as these.

5. Public Comment.

Steve Marshall from Snohomish County PUD, BPA's largest customer, said his utility is very concerned with the current and future cost of power. The current high power rates have had tremendous negative impacts on both business and industrial customers in our service area, he said, and also on our residential customers, who are disconnecting in unprecedented numbers. We have heard that we could have saved up to \$100 million by eliminating the summer spill program, without causing a significant biological impact. We are concerned, however, that we have heard two reasons for inaction presented at today's meeting, Marshall said; the first is the idea that Judge Redden would not approve. This change in operation should have been presented to the Judge; there is no reason why, presented with the evidence and arguments we have heard today, he would not have supported the implementation of the Montana proposal. The other reason we have heard for inaction at today's meeting is the fact that we do not have a comprehensive testing protocol in place, Marshall said. We think Montana has presented a compelling case for taking action now, despite the fact that it appears we're on the verge of not taking action yet again. We're concerned – we think this is an illustration of why the decision-making process needs to be fixed, Marshall said.

John Saven then offered comments on behalf of Bonneville's 46 Northwest requirements customers. In the economic analysis we've seen, said Saven, the summer spill program represented a cost of about \$68 million, the equivalent of a 4.5% reduction in Bonneville rates. He noted that this reduction would save his members alone \$13.5 million per year. Looking at the biological information presented and doing the math, the summer spill program is costing \$5 million each for the listed species and \$15,000 each for the non-listed species, in terms of the increased survival and adult returns modeled to result from the summer spill program.

There is a saying, said Saven – "If something is broken, do fix it." He touched on the various regional processes his organization has participated in over the years, including the recent mainstem rulemaking. Saven agreed with Marshall's comment that Judge Redden needs to be presented with this proposed change in operation, rather than the action agencies simply assuming that he would be unwilling to consider this decision.

Glen Vanselow of the Pacific Northwest Waterway Association was the next to comment; he said the same economic problems are occurring in many parts of Oregon and Washington. Times are tough, he said; economics are a reality in this region. Fifteen years ago, in connection with fish and wildlife recovery, the question "What will that cost?" never even came up, he said. It is coming up now, and we see that as progress. The federal operators are being asked to take action within their existing authorities, he said; I'm asking you to look at what summer spill costs and make a decision.

Pat Reiten of PNGC described his organization's membership and service area; he thanked Montana and Idaho for raising the flow and spill issue and the cost issue. Bonneville has heard a huge amount of testimony from the ratepayer side about the negative impact of recent rate increases on the Pacific Northwest economy, Reiten said; our belief is that Pacific Northwest salmon recovery needs to be moved into the real world. You can take a step in that direction by adopting the Montana operational proposal as a package, he said. We have supported the implementation of the BiOp and have even lobbied Congress for adequate funding for its implementation, said Reiten; we find summer spill especially objectionable because it is not supported by science. The cost is simply not justified by the results predicted. It appears that the action agencies feel their hands are legally tied by the BiOp, Reiten said -- we would suggest that you re-evaluate that position. We appreciate this opportunity to provide our views on this topic, and further encourage you to re-evaluate the Regional Forum in which many of these decisions are made.

Bill Drummond from Western Montana, representing more than 100,000 customers in that part of the state, said his organization believes the summer spill program should end. It has no measurable benefit for listed salmon stocks downstream; however, it does have extreme negative effects on Bonneville's financial situation. Third, said

Drummond, we support Montana's proposed operations of Libby and Hungry Horse.

Next, Bud Tracy of Raft River Electrical Co-op, which serves a very rural service territory, expressed his utility's strong support for the Montana SOR, in particular, its contention that the summer spill program in the lower river be eliminated or curtailed.

Dwight Langer of Northern Wasco County PUD applauded and thanked Montana for its SOR. Affordable energy drives our economy, he said; Wasco County has one of the highest unemployment rates in the country; we see this SOR as an opportunity to save precious financial resources. We are hopeful that we will take advantage of this opportunity, said Langer.

Andrew Englander of Save Our Wild Salmon described his organization's membership, noting that they had sent a letter to the Executives on August 1 regarding the Montana proposal. He read an excerpt from this letter, which noted that Save Our Wild Salmon strongly disagrees with the Montana SOR and urges that the Regional Executives choose not to implement it at this time. Englander noted that the Montana proposal calls into question the process set forward by the U.S. District Court. He said Save Our Wild Salmon strongly disagrees with notion that the flexibility included in the BiOp would encompass Montana's requested operation. While we are sympathetic to Montana's goals, said Englander, we feel this proposal unfairly pits one species against another, and feel that Montana's proposal would be a serious setback to salmon recovery in the region if implemented.

6. Discussion and Decision.

Following a caucus, Fred Olney made one point regarding the development of the Libby and Hungry Horse operations called for in the 2000 Biological Opinions. The intent, in developing that section of the Opinions, was to take into account the needs of a variety of different species, Olney said. At this point, however, the Fish and Wildlife Service does not see compelling biological evidence that would support a departure from the implementation of either the Fish and Wildlife Service or NOAA Fisheries Biological Opinions, he said.

Wright thanked everyone for their input at today's meeting. He then said that the Regional Executives' decision is to maintain the operations as currently envisioned in the Biological Opinion. That said, said Wright, we would like to continue to explore the issues of run timing and potential legal options for interfacing with the Court. We do not have Department of Justice representation here today, he said, so we are unable to confer with them in the time we have available about the option Mr. Marshall has proposed. We would like to encourage the states and tribes to send representation to the TMT and IT meetings that represent the senior staff in their organizations, said Wright; this is an increasing concern for all of us, he said, and we think Montana has hit on an important point here - we need to be sure we have clarity with respect to the positions that are being taken at TMT and IT.

We are still open to regional consensus options on the issues raised at today's meeting, Wright continued, although it is getting late in the season; if the Council, for example, would like to put forward a regional consensus alternative at TMT or IT, we would welcome that. Wright also noted that the 2000 Biological Opinion is being rewritten, and the issues raised by Montana are on the table for inclusion in the revised Opinion. Finally, he said, I would like to join Bob Lohn in apologizing for the short notice on this meeting, said Wright.

I also wanted to make a statement on my own behalf, said Wright. I only reluctantly agreed with this conclusion, because while I am fully committed to meeting Bonneville's responsibilities and the biological performance standards under ESA, I am just as committed to doing so in a cost-effective manner. I do not believe that this decision adequately takes into account the opportunity to implement cost-effective alternatives that could meet our responsibility to fish while having a less-negative impact on the regional economy. The calculated biological benefit of the summer spill program on listed salmon appears to be small, even under the most optimistic assumptions, relative to the cost of the program, said Wright.

I am agreeing not to disagree with this decision because the existing BiOp does not appear to provide adequate flexibility to respond to these facts in 2003, Wright continued. Our legal counsel has advised us to exercise caution in adjusting Biological Opinion measures during the remand by the Federal District Court, and because we are committed to making progress on these issues in the future. I am disappointed that some parties in the region have indicated that they are unwilling to discuss the potential implementation of less-costly measures that provide

similar biological benefits for both listed and non-listed species, said Wright.

For future years, we must have the ability to explore the benefits, costs and alternatives to the full summer spill program in a way that allows us to implement any resulting decisions in a timely manner, Wright said. We have got to find a way to work together in this region to meet the legitimate needs of both fish and people. The people of this region do want fish in the river, he said, but they also want the programs that are designed to meet this objective to be operated in an efficient manner, said Wright. Again, at Bonneville, we are committed to meeting the clearly-defined biological objectives for fish survival, but we believe we need to better design those efforts to provide additional flexibility to achieve these objectives at least cost. I know there are a lot of people in the region who support this goal, and I'm determined to make progress toward meeting it, said Wright.

If the federal agencies decided to approach the judge with a proposal, involving a reduction in summer spill during the latter part of August, they would also need to include a funding proposal, earmarking at least a portion of the money that would be saved on spill for more-effective salmon measures, as well as providing relief for ratepayers, said Karier. We have given a lot of thought to this, which is why we talked about the question of whether there might be legitimate biological offsets that the region might be willing to support, said Wright. At this point, however, such an eventuality is a longshot.

7. Wrap-Up.

Johnston noted that notes from today's meeting will be available soon. Meeting summary prepared by Jeff Kuechle, BPA contractor.