

Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River Commission Meeting MINUTES

June 24, 2014 from 9 AM until 12 PM

Dover City Hall

699 Lakeshore Avenue Dover, Idaho 83825

Commissioner's present: Ford Elsaesser, Brent Baker, Craig Hill, Linda Mitchell, Ben Conard, Erin Mader (Coordinator)

184 signed in from audience

9:00 am – Commence meeting

Ford Elsaesser welcomed everyone to the meeting and introduced the Lakes Commission Board members.

Board voted to accept the 5/28/13 Minutes. Linda made the motion, Brent seconded it.

**Thomas Woolf, Idaho State Department of Agriculture (ISDA), updated the Commission on aquatic invasive species in the basin and on the treatment projects lined up for the summer season.**

Tom updated the board on the state of Eurasian watermilfoil. He said that the only two treatment areas planned for this summer including Boyer Slough and Riley Creek Slough. The drawdown last fall coupled with the early winter freezes killed off most of the nearshore milfoil. Cocollala Lake was treated on June 10<sup>th</sup> and all use restrictions have been lifted. Cocollala is considered an eradication project.

Tom discussed the success of using chemical control to curb dense areas of milfoil on Priest Lake and now how it's manageable with only diver effort removing single plants. The divers also remove curly leaf pondweed early in the season before its reproductive structures form. ISDA will hold its yearly aquatic invasive species workshop for Priest Lake at the Kalispel Boat Launch on July 29 and 30. The public is encouraged to come.

Tom talked about the rapid spread of flowering rush throughout the Pend Oreille system. Many different herbicide trials have been taking place locally and across the country with little success. Locally, dry ground treatment studies have shown no success.

Tom updated the board about quagga and zebra mussels. He said that there are still no known infestations of mussels in the Columbia River system. ISDA is surveying for mussels throughout the summer. The boat inspection stations are running and have found 8 fouled boats in the state this year, with two in Northern Idaho. Lake Powell is now infested which is highly disconcerting for local waterbodies because many people transport their boats from Powell to the Northern Idaho lakes.

**Katie Brodie, Northern Idaho Field Representative for Governor Otter, read a letter from the Governor directed at lake level concerns for Lake Pend Oreille. Please view letter at end of Minutes.**

**Jim Yost, Northwest Power and Conservation Council, presented on the Columbia River Treaty Review process (CRTR).**

Jim met on the Sovereign Review Team (SRT) for about three years helping to prepare the recommendation that was delivered to the Department of State late last year.

Jim went over some of the basics of the CRT. The CRT is an agreement between the United States and Canada that will last forever with only minor changes, unless one of the countries backs out. The CRT was established for 60 years requiring a ten year notification from either country before terminating or modifying it. What will definitely change after the 60 years is that the U.S. will have to pay for flood control if we need it. In the original CRT the U.S. paid up front for sixty years of coordinated flood control which doesn't require calling upon Canada, it is just part of daily operations. Modeling showed that the U.S. will most likely need flood control assistance 3 to 5 times over the next fifty years (two of those events are predicted to be major).

The Department of State requested that the U.S. Entity submit a recommendation in 2013 to end or modify the CRT. The Sovereign Review Team (SRT) was put together to form the recommendation. The team was comprised of one representative from each of the four states (Idaho, Oregon, Washington, and Montana) and 15 tribes. The Sovereign Technical Team was created to model and to analyze the modeling.

Jim stated that it is estimated that the U.S. overpays Canada about 250 to 300 million dollars a year for their part in the CRT. The SRT agreed that the U.S. should fair up the Canadian entitlement. The original CRT included 8 storage facilities (including Lake Pend Oreille) that the U.S. needed to operate for flood control all the time, but Canada would like all U.S. waterbodies to be used as storage before calling upon Canada for flood control. The U.S. doesn't believe that this would be of use because the projects beyond the eight already designated don't have storage capabilities. The U.S. will need to figure out how to pay for flood control, but at this point we don't know what this will look like.

The Recommendation included a new addition, ecosystem function, as a third leg to the historically two legged stool (flood control and power production) of the CRT. Most of the analysis for ecosystem function involved changing the timing of releases from Canadian projects to benefit downstream wildlife. The models analyzed 30 operations and showed no change to the operations of Pend Oreille, Coeur d'Alene, or Dworshak.

The Governor of Idaho commented on the draft CRT recommendation in 2013. The Governor stated the recommendation should provide a process for equitable sharing of the benefits of the system. He also stated that the recommendation should not include ecosystem function and remain focused on the two original legs. He stated that the new Treaty should have to go through Congress if ecosystem function is to be added.

The current recommendation went to the Department of State last winter and we should receive a response of how to develop the Phase II process in the next year and a half. Jim mentioned that there will be open public process during from 2014 to 2024 to explore what flood control will look like. During that time domestic matters including individual river/lake/reservoir operations will be evaluated. These operations will take all uses including navigation, wildlife, and recreation into consideration. Jim wrapped up his presentation by stating everyone involved in the CRTR is after the protection of current operations and that for this reason he does not feel that the new CRT is of concern.

Questions following the presentation led to these points:

- The tribal definition of Ecosystem Function was never adopted by the Review Team.
- Changes to operations on Lake Pend Oreille are a domestic issue, not an international issue.
- The U.S. pays Canada the entitlement because Canada provides flood control and coordinated power operations.

Ford Elsaesser commented that there is currently a confluence of issues on Pend Oreille waters including the CRT, the Kalispel MOA, Idaho Dept. of Fish and Game no longer requesting the higher winter pool and the impacts of that change, and flexible winter pool operations (FWPO). This confluence has created great concern in the public and for the Commission.

**Ford Elsaesser gave a brief history of the Lakes Commission.** He explained that the Lakes Commission formed as a result of the Lake Pend Oreille Idaho Club's lawsuit about lake level impacts on kokanee. The Lakes Commission was formed as a watchdog group on water issues in the basin by Governor Kempthorne and covers the entire drainage of the Pend Oreille Basin in Idaho. For the last decade the Army Corps of Engineers (ACOE) has typically followed a handshake deal with the Lakes Commission to hold the level of Pend Oreille to 2062' to 2062.5' until mid-September and then to drop it about a foot by the end of September. Although the Lakes Commission and ACOE does not always see eye to eye, we have upheld a good relationship with open communication.

**Beth Coffey, ACOE, explained some details of the Kalispel MOA as a prelude to Amy Reese's presentation.**

Beth stated that ACOE would like to work with BPA, the Lakes Commission, the State of Idaho, and others to make an agreement outlining a decision framework for future September operations for Lake Pend Oreille. She explained that Attachment C, or the Action Plan, of the Kalispel MOA outlines each year's goals. The Action Plan is revised each year, as it is a living document that changes and can be refined. She also explained that the Kalispel Tribe has asked that the modeling stay within the existing operating parameters for Albeni Falls Dam (AFD).

**Amy Reese, ACOE, reported on the Pend Oreille River temperature modeling results.**

Amy stated that the AFD project is authorized under the Flood Control Act of 1950; and in agreement with Senate Doc No. 9. It was authorized as part of a system-wide development to respond to the great flood of 1948 and meet the power needs of the Pacific Northwest. It is in alignment with the Clean

Water Act, the Endangered Species Act, the National Environmental Policy Act (NEPA), and the Northwest Power Act.

Amy showed slides of the Pacific Northwest Reservoir System and the general operations of Lake Pend Oreille (to view the presentation please visit: [https://lakescommission.files.wordpress.com/2014/07/afd\\_lake-level-presentation-6-24-14.pdf](https://lakescommission.files.wordpress.com/2014/07/afd_lake-level-presentation-6-24-14.pdf)). Amy described the Kalispel MOA as a 10-year agreement between BPA, the Corps, and the Kalispel Tribe of Indians. As part of the agreement, modeling would be done to evaluate whether releases from AFD could impact downstream temperatures. BPA conducted a 30-day comment period through July of 2011 and entered a record of decision on July 6, 2012.

Amy explained that a draft of the lake before Sept. 1 would be a change of operation from the current water control plan and would undergo National Environmental Policy Act (NEPA) documentation and coordination. At the moment there are no plans to change the current water control plan.

Amy discussed the modeling process. The CE-QUAL W2 model was used. Four sets of modeling have been completed and a fifth is near completion. The draft triggers that were identified to execute a Temperature Management Operation were: during prominent cold weather conditions, decrease river flows to increase exposure time in the river; During hot weather conditions, increase river flows to reduce exposure time in the river; and when surface temperatures in the lake are cooler than in the river at AFD, increase flows to introduce cooler water downstream. Amy stated that only the models have been completed at this point in time; an implementation strategy has not been officially discussed.

Amy went over the plan for this year. The first goal is to complete the models. She said that the winter lake level has already been decided to be 2051' to accommodate work in the Clark Fork Delta and this level will be reached by November 15. The summer operating range of 2062' to 2062.5' will be held for the first two weeks of September, the lake will be at or above 2061' through the third weekend in September and will be at or above 2060.5' at the end of the month.

Questions and comments following Amy's presentation led to these points:

- Linda Mitchell pointed out that the issue of benefitting bull trout is ultimately a fish passage issue because fish are stuck below AFD in warm waters when historically they sought refuge in cooler tributaries above AFD.
- Visit [www.salmonrecovery.gov](http://www.salmonrecovery.gov) to read the Kalispel MOA and learn more about the topic.
- Fish passage is being pushed now because of the 2000 U.S. Fish and Wildlife Service biological opinion that listed bull trout as threatened under the Endangered Species Act. This requires fish passage at AFD to be studied to see if it's economically and operationally feasible.
- Optimal temperatures for bull trout at around 52° F (11°C).
- Modeling showed possible temperature changes in the range of .5°C.
- The impacts of late summer and early fall water withdrawals from Lake Pend Oreille on the local economy need to be explored. This includes analysis of shoreline property values because shoreline property taxes significantly support Bonner County's budget.

- The Kalispel settlement included 39.5 million dollars over ten years for mitigation and \$2 million for land acquisitions.
- No criteria have been set to evaluate the benefit of river temperature reductions on bull trout survival.
- Mitigation settlement discussions between Idaho and BPA have not progressed in over a year.

The meeting finished at 12:20 PM.



C.L. "BUTCH" OTTER  
GOVERNOR

June 24, 2014

Mr. Ford Elsaesser  
Chairman, Lakes Commission  
1224 Washington Ave., Suite 101  
Sandpoint, ID 83864

Dear Ford,

I want to thank you and the Lakes Commission for your continuing work in carrying out the mandates on water quality and water quantity assigned the Commission. I appreciate your diligent service to our state.

I wish to ensure the Lakes Commission that I too am deeply concerned about the potential for federal government agencies to adversely alter summer and fall water levels on Lake Pend Oreille. I want to stress that I intend to use all available means to protect the sovereign rights of our state to make sure that Lake Pend Oreille is first and foremost managed in accordance with the needs and interests of Idahoans.

Idaho has been working with the U.S. Army Corps of Engineers and Bonneville Power Administration to reach an agreement on this September's lake level management. Kokanee spawning and Clark Fork Delta restoration habitat work scheduled for this year are some of the numerous factors, along with recreation needs and the priorities of local citizens, that factor into lake level management. We have an agreement to maintain full pool until September 15<sup>th</sup> this year. The lake elevation will be at least 2061 feet through the third weekend in September and 2060.5 feet by the end of that month. The lake level will be held steady during the fourth weekend of September to accommodate the Head of the Pend Oreille Regatta.

Regarding the recent discussions on amending the Columbia River Treaty with Canada, Idaho has been prominently at the table with the region's other states and sovereign tribes from the very beginning. As a result, the draft treaty recommendation recently submitted to the U.S. State Department calls for no changes to current management operations at Lake Pend Oreille.

I commit to remaining vigilant to any threats to summer and fall lake levels. The Commission's regional leadership and perspective are critical in this process and I look forward to working together with you to protect Idaho's best interests.

As Always – Idaho, "Esto Perpetua"

A handwritten signature in black ink, appearing to read "C.L. Butch Otter".

C.L. "Butch" Otter  
Governor of Idaho

CLO/sg