

Lake Pend Oreille, Pend Oreille River, Priest Lake and Priest River Commission Meeting MINUTES
Sept 16, 2014 from 9 AM until 1 PM
Dover City Hall
699 Lakeshore Avenue Dover, Idaho 83825

Commissioner's present: Ford Elsaesser, Brent Baker, Doug Conde, Craig Hill, Linda Mitchell, Ben Conard, Molly McCahon (temp Coordinator)

34 signed in from audience

9:05 am – Commence meeting

Ford Elsaesser welcomed everyone to the meeting and introduced the Lakes Commission Board members and Molly McCahon who filled in at this meeting for Erin Mader (Coordinator).

Approval of Minutes:

Linda moved to approve the 6/24/14 minutes. Brent seconded the motion, *the motion carried.*

Agency presentations

Dan Peterson, the Commissioner for the Pend Oreille PUD introduced himself and his colleagues prior to the presentations by the PUD. He introduced the Pend Oreille PUD as our downstream interest.

Mark Cauchy, Director of Regulatory and Environmental Affairs, Pend Oreille Public Utility District, updated the Commission on the cold water pipe being installed in Sullivan Lake to improve fish habitat.

Sullivan Lake is located in the Salmo/Priest Wilderness area in Pend Oreille County. Sullivan Lake feeds Outlet Creek. Outlet Creek turns into Sullivan Creek just downstream of Sullivan Lake. Sullivan Creek in turn feeds into Mill Pond which is dammed by Mill Pond Dam and then continues on into the Pend Oreille River at town of Metalline Falls.

The project involves installing a cold water pipe in Sullivan Lake to improve fish habitat with colder water in the summer. After the PUD decided not to relicense the Sullivan Creek project it was ordered by FERC to surrender the license which is a complicated and expensive process which held a lot of risk for the PUD. Knowing that it would be very contentious, we negotiated a settlement with a group of stakeholders including Federal, State, Local, Tribal, NGOs and the public on how to dispose of the facilities located on Nat. Forest System lands.

It was agreed to remove Mill Pond Dam but keep Sullivan Lake dam in place. To accomplish that, the PUD needed a way to pay for that. So we sold part of our water storage right out of Sullivan Lake to the State of WA. In doing so, we have to release more water in the summer than in the past. This extra water increases the stream temperature below Sullivan Dam. To rectify that we will use the cold water pipe to draw colder water near the lake bottom and mix it with the water from the other gates in the dam.

The design for the project is complete and installation is scheduled to begin toward the end of September early October. Design includes a 5' diameter pipe to be placed just above the floor of the lake at 100' depth. Project managers needed to consider many things including: how to get barge in, cultural resources, lost revenue at campgrounds, and keeping pipe screen clean. It is estimated to cost 4.5 million overall, which does not include operational costs. According to Mark, "project success would be improved habitat, water to the state in the summer, and rate payer satisfaction"

Pat Buckley, Natural Resources Manager, Pend Oreille Public Utility District, provide a presentation on the fish passage studies being done at Box Canyon Dam.

The study for fish passage at Box Canyon Dam has been a 5 year process. The design is 95% complete and will go out to bid spring 2015. Licensing requires fish passage. Fish of concern are: bull trout, cutthroat, mtn white fish.

Numerous techniques were used to determine the best design specific to Box Canyon: Radars of fish bladders, tagging fish to see where they "are knocking on door" to get back upstream (3 years' worth of data), flow monitoring, a large model of the dam, tours of other fish ladders (Cougar Dam, Thompson Falls).

Design will be similar to the Cougar Dam ladder with post and beam construction, mesh floors, and water slide. Will be able to handle 100-400cfs. One direction pass through, 25-30' high. Fish will go into fiber glass containers and trucked around the island area for release. Ladder will be shut down when water too cold or too hot.

Cost for the project is estimated at 15-20 million.

Linda asked how Box Canyon Dam compared to Albeni Falls in relation to fish passage. Pat stated that AFD is wider, has the same flow/volume, but has more storage capacity, so AFD can control flow easier. Box Canyon is a "run of the river" dam, which means it has little to no storage and is subject to the flows of the river.

The question of how many bull trout will actually be using the ladder came up and the overriding answer was that POPUD is looking toward the future and not the present, in relation to bull trout numbers. It is the hope that with fish passage bull trout numbers will increase.

Jason Flory, U.S Fish and Wildlife Service, provided a review of the Endangered Species Act Consultation related to Albeni Falls Dam.

Jason went over the 2000 Federal Columbia Power System Biological Opinion, conducted by the US Fish and Wildlife Service.

- The biological opinion (BiOp) was signed on December 20, 2000
- The BiOp addresses the effects to bull trout and Kootenai sturgeon from operations and maintenance of federal dams in the Columbia River system
- The BiOp reached a *non-jeopardy, may affect and likely to adversely affect* determination for bull trout, and a *jeopardy* determination for Kootenai sturgeon
- The action agencies shall evaluate the feasibility of reestablishing bull trout passage at Albeni Falls Dam. If the information from these studies warrants consideration of modifications to the

Albeni Falls facility, then the Service will work with the action agencies to implement these measures, as appropriate, or to reinitiate consultation, if necessary. A feasibility study is needed for ACOE to receive funding.

- By October 1, 2004, the action agencies shall conduct a feasibility study for reestablishment of two-way passage of adult and sub-adult bull trout at Albeni Falls Dam.
- If fish passage is determined to be necessary the action agencies will seek appropriations for the construction of the facility by October 1, 2008.
- In 2004 & 2005, Battelle reports that Bull trout are being entrained through AFD, Bull trout congregate near dam, trying to migrate upstream, Due to high river temperatures (>77° F) below AFD, entrained bull trout die, Bull trout transported over AFD migrated to Lake Pend Oreille (one spawned in Lightning Creek), Recommended fish passage at AFD.
- January 2006: The Corps initiates a planning process to evaluate potential implementation of passage at AFD and identify “information gaps”
- March 2007: Corps provides final draft of “Data Gap Analysis” to stakeholders. Not a feasibility study (proposed for “future years”)
- December 2007: Selkirk Conservation Alliance letter to USFWS requesting a status report on implementation of the BiOp (citing “lack of progress”)
- February 2008: USFWS Response letter to SCA: Corps/BPA are in compliance with the 2000 BiOp
 - Studies have been conducted (Battelle reports)
 - Planning for passage is underway
 - Likely not going to meet October 2008 deadline for funding, but OK given progress and coordination
- June 2009: Corps issues final technical report on AFD fish migration/movement (GEI Consultants)
- 2009-2010: Corps convenes workshops with stakeholders
 - December 2010 workshop outcomes:
 - Corps states they will commence feasibility study in FY 2011, complete by FY 2015
 - Consensus reached on pursuing prototype fishway
 - Design prototype by FY 2011, and construct in FY 2012
- February 2011: USFWS letter to Corps
 - Confirms timeline for feasibility study and prototype
 - Reaffirms importance of both upstream and downstream passage
- December 2011: Corps informs USFWS that they will not continue to pursue prototype fishway (high cost/lack of funding), and will revisit the feasibility study
- 2012: Corps informs USFWS that they will be starting over with feasibility study, including evaluating the necessity of passage at AFD, as well as preparing a Preliminary Report to establish a path forward for passage at AFD
- February 2014: Corps requests USFWS, Kalispel Tribe, BPA, and IDFG to become “cooperating agency” for NEPA process for passage at AFD

In Summary

- AFD passage considerations from 2000 BiOp are almost 10 years behind schedule
 - Oct. 2004: Date for feasibility study

- Appropriations by Oct. 2008
- Currently no biological/ESA justification to request higher winter lake levels
- Flexible winter power operations were consulted on in the 2000 BiOp
- FCRPS reinitiation :
 - Reinitiate due to latest (2010) designation of bull trout critical habitat
 - draft BA scheduled for summer 2015

Ford asks where funding would come from for fish passage? After some discussion on the chain of order, it was stated that it would initially come from ACOE appropriations.

David Cook, Army Corp of Engineers provided a presentation on preliminary designs for fish passage.

David states that is has taken such a long time to come up with feasibility study because they had little knowledge of bull trout passage design and needed to spend time researching. There is only one bull trout passage facility, which is Thompson Falls. Research has been conducted over the past 4 years.

Different considerations because it is a multi-purpose dam:

- Temps of 68 degrees F harmful to bull trout
- Partial ladder
- Moving forbay makes engineering difficult
- Gravity water operations
- Won't be a long shoot alignment
- Not operating facility late summer
- Water supply would not affect lake levels
- Sound reduction
- Priest River would be release site
- 1 ton truck
- During peak days in May, just a couple bull trout a day
- It is estimates that 100-200 fish go through turbines (entrained)
- Electro fishing below Albeni Falls is too difficult
- Passage needs Congressional funding
- Draft plan for passage design due out in Jan or Feb of 2015.
- Final design estimated for April 2016.

Until then, the Kalispell Tribe has a temporary fish trap being installed at the moment

- Rapid genetic testing assigned
- Release at Priest River

Meeting extended for Board discussion on lake levels

After discussion and years of acquiring factual information related to the multiple uses on Lake Pend Oreille, the Lakes Commission agreed to establish and vote on positions for annual lake level operations

Linda Mitchell moved to establish the following Lakes Commission positions for annual lake levels on Pend Oreille, seconded by Brent Baker, *motion carried.*

- 1) The Lakes Commission believes very strongly that we should have a "default" recreation season that keeps Lake Pend Oreille at full pool through the month of September, with no more than one foot drawn down before October 1. We believe this does not interfere at all with the kokanee levels that need to be reached by early November, and in that rare year where the Corps could not get the level down to 2051, it really does not make significant difference whether it is at 2051.5 or 2051.7, as long as it is retained at the minimum level through the winter to protect the kokanee spawning. The businesses around the lake have come to truly depend on having the full use of the lake during September.
- 2) The Lakes Commission strongly opposes any late summer or fall draw-downs that might be contemplated under the Memorandum of Understanding with the Kalispell Tribe. We do support the concept of fish passage through Albeni Falls Dam, as we expressed in our meeting earlier today. We think it is very disruptive to have the threat of draw-downs in late summer or in September, much of which is "prime time" for the recreational use of Lake Pend Oreille, and we have serious doubts as to whether it would assist in any bull trout recovery. Again, we do support the Kalispell Tribe with regard to fish passage, as well as a number of other issues concerning the Pend Oreille Basin.
- 3) We understand the position of the ACOE and others wanting a 2051 level every winter, but we do not see any reason why that should be a default level, and not be the subject of an annual review. There are other issues to consider, including erosion, that might well make it appropriate for a higher winter level, as we have had repeatedly over the last 15 years during the kokanee study. We feel that the Lakes Commission should have a seat at the table with regard to winter lake levels.
- 4) For the last three or four years, we have received numerous complaints about the spring refill being late, and running right up to the July Fourth holiday. This is a complaint we never used to hear in prior years. We fully understand the Corps' concerns with regard to flood control and wanting to be adverse to any risk of serious flooding, but at the same time, the start of the recreational season is certainly as important as the "finish." We would like to coordinate with the ACOE on summer refill, again to maximize the recreational season.

The meeting was adjourned at 12:50 PM.
Respectfully submitted by Molly McCahon

Approved by:

Lakes Commission Chair

Date



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 15th 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