

**Columbia River Policy Advisory Group
March 31, 2011**

Columbia River Treaty and Non-Treaty Storage with Canada

A panel briefed the CRPAG on the storage provisions of the U.S.-Canada Columbia River Treaty as well as non-treaty storage. Rick Pendergrass spoke on behalf of the Bonneville Power Administration; Matt Rea for the U.S. Corps of Engineers; Tom Karier for the Northwest Power and Conservation Council; and Phil Rigdon for the Yakama Nation.

Rick and Matt presented a background on the Treaty. Treaty reservoirs control more than 20 million acre feet in the Columbia River Basin. The Treaty (signed in 1964) has no specified end date. However, either party could terminate the Treaty as early as 2024, with a ten-year notice. This makes 2014 a potential decision point. Irrespective of whether the Treaty is continued, the flood control operating procedures will end in 2024. After 2024, the U.S. can make requests for flood control on a “called upon,” rather than predetermined, basis.

The U.S. Entity with responsibility for implementing the Treaty is the BPA Administrator and the Corps’s Northwest Division Engineer. The U.S. Entity has undertaken a multi-year planning effort to prepare for a potential decision in 2014. The first series of studies, Phase I, is complete. The U.S. Entity has called together a Sovereign Review Team of Northwest States, Tribes, and federal agencies to assist with the review. The U.S. Entity anticipates making a recommendation to the State Department in late 2013.

Tom Karier described the State of Washington’s perspective on the Sovereign Review Team. The State has multiple and broad interests, including the benefits of hydropower, low cost power, peak load management, integration of wind power, cultural effects, health effects, flood control, fisheries, and irrigation withdrawals. A lot of these values come together in the operation of Lake Roosevelt. The State is at the front end of a major political, technical and process effort to determine whether we are better off terminating or continuing the Treaty.

Phil Rigdon described the perspective of the Yakama Nation. The power and flood control provisions of the Treaty have negatively impacted tribal rights. The Treaty was put together in the 1960s without any regard to the tribes, and it is too narrowly designed. The Treaty has degraded natural systems, with particularly negative impacts on fish and wildlife. There is a need to get tribal perspectives represented on both sides of the border and to integrate the considerable tribal expertise.

Patrick Higgins, Canadian consulate, described the process for the Canadian review, with a new federal and provincial government. Canada approaches the discussions with the United States with no pre-suppositions. Canada will be consulting with the First Nations, and will be seeking more clarity in Treaty operations.

CRPAG members had these questions and observations:

- What are the choices in front of us? [(1) Stay with the Treaty as written; (2) Amend the Treaty; (3) Terminate the Treaty. Termination would lead to a great deal of uncertainty.]
- It sounds like termination doesn't make sense. [We don't know at this point. The U.S. makes an annual payment of \$350m. This is a lot of funding that could firm up the uncertainty.][There is no way to tell right now. It is complicated because of so many metrics. Our focus right now is to figure out what we need to know.][The Yakama Tribe believes that something different needs to be put into place; either option 2 or 3.]
- Where does the money for the annual payment come from? [A combination BPA and Mid-Columbia ratepayers.]
- The Treaty addresses flood and power but not endangered species. Is there also a rate payer consideration for ESA? [The Sovereign Review Team has a mix of perspectives on these issues.]
- A major concern of the Mid-Columbia PUDs is that the 1964 entitlement benefit is out of date. We need to line up the benefits and costs.
- What is the process for wider representation? [We are still sorting this out. The meetings have been closed to this point. We need to develop a series of public workshops to parallel the Sovereign Review meetings.]
- It would be helpful for you to update the climate change modeling with the current data being developed by the University of Washington's scientists.
- What is the total megawatt production of the Columbia River Basin and how much revenue does it generate? [About 37 million megawatts; \$2.5 billion]
- The process seems confusing. How do we get from today to the recommendation to the State Department? [No one around has ever been involved in a Treaty negotiation. We don't have a normal federal process for this, but we intend to use the provisions of Circular 125. Over the next six months we will work with the Sovereign Team on the metrics, objectives, and alternatives.]
- Will a change in the Treaty affect barge traffic on the Columbia River? [Highly unlikely.]

Rick Pendergrass then described the non-Treaty storage framework. Canada and the U.S. have entered into a series of agreements since adoption of the Treaty to provide governance of additional storage. Negotiations of these short-term agreements have become difficult since 1990. Various biological opinions have included the objective for BPA to negotiate an agreement with BC Hydro to shape the non-Treaty storage for fisheries.

CRPAG members had these questions and observations:

- What kind of flexibility is there to adapt to Judge Redden's decision? [It is likely that any future agreements would have an out clause for environmental considerations.]

- Is it theoretically cost effective to get more water supplies from Canada, compared to developing more water supplies in the U.S.? [This is the right question; we don't know the answer.]
- Do the other Sovereigns have any plans to influence the U.S. Entity decision? [We are trying to understand the intricacies. We may not need to drop our reservoirs as much as we do currently. We are looking for a convergence of interests.][The tribes will be working both as individual tribes and as a collection of tribes. We need to re-set our priorities, since previous priorities have been at a cost to us.][The Mid-Columbia PUDs are still trying to get our arms around the facts.]

Water Related Legislation

Derek Sandison and Evan Sheffels described the status of two Ecology request pieces of legislation, the Columbia River bill and the Water Smart bill. For the Columbia River bill there seems to be legislative support for the long term lease and bond provisions, the Sullivan Lake benefits fix, and defining pump exchanges to be new storage. The most controversial piece, due to its broad language, is the proposed flexibility in aggregating projects to fit within the in-stream/out-of-stream allocation. This section will become a study provision, with a September report.

The Water Smart legislation started with ten activities. It has become a much smaller bill. While the bill has not passed out of the policy committees, it is still alive as a bill necessary to implement the budget. The Governor's budget looks to have full cost recovery for the Water Resources Program from non-General Fund monies. The discussion among the different caucuses has focused on how to get better performance and more value from the water permitting process. Most of the pieces that fell out of the bill were those that did not relate to efficient processing. Until a budget emerges from the House, it is hard to say what the framework will be for resolving the financial and policy provisions of the bill.

CRPAG members had these observations:

- The uncertainty with the Water Smart bill is mostly budget driven. The target for full cost recovery is \$5-6m. We are skeptical about the capacity of the system to get this much efficiency.
- There was not a lot of consensus on the Ecology bill coming into the session. For legislators, the focus has been less about policy and more about money. This has been tough on everyone.
- For the sake of budget, we are moving into potential threats to senior water rights. We are on the verge of diminishing Ecology's ability to protect those rights. That imposes costs on the Yakamas.
- Our resource is in the hands of the State. We are helping people to get to yes, but we also are thinking about our other options to protect our resources. We may need to turn to our federal trustee to help protect our rights.

- Even in rosy financial times, it is hard to get legislators to be willing to engage in policy discussions on water. These are complex, multi-faceted issues, with lots of people pushing different perspectives.
- What happens to the Water Resources Program if this bill dies? [There is a path forward, but it's hard to get to until we see a budget.]

Lake Roosevelt Permitting Policy Issues

Dan Haller reviewed the agreement for incremental storage releases from Lake Roosevelt and posed a set of policy issues that have emerged from Ecology's. The focus on the review is 25,000 acre feet that would be released for Municipal and Industrial permittees. There are about 200 pending applications. Some parties have withdrawn or cancelled their applications. Ecology is considering a set of policy issues in its processing of the remaining applications. Three appeals have been filed challenging the permitting of this bloc of water.

CRPAG members had these observations:

- The delay of 20 years for processing these applications has weaned out the numbers. The applicants' needs may have changed, but Ecology should be more flexible in accommodating the changing needs. The State should also consider reimbursing the costs of their appeals, if they prevail.
- The 20 year delay is due in large part because the Yakama Tribe appealed the last set off permits. We need to protect senior water users.
- Ecology should provide a written description of these policy considerations. These are significant issues and it is hard to react to the verbal description.
- How will Ecology's decision mesh with the decision of the Pollution Control Hearings Board on the appeals?
- Let's keep in perspective the magnitude of 15 or fewer domestic hookups – in combination they involve only about 200 af.
- The Department of Health is trying as much as possible to limit the number of new systems. Larger systems generally are better run for public health considerations.
- What is the volume of water being sought by those who are in the "active" and "maybe" categories? [We don't know]
- What is the status on the instream side of the release from Lake Roosevelt? [Of the 52,500 af issued in 2009-10, all but the Odessa replacement water has been worked out.]
- If the appellants are successful, would this also affect the water releases for in-stream flow? [Likely.]

Ecology will provide a written description of the policy questions and will bring the permitting issue back to the CRPAG at the May 25 meeting.

Project Updates and Budget

Derek Sandison provided an update on twelve of the projects that have been funded from the Columbia River account. A major concern for all of these projects is what will be included in the forthcoming Capital Budget. The Governor's budget sought \$16m in reappropriation and \$45m for new appropriation, but legislative decisions on the debt limit might produce a different figure.

Paul Stoker provided a brief description of the request made by the Columbia River Groundwater Management Area to get additional information on the depletion of the Odessa subarea. The GWMA developed seven projects for funding to refine and extend the hydrological modeling and is actively seeking \$1.2m of the Capital Budget to support five projects.

Following the budget briefing, the meeting was adjourned.

The next meeting of the CRPAG will be on May 25 at Central Washington University in Ellensburg.

Attendees:

CRPAG members and alternates:

Dennis Bly, Lincoln County Commission
Jon Culp, Washington State Conservation Commission
Michael Garrity, American Rivers
Mike Leita, Yakima County Commission
Joe Lukas, Grant PUD
Lisa Pelly, Trout Unlimited
Rudy Plager, Adams County Commission
Phil Rigdon, Yakama Nation
Mike Schwisow, Columbia Basin Development League
Teresa Scott, Washington Department of Fish and Wildlife
Warren Seyler, Spokane Tribe
Craig Simpson, East Columbia Basin Irrigation District
Richard Stevens, Grant County Commission
Leo Stewart, Confederated Tribes of the Umatilla Reservation
John Stuhlmiller, Washington Farm Bureau
Rob Swedo, Bonneville Power Administration
Stephanie Utter, Bureau of Reclamation
Matt Watkins, City of Pasco

Others in attendance:

Neil Aaland, Washington State Association of Counties
Susan Adams, Washington Water Trust

Jill Arens, Columbia River Gorge Commission
Scott Cave, Columbia Basin GWMA
Wendy Christensen, Bureau of Reclamation
Charity Davidson, Washington Department of Fish and Wildlife
Mike Dixel, Department of Health
Joel Freudenthal, Yakima County
Andrew Grassell, Chelan PUD
Dan Haller, Department of Ecology
Dave Hanson, ICF International
Wally Hickerson, ICF International
Patrick Higgins, Canadian Consulate
Al Josephy, Department of Ecology
Tom Karier, Northwest Power and Conservation Council
Liz Klumpp, Bonneville Power Administration
Paul LaRiviere, Washington Department of Fish and Wildlife
Dave McClure, Klickitat County
Chris Marks, Confederated Tribes of the Umatilla Reservation
Daniel Martinez, Martinez Livestock Co.
Sue Martinez, Martinez Livestock Co.
Peggy Miller, Washington Department of Fish and Wildlife
Rick Pendergrass, Bonneville Power Administration
Jeremy Pratt, Cardno Entrix
Matt Rea, U.S. Army Corps of Engineers
Rick Roeder, Department of Ecology
Pat Ryan, Department of Natural Resources
Derek Sandison, Department of Ecology
Evan Sheffels, Department of Ecology
Dan Silver, facilitator
Naomi Stacy, Confederated Tribes of the Umatilla Reservation
Paul Stoker, Groundwater Management Area
Steve Thurin, HDR Inc.