

Final Notes
Bear River License Implementation
Environmental Coordination Committee Meeting
December 15, 2004
Pocatello, Idaho

Decisions/Commitments Made at the December 15, 2004 ECC Meeting	
Monte Garrett	<ul style="list-style-type: none"> • Provide ECC comments on Settlement Agreement for Cove to attorneys. • Convene next attorney's meeting on 1/13/05 • Email Settlement Agreement for Cove Decommissioning to ECC members for review. • Complete Cove permitting meeting with agencies on 1/6/05 • Speak with Phil Rassier and Jodi Williams about attending the January ECC meeting. • Check on availability of 15-minute flow data through Black Canyon for IDFG.
Dave Teuscher	<ul style="list-style-type: none"> • Draft a study plan for the Bonneville cutthroat trout telemetry study and distribute to the ECC by 1/11/05.
ECC Members	<ul style="list-style-type: none"> • Bring comments on general provisions for the removal plans to the January ECC meeting. • Email names/contact information on key individuals in the communities in preparation for public meetings. • Will receive revised Land Management Plan and Recreation and Traffic Safety Plan via email from EDAW. Forward any further comments to Ron Tressler (EDAW) via email, and copy to Garrett. • Review comment/response matrices for the Land Management Plan and the Recreation and Traffic Safety Plan and contact Garrett after the holidays if comments need further attention.
Lynn Van Every/Greg Mladenka	<ul style="list-style-type: none"> • Prepare a synopsis of comments for PacifiCorp's filing of the Black Canyon Monitoring Plan
Deb Mignogno	<ul style="list-style-type: none"> • Revise Funding Criteria based on comments received at the December ECC meeting.
Jim Capurso	<ul style="list-style-type: none"> • Develop flyer for public meetings and route to the ECC for comment/approval. • Speak with NRCS about the ECC's public outreach efforts.
Black Canyon Monitoring Plan subcommittee members	<ul style="list-style-type: none"> • Meet Tuesday, January 11 at IDEQ offices in Pocatello.
Eve Davies/Lynn Van Every	<ul style="list-style-type: none"> • Contact other groups that may assist with the ECC's public outreach efforts at January's Tri-State Water Quality Group meeting
PacifiCorp (Glenn Pond)	<ul style="list-style-type: none"> • Contact Chambers of Commerce about the ECC's public outreach efforts.
Eve Davies	<ul style="list-style-type: none"> • Update on Site Plan for Grace/Cove

ECC Members Present

Scott Pratt, PacifiCorp
Monte Garrett, PacifiCorp
Kevin Lewis, Idaho Rivers United
Lynn Van Every, Idaho Department of Environmental Quality
Jim Capurso, US Forest Service
Mary Lucachick, Idaho Department of Parks and Recreation
Jim Mende, Idaho Department of Fish and Game
Marv Hoyt, Greater Yellowstone Coalition
Warren Colyer, Trout Unlimited
Deb Mignogno, US Fish and Wildlife Service
Pat Koelsch, Bureau of Land Management
Hunter Osborne, Shoshone-Bannock Tribes

Others Present

Claudia Conder, PacifiCorp
Eve Davies, PacifiCorp
Louis Berg, US Forest Service
Blaine Newman, Bureau of Land Management
Scott Christensen, Greater Yellowstone Coalition
Kelly Holt, PacifiCorp
Greg Mladenka, Idaho Department of Environmental Quality
Dick Scully, Idaho Department of Fish and Game
Jeff Seamons, Citizen of Preston
Dave Teuscher, Idaho Department of Fish and Game
Miriam Hugentobler, Project Coordinator
Susan Kammerdiener, SWCA Environmental Consultants (p.m. only)

Participating by Phone

John Gangemi, American Whitewater
Charlie Vincent, American Whitewater

ECC Members Not Present

Susan Rosebrough, U.S. Park Service

Opening and Review of Agenda – Scott Pratt

Scott Pratt (PacifiCorp) welcomed the group and reviewed the day's agenda.

Jim Capurso (US Forest Service) passed around a series of newspaper articles on the Twin Lakes Project from the Preston newspaper for the information of ECC members.

Jim Mende (Idaho Department of Fish and Game) told ECC members that Dave Teuscher or Dick Scully (also of IDFG) will be sitting in for IDFG on certain issues. Mende asked that Teuscher be added to the ECC contact list. Teuscher was seated at the ECC table.

Review Draft Notes – Miriam Hugentobler

Draft notes from the November ECC meeting were accepted with changes from Mary Lucachick, Jim Mende, and Lynn Van Every.

ECC Updates - Monte Garrett – Environmental Coordinator - PacifiCorp

Settlement Agreement for Cove

Powerpoint Presentation

Garrett reviewed the Cove agreement (Amendment No. 1 to the Bear River Settlement Agreement) based on a conference call among the parties' attorneys resulting in draft legal language for the agreement for Cove. An Environmental Report, Removal Plan, and edits to license articles will be appended to Amendment No. 1 upon completion. Garrett said another meeting of the attorneys regarding the Amendment will take place in January.

Sediment Analysis

Deb Mignogno (US Fish and Wildlife Service) expressed concern about not having sediment analysis in hand before submitting the license application amendment to FERC. Garrett said collection of these data has been delayed by weather (ice), and PacifiCorp can submit sediment data to FERC following the filing of the application. Garrett said he would like to proceed with the submittal without the sediment analysis data in order to get the FERC process started. Mignogno said she doesn't see how the environmental analysis can proceed when this information is still out, but if everyone else is OK to go ahead, she would agree to proceed. Marv Hoyt (Greater Yellowstone Coalition) said his preference is to get the agreement to FERC sooner than later, so decommissioning is not delayed. Garrett said he agreed with Mignogno, and that he would prefer to have everything complete before submitting the amendment to FERC, but he would like to get the process started. Garrett estimated that the Offer of Settlement; including the Amendment, appendices, Explanatory Statement, and amendment application should be filed with FERC in late March or early April 2005.

Cost Share

As discussed at the previous meeting, unanticipated costs that are not within the scope of the Removal Plan would be cost-shared between PacifiCorp and ECC funds. Mignogno expressed concern about cost share. Garrett said cost share could be negotiated in the interim without a number figure (rather, as a percent). Garrett asked ECC members what cost-share for Cove Decommissioning meant to them when it was discussed. Did ECC members assume a 50-50 cost share? Capurso said he could not say, not knowing potential sediment removal costs. Hoyt said he understood the intention to be a 50-50 cost share, but that the group could negotiate this when the need arises. Garrett said he

would address cost sharing of unknowns in the Amendment language at the attorneys' meeting and provide the ECC's comments for next draft.

Facility Removal Language in Agreement – vs- Project Removal Plan

Some questioned whether there needs to be specific language regarding removal actions in the body of the agreement or simply in the Removal Plan. Garrett indicated to ECC members that he felt facility removal was better understood and negotiated if it was included in the agreement itself, in addition to the Project Removal. Specific facility removal language was not thoroughly reviewed during the meeting, and Garrett suggested that the ECC revisit this section of the Settlement Agreement more carefully at the next meeting. Garrett brought up the issue of flume removal, described what would be done, and asked whether that is what the ECC had in mind. Mignogno asked whether a fluvial hydrologist would review the project to assure that a functioning stream channel would likely result from the decommissioning actions. Garrett said yes, probably in the accompanying environmental analysis. Garrett said the Environmental Report has not yet been scoped, and that the ECC would be involved in developing/reviewing that document.

Amendment No. 1 Review

Garrett said he would distribute the Amendment (including sections describing specific actions) to the ECC prior to the January meeting so that they could review and get their comments in. Garrett asked ECC members to keep in mind that the Settlement Agreement is confidential, and to use caution in distributing to others. Garrett asked that ECC members bring comments to the next meeting.

Bonneville Cutthroat Trout (BCT) Telemetry Study

Scott Pratt summarized discussion of the telemetry study from the November ECC meeting. Pratt noted that at that meeting, representatives of IDFG proposed starting the telemetry work this coming year, while other ECC members thought it would be better to wait. Garrett said that the study plan states that IDFG will direct the genetics study, and it makes sense for them to direct the telemetry study. Garrett said the question from the last meeting was in regard to timing, and that's what the ECC should make a decision on at this meeting.

Timing

- Seasonal locations and movement of BCT
- Prioritize habitat improvements
- Movement barriers

Warren Colyer (Trout Unlimited) asked whether any portion of the study will go out for bid.

Dave Teuscher (IDFG) said his organization would develop the study design, etc. and then get ECC consensus on it.

Garrett said that from a procurement point of view, he is a proponent of competitive bidding because it provides a better understanding of what you are getting for your money. Garrett said that in retrospect, and for all future work, the ECC should develop an RFP before deciding on a lead agency or contractor, etc. He noted that early on, the ECC agreed that aerial photography, mapping, and genetics studies would be underway before the telemetry study began. Maybe that's not necessary, Garrett said, but the ECC should reach agreement on that.

Dick Scully (IDFG) said he doesn't think that proceeding with the telemetry study will have a negative result on the end product. Scully said he doesn't see the necessity of performing the studies sequentially. Pat Koelsch (Bureau of Land Management) said he thinks it would be OK to proceed as long as the understanding is that the ECC will get more than a report with the raw data from the telemetry study. Koelsch said IDFG should commit to pulling it all together when the other information comes in. Scully said he could see the advantage of having aerial photos shot when telemetry is being conducted, so that actual conditions could be seen in regards to fish movement.

Colyer said he had two concerns: 1) Temperature/ flight data should be concurrent, and these were tied to mapping diversions. Colyer said these are the data he feels would be most important when locating fish. 2) Ultimate product. Colyer said Utah State University included a distribution map of Bonneville cutthroat trout and a GIS layer as deliverables. IDFG did not include that in their proposal. Also feels IDFG's receivers are very expensive and that the ECC could possibly put that money to better use. Colyer said the ECC should be able to weigh in on these issues. He said that was the point of putting it out for bid – getting the most for our money.

Teuscher said IDFG will submit study plans for ECC and peer review.

Capurso said he was concerned that the ECC was losing the capability to compare proposals and select the best for the best price. Koelsch said he was also in favor of the bid process. Capurso said he disagreed with the interpretation of the language in the Settlement Agreement held by some that certain agencies will "direct" studies. Capurso said he interpreted the term "direct" to mean that others could do the work, but under the supervision of certain agencies. Mignogno quoted the ECC's procurement requirements, which state that the company will put all products out for bid, unless it is identified as sole-source. Colyer said he never understood that IDFG would put ECC projects out for bid and then award the bid themselves. He thought the ECC would have a say. He cited the example of IDFG giving the telemetry work to Idaho State University. Teuscher said IDFG would have a contract with ISU to do the telemetry, not a bid. Teuscher asked whether – instead of arguing about the meaning of the word direct – the ECC could agree to move forward. Capurso said he would like to settle the interpretation of the language in the Settlement Agreement because he was concerned about the future, as he expects to put a lot of energy into ECC work.

Garrett asked how important it is to start the telemetry work right away. Mignogno said she was concerned that the work would be done by a graduate student. With a student,

she said, there is uncertainty about what you'll be getting. Teuscher said the student who would conduct the study has been working with IDFG for 5 years and has considerable experience. There would be more unknowns if another university did the work, he said.

Scully said that from IDFG's end (i.e., if ISU conducts the study) the amount of energy needed by Teuscher would be huge. If someone else does the study, he said, IDFG's input would be limited to reviewing the project every 6 months.

Lynn Van Every said he felt that the bid process does not necessarily preclude IDFG from getting their preferred contractor, and the ECC feels more comfortable with the bid process.

Capurso said he wants the opportunity to take an open look at what's out there, and get the best product for the best price.

Mignogno asked whether the need to decide this now is because a graduate student is available to start right away. Teuscher said the graduate student could start in fall 2005, but the go-ahead is needed now to get started by then.

Garrett said that by putting the work out for bid and looking at the options (i.e., the RFP process), the ECC could get bids from IDFG and others, then chose freely. The reason to wait is so the ECC could go through a more thorough process of looking at what's out there.

Colyer said the (RFP) process is there for a reason, and that is to gain ideas from the outside.

Eve Davies (PacifiCorp) asked whether the ECC intended to put everything out for bid. She asked whether the language, "IDFG will direct" fundamentally changes the process. Garrett said that was not what the group thought, and he would not want this to set a precedent that precludes use of the bid process.

Van Every said he was concerned about the precedent as well. He cited the Black Canyon Monitoring Plan as an example and asked whether the ECC planned to throw their own resources in to do the jobs with the money they have, or whether or not we would automatically go out to bid for services on monitoring.

Colyer said he was very uncomfortable with IDFG holding the ECC hostage, saying they would not help if someone else got the project. Pratt said he didn't believe IDFG was saying that. Colyer said IDFG had stated that a contractor could not use their field equipment. Teuscher said that he would be more comfortable using ISU for reasons of convenience/efficiency. Van Every said these issues could all be dealt with through the bid process. For instance, if two entities bid on the work, locals would show lower mobilization costs.

An unofficial vote was taken on the issue.

- Koelsch: Sole source, but doesn't want it to set a precedent to move from our proposed procurement process.
- Osborne: RFP Process. Thinks it is our responsibility to see what other options are there.
- Mignogno: Sole source. Feels comfortable that with peer review, we'll get what we want. If most feel ISU will get the work, it wouldn't be right to put others to the trouble of bidding if it's unlikely they will get the project.
- Colyer: RFP Process. Feels it would set precedent for moving from the ECC's procurement process.
- Hoyt: Not sure we'll get the ideas we want without the RFP process. Stick with it from now on no matter what.
- Capurso: Hybrid Model. We've put a lot of time into developing the study, including the telemetry work. Feels that wouldn't be used as much (not necessarily wasted). Sees the chance for his work in the future to be wasted. Wants to be able to compare bids and prices, even if IDFG puts it out for bid. Maybe an official bid process wouldn't be needed, but he wants to be able to compare.
- Van Every: Hybrid Model. Likes idea of putting work out for bid. But understands wanting to foster a relationship with ISU. On the other hand, doesn't want to set a precedent.
- Lewis: Hybrid model.
- Garrett: Thinks we'll end up with a hybrid, but we need to preserve the RFP process. Likes the purity of that process. But he knows the ECC will get quality work from IDFG, especially if they can select the subcontractor. So he's choosing to go the most expedient route for this particular study. Asked if the BCMP study group would facilitate peer review of Teuscher's study plan. Wants everything from now on to go through the RFP process.

<Break for Lunch>

Telemetry, continued

Scully said a lot of time and energy had been spent by Teuscher in developing the work plan for the telemetry study, because IDFG believed that they would be sole source. He said he could see the confusion over "direct," but IDFG has already geared up to do the

work. Scully said he could see why the ECC would like to return to the RFP process, but IDFG has built momentum and would very much like to conduct the study.

Garrett said he thinks the ECC is committed to ISU at this point, but with peer review. He said he wants to get back to a pure RFP process from now on, as there is no doubt in his mind that process would be best.

After time to reconsider after discussions with others during break, Capurso said he thinks a hybrid process will not work well because it will expose IDFG to complaints and potential appeals/litigation. He feels that in order to compare costs and products the ECC will need to go with a full blown RFP process.

Colyer said there is no room for a hybrid box. The RFP process was designed to avoid situations like this from the very beginning.

Hoyt commented on the tenor of the telemetry discussion at the November ECC meeting. He said ECC members were invested in their own process, only to have people come in and say, 'No, we're going to do it this way,' which raised a lot of hackles. From now on, he said, when people come in and do presentations, they need to be aware of the house rules before they come in.

It was proposed that IDFG, in consultation with the ECC, develop a study plan with an ECC and peer review of the plan. It was also proposed that from this point on, the ECC conduct a standard RFP process.

The measure passed by show of hands, with Capurso indicating agreement, but with major objections. Capurso's objection was that the measure goes against the settlement agreement protocol that the ECC had developed for procurement.

Osborne added that while he can live with the measure, it doesn't follow the original process the ECC set out.

Colyer said he wanted to reiterate that objectives, methods, and study design for the telemetry study are subject to review and approval by the ECC. Van Every said that's certainly been the intent all along.

Mignogno said that if telemetry is to begin soon, then the ECC needs to get the aerial photography and related tasks started.

Public Meetings

ECC members heard a report from the public meeting subcommittee (see Attachment A-1 – Bear River Environmental Coordination Committee, 2005 Public Workshops).

ECC members were asked to help identify other groups that might assist with outreach efforts. The NRCS, SWCD Chamber of Commerce, Tri-State Water Quality Group

(which maintains an email list), and the Bear River Water Quality Group (possibly the same email list as Tri-State) were brought up as possibilities.

Mignogno said volunteers are needed to contact these people by January 15, 2005. Davies and Van Every said they planned to attend the January Tri-State Water Quality group meeting, and would talk to those people then. Capurso said he would contact NRCS. PacifiCorp (Glenn Pond) will contact the Chambers of Commerce.

Capurso said he will develop a flyer for the public meeting in January and route it to ECC members for approval.

John Gangemi (American Whitewater) said the ECC should be cautious in conducting public meetings (i.e., don't re-invent the NEPA process for people who want to change the Settlement Agreement). He cautions that the ECC should make clear the meetings are informational only, and not a "vote" on anything.

Mignogno said the first task is to make original contact about who can help with the ECC's public outreach efforts. The next task is to get help identifying locations for public meetings.

Capurso asked that all ECC members email names of key individuals in the communities so that contact could be made.

Public meetings were scheduled for March 8, 9, 10 (Tues., Wed., Thurs.), possibly with sessions in the afternoon and evening, especially in Preston.

Review of the Plans

Black Canyon Monitoring Plan

Garrett said the BCMP had gone out for internal and external reviews, and comments were received from several outside reviewers. The BCMP will be revised based on these comments. Susan Kammerdeiner (SWCA) was present to receive comments. Greg Mladenka reviewed comments IDEQ had received leading up to the ECC meeting and said the BCMP subcommittee will meet again in January. All reviews will be routed to the ECC. IDEQ will provide a complete record of comments they have received.

Gangemi said that he will be forwarding comments from a similar study on the North Feather. He said that in order to determine effects of whitewater flows on the ecology of the river, sampling should take place around the time of whitewater flows. Gangemi said he would like to participate on the subcommittee and asked to be included.

Scully asked whether to go ahead with his comments on the BCMP in regards to fish monitoring and said he would submit his comments in writing as well. Scully asked for 15-minute flow data through Black Canyon. Garrett said he will check on availability/providing this information.

Garrett said the BCMP is scheduled to be submitted to FERC on December 22, 2004. Because significant revisions will be needed to methods based on recent comments, the FERC submission will indicate that the BCMP is still in draft form, and that a revised copy will be provided to FERC before work begins in the spring. In other words, FERC will be informed that peer review resulted in significant need for refinement of study methodology, and a revision will be filed.

IDFG asked for 2 weeks to get comments in.

Mladenka said he would provide a synopsis of comments received on the BCMP during field review to Garrett (by 12/22). Garrett will include the synopsis in his letter to FERC, and tell them the comments will be addressed in a revision of the BCMP.

Mladenka asked whether the ECC should start an RFP process for Black Canyon monitoring work. Garrett said yes, since work is scheduled to begin in the spring.

The next Black Canyon subcommittee meeting was scheduled for Tuesday, January 11, at IDEQ offices in Pocatello.

Operations and Compliance Plan

Garrett said he had received no comments from ECC members on the Operations and Compliance Plan and if none are forthcoming, the plan will be finalized. Van Every noted that IDEQ was to provide comments directly to Conelly Baldwin of PacifiCorp.

Land Management Plan and Recreation and Traffic Safety Plan

Garrett handed out ECC comment/response matrices for the Land Management Plan (Attachment A-2) and the Recreation and Traffic Safety Plan (Attachment A-3). Garrett said the matrices will be submitted to FERC, as they want to know which ECC comments were adopted and why. He said these plans will be finalized and filed with the FERC on January 15.

Land Management Plan

Mignogno asked that measures be provided for uplands (sagebrush steppe), as they are for wetlands and riparian areas. Garrett said this type of information will be provided in the individual site plans. Mignogno asked that direction be added to the Land Management Plan so that when it's time to develop the site plans, they will know to do it. Davies said she will be adding an appendix to the Land Management Plan that includes an outline of what will be in the site plans.

Hoyt asked that grazing be removed as a tool for controlling noxious weeds because cattle are known to be the largest spreaders of noxious weeds in the West.

Davies said PacifiCorp had used goats and sheep effectively for weed control. She said that not having seen all the land to be managed, she would rather not say hard and fast what will and won't be done. Davies said she would like to add specific recommendations in the site plans. She noted that grazing as a weed control measure will

be used in consultation with the ECC. Capurso suggested that if grazing is going to be used on conservation land, then it should be spelled out completely in the plans and a monitoring requirement should be added. Garrett said he feels strongly that such details should be included in the site plans. Capurso said he is unfamiliar with instances in which grazing has been successfully used as a restoration tool. Grazing is a use of a vegetation resource and the best we can do is minimize impacts. He stated again that if grazing was to be used as a management tool, then a monitoring component should be added.

Garrett asked whether the combination of referring to the site plans for additional detail and adding “in consultation with the ECC” to the Land Management Plan would address the concern. He also asked ECC members to review the responses to comments in the two matrices and contact him as soon as possible after the holidays if not satisfied with how their comments were addressed. Garrett said he would like to follow a similar process with these plans as with the BCMP. That is, file them now and revise later, if necessary.

Garrett also asked that the Site Plan for Grace/Cove be added to next agenda. He noted that the Grace/Cove Site Plan is an important initial step in this land management process, and may settle some of the ECC’s concerns about whether specific questions can be handled at the site plan level.

Garrett asked that any further comments on the Land Management Plan or the Recreation Traffic Safety Plan be sent to Ron Tressler (EDAW) by email, with a copy to Garrett. In a week or so, ECC members will be able to view the plans on PacifiCorp’s Bear River Implementation website, so they can see where their comments are addressed. Garrett said ECC members should let him know if there is anything further after that. The plans will be filed with FERC by the end of January.

Agenda Items for January ECC Meeting:

- Water Rights (Jodi Williams & Phil Rassier) – 2 hours
- Cove Decommissioning – 2 hours
- Public Meetings – 1 hour
- Status of the Plans – 30 minutes
- Telemetry – 1 hour
- Update on BCMP (and RFP process) – after subcommittee meets 1 1/2 hours
- Funding criteria – 10 minutes
- Grace/Cove Site Plan update
- Work Scope (RFP) for aerial photography – will send out email to get people together to work on scope of work at Deb’s office (USFWS)

ECC members should plan on the afternoon of the 18th/all day on the 19th, start at 8 a.m.

Attachment A: Handouts

- Attachment A-1** **Bear River Environmental Coordination Committee, 2005
Public Workshops**
- Attachment A-2** **Comment/Response Matrix for the Land Management Plan**
- Attachment A-3** **Comment/Response Matrix for the Recreation and Traffic
Safety and Plan**