

**Final Notes**  
**Bear River License Implementation**  
**Environmental Coordination Committee Meeting**  
**June 15, 2005**  
**Grace, Idaho**

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| <b>Commitments Made at the June 2005 ECC Meeting</b>                      |   |
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| All   | <ul style="list-style-type: none"> <li>• Confirm signatory individuals for the Settlement Agreement for Cove. Assure that these individuals will be present on July 20.</li> <li>• Review and provide comments on Grace/Cove Site Plan.</li> <li>• Send individual position statement on Twin Lakes to FERC, as appropriate.</li> <li>• Review and confirm final version of Settlement Agreement for Cove.</li> <li>• Review and provide comments on Black Canyon Monitoring Plan RFP.</li> </ul> |
| Hunter Osborne  | <ul style="list-style-type: none"> <li>• Contact tribal council members, determine steps necessary for the Tribes to sign the Cove Agreement.</li> </ul>  |
| Monte Garrett   | <ul style="list-style-type: none"> <li>• Check status of joint press release for Cove Settlement Agreement.</li> <li>• Revise Black Canyon Monitoring Plan RFP, as suggested by the ECC, and distribute to appropriate contractors.</li> </ul>  |
| Black Canyon Subcommittee Members   | <ul style="list-style-type: none"> <li>• Meet in August to make a recommendation on Black Canyon Monitoring contractor.</li> </ul>  |
| Dave Teuscher, Pat Koelsch, Hunter Osborne, Lynn Van Every, Greg Mladenka | <ul style="list-style-type: none"> <li>• Participate in conference call for bidders on Black Canyon Monitoring work. Date: Monday, August 1, 10 a.m.</li> </ul>   |
| Warren Colyer, Eve Davies, Lynn Van Every, Jim Capurso                    | <ul style="list-style-type: none"> <li>• Send information needed for letter agreements on restoration projects to Monte Garrett.</li> </ul>   |
| Dave Tiescher and Warren Colyer   | <ul style="list-style-type: none"> <li>• Work together to make a recommendation on a design firm for proposed diversion structures. Provide recommendation to the subcommittee.</li> </ul>  |
| Deb Mignogno  | <ul style="list-style-type: none"> <li>• Contact land trust about the management agreement to be developed for land acquisitions and easements.</li> <li>• Facilitate the July ECC meeting.</li> </ul>  |

**ECC Members Present**

Jim Mende, Idaho Department of Fish and Game  
 Deb Mignogno, U.S. Fish and Wildlife Service  
 Pat Koelsch, Bureau of Land Management  
 Jim Capurso, U.S. Forest Service  
 Monte Garrett, PacifiCorp  
 Lynn Van Every, Idaho Department of Environmental Quality  
 Hunter Osborne, Shoshone-Bannock Tribes  
 Scott Christensen, Greater Yellowstone Coalition

**Others Present**

Dave Teuscher, Idaho Department of Fish and Game  
Glen Pond, PacifiCorp  
Claudia Conder, PacifiCorp  
Jeff Seamons, Citizen of Preston  
Greg Mladenka, Idaho Department of Environmental Quality  
Eve Davies, PacifiCorp  
Claire Bosen, Twin Lakes Canal Company  
Connely Baldwin, PacifiCorp  
Roger Rigby, PacifiCorp  
Jack Barnett and Don Barnett, Bear River Commission  
Jody Williams, Attorney for PacifiCorp

**Participating by Phone:**

Warren Colyer, Trout Unlimited

**ECC Members Not Present:**

Charlie Vincent, American Whitewater  
Susan Rosebrough, National Park Service  
Mary Lucachick, Idaho Department of Parks and Recreation  
Kevin Lewis, Idaho Rivers United

**Review and Updates**

Notes from the May 2005 ECC meeting were accepted with changes from Lynn Van Every and Dave Teuscher.

**Grace/Cove Site Plan**

Garrett said that field work for the Grace/Cove Site Plan is now complete and a draft of the plan will be out for review before next ECC meeting. There will be time on the next agenda to discuss ECC members' comments on the plan.

**Electrofishing/Tagging Effort**

Teuscher updated the ECC on electrofishing efforts. He said he recently electrofished Cottonwood Creek and did not catch any fish, Bonneville cutthroat trout (BCT) or rainbows. Teuscher reported two more BCT mortalities – one likely from a predator and one on private land not accessible to IDFG. He noted that this rate of mortality is much lower than he thought it might be. Colyer provided additional information to the ECC on Trout Unlimited's electrofishing efforts near the Thomas Fork.

Teuscher said IDFG still has 18 unused temperature tags. He said there are still no fish tagged between Alexander Reservoir and Utah border and discussed whether to tag other species of fish to acquire temperature data, or wait until next fall's tagging period to use the tags. Colyer said he would prefer not to tag hatchery rainbow trout. Teuscher said he basically agrees with Colyer, but noted that tagged rainbows would provide some data on

what type of habitat trout are using. Capurso said he recommends holding off and tagging BCT in the fall rather than tagging other fish now.

Regarding winter versus summer flights for thermal imaging, Teuscher noted that if winter transects are going to be flown, this would be the winter to do it. But he also noted that mobilization costs are high, and the ECC does not have enough money to fly the river twice. Therefore, a source of additional money would be needed to conduct both summer and winter flights. It was noted that questions still remain as to whether a summer or winter flight would be best should only one flight be conducted. The ECC agreed to discuss whether a winter or summer flight would be best with consultants from IRZ later in the meeting.

### **Update on Twin Lakes Memo**

Garrett said the proposed memo to FERC from the ECC regarding the Bear River Narrows project (Twin Lakes) was not sent as discussed at the May ECC meeting. Garrett said he had spoken with Harriet Hensley of the Idaho Attorney General's Office, and she said the state cannot support the memo as it is currently worded. She also noted that the ECC has already sent a memo regarding the Bear River Narrows project to the FERC, and that the ECC's position has not changed. Garrett said that the issue will instead be left to individual agencies to decide how to handle it. That is, the ECC will not send a memo as a group, but individual agencies and organizations may address the issue independently. Capurso said that in the future he would like coordination with Attorney General's office to happen sooner, so that ECC's time is not wasted on similar efforts.

### **Revised Black Canyon Monitoring Plan**

Garrett told the ECC that the revised Black Canyon Monitoring Plan is now final and has been re-filed with FERC.

### **Sale of PacifiCorp**

Garrett told the ECC that PacifiCorp is being purchased from Scottish Power by MidAmerican Energy, a subsidiary of Berkshire Hathaway (Warren Buffett). Garrett said that PacifiCorp will still honor all its commitments, and the sale will not affect the work of the ECC. Garrett said the sale is expected to take about a year to complete. Mladenka asked how federal matching grants would be affected. Davies said PacifiCorp did not qualify for federal matching grants while owned by Scottish Power, but would under American ownership.

### **Cove Settlement Agreement**

Garrett said the Settlement Agreement for Cove is now in final review, the 30-day comment period is complete. He said Harriet Hensley (State of Idaho) has provided comments. Van Every said IDEQ provided comments to Hensley already, so there will be no further comments on the agreement from IDEQ. Mende said that IDFG will do the same. Garrett reminded ECC members to identify signatories to the Settlement Agreement within their agencies. It was decided that the signing would take place in conjunction with the July ECC Meeting, July 20, at IDEQ offices in Pocatello. Garrett

said that he needed any further comments on the Settlement Agreement from ECC members by next week.

Garrett said there had not been many comments received or problems encountered during the review period so far. He said FERC has been informed of the process. Mignogno asked about the planned joint press release on the Settlement Agreement. Garrett agreed to check and inform the ECC.

### **Black Canyon Monitoring Work**

Garrett said he has drafted an RFP for Black Canyon monitoring work. He noted that ECC members are aware that the amount available for the work (\$35,000 per year) is at the low end of what's needed for this work. He said some potential bidders may already know, and that all will be informed by incorporating the amount of funding into the RFP, so that bids may be tailored to that amount. He said he was concerned that based on the amount, higher quality bids would not be submitted. It was suggested that the RFP include a caveat that higher bids would be considered, if submitted with an explanation of what the consultant would do differently for a proposed higher amount. It was also suggested that bidders be asked whether they are aware of other funding mechanisms (i.e., universities). Garrett said he would revise the RFP accordingly. It was decided that a conference call would be convened to answer questions and provide clarification for bidders (rather than answering questions individually) on August 1. Garrett noted that John Gangemi's (formerly of American Whitewater) new firm is interested in conducting the work.

The following time frame was agreed upon:

Approximately July 20 – RFP out  
August 1 – Conference Call for Bidders  
Approximately August 20 – Bids In  
Late September – Award Contract  
October – Study begins

The Black Canyon subcommittee agreed to meet and discuss selection of contractor.

### **Diversion Inventory – Dave Teuscher**

Teuscher told ECC members that IDFG has received a grant to conduct a diversion inventory effort on the Bear River. He noted that the ECC has \$13,000 available for this effort. Teuscher said IDFG has received \$70,000 from FRIMA for mapping Bear River diversions and has a GIS layer showing the location of diversions, but no data on whether they are a barrier to fish, flow measurement, etc.

Jack Barnett said his organization has information on hundreds of diversions on the Bear River that were mapped 25 years ago. Connely Baldwin said he was aware that someone is currently updating this information.

Teuscher noted that the FRIMA money does not have to be spent immediately, that IDFG has until May 2006 to show progress on the work. He said IDFG's grant is for \$71,000, and that a \$38,000 match is needed. Teuscher proposed that the ECC's \$13,000 go toward the needed match. Garrett said the ECC may not have all the funding in place, and suggested submitting the request as a proposal for restoration funds.

### **Water Bank - Jack Barnett, Bear River Commission and Jody Williams, Water Rights Attorney for PacifiCorp**

#### **Overview of Bear River Compact**

Barnett discussed the Bear River Compact with ECC members. He said the compact is the basis for how the Bear River is regulated and provided background information on how the compact was developed and agreed upon by member states.

Barnett said the Bear River Commission looked at creation of a water bank about 7 years ago, using Bear Lake as storage. There is an existing water bank on the Snake River, he said, but Idaho has a significantly different take on stored water than Utah and Wyoming do. Barnett said creation of a water bank never came close in these states. He said he felt that if Idaho were considering a water bank now, they'd probably be closer in philosophy to Utah. He said that EPA pollution trading is being considered, but there is no water trading.

Jody Williams said she would suggest that the ECC lease, rather than purchase, water rights, forming a "rental pool" which would be under local jurisdiction. She brought up three major concerns that would be critical to the process:

- Is the process transparent?
- Will it affect natural flows to Utah?
- Will it affect Bear Lake in any way?

*<lunch break>*

#### **IRZ – Thermal Imaging Presentation**

Representatives of IRZ, Fred Ziari and Alan Jackson, were present to discuss thermal imaging with ECC members. Ziari gave a PowerPoint presentation on the company's work, which included examples of the type of work products available to the ECC. A question and answer period followed.

ECC members asked whether summer or winter photography would be more useful. Ziari said he recommended flying the river in summer first, possibly following with more limited winter photography at points of interest.

ECC members asked whether it would be necessary to purchase IRZ's proprietary software to make use of the thermal imaging data. Ziari said the ECC would receive a

GIS shape file that may be viewed on any GIS system. He said the proprietary software is needed to do certain things (like getting temperature by rolling a mouse over pixels), but IRZ will supply the software, if needed. Ziari said the ECC can do everything it has asked for with the work product IRZ is proposing to provide, and asked whether the ECC needs anything further. He proposed that if additional data are needed, that the ECC ask IRZ to develop it rather than paying \$25,000 for the software and learning to use it.

Tuescher said he is not sure that the ECC needs the software—the shape file is what he really needs.

ECC members asked about the best time to conduct the flights, taking irrigation into account. That is, assuming it would be easiest to find springs at low water, would it be best to fly the river the day before irrigation calls in the spring or the day after irrigation deliveries ceased in the fall? A discussion of the effect of Bear Lake deliveries on river water temperature followed. Van Every said he believes this creates a heat sink which artificially raises the temperature in the river during mid summer, but noted that fish with temperature tags will provide additional data. Van Every said the ECC will need to be aware of the limitations of the data obtained during mid summer based on this.

The ECC agreed to move forward with IRZ's proposal to conduct thermal imaging. IRZ will conduct two flights, one morning, one afternoon. The thermal imaging will take place in August. Video will be part of the package.

### **Water Banking – Jody Williams**

Williams continued the discussion of options for water banking on the Bear River. One possibility (discussed earlier in the meeting) is to develop a “rental pool” to allow for leasing of water. Williams said that a Bear River rental pool and minimum streamflow should be developed together, to avoid dealing with transfers and so that farmers don't have to worry about forfeiting their water rights. This could also protect the flow, as well as providing the ECC with an opportunity to build communication and support with Bear River water users. Williams suggested that the Cove water right could be a good first opportunity. For example, she said, the ECC could ask the water board to establish minimum streamflow in the Cove Bypass and to authorize a rental pool in that reach. She said the rental pool would be governed by a local committee. PacifiCorp could put its water right at Cove up for lease, the ECC could lease it, and thus preservation of the minimum flow would be accomplished in the vicinity of the Cove project on the first lease. Williams said this would also protect the right from forfeiture and would maintain the right's seniority. She noted that this would also provide an initial opportunity for the ECC to interact with Bear River water users. After this is done, she said, the ECC could then choose another action area on a tributary, ask the board to expand the water bank and establish a minimum streamflow there. Eventually, the ECC might be able to lease water from someone in that reach at some future time.

Williams said that the rental pool with minimum streamflow is one option, and there are many other options available to the ECC in regard to water banking.

Garrett asked whether ECC members would like for Williams to go forward with developing other options or to develop an outline of how this option could be accomplished.

ECC members discussed having Williams write up a description of the proposal and how it may work, along with basic precepts to measure against. This effort was estimated as about a week's worth of work. Garrett said this could be paid for using a portion of the remaining land and water acquisition funds (or possibly other funds). ECC members decided to hold further discussions before proceeding.

### **Funding Proposal Subcommittee**

The ECC heard an update from the funding proposal subcommittee.

### **July Agenda**

The next ECC meeting will be held at IDEQ offices in Pocatello with the following items on the agenda:

- Comments on Grace/Cove Site Plan
- (Update) Black Canyon Monitoring
- (Update) fish telemetry and thermal imaging contract
- Report on funding in each category
- Further discussion of water bank/rental pool
- Agreement to be developed with land trust
- Signing of Settlement Agreement.