

Flathead Basin Commission Retreat
June 17, 2009
9:00 am – 4:00 pm
Tribal Council Chambers, Pablo

Summary of Minutes

FBC members/staff in attendance: Cathy Barbouletos, Joe Brenneman, George Matthieus, Kathy Eichenberger, Julie Dalsoglio, Chas Cartwright, Jan Metzmaker, Joe Lamson, Mark Reller, Bob Sandman, John Wachmuth, Jim Simpson, Tom Smith, Clayton Matt, Dan Bangeman, Clint Whitney, Ed Heger, Don Loranger, Caryn Miske, Jason Tohtz

Morning Session - Open Meeting

AQUATIC INVASIVE SPECIES (AIS) PRESENTATIONS

Verdell Jackson, State Senator and sponsor of SB 343, described the components of the recently adopted Aquatic Invasive Species bill, and Jana Taylor, State Representative that carried the bill in the House, emphasized the need for such a statute. More specifically, Senator Jackson explained the unique features of SB 343 including the invasive species account, the ability to form cooperative agreements, rule-making authority to fill gaps in authority, invasive species “management areas” and penalties for intentional introduction.

Ron deYong, Director of the Department of Agriculture, explained the primary aim of SB 343, which was to fill gaps in funding and authority. He noted that the funding under SB 343 would be available on July 1, 2009 and the Department of Agriculture will manage these funds, a portion of which will be transferred to FWP. He then went on to explain the role of the Department of Agriculture and the working relationship Ag will have with MT Fish, Wildlife and Parks. He also reminded the FBC members that the funds under SB 343 are one time only, and that the legislature will have to allocate additional funds in 2011 in order for the State effort under SB 343 to continue. Director deYong also described the current prevention efforts being undertaken by the Department of Agriculture, which includes sending educational brochures to the tribes and conservation districts, and future efforts to fund checkstations/wash stations.

Director deYong stated that he was aware of the Flathead AIS effort, and that the local effort could help with raise awareness. It was his understanding that the final draft plan would be forthcoming in July, and he emphasized the need for on-the-ground action in the basin. Director deYong ended his presentation by stressing that SB 343 would only be successful if all government entities and key stakeholders actively participated in an AIS prevention plan. The Director concluded by requesting that the Department of Agriculture be informed of independent efforts, such as those being undertaken by the FBC, so they can be used to justify funding increases in the future.

Eileen Ryce, the ANS Coordinator for Fish, Wildlife and Parks, provided an overview of the AIS threats (i.e. 500 documented illegal fish introductions) and the State's AIS management program instituted in 2002. The State Plan emphasizes regional/State coordination, education, "rapid" response, control and prevention and monitoring and early detection. The high priority waters for the State are Canyon Ferry, Fort Peck and Flathead Lake.

She also described action currently being undertaken to combat priority AIS including:

- Asian Carp
- Zebra/quagga mussels – these mussels can attach to things whereas native mussels cannot
- VHS Virus
- Whirling Disease
- New Zealand Mudsnails
- Eurasian Water Milfoil

In addition, under SB 343 rule-making authority, FWP is currently analyzing existing regulation for gaps and loopholes. She also reviewed the rules currently governing AIS introduction, including:

- Fish Health and Import Statutes - No live fish can be moved into or within the State without certification.
- Leech Rules - Regulates leech importation to control VHS virus.
- Importation, Introduction, and Transplantation of Wildlife Statutes - prohibits importation of zebra mussels, etc.
- County Weed Act – prohibits the importation of invasive plant species.

Questions were raised about what can be done if the mussels arrive in the Flathead, and Eileen explained that options were limited at best. Copper sulfate kills the mussels but also kills everything else. Biological agents are currently in development, but none are market ready.

Eileen also discussed how the Flathead Basin AIS Prevention Plan would fit into, and ultimately be adopted as part of the State Plan.

Based upon Eileen Ryce's statement that funding determines the level of readiness and efficacy, and that the AIS budget had been stagnant for a few years, questions were raised about the need for additional funds and whether the utilities were providing funding. Eileen Ryce explained that discussions were ongoing, and that groups like Northwest Power Planning Council were advocating a regional plan for the Columbia River basin states of Montana, Idaho and Washington which has impeded the State's ability to raise funds from these sources. She also explained that much of the BPA mitigation dollars were already committed elsewhere. However, she did note that as AIS near Montana (which will likely be sooner rather than later as the Dakotas have no prevention strategy in place), funding will likely increase.

Currently, only anglers have to stop for FWP boat checks. Therefore, the majority of boats entering the State are not inspected. Moreover, Eileen estimated that 1-2% of boats

coming into the State are found to be contaminated. However, since the State does not possess an accurate estimate as to how many boats come into the State, these statistics should not be relied on too heavily for the purposes of extrapolation. Based on these statements, several members raised concerns regarding the lack of check stations in Montana and the basin. Eileen responded that the best prevention is public awareness and involvement since FWP does not have the funds to monitor everything, and out-of-state boats are only part of the problem. Eileen also emphasized that the most beneficial component of the boat checks are the opportunity to educate and obtain boating surveys.

Several questions arose regarding the basinwide AIS plan, and Don Loranger inquired about the composition of the work group. Caryn Miske stated that the following parties were currently participating on the workgroup: Glacier National Park, US Forest Service, CSKT, USGS, Lake County, Flathead County, Flathead Lakers, Whitefish Lake Institute, MT Fish, Wildlife and Parks, MT Dept. of Agriculture, Sanders County/Avista Outreach Coordinator, Missoula County and the Flathead Conservation District. Caryn also noted that conversation had occurred with US Border Patrol and British Columbia regarding coordination on AIS prevention and that the response had been positive. She also noted that discussions with Idaho had not yet been pursued, and that the team has not yet found a representative from Lincoln County.

Mark Reller, the Montana Liaison for BPA, then described some of the actions being undertaken by BPA to address the threat of invasive species, and offered to provide free AIS boat inspection training for agencies and basin residents.

Eileen Ryce and Caryn Miske explained that several training sessions were already pending, but that Mark's offer may be helpful as we progress through this process. Eileen also noted that training sessions for GNP and CSKT were also pending, and training for other key stakeholder group such as campground hosts would be organized over the winter.

A quorum roll call was then taken – and it was determined that motions could be made as a quorum was present.

Tom Smith made a motion to include AIS boat training on the August FBC agenda. The motion failed.

ACTION ITEMS:

Action Items postponed until next meeting:

- *Letter of Support for Larry Robertson*
- *Resolution supporting State Tourism Charter*

- *Polson Storm Water Letter of Support* – members thought this sounded like a worthwhile project and asked to have a presentation on this topic at a future meeting.

- *FBC/DNRC MOU* - Ed Heger, the FBC Vice Chair presented the majority report from the Executive Committee which supported the MOU drafted by DNRC with several revisions. Clint Whitney, FBC Chair then presented the minority report which did not support the DNRC MOU, and focused on the legal rationale supporting FBC autonomy, which included a memorandum from DNRC's attorney stating that the FBC can hire its own staff.

Jim Simpson then made a motion to adopt the MOU presented in the majority report. The motion failed.

The FBC members then discussed the issues surrounding the MOU at length, with the focus of the discussion on the meaning of administrative attachment, and related details such as whether the FBC or DNRC controls the FBC's programmatic goals, communications with the Governor's office, and the status and management of FBC employees. Ultimately, the debate centered on whether the MOU should be revised to clarify the Commission's role in setting goals for and evaluating the performance of the Executive Director. The members reached consensus determining that the DNRC should oversee administrative matters associated with compliance with State statutes and regulations related to procurement and contracting, with the FBC maintaining control of its programmatic goals and priorities. The details surrounding the management of the FBC's Executive Director were not satisfactorily resolved, but it was noted that a formal performance evaluation had not been completed for the Executive Director since she was hired three years ago, and that the situation should be remedied as soon as possible.

A series of motions were made related to the MOU, and the motions that passed are noted below:

- Motion to authorize additional negotiations related to the FBC/DNRC MOU, with Don Loranger, Ed Heger, Mickey Sogard and Jan Metzmaker serving as the FBC representatives.
- Motion by Clayton Matt to develop a set of goals/statement of principles to guide the FBC negotiating committee.
- Motion by Don Loranger to use the Table of Responsibilities prepared by Clint Whitney as the basis of the FBC/DNRC MOU

Afternoon session - Retreat

Members discussed several topics including the role of the FBC. The primary issues focused on whether the FBC is a "doer" or a "facilitator" and whether the FBC has an advocacy role to play in the basin. Although no firm conclusions were reached, it appeared that most members thought the FBC should be both a facilitator and a "strategic doer." In other words, the FBC should work primary on broader issues with basinwide implications. In addition, most of the members seemed to feel that some level of advocacy was warranted, as long as the science behind a position was solid.

Members also discussed the role of the FBC Chair, and all seemed to agree that the Chair lacked the power to take unilateral action on behalf of the FBC. In addition, some agency members voiced concern about having their names explicitly listed on the FBC letterhead. Although no formal vote was taken, it seemed that the consensus was to take names off the letterhead.

The role of the Executive Committee was briefly discussed, and the members seemed to agree that the Executive Committee should focus on administrative matters rather than substantive matters. The composition of the Executive Committee was also discussed, but no vote was taken regarding Executive Committee duties or membership.

A discussion regarding FBC priorities and the priorities of the Executive Director then ensued. Caryn Miske passed out the draft Executive Director Annual Work Plan, which actually encompassed the work plan for the entirety of the FBC. Priority issues for the Education and Outreach Committee and the Monitoring Committee were discussed. Concerns were expressed regarding the scope of the plan, and the need to evaluate the Executive Director based on reasonable expectations. Caryn explained that the plan included oversight of employees and/or contractors, and that she would not be directing doing each work item listed. Caryn agreed to amend the annual work plan to better reflect this, and send an electronic copy to the members prior to the August meeting when the issue would be revisited.

The Monitoring Committee also presented a change in the action plan (see attached). The members agreed by consensus to adopt this change.

Caryn Miske then discussed the status of the PPOA Committee and explained that given limited time and resources the FBC could not adequately focus their energies on the work of the PPOA Committee. She then recommended discontinuing this Committee, at least for the time being. The members agreed by consensus to adopt this change.

One item on the agenda, FBC staffing needs, was not discussed given the time constraints.

The last agenda item focused on the FBC membership, including:

- Executive Committee Composition – Clint Whitney will step down as Chair in December 2009. At that time, the Executive Committee will then be composed of Ed Heger, Chair (assuming Ed takes the Chair position), Clint Whitney former Chair, Mickey Sogard Citizen member (assuming Mickey will be reappointed this fall), Bob Sandman DNRC liaison (or Joe Lamson) and the Vice Chair (currently undetermined).
- Reappointment of 3 citizen members – the terms for Mickey Sogard, Jan Metzmaker and Tom Smith will expire in October 2009. At the August meeting, each of these citizens members will inform the FBC whether or not they seek

reappointment. If one or more of the members do not seek reappointment, at the August meeting the FBC members should offer potential nominees that can be submitted to the Governor's office.

- Nominations for Chair/Vice Chair – Ed Heger, the current Vice Chair, explained that while he would serve as Chair if needed, he thought the field should be opened up for other nominees. Additional nominees for Chair and Vice-Chair were not identified.

Don Loranger made a motion to authorize a Nominating Committee. The members agree via consensus, and the Nomination Committee members include: Clint Whitney, Ed Heger and Mickey Sogard.

Caryn Miske confirmed that the next FBC meeting would be held on August 5th in Glacier.

The retreat was adjourned.