

Flathead Basin Commission Meeting Minutes

September 10, 2014

Tribal Council Chambers, Pablo, Montana

Members in Attendance: Chas Cartwright, Susan Brueggeman, Jim Simpson, Julie Dalsoglio, Rich Janssen, Dean Sirucek, Jack Potter, Jan Meztmaker, Tom Smith, Mark Reller, Gary Danzig, Mark Deleray, Marc Pitman and Caryn Miske.

Others in Attendance: Linnaea Schrooer, Kirby Campbell-Rierson, Rachel Abeh, Tom Cox, Steve Rosso, Michael Jamison, Jayden Duckwork, Erik Hanson, Heidi Sedivy and others.

FBC Administration -- Consensus items:

- Minutes from June 18, 2014 meeting unanimously approved.
- November meeting agenda to include legislative session discussion; update on Columbia Basin Treaty; CFAC update; presentation on B.C. imperial waste dump failure; and BNSF/Whitefish hearing update.
- 2015 Meeting Schedule:
 - February 18 in Pablo
 - April 8 in Kalispell
 - June 24 in Pablo
 - September 9 in Glacier
 - November 18 in Pablo
- BOR Grant Contract Executed.
- Term of existing Chair, Chas Cartwright to terminate June 30, 2015. Tom Smith to assume Chair July 1, 2015. New Vice Chair to be nominated at the February 18, 2015 meeting.

FBC updates from C. Miske

- Grants: four major grants submitted thus far this year.
 - BPA grant filed jointly with the Flathead Lake Biological Station for eDNA research did not get funded.
 - USFWS grant for AIS work did not get funded.
 - U.S. BOR Watersmart grant was successful. The FBC obtained \$100,000 over a 2-year period to work on AIS, drought management and wastewater management.
 - DNRC RRGL grant pending, and negotiations currently underway on how proposal should be restructured.

- Volunteer monitoring funding will be difficult to secure as grants are generally not available for ongoing monitoring programs, though AIS funds may be able to assist since the monitoring program now contains a significant AIS component. FWP did put up their 1/2 share to fund the Volunteer Monitoring Coordinator. The Whitefish Lake Institute is housing the program. The FBC will need \$20,000 annually to continue the program into the future. The FBC will be discussing private funding options with Mike Koopal.

Jan Metzmaker also suggested an Adopt-a-Lake program to assist with funding. For example, Whitefish and Beaver Lake monitoring could be supported by the City of Whitefish.

Tom Smith suggested developing a lake hero/lake champion to obtain contributions from lakeshore owners or submitting joint proposals with the tribes to obtain access to additional grants.

Jim Simpson suggested the Plum Creek foundation as a funding source.

Susan Brueggeman pointed out that one of the FBC's statutory mandates is monitoring, and requested that we go back to DNRC to request additional dollars.

C. Miske to follow up with Ray Beck and Marc Pitman regarding the possibility of DNRC funding.

TRANSBOUNDARY

Caryn Miske reported that the FBC is continuing its work with the Crown Managers Partnership (CMP) to develop AIS Protocols for the Crown, including inspection (underway) and monitoring (completed) protocols, and rapid response protocols (still to be done). Through the CMP via a grant from the Great Northern Landscape Conservation Cooperative), the FBC recently obtained funding to undertake focus group testing to improve educational efforts. In addition, the AIS detection dog pilot program undertaken jointly with Alberta was completed, and well received.

The CMP is also working on a landscape indicator which focuses on landscape connectivity. The base maps for this effort are now complete. Grizzly bears are being used as the umbrella species for this effort, and two major fracture zones have been identified - Highway 2 in Montana and Highway 3 in Alberta/British Columbia. The CMP is beginning to pursue a project to implement wildlife crossings for Highway 3. In B.C. the land for the crossing has already been purchased, but installation funds must still be secured. The Highway 2 project is in its infancy, and will likely not move forward in the next year.

CFAC

Julie Dalsoglio reported that two alternative strategies for remediation are being pursued. First, the State of Montana is considering a negotiated order with Glencore to commence site investigation to document extent and level of contamination. The DEQ remediation division expects a proposal

from Glencore within the next week. DEQ will assess the proposed statement of work. If Glencore's proposal is sufficient, DEQ would enter into an administrative order with Glencore to begin work.

Alternatively, the CFAC site could still be listed as an EPA Superfund (NPL) site. If fast tracked, the earliest the site could be listed is fall of 2015. EPA is currently undertaking internal legal analysis related to enforcement and evidence necessary to qualify CFAC as an NPL site.

Kirby Campbell-Rierson from Senator Walsh's office asked if a letter had been sent to Flathead County. C. Miske responded that a letter had been sent to Governor Bullock in support of listing, with a cc to Flathead County. No response received from the County to date. Dalsoglio added that broad community support is sufficient for EPA listing, and a letter from the County is not necessarily a prerequisite for listing.

Dalsoglio then explained that a community driven, parallel process could be undertaken by the City of Columbia Falls to develop a vision for the site. Dalsoglio is currently researching funding could be provided by the EPA to hire a consultant on the City's behalf. Glencore hired RePlan out of Canada to analyze future development options, and it would be useful for the City to have its own consultant and its own vision.

Wastewater Management

Jim Simpson explained that three years ago Flathead County obtained a \$100,000 grant to study the wastewater issue. The Flathead Regional Wastewater Management Group (FRWMG) was created via this grant, and the group opted to use the funding to hire Carver Engineering to document the location of all septic systems in the basin, and develop recommendations that were both effective and cost efficient, on how to best mitigate non-point source pollution. On September 29, 2014, the FRWMG will hold a workshop to present the finding of the Carver study, and discuss issues surrounding point and non-point source management, at the Red Lion, in Kalispell at 6:00 pm. The goal of the workshop is to being a community dialogue that will lead to holistic, equitable and effective solutions wastewater management in the Flathead Basin.

Biennial Report

Caryn Miske reported that a draft report will be available for review at the November meeting. The report will be finalized and printed in December.

Legislative Session

Members unanimously agreed that the FBC should continue to work on Aquatic Invasive Species legislation during the session, with sustainable funding rated as high priority. C. Miske to meet with other AIS stakeholders to develop a more finalized legislative AIS agenda. Given the status of rail safety efforts, the FBC will not pursue any rail safety legislation at the current time.

AIS Update

CORAM INSPECTION STATION

C. Miske summarized the results from the Coram Watercraft Inspection Station on Highway 2. The station was funded by the FBC and its partners, along with FWP. FWP provided station oversight and management, and FWP further contributed to supporting the site by covering all operational costs through June 30, 2014. Over the course of the 2014 field season, 4,629 boats were inspected, with 3922 drive-bys. Of the watercraft inspected, 26 were fouled, were carrying standing water or carrying illegal fish.

Issues still remain with the Coram site: the season of operation should be expanded so that the station is opened earlier in the season, the hours of operation should be expanded; and drive bys are still an issue.¹ In addition, the site location is problematic due to its remote location and the high traffic speeds. Two solutions exist regarding site location. The station could be moved to Browning which would enhance the level of protection, and increase visibility and compliance. The Blackfeet have expressed interest in such a partnership, but Tribal Council permission will be required. The Tribe would also need to adopt regulation(s) for mandatory checks. Miske was cautiously optimistic about this option, and will follow up with the Blackfeet prior to the end of the year. Alternatively, the station could be moved closer to Glacier National Park. Under either of these scenarios, FWP will likely not use these locations, and the FBC would need to resume management of the station.

Linnea Schroeder, FWP, stated that based on current data, 29,635 watercraft were inspected over the course of the 2014 field season. Of the watercraft inspected, 277 failed inspection. Schroeder further noted that FWP distributed ten i-pads at various stations, so that inspectors could upload data remotely. However, eight stations did not have i-pads, so data is still being entered. However, based on the available data, the number of mussel infested boats intercepted is down this year, from 11 to 3, due in part to better public awareness. However, better watercraft cleaning procedures are still needed numerous boats with vegetation and standing water were intercepted. The numbers of illegally transported live fish increased, perhaps because inspectors are now more diligent looking for fish. Illegal fish introductions remain a huge problem. Drive-by rates varies, and are a problem at all locations -- 20% to 25% drive-by rate not uncommon. FWP used more signage – temporary, permanent, and flashing e-signs – in an attempt to improve compliance rates.

AQUATIC INVASIVE PLANT TREATMENTS

Eric Hanson, Flathead AIS Consultant reported on the 2014 field season.

- Eurasian Watermilfoil in Beaver Lake almost eradicated. Only 10 plants found, totaling less a pound. No regrowth at the boat launch, and the plants removed were scattered throughout the Lake.
- Curlyleaf pondweed in Flathead Lake relatively contained. CLP now present in only 3 areas -- Lakeside marina, Bigfork and Eagle Bend (scattered plants in harbor and channel). Removal at Lakeside completed, and only partial removal at Bigfork. Maintenance will be

¹ The drive-by rate was not appreciably different as compared to 2013 when the FBC was managing the site as a voluntary watercraft inspection station.

needed into the future to keep the Lake population in check. In the Flathead River, CLP present in Fennon Slough, but not in any other off channel areas. Scatter plants in 10 miles of river, and will require greater effort if the goal is virtual eradication.

- In Hungry Horse Reservoir, no flowering rush found. Monitoring will continue in 2015.
- Priorities for 2015: survey north half of lake; CLP suppression in Flathead Lake; and CLP suppression in Flathead River -- starting up stream and working down.

AIS DETECTION DOGS

AIS Detection dogs from Working Dogs for Conservation were deployed for 10 days in the Flathead at Salish Point and for 10 days in Alberta. Public interaction and education greatly enhanced using dogs. Blind tests conducted to compare the efficiency and effectiveness of dog/handler teams versus human inspectors. On average, dogs took 3 minutes per inspection for a high risk boat, while humans took more than double the time. Dogs detected 100% of the zebra fouled boats, while only 2 human inspectors obtained 100% accuracy. Dogs detected byssal threads every time, while only one human detected the threads. The Province of Alberta has committed to using dogs next year based on the results of the pilot study.

FBC Modified Full-Time Equivalent (FTE)

C. Miske discussed the effort to locate a partner to house the FBC modified FTE – funded in part with a grant from U.S. BOR. Discussions with the Lake Conservation District are pending, and other potential partners have been identified. Members unanimously agreed that the FBC should pursue the FTE. Miske will report at the next meeting on the status of this FTE effort.

Total Maximum Daily Loads (TMDLs)

Final TMDLs due out by year end, but will not include load allocation reductions which will occur in Phase II based on the TMDL model that has been developed. The final TMDLs will likely recommend delisting Flathead and Stillwater for sediment. Addition public comments will be sought this fall. Once this work is completed, the focus will shift towards on-the-ground implementation efforts (see handout provided).

LESSONS LEARNED: YELLOWSTONE OIL SPILL

Larry Peterman, from the Natural Resource Damages Program briefed members on the Yellowstone Oil Spill which occurred on July 1, 2011 when a 12' Exxon/Mobil pipeline ruptured releasing 63,000 gallons of light Wyoming crude into the Yellowstone River.² The rupture occurred during the peak of high water, with a flow of 70,000 cfs. In total, 90 miles of river and riparian areas were fouled by the spill.

² 1 rail car = 28,000 gallons of crude oil.

Hours after the spill, a mandatory evacuation along the river and other low lying areas was issued. High levels of VOCs were in the air for several hours after the rupture. Booms were installed, but given the peak flows, the utility of the booms was limited.

Within 24 hours, cargo planes arrived, with all of the equipment needed for an 100 person incident command center, similar to forest fire incident command centers with unified command protocols. EPA served as lead agency, the Coast Guard served as co-lead, and the federal agencies worked with DEQ and Exxon to manage the response and cleanup efforts. Consultants, such as Clean Harbors, Polaris, and Arcadus brought in for the on-the-ground work. Personnel and equipment from all over the country were on site within days.

Since the rupture occurred during the peak of high water, access was difficult for several days, and the River was out of its banks. As the water receded, SCAT teams and shoreline assessment teams began their on the shoreline to review and classify reaches using GPS as “heavy oil,” “light oil” or “no oil.” Oil was not uniformly distributed. After assessments were completed, clean-up crews were dispatched to repeatedly clean vegetation and woody debris. Much of the fouled wood and plants were cut and chipped, then disposed of in Utah and Missoula landfills. In other areas, oil was covered with dirt to make oil “non-transferrable”. Oil trapped in riprap was cleaned with pressure hoses. Saturated log jams held oil were torn apart and removed. International Bird Rescue was hired clean geese, pelicans and other birds. Fortunately, due to the high water, most birds were off the river. Fish habitat was destroyed as woody debris and vegetation was removed. The impact of fish health has not been quantified.

During the peak of the clean-up, 1000 personnel and 60 boats were working on the river. Protocols for clean up personnel were closely followed -- all work boats were followed by a safety boat. All work camps had security, check in/check-out. No accidents or incidents occurred during the clean-up effort. EPA managed the majority of the cleanup, which ran from July through the first week of September. The clean up operation was then turned over to DEQ, and lasted until Oct 30th. MOST of the oil was not recovered. Some oil was left to natural attenuation, as air and sunlight breaks down oil over time. Monitoring continued through September 2014.

The clean-up effort totaled \$13.5 million. Impacts to the community were significant. The City of Laramie Park was closed for several months in order to house the incident command center. The Duck Creek fishing access was closed for two months. Other parks and fishing access sites in Billings were closed for several weeks for use as staging areas and food stations.

The companion effort to the clean up -- the Natural Resource Damages Assessment -- is ongoing, as negotiations between the State of Montana and Exxon continue. This assessment is designed to recover the costs of the oil damages and associated clean-up effort. If negotiations fail, the National Pollution Control Fund could be tapped. Private property owners are not covered by the NRDA, and must take their own legal action to recover damages. Some private lands are still usable.

Lessons Learned:

- Most oil was not recovered. \$13.5 million spent to recover 1-10% of the crude.

- Training for contingency plan needed to teach response personnel how to protect drinking water supplies. Water supplies in Billings and Laurel were shut down to prevent contamination.
- AIS decontamination protocols for emergency responders needed as equipment comes in from all over the country.
- A plan to manage food/bear attractants is needed given the numbers of personnel and food stations.
- Government staff completely overwhelmed with response effort for months, which means other critical work was left undone.
- Exxon fined by DEQ for illegal discharge, and required to develop supplemental environmental projects, up to the amount of the fines. One such project funded to date is the Yellowstone River Contingency Plan which is a hazardous release response plan for a 10 county area. The Plan includes the locations of boat ramps, bridges, etc.; optimal locations for storage containers along the river; and training first responders in how to use booms, pads, ropes, anchors, etc. The plan can be obtained by calling Larry Galt at 444-2411.
- Bend, Oregon, has a similar type of emergency response plan.

Rail Safety

Michael Jamison, from NPCA, presented on proposed U.S. Department of Transportation (DOT) rail safety regulations. Jamison pointed out that in 2008, 9,000 rail cars traveled through the Flathead annually, and today that number has risen to 420,000 cars (30-40 million gallons), with 118 accidents. U.S. DOT is proposing speed limit restrictions, with urban areas (population of 100,000 or more) prioritized for greater levels of protection. In addition to population centers, NPCA will be recommending prioritization for areas with national, cultural, historical and ecological significance – as well as areas with a known history of derailments. For priority areas, site specific risk mitigation plans would be developed, along with site specific response plans. For example, a mitigation plan for the canyon could include maintenance and expansion of the avalanche system. A response plan would delineate roles and responsibilities, identify the locations where response equipment should be available, etc.

Jamison further pointed out that the Great Northern Environmental Stewardship Area was originally established to address grain spills, and bear collisions with trains resulting from such spills. GNESEA's role could be expanded to address hazardous rail transport.

Members unanimously pass the following motions: (1) C. Miske to draft letter to comments on proposed U.S. DOT rail regulations; and (2) C. Miske to draft letter to GNESEA/BNSF requesting that GNESEA be funded to address hazardous rail transport issues.

Boat Pump Out Facilities

Susan Brueggeman reported that DEQ has drafted, and is receiving comments on proposed regulations for pump out facilities for boat holding tanks. Brueggeman will be attending the meeting in Helena to comment on the regulations, and will provide comments as needed to DEQ administrators. Once the regulations are adopted, the availability of such facilities needs to be

revisited. At the Lakeside Marina, a pump out facility was required as a condition of settlement, and this facility has not been built to date. Additional facilities are needed to service the public.

CSKT Climate Change Implementation Effort

Whisper Camel-Means, CSKT explained that the Tribes are focusing on implementation efforts with a current emphasis on Whitebark Pine restoration. The Tribes is considering options such as seed collection, a expansion of the nursery program, and replanting. Education efforts, such as development of an online climate change curricular for college students, are also being considered.

Public Comments: None

Meeting Adjourned.