

Flathead Basin Commission Meeting
February 21, 2018
Grouse Mountain Lodge
2 Fairway Drive, Whitefish

- 10:00 Introductions/Roll Call/Logistics
- New appointments
 - Revisit enabling legislation, FBC purpose, by-laws
 - Duties of commissioners
 - Discuss status of meeting minutes from 9/27/17, 11/15/17, 12/18/17
- 10:30 FBC Overview and Status
- Funding and budget
 - Staffing
 - Executive committee and committees
- 11:00 FBC Moving Forward
- Commission rule petition
 - 2018 Field Season
 - **Action Item:** Elect chair, vice chair
 - **Action Item:** commission rule petition
- 12:00 Lunch
- 1:00 FBC Moving Forward (cont.)
- 1:30 Role of Flathead Basin Protection Fund
- 1:40 Public Comment
New Business
- 2:00 Adjourn

Agenda is subject to change and item times are approximate.

The Flathead Basin Commission will make reasonable accommodations for persons with disabilities who wish to participate in this public meeting. For questions about accessibility or to request accommodations, please contact Stephanie Hester at 406-444-0547 or shester@mt.gov as soon as possible before the meeting date.

Flathead Basin Commission (FBC) Meeting
February 21, 2018
10 am-2 pm
Grouse Mountain Lodge
Whitefish, MT

ATTENDEES:

FBC Voting Commissioners: Rich Janssen, Ed Lieser, Dean Sirucek, Kathy Olsen, Patrick Holmes, Mike Koopal, Jack Potter, Jeff Mow, Gary Krueger, Jim Simpson (phone), Chip Weber (phone), Jasmine Courville-Brown (phone), Steve Frye (phone)

FBC Ex-Officio Commissioners: Mark Reller, Dennis Philmon, Mark Bostrom

Other attendees: Stephanie Hester, Lori Curtis, Dennis Clairmont, Erick Hanson, Carroll Blend, Bill Baum, Dick Zoellner, Charles R. Abell, Patrick Reilly, Lamont Kinkade, Kate Wilson, Danna Jackson, Robin Steinkraus, Susan (Brueggeman) Foster, Angie Winter, Matt Redding

Welcome

Vice-chair Rich Janssen opened the meeting at approximately 10:20. The meeting started late due to an issue with the hotel's phone equipment. Rich welcomed participants and the meeting proceeded with round robin introductions for participants in the room and on the phone.

This is the first meeting since Governor Bullock appointed three new commissioners and Flathead County reappointed Gary Krueger. Rich asked each new member to provide some additional information on their backgrounds.

New members

Ed Lieser - A career forester who worked for the Forest Service for 30 years. Mostly worked on timber management and wildland fire. Has served/serves on the Bob Marshall Foundation, Whitefish Legacy Partners, Whitefish Lake Institute. Former legislator representing Whitefish. Served on taxation and natural resource committees.

Mike Koopal—Founder and executive director for Whitefish Lake Institute, a local science and education based non-profit. Works collaboratively on executing a local aquatic invasive species (AIS) management plan with City of Whitefish. Serve as a commissioner on the Upper Columbia Conservation Commission (UC3) and the Whitefish Climate Action Plan.

Gary Krueger—Gary is a Flathead County Commissioner. His father served on the Flathead Basin Commission in the 1980s. For years, Gary has been farming and ranching in the valley.

Vice-chair Janssen also introduced Tribal Council Member, Dennis Clairmont. Dennis represents the Confederated Salish Kootenai Tribes on the UC3 and Montana Invasive Species Council (MISC).

Vice-chair Janssen also noted that Patrick Holmes from the Governor's Office was recently appointed and will represent that office.

Revisit Enabling Legislation

Copies of FBC's statutory authority and enabling legislation were reviewed at the meeting.

- Review of enabling legislation—MCA 75-7-3
- Review of membership, compensation—MCA 2-15-33

Chair Janssen read through the documents and then opened it up for discussion. Discussion points follow:

Ed L.: MCA 75-7-304 (2) calls for close cooperation but doesn't include cooperation with counties in the clause? Why?

Danna—The code does include “provincial” coordination, which is a catch all for local governments and includes counties. Also, FBC membership includes two county commissioners to serve and represent Lake and Flathead counties.

Gary added that counties are a subdivision of state government, so also included in that manner.

Review of Duties of Commissioners

Vice-chair Janssen read each of the six commission duties outlined in MCA 75-7-304.

Discussion:

Mark B.: Noted that the requirement for formal submission of biennial reports (MCA 75-7-306) has not been fulfilled as a duty of commissioners. FBC has not been submitted reports to the Environmental Quality Council (EQC). Mark offered to submit the reports to EQC, so the duty is fulfilled and reports are properly recorded.

Vice-Chair Janssen requested that Mark forwards the reports to EQC.

Action: Mark Bostrom to determine which reports have not been submitted and recorded and submit those outstanding reports to EQC.

Chip: Is FBC moving forward, or do we feel FBC mission is accomplished as Director Tubbs suggested? Chip's assumption is that since appointments were recently made that the Governor wants FBC to continue.

Patrick: Referred participants to a letter in the meeting packets from Governor Bullock to Director Tubbs. The letters intent is to clarify the executives position on FBC. The letter is an affirmation that good work has been done in past, FBC has experienced great success on transboundary issues, and that looking forward the executive encourages the commission to reflect on work of past, make sure the organization is meeting statutory responsibilities going forward, and that FBC should review and reassess its priority issues.

Jeff—would like to know where we are at with each duty. Need status check.

Rich—Feels FBC is not done. He's working on lots of mining transboundary issues and this might be an area for FBC to return to

Chip—Feels there is work for FBC to do as long as there are waters to protect. There are enhanced efforts with UC3 and the state for AIS. We were filling gaps. How do we add value not that that work is

being covered? Does role change? Still work on AIS? How will be most effective in concert with other AIS efforts in basin as opposed to a non-supportive critic. How do we provide input that is valued, and embraced, and supported?

Jack—What about funding and executive director position? FBC has a strategic plan through 2016. Need to revisit the plan based on budget and capacity.

Mark B. addressed FBC budget and capacity issues:

- State government has seen a decline in funding across departments. FBC reductions are a fraction of amount of overall budget cuts to DNRC. The Reclamation and Development Division cuts were \$2.14 million.
- DNRC is statutorily required to provide staff and will continue to do so. Currently Stephanie Hester and Mark will staff FBC and can also draw resources from Kate Wilson.
- The ED position through Mark's division (Conservation and Resource Development Division—CARDD) is still occupied
- Some operational funding will be available. Address budget later in the meeting. The USFS grant funds are also available.
- Funding for the next biennium will be determined in next legislative session
 - Need new proposal if additional resources are going to be requested
- FBC may hire staff. Has been done in the past with express personnel
- Question: If we hire someone to write grants. Do agreements go through DNRC?
 - Mark responded, yes: Express Personnel is a state term contract. FBC can work directly through express personnel and does not need to go through DNRC.

Lori: Suggested mining issues might be a good place for FBC to focus. FBC was successful with these issues in the past. Other entities are covering AIS now. No one else is concentrating on mining issues. Might be a good place to focus energy.

Gary Krueger: Father sat on first FBC as county commissioner. Purpose was and is to monitor water quality in basin. FBC is a government entity. Disappointed to hear that FBC has not been submitting reports. Gary stated that FBC's authority includes making recommendations to the legislature and executive. FBC has overstepped bounds in a lot of places. If it gets back to monitoring and making recommendations to executive, Flathead County will continue to participate. If, FBC continues to step outside of authority and not implement duties it won't be successful. FBC could be valuable tool to exec., legislature, and FWP.

Dennis: Asked if FBC can show support and get involved in Elk River issues.

Discussion: Issue is outside of basin. Can FBC work on mining issues outside basin? Was previously asked to stay within the basin.

Mark: DEQ, EPA, Environment Canada, and tribes have a lot of interest in the program and are not ignoring Elk River situation.

Dean: Involved with FBC since 1987. Has seen evolution of issues that basin has tackled and the organization has changed dramatically.

- Monitoring and transboundary mining were first issues
- Forest management and fisheries in 1990s.
- Then FBC took on and focused entirely on AIS—emphasis changed
 - Noticed a change in support out of Gov. office to support FBC's AIS work
- With so much development in basin, FBC could be a good asset for identifying issues
- See this time as another evolution for FBC
- Dean in full support of FBC moving forward and reassessing priorities

Mark R.: Duties that jump out include FBC's monitoring function and yearly monitoring plan. Baseline and ongoing data collection is important and critical for tracking trends. Mark's job at Bonneville is to encourage cooperation among resource managers. Developing good relationships and good cooperation helps through bad times. Duties also include encouraging economic development. Bonneville main energy source for valley and FBC can help protect Bonneville's investment in fisheries and natural resource protection.

Ed L.: Asked what the relationship is between Upper Columbia Conservation Commission (UC³) and FBC.

Lori: Lori is the UC³ chair and explained that the UC³ is:

- Charged with coordinating disparate entities and project and efforts to ensure efficiency and collaboration
- Communicating with FWP regularly, FWP sites on UC³
- FBC is a voice at the table
- UC³ has a larger scope regarding AIS

Mark B. provided additional information on the UC³:

- Protecting the Flathead doesn't protect the larger Columbia River Basin, which is charge of UC³
- UC³ is centrally focused on AIS with monitoring component
- FBC has broad scope in defined area for water quality monitoring of all waters and natural environment
- If FBC is going to be affective in AIS, needs to work with rest of AIS community

Kathy: FBC needs to reevaluate how it's doing business

Erik: FBC has MOU with CSKT to work on AIS, which was put in place while working on FBC pilot rules. There are existing obligations.

ACTION: Review existing MOU between CSKT and FBC to make sure obligations fulfilled and outstanding items.

3 existing MOUs with CSKT, Blackfeet, and Jesco. Need to assess and fulfill obligations.

Bylaws and Duties of the Commissioners

Vice-chair Janssen provided an overview of the bylaws. Vice-chair Janssen and Kathy are currently the only executive committee members

Bylaw amendment needed to address:

- There is no MOU between FBC and DNRC. Never was able to come to consensus on content

- Suggestions to readdress and establish the MOU
- There is a draft set of bylaws from 2016 that was never executed. Includes adding a Chief Operating Officer. Particularly important to have a treasurer on the executive if there is outside money the FBC is managing, e.g. Flathead Protection Fund.

ACTION: Stephanie to include bylaw discussion on next meeting agenda and send 2016 bylaw draft.

Who approves by-laws?

- FBC commissioners by vote
- Needs legal review before vote
- **ACTION—have legal review before vote, not necessarily DNRC legal**

Meeting minutes

Mark B.: Explained status of meeting minutes from last three meetings.

- Meeting notes from 9/27/17 have not been approved because there was not a quorum.
- We do not have official meeting minutes from meetings on 11/15/17 and 12/18/17.
- Current minutes from 11/15 and 12/18 are not official minutes. Pieced together from notes from various meeting attendees not assigned as official meeting scribe.
- Should new commissioners vote on minutes for meetings they didn't attend?
- Public noticing of minutes—ends on website in 2016, no agendas, no minutes have been posted
- DNRC does not have access to website to post minutes
 - Kate Hunt volunteered to update website
- need to compile minutes and decide whether to approve at next meeting and distribute. Post meeting archives
- Danna can provide legal guidance on how to address how to approve meeting minutes

ACTION—Stephanie to compile minutes and add to next meeting agenda. Danna to provide guidance on how to approve meeting minutes with new commissioners who did not attend meetings prior to their appointments

Question was posed: Who is carrying duties while ED is out? Answer: Stephanie and Mark

FBC Overview and Status

Mark B: provided a handout of the three FBC accounts, balances, and questions about obligations

- FBC 3120-operating (this is where the reductions occurred)
 - Remaining operating funds are for personnel services, commission travel, meetings
- FBC Private 3150—donations
- USFS AIS Grant 3153

Need to understand obligations to FBC that can't be covered under USFS.

- Blackfeet nation bill charged to USFS

MOU between CSKT and DNRC (allowable under USFS grant)

- Agreement includes \$20,000 for AIS Prevention cost-share
- \$10,000 paid, \$10,000 pending. CKST to send invoice

Jesco MOU—no known obligations

Account balances:

- FY18-~27,000 remaining balance (40k-50k reduction)
- FY19-\$140,000 reduction. Enough money for commission meetings

Staffing

Mark B.: provided an overview of the current status of FBC staffing.

- Caryn Miske on administrative leave. For personnel privacy issues, cannot discuss.
- Stephanie Hester main point-of-contact
- Kate Wilson will assist if needed.
- Fundraising will be best done through contracted services—Express Personnel
- Opportunities for private donations
- Need to coordinate fundraising activities between FBC, UC3 and others competing for AIS \$

Forest Service agreement

Dennis made some comments about the history and purpose of the USFS grant

- Grant through O&M for Hungry Horse dam. Funding was supposed to be a short-term measure
- Part of agreement is for FBC to identify new issues
- Was supposed to be seed money, never intended to be sustained funding source
- Understanding that FBC role is to raise flags on issues, mobilize resources, and move on
- State needs to pick up watercraft inspection stations.
- This funding source should be coming to an end and transfer issue to UC3 and state
- Interagency agreement renewed through FY21 for \$25,000
- Need to go back through federal acquisition process each year
- Makes available for a year up to \$25,000. Use or lose funding

Other points on Forest Service funding:

- Chip agrees that this was stop gap funding
- Grant was temporary. Interim measure until state stepped up
- Decision point for commission on terms of MOUs and whether FBC should redirect CSKT and Blackfeet towards other funds as Forest Service grant winds down
- Next legislative session will highlight additional gaps
- FBC to advise state on how the state should fund AIS program

Executive Committee

Vice-chair Janssen is acting chair. A new chair needs to be appointed. Rich would like to step down on the executive committee.

Kathy Olsen is on executive committee as DNRC liaison in accordance with the bylaws Section III (f).

Need nominating process before voting on. Have run into difficulties with commissioners having restrictions on some being able to serve.

Decision to postpone elections.

Committees

Previous committees included executive, funding, education, monitoring

Monitoring-Caryn, Jack, Dean

- Had a plan but no funds to implement
- Identify what monitoring was occurring
- Identify monitoring gaps

Comments:

- Committees are under same open meeting laws as main Commission
- Recommendation to be careful with creating too many committees. Business needs to be conducted through full body.
- Need to revisit priorities before forming committees

Agenda action item: Elect Chair, Vice Chair

MOTION: Gary Krueger moved to delay election of chair, vice chair to next meeting

Second: Dean Sirucek

Discussion: none

Vote: unanimous

Next Meeting:

Date of next meeting April 25, 2018

10-2

Pablo or Polson-Rich to check on availability in Pablo and work with Stephanie on final location.

Commission Rule Petition

Mark B.: Provided an overview of the status of the petition and intention of FBC regarding the rules.

- Phone meeting on Dec. 18 to vote on two items
 - 1) whether or not to submit rules to the Fish & Wildlife Commission
 - 2) If unsuccessful with Commission, take rules to Attorney General for opinion
- Both motions passed with a 9-1 vote.
- Jan Metzmaker submitted petition
- Communications from Jan to Director Williams about holding back on petition if they coordinate
- Daily Inter Lake article published titled "Commission Offers to Set Aside Sticker Program"
- FWP has active legal petition.
- Chair would assume role to carry rules
- Confusion about FBCs intention rule. Does FBC plan to move forward with petition?

Kathy: Kathy was lone dissenting vote. She voted no because there were problems and red flags with presented rules. With FBC legal opinion on rules, didn't seem to be going anywhere.

Jack: FBC pursued rules to fulfill legislative intent and trying to fulfill. Brought up lots of issues including whether to petition Department of Fish & Wildlife Commission. Goal was to addresses deficiencies in the state program.

Action Item: Commission rule petition

MOTION: Jim Simpson motioned to withdraw FBC pilot program petition (for pilot program outlined in HB 622) and reassess FBC's focus on aquatic invasive species in the basin.

Second: Gary Kruger

Discussion:

Chip: Would have had more success with rules if worked with agencies. Need to work with agencies to craft rules. Process was flawed. Hope we pay attention

Dean: two thoughts—legislature asked us to do something, out of time to implement. Knew we could always withdraw, and needed to start process. UC³ had not been initiated yet. Since vote, the process with UC³ has been successful in bringing greater AIS community together. Some of the issues proposed in the pilot program have come to bear focus and FWP has come together with plan. Withdrawing petition not a bad thing.

Kate W.: FWP has moved forward with rules with CSKT. Mandatory inspection coming into basin.

Erik: Pilot was to establish sustainable funding. CSKT is working with FWP to implement a lot of parts of the pilot project. Just not getting any dedicated funding.

Kate W.: UC³ made recommendation to close unmanned access points at Tiber and that local boaters do not include residents on the westside of the divide

Mark R: Prohibited seaplanes language is confusing. Need time to clean up and make specific. Merits delay in pursuing the rules.

Robin: Flathead Lakers remain strong supporters. Attended hearings. Members concerned about invasive mussels. Membership doesn't think enough is being done. Disappointed that state agencies didn't come to the FBC with concerns about rules during the session.

Dean: Pilot program is not necessary to enhance inspection stations

Mark B.: FBC did a good job augmenting inspection program. Prior work amounts to a pilot program. Need to work with partners to establish the pilot program. Not sure there was broad acceptance of FBC rules by other stakeholders.

If motion passes, also includes not going to attorney general with request for opinion on rules.

Vote: Unanimous, 12-0

Rich Janssen, Ed Lieser, Dean Sirucek, Kathy Olsen, Patrick Holmes, Mike Koopal, Jack Potter, Jeff Mow, Gary Krueger, Jim Simpson (phone), Chip Weber (phone), Steve Frye (phone)

FBC moving forward

Strategic plan is due for a review and update. Need to go through strategic planning process to determine what issues FBC will take on in future.

ACTION: add discussion about strategic plan to next meeting agenda

Role of Flathead Basin Fund

Jack: resigned from board. The fund is in flux.

Two accounts:

- 1) Flathead Community Foundation Protection Fund
 - a. Express personnel staff, Jesco and Blackfeet Station
- 2) 501C3-Flathead Community foundation
 - a. Non-profit status requested

Do not know balances of either account. Do not know if there are obligated funds within those accounts.

Jim S.: Who is responsible for oversight of these accounts?

- Board of Directors of Protection Fund.

Jim S: noted that Lake County Commissioners-Caryn to meet about Lake County sponsoring the foundation

Flathead Protection Fund Board-Jan Metzmaker, Chas Cartwright, Kate Hunt, Tom Smith

FBC Moving Forward (cont.)

Patrick: Executive Committee is in charge of fiscal oversight. Need to look into these issues. Can have call and vote on matters prior to April meeting if needed. Suggest a nomination process prior to next meeting.

Ed—Adding treasurer is recommended, need to change bylaws to add new position to executive committee

Jack: In the past FBC had a nominating committee that brought forth recommendations.

Dean—Jan lobbied to have Dean be chair or vice chair. There is a conflict of interest because of DNRC/CD relationship. Would be interested in being member-at-large on executive committee.

Action: Stephanie/Mark B. to poll members to see who is interested in serving on executive. Work with Vice-chair Janssen on nominating process before next meeting.

Public comment

Angie Winter: Not clear the authority relationship the executive committee and executive director?

Mark B.: ED position is a DNRC position. Authorized in HB 2. Attached to DNRC, Conservation and Resource Development Division. DNRC provides employee support—car, office, payroll, etc. Relationship between DNRC and FBC executive committee is co-management of Ed. The exec. Committee and Mark provide day-to-day oversight Regarding matters of finance there is a direct relationship between DNRC and FBC ED. FBC ED is liaison to FBC executive committee.

Angie Winter:

- Commission needs to consider that ED position is in a difficult spot on who they get direction from.
- Starting with strategic plan is critical. Priority #1
- Need to fill leadership roles + add treasurer role
- Public website—I didn't hear any action on the issues with the FBC website

Mark B: DNRC has resources to help with updating website and putting on a mt.gov site.

Action: Stephanie to contact Kate about accessing website.

Dick Zoellner: Thanks for watching over our water. Feels good with group and progress today

Action: Stephanie work with Vice-chair Janssen on agenda and location of next meeting

Motion: Jack Potter motioned to adjourn at approximately 1:40

Second: Jeff Mow

Discussion: none

Vote: unanimous

Meeting adjourned

Action Items		Assigned	Due Date	Status
1	Mark Bostrom to determine which reports have not been submitted and recorded and submit those outstanding reports to EQC.	Mark	4/11/18	Done
2	Review existing MOU between CSKT and FBC to make sure obligations fulfilled and outstanding items.	Mark	4/11/18	Done
3	Stephanie to include bylaw discussion on next meeting agenda and send 2016 bylaw draft.	Stephanie	4/1/18	In progress
4	Legal review of bylaws before vote	DNRC legal/other legal?	TBD	TBD
5	Stephanie to compile minutes and add to next meeting agenda. Danna to provide guidance on how to approve meeting minutes with new commissioners who did not attend meetings prior to their appointments	Stephanie/Danna	4/11/18	In progress
6	Add discussion about strategic plan to next meeting agenda	Stephanie	4/1/18	In progress
7	Stephanie/Mark B. to poll members to see who is interested in serving on executive. Work with Vice-chair Janssen on nominating process before next meeting.	Vice-chair Janssen/Mark/Stephanie	4/11/18	In progress
8	Stephanie to contact Kate about accessing website.	Stephanie	4/1/18	Done
9	Stephanie to work with Vice-chair Janssen on agenda and location of next meeting	Vice-chair Janssen/Stephanie	4/1/18	In process