

Columbia Basin Collaborative Integration/Recommendations Group

Meeting Summary

January 23rd, 2024, 9:00am –4:00pm PT/ 10:00am –5:00pm MT
DoubleTree City Center, Spokane, WA

Welcome, Opening Remarks, and Agenda Review

Liz Mack, Kearns & West, opened the meeting and invited Councilwoman Monica Tonasket, Spokane Tribe of Indians, to lead the group in an opening prayer and land acknowledgement. Paul Arrington, Idaho Water Users, then provided opening remarks.

Liz noted that there were observers, both in-person and virtually, joining the meeting. Liz then reviewed the agenda items and then also reviewed the meeting guidelines.

Updates from Around the Region

Liz invited the Integration/Recommendations Group (I/RG) members to introduce their teams and to share any updates that were pertinent to the CBC.

The I/RG members shared the following updates:

- Several participants noted recent turnover and updates in staffing within their respective organizations or agencies, suggesting a potential impact on institutional knowledge and continuity in ongoing efforts.
- Several participants referenced their engagement in the mediation process and collaborative efforts, such as participation in the Columbia Basin Restoration Initiative and the Phase 2 Implementation Plan (P2IP) agreement.
- Multiple participants highlighted the removal of Klamath River dams and recent Army Corps projects indicating a positive focus on significant environmental and infrastructural changes in the Pacific Northwest.
- Multiple participants expressed increased concerns about the threat of salmon extinction and the urgency of addressing related issues.
- Some participants noted other recent governmental reports and developments impacting fish operations.

Columbia Basin Restoration Initiatives Presentation

Jim McKenna, State of Oregon, Kate Markworth, Yakama Nation, Tom Iverson, Yakama Nation, and Michael Garrity, State of Washington, outlined the formation and history of the Columbia Basin Restoration Initiative (CBRI) and noted the six sovereigns who made up this effort – the Yakama Nation, the Confederated Tribes of Warm Springs, the Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, the State of Washington, and the State of Oregon.

Members of the six sovereigns' coalition stated the need to restore fish populations in the Columbia River Basin while considering economic and environmental factors, detailing how this need led to the Biden Administration coordinating with the six sovereigns on this initiative. Members of the coalition underscored the fact that the Columbia Basin Partnership goals were integral to the formation of this effort. CBRI members noted the interconnectedness of fish recovery with clean energy and infrastructure investment for climate resilience. Additionally, the initiative is designed to highlight the historical and legal significance of treaty rights. The group discussed objectives of the CBRI, including empowering fisheries managers, addressing red tape, and emphasized the need for increased funding and coordination with federal agencies and Congress. They also discussed their support of reintroducing Upper Columbia salmon and the importance of monitoring population changes. The CBRI members also emphasized that the CBRI is meant to act as a comprehensive approach separate from but complementary to existing commitments.

The group had the following input:

- Question: Regarding Objective 2, where is irrigation coming from now and where would it come from if dams were breached? How much water is currently taken out of the Snake River?
 - *Answer: Washington is working on a study for this issue. That effort is being combined with a federal effort. The vast majority comes from Ice Harbor Dam. If breached, water would likely be diverted from the free-flowing river. The exact amount and combination of other sources would be considered in that study. The Snake River currently irrigates about 60,000 acres.*
 - One member pointed out that the CBRI is not designed to solve the dam utility issues but rather, acknowledges that the problem exists and that dam utilities should be replaced before dams are to be removed. Another member noted that the question highlighted that the six sovereigns are calling on the federal government, tribes, and stakeholders in the region to tackle these issues, but the CBRI is not designed to solve these problems itself.
- Question: Did the six sovereigns contemplate more coordination in river operations?
 - *Answer: Yes, there is a commitment in the US Government (USG) process to reevaluate river operations.*
- Question: Was the Columbia River Treaty considered when forming this group?
 - *Answer: The CBRI plans to look at outcomes from a number of treaty processes in the basin, including the Columbia River Treaty. The six sovereigns are not all directly involved in those discussions.*
- Question: The CBRI seems to function as an input to the FMCS negotiations. What happens to the CBRI if those negotiations get to the final stay and effectively end?
 - *Answer: All six sovereigns are committed to advancing the CBRI along with the federal government and others in the region. From this point forward, the six sovereigns will view any fish related process in the Columbia Basin (including the CBC) from the lens of "does this advance the goal of the CBRI?"*
- Question: At some point it is mentioned that non-Endangered Species Act species were involved in these goals, can you clarify that? Additionally, is there a place for other parties to be a part of the CBRI?

- *Answer: The CBRI recognizes a need to make things like they were which means natural ecosystems need work in all facets so that it works for salmon. The CBRI does also include freshwater mussels and other species that are ecosystem indicators. There are currently no ways for outside parties to be directly involved in the CBRI process but that could change in the future.*
- Question: The Columbia Basin includes more sovereigns than just those six in the agreement. Lower Columbia operational changes affect the Upper Basin, such as the Grand Coulee Dam which could impact reintroduction efforts. The Spokane Tribes supports holistic approaches but only if those holistic approaches don't come to the detriment of the Upper Columbia reintroduction efforts.
 - *Answer: In terms of geographic region, it was purposeful that the six sovereigns call this the Columbia Basin, not the Columbia River. The CBRI has promoted looking at restoration above Grand Coulee Dam in discussions. The State of Washington expects to continue to partner with all the sovereigns in Washington State on addressing issues in the whole Washington part of the Columbia Basin. This effort is not meant to suggest that the sovereigns in the CBRI are the only ones in the Columbia Basin, just that they are the sovereigns that are a part of these particular discussions.*
- Question: What happens if the challenges to the stay of litigation in FMCS are successful?
 - *Answer: The CBRI is a separate process than the stay. The six entities sat down a year ago to say this is what it's going to take to prevent extinction and thus are committed to this CBRI process. It will act as a north star for salmon recovery, regardless of any FMCS outcomes.*
- One I/IRG member noted that many tribes had not been invited to participate in the CBRI effort and that this was the first time many sovereigns in the Columbia River had heard of this effort.

Presidential Memorandum Presentation

Liz introduced Michael Tehan, National Oceanic and Atmospheric Administration (NOAA) Fisheries, to present on the Presidential Memorandum of September 27, 2023, concerning the Columbia Basin River. He noted that the memo emphasized the importance of achieving healthy, abundant fish levels in the basin. Additionally, Michael provided an overview of the memo's three sections, emphasizing administrative priorities, federal implementation directives, and intergovernmental partnerships. He highlighted the memo's broad mandate to not only address fish in jeopardy but also restore them to healthy levels, stressing the importance of collaboration among various governmental departments and entities. Michael added insights regarding the Columbia Basin Partnership (CBP) goals as metrics, noting that while the federal government hadn't directly adopted partnership goals, they were implicitly represented in discussions. He also emphasized the memo's status as a work in progress, highlighting its alignment with existing frameworks like the CBP.

The group had the following input:

- Question: Does NOAA plan to look at programs that degrade the CBP goals? Will they identify programs that harm these things?

- *Answer: NOAA can't speak to other programs' interpretation of the language, but if NOAA sees a program that harms salmon and hurts these goals then the agency would say that the program should be reviewed and possibly cut.*
- Question: In the document there is the language "as practicable". What does that mean exactly?
 - *Answer: This phrase likely relates to authority. For example, NOAA can't tell a different federal agency to stop something. However, NOAA can stop programs within its own agency.*
- Question: This memo says that an agency could recommend changing something that is harmful to the salmon. Would an agency have to provide science or science-based information to do so?
 - *Answer: That is unclear. The plain language offers some room to interpret. The language does not explicitly state a need for science-based explanations.*
- Question: The constructs defined by the CBP are higher than the Endangered Species Act minimum standards. One of the great things about the CBP was that it produced clear metrics to strive for. Will those viable salmon population (VSP) numbers be carried forward at all?
 - *Answer: NOAA Fisheries has a long-standing evaluation process for status. That includes spatial diversity, productivity, genetics, distribution. Many of those factors weren't carried into the partnership. The CBP used very simple metrics. Other fishery managers are familiar with those VSP parameters and NOAA will continue to use those. It is yet to be determined how that NOAA status construct would play into these broader efforts. It is not just about getting the numbers of fish up, it's also about reaching quantifiable goals such as productivity and spatial distribution.*
- A member stated that they read the memo to state that if a program is detrimental, it should be taken out and that the memo is trying to expedite the salmon recovery process by asking agencies to simply use common sense.
- A member noted that this memo outlines two deadlines – one for January and one for May. For the January deadline, federal agencies are currently evaluating programs laid out in the memo.
- A member shared that they had not been able to receive clarity on the Presidential Memorandum from Federal agencies despite several requests for information.
- A member expressed concern over the lack of engagement that has been done to date with the Upper Snake River Tribes and shared that it is critical for the Federal trust responsibilities to have more engagement on this topic with the tribes.

Federal Mediation and Conciliation Services (FMCS) Outcomes and Status Updates

Liz introduced the FMCS outcomes and US Governments section. She invited agencies to share their commitments that have come out of FMCS. NOAA, the Army Corps of Engineers, the Bureau of Reclamation, and Bonneville Power Administration shared their commitments.

NOAA Fisheries shared that they have six commitments that are part of the CBRI. The commitments relate to re-evaluating fishery management programs, Mid-Columbia funding and resources, Enloe dam removal, ocean conditions, technical expertise on fish passage design, and providing funding for Mitchell Act facility needs identified by Tribes and states in the Basin.

The Army Corps of Engineers shared that they have a number of commitments that have come out of the FMCS process. In terms of operations, the Corps has plans for adaptable management to benefit fish, involving scheduled and unscheduled maintenance and collaboration with fish and wildlife managers. Funding commitments include construction, ecosystem support, Pacific lamprey mitigation, the Albany Falls fish project, transportation, recreation analysis for lower Snake restoration, cold water refuge projects for salmon and steelhead, and studying reintroduction efforts in the upper Columbia.

The Department of the Interior stated that their commitments including a tribal circumstances report, the Bureau of Land Management removing culverts, US Fish and Wildlife providing recovery funding, participating in management reform discussions, and conducting a water supply replacement study. Additionally, the Department of Interior is collaborating with Washington state to focus on scoping, setting, and recognizing tribal input into the dam process, while the Bureau of Reclamation is planning to conduct water quality studies for Grand Coulee Dam area to address lost water supplies.

The Bonneville Power Administration stated that they have pledged an extra 20 million for salmon recovery in the year 2024 and 25 million across the basin, complementing other commitments. The Columbia River Salmon Agreement allocates \$300 million, with \$200 million available over a decade and \$100 million for six sovereigns' discretion. These funds supplement existing mitigation programs and include inflation clauses. Bonneville plans to pilot streamlined funding with six sovereigns, and there's a commitment to participate in the P2IP agreement for reintroduction above Grand Coulee.

A federal representative provided an update on the P2IP Agreement. They stated that recently multiple agencies entered an agreement with tribes situated above the Grand Coulee Dams. BPA pledged \$200 million over a span of 20 years, while other agencies expressed their commitment to securing additional funding. Collaborative efforts with tribes and their specialists are underway, with acknowledgment of the Upper Columbia Basin Anadromous Fish Subcommittee (UCBAAF). Opportunities for enhanced engagement within this framework are anticipated in the forthcoming months.

The group had the following questions for the Federal representatives:

- Questions: If the stay is granted, what is the timeline and what should be expected? Additionally, how much work is required from the agencies to meet the commitments?
 - *Answer: Federal agencies have a memorandum of understanding (MOU) signed for those commitments and the operations to execute those commitments are in play now. None of that is contingent on waiting for the court decision. If the court doesn't accept the current stay, that would require the agencies to discuss how to proceed. Regarding how much work is required by agencies, it varies but achieving these goals will require intense collaboration across departments and many agencies will have to hire new staff.*
- Question: In cross-agency processes like this one, is there a way for people who are not part of an agency to help?
 - *Answer: There are ways for non-agencies to help but those specifics are unknown right now.*
- Question: Are agencies committed to producing a supplemental environmental impact statement?

- *Answer: There is a commitment to look at the existing environmental compliance documents and do exactly what they say. As a part of these commitments, there is a time frame to determine if a new environmental document is needed.*
- Question: What happens if agencies are unable to follow through with provisions due to funding, restricting, etc.?
 - *Answer: The timeline includes a five-year and ten-year evaluation checkpoint to see if progress is being made. The parties of the MOU will then meet and see if things are heading in the right direction.*
- Question: Are there any evaluation points in between the start and the five-year evaluation point?
 - *Answer: There are various opportunities along the way for parties to withdraw. In such a case, one party could withdraw while others can continue on.*

Caucus Feedback

Liz provided background on the caucus feedback process. Liz shared that the project and facilitation teams met with tribal, stakeholder, and federal I/RG and workgroup members to hear their feedback on the CBC. Feedback included concerns about slow progress not meeting the bold action urged by the CBP, alongside acknowledgment of some progress, a call for increased transparency and stronger leadership, emphasis on co-manager roles, and the importance of upholding tribal treaty rights and sovereignty, with complications noted regarding the FMCS process. Liz invited the state representatives to share their thoughts and responses to the feedback. A summary of their response is below:

- The states convened the CBC based on the work of the CBP, with the recognition that the charter was a living document to ensure success. Hearing concerns from the Tribes was striking, as the CBC is not meant to be a forum for litigation or relitigating tribal and treaty rights.
- Different perspectives should be aired, with the understanding that some perspectives won't reach a consensus. To make rapid progress through difficult tasks, everyone needs to be on board.
- The CBC could consider work group amendments, including stricter technical guidance, requirements for entry, and specific focus guidance.
- There is interest in hearing ideas from the I/RG on how to address Tribal concerns and other feedback. Additionally, there is interest in members remaining at the table even if that means slowing down.
- Staff tried to follow the intent of the four governors' Letter, and changes have been made to the original model. Sovereigns should not need to defend their position as sovereign.

Next Steps and Scope of the CBC

The I/RG broke up into smaller work groups to address questions around the scope of the CBC. After discussion, Liz reconvened the groups. Members from different groups summarized their discussions. The groups had the following answers to the questions.

- Question 1: How can the (CBC) best move forward in relationship to the other processes and outcomes?
 - Reiterate quantitative and qualitative goals of Columbia Basin Partnership goals.

- Avoid duplicating efforts and complement other efforts.
- Achieve CBP goals by influencing funders and policy makers.
- Gain clarity on existing laws and policies that are inconsistent with the CBP goals, both quantitative and qualitative.
- Work groups should establish rules of engagement, develop common understanding, and look at what CBRI has done.
- Support agreements that are already in place at a sovereign level. Members mentioned the possibility of learning from the CBRI.
- Address predation and oceanic issues as those are not effectively addressed in other groups.
- Connect with Northwest Power and Conservation Council to coordinate across the basin effectively.
- Use social media and public relations to clarify and distribute information.
- Question 2: What should be the scope of the CBC?
 - The scope is well defined, and it should be emphasized that the CBC is not positioned to implement decisions.
 - The CBC provides a space for people to influence policy makers. This could include finding funding or appropriations, as well as state and local support.
 - The CBC should not relitigate issues and topics discussed in other forums.
 - The group could look at areas of disagreement and work together through joint fact-finding.
 - This group should discuss the funding of opportunities, possibly this group can support items such as tribes working with private dam operators.
 - This group should consider redefining the consensus process.
- Question 3: How can the CBC address the feedback shared during the caucus discussions?
 - The CBC is a leaderless body which is an issue. Several members suggested a steering committee to provide greater leadership and opportunity for engagement.
 - The CBC coordinates and builds relationships across the basin, which is valuable. The CBC should lean into that as a strength moving forward.
 - The work groups need to have a common understanding of the rules of engagement. The work groups could address topics outside of other processes while also honoring the sovereign and non-sovereign roles.
 - It is important to keep everyone at the table.
 - Revisit the consensus process and possibly make a distinction between sovereigns and non-sovereigns in decision making.
 - Encourage travel assistance funds to allow for greater in-person participation.

The group had the following input and discussion:

- One member noted that one of the merits of this group is the equity in attention and input. They noted that the Yakama Reintroduction Plan is a good model to potentially emulate.
- Multiple members agreed that there is value in having a number of trusted individuals that everyone in the basin has access to get quality answers and honest feedback on issues.

- Multiple members stated that it was unclear what the value of the CBC was overall in relation to the other similar processes in the basin.
- One member noted that the Council on Environmental Quality are looking to update their agreements with sovereign groups and that the CBC could potentially be a forum for those discussions.
- Multiple members agreed that it was beneficial for all to be coordinated and aware of what other entities are doing in the basin, which is a need this group currently fulfills.
- One member said that the basin-wide scale of the CBC is a challenge, and that work groups that have a regional approach to issues could be beneficial.
- Multiple members expressed interest in revising and/or expanding the CBC charter. One member stated they were interested in expanding the charter to include resident fish.
- Members discussed the possibility of not requiring full consensus on recommendations to pass through the I/IRG and having a majority and minority report when recommendations are not unanimous.
- One member stated that they thought scenario planning could be a useful method to help the CBC plan for the future.

Next Steps and Summary

Liz then previewed the next day's agenda and went over the action items.

Action Items:

- Michael Tehan: Help circulate ocean conditions report.
- Kevin Scribner: Circulate materials on public forum.
- KW: Send photos of comments taken down on notepads

The meeting adjourned at 4:00pm PT.