

Meeting of Columbia Basin Operating Agency Heads and
Lower Snake River Tribes on Cultural Resource Management
November 18, 1996 - Boise, Idaho

The Bureau of Reclamation hosted this session and John Keys, its regional director, greeted the group and served as facilitator.

The purpose of this series of meetings, Keys said, "is for the federal agencies to listen to the tribes, to gain additional understanding of what the tribes would like to see come out of the cultural resource program for the System Operation Review."

Keys distinguished between two related studies, the System Operation Review and Reclamation's Snake River Resources Review, currently underway. "There is no connection between the two."

Keys said the three agency heads would not be able to immediately resolve issues which are voice "but we're here to set up a process to do that."

He emphasized the scope of the process, cultural resource management at and adjacent to the 14 federal water projects on the Columbia and Lower Snake River. The objective was to determine how the Shoshone-Bannock, Burns Paiute, and Shoshone-Paiute Tribes "want to be involved" in cultural resource management associated with these projects.

Keys said one of the major topics during the first of these three meetings, held November 7 in Spokane, was funding. "There are limitations on the funds that we have." The goal is to determine how those funds can best be used.

He said the programmatic agreement (PA) for cultural resource management was drafted and distributed for comments. It is being revised, incorporating comments proposed by the tribes, and will be sent out for another round of review. Columbia Basin tribes will be invited to sign the PA if they are in accord with its provisions.

Also discussed in the Spokane meeting were Records of Decision for the System Operation Review prepared by the three operating agencies. He said they will be sent to the tribes for a brief review prior to being finalized. He reminded the group that the RODS are "focused on the Biological Opinion for operating the structures on the main stem" and that most of the provisions are already being implemented.

Colonel Bart Bohn, acting commander of the North Pacific Division, Corps of Engineers, then addressed the group. He said the federal agencies were not imposing an already developed cultural resource management plan but were there to solicit suggestions.

He said the Corps would soon have a new commander, Brig. Gen. Robert Griffin, and invited tribal representatives to attend an assumption of command ceremony December 3 in Portland. He said the former division commander is now in charge of Civil Works in Washington D.C., a position in which his knowledgeable about the Northwest should be helpful to the tribes.

Introductory remarks were then given by Jack Robertson, deputy administrator of the Bonneville Power Administrator. To place the session in context, he said BPA believes this is an "exceptionally important moment" in the agency's relationship with the tribes. He said a foundation had been created to provide for real progress in the development of government to government relations. The importance of cultural resources to the tribes, he continued, had recently been confirmed by a Bonneville survey. "If cultural resources are important to you, they are important to us."

While noting that Bonneville now has to contend with an increasingly competitive marketplace for energy, Robertson said, the agency hopes to be able to guarantee a stable source of funding for cultural resource management.

The first tribal spokesperson, Linda Reed-Jerofke, Burns Paiute, said interviews with tribal elders disclosed much information about travels throughout areas changed by dam construction, change which "really affected the tribe." Travels included visits to Celilo Falls into Washington State.

About the PA, she said these "aboriginal area rights were not well addressed." Tribal people still travel through these areas for hunting, fishing, and gathering. Reed-Jerofke questioned the PA process, noting that the tribes have not been involved during the past year. The Burns Paiute, she said, were not involved "in developing the paperwork."

Walden Townsend, Shoshone Paiute Tribe, thought the PA should address "intellectual property rights of indigenous people." This could include the medicinal use of plants, from which economic benefit could be derived. He pointed out that "Native Americans have constantly been studied," and felt there should be some return for that service.

Like the Burns Paiute, he said, the Shoshone Paiute Tribe is small but traveled over the entire Basin, "all the way to the ocean", and have an interest in lands affected by the dams.

James Paiva, Shoshone Paiute, said the description of his tribe in the PA should also include the State of Idaho and asked who would be attempting to sign up individual tribes to the agreement.

Bohn said that had not been determined and said suggestions would be welcome.

Reed-Jerofke asked for copies of the PA for those who did not have one. Copies were secured and distributed later in the meeting.

Paiva then describe his tribes efforts to foster tourism by creating two fish and recreation reservoirs. With BPA assistance, a third is currently being developed.

Ted Howard, Shoshone Paiute, asked about the status of Kennewick Man, the 9,300 skeleton found last summer in the Tri-Cities area.

Bohn said the Corps' Walla Walla District has responsibility for dealing with this discovery and is currently operating with the assumption that the Native American Graves Protection and Repatriation Act (NAGPRA) applies.

He was asked to provide background and began by describing the discovery. The pool behind McNary Dam backs up through the Tri-Cities, he explained, and the site of the discovery, Columbia Park, is leased by the Corps to the City of Kennewick.

During the annual hydro-plane boat races this summer "people were wading in the shallow water and they found something and it turned out to be the skull of an individual."

The police were notified and took possession of the skull. There was some question as to "whether this was a very recent person," he continued, and "if it was a crime scene." The Benton County coroner asked a contract archaeologist to view the site. He found an "almost complete skeleton". At the same time, he said, the remains of "several other individuals" washed out on the shore nearby. These remains were also safeguarded "and there is no controversy over them." These "four or five individuals" are "clearly Native American, and they are from more recent people."

Those remains, he said, "will be returned to the tribes at the earliest opportunity. There are no other competing claims."

About the first find, he said, there was question about whether it was a recent man, an early settler, or a Native American. It was determined that there was a spear point in its pelvis which was partially overgrown. The Corps issued a permit to the coroner to send "a small piece of the remains for carbon 14 testing." This came back "somewhere in the 9,300-9,400 year range."

When this occurred, the Corps went to county officials and said the remains were covered under the provisions of NAGPRA and the county transferred custody to the federal government. They were deposited in a storage area in Richland, WA.

Based on requests from the tribes, "we have not permitted access" since they were acquired. "The news people all want to get in, take photographs, and see the remains, and our answer to that is no."

Five tribes have expressed interest in repatriation of the remains. Led by the Umatilla, they filed a claim to start the NAGPRA process. It involves public announcements and a 30 day waiting period. Repatriation would have occurred if the tribes had filed the only claim. Before the end of this period, however, scientists seeking to conduct additional study, requested a restraining order to "block the return of the remains." The court did not grant the restraining order but left open the possibility of imposing it later. The Department of Justice is handling the court cast out of Washington D.C.

The Corps also received competing claims for the remains "from Native American groups and others." This resulted in a request that all parties defend their claims "in terms of geography and history."

"We are continuing ahead as if NAGPRA applies," Bohn declared, but plaintiffs in the court case continue to press for "perpetual access" for research. "I don't see how that will ever be resolved outside of court," he observed. The scientists' case is based on "some fuzzy definitions in NAGPRA" which are being used to assert that the law wasn't intended to apply to the discovery of very old remains. "We obviously didn't accept that," he said, but the matter will probably be decided in court.

Bohn was asked the age of other remains found in the vicinity and said they were only "a couple hundred years" old. He noted that all the sites involved will be stabilized and protected. The Corps, at the request of the tribes, has not released details about these finds.

A new issue was created by requests for copies of documentation of the finds under the Freedom of Information Act (FOIA). This includes photographs, diagrams, measurements, a CAT scan, and the carbon 14 test results. A decision on these requests will be made on the national level, he said, noting that the tribes oppose the release.

Asked about the court proceedings, he said the Corps cannot act unilaterally to repatriate the remains without giving ten days notice.

"I think you know all the arguments," he continued. "that these remains do not appear to be similar to modern Native Americans." He said his response to that is "when I look around the room at the meetings I go to, I see all sizes and shapes of Native Americans." He added, however, that he did not claim archaeological expertise.

Townsend pointed out that the land bridge theory about in-migration 12,000 years ago is being discredited by the "finding of things older and older and older." He added: "professors have a hard time letting go of theories."

Bohn cautioned that newspaper editorials and commentaries indicate that "the tribes are going to have a lot of opposition." As soon they found out about the discovery, he said, scientists "went immediately to the Congressional delegation and they got tremendous support."

Reed-Jerofke said the physical anthropologists involved have been setting up a data base of ancient Americans "and they are saying this is critical to their research." She noted that the anthropological community is divided on the issue of Kennewick man.

Bohn said the Corps' is not taking a position on these questions but is attempting to apply the law. "In this case, it is much closer to the tribal position than it is to the scientists' position." If the tribes do not prevail, he observed, "there is a process for amending the law."

The scientists, he said, "have a very sophisticated network." He mentioned a friend with an interest in archaeology who immediately received information on the Internet about the marshalling of forces.

Lynne MacDonald, Bureau of Reclamation, asked if the NAGPRA review committee had weighed in on the dispute.

"No," Bohn replied, and said he initially thought it would provide assistance. He said the word received by the Corps was that the committee "may be interested later on."

They are interested, MacDonald opined. There are other sites older than 9,000 years of age in this area. She suggested that the committee is waiting to see what happens in court.

Townsend suggested that provisions for dealing with situations such as Kennewick Man should be included in the PA, a "dispute resolution process."

Bohn said between them, federal agencies manage a very large amount of land, "probably lots of remains." Had the Corps

discovered the remains, he said, "we would have controlled them from the beginning."

Elwood Thomas, Sr., Shoshone Paiute, called attention to the long history of removal of Indian remains "for display in glass cases."

Concern about FOIA, information leading to injury of cultural resources, was expressed and Bohn, while expressing sympathy, pointed out that "your histories are of great importance and interest around the country." He said the federal government has a difficult time serving the interests of the entire nation without "encouraging activities which destroy cultural resources." What is important, he said, is to recognize that "these are sensitive issues" requiring consultation before decisions are made.

Howard said the reason he inquired about Kennewick Man was because "I think this is going to be a precedent setting case." He felt the claim that NAGPRA "doesn't go that far back" is another manifestation of government's inclination "to bend the rules to fit their own needs." He said

"there's going to be a lot of other things that are going to be discovered" and that the issue "should be spelled out before we ever step into anything."

Bohn said this could be addressed in plans developed for cultural resource management at each specific project. "That's where you're actually dealing with sites, you're dealing with the boundaries of the federal lands that we're managing, where you're dealing with physical changes, potential damage to sites, or potential access by the public."

Townsend submitted that if NAGPRA doesn't provide adequate protection, the PA could establish protocols for such circumstances.

Bohn said that could be considered.

Howard wondered if such protocols would be likely to prevail in court.

The effort should be made to resolve disputes before they are litigated, Townsend replied.

In the case under discussion, Bohn speculated, such a provision in the PA probably would not have dissuaded the plaintiffs.

It might have, Townsend suggested, if scientists participated in framing the agreement.

Reed-Jerofke noted Oregon has a law requiring the notification of tribes when remains are discovered and said similar legislation should be sought in other states.

Returning to more general discussion, Howard pointed out that tribal people in southwestern Idaho were marched to Ft. Simcoe following the Bannock War and burial sites exist all along that route. "We do have some interests in that area and also in the Hells Canyon area."

Lionel Boyer, Shoshone-Bannock Tribes, declared: "One thing you must keep in mind is that the Indian people were here before any of you even thought of putting a city or a state or a highway. Indian people had already made trails and had utilized all the resources of the total area. Not any one specific area."

About NAGPRA, he said, it "didn't have the Indian people's concerns written into it." He specifically opposed the repatriation of remains from one site to another site which has the effect of saying "you were never there. I don't want that to happen to my tribe, and I'm sure other tribal members don't want that to happen. You have to remember, we were removed from these areas."

In the case of the ancient remains, Bohn noted, negotiations with the interested tribes led to the selection of a site near the discovery location. The remains would be reinterred and protected. It is the Corps policy to defer to the tribes in site selection and manner of burial, he said. This was the procedure used to repatriate remains from the Smithsonian.

Lillian Maynard, Burns Paiute, asked if the Corps of Engineer's concern was only along the rivers.

Primarily, he replied, but "not entirely." It administers the wetlands regulatory program throughout the State of Idaho.

Thomas asked Keys why the Bureau of Reclamation was not represented in the programmatic agreement. He also asked Robertson to indicate how BPA would have responded to a situation like the one created by Kennewick Man.

Keys said Reclamation is responsible for cultural resource management at projects which it operates. Agreements are already in place at Grand Coulee and Hungry Horse, he added, and said there are cultural resource management responsibilities at projects not included in the SOR. He cited as an example American Falls, in the Shoshone-Bannock area of interest.

Robertson said the Corps and Reclamation manage lands around the reservoirs. Bonneville helps fund cultural resource management, he continued, and asked for suggestions for shaping the PA to accommodate circumstances like discovery of the very old remains.

Maynard thought Boyer's reminder that tribal people ranged over the entire area was an important point and needs to be "spelled out" in any agreements.

"In our area," she continued, salmon used to ascend a tributary to the Snake River and people traveled widely. Agreements should reflect this and remains and artifacts protected.

What is required is "an attitude, not just regulations," Townsend submitted.

Boyer, who had been detained at another meeting, was asked for general comments. "As you know," he began, "we have been very disturbed from the beginning" about the SOR and programmatic agreement process. This is because "the tribes were not provided access to the process of putting together the SOR." He said there was some involvement in one element of the SOR, cultural resources.

As was conveyed to agency heads during a visit at Ft. Hall, he continued, the tribes are interested in all of the other elements of the review, economics and other resources. Regarding the PA, he said, the tribes were given to understand that if they did not participate "they would be left out of the whole process."

Since his tribe has "never really accepted the final SOR," a return to the 1991 stage of negotiations is necessary "before we can consider talking about a programmatic agreement."

"I know we have to deal with what a lot of people call progress," Boyer continued, "but progress can be a dangerous animal." He said that "twenty years ago there would be no problem because

you as federal agencies would have done what you wanted to do." The Indian people, he declared, "are becoming aware of your processes and, in order to maintain a way to work together, we ask you to invite the tribes to be a part of it."

"We've come a long ways," he acknowledged, "but the tribes are always patronized, in other words, you knew better than the tribes. The tribes are beginning to say, wait a minute. It's time for us to speak. OK, we speak, but you don't listen. That's my problem."

"We do have to work together," Boyer said, "but don't forget who's land we're talking about."

Keys said he understood feelings "that go back for a long time."

Boyer reminded agencies that assistance for travel had been requested to enable tribes to participate in the process. He thought there had been a commitment but "I guess I should have requested it in writing."

Townsend called attention to a section in PA calling for separate agreements with individual tribes. He asked how they would be developed.

Bohn used the example of the Dalles, which is operated by the Corps' Portland District. Using all information which can be gathered from the tribes and elsewhere, Portland District would begin developing a site specific plan.

He was asked which projects were closest to the group attending this meeting. Dworshak and Lower Granite, dams on the lower Snake River. Walla Walla District would work on these plans. It would develop agreements "based on the input from tribes associated with those lands."

Would this include fish and wildlife?, Townsend inquired.

"Cultural resources issues, primarily," Bohn replied. For each project area, there would be an inventory of cultural resources and a process of determining priorities for management activities.

"Do you have a time line on that?," Townsend asked.

No, Bohn replied, "that will come along after we're past the programmatic agreement level."

Townsend thought treatment of cultural resources in the SOR "was pretty skimpy" compared with fish, wildlife and power.

Reed-Jerofke noted that there had been disagreement between the tribes and agencies in defining cultural resources. "I don't limit it to archaeological sites. I look at fish, wildlife, and the land, a huge list of things I keep in mind when trying to protect or point out things to consider."

This could be discussed during the creation of site specific plans, Bohn responded.

Keys agreed that more than archaeological remains is involved. In terms of the interest of Idaho tribes in SOR projects, he said it would be associated with early hunting, fishing, and gathering activities at or near these projects.

Townsend pointed out that the Shoshone Paiute are "one hundred miles from the Snake River."

"You're connected by the Owyhee River," Maynard observed.

Howard said tribes aboriginal lands extend into Hells Canyon and Oregon. "We have every interest in the world in those areas."

Bohn said the Corps would find it difficult to deal with cultural resources located at a considerable distance from land which it manages.

Repeating his insistence that the tribes, as original residents, occupied "the entire area," Boyer said the SOR included lands from Yellowstone to the Pacific Ocean and told Townsend not to forget, "that's your aboriginal land."

"How can we take care of that?", Keys inquired.

"If you weren't listening," he retorted, "I told you you have to sit down with the tribes. That hasn't happened. This isn't a sit down with the tribes. This is a sit down to give information." The PA, he said, "is in contradiction with itself, because we weren't a part of it."

Robertson responded by saying "we're here in order to reshape, if necessary, the agreement that you're looking at now." It will provide "the architecture that will translate down to site specific areas." A message from the meeting in Spokane, he said, "is that time is urgent. There are activities going on right now that affect cultural resources negatively," he asserted, and there was a feeling that "we've spent too much time talking and not acting."

Wanda Johnson, Burns Paiute, said meetings with individual tribes need to be conducted. She agreed with others about the aboriginal use of a large area but said smaller tribes cannot participate in extensive involvement away from their reservations.

The need, Robertson submitted, is for a time table to move forward so that site specific planning can begin.

Reed-Jerofke said she has heard people say that because the Burns Paiute Reservation is so far from the main stem of the river "what possible interest" could it have in the SOR. In her work with tribal elders, she considered, "I'm always amazed at how far they travel, even today." The tribes aboriginal land "is a huge area and it's a hard concept for the federal agencies to realize."

Interrelations between members of different tribal groups through marriage was pointed out.

Regarding the small current population of the Burns Paiute, Johnson said there were 2,000 people "when they were rounded up." Land on the reservation was lost to "squatting ranchers" and many individuals were scattered to other reservations.

"You talk about Bosnia, you talk about all these countries where they are fighting," she continued, and said that instead of black or Bosnian faces "try to picture Indian people running for their lives."

"People fail to realize that this is how it happened, this was the United States....there's really some sad stories involved."

Bohn said work done by the Burns Paiute and other tribes in collecting their history and earlier movements would be very valuable when site specific planning begins. There is recognition, he continued, that each project "is part of a much bigger picture" but he said the issue at hand is cultural resource protect at and around the 14 dams and reservoirs.

Townsend said it would be necessary for the agencies to meet with Tribal Councils "to have this discussion" on the PA.

Maynard asked for explanation of a section in the draft PA describing the Interagency Agreement.

Bohn said this a document prescribing communication and coordination between the three agencies in implementing the program.

Maryann Armbrust, BPA, said one element of the Interagency Agreement, provisions for funding, is of importance to the tribes and requires input.

The availability of funding for tribal participation in the process was mentioned again and Armbrust said this has been authorized and will be available.

Before breaking for lunch, Keys said one theme had been voiced strongly, the need for consultation with individual tribes.

Boyer said the process may require meetings between the tribes to contend with disagreements between them. It was his conclusion that the process was no farther along than it had been in 1991.

Afternoon Session

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Keys began the afternoon session by returning to the need for consultation by the agencies with individual tribes. "We don't have to have a signed programmatic agreement to do that. There are reasons the federal agencies need some kind of programmatic agreement," he continued, but this consultation will occur whether or not the PA is signed by individual tribes.

"We will start that consultation as soon as you would like us to."

Keys then addressed Boyer's contention that slight progress has been made. "I think we've had some exchanges between us that give us little bit of a foot up." About disagreements between tribes, he said, "we'll send it back and forth and take care of it."

Townsend objected to a provision in the PA declaring that the absence of a response from State Historic Preservation Officers within 30 days would be considered "concurrence." In his experience, Townsend said, non-response often meant disapproval.

Robertson felt that as a result of the morning session and the session in Spokane, "there has been a tremendous amount of progress made." He pointed out that in 1980 "there wasn't a single dime being spent from the hydro system, represented by Bonneville through its rate payers, on fish, wildlife, or cultural resources." Today, he continued, "there are more resources being put in the fish and wildlife area to restoration of species than anywhere else in the world."

The tribes are involved in many of these wildlife habitat restoration programs, he said, the management of cultural resources is now being undertaken.

"One of the lessons I've heard at these meetings is that we may be too narrowly defining cultural resources," Robertson continued. In addition to sites of archaeological interest, fish, wildlife, biology of the earth, plant life are considered of cultural importance.

"I still think that we need to have a sense of urgency among us to act," Robertson declared. He said Bonneville has agreed fund a culture resource management effort at \$3.5 million a year for the next five years. The objective is to have this funding matched by the American taxpayers through the Corps and Bureau of Reclamation.

"It's never going to be enough money but it is money that is guaranteed and it is exceptionally important to take advantage of that because cultural resources are being impacted while we sit here."

Robertson considered Townsend's discussion intellectual property rights "very interesting." As a spare time screen writer, he said he was convinced there are major opportunities afforded by the proper application of intellectual property rights.

This could deal with medicinal properties, knowledge that comes down through tribal traditions, "it could deal with rights associated with books, movies. It may be an opportunity for significant

additional resources for the tribes." Robertson said he would follow up on the possibility of addressing is possibility in the PA.

He also thought that lessons which can be learned from the Kennewick Man controversy are important.

About the PA, Robertson said, "what I'm hearing that is very important is to take the next step as quickly as possible, to drop down into direct relationship building in government to government discussions with tribes."

In his summary, Bohn said he was struck by the importance of the connection those in attendance had with you aboriginal lands and the sites included in the SOR. He also stressed the responsibilities of the agencies under the Historic Preservation Act for cultural resources at other projects which they manage.

"The number one thing that you can help us with is to talk to us about how we prioritize the work, Bohn declared. "What is the most critical activity around a site? How much (funding) do the tribes want to commit to making sure everyone's part of the process" and "how much do you want to commit to actual work on site?"

He raised the possibility of closing recreation areas which are in close proximity to vulnerable cultural sites.

Townsend thought the agencies should not "give up" on the PA. While the tribes had made comments on particular items, he said there was much in the agreement that he considered appropriate.

Keys said there is no plan to "give up" on the agreement. "We're going to try to get it as good as we can with as many tribes as we can." Those who are not satisfied "will still be consulted."

About the \$3.5 million annual funding, Howard asked how many tribes are involved.

With matching funds from the Corps and Reclamation, Robertson replied, it is hoped that \$4.5 million will be available annually for five years. It would be allocated according to project specific plans, described earlier.

It was noted that 14 tribes participated in the SOR.

About intellectual property rights, Howard asked how information about Kennewick Man could be kept off the Internet.

Bohn said there is a much better opportunity to control information if discoveries are made by the agencies. "When the public makes that discovery, there is almost no way to ensure that the information isn't out there." While the discovery in question was made on Corps property, it occurred in a large crowd in a park leased to the city.

John Velehradsky, COE, said the Corps could examine its lease agreements to see if provisions calling for better control of such discoveries could be added.

This is being done, Bohn said, adding that it is very difficult to keep secrets because the public is so deeply involved in agency operations.

Keys mentioned discussion in Spokane about the use of promotional material by a motel and tourist agencies which call attention to sensitive sites. He hoped that measures could be included in project plans to minimize this problem.

Boyer said he was "glad to hear" an acknowledgement that the agencies "can't keep a secret." He said "that's why the Indian people are reluctant to identify their cultural resource sites to you." He added: "As long as you can keep that within your mind set when you're talking with Indian people then you have an understanding of where they're coming from."

Bohn thought protection could be afforded sensitive sites without having the resource identified.

Agency people are continually asking about the location and use of cultural sites, Boyer contended. "We look at every resource on this Mother Earth as a cultural resource. This includes the sky, the air, the clouds. How are you going to take care of that? You've done pretty good already, with all the pollution in the air."

"Specific lands are used for healing," Boyer continued, "and if we identify it, more than likely it's going to be condominium setting on it. There are many springs, healing springs that we used, medicinal springs, that have been destroyed.

"There are many plants that we utilize yet but we can't go over there and protect them, because the first time we protect them, we've identified what that resource is."

Stating again the inclusiveness of the Indian world-view, Boyer said: "Don't get me wrong. There are ways that we can come to an understanding, I don't know about agreement, but understanding. And if we can have that understanding, people will get a little further."

Boyer said tribal representatives "have a lot on our shoulders." They represent not only their own and other tribes, "we represent others that have the same beliefs, the same thinking."

Noting that "the majority of the tribes are at least talking about it", he concluded: "we're still a long ways from getting a complete resolution. We're closer, but we're not there yet."

Returning to the ancient find at Kennewick, Howard asked about the statement that NAGPRA did not cover remains of great antiquity. "I don't remember anything in the NAGPRA law where there was any kind of a time limitation."

This is the plaintiff's contention, Bohn replied, not the Corps of Engineers'

Johnson noted that Indians set aside special areas for burial. About the claim that only recent remains are to be protected, she said "I can't believe that people have that mentality."

Bohn noted that there is "tremendous interest" in the remains for the light they might throw on early North American history.

There was then discussion of a provision in the draft PA referring to cultural resource management at non-federal projects. Utilities operating these facilities are licensed by the Federal Energy Regulatory Commission (FERC).

Ken Pedde, BOR, said the clause was included because of concern about the possible downstream effect of operations at Grand Coulee and Chief Joseph on mid-Columbia projects operated by public utility districts.

Bohm pointed out the FERC has the same obligations for enforcing cultural resource protection laws as other federal agencies.

Candy Jackson, Shoshone-Bannock attorney, said the statement sounded like a disclaimer, an escape from responsibility.

Bohn read the section as an assumption of responsibility, not a disclaimer.

Downstream impacts are most likely to occur in connection with flood control operations, Pedde noted, and thought the clause could be interpreted as a commitment to "not get in FERC's business."

Isn't it all the federal government?, Boyer asked.

"I think we're kind of like tribes," Pedde replied. "Tribes fit into the broad term of Native Americans, we fit into the board term of the federal government. But we don't do our business the same, we don't have the same kind of government, we don't even talk the same kind of language sometimes."

Townsend said he had worked with FERC for four or five years on projects on the Snake River and the agency had evinced little interest in cultural resources.

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Robertson proposed that an important principal was involved. "Those who benefit should pay a share of the costs." He thought the clause addressed the problem of thinning the funding pool for cultural resources by requiring non-federal parties who benefit from the federal system to share in the cost.

In summary, Keyes said the draft PA will be revised and sent out for another review following the December 2 meeting in Portland.

Boyer asked about the possibility of funding for a joint meeting of Columbia River tribes prior to the December 2 session.

John Smith, BPA Native American coordinator, said the meetings had been set up to provide tribes from each portion to the Basin an opportunity to discuss their unique problems. The December 2 meeting was scheduled for the four lower Columbia tribes, he added.

It was determined that funds would be sought for a caucus by all Columbia Basin tribes following the series of meetings.

Robertson announced a meeting by agency heads to consider future direction following the December 2 session.

Jackson expressed appreciation for the visit by agency heads to "the smaller tribes."

Paiva said the meeting "covered a lot of ground" and proposed getting beyond Kennewick Man to "spend our time on the living, our kids."

Attachment A

In Attendance:

Linda Reed-Jerofke, Burns Paiute, 541-573-7108
Wanda Johnson, Burns Paiute, 541-573-2088
Maria Teton, Burns Paiute, 541-573-2088
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Elwood Thomas, Sr., Shoshone-Paiute, 702-757-3211
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