

RESTORATION TEAM/RESTORATION PLANNING WORK GROUP MEETING
NOVEMBER 6, 1992
8:00 a.m.

ATTENDEES

Veronica Gilbert
Art Weiner
Marty Rutherford
Jerome Montague
Henry Gerke
Pam Bergmann
Sandy Rabinowitch
Carol Gorbics
John Strand
Mark Brodersen
Ken Rice
Bob Loeffler
Byron Morris
Chris Swenson
Mark Fraker

AGENDA

Discussion of Draft Alternative Themes
Discussion of Preferred Alternative(s) for EIS/Restoration Plan
Other Peer Review Conclusions/Information Gaps
Updates
Contract to Coordinate Development of Comprehensive/Integrated
Monitoring Plan
Update on Contract to Review/Synthesize Literature on Recovery of
Ecosystems from Disturbance

John gave an overview of RPWG's proposed agenda which includes updates on contract and consultant work.

DRAFT ALTERNATIVE THEMES

Veronica provided discussion on draft alternative themes and stated RPWG members were canvassed to determine what information would be useful to provide to RT members. The two questions RPWG would like answers to are: do the themes capture a reasonable range and have the correct variables been addressed? Veronica briefly discussed how the alternatives were developed. Alternatives are reasonable combinations of restoration options designed to show the effects of different choices.

Veronica provided the following diagram showing the contrasts in developing the alternatives:

Framework	A	D	F			
Alternative	1	2	3	4	5	6
Theme/Variab le	Nat'l Rec.	Prot.	Ltd.	Mod.	Exp.	Comp.
1. Injury	X	All	Ltd.	Ltd.	All	All
2. Knowledge of Recovery	X		K			
3. Effec- tiveness		PR	H	M+H	H	M+H
Certainty			H	M+H	H	M+H
4. Geograph- ic	X	EVOS	EVOS	>EVOS	EVOS	>EVOS
Settlement Characteris- tics		DR Repl	DR	DR Repl AER	DR Repl AER Enh	DR Repl AER Enh

Jerome raised the issue that monitoring should be included in variables one and two. Mark stated that injury should also be picked up because you only monitor that which was injured. Mark also pointed out there is a lot of action, such as normal management actions, involved in the no action alternative. Byron questioned if Alternative 1 would discuss all money not used. Bob stated that Alternative 1 is required by the EIS. Ken stated it is also required by CERCLA.

Veronica stated settlement characteristics were used mainly as a description but not as a variable. It may be wise to drop it at this point. In the database we are able to use criteria which enhances protection. Art stated that the settlement should be looked at as a tool box. While you are not required to use every tool, the database has identified those tools most appropriate, using a particular theme. Carol stated this presentation is not intended to discuss everything but where RPWG is now. Jerome suggested using a "greatest emphasis approach" to the alternatives. Ken stated that the Trustee Council's direction needs to provide the Restoration Team with guidance on how to develop a plan. By having it so broad, you can't logically say a set of programs should have emphasis over another set of programs. By narrowing emphasis, the alternatives give some direction. Ken stated that the theme is the most critical point. RPWG may want to hear

discussion on whether other approaches to themes are preferred. Art stated some people seem to be saying that each alternative needs to include all elements of the settlement. Marty stated she felt this would be inappropriate. Marty suggested for clarity discussing the different actions accommodated by the alternatives. Byron suggested the minimum level would be to enhance what you have. Henry stated that theme is related to what type of action you put into it. Marty suggested letting Veronica walk completely through the table.

Veronica stated this table is a simple way to compare the fundamental differences.

Injury - in certain alternatives we would look at all injured species and services. In Alternatives 3 and 4, we only look at species and resources injured at a population level. An example is pink salmon, because it experienced egg mortality but no real decline in population. Art stated that the plan will reflect new information as it comes in. John stated that this will be dealt with under the implementation phase.

Knowledge of Recovery - this variable is very narrow. RPWG used it in only one alternative. It reflects the view of not spending any money on anything unless there was actually a population decline, and there is information on recovery. Questions have been raised regarding what is being done for recovering species. That judgement would not fundamentally differ across species but would probably be uniform across the board.

Effectiveness - this variable was influenced tremendously by the peer review session. This variable is split between effectiveness and certainty because in the basic criteria which looks at the potential of a restoration action to improve the rate and degree of recovery, the peer reviewers feel it is important to measure uncertainty and how sure we were. Veronica stated in her table "high" means produces the greatest improvement. Jerome stated the key words are "greatest improvement or rate" and felt enhancement should be included. John stated this appeared to look very narrowly at salmon. Byron asked what is expanded about the expanded option. Veronica stated it is expanded relative to the species. Ken stated enhancement is above 100% and not all alternatives allow you to go above 100%. Carol stated that the number of things which can be done for each species is limited. Bob suggested a way to address Byron's point, which might be useful, would be to have a key title which leads people into the distinction. Byron asked if we need to distinguish 4 and 5. Ken stated we need to see if there is a measurable difference between the two, and it might be too early to combine them. Henry stated once specific actions are broken down, then you know where your emphasis is. Until then, you don't know what you are comparing. Ken stated that if you look at the theme/variable, a certain listing of species fall out, leaving the resources/services you

will be focusing on. Art stated this brings in an element of arbitrariness. Ken stated you must have a reasonable reason or assumption of why you are using that approach. Byron stated there seems to be a bias in the way the alternatives are structured against services. Veronica stated injured services are included across the board without any distinction to the nature of the service. Veronica also stated on Alternatives 4 and 6 you pick up all restoration actions which have moderate or high potential to improve the impact on the service. Ken stated in looking at the alternatives, excluding #1, there seems to be a logic break. Within developing the theme directions, this jumps out at him as a different set of rationale. Art stated you break out of the logic scheme to prevent further degradation. Ken raised the issue of public comments which state we need to emphasize what happened and the science of it. There is a lot of public comment for habitat protection. Carol stated this prospective was explored during a role-play-exercise RPWG conducted. Bob stated that the framework alternatives were used; however, some of them didn't make sense. Art stated the need to prevent further degradation to the injured resources was captured in one of the alternatives. Ken stated he assumed Alternatives 3-6 would capture protection as a variable. Art stated there is a lot that can be done to prevent exacerbation of injury. Jerome stated that one approach would be in Alternative 2 to use most of the money for protection and split the rest of the money among everything else. Pam stated that the sorting criteria could be used to come up with the different gradations. Carol stated that protection could include non-land acquisition. Also, there are species for which no mechanisms have been identified. Carol stated that RPWG does not personally prefer all the alternatives but they must be on the table. Art asked aren't we suppose to give the public choices. Alternative 2 gives the public a distinct choice. Marty stated we must give the public clear choices or they might come up with their own. Ken stated protection is not driven by science but by public comment. Sandy stated that Brian Sharp says to forget everything else and go buy land. Byron stated that Alternative 2 may be a clear choice but 3-6 are more fuzzy. Carol stated that the options which will fit into these alternatives are somewhat restrictive.

Geographic Constraint - there is a great deal of work needed in this area to define the EVOS area. RPWG recommended that protection be limited to within the EVOS area.

Veronica stated that when RPWG met with the peer reviewers, one point they made was that criteria should be developed that addresses things which may improve public perception. RPWG is working on how to state these criteria. Henry stated that the public or decision makers can't make decisions on impacts or to determine what is in their best interest. It doesn't stand out. Art stated Henry may be asking for a demonstration between the relationships of the affected resources. Henry stated that the process may be too complicated and a disadvantage for a decision

maker or reviewer. Byron stated he has a problem in sorting out the choices in Alternative F. Pam stated when you start to put the choices together vertically, it becomes more difficult. We need to resolve if we want pie diagrams for 2-6. Carol asked what the pieces would be (money?). Pam stated she would have broad categories and the pie would be the percentage of the money to address those categories. Pam stated how you spend slivers of the pie would depend on the variables. Art asked if Pam had a problem with presentation or internal logic. Pam stated she hears two different themes and it makes sense to her to take the pie approach. Once we get agreement on the themes, then you generate specificity. Bob stated the database will be refined as information on cost is added. Pam stated the table does not include all the various options. Mark asked what is the argument for including the options. John stated one approach is having varying degrees of money allocated to each of the settlement characteristics. Bob stated there are some problems in using the settlement characteristics because they are not mutually exclusive and options could fall into more than one category. Veronica stated if you did go with the pie approach, the peer reviewers suggested including "other restoration activities". If the RT wants a basic fundamental approach, RPWG needs to know if they want it done arbitrarily and the kind of information wanted. Bob asked if it would be possible to use this approach but once cost is added, you could diagram it on the pie chart. Pam stated it would be nice if these approaches could be combined. Ken stated he agreed with Pam; however, it would need further refinement from RPWG.

Art stated that in some cases the technical feasibility may not be that great, but there is a compulsion to do something for those species which were grievously affected. Ken stated the further refinement is how much do we want to put into unproven technology. Bob stated there are certain protective measures which have a lesser degree of certainty but you might want to do them or watch a species go extinct. Byron stated that cost benefit will be built in through this whole process in every option. Veronica stated effectiveness measures the rate or degree, and certainty reflects the range. Byron stated we don't want to limit ourselves to certainty. Veronica stated you have to look more at risks. Pam suggested footnoting that certainty doesn't apply to feasibility studies but to implementation projects. Ken stated that effectiveness is being measured across species lines and not species. Art stated it is done on an individual option basis. Ken stated you are always going to choose what is best within that species regardless. Veronica stated the peer reviewers mentioned Ken's point. Pam stated 3 and 4 are conservative and liberal approaches, and 5 and 6 are conservative and liberal approaches. Marty stated that in future presentations it should be highlighted that there are discrete pairs. Mark stated that we are going to pick pieces of alternatives and not necessarily favorites. Marty stated that we need to ensure that we have accommodated all the different selections to capture what the public says is their alternative.

Pam stated 4 and 6 are the more liberal alternatives and to make them more distinct you could add "do feasibility studies of untried techniques." Bob stated he didn't feel this would work. If you have a very good technique, you should be able to do a feasibility study. Ken suggested letting RPWG consider this idea. Carol stated that RPWG will go to the database to see if there is any change after this analysis. Jerome stated the alternatives are a matter of emphasis and are not exclusive and felt this is a legal question for the attorneys. Marty disagreed and stated that the settlement says there is a perimeter of things you can do. Ken stated there are two levels of exclusion: 1) in the alternatives you arrive at some exclusion and 2) within the funding there is further exclusion. There is nothing wrong with this exclusion because there are limited resources. Marty stated responses from the public will be less than useful if there are too many choices.

Veronica stated she and Mark Fraker have the task of addressing cost. They will need to look at how many, where and how much to spend to come up with a per unit cost. Cost may not translate directly into a clean pie chart and more direction may be needed. Mark stated you need some feel for what amount of activity you can do. Pam stated the DEIS will quantify the impacts of the alternatives. Marty stated the Trustee Council wants to narrow their choices. Mark stated he would guess the choice would be a combination of Alternatives 5 and 6. John asked Byron and Jerome if there was an increased level of comfort. Jerome stated that he felt the Trustee Council would view the RT as being insensitive to their interests if he gave in at this point. Ken asked if there is something precluded which the Trustee Council could not choose to do. The preclusion comes when they decide on a course of action. Pam stated that if #6 is chosen, nothing is precluded. Mark stated that every time the RT has gone to the Trustee Council for guidance, they have said come back on a case by case basis, which indicates they want more flexibility. Marty stated we are supposed to be giving clear themes which the public can react to. Jerome stated that this will force the Trustee Council to Alternative 6. Marty disagreed and felt that after public comment this would not be true. Byron asked if we have forced them to choose Alternative 5 or 6. Mark stated you can take any piece to construct the final. Marty stated that after public comment a different combination may result in another alternative. Pam stated the Trustee Council should make a decision that has a broad base of public support if the settlement is to stand. Pam also stated that we must provide distinct and clear alternatives to the public. Marty stated that the Trustees are responsible for serving the public. Ken disagreed and stated their responsibility is to the resources.

Marty suggested that Jerome talk with legal advisors for a better understanding. Mark suggested bringing this up at the next RT meeting on the 18th and that RPWG get back with them after reviewing the database. John asked if we can proceed with this concept. Byron stated he would be satisfied with throwing out the

settlement characteristics as a variable.

PREFERRED ALTERNATIVE

Carol led a discussion on the preferred alternative. RPWG recognized there will be some difficulty and controversy in coming to terms with a preferred alternative. Carol stated we started off with the following framework alternatives:

- A. No Action
- B. Management of Human Uses
- C. Manipulation of Resources
- D. Habitat Protection and Acquisition
- E. Acquisition of Equivalents
- F. Combination Alternative

These were laid out as possible alternatives the Trustee Council could consider. RPWG chose two, D and F. RPWG discussed how to pick among these for a preferred alternative. NEPA allows selection of more than one preferred alternative. RPWG would like to move ahead with this approach and would restrict the Restoration Plan to looking only at the preferred alternative. The TC will have two preferred alternatives. The Restoration Plan will only consider D and F, and the DEIS will consider A-F. Ken stated he has a problem with that. Marty stated this approach might be dangerous and confusing. Ken stated we are premature to even be talking about a preferred alternative, which is a decision point for the Trustee Council. Ken preferred that we deal with a suite of alternatives from which the Trustee Council can reasonably decide. Carol stated RPWG felt we had to provide the preferred alternative because the EIS contractor asked RPWG, and also this approach gives the Trustee Council a graceful way of looking at the preferred alternative. Veronica stated RPWG was told the CEQ regs require a preferred alternative. Henry stated that McVee has said that the preferred alternative is a Trustee Council decision. Ken stated the RT does not expect RPWG to come up with a preferred alternative. There is allowance for not going out with a preferred alternative. The Trustee Council might not discuss the preferred alternative until they know what the environmental consequences are. Ken stated that it is not a procedural error if the Trustee Council does not give a preferred alternative. Mark stated we are making a fairly strong recommendation by not making a recommendation. Marty stated the peer reviewers feel that going out to the public with a preferred alternative will only exacerbate a bad situation. The public needs to feel there is an open menu and they are free to choose. Henry stated you are putting the public at a distinct disadvantage when you don't go out with a preferred alternative. RPWG has received clear guidance from the RT that they will not be required to provide a preferred alternative. Byron asked if we end up with some hybrid alternative, is that the Restoration Plan. Ken stated we then examine the measurable difference between the preferred alternative and the hybrid

alternative. Byron expressed concern regarding whether there will be adequate opportunity for public comment to the final Restoration Plan. Mark stated the 1994 Work Plan will not have benefit of the final Restoration Plan. The Trustee Council has the option of going to the public for review and comment between the draft and final EIS. Ken stated that the Trustee Council has the discretion of going out with supplements when the purpose of the supplement furthers the action.

DATA GAPS

Bob gave a presentation on data gaps and diagramed the following areas of concern voiced by the peer reviewers:

1. Increased specificity (database changes)
2. Further refine options for services
3. Cost
4. Geographic distribution
5. Agency activities critical to restoration
6. Ecosystem effects

Degree of recovery (percent of pre-spill) is 100%. Rate of recovery is how long it will take to get there. Interviews will be conducted with the peer reviewers to quantify rate and degree of recovery. Karen Klinge will lead the interviews to gain specificity. The peer reviewers felt some options were too broad, especially with respect to services. In recreation, knowledgeable people will be identified to emphasize perception changes. Without geographic distribution, the public cannot visualize what is happening in their backyard. With Jess' assistance, RPWG can use maps to document where the injury occurred and where the options are proposed. After Christmas RPWG will list the agency programs critical to restoration but not the funding levels. Carol stated that this will be only about 3 pages at the most. Bob stated it was suggested that rather than looking at these gaps option by option, it was decided to look at them with respect to ecosystem effects. Data gaps 1-4 are a lot of information to obtain in the next few months. Henry asked when the Trustee Council would receive the alternatives. Bob stated the scheduled date for a draft is December 15, and a final in early to mid-February. Henry questioned when the public would have an opportunity to scope the EIS, which is a significant part of the EIS process. Ken stated that scoping is a process of narrowing down what your needs are going to be and what are the alternative ways of moving forward. If we go to the public with a generic proposed action, then the feedback from the public is fairly general, as well as the plan and the EIS. Refining the issues may not be that critical if the comments are fairly general.

CONTRACTS

John discussed the four literature synthesis reports which are

nearly complete. The reports will increase specificity relative to recovery rates for some of the injured resources. Copies of the final reports are available for the Restoration Team's review and will be forwarded.

John updated the RT on the consultant to assist with the monitoring program design, which deals with the conceptualization. The source evaluation board is about to complete their deliberation and will meet on Monday. John will work with them to come to consensus on a recommended way to proceed and will forward the recommendation to the Restoration Team. Ken asked if there were strong bids. John stated that the present bids were \$86,000 and \$133,000. Reference checks have revealed some problems. The lowest bidder does not have a very good track record. Additional information is being obtained to proceed with a recommendation. The initial funding of \$70,000 was for considering resources only. John stated we would need about \$63,000 from the DEC account held for RPWG. The contractor at \$133,000 is the most acceptable technically; therefore, John will request the additional funds to support this contract. An independent source is checking references, and the information will be forwarded to the source review board. Byron asked if RPWG was asking for RT approval. John stated the board will make a recommendation to the RT for approval since this is a RPWG contract.

Meeting adjourned at 12:20.