

**PORT OF LEWISTON
MINUTES OF REGULAR MEETING**

September 13, 2017

The regular meeting of the Port Commission was held at the Port District Office at the hour of 12:00 p.m. on September 13, 2017.

Present at the meeting were Port Commission President, Mike Thomason, Port Commission Vice-President, Jerry Klemm, and Port Commission Secretary/Treasurer, Mary Hasenoehrl. Administrative staff in attendance were David Doeringsfeld, Port Manager, and Jaynie Bentz, Assistant Port Manager. Port Commission President, Mike Thomason, convened the open meeting at 12:02 p.m.

AGENDA APPROVAL:

Port Commission President, Mike Thomason, called for review of the agenda. Commissioner Hasenoehrl made a motion to approve the agenda as presented; seconded by Commissioner Klemm. The motion passed unanimously.

CITIZEN COMMENTS: -- None.

ADOPTION OF MINUTES:

The Port Commission examined the Minutes for the Regular Meeting of August 9, 2017, and Special Meeting of August 23, 2017. Commissioner Hasenoehrl made a motion to accept all Minutes as presented; seconded by Commissioner Klemm. The motion passed unanimously.

MANAGER'S REPORT:

Active Agenda:

Manager Doeringsfeld presented the Port Commission for consideration of approval a land lease agreement between the Port of Lewiston and Lewis Clark State College renewing a 5-year term effective April 1, 2018, for approximately 5-acres on 3rd Avenue North for an initial rate of \$2,500.00 per month. Recommending approval of the agreement, Manager Doeringsfeld clarified this is the location of the LCSC skid pad

area. Commissioner Hasenoehrl made a motion to approve the renewal of the Lewis Clark State College land lease agreement as presented; seconded by Commissioner Klemm. Voting Aye – Commissioners Thomason, Hasenoehrl, and Klemm. Voting Nay – None. The motion passed unanimously.

Next, Manager Doeringsfeld presented a land lease agreement for approximately 1-acre with a 90-day term between the Port of Lewiston and United Parcel Service, effective November 1, 2017. Manager Doeringsfeld referenced an aerial map indicating the proposed area is south of the LCSC Skid pad. Commissioner Klemm made a motion to approve the land lease agreement with United Parcel Service as presented; seconded by Commissioner Hasenoehrl. Voting Aye – Commissioners Thomason, Klemm, and Hasenoehrl. Voting Nay – none. The motion passed unanimously.

Manager Doeringsfeld presented for review and consideration of approval the Port of Lewiston's support for the "Idaho Position Paper" concerning the Columbia River Treaty. The Idaho Position paper was developed by the Coalition for Idaho Water (a group comprised of a broad range of Idaho Stakeholders). Discussion was had regarding the concern negotiations will have to Idaho stakeholders as well as possible negative impacts. Manager Doeringsfeld recommended approving support of the letter by Coalition for Idaho Water so that Idaho speaks with a united voice. Commissioner Hasenoehrl made a motion for the Port of Lewiston to approve support of the Idaho Position Paper by the Port of Lewiston; seconded by Commissioner Klemm. Voting Aye – Commissioners Thomason, Klemm, and Hasenoehrl. Voting Nay – none. The motion passed unanimously.

For consideration of approval, Manager Doeringsfeld presented an offer by Lohman Helicopter, LLC to purchase approximately 3.23 acres of land located in the Harry Wall Industrial Park for a total price of \$266,475.00. Manager Doeringsfeld stated that there was also interest discussed regarding an adjacent pad site. Manager Doeringsfeld conveyed that discussions are in their infancy and he recommended tabling the vote until additional information and details could be communicated between both parties. In attendance were owner, Christine Lohman, and a Lohman Helicopter staff person, and via speaker phone owner, Morgan Lohman. Open discussion was had between the Lohman representatives, Port Commissioners and Port staff regarding various topics including but not limited to: leasing vs sale of land, size of

land needed, current and potential number of company employees, flight paths from the proposed sites, FAA oversight, confirmation that fuel storage will not be on site, description of operations planned including aircraft repair, a paint booth and corporate offices, noise impact on neighboring properties, confirmation that there is no interest in providing helicopter tour services, number of buildings and sizes, the need for a conditional use permit by the city of Lewiston, planned security improvements, cost of planned investment to site, concern for proximity of area power lines, etc. Consensus was had to table the vote until further discussion could be had between the parties. Port staff was directed to continue to work with the Lohman's on terms and conditions for further consideration. The Port Commission thanked the Lohman's for their interest, their time today and their offer to tour the Port Commission through their existing facility.

Non-active Agenda -- Miscellaneous Project Review/Updates & events:

Harry Wall Grading Project update – All parts have arrived for the installation of the pressure reducing valve. Installation is scheduled for next week.

Removal of Transient Camps on Port Property – A contractor is scheduled to clear and grub the base of the draw for cleanup on November 13. Notification will work backward from the cleanup date to provide sufficient notice to any occupants. LPD will be present for safety purposes.

Tenant News – Pacific Steel & Recycling has a new manager, Dan Gandy. Terry's Dairy has provided notice of lease termination for the end of September. Excel Transport's security deposit held on the old 3B's shop will be fully refunded. LC Ice Arena kicks off its new hockey season Sept 17th with a "Learn to Play Hockey" event.

Community Outreach Update – The Nez Perce County fair is scheduled Sept 21-24. Staff is developing booth content. The Port of Lewiston will participate in Riverfest, hosted by the Port of Clarkston, scheduled for September 30 at Granite Lake Park.

Upcoming meetings/events:

Sept 20 – Port of Portland Customer Appreciation reception at Lindsay Creek Winery

Oct 11 – Next regular Port of Lewiston Commission meeting; due to conflicts discussion was had to reschedule the meeting to noon on Monday, October 9

Oct 17, 18, 19 – PNWA Annual Conference in Portland

TERMINAL II, DOCK OPERATIONS AND FIBER OPTIC NETWORK REPORTS:

Terminal II (Inland 465) -- David Doeringsfeld, Port General Manager, reported that Space Builders will begin the last major application to the roof in October, weather permitting. General repairs and maintenance to the roof are expected to remain ongoing.

Terminal I (Public Dock Facilities) -- Port Manager, David Doeringsfeld, next reported that Clearwater Paper imported five barges of sawdust in the month of August. Discussion was had regarding the halt to navigation due to smoke in the gorge from forest fires.

Year to Date container shipments remain at zero with wheat shipments down - 7.70%. Container shipments and wheat shipments for the month of August, as compared to the same month last year, reflect a -100% change in container shipments and a decrease of -25% in wheat shipments for the month. A Year to Date and August shipping summary of statistics was reviewed.

Manager Doeringsfeld reported that the Port's rail bridge coming into the container yard will be closed next week for repairs by Railworks. The estimated cost for the bridge repairs is \$23,000.00. Also, the new Watco rail inspector has identified the need for the Port to replace 96 ties within the Port's track system. Manager Doeringsfeld reported that this is necessary work and the ties will be replaced by Watco within the next 30-45 days. He would like to allow Port customers a little time to recover from being down from the bridge work. The tie replacement work has an estimated cost of \$23,000.00.

Fiber Optic Network – Jaynie Bentz, Assistant Port Manager, reported that staff is working with Outside Plant Management on various route designs to determine the best plan for the next round of phased buildouts. Additionally, several businesses have hooked up to the system and Inland Cellular recently became a customer.

COMMISSION COMMITTEE REPORTS:

Commissioner Hasenoehrl/Urban Renewal Agency— Reported that the URA approved rebates for (Revenue Allocation Area) RAA #2 and approved the wording to extend time to the McCann's for the Nez Perce Drive project. She also discussed how parcels can opt out of the new RAA #5 area.

Commissioner Thomason/Valley Vision/Chamber of Commerce Board – Reported that this is the third year of the Chamber's Leadership program and it has the largest class size.

Commissioner Klemm/LC Valley Chamber Government Affairs Committee, Chamber Natural Resource Committee, PNWA Board of Directors – Reported that the Government Affairs Committee meetings have moved to Jollymore's due to the China Inn closing. In reviewing activities of the Natural Resource Committee, Commissioner Klemm complimented LC Valley Recyclers for their active participation within the community and the committee.

FINANCIAL REPORT:

As the next order of business, the Port Manager presented a Financial Statement prepared by the Port Auditors for two months ending August 31, 2017. The Port Manager next reviewed a Port Financial Summary concerning the status of Port funds on August 31, 2017. After the report, Commissioner Hasenoehrl made a motion to approve the Financial Report as presented; seconded by Commissioner Klemm. Voting Aye – Commissioners Thomason, Hasenoehrl and Klemm; Voting Nay – None. The motion passed unanimously.

ACT ON CLAIMS:

The next order of business was review and discussion of claims against the Port as presented by the Check Detail Sheet. A motion was made by Commissioner Hasenoehrl to approve and pay Port vouchers Nos. 19895 through 19975 and EFTPS for a total amount of \$97,920.82; seconded by Commissioner Klemm. Voting Aye – Commissioners Thomason, Hasenoehrl and Klemm; Voting Nay – None. The motion passed.

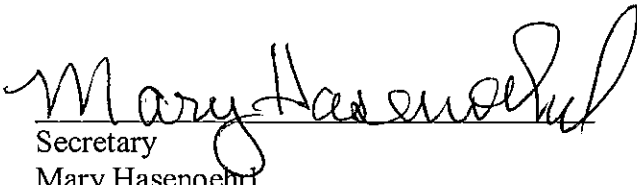
OTHER BUSINESS:

Commissioner Klemm asked Manager Doeringsfeld if he was aware of where Excel Transport moved their shop operations. Manager Doeringsfeld replied he was uncertain but assumed that it had been consolidated within one of their other buildings.

Commissioner Klemm also complimented Port staff member, Chad Smith, for his ongoing efforts in keeping Port grounds and facilities looking nice.

EXECUTIVE SESSION: -- None

Being no further business, the meeting adjourned at 1:20 p.m.


Secretary
Mary Hasenoehri

Columbia River Treaty Review The Idaho Position

This position Statement outlines the current position of a broad range of Idaho stakeholders (identified below and collectively referred to as “Idaho Stakeholders”) on the efforts to modernize the Columbia River Treaty (“CRT”) with Canada.

I. Hydropower:

The CRT provides for an “entitlement” for power benefits derived from the agreement. *See CRT Article V.1* (“Canada is entitled to one half the downstream power benefits determined under Article VII”). The entitlement is determined as “the difference in the hydroelectric power capable of being generated in the United States of America with and without the use of Canadian storage, determined in advance, and is referred to in the Treaty as the downstream power benefits.” *CRT Article VII; see also CRT Annex B ¶ 1* (“The downstream power benefits in the United States of America attributable to operation in accordance with Annex A of the storage provided by Canada under Article II will be determined in advance and will be the estimated increase in dependable hydroelectric capacity in kilowatts for agreed critical stream flow periods and the increase in average annual usable hydroelectric energy output in kilowatt hours on the basis of an agreed period of stream flow record”). Over time, this “Canadian Entitlement” has proven to greatly exceed the actual benefits. Discontinuation of the Canadian Entitlement would result “in an overall increase in annual revenue for the United States (about \$180 million to \$280 million).”¹ As explained in the Regional Recommendation, at page 4, “rebalancing is necessary because the present Treaty power benefits are not equitably shared and Canada is deriving substantially greater value from coordinated power operations than the United States.”

Idaho Stakeholders take the following position on Hydropower:

1. The Canadian Entitlement should be rebalanced to reflect actual value of coordinated operations.

II. Flood Control:

The CRT provides for guaranteed flood control until 2024 using reservoirs designated for “system wide” flood control.² *See CRT Articles II & IV*. At that time, the CRT provides for “called upon” flood control. *CRT Article IV* (full text below). The CRT provides for compensation for this “called upon” flood control. *CRT Article VI* (full text below). In the January 22, 1964 “Protocol – Annex to Exchange of Notes,” the US and Canada provided that

¹ <https://www.crt2014-2024review.gov/Files/Columbia%20River%20Treaty%20Recent%20Study%20Results%20-%20FINAL%20June%202012%20-%20singles.pdf> (viewed Aug. 18, 2017).

² At times, these reservoirs are also considered “treaty reservoirs” and include the following dams: Libby, Hungry Horse, Dworshak, Brownlee, Kerr, Albeni Falls, Grand Coulee, John Day. These reservoirs were authorized to provide flood controller operations for the entire Columbia system. This is distinguished from dams authorized for “local flood control” – i.e. to address localized flood risk. In Idaho, reservoirs such as Palisades in the Upper Snake River Basin, and Lucky Peak, in the Boise Basin, are authorized for local flood control operations and not system wide flood control.

the “called upon” flood control would be used “only to control potential floods in the United States of America that could not be adequately controlled by all the related storage facilities in the United States of America existing at the expiration of 60 years.” (Emphasis added).

The Canadian Entity has taken the position that “called upon” flood control operations would require the use of “all the smaller US reservoirs on the Columbia, Snake and other tributaries.” *US Benefits from the Columbia River Treaty*, BC Ministry of Energy Mines, at p.9 (June 25, 2013). It concludes that “such operations would likely impact multiple water uses on these smaller reservoirs.” *Id.* Idaho Stakeholders are concerned that Canada’s interpretation of the “called upon” flood control provisions would impact the operation of water facilities throughout Idaho (including storage projects in Idaho’s upper Snake River basin above Brownlee Reservoir). Many of these water facilities are used to provide local flood control, irrigation storage and other benefits, including recreation, navigation and fish and wildlife. Changing operations to provide system wide flood control would have an adverse impact on the operation of water facilities throughout Idaho, including North Idaho lakes and rivers.

Idaho Stakeholders take the following position on Flood Control:

1. The CRT flood control provisions should be renegotiated prior to 2024 to provide for coordinated flood control operations consistent with the guaranteed flood control operations that have been in effect since the CRT was initially executed.
2. There should be no additional flood control obligations placed on Idaho’s storage projects, water facilities or water users. The term “Idaho’s storage projects” includes the private and federal storage projects in Idaho or on rivers forming the Idaho border.
3. “Effective use” of the US storage system should not place any additional flood control obligations on Idaho’s storage projects or water facilities and should not alter or affect State-based water rights, State Laws or Congressional Authorizations, including the Snake River Water Rights Agreement (i.e. the Nez Perce Settlement Agreement) of 2004, in any manner.

III. Ecosystem Function:

As part of the effort to “modernize” the CRT, the US Entity Regional Recommendation includes new “Ecosystem Function” purpose for the treaty. This new purpose has not been defined. Idaho Stakeholders take the following position on the proposed Ecosystem Function purpose:

1. The US Entity should reconsider and eliminate Ecosystem Function as an additional purpose of the CRT. Habitat and other ecosystem functions are already addressed under current US and State-specific laws and regulations – including, but not limited to, the Endangered Species Act and the Clean Water Act. These laws and regulations

impose conditions and limitations on the use and development of Idaho's water resources and are sufficient to protect the ecosystem functions of the Columbia River Basin.

2. Any Ecosystem Function that may be included in a renegotiated CRT should not affect Idaho storage projects, water facilities or water users and must not alter any state-based water rights, State Law or Congressional Authorizations. This includes, but is not limited to the 2004 Snake River Water Rights Agreement (i.e. the Nez Perce Agreement), which was ratified by Congress. *See* Snake River Water Rights Act of 2004, Pub. L. No. 108-447, 118 Stat. 2809, 3431 (div. J, title X of Consolidated Appropriations Act of 2005). The agreement includes several components – including a flow augmentation component that provides for the annual release of up to 487,000 acre feet of water in the Snake River Basin. The obligations and protections of Nez Perce Agreement should not be altered as a result of any renegotiation of the CRT.

IV. Negotiation Process & Potential Termination

Under the CRT, either Country may terminate the treaty by providing 10-year notice of such termination. *CRT Article XIX.2*. However, termination does not affect the “called upon” storage provisions of the CRT – which will remain in effect “until either the end of the useful life of those facilities or until those conditions [identified in Article IV.3] cease to exist, whichever is the first to occur.” *CRT Article XIX.4*.

Idaho Stakeholders have 2 goals in modernizing the CRT: (1) updating the Canadian Entitlement to reflect current conditions; and (2) identifying and clarifying post-2024 flood control operations. However, the ability to bring Canada to the table to renegotiate these important terms is uncertain. Although there are modeling exercises being conducted to look at post-2024 flood control, there have been no substantive negotiations on these issues.

Idaho Stakeholders take the following position relating to the ongoing negotiation process and potential termination:

1. Modernizing the CRT should be accomplished through an amendment, minutes or other similar process and should be limited to addressing (1) the Canadian entitlement and (2) post-2024 flood control operations.
2. The US Entity should begin *substantive* negotiations with Canada on the Canadian Entitlement and post-2024 flood control operations before the end of 2017. Further, the US Entity should regularly review the progress of negotiations. If, at any time the US Entity determines that substantive negotiations are not making progress toward a renegotiated CRT, a Notice of Termination should be submitted.

3. The US Entity should prepare an updated statement of position that defines the US positions relative to the future of the Canadian Entitlement and post-2024 flood control operations. This statement should provide specific details about the US Entity's vision for these future operations and should be submitted to the Canadian Entity as basis for negotiations.

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Idaho Stakeholders include:

- Coalition for Idaho Water
- Committee of Nine
- Federal Instream Flow Coalition
- Food Producers of Idaho
- Idaho Alfalfa & Clover Seed Growers Association
- Idaho Association of Soil Conservation Districts
- Idaho Consumer Owned Utilities Association
- Idaho Cooperative Council, Inc.
- Idaho Farm Bureau Federation
- Idaho Hay and Forage Association
- Idaho Honey Industry Association
- Idaho Onion Growers Association
- Idaho Sugarbeet Growers Association
- Idaho Weed Control Association
- Lake Pend Oreille Alliance
- Nezperce Prairie Grass Growers Association
- Payette River Water Users Association
- United Onion USA, Inc.
- Water District 65 Advisory Board