

International Joint Commission
Transcript of Public Hearing
Order of Approval for Lake Osoyoos Regulation
Oroville High School, 1008 Ironwood Street
Oroville, Washington
Tuesday, July 24, 2012 at 7:00 p.m.

RICH MOY (Commissioner, U.S. Section, International Joint Commission): Can you hear me?

UNIDENTIFIED: You're getting better.

RICH MOY: Okay, I'm getting better. I always have a tendency to speak too far away from the phone. My name is Rich Moy and I am a U.S. Commissioner, and it's my privilege to introduce the other commissioners that are with me.

To my left is Dereth Glance; Dereth is from New York State. And to my right is Lyall Knott, who is from Vancouver, British Columbia, and he is a Canadian commissioner. And the last person, but not the least, is the U.S. Co-Chair, and that's Lana Pollack, from Ann Arbor, Michigan.

And joining us on the phone is the Canadian Co-Chair of the International Joint Commission, and that's Joe Comuzzi. Joe? Oh, I guess we're having technical difficulties. He would love to be on the phone if he had the chance.

We also have Cynthia Barton (sic), who is the U.S. Co-Chair of the International Osoyoos Lake Board of Control, who will give a presentation a little

bit later. And she is also...also, I want to do one thing. I want to recognize the members of the Osoyoos Lake Board of Control that did all the work in putting the recommendations together on the operations of this. And from Canada, we have Kirk Johnstone...is he here?

UNIDENTIFIED: No.

RICH MOY: Okay. We have Glen Davidson. Okay. Brian, are you here? (LAUGHS) And Gwyn Graham, okay. Welcome, I'm glad that you're now joining this group; I'm sure you'll add a lot of good work for them. And on the U.S. side, the U.S. Co-Chair is Cynthia (sic). And we know Col. Bruce Estok is not here, but he has a representative here. Yes, thank you.

LANA POLLACK (Chair, U.S. Section, International Joint Commission): And Joe has joined us, I'm sorry.

RICH MOY: Who?

LANA POLLACK: Joe Comuzzi.

JOSEPH COMUZZI: Hello? We can't hear.

RICH MOY: Joe...would you like to say a few words?

JOSEPH COMUZZI: Yes, I would, but...has the meeting started? We're paying close attention but...are you chairing the meeting, Rich?

RICH MOY: Yes.

JOSEPH COMUZZI: Oh, okay. So what is it that you'd prefer?

RICH MOY: We would like to have you say a welcome message to the audience.

JOSEPH COMUZZI: All right. I am here in Ottawa. Considering that the Osoyoos is not only a public hearing, there may be a decision on...it may be a quasi-judicial decision, I have with me Brian...or I have with me Gavin Murphy, who is our legal counsel in the Canadian Section. I also have Rose Désilets, who is the executive assistant to the commissioners. And I have with me Anselme Nsoga, who is our human resources person, in the event that we have some problems with the other folks. So we're prepared to answer any questions that may arise.

RICH MOY: Okay.

JOSEPH COMUZZI: Do you have anything to say...?

RICH MOY: Thank...

GAVIN MURPHY (Legal Advisor, Canadian Section, International Joint Commission): Thanks very much, Chair Comuzzi.

RICH MOY: Okay, thank you very much, Joe.

GAVIN MURPHY: From the legal perspective, it is a quasi-judicial proceeding that is taking place, and I do note under the Treaty that all interested parties shall be given a convenient opportunity to be heard.

And hopefully under this discussion today and the one tomorrow, people will be given that opportunity to be heard and commissioners will hear that and take those comments into consideration when determining what the next steps are with the revised order.

RICH MOY: Okay, thank you. Just to give you some background on the Boundary Waters Treaty of 1909, it was actually negotiated between the United States and Great Britain and it was over two issues: one was a conflict between the province of Alberta and the State of Montana and the other was on Niagara Falls.

And the Treaty is visionary. And there are six members to the Commission that operate and manage the Treaty – three appointed by the Prime Minister of Canada, three nominated by the President of the United States, and we have to be confirmed by the U.S. Senate.

The Treaty lays out that we do really two things, primary things: we address issues and conflicts through references that are recommended by governments to us; and the second thing we do, we issue orders on dams and reservoirs that affect the transboundary. The issue here today is an order.

And what we have...what the IJC has done historically, and I think the strength of the IJC is that it uses good science and listens very carefully to the citizens on both sides of the border and we work very hard to try to achieve consensus before we move forward with recommendations.

And I always consider the IJC as a family, where half the residents of the family live in Canada, on the technical, professional staff, and then half in the United States.

Okay, and with that, I am going to turn this over to Lyall Knott, who will give an introduction to this issue on the renewal of the Order on the operation of Osoyoos reservoir and Osoyoos Lake levels.

LYALL KNOTT (Commissioner, Canadian Section, International Joint Commission): Thanks, Rich. As Rich said, this is an important part of the process of approving an order, coming into a community, like we are here tonight, and meeting with the residents of that community and hearing what they have to say. So that's the exercise that we're going through tonight.

The water levels of Lake Osoyoos have been regulated by the IJC since 1946, when we approved alterations to the Zosel dam, downstream from the lake.

The current Orders of Approval for Lake Osoyoos are set to expire on February 2013. By request of the IJC, the International Osoyoos Lake Board of Control submitted a report of recommendations for renewing the Osoyoos Lake Orders.

Drawing on eight studies commissioned by the IJC, the Board recommends that the scope of a renewed Order remains limited to the management of lake levels with only minor modifications to the lake-level rule curve. A rule curve prescribes lake level elevation limits over time an annual cycle.

The proposed rule curve would provide additional seasonal flexibility in achieving targeted lake levels, and would accommodate multiple uses and users of the lake. The proposed rule curve would also eliminate drought declaration.

The Board also recommends that the Commission should engage British Columbia and the State of Washington to continue to balance the flow needs across the international border and downstream of the dam. We will now see and hear a presentation on the report of the Study Board.

RICH MOY: And with that, we want to turn it over to Dr. Barton.

CINDI BARTON (U.S. Chair, International Osoyoos Lake Board of Control): I'm going to go over a little bit of what has already been said, maybe talk about it in a little more detail.

First, just with regard to the International Joint Commission, just so you're clear on what their mandate is and what they are working on, the International Joint Commission prevents and resolves disputes over the transboundary water and also other environmental resources.

The issues that they deal with could cover subsurface water, as well surface water, it could cover airsheds, it could also deal in things like timber. The IJC acts as a quasi-judicial body and their decisions are not subject to appeal or judicial review.

In the absence of special agreements, the IJC rules on applications for approval of certain projects that affect the boundary or transboundary waters, and they may regulate the operation of these projects, for example in case of dams, canals and diversions. They investigate issues that are referred to them by the governments and can make non-binding recommendations for resolution.

You were already introduced to the commissioners. As you can see, there is one vacant seat in the Canadian section, and there is a picture of Joe Comuzzi, who is on the phone.

The International Joint Commission, as was previously discussed, rules on applications that are made to them and they conduct reference studies as an objective advisor to governments.

They establish study boards and task forces - and if you recall, for example, they contracted a plan of study for Osoyoos Lake - they hold public hearings, such as this one, and they use joint fact-finding and the best available science in order to make decisions, and their major goal is facilitate the management of shared water bodies, and they do this through boards of control, orders of approval, and more recently, the building of international watershed boards.

When we talk about the IJC and Osoyoos Lake, we're generally talking about water levels in the lake and how they are in general controlled by Zosel Dam. The IJC issued Orders of Approval for managing those lake levels starting in 1946, and then, with the plans to build the current Zosel Dam, they developed new orders in 1982 and amended those in 1985. They appointed the Osoyoos Lake Board of Control to monitor the provisions of those orders.

This is a map of Osoyoos Lake, and we show this to remind you of how large the watershed is. We're talking about...and what a small part Osoyoos Lake is of that larger watershed.

And you can see that in Canada, upstream, on the Okanagan River, there are a number of lakes and other structures that are controlling the flow of water down to Osoyoos Lake. So of course, that always has to be kept in mind as we think about managing water levels in Osoyoos Lake.

In addition, there is another whole watershed over here, the Similkameen River, and that basin has been shown to have significant impacts on Osoyoos Lake, so that's something we always have to keep in mind.

The Osoyoos Lake Board of Control was already introduced, at least I think we got partway through it. On the Canadian side is Kirk Johnstone, and Kirk has just recently retired. He is still providing his assistance, he is loyal and wanting to help us through this renewal process, but he will eventually be replaced; Glen Davidson, who is from the province, he is not here today; but we also have Brian Symonds on the Board and he is also from the province; and then Gwyn Graham has joined us as the Secretary for the Canadian Section.

The U.S. Section includes myself, and then Col. Bruce Estok from the Army Corps of Engineers, and then Kris Kauffman, who is a water resource engineer and is our major contact with the applicant, and then Sue Kale (?) has recently joined the U.S. Section as our Secretary, as Bob Kimbrough has transferred to the USGS office in Denver, Colorado. So Sue just recently joined us and is coming up to speed very rapidly.

Briefly, about the Orders' renewal, as mentioned before, the Osoyoos Lake Orders will expire February 22, 2013. The commissioners did contract with a

consultant to develop a plan of study of how we would go about renewing these orders, and that plan of study recommended that we carry out eight studies, technical studies, to better inform the decision making regarding the Orders.

Those eight studies were contracted out and were completed. The results of those studies are up on the IJC's website for everyone to view, and they were also presented publicly at the Science Forum, the second Science Forum for Osoyoos Lake that occurred September 2011.

We have, through all of these years, been collecting comments, e-mails, letters, from the public, from stakeholder groups, anyone who had something to say about the issue of lake levels in Osoyoos, and we have been collecting that information and using that to better inform our development of recommendations for the renewal of the Orders.

And that report is on the table there for all of you, it is also online at the IJC's website, and we completed, the Board completed writing that report and published it June 21st of this year, so about a month ago.

We are now in the process of the public hearings. During the public hearings, we will again be collecting information from all of you, feedback and what concerns that you might have related to our recommendations on these orders and on the rule curve, the new rule curve that we're going to be presenting, so there is still an opportunity to influence the decision-making that will occur.

This is a copy of the report; as I said, it's on the table there and it is online. The Board, in making these recommendations, considered all of the input that we

heard over all the years of sitting in our public meetings, our annual public meetings, and also the letters that you've written us over the years, the e-mails you have written us.

We have also gathered information from the eight studies that were contracted out. And we gathered a lot of information from the two science forums that occurred. We were sitting in the audience and listening very closely to what was presented.

And then, in addition to that, over the years, the Board's experience and continuity in terms of overseeing the Orders and the operation of Zosel Dam also has taught us a lot about what works and what didn't work in terms of managing the lake levels in Osoyoos Lake.

So taking all that together, we tried to use all of the information that we had gleaned in drafting the recommendations for the renewal. Under these recommendations, one thing we looked at was what were the key responsibilities for both the applicant and for the Board with regard to managing lake levels.

The applicant, which in this case is the State of Washington, is responsible and accountable for the operation and maintenance of Zosel Dam, and that operation is done in consultation and coordination with stakeholders in the area, the local stakeholders, but it also has to be done within the conditions of the Order of Approval. Our recommendations indicate that the applicant may find a local advisory committee helpful as they go about their duties in operating Zosel Dam.

The applicant is responsible for identifying and reporting to the Board any situations where there are new or unforeseen conflicts that might arise between local interests and the Orders of Approval. So if there were issues that would arise that would make it difficult for them to operate Zosel Dam according to the Orders of Approval, we would have to be informed of that. And likewise, the Board would have a responsibility to inform the commissioners about those concerns.

The Board is responsible for providing oversight on compliance with the Orders of Approval and to consult with the applicant or other stakeholder groups where there are difficulties complying with the Orders or other circumstances that may point to perhaps a variance in those Orders. And so it would be up to the Board to gather that information and then inform the commissioners as to the situation.

The key recommendations about the renewal of the Orders are summarized here. The first is to continue to limit the scope of the Orders to lake level management. There certainly were many other issues that we were asked to consider, and it was the Board's feeling that at this time, lake level management was and should remain the main focus of these orders.

We did want to encourage the continued cooperation between British Columbia and the State of Washington to balance flow needs across the international border and downstream of Zosel Dam while respecting the goals of the lake elevations and limits on release that are possible in Okanagan Lake.

The second recommendation was to retain Zosel Dam as it is presently constructed, that is, we weren't recommending any modifications to the dam.

The third was to retain the requirement for the applicant to ensure the flow capacity of the reach between the outlet of the lake and Zosel Dam to ensure that it can pass at least 2,500 cubic feet per second when the elevation of Osoyoos Lake is 913 feet and there is no appreciable backwater effect for the Similkameen River. So we have to make sure that that channel is maintained and open and able to handle that high level of flow.

The fourth recommendation was to keep the winter operating range between 909 and 911.5. Having the ability to draw down the lake down to 909 will help prevent ice damage to shoreline infrastructures. Allowing levels of up to 11.5 feet in the winter provides the ability to store water, additional water, if climate change were to warm up the temperatures in the future and give us more rain in the winter than snow. So that would help us to store more winter rains.

Number five – eliminate the drought/non-drought designation and replace it with a single set of operating criteria that have a little more flexibility in them. This whole idea of declaring drought or not declaring drought has always been a somewhat controversial issue and this would avoid that whole necessity.

The sixth recommendation is to limit the maximum lake levels to 912.5 to minimize shoreline erosion and inundation of lakeside property. The current level is 913 and it, in many of the current years, has been negotiated down to 912.5, and so now we are suggesting it just be set there at 912.5.

The seventh recommendation that we have here is to allow for lower lake levels in April and May, and this is to better match the current timing of the spring freshet. This will help with providing late winter fishery flows downstream from Zosel Dam and will help to reduce the duration of naturally high lake levels during high snow melt runoff years.

The eighth recommendation is to eliminate the use of fixed dates for switching between winter and summer operations and allow a little more flexibility for transitioning lake levels between the seasons.

The ninth recommendation is to maintain the flexibility for filing the lake earlier in the year in anticipation of climate change causing more winter precipitation, falling as rain instead of snow, incorporating an adaptive management strategy in the renewed orders that enables an evaluation of water level management under the Orders.

The tenth recommendation is to maintain a small Board of Control structure with equal representation from Canada and the U.S. to provide oversight on compliance with the Orders. So it doesn't necessarily have to be the same as it is now, but we would suggest it remain fairly small, because it's so much easier to make decisions that way, and have equal representation.

And the last recommendation was to initiate an International Watershed Initiative feasibility study to determine if additional IJC or Board involvement in Okanagan basin water issues is appropriate. So at our last Science Forum, we had some presentations about the possibility of an International Watershed board, and

there still needs to be quite a lot of discussion and maybe some understanding of how this type of board would operate, and so we're recommending that some kind of feasibility study be established to look deeper into that issue.

Okay, this is kind of the nuts and bolts then of the recommendations, this is the new proposed rule curve. And I don't know if you can...it doesn't look like blue here, but this checkered, kind of grey area is what were the acceptable water levels during normal operating conditions for Osoyoos Lake, and then this dashed box is the acceptable water levels during drought conditions for the current waters, and then this black line is outlining the proposed new rule curve. These would be the upper acceptable limits of the water level and this is the lower level, acceptable level, and you can see where it deviates from the previous allowable lake levels.

And just so you can have an idea of how these would operate, we took that rule curve – so these are the dark lines again – and what we plotted (?) on here was data from 1988 to 2011, and the green line is the minimum daily water level elevations – in this case, this is during drought (?) years - so it would be the minimum daily water levels, the red line is the mean daily water levels, and the blue line is the maximum daily water levels. So you can see, during drought years, in general, this rule curve, this new rule curve fits pretty well to the water levels that have occurred from 1988 to 2011.

This (inaudible) over here is the same data, but for non-drought years, and you can see again, the data fits fairly well within what is bracketed on the proposed rule curve.

The exceptions are these flood peaks, and these are times when the Similkameen River has flooded and backed up water into Osoyoos Lake. So these are times when Zosel Dam has no control over those water levels and so they actually rise above the levels set by the Orders of Approval. And you can see, in drought years, there is some deviation above the maximum levels.

So that in a nutshell is what the Board is recommending. Where we go from here – well, the public hearings is a major part of this, and this is kind of...you know, we have given now our best ideas and what we want to hear back from you is where do we have problems, where do we need to tweak this or make changes. So this is your opportunity and we want to hear from you.

We also are still waiting for a new application from Washington State; we are told that it's coming soon, they are working on it. And then, once we get all of your comments, we will then take another look at what we have proposed, there may be some possible revision to these new orders and the rule curve based on the input we have received, and then the last step will be issuance of renewed orders before February 22nd, 2013. I think that's it. Thank you.

RICH MOY: Okay, thank you very much, Dr. Barton, that was an excellent presentation. Before we start, I want to acknowledge some folks here. And we have four staff people from the IJC that have done an outstanding job.

And Frank has been with the U.S. Section for many, many years, 32 years, and Bernard, from the Canadian Section, and then we also have the two lead senior staff people: Mark, from the U.S., and unfortunately, Tom McAuley, I can't say...who has been with us for many years, and we hope whatever he does in the future he is happy doing. I guess I have to leave it at that.

I also want to acknowledge two other people, and one is the Honourable Mayor, Stu Wells, who has a wonderful, dynamic personality and a great leader for the community of Osoyoos, and you are very lucky to have him as a Mayor, and then Anna Warwick Sears, for the Okanagan Basin Watershed Board, and I am very happy that you both are here.

Okay, and with that...oh, one other thing I want to say to you is the Commission makes the decision, and I said earlier the Commission makes the decision based on good science, recommendations from the Board, and very clearly what the public tells us.

And one of the things that the commissioners do before we actually start our job is we take an oath to the Treaty, which means that I do not represent the United States, I do not represent the State Department. My job only is to implement the Treaty to the best of our abilities, based on the knowledge and the public input that we receive, and all of the commissioners do the same.

Okay, and with that, if you wish to speak, and we only have four commenters that wish to speak, if you do still wish to speak, you can let us know

at any time during the hearing, and all you have to do is fill out a card and check the upper box, say that you have some comments and you would like to talk to us.

And the way we do it is we will identify the person, and then we will also say and identify the person that's at bat or the next person in line. When we were doing the public hearings last week, we had 400-500 people, we had many, many people wanting to testify, so we really had to be on line.

Here, since we have only four people that want to testify, you clearly have more opportunity to tell us what you think. We try to limit it to five minutes a piece, but I think today, I don't think we really have to do that. If you have some really important stuff that you want us to hear about, we're here to listen.

When you come up to talk, please state your name and tell us who you represent, do you represent yourself or some organization. And the other thing is that if you're bashful and you do not want to submit comments to us verbally at this time, you can also submit them in writing.

And you can go to our website and submit them on our website, and we'll be happy to take any comment that you sent to us. And you can submit comments up to August 31st of this...end of next month.

And when you come and talk to us, we'd like to have you sit here at the table because everything that you say is recorded, and we will create a transcript of the information, and that will also be on our website. So you can find out what your neighbour says about the Order or the recommendations for the modified Order.

And then, the final comment is that the Commission, when we have all of the information, all of the science, and after a very thorough discussion with the Board and looking at the comments and discussing with our senior advisors, we will make a recommendation. Our hope is to make a recommendation this fall.

And with that, I am ready to start the public hearing. And the first person that we have is John Arterburn from the Colville tribes, and the next, on-deck is the Honourable Mayor.

JOHN ARTERBURN (Senior Fish Biologist, Confederated Tribes of the Colville Reservation): Thank you for allowing me to speak today. I come to you representing the Colville tribes. I am a senior fish biologist for them and I have worked for them for over 12 years in the Okanagan basin.

Most of my comments are referring to water management as it relates to fish that utilize the Okanagan River basin, and I realize that the primary need for water management has tended to gravitate towards human needs and not so much the critters that rely on the water.

But I implore you to consider the fish and the environment as you are making your decisions, because the things that you choose to include in the Orders have a great deal of impact on those animals.

So first of all, I am going to go down a list of some of the things that were presented as key highlights here and I'll provide more extensive comments in a written format later on.

But initially, one of my biggest concerns with the recommendation is the 2,500 cfs channel capacity issue. I am very concerned that any manipulation of the channel that's done to create more water flow through that section of the river will greatly negatively impact spawning of salmon and steelhead.

I can send you plenty of data, I run a program that does red surveys below the dam from there to Highway 97 every year, it is the highest density spawning range in the entire Okanagan River for those two species.

If you change or manipulate the channel so you can increase flow through that section, you could greatly damage the spawning habitat for those fish species, and that would not be a great thing in the Okanagan. So I would implore you to be very, very careful when you talk about changing the flow dynamics in that reach.

The second thing, storage (inaudible). Storage capacity in the lake to affect things like climate change, unfortunately, the capacity that you have in that lake is so small that it would have very minimal impact on anything you would hope to influence in the way of climate change.

I take a great deal of interest in climate change science as part of my job and I realize that temperature is a major issue in this water basin, but I see no data that suggests that you can in anyway change the temperature structure of the water coming out of that lake through manipulating how much water you store in there.

By storing water and changing the dynamics, particularly in the early season, could greatly damage the fish species down below the dam. And although the flow curves that you're proposing greatly help that from the existing Orders, the rhetoric that's in the current Orders to help with climate change issues tends to go counter to what the rule curve will correct.

So I am worried about conflicts within the Order itself when it comes to the climate change information, and I don't know that there is the science behind it that it would actually have a benefit.

I strongly support and want to commend for items 7 and 8. They will go a long way to fix the ills of the past. The new rule curve is an excellent suggestion. It's a simple but beautiful rule curve that will actually save a lot of fish that currently get dewatered in the springtime, when people are trying to address the current adjustment date.

On April 1st, typically, what happens is below the dam, they have to cut back the flows of the dam because they don't have enough inflows to raise the lake level on a single day, so they start cutting back the water in early spring.

Well, in early spring, you have two things going on. You have steelhead spawning below the dam and you have summer/fall chinook that are emerging as fry from the gravels. If you shut down the water where all the reds are during that time frame, you're not doing them any good.

So right now, we fought very long and hard and then finally made great progress cooperatively across the border to fix a lot of those ills, and the new rule

curve will continue that cooperative spirit. So I commend you for that and I want to throw my full support behind those two items.

I wasn't totally sure what you meant by item 9. It talks...it's got great language about adaptive management and that you're going to try to do some good things cooperatively, but I'm not really sure what it meant.

So if there could be a little bit more meat on the bones as to how you plan on actually implementing item 9, I'd be interested in seeing a little bit more of the detail that you had in mind there.

Item 11, and this is one of the items that I had hope to have some policy support for, the reason being is I'm a fish biologist and I can talk all day about technical items, but I can't necessarily represent the tribes.

But the Colville tribes are a sovereign nation which have a great deal of rights on the Okanagan River, and they were not included or mentioned by name as a group that would be part of the IWI.

For them to be excluded is a great injustice in my mind. I'd hope to have some tribal support for that, where we can make a stronger statement about that, but I really do think that you have omitted a group that has a great deal to offer in those discussions.

I, as a fish biologist, have an extensive amount of data on the Okanagan that we bring to bear. I have been involved in the current workings with the Board of Control and we have integrated ourselves very nicely with the existing

system. But to go to the current proposed new process would exclude us from the table, and I think that would be a step backwards.

So that concludes what I have to say for today, and like I said, I'll be sending more detailed comments.

RICH MOY: We thank you very much and we look forward to receiving your comments.

JOHN ARTERBURN: Sure.

RICH MOY: Okay, Stu Wells, the Mayor, and on deck is Tom Tebb.

STU WELLS (Mayor, Town of Osoyoos): Good evening, good evening, commissioners. Just a couple of quick points, please. I was looking, also on number 7, it was stated that it was going to be lower than, and I guess my question is lower than what, but I think that works into that new curve, is what they were referring to on that.

The other one was the terms of the Order. You know, we have had 25 years in fixed terms, I understand a lot of the operating orders back and forth that go through the IJC have indefinite terms. Is that being a consideration with the new Orders coming forth here from the IJC? Term or not term, I guess, would be that question.

And another item is...and I think I have this right. I spent an awful lot of time looking at the Zosel Dam - I know all of the border crossing guards, hi, I'm the Mayor, I'm going down to look at the dam – at certain times of the year.

But when we're looking at that, and as I understand it, the over the top weir is at 913, and there's triggering moments when the gates are pulled right out of the water, they're just high and dry and the water is going through the gates, and then at 913, it goes over the top. And if we're going to the 912.5, how do we accomplish that without doing any changes, physical changes to the Zosel Dam?

So is this 912.5 that we're looking at, is that real, or is that the targeted amount and then we sort of shrug our shoulders and say, well, we can't do anything more because we're not going to change the dam. Mr. Symonds can probably...

RICH MOY: Yes, I think we have to ask Mr. Symonds.

BRIAN SYMONDS (Member, Canadian Section, International Osoyoos Lake Board of Control): I'll come up here and answer that.

STU WELLS: Okay.

BRIAN SYMONDS: The current rule curves, if you look at them – and it's too bad the projector turned off – but what happens in the operation of the dam, particularly on the high end, is as you go above the rule curve for a normal year or a drought year, as soon as you pass that point - so in the case of a non-drought year, as soon as you pass 911 - the gates are fully pulled out of the water and the dam no longer creates the barrier to the flow, it's able to pass and discharge through it. In the case of a drought year, when you get up to 913, the same thing would apply, you'd have to pull the gates up. Not that you would in a

drought year, I don't think you're going to get to that point, but if you did, you'd have to pull them out.

So under the proposed scenario, where 912.5 or whatever point the black line, the upper black line is at throughout the year, if you were go to above that level or basically when you hit that level, you are required to have...or the operators are required then to have the gates out of the water.

So it's the same sort of principle, it's just the point at which the regulation of the level of the lake is no longer controlled by the dam, the gates come right out.

STU WELLS: Okay, but having said that, I have seen six inches of water coming over the weir portion of the dam, I have seen a foot and a half of water coming over the weir portion of the dam. But I don't see how that relates to the 912.5 as a target level for Osoyoos Lake. We're still going to be in excess of that number.

BRIAN SYMONDS: You're correct. Before it goes over the spillway, you would be in excess of that number. But the gates would be fully out of the water, so the design of the dam is such that it can pass the flow if (inaudible)...backwater, the design flows with the gates fully out, it doesn't require the spillway.

STU WELLS: Okay, great. Thank you. And I guess my final comment is it certainly looks like it's been a good process, right from the plan that was initiated and the eight studies that were done, and gathering that information

back. I think it's been great and it's been, so far, inclusive. You know, it's never over until it's over, until we see that final document, but good job so far, so thank you.

RICH MOY: Thank you.

BRIAN SYMONDS: Just on the (inaudible)...one more comment to add, too, because we did hit 913 plus a little bit back around the end of June, start of July. There was a couple of days there when the lake went to that level. At that point (inaudible)...advised me that at that time, we were not seeing water going over the spillway because there wasn't an appreciable backwater.

All of the water was still going through the gates because of the drawdown between where the water comes out of the lake and when it gets to the dam, there's a head loss, a water level drop just to push the water in that direction, so that was occurring. So actually, even when the lake was above 913, it did not this year go across the (inaudible)...overflow spillway just because of the channel (?) dynamics.

The other thing, just for a reference point for people, I'm going to sit down here and get out of the way, but if you want to understand what some of these numbers mean in terms of a real, visual look there today, currently, the discharge passing through the structure is almost exactly 2,500 cubic feet per second.

So when we walk about that number, that's what is going through there today, and the current level of Osoyoos Lake is around 912.83 or .84, somewhere in that range today. So it's slightly below the 913, but it's passing the 2,500

which is required to be able to be passed when the lake is at 913 feet without an appreciable backwater from the Similkameen.

So if you look at the conditions, that's where we are, so slightly above...if you look at the lake level, it's slightly above the 912.5, and that is not because of the dam, it's because of what the inflows are, that are coming into the lake and through the lake at the present time, primarily coming out of the Okanagan side in Canada.

RICH MOY: Thank you, Brian. Okay, Tom, and on deck is Dan Ashton.

TOM TEBB (Central Regional Director, Washington State Department of Ecology): Well, hello, and thank you for the opportunity to speak here tonight. My name is Tom Tebb, and I am the Central Regional Director for the Washington State Department of Ecology, and I am located out of our Yakima office in Washington State.

I was part of the technical team that worked on some of the early analysis with our counterparts and the province, and I appreciate the opportunity to be here tonight.

I have also spoken to a representative of Governor Gregoire's office this morning and she wishes to express her appreciation to the Board for not only their time and effort, but also undertaking these important studies to better understand and make good, sound decisions, so thank you for that.

As this process moves forward, the Governor is first and foremost interested in continuing to assure public safety for citizens on both sides of the border.

And secondly, the Governor is interested in hearing from the public and interested stakeholders on the Board's recommendations for the renewal of these Orders.

And finally, the Governor recognizes the importance and the need for Washington State as the applicant to complete the formal application process in accordance with the pending expiration of the Orders in 2013, and we do realize you are expecting an application from us.

Ecology and the State Attorney General's office and the Governor's office are working on completing that formal application over the next several weeks, and these public hearings are an important step in completing that process, so thank you again for allowing me to speak tonight.

RICH MOY: Thank you. Dan and Donald...Birks (?).

DAN ASHTON (Chair, Okanagan Regional Similkameen Regional District / Mayor of Penticton): Good evening, commissioners. My name is Dan Ashton, I am actually the Chair of the Okanagan Regional Similkameen Regional District, which is an area, a boundary of approximately 88,000 people, of which Honourable Mayor Wells behind me is an intrical (sic) part of. I am also the Mayor of Penticton. And so we are the dam which kinds of holds the bulk of the water back or lets the bulk of the water go at certain times during the year.

Thank you for the opportunity tonight. I would also just like to say congratulations on a good report. But I would just draw your attention to the second page of the executive summary, and the last, second-last paragraph, where it states about an International Watershed Initiative.

And I would just like to plant a seed at this point in time for the opportunity in the future for the opportunity in the future to discuss a similar process along the lines of the Columbia Basin Trust for the benefit of all of those that enjoy this incredible life source, and those are from the Okanagan and the Similkameen valleys and all of the states that partake in that flow of water to the Pacific Ocean.

So all I ask in the future is that a seed be planted at this point in time, and possibly an opportunity comes forward to discuss that in the future, if you do go ahead with an IWI.

RICH MOY: Could I make a suggestion? Would you mind putting comments in writing regarding the Trust to us?

DAN ASHTON: Absolutely. We'll fire them and give them to you before the end of August, as I understand it.

RICH MOY: August 31st.

DAN ASHTON: Absolutely. Thank you, and thank you again for the opportunity tonight.

RICH MOY: Thank you. Okay, and the last person I have – and if anybody else would like to talk, we're here to listen, just sign a card and we'll be happy to hear your comments – so Donald Birks.

DONALD BIRKS: Thank you, folks. My name is Donald Birks. I live in Lake Osoyoos here on this side of the border. And having been here not many years, but seven of them, and watching the lake go up and back and forth, and the high water and the low water and so forth, there are two things I'd like to comment on.

Number one, I understand what controls go on within this organization on both sides. But one thing that would be significant to most of the people that live on this lake is to have some idea – maybe it can be done in April, maybe May, maybe June, I don't know when it can be accurately figured out – but if there's a way you could determine that the lake is going to be at 913 plus or 912.5 or 911, whatever within that range of your parameters, if we knew that, before we start to put our boats in, our docks in and our stuff in, which I have to do, it would be a great help if we just had some parameter that we knew it was going to be high water, medium, low, whatever, so we could figure it out, because it's a big problem.

And the second thing, and the only other thing which has nothing to do so much with the lake water, is I sure hope that at some point in time, we can get a bigger process of trying to eliminate this milfoil problem which is so damn severe. And right where I live, it's almost unbearable right now. And I can

contribute to it more, I would, but I want to know when something is going to be done because it's just unbearable right now. And I thank you.

RICH MOY: Well, thank you. Well, that is the last card we have...oh, I have one more card? Any more cards? Anybody else like to comment to us? Okay, going once, going twice, okay.

Well, we want to thank you for your comments and your views, and we will be continuing to accept comments until the 31st of August. And if you have any questions, you can talk to our staff at any time in the next half-hour or so.

And we also have a public meeting tomorrow in Osoyoos, at the Best Western, at 7 o'clock. If you would like to attend, you are more than welcome to attend and tell us if you have any different ideas tomorrow. And we thank you, and good night.
