

**Governor's Upper Yellowstone River Task Force
Meeting Transcription
July 8th, 2003
Yellowstone Inn
Meeting began at 7:00 p.m.**

I. Introductions

Members Present:

John Bailey, Chair	Michelle Goodwine	Ed Schilling
Roy Aserlind	Jerry O'Hair	Rod Siring
Andy Dana	Brant Oswald	Bob Wiltshire

Ron Archuleta, USFS Ex-Officio	Allan Steinle, Corps Ex-Officio
Ken Britton, USFS Ex-Officio	Joel Tohtz, FWP Ex-Officio
Laurence Siroky, DNRC Ex-Officio	

Others Present:

Liz Galli-Noble, Coordinator	Jim Barrett	Tom Hallin
Kelly Wade, Secretary	Daryl Stutterheim	Tom Arrandale
Jacqueline Isaly, Assistant	Burt Williams	Scott McMillion
Deb Corbett		Daryl Smith

II. Prior Meeting Minutes

John Bailey: Reviewing the previous, June 11, 2003, minutes, I have a correction on page 26. It's the third comment down, "If you allow sheet flooding at the schools in town, when we first started I thought that we should be opening up the old Fleshman Creek channel, until I saw the cross-sections the Corps did from the dike, and found out that the bottom of Fleshman Creek down to," it says 8th Street– it should be "H" Street; H as in home. That was the only correction I have. Are there any other corrections?

Any motions?

Ed Schilling moved to approve the June 11, 2003 minutes with corrections. Michelle Goodwine seconded the motion. The motion passed unanimously.

III. Financial Updates

EXPENDED GRANTS			
Grant Name	Completed	Amount	Study Component
DNRC Watershed Planning Assistance Grant	6/30/99	2,100.00	Physical Features Inventory
DNRC HB223 Grant	7/30/99	10,000.00	Aerial photography
DNRC Riparian/Wetlands Educational Grant	6/30/00	960.99	<i>Hydrologic Response to the 1988 Fires Workshop</i>
DEQ 319 Grant (1 st)	9/30/00	40,000.00	Coordinator position
DNRC Watershed Planning Assistance Grant	1/31/01	10,000.00	Watershed Land Use Study
DEQ Start-Up Grant	6/26/01	49,138.00	Coordinator position, Admin secretary, additional cross-sections, operating exper
DNRC HB223	10/1/01	6,500.00	Riparian Trend Analysis
BLM Funding	10/26/01	10,000.00	Wildlife Study
DEQ 319 Grant (2 nd)	3/21/02	58,000.00	Coordinator position
DEQ 319 Grant (3 rd)	9/30/02	44,000.00	Coordinator position
EPA RGI Grant	12/20/02	30,000.00	Geomorphology study
CURRENT GRANTS			
Grant Name	Amount	Spent	Remaining Balance
DNRC RDGP Grant (expires 7/03)	299,940.00	288,621.63	11,318.37
DEQ 319 Grant (4 th) (expires 3/04)	122,200.00	69,816.27	52,383.73

Liz Galli-Noble: Earlier today, Amy Miller and I talked about the amount of money that's remaining. She realized that the amounts previously reported in these summary sheets—and I'm specifically referring to the DEQ 319 Grant—haven't deducted the District's administration fee. So we presently have \$52,382.73 shown here remaining in that grant. But we have to take out an additional \$6,692.14 to pay Park Conservation District for administration fees; they charge a 10-percent fee for Task Force grants. So we actually only have \$45,691.59 remaining to date. I have nothing else new to report concerning our financial update.

John Bailey: Any discussion? Andy?

Andy Dana: Is the Governor's conference going to be paid for by the Task Force?

John Bailey: We're hoping not, but do we know where the money's coming from for sure? Not today. We're working on it.

Andy Dana: I was just wondering if we had a committed amount out of the \$45,000?

Liz Galli-Noble: I think it was always the intention with this 319 money that a certain or small percentage would be covering or helping to cover the cost of the conference. Certainly it cannot cover the full amount, but we've been working on other funding.

John Bailey: And we have the congressional staff helping us. There is a pot of money, but we learned that it wasn't available yet. We're trying to make it more available. OK, other Task Force business – subcommittee update?

IV. Other Task Force Business

Liz Galli-Noble: The Task Force members have a handout (see *Attachment A*) in front of them that summarizes the information that Bob will be going over.

Bob Wiltshire: The Conference Subcommittee has met twice since our last Task Force meeting to discuss the proposed *Governor's Upper Yellowstone Conference*. I'm very pleased to report that all members of the subcommittee took the charge very seriously, came prepared, and worked very hard on the concerns. We covered a lot of ground and I'm happy to discuss it to whatever extent necessary. What I'd like to do first is pretty much report to you what we decided and then get your input.

One of the things that came out of the last meeting was "who is our target audience?" And we spent a fair amount of time discussing that. Obviously our target audience is everyone, but within that there are some groups we are able to identify. Certainly the Governor is part of the target audience; local residents; agency personnel; interested members of the scientific community; other watershed types – people who are struggling with the same types of issues we are; non-profits and NGO's [non-governmental organizations].

Looking at that target audience it quickly became obvious that there is no time that is best for all of those groups taken as a whole. And so, what we had to look at was, given the constraints we were dealing with, what would be the best time? One of the things we discussed and quickly decided was that Chico Hot Springs would be the best place to hold the meeting. We did not want to go to Bozeman. We did not feel that was the right place to hold this. That left us here at the Yellowstone Inn and at Chico. Chico had the larger capacity for handling people, and we also felt that Chico is a better draw if we want to get people to come. So, we decided on Chico.

Once we made that decision that also limited us in a number of other ways. Liz had already looked into the dates that were available. Weekends were extremely difficult. Going through the whole thing we decided to stick with the dates that were originally proposed. We recognized that that means that there are people who will not be able to come, one of which was sitting on the subcommittee. However, one thing we did note was that the Governor was committed to attend during those days, and we felt that it was important for us to be accommodating to the Governor. So we made that decision and I would have

to defer to Liz as to exactly how firm we are on those dates. [Note: we have those dates booked at Chico.]

We talked a lot about the weekday-versus-weekend issue, because that was a topic of a lot of discussion here at the Task Force. There are pros and cons with each. One of them was that by holding it on a weekday we would be much less likely to attract the local public. We felt that there was some truth to that but we also felt that it was pretty unrealistic to expect the public to show up for two days or two and a half days of meetings. It is not at all unreasonable to expect that agency personnel and other types of people who are “on the job” would much prefer to be here on the weekday than the weekend. The very true fact also came out that here in the Ag community there is no weekend. Every day is a workday and so for those people what day of the week shouldn’t really make much difference. Again we recognized there was no perfect solution.

I would rather not go into the full agenda as we’ve outlined it at this point, unless somebody really feels it important to talk about it. The one highlight that I would put in, touching very briefly—we felt that the keynote event would be the opening night banquet. We’ve got the Governor committed for that night. Our plan is at that opening night banquet John would present our recommendations to the Governor, and the Governor would make whatever remarks she deemed appropriate, and any of the other congressional delegation that are able to attend we would invite to make comments as well.

We think that this will be a great opportunity for the local public in the event to come in and really get the meat of what we did. You can look through the proposed agenda for what we’ve got worked up at this point. One thing I did want to mention—we spent a lot of time talking about the fact that we have to remember that the Task Force is over and done with at this point. We’re not going to be doing any more Task Force work at this point, and so this is the time when we take a look at “what did the Task Force do?” Certainly what we did is our recommendations and those will be presented, we will defend them, we will be trying to sell those.

We also felt that it was important that one of the lasting legacies of this Task Force is going to be the record of our process. If you look back five years ago when we first started sitting around these tables, we didn’t know how to proceed with doing what we need to do. What we have done now is spent five years proceeding, and other people who find themselves in similar situations should be able to learn from the way we did it—whether they want to copy us, or whether they want to say “we don’t want anything like that.” But one of the products we certainly have is a model for future uses. So you will see that there are a number of sessions put in where we discuss that process. We felt that for this particular audience that might be very important.

We’ve spent many hours talking about this and I do think I could talk many hours right now, but I guess I’d rather take any questions or discussion.

John Bailey: Questions? Discussion?

Bob Wiltshire: I guess before I conclude, I would like to see the Task Force, at the end of our discussion, trying to get some form of formal commitment that this is what we want to do for that week at Chico; so that the subcommittee can continue to do whatever needs to be done.

One other thing that I didn’t mention at all and I’ll mention quickly which has already been touched on by John is the financing of all of this. We decided that it’s important that there is a registration fee; otherwise it’s real easy to sign up and then forget about it. So we decided on probably a \$25.00 registration fee, which, depending on how things shape up, will cover your meals and lodging at Chico for two days. We didn’t think that was a burden on most people. So we did establish that \$25.00 registration fee. Liz is optimistic that we can find funding sources that will pick up the majority of the tab for this. I believe we’ve pretty well already got the presenters already covered with funding that some think is available. So that’s kind of where we are. We do recognize that some agencies are not allowed to accept free rooms and free meals and from those people we will gladly accept a reimbursement check.

John Bailey: Do you want to make a motion on the date?

Bob Wiltshire moved that the Task Force approve October 20, 21, and 22 as the date for the *Governor's Conference on the Upper Yellowstone River*. Michelle Goodwine seconded the motion. The motion passed unanimously.

John Bailey: Now, the conference agenda is still being worked on, is that correct?

Bob Wiltshire: The agenda is being worked on. I would suggest that at some Task Force meeting we pencil it in for some serious discussion. We can certainly work on it tonight, if somebody's got a recommendation. One lingering question that I have: Is it appropriate; where and when do we want to hold any field trips that might be associated with this? The first day is not scheduled to start until the banquet in the evening. We can certainly do those field trips that afternoon very easily. We finish right before lunch on the third day and we could do field trips that afternoon. The discussion is where do we go and what type of field trip do we do? Recognizing that it's the 20th of October and the weather is going to be fantastic, but there's an outside chance that the weather will be problematic. Again we can save that for another night.

John Bailey: Well, I had a discussion with Liz previously, on doing a field trip or not. There needs to be a purpose for it, that either comes from something that was done at the conference and we do it after, or it's setting up something that's going to happen at the conference. And at least right now, I don't have in my mind that kind of thing. Maybe as we get further in our recommendations we're going to see something that gels, or we may want to use one of the research projects. Maybe we'll want to tell them something about the research. It seems to me it should be either setting up what's going to happen at the conference, or following up something presented at the conference.

Bob Wiltshire: I'd agree with that totally, and I don't see anything as being an obvious candidate, unless we've got the Governor and the Congressionals and we want to send them out with Chuck Dalby and Jim Robinson to show them rocks.

John Bailey: They're not here to defend themselves.

Bob Wiltshire: No, I agree totally with that. If there's no point to it; why do we do it? But, we may find a point.

John Bailey: Absolutely.

Bob Wiltshire: And one other thing, too, that we haven't really discussed in any of our meetings is that an integral part of the agenda that we have laid out here is the Task Force recommendation of: where we go from here? I don't want to start that discussion right now, but I want to throw it out to the Task Force. I believe one of the recommendations coming out of the Task Force should be, where do we go from here? It's over? It continues? Whatever?

John Bailey: Do you think we can reach consensus on that?

Bob Wiltshire: I don't know.

John Bailey: So you're going to make that recommendation close to the end?

Bob Wiltshire: Yeah, I recommend that we permanently appoint John Bailey as chair of the nebulous upper Yellowstone River.

V. Task Force Recommendation Deliberations

John Bailey: Any more discussion? Is there any other Task Force business? Anybody else? OK, we'll move into our recommendations. I think everyone's been to one of these meetings before; therefore, I'm going to suspend with going through the *Steps for Formal Action on Task Force*

Recommendations. I did want to re-state something from the *Task Force Ground Rules* that we made five years ago.

Liz Galli-Noble: Everyone has a copy of the ground rules in front of them.

John Bailey: I will read from our ground rules, page 2:

“Decisions / Agreements

- 1. The Task Force will seek consensus agreements regarding policy decisions and recommendations. Consensus is defined as an acceptance of an agreement. Members may not agree with all aspects of an agreement; however, they do not disagree enough to warrant opposition to the agreement. When Task Force members accept an agreement they commit themselves to implementing the agreement.*
- 2. Participants who disagree with a proposal are responsible for offering a constructive alternative that seeks to accommodate the interests of all other participants.”*

I believe we've done that. I started thinking about this again because we've had several recommendations proposed and tabled by the same person. As the chair, as far as I'm concerned, if you're tabling your own recommendation, it's dead until brought back up. But if you go back to our ground rules, maybe some of you are tabling them too soon. It's fine with me if you want to do that. I think we actually did this at the last meeting; but then again, there were a whole bunch put out and just tabled immediately. I think #2 from our ground rules says we all have a responsibility to reach some kind of consensus. I just wanted to bring that up so people remember. We've gone back to these ground rules on occasion, but I'm not sure we always remember what it says.

So we'll now go back to our last recommendation deliberations. I believe we're still on the topic of FLOODPLAIN / RIPARIAN. Anyone have a recommendation? OK Bob.

Bob Wiltshire: I have one.

#1. Proposed Recommendation by Bob Wiltshire:

“Floodplain development restrictions be implemented that insure the preservation of the scenic values and river characteristics identified by the socio-economic study as vital to the region's economic health.”

I guess the obvious question is, what are those river characteristics and socio-economic values? I spent a little bit of time going through the socio-economic study. You know, we keep talking about how people are an important part—and that's what this whole socio-economic study was designed to get at. I went back through the report. I'm only pulling a few sentences out of here, so please don't think that this is an exhaustive review. I tried to go through some of their summary things where they directly addressed this question. It says here:

“Residents and businesses perceive the river as being vitally important to the economy and as an amenity to local quality of life, which attracts and holds businesses and residences. The river is also an essential and valuable part of the river experience. Fishing, white water, the wild and undeveloped feel of the river, relatively little noise, adequate public access and the presence of ranches all contribute positively to the visitor experience. Residents and businesses agree and visitors confirm that riverbank vegetation is a vital part of the river and visitor experience. Scenery along the river generally contributes very positively to the river experience. The beauty of the upper Yellowstone River is paramount in its contribution to the quality of life in Park County. Fishing and other river-related recreational activities like rafting and floating are very important components of quality of life.”

There's more along that line. If anyone wants to dispute this, fine, but the socio-economic study says that people want to see open space; they want to see the river much as they see it today; they want to see our ranching traditions and heritage preserved.

John Bailey: Comments? Task Force?

Roy Aserlind: I think I feel that the Task Force would be remiss in its responsibilities if it does not have some recommendations recognizing the importance of the flood plain, emphasizing helping to protect the flood plain. Myself, I feel that's very incumbent upon the Task Force and its whole mission. I feel that Bob's recommendation here quite clearly establishes that depiction and the mission, and also recognizes that of course there are people living here; people with huge financial investments, people with huge philosophical and psychological investments and personal investments. So it's kind of a narrow window to have, but I really feel that we, as a Task Force, must take advantage of any window that is available to us or that we can create.

John Bailey: Other comments? Task Force?

Jerry O'Hair: What's meant by floodplain development? And how far does it go in landowner restrictions?

Bob Wiltshire: I guess my short answer, Jerry, is: I don't know? I think that needs to be determined, but not here tonight—to say 30 feet, 50 feet, 100 feet—I don't think the Task Force is ever going to get to that level. To me what's core here is that there are characteristics that have been identified by the socio-economic report as being vital to the interests of the community, and at some point we need to implement restrictions that protect those vital interests. I'm not here tonight to say what they are, but if we're not willing to restrict anything then I think we need to get that on the table and get away from flood plain. And heck, we're going to have a whole lot less meetings.

John Bailey: Bob, do you feel the floodway as defined by law is restrictive enough?

Bob Wiltshire: As I personally, currently believe I understand those restrictions, yes.

John Bailey: Lawrence and I were talking before the meeting—I haven't seen all the floodplain maps, but we will see them next meeting—and he was sort of indicating that the floodway took up most of the water, not the flood plain, and that the actual floodplain was more miniscule. I'm wondering if we want to look at the maps. I don't know what the floodway is. I'm wondering if some of us are wondering what we're talking about when we haven't seen the maps. My sense is that 'floodway' is what I thought you would say, and it isn't. You know the restriction area wouldn't even be that big.

Bob Wiltshire: Well, a couple of things... one of the reasons I quickly tabled proposals last meeting was that I think we're getting so hung up on "what's this word" and "let's change this word," that we're not having a substantive discussion. If "flood plain" is the wrong word, I'm certainly willing to change that word. My intent is to suggest that there needs to be development restrictions on certain lands adjacent to the river.

John Bailey: I'm not disagreeing. My only thought is that if you go from Mallards upstream almost all the way to Gardiner—except for the Emigrant area—the floodway and the flood plain are almost identical on most of that because it's entrenched.

Bob Wiltshire: OK, then obviously my word flood plain needs to be changed to "river-adjacent" development, because I certainly intend to include there some bench land associated with the river. The house that fell in the river in 1997 was certainly not in the flood plain nor in the direct floodway, but the socio-economic study has shown us that long-term residents, short-term residents, and visitors all value the scenic values associated with those open spaces adjacent to the river. I'm perfectly willing to do some wordsmithing, but I don't want to spend the next 45 minutes arguing about those two words.

John Bailey: Comments? Task Force? Anybody?

Jerry O'Hair: When do you consider something development? Is that houses or is that center pivots? Is it campgrounds or potato fields? That's the thing that I'm trying to find out because that's real broad.

Bob Wiltshire: What I would say, Jerry, is that comes back to what's in the socio-economic study. What's in here says that "we value ranching". That's something we want to preserve; so therefore,

whatever we develop and implement needs to preserve or enhance our ranching community and our ranching heritage.

Michelle Goodwine: I think you clarified what my earlier question was and that is: Are you referring to something outside of what is already regulated through floodplain and floodway regulations? By you expanding it into open spaces and bench lands I think you did tell me that you're not limiting it to existing regulations. I'm uncomfortable with how it can be perceived that the Task Force is making a recommendation on zoning and use. It comes back to the takings issue that I have referenced before at previous meetings, and I don't know that we want to put ourselves in that position. Even though, as you mentioned from the socio-economic study, there are tangible values that the public places on those open spaces; there are already subdivision and development limitations in place. I'm guessing that you're asking for something that's even more restrictive than what already exists. Is that correct?

Bob Wiltshire: Yes, to answer your direct question. But I think that there's a reason why the Governor appointed a task force. Our current system was not working. The Governor appointed us to come up with recommendations for ways to do things better. We spent 5½ years and \$3 million—I'm not even sure on the exact total—always saying that we were going to let the science drive our recommendations. We're at the end of that process. We have visible science and we have human science that says that we should not be continuing to develop these areas. If we weren't going to let the science drive the process, why did we spend that money and the time getting to this point?

Andy Dana: I guess I appreciate the effort to tie the importance of the river to the socio-economic study and the value identified there. My sense is that there's probably going to be more of a chance of reaching consensus if we move away from restrictions, which are a top down, command-control, black and white, "you can do this and you can't do that." As opposed to trying to develop more flexible mechanisms that create a culture and an ethic to protect the river voluntarily through incentive process. What occurs to me is—you know I don't disagree with the goals but I think that we do immediately get into zoning and land use planning and things that have always been hot-button issues—we're probably not going to reach consensus on that unless we go to a more voluntary program.

Bob Wiltshire: Andy I don't disagree. If you recall at our June 11 Task Force meeting I brought forth a proposal to try and create a volunteer method, and that was not real kindly felt. I'm quite frustrated here. All I'm finding is opposition to every proposal that's being made. John talked earlier about the obligation of providing recommendations that achieve the goal. I have not heard any recommendations to develop volunteerism, if that's what we're trying to achieve. I don't think anybody's a bad guy. Nobody wants to go out and trash the Yellowstone River. I don't think that at all, but what I'm afraid of is that if we cannot provide some substantive recommendations, where are we?

Roy Aserlind: May I respond for a minute to that? I would like to remind the Task Force that these are recommendations. These are generally how we feel; how we value the importance of the river. There are those persons that make the zoning regulations, that make the land-use determinations. They will have these recommendations. They will be the ones that at least know how this group feels. If I could just go on for a minute, I think you all have before you this *Historic Watershed Land Use Assessment of the Upper Yellowstone River* and one of the concerns that I think Bob was addressing—and incidentally, how many of you read that letter in the *Livingston Enterprise* from Mike Anglin last week? Yes. That is precisely what is going on out there. Anyway, look at *Table 2* in the report, if I can just pick out a couple of glaring examples: the increase in the percentage of homes in the Emigrant area since 1948 is 358 percent. Now I don't know if this is going to be a positively accelerating curve or a negatively decelerating curve but there is a definite curve there. It will have great implications for the future. You could look at the other percentages: the Mission Creek area has a 153 percent increase; the Corwin Springs area has a 238 percent increase. Now this is some of the science that I feel should be forcing our deliberations; that we must consider. These are rather alarming figures and I'm sure we could take these figures to someone living down in the Jackson area along the Teton River. They would say, "Oh my God, I wish we'd done this 25 years ago." But they didn't, and look at the problems that are occurring. I might also add, take a look at page 14 in this same report. Here again is the science. We know the number of home sites and the distances from the flood plain and this, I think should in some way enter into our consideration. Anyway, that's the science and I don't know that he put a restriction on there, but this is

what I think. Those persons making zoning decisions and land use recommendations should sit there with our recommendations in front of them and with these figures staring them right in the face. Then they would think, "Well, where do we want to go and what should we do about it?"

John Bailey: Roy, your comments and the way you read those figures made it sound like no-growth would be your ideal. I want to get some clarification on that please.

Roy Aserlind: No. No growth—and I'm not in any position to make that kind of determination—I would think that the zoners and the planners are the ones who'd make that decision. I'm sure you can have growth—I know it sounds terrible, but I have to say it—under controlled conditions. Let's get distances. Here I sound like the greatest hypocrite in this room! I'm talking about distances from the river and remember I went through all this 40 years ago; and if I knew then what I do now we would probably be living up on the northside hill; and I would still love the place as much as I do now, but it would have changed my decisions. We can't say "no growth," that's a fact; but there has to be some consideration to what types of growth—where; how big; how much; under what circumstances; what are the long-term implications for the watershed and the trees? Anyway, I can't say no, that I'm against any growth at all.

John Bailey: Comments?

Andy Dana: I think I'm going to say that I do not have a real problem with this. What I would like to see in this as well is actually having some attention paid to preserving some of the cottonwood bottom, if possible. Although that wasn't mentioned in the socio-economic study, it's been an important aspect of both the ecological health of the river and to the socio-economic characteristics that were identified as important.

Roy Aserlind: Andy do you feel that what you just said, and I think everybody agrees with you, would be better done as a separate recommendation?

Andy Dana: Possibly. I guess the other thing that bothers me a little bit about this—I guess I'm not likely to vote against it, but—what this does is essentially replicate the history of public land use regulation; because the government sets restrictions, and landowners respond; as opposed to trying to plow new ground by tying restrictions to incentives (for example, tradable permits or compensation for restrictions). I do have another proposal here that might accomplish some of that, but that's what's sort of lurking in the back of my mind. It sets the whole political debate, after we're adjourned and long gone, it just sets it loose into the historical conflicts that we've seen before.

Roy Aserlind: Well, if I could just re-phrase John Bailey's question to me and say, "Are you in favor of unlimited growth?"

Andy Dana: I'm not sure what you mean by unlimited growth. I'm not in favor of growth on private property that infringes on public rights, but I'm also not in favor of the public use of resources that infringe on private property rights.

Michelle Goodwine: I can think of a number of instances that, very strictly interpreting this proposed recommendation, might be restricted when they're not intended to be. For instance, further development when the high school, which is in the floodplain, added on the weight room—this would have been prohibited. If this were developed into current regulations, it would prohibit any further expansion like that. Or when they added on the office at the west end of the high school—this would prohibit that. This would prohibit, or could potentially prohibit, doing anything further to the civic center, which is in need of tearing down. Even more strictly, it could prohibit someone who lived down on Fleshman Creek on the east end of town from even putting a deck on their house or doing certain expansions for additional living space. I guess I just think that if the overall intention with this is going to really harm some individuals and we're not even seeing it from that standpoint; as well as all of those individuals out there that have purchased property with the thought of being able to build on the river at some point but just haven't gotten around to it yet—I'm not talking about future subdivisions now, but I'm talking about existing—depending on if something like this were accepted and adopted it could halt that.

Roy Aserlind: Well where does this leave us then? Where we were five years ago? We have all these figures; we have this knowledge; we have this science. Are we still five years back? I don't know? I understand your questions and your concerns, but it's a tough one.

Brant Oswald: I guess no one would be surprised that in general I'm supporting this recommendation. The only response I have to that, Michelle, is that I don't see anything in this recommendation that's restrictive; we're not implementing restrictions or regulations in our process. Bob has made a recommendation that some restriction be implemented to preserve some of these values, but no one's private property rights are going to be impinged by any recommendation that we make here. I think the important thing to consider is where we are, a couple of steps back from there. We're going to make recommendations that will at least reflect some of the concerns about these issues that we have. I don't see anything here that says that the school district would be restricted. We're making a general comment on the values that we think are important, and there may be some future action at some point, but I honestly don't see the bogeyman here in the recommendation. I don't see that any regulatory agency is going to take this recommendation and make the kinds of restrictions on development that you just said.

Michelle Goodwine: And that's why I asked Bob earlier exactly how expansive he was intending it to be, and when he mentioned he was talking about wide open spaces and bench lands—you don't just stop there and say, "Okay, everything that's inside the city limits it's okay to go ahead and continue with." There's a uniform floodplain development regulation already in place. This, to me, is more restrictive than what already exists, otherwise we'd just be upholding existing regulations. That's why I was looking for clarification as to what are we intending this recommendation to be more restrictive of. And I do see it as a taking issue.

John Bailey: Lawrence, if the Governor came to you because it says flood plain and said, "Well, how would we implement this?" What would you say?

Laurence Siroky: What this tells me, I guess is what further criteria are we leaving out? Of course the County would later be reviewing it in the permitting process. As I said earlier, there are certain uses that are allowed within the flood plain, and there are certain uses that are allowed or not allowed in the floodway. Those statutes and regulations are pretty stringent. But what this says is that not only are you going to look at the base flood elevation but that—say there's a home built in the flood plain—right now the regulation states that the base flood elevation can't be raised at all, but now it says that you're going to look at the scenic elevation as well. You're asking, I guess, a state agency to look at adopting regulations and not keep it where it's setting but go through that adoption process. This wouldn't do it by itself. We'd have to look at regulations in there already with those additional criteria, like if a proposed home affects the viewshed.

John Bailey: Thank you.

Roy Aserlind: Well, I would suspect that, given this recommendation, the Governor would form a Task Force and use science as the basis.

Laurence Siroky: Yeah, as I said the regulations can vary county by county, but the State has minimums in the statutes. The county can adopt regulations that are more stringent than the State; so that even for different rivers, the regulations can be different. So the Yellowstone would have different criteria versus the Shields. That's how it works.

Andy Dana: Bob, I'm going to propose a little wordsmithing here to see if we can move this thing a little closer to consensus, and that would be to eliminate the word "flood plain." It would read: "Development restrictions be implemented that preserve the scenic values, social values, and river characteristics identified by the socio-economic study as vital to the region's economic health."
By striking flood plain that gets it out of the whole controversy over floodplain issues. By adding social values I think we conserve ranching and we also conserve the consideration of those folks who bought small tracts for the purpose of looking over the river, and recognize their interest in preserving their economic investment. It's a mandate to whoever enacts restrictions that those values should be considered. That's an attempt to bring it closer to consensus.

Bob Wiltshire: I can accept that.

John Bailey: Comments, anyone?

Deb Corbett: I have a question, John. You passed a recommendation at your last meeting that has a part “a” and a part “b.” The former recommendation reads: “All permitting and/or regulatory management decisions (including the SAMP) must recognize and respect ... and b. the public and private interest in protecting private property and important social, economic, and natural resources existing on or near the flood plain of the Yellowstone River.” It seems to me that this is just a more succinct and clear way to say what you’re saying in part “b” that you already passed.

John Bailey: That may well be, but we have a Step 3 in our recommendation process, where we can combine or modify our recommendations. In meetings past, we’ve gone to great lengths to try to come to the world’s end on a recommendation; and my personal sense was that we ought to let some recommendations move to consensus and get some sort of a basis, and then go back and clean them up at the end (in Step 3). So I’m actually pleased that we may be getting some overlap that will then allow us in Step 3 to really narrow it down to what it is we want, or have multiples. I don’t think there’s any reason we can’t have overlap. Any other comments?

Jerry O’Hair: I have a little problem with the recommendation as a private property owner. In watching the county planning board, it seems that all they need is one little excuse to turn down a subdivision according to this “need.” They take away the private enterprise system based on the fact that they have to establish a “need” for a subdivision. It’s a fact that they let the man take a chance whether he can sell the homes on it or not, but he has to establish whether there’s a “need” for those homes. So I think that this is another round of private property rights being infringed on.

John Bailey: Jerry, I always thought that the county had an incentive to allow subdivisions because of property taxes—if they get more development they get more taxes. So I’ve always felt a little bit differently than you, in that their bias would be for development, because they get more money in their coffers.

Jerry O’Hair: Well, they claim not, and I guess that’s up for contention. You take a piece of land, say 50 acres, and run one cow on it; and you take that one cow off and you put 10 homes on there—I guess you have to figure it out. And what about private property values? What do you do to property values when you restrict it for agriculture? Looking at the socio-economic study, it didn’t appear that agriculture was doing very well, and so I’m not sure what you do to the property values. I’ve got my own personal opinions but I’m just wondering what this kind of restriction would do.

Michelle Goodwine: I can tell you that initially the property values will plummet. Especially if this property could no longer be built on because it hasn’t already been built on; it becomes devalued completely. Now its only value is Ag land. So what may have been a \$10,000 to \$20,000 per acre piece of property now becomes \$1,000 to \$2,000 per acre and somebody suffers a huge loss, and that’s just at today’s values. A piece of property the size of Jerry’s may retain its value but what we’re doing is setting it up so that working ranchers no longer can survive; setting it up to only allow the very, very wealthy to be able to afford the wide open spaces in Park County. You’re encouraging people who have lived here forever—which is part of what the socio-economic study cherishes and treasures, the fact that we do have a lot of long-standing ranches still around—but you’re encouraging it to go to only outside buyers who can afford to own that property here.

John Bailey: Michelle, why is this recommendation going to stop development? Who’s going to implement something like that?

Michelle Goodwine: I’m going back to hearing Bob talk about how he wants to preserve the scenic value from the river and not have home, home, home, home, and not just stop on the river’s edge but even encroach up onto the benches. And Laurence indicated that the intent could be that you don’t want to see any additional homes as you’re floating down the river, or any additional construction of any kind. That devalues people’s property right there.

John Bailey: Jerry, I'm not quite sure how that development works up on your hill there, but they have certain restrictions on how they can place their homes and whatever; so if you make the person go down the slope a little instead of hovering on top—the scenic view is better, and he still builds a better home. The county certainly is not going to be able to stop all building in the county. People will have a fit and then they'll all be out of a job quickly. So we're never going to build a tax stream. But we might also stop these things sitting on top of everything.

Michelle Goodwine: Well, as Jerry mentioned, I've seen subdivision requests that had nothing to do with the river get turned down for a multitude of reasons; and they do have to establish need. My experience has been and it's more often than not—no offense intended here, Ed—that they do go in with the intention of trying to get it through and they're going to have to go back to the drawing board multiple times to try and get the subdivision approved. So there are enough restrictions in place already, and not that I'm opposed to that, I'm not. I think good planning is what is best for everyone, but I also see that if this were strictly interpreted and implemented with the intent that I think I heard, it could reach to the point where Jerry's grandchildren can't even build on the ranch, because that would be further development that could be seen from the river itself.

Bob Wiltshire: You're right. It could. Why in the world would we ever think that has any basis in reality? We live in Park County. These regulations aren't developed. What I want doesn't amount to a hill of beans. If I got what I wanted we wouldn't have these houses perched on the riverbanks right now. That doesn't matter. We have county officials; we have rule makers; we have a public process that establishes these things. So a subdivider has to come to the county three or four times before they get it right. Do I care? No. Do they still get their subdivision? Yes. That's what the process is all about. I'm just trying to provide some guidance to the process. It seems to me, Michelle, that as a realtor what you're selling is the wide-open spaces. What are you going to sell when there's a house everywhere? You talk about devaluing land by taking away potential home sites or places where they might build; you're devaluing property every time you put another one of those houses up there. It's just that you're devaluing it for all the neighbors and not for the person who bought that pretty piece of land.

Michelle Goodwine: I appreciate your comment. I do want to give everybody one example: I can't tell you the exact year that this home was built, but it was allowed to be constructed and it takes on water every single year. It cannot sell and it has been on the market for six years, ever since the last flood; it has not sold. It was allowed to be built because of previous regulations and now the only regulation against it is the existing floodplain/floodway regulation. It will not sell and it has dropped in price repeatedly. We can sit back here and say, "That wasn't a part of what we did. The state did that or the county adopted that." If what we're doing is upholding the existing regulations, I'm fine with that. If we're trying to look for something more restrictive I'm not comfortable with that. I'm not comfortable with that being the function of this Task Force—to make recommendations for development outside of the riverbanks.

John Bailey: But Andy, we had some discussion about conservation easements and we were unable to get consensus on those, and that was a voluntary system. I think that under your scenario that type of thing would be voluntary and we don't seem to be going voluntary either.

Andy Dana: I guess I'm sort of in Bob's camp, which is somewhat surprising as I'm a lawyer and trained to see the dark side of everything. I sort of agree that this is a fairly innocuous but important statement that: the river is important, and that future development along the river is important, and development, when it occurs, should take into account scenic values and social values. One of those social values would be the desire to live next to the river and enjoy a scenic view and natural river characteristics. If you're going to do any kind of floodplain restrictions, zoning restrictions, any sort of restrictions, you want to do it with a thorough balance of all the values identified in the socio-economic study. I like this because it ties in the science that we've done.

Getting to your question, John, I think that issue on conservation issues was tabled. But responding to the statements that development restrictions automatically will cause an immediate decrease in value, I don't think the empirical data really supports that. Zoning, for example, has been shown over and over again to raise property values, because of what you mentioned. It serves the same purpose as

covenants. It shares a common view of what the landscape should look like. Developers do that privately and voluntarily and increase the property values by placing covenants on it. A public government agency uses zoning, which is essentially the same thing, to generally enhance property values. Also responding to some of the issues raised about why the county might require a needs assessment or a showing of need, subdivisions and developments are costly for the county to provide services, and so, unless there is a real need shown that will justify the services provided (police, fire, water), I think it's perfectly legitimate for the county to require a showing of need. Otherwise, as taxpayers we carry that burden. So, I view some of these arguments as being somewhat red herrings, personally. I'm sorry we can't get beyond that. I'm not surprised, but I do have another proposal that, maybe, will get us to a voluntary system, but we need to move on this one, right?

John Bailey: Are people ready to go to Step 2? Okay, we're moving into Step 2 and I need to read the recommendation, "Floodplain development restrictions be implemented that insure the preservation of the scenic values, the social values, and river characteristics identified by the socio-economic study as vital to the region's economic health."

Task Force members are there any final concerns or questions related to this recommendation? Hearing none, are you comfortable with this?

Several Task Force members indicated that they were uncomfortable with the recommendation.

So we have a split decision. The recommendation does not reach consensus, but now we want to go back to those people who are against this and see what they have to say that would let us reach consensus on this idea. Ed?

Ed Schilling: One statement was made a little earlier about how the county wants to encourage subdivision to bring up taxable value – very untrue. The cost of the services are way greater than what we're going to increase; even the school systems, there's going to be a big burden on the school systems. I think the statement that the county is encouraging subdivision is way off base. As far as this goes, I guess my only concern is that, if we're just looking at floodplain/floodway, I could maybe falter a little bit. But if we're looking at anything that is visible from the river, that would be my biggest concern, whether we're looking at a house up on top of some hillside, where do we really draw the line on how the river affects development in the Paradise Valley?

John Bailey: Is it the Task Force's role to develop that line? Or is it some other group's role? To deal with that and try to define those?

Ed Schilling: No, I don't think it's the Task Force, but I think we're trying to.

John Bailey: Or are we trying to encourage people to look into those? I'm just trying to see where you are.

Ed Schilling: I'm not sure how we can encourage without putting restrictions on it. I mean, if we tell people they cannot build on that hillside with that viewshed, you know, viewshed is getting to be the big word right now. I mean, we could even look at the big controversy right now about wind turbines. Viewshed is not necessarily a Yellowstone River thing, it's everybody's personal decision what they want to see out their window.

John Bailey: But for you to use those restrictions wouldn't you have to go through hearings in order to implement that?

Ed Schilling: Hmmm, I don't think so. Well, what are you talking about, right on the Yellowstone or up on a hillside?

John Bailey: Anywhere. Is there anything in the county regulations that talks about viewshed?

Ed Schilling: No.

John Bailey: So when the next person came in with a development you couldn't say that you didn't like what it took off of the view and turn it down?

Ed Schilling: Normally the only thing we have to turn then down is health and safety.

John Bailey: My point is, does anything happen with this recommendation until governments go through a process to implement?

Ed Schilling: As far as the county, we're not going to implement any new regulations until—it's just like right now we're in the process of writing a new road policy.

John Bailey: So nothing happens with this, as a county commissioner?

Ed Schilling: Correct.

John Bailey: Okay. Michelle. You also were uncomfortable with the recommendation.

Michelle Goodwine: Well, I guess I have a couple of points that are popping into my head. First of all, if nothing happens with this then why are we even doing it? And secondly, again, by strict interpretation, I live on the Yellowstone River and I took down what I thought was a hideously ugly Quonset hut, sitting right off the banks of the Yellowstone, and put up a much more attractive, larch-sided garage. Strictly interpreted, I think I would be unable to do this. But I think I've enhanced the viewshed by duplicating my garage space and removing that ugly building. Under this I wouldn't have been able to do so. The way it currently exists I didn't have to do anything except get an electrical permit and have Randy Taylor come out and look at my septic, and that's it. Nothing else needed to be done. I do appreciate the spirit of this. Getting on to another point I guess I would have to agree with Andy that overall, zoning really does enhance values. I don't dispute that. What I was saying was that immediately the values are deflated, because somebody who's already purchased a 20-acre tract or a five-acre tract or a one-acre tract right near the viewshed from the river – you are taking away from the value of that property if you're forcing them not to build. For instance, that stretch between Mallard's and Mill Creek, those 20-acre tracts that lie to the west of the river right up next to the highway. If you're going to say that they can't build where they're definitely outside of that 100-foot setback and they're not in the flood plain, but you can view them from the river, and if this could be interpreted or taken into any sort of legislation requirements for development – you've definitely devalued them because now their only choice is to build right up next to the highway, and that's not the most valuable location for a build site.

John Bailey: Michelle, our *Ground Rules* state that "participants who disagree with a proposal are responsible for offering a constructive alternative that seeks to accommodate the interests of all of the participants."

Michelle Goodwine: Then I would agree with Ed that we go back and insert "floodplain/floodway restrictions"; that we would uphold development in those areas because those are already identified.

Jerry O'Hair: Well, I'm going to have to take a little issue with Ed on this students in schools. I sat on the school board for a number of years. At the time I went on the school board, student population was rising and we had money to spend. When I left the board, student populations were dropping and we were scrambling for money. And that's apparently the problem that Livingston is having right now, in the fact that they've closed the Washington School. That's a little off the subject. The other thing that I've got that's a perfect example is the grain elevator that was built at Pompey's Pillar. For God sakes, it was two or three miles off the river, but there was a big objection thrown up because of viewshed and noise shed. I don't know what else went on with that. As it turned out, there weren't any regulations or laws written that they couldn't go ahead with that and that was an agricultural enterprise. Along with that, you know, I think this is very restrictive to agriculture. Agriculture as we're seeing it go today is going in a whole lot different direction than anybody thought it would ever go. It's getting into corporation farms and ranches and they operate in a little different way; and I don't know if I favor that kind of a thing but times are changing. So I think this could be very restrictive.

Land values, I see it as a detriment to land values. I guess I have to disagree that zoning increases land values. It may or it may not. If your land is strictly agriculture and the shape that agriculture is in today I'm not too sure that too many people are interested in a hunk of dirt. So I've really got problems with this and maybe if I studied it a little bit I could understand floodway or flood plain; but I can't put that on landowners and say this is the way it's going to be. The property, regardless of whether it's five acres or 100,000 acres it's all the same; it's something they've put their heart and soul into, and I'm just not in favor of putting more restrictions on them.

John Bailey: Do you have an alternative to this?

Jerry O'Hair: Well, the only thing that I can see is that we were going to come up with some solutions to the flooding on the Yellowstone. I had no idea that this was going to lead into a land-use restriction type of an organization. I thought we were going to work toward finding some kind of a solution to the flooding of the Yellowstone and try to protect the property values. That's the conversation I had with Governor Racicot at the time that he was here in Livingston, and he told me that he thought the thing to do was to form a task force to try and come up with some kind of a solution.

John Bailey: Well, I don't hear any alternatives coming from the dissenters here, so we'll move on.

Michelle Goodwine: John, I think that I had supported Ed's recommendation—maybe he didn't actually state it as such—to insert "floodplain and floodway restrictions" for development, which may already exist, but then we're just restating that we support those restrictions.

John Bailey: But will Jerry go with that? I'm not sure he's going with that.

Jerry O'Hair: I don't know whether I'd go with that or not, because I don't know what the regulations are.

John Bailey: You don't know what the regulations are, or where the flood plain is?

Jerry O'Hair: Either one. So far I haven't seen any really documented maps.

John Bailey: The maps will be here at the next Task Force meeting, so what I would like to ask is for the three of you to try to get together and see if there's any way you can deal with this by the next meeting. I think some of these need to be worked on more; that's one of the things we want to set up. We did that once before and we went into the next meeting. I think some of these are difficult questions for people to try to work out and you can't do it at the moment; but I would at least like to ask if you could try, and at the beginning of the next meeting the floodplain maps are going to be shown. Now, you may want to look at those maps and take another meeting because that new information is going to be there. The floodplain maps are going to be presented at the next Task Force meeting and then they're available to the public. I read #2 in our *Ground Rules* as saying you don't have to do it that instantly, you can take your time. Now, let's move on. Other recommendations?

Andy Dana: I tend to make a lot of recommendations, so if somebody else wants to jump in, please do. Okay, this is essentially a two-part recommendation but I think it needs to be tied together so it's going to be fairly long:

#2. Proposed Recommendation by Andy Dana:

"Propose a Park County Bond issue to protect and preserve agricultural lands, scenic views, socially-desirable riverscapes, and important riparian habitats along the Yellowstone River; and establish a representative Citizen's Advisory Council to develop criteria, to recommend expenditures, and to facilitate approval of projects funded by public monies."

I guess this is an attempt to try to let the public vote on how much they value the criteria developed by the socio-economic study as being important to protect along the Yellowstone. It also keeps the effort local by having a local citizen's advisory council—probably a legacy of the Task Force—to review applications or projects that come in and seek public money to preserve or advance the values identified by the socio-economic study, and also to try to work with agencies to implement the local preferences.

John Bailey: Comments, Task Force? Jerry.

Jerry O'Hair: An example of, or a couple of examples of, projects that might be funded?

Andy Dana: I don't know that I can respond to that right now. I think it kind of depends on what the citizen's advisory council, which would be a representative group, would define as important criteria for funding along the Yellowstone River. I guess it could be, for example, modification of structures in the river currently that may cut off some of the shallow water habitat that's important to fisheries without necessarily removing the bank stabilization projects that exist. In other words, you approved an existing bank stabilization project both for the landowner and for the natural system. That's one thing that springs to mind. You could even develop this into an easement program as we were talking about before—a purchase easement program. I guess it really depends on how the bonding issue is drafted and how the citizen's advisory council is put together and develops criteria.

John Bailey: But we're only saying if it was going on private land that it would be a willing seller or voluntarily, correct?

Andy Dana: Right.

John Bailey: Other comments? Ed?

Ed Schilling: Would you structure this like the one in Gallatin County, Bozeman?

Andy Dana: Yes, that's what I was thinking of, but rather than a broad, countywide program it would be tied to the River.

Ed Schilling: And then land that's classified as agricultural would not be involved in the bond issue?

Andy Dana: I guess I'm not sure what you mean. If a landowner, for example wanted to sell an easement to a property in order to keep the property in agricultural land, and that's important to preserving the riverscape, the viewscape, along the river, then I would think that public bond money is going to be devoted to that.

Ed Schilling: I was just wondering where this money would come from for this bond issue that you would try to pass? Who would put money into this? I think it's a good idea, but I think that a lot of details might have to be worked out. Who would actually pay? Which classified land would actually be taxed? Who would get the vote on this? A lot of details.

Andy Dana: Yeah, that's why you're elected county officials. You're right, this is a "big think" idea. That's all it is, just a recommendation to maybe explore this opportunity,

Ed Schilling: The reason I asked the question is that we have contacted Gallatin County as to how they started their Land Board. Where the money comes from? Who got taxed? Who got to vote? The whole scenario.

John Bailey: Comments, anyone?

Bob Wiltshire: Andy, I guess I have absolutely no problem. My question though would be, are there other potential funding sources in addition to a bond?

Andy Dana: Well, using the Gallatin County example, there are not other funding sources that contribute to the bond, but I think there's some criteria that prefer projects that have matching funds. So if it's important to a community they could put up the 50 percent matching fund with bond money or something like that, so you can really leverage local money often if it coincides with another policy.

Daryl Stutterheim: So, the way I read this is this is not just exclusive to the river, and I think you're talking about scenic views again, bench land, and I see it's riparian habitat. But this not just a project exclusively for the river?

Andy Dana: My intention is to restrict it to the river, because that's what this Task Force is about. I'm not proposing a Park County open space bond.

Burt Williams: I think this proposal has the opportunity of leveraging other kinds of things that are out there that would be helpful to the river: NRCS for instance, under the new Farm Bill, has the possibility of leading in partnership and cooperation areas, and getting various kinds of matching funds to add to the federal funds. Dave White, the State Conservationist, has already indicated his interest in the Yellowstone River by proposing a partnership or cooperation area for the Yellowstone. It seems like a good voluntary way of going about getting some conservation things in place.

John Bailey: Jim, do you have any problem that it's restricted to the river and not county wide?

Jim Barrett: No. If the Task Force is recommending it, I think it's appropriate that it focus on the river.

John Bailey: My only question is we might make this recommendation, but when it gets out into the big venue, other groups—maybe your group, Jim—may say well, let's not have it restricted to the Yellowstone, let's go for the whole county. That's the only reason I'm asking this question. It may be unfair to have you answer it tonight; so thank you. Other comments, anyone? Do we want to move to Step 2?

Jerry O'Hair: I would like to be able to take this to some of the people who have interests in lands along the Yellowstone, and have them take a little look at it, rather than just pass it tonight, myself. I'd like to get a little feedback on it. I'm not particularly opposed to it, but I'd like to have some other people take a look at this thing before I vote.

Andy Dana: Sure, that's fine. Let's leave it until the next meeting.

John Bailey: Okay, we will table the recommendation until the next meeting, and move on. Other recommendations?

Bob Wiltshire: I did kind of shotgun out some recommendations at the last meeting and looked through them quickly because of comments I received. This particular one is a floodplain recommendation, and it is:

#3 Proposed Recommendation by Bob Wiltshire

"No additional Livingston schools be constructed on McLeod Island."

And before anybody asks about the special services additions or anything, this states plainly, no additional schools.

John Bailey: Additions to a school?

Bob Wiltshire: It does not state that.

John Bailey: Adding East Side to the Middle School, is that an addition or a new school?

Bob Wiltshire: That's a new school, not the same building. That is the East Side School that was constructed

John Bailey: Well, just add an extension to the Middle School then.

Michelle Goodwine: So, if Saint Mary's wanted to go K through 12 and move out into their field, that's just an extension of their existing building?

Bob Wiltshire: Any addition to a school is an addition to a school. I'd be happy to change "additional" to "new," if that needs changing.

John Bailey: Comments? No comments?

Michelle Goodwine: Only because this actually was a consideration recently, where the View Vista trailer park exists, there was a consideration for putting a multi-use facility on that location that would be used by the school. It would be a City building, either a swimming pool or soccer field, but there would be a school building affiliated with Park High, potentially on that location. And if not there, down by the rodeo ground, an indoor hockey rink; that's a consideration right now. How would this fit? It's not technically a school but it is development on McLeod Island that would be school related.

Bob Wiltshire: In my mind it states very plainly that no schools would be built. I would however tell you as commentary that you're going to hear me yelling loud and long if any type of substantial public development is built. We got lucky in 1997, we had so much snow sitting up there; if we'd had hot weather and rain what we call Freshman Creek now would have been a river channel again. I think it's irresponsible of us, and I blame myself for not being better educated, when we allowed the Middle School and the East Side School to be built there. But, to answer your question, that is not a school. That is not what I'm addressing here.

John Bailey: Comments? I would personally like to see it more restrictive. Had I known when I worked to buy Lincoln School that the money would go to put an addition on at the High School, under floors that were almost flooded from underneath in 1996, I would have never bought Lincoln School. The fact that they didn't raise that addition tells me that there is no hope. Other comments? Everybody's ready to go to Step 2? I will read the proposed recommendation, "That no additional schools be built on McLeod Island."

Task Force, are there any final concerns or questions related to this recommendation? Does anyone have problems with this recommendation? I'm not seeing any negatives, not hearing any negatives, so this reaches consensus.

Recommendation Passed by Consensus
"That no additional schools be built on McLeod Island."

Note: McLeod Island is also known as Livingston Island.

John Bailey: Please remember, when we go to Step 2 it's voting Task Force members only. Any other recommendations?

Bob Wiltshire: On a related theme I have a recommendation:

#4. Proposed Recommendation by Bob Wiltshire

"That a long-term commitment be made to reduce the need for bank stabilization projects on McLeod Island."

Andy Dana: By whom?

Bob Wiltshire: By anyone. I do not intend this to have any regulatory force whatsoever, but that we make a commitment that we want to try to achieve a point in time in the future when bank stabilization on McLeod Island is no longer necessary.

Andy Dana: Is McLeod Island wholly owned by the public? No? I don't know how we can recommend a commitment if it's not targeted to someone or at someone. Someone makes a commitment. It's not something that just appears out of thin air.

Bob Wiltshire: I don't disagree. I'm willing to change the wording. But we all keep coming back to the fact that when the river gets to Livingston, we don't have a lot of choices. We've got two choices, either we find a way to have some more latitude, or we accept that we're going to keep that river in a concrete tough, if need be. I'm just trying to look for some way to say that maybe we can leave a legacy so that

people who are living here 100 years from now are going to be able to have a nice riverside park on McLeod Island that might go under water at times.

John Bailey: Bob, does McLeod Island end right where the lagoon comes down next to the river?

Bob Wiltshire: It's my understanding at the upstream end, yes.

John Bailey: That seems like a funny line to stop on, when you've got the Sacajawea Park on upstream. I'm uncertain where it starts.

Bob Wiltshire: I'll answer in a couple of different ways. My understanding is that McLeod Island starts at the historic high-water channel at the lagoon. However, if it starts at Larry Edward's house it still doesn't matter. We still have armored bank going upstream.

John Bailey: That's why I was asking. It seems like a strange place to have this start, right in the middle of that narrow road. I'd like this recommendation better if we were talking bank to reach sides of the river than talking about a smaller section. I think instead of talking one narrow piece of the urban reach, we need to be talking "the urban section" concept of the river.

Bob Wiltshire: I would certainly welcome a recommendation along those lines. My experience has been the broader my recommendation, the more likely it is to get punched full of holes. So I'm trying to do this in a step-by-step fashion.

Andy Dana: I guess I really can't support this because I don't know what it means. I'm still struggling with whom this is directed toward as a recommendation. I mean, what's the Governor going to do with this? Is this a direction to the Governor?

Bob Wiltshire: It's a recommendation to the public. I'd like to see the public make a commitment.

Andy Dana: Would you accept that a long-term "public" commitment be made?

Bob Wiltshire: Fine. Now we have to recognize there are still private landowners. The public can commit all they want, but the landowners still have their rights, and I'm not attempting in any way to infringe on that.

Andy Dana: But I'm still not sure that it achieves a whole lot.

Bob Wiltshire: It probably doesn't achieve anything, Andy.

Andy Dana: Then why do it?

Bob Wiltshire: Because it starts people thinking in a different direction.

Andy Dana: I'm thinking in a very circular, foggy, unclear direction at this point. That's what this does for me.

Bob Wiltshire: It highlights the fact that McLeod Island is a bad spot for us all on the river, and that we need to be looking for a future that's different than today.

Andy Dana: That's not what it says, because it focuses on bank stabilization projects and public commitment. What you just said is not what this recommendation does.

Bob Wiltshire: I feel it's more effective in achieving that end than passing a recommendation that says, "We recommend that the public change their thought processes on how they view McLeod Island." It's an attempt to envision a positive future, and if it's not doing that then let's veto it; I've got more stuff here.

John Bailey: Comments?

Daryl Stutterheim: My question is where's the science that drives this recommendation?

Bob Wiltshire: Well I certainly can't cite any specific report, but the gist of the science that we've been given, as I understand it, is that the Yellowstone—I'm going to use some words here, but please understand that they might not be the right ones—for the river system to be healthy it needs to be able to have an active floodway; an area where the water runs without being told where it has to run. And so we recognize at this point in time there is no such place through the city proper or Livingston. This is a very tiny step in the direction of having, perhaps someday, that opportunity in the urban area.

John Bailey: Any further comments?

Daryl Stutterheim: Maybe one. Do you know where the conservation district takes over and where the city ends?

John Bailey: Is John Long in the city or the county?

Michelle Goodwine: County.

The golf course is county, but right across the street the driving range is city.

Ed Schilling: I guess my comment would be, you know we've got the fairgrounds down there, which is a county entity, and I guess I would want to have some type of bank stabilization to protect that facility. We would be glad to move the whole fairgrounds out of there and turn it into a park, if somebody would write us a check to do it. And, I guess at some point we're going to expand buildings down there. We're looking at an ice rink; we're looking at an indoor riding arena; and we're going to propose to build it right there. We're going to want some type of protection to save our facilities. On the other hand, we would be glad to build it out of town or out of the flood plain, but we cannot have half of our facilities say at the east interchange and half of it down at McLeod Island. So we are kind of caught in a hard spot. How do we expand but yet keep it all under one roof? Do we start trucking kids out of town for part of the county fair, let's say, and part of it in town?

John Bailey: I was trying to get it ready but I didn't get a recommendation for tonight. It will focus on a way to open up the river or at least get someone to do a study to see if it would be feasible, and after that just have a public debate as to whether or not it should be done. It seems to me that we're just waiting for the day when most of Livingston gets wiped out, because when the bank goes there at the lagoon or right through there, nobody can run fast enough. So, it seems to me that with what we've done to date we need to start looking at some alternatives to how to minimize those impacts. I think we need to start looking for alternatives to alleviate that pressure. Whether we can reach consensus or not is unclear.

Tom Hallin: I might add if you look at a map; it's not McLeod Island, it's Livingston Island.

Bob Wiltshire: Is that right Tom? Well, then I would ask that the change be so noted.

John Bailey: Well, you can't change it now, but you can in Step 3. Any further comments?

Roy Aserlind: You mentioned, John, a couple of times and I've heard people say to alleviate the pressure. From my perspective one of the greatest ways to alleviate the proposed and forthcoming pressure on McLeod Island would be to do something about that east span of the Interstate 90 Bridge. That used to be a wonderful flood plain. There used to be a third channel through there, a great third channel, and water would flow through clear down to the bedrock areas. I suppose that could be subsumed under this current recommendation.

John Bailey: Well, we have a recommendation to equalize the water at your house. We don't need to worry about that east span now.

Roy Aserlind: Well, I think at that east span something will have to be done in the future to alleviate the downstream pressure in Livingston.

John Bailey: What we don't have, unless we get to them in the other, is sort of an urban area; and I think there could be lots of recommendations just centered on urban. We get them in pieces.

Andy Dana: One more quick question. I don't know that this is something that could derail this, but, if the public or anyone makes a commitment on Livingston Island and it is eventually eroded away or there is an channel avulsion that comes through the lagoon because of the lack of a bank stabilization project, aren't you just shifting the problem to the downtown area?

Bob Wiltshire: On the one hand, potentially yes, Andy. On the other hand, if you look at the recommendation it says, "reduce the need for..." It doesn't say, "reduce bank stabilization." If that stabilization is still needed I'm not proposing we don't do it. And, obviously, when we're talking about reducing that need, we're talking about relocating Livingston citizens; we're talking about a lot of things. That's why I said "long term". I suppose I could have said "very long term."

John Bailey: It seems to me that if this reaches consensus it might galvanize the Task Force to have other recommendations in an urban sense; as to how to try to deal with some of these issues. I know they can all be reworked in Step 3. I'm hoping we can come up with some kind of an "urban concept." I realize it may take several steps.

Bob Wiltshire: Yeah, I'm just looking for little pieces and not big chunks.

John Bailey: I understand. Are we ready to go to Step 2? Anyone have any further comments? Okay, we're going to Step 2. I will read the proposed recommendation, "That a long-term public commitment be made to reduce the need for bank stabilization projects on Livingston Island." Task Force are there any questions or concerns related to this? Are we all comfortable with this? Jerry's not? Anyone else? At the moment this lacks consensus and we move back into Step 1 for further discussion. Jerry, you want to give us your comments and do you have any proposal how to rework this that might accommodate the interests of the others?

Jerry O'Hair: Well, I think it's a dream that might gel some day, but I'm concerned about private property rights along the river. Who in the hell's gonna fix my truck when John Long's not there? So, the private property rights are the ones I'm concerned about with this proposed recommendation.

John Bailey: What does it do to that?

Jerry O'Hair: Well I don't think it allows for a bank stabilization or protection, and I think it deserves some protection. I said before that the Yellowstone River is claimed to be the people's river, and if it's the people's river then it's up to the people to figure out some way to prevent it from damaging the neighbor. It's just like if you've got a mad dog and it's harassing your neighbors; it's up to you to take care of it, not the neighbor.

Bob Wiltshire: Jerry, I would just like to respond to that by saying I think you have a very narrow view, because what this says is that we recommend we reduce the need. Now for you to turn around and look for an extreme example, one way we could reduce the need is to build the Allen's Spur Dam. That would reduce the need for bank stabilization projects on Livingston Island. So, we can always find extreme examples. What I'm saying is let's try to look forward to a future where we don't need to stabilize these banks. I'm not saying how, or who, or why, but I think that it's important that we have a vision where we don't need to worry about bank stabilization. You're the only one who has a problem with this.

Jerry O'Hair: And I guess I always will be. I think the vision is good. The only thing is there are some private property owners and there is some public land out there and I'm just concerned about a commitment for non-stabilization. Reduce the need? Possibly, but as it stands right now it's a long time down the road.

John Bailey: If we look for ways to reduce bank stabilization is that not answering Doug's question of: how do we do a better job? Isn't that sort of encouraging people to go out and look for different ways, instead of just continuing with the same old thing? I mean, I'm hearing another landowner saying at every meeting he's been to, isn't there a better way? Doesn't this encourage people to start looking for alternatives, different things?

Jerry O'Hair: Yeah, that may be possible, but in terms of Livingston Island being a wild and scenic area, I'm not too sure it won't eventually be that, it may be just prolonging the agony. Are you going to come up with something that says that you don't want bank stabilization on the Livingston side of Livingston Island? I guess I'm talking around in circles, but I still have a problem with this.

John Bailey: I know the City was involved, I don't know if the County was involved, but the Corps of Engineers was looking with Freshman Creek and also along the bank (the 205 program). I believe they were trying to figure out how to maybe do things better there, but this recommendation might get us some help. I think this community is in dire straits as to what could happen.

Allan Steidle: Colleen Horihan will be here for the next Task Force meeting and she will go over the work that she's done in this area. I think that she intends to give a thumbnail of work that others have been doing currently in this area as well. So I think that after next week the Task Force should be a lot more educated as far as what type of technical studies are being done along this reach and perhaps you'd want to sit on this one for another week until you have Colleen's information.

John Bailey: Jerry, are you agreeable to having alternatives looked at in urban reach? Are you willing to propose that as an alternative to this?

Jerry O'Hair: When you say alternatives, what are you talking about?

John Bailey: We're not going to study them. Should we encourage studies to be done in the future to look at alternatives to help alleviate the flooding potentials through the urban reach?

Jerry O'Hair: Sounds good. Make it a recommendation.

John Bailey: It's your recommendation. Kelly, do you have that?

John Bailey: To encourage people to study different techniques or ways to alleviate the flooding potential through the Livingston urban area.

Kelly Wade: Is this a proposal of Jerry's or Bob's?

John Bailey: It's Jerry's. He's accommodating the participants who agreed with the first proposal.

#5. Proposed Recommendation of Jerry O'Hair

"To encourage people to study different techniques or ways to alleviate the flooding potential through the Livingston urban area."

Bob Wiltshire: I have no problem at all with this recommendation. I don't think it does what I was hoping to achieve with my recommendation, which is to inspire a new way of thinking; that we might be able to envision a future that doesn't require business as usual, and I don't see that this inspires that kind of thought. Having said that, I have absolutely no problem with this recommendation.

Jerry O'Hair: I'm just thinking maybe that it should be changed to "the Yellowstone reach."

John Bailey: The whole river?

Jerry O'Hair: Sure. Why not?

John Bailey: What's our definition? The Yellowstone study area.

Liz Galli-Noble: The upper Yellowstone River study area is defined as Gardiner to Springdale.

John Bailey: Comments. AI? You're doing the SAMP I know.

Allan Steinle: When you talk about flooding potential, are you talking about the potential for the corridor to flood or the potential damage from flood?

John Bailey: When it was in the urban it was about the potential for it to break through the wall. When you talk urban, the river is restricted from its flood plain more so than anywhere else on the river. When you put it to the whole thing it makes an interesting question.

Jerry O'Hair: When I look at this I think back when I did a "soft" (or whatever you want to call it) technique and it didn't work. But there may be other techniques or ways that people will come up with that may prevent severe flooding or damage to agricultural land and irrigation structures and homes and so forth on the entire river. As it stands right now, hard rock and riprap seems to be the way to go, but I'm not against finding a new technique. After all putting rock in the river is extremely expensive and it doesn't always work; so I'd be open to other means and ways to alleviate the problem.

Bob Wiltshire: Jerry, I guess that I would ask you to look at maybe changing some of the wording there. I agree with the intent of what you just said but as I read this—alleviate the flooding potential—could be as far-fetched as finding ways to make it not snow in Yellowstone Park. I know that's not what you're intending, but that would be alleviating the flooding potential. I guess I don't have good words to offer, but to reduce the bank damage or, I don't know but something that would better reflect what you just said to us that you're talking about.

Laurence Siroky: I guess an alternate to "potential" might be "damage," because I think that there are certain benefits to flooding like sediment removal and fisheries spawning and all kinds of things depend on flooding occurring. So I think "damage" would be better. The other comment I want to make is that when you read the Federal Emergency Management Agency (FEMA) goals it says basically that you're looking at structural and non-structural ways for reducing flood damage and this kind of includes both of those. That talks about structural measures to protect family and protect property, non-structural would be houses, not building in areas where there is a potential for damage. The idea is that you don't put a county shop in an area that you may have to riprap later on. Again, that's kind of a goal that federal organizations like FEMA and others have.

Jerry O'Hair: All right, looking at this there is a possibility for maybe off-stream storage. You know I think there are all sorts of ways to alleviate the flooding damage, maybe not trying to put something up in Yellowstone Park. I'm open to any suggestions.

John Bailey: Comments? You ready to move to Step 2? I don't see any reluctance, so we're going to move to Step 2. I will read the proposed recommendation, "To encourage people to study different techniques or ways to alleviate flooding damage through the Upper Yellowstone River Study Area." Task Force, any final concerns or conditions relating to this proposal? Hearing none, are we all comfortable with this? This recommendation reaches consensus.

Recommendation Passed by Consensus
**"To encourage people to study different techniques or ways to alleviate
flooding damage through the Upper Yellowstone River Study Area."**

John Bailey: Do you have another one Bob?

Bob Wiltshire: Well this one will probably be pretty quick because I'm tilting at windmills here, but I would still like to introduce it into the record anyway.

#6. Proposed Recommendation by Bob Wiltshire
"That no new non-floodable structures be constructed on Livingston Island."

Andy Dana: Do you envision that this would allow building up the foundation so that you can build structures on Livingston Island as long as they're raised way above any possibility that they may be flooded?

Bob Wiltshire: No. I searched for a while, and I have to admit that I'm running out of time, I was searching for a better approach. What I'm getting at is if the county wants to build a new pole barn on the fairgrounds, that's a "floodable" structure. If the county wants to build an indoor ice rink on the fairgrounds, that's a "non-floodable" structure. What I'm getting at is getting rid of our major development, high-dollar development that's taking place on that property.

John Bailey: Bob, are you assuming that is in the flood plain?

Bob Wiltshire: I don't care if it is or not.

John Bailey: Comments?

John Bailey: I think the floodplain maps are going to show that the county fairgrounds are much higher than most of the houses in that area, and I just think we have a very interesting situation here. I think until we have the floodplain maps we ought to be very careful with what we're doing here. There may be recommendations that we make that we wish we hadn't done.

Bob Wiltshire: I need to remind you that there's a Step 3 in this process.

Brant Oswald: Whether or not we reach consensus on this I think the one thing we will need to revisit at some point—and maybe it's going to be appropriate after we do see the new floodplain maps—is the spirit of several of the recommendations that Bob has made in the last couple of meetings. To recognize I that there are a lot of people who just want to make sure that public money isn't being spent on structures that are potentially being put in harms way. That's the spirit of where we're going with these things; where Bob has talked about schools and this sort of thing. We may come back to this issue, but I think there is a spirit that we need to recognize, that there are a lot of people who are really concerned about the taxpayer dollars being used and in what way.

John Bailey: Comments? Laurence?

Laurence Siroky: I guess I just want to make clear what floodable would be? If you're talking about the 100-year flood, which would be the regulatory flood; or some maps depict 500-year flood plains.

Bob Wiltshire: My intent was in no way to get into the 100-year or the 500-year or anything like that. It's a word that I used that's probably very poorly chosen to refer to structures or buildings that would suffer significant structural damage in the event that there were flooding. It had nothing to do with their elevation, but what happens to them.

John Bailey: If they're high, Bob, they're not supposed to get flooded.

Bob Wiltshire: Yeah, but if they're high and the river breaks through Sacajawea Park and recaptures the old high-water channel, does catastrophic damage, imposes a new raised channel down that channel, we've now got these structures on what now is likely to become a permanent island. And now, even though they sit high, and even though they may still be there, the fairground now sits on an island and we're looking at God knows what sort of potential liability to be able to access that stuff.

John Bailey: Comments? Any further comments?

Andy Dana: I think we can wordsmith the "non-floodable" structures to say, "That no new structures be constructed on Livingston Island that would suffer serious damage during a flood."

Bob Wiltshire: The problem I have is, having listened to myself talk, I realize that I didn't do as good a job writing as I did thinking. That would then allow the county to build an ice rink on high ground that

would suffer significant damage in the event of a flood, but would still exist on that island, like I was just alluding to.

Andy Dana: I guess I would encourage you to resubmit this.

Bob Wiltshire: Yeah, and this is a reworking of what I had last time when I said, “no new structures” and I tried to rework it again into something that would convey my intent. With the permission of the Chair, I would withdraw this recommendation for future resubmission.

John Bailey: The chair would be much happier to see the floodplain maps before dealing with this, because I think they’re going to pose some real serious questions. So, it’s tabled. Other motions or recommendations?

Bob Wiltshire: Do you want to adjourn?

John Bailey: No. It’s not ten o’clock yet.

Bob Wiltshire: I would say that these are not flood plain, so if anyone has anything else.

John Bailey: Well I have one that’s not flood plain too, but I’ve had it for three or four meetings but I haven’t been able to get it in so it’s immaterial.

Bob Wiltshire: If anybody has any flood plain, I’d recommend we stay with that.

John Bailey: Hopefully, sometime we’ll drop flood plain because we’re going to be meeting daily to meet our deadline here, shortly. Go ahead.

Bob Wiltshire: I have a fisheries recommendation.

#7. Proposed Recommendation by Bob Wiltshire

“That annual fish population surveys be conducted on all sections where they have historically been made. If, at any time, indications of a declining population are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations to historic levels.”

I think this pretty well stands on its own. A little bit of background for part of my motivation for this that probably isn’t obvious to a lot of you is that every time Joel’s position becomes vacant there is usually a movement made to try to eliminate that position. So I think it’s important that we go on record as saying that the historic fish conservation work is important and must continue into the future. I am one of the few people who have strong confidence and faith in Fish, Wildlife and Parks, that if they do detect population damage they’d be the first ones out there trying to see what’s going on. I don’t think it hurts to put it out there.

John Bailey: Comments?

Andy Dana: I think this just triples Joel’s budget. My concern about this is the second sentence, “If at any time, indications of declining population are detected...”. After the 1997 flood there were no fish in Livingston and the next year there were a lot of fish. It’s not clear to me that was an indication of declining populations; so how do you determine, based on an annual fish survey, that you’ve got a declining population?

Bob Wiltshire: You don’t. The additional studies that would be done is that the next year they would go out and count the fish again. They may have more fish in the population. My understanding of fishery studies is that you go on trend and not on a snapshot. Any one given sample tells you nothing. So I don’t see anything in here, from my understanding, that tells you there’s an absolute trigger, where the sirens are running and they’re out there trying to do something. I think that a declining population would be a long-term trend that would show that there’s something out there that needs to be looked at.

John Bailey: If we go through a long drought, say populations go down, are they supposed to go in and stock, are they supposed to try and create water?

Bob Wiltshire: I would suggest, John, that a long drought would be reflected in the years' data that the FWP already has, that would show that the river has ebbs and flows within normal ranges of population. It would take several years of trends, well outside those historic norms, to identify a declining population. To give you an example, when whirling disease was first discovered on the Madison River, those fish population trends in rainbow trout went to well outside the historic norms for a period of several years, which triggered FWP's ratcheting up their surveys to identify what the problem was.

John Bailey: But until the public found out, they weren't telling them that the fish populations were down.

Bob Wiltshire: We can argue about that one, but I do know that internally there were official studies being done and – Joel, stop me if I'm misrepresenting you.

Brant Oswald: One really quick comment about, tell me if I get this wrong but, it seems that a little bit of uneasiness could be detected in the phrase "at any time." If we just eliminate that one.

Bob Wiltshire: I'd be perfectly willing to accept that amendment.

Andy Dana: Limit this to trout?

Bob Wiltshire: I don't want to limit this to trout. However, I do believe that it is limited defacto by the language, because I don't believe there's been any historic studies done on any non-salmonid species.

Andy Dana: The first sentence, however, is not limited to historic species.

Bob Wiltshire: My intent there is that the areas that have been historically sampled need to be sampled in the same fashion. While I personally would love to see the department give us some studies on Suckers and Sculpin and some of these other fish, I do not believe it would be responsible for us to recommend that.

John Bailey: I like this, but I don't like the very last line, because I think of Yellowstone Park and all the heavy metals that are in there, and something comes down and kills a lot of fish; this recommendation is going to be let's restock. I really don't want to have to fight that again. But, considering what's happened in Yellowstone Park, we could lose a lot of fish in one event. If we have to get back to historic levels, we're going to have a lot of people clamoring to use this recommendation to say restock.

Bob Wiltshire: Again John, I would have to use the point that I used with people earlier that had concerns about me using the word recommend. There is nothing there that mandates restoring fish to historic levels. It's recommending actions that will restore, and they would certainly have to follow the whole public process before they implement any of those actions. And, whether the reality was my belief or not. It very often is. But, my belief is that, if they identify potential causes of those declines, the next step automatically is to recommend action directly...

John Bailey: Well, whirling disease—you were on the task force as I was—all the people in Ennis thought stocking was a great thing. Luckily the rainbow populations came back, but there were an awful lot of people who were talking about going back to stocking.

Bob Wiltshire: There were very many members of the public that believed that, but what did Fish, Wildlife and Parks recommend? They were dead-set against that, and I think that they have historically been the advocate for wild trout management. I can't imagine recommending that the river be restocked.

John Bailey: But Fish, Wildlife and Parks, through that, never said they would restore to historic levels.

Bob Wiltshire: I would be willing to strike "to historic levels".

John Bailey: That would be good.

Daryl Stutterheim: Does it need to be stipulated FWP, as opposed to some private or other entity?

Bob Wiltshire: FWP has a responsibility for the fish of Montana. It does not mean that they would necessarily do the study. Just like we use university people, we use the USGS-BRD, they might also do it, if they felt it was appropriate, turn to some outside contractor to conduct those studies. In that case the contractor would present their finding to FWP and not to the public, would be my understanding.

John Bailey: Further comments? Are we ready to go to Step 2? We're in Step 2. I will read the proposed recommendation, "That annual fish population surveys be conducted on all sections where they have historically been made. If indications of a declining population are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations." Task Force, are there any final questions or concerns related to this recommendation?

Ed Schilling: Is this just on the Yellowstone or all areas of the county?

John Bailey: I think we only have jurisdiction on the upper Yellowstone by authority of the Governor, so I'm assuming that is the area that applies.

Ed Schilling: The reason I ask is that we could get into a situation of dewatering some of the streams.

John Bailey: You're not doing annual fish populations on the tributaries, are you?

Joel Tohtz: Some. The Shields River.

John Bailey: But, I would assume that fish population is sporadic.

Bob Wiltshire: I don't know how much I'm allowed to speak if we're in Step 2 and how much discussion we're allowed at this point.

John Bailey: Final questions and concerns?

Bob Wiltshire: The main stem of the Yellowstone was what this is aimed at.

John Bailey: Alright, are we comfortable with this? I don't see any negative indications. This recommendation reaches consensus.

Recommendation Passed by Consensus

"That annual fish population surveys be conducted on all sections where they have historically been made. If indications of a declining population are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations."

John Bailey: Other recommendations?

Bob Wiltshire: I have another one:

#8. Proposed recommendation of Bob Wiltshire

"That further investigations into the production and rearing of juvenile fish be conducted, particularly to determine the importance of lateral side channels and spring creeks."

Bob Wiltshire: A few comments on this; if you recall from the comments on the juvenile fish studies that were performed by Dr. Zale, they were only able to sample in low-water years. They made some assumptions about how fish are using side channels, but they were not able to adequately study all of that and this recommendation addresses that. One of the other things that came out is the big unknown of exactly what is the role of the spring creeks for fry production and juvenile rearing. The suspicion is that they are very critical habitats, but we don't know that for sure. This does not specify that FWP do this

or that any other particular agency. I just want to throw it to the Governor that we recommend that this is a piece of information we need on the Yellowstone River.

John Bailey: Comments.

Andy Dana: I would propose that we expand the study to “determine the importance of lateral side channels, main channel habitats, and overflow habitats during a flood,” because I saw the biggest weakness of the juvenile fish habitat study as focusing solely on lateral side channels and getting very poor data from that, and making assumptions, based on literature from other streams, about the importance of lateral side channels to this river that may not be completely accurate. That aspect of the study concerns me. As far as spring creeks are concerned, I guess I don’t have a problem with that, except that I’ve had a lot of research people on my property over the past couple of years and am experiencing a little research burnout.

Bob Wiltshire: I would suggest the realistic possibility of these studies being implemented is just about nil because these are very expensive studies, and I have absolutely no idea who would foot the bill. Of course, any studies on spring creeks would only be done with the willing participation of the creek owners. On your first point, I have no problem if you want to offer some words there for expanding that out. I think there were some weaknesses in that study. I don’t fault what they did. I think that is just a matter of not enough time, not good conditions, and not enough evidence.

John Bailey: Other comments?

Andy Dana: I would say, “particularly to determine the relevant importance of lateral side channels, main stem habitats and overflow habitats”. That should cover it.

Joel Tohtz: The stuff that you recommend we look at is the stuff that’s needed.

John Bailey: Comments? People are tired. There are no comments. Do we want to move to Step 2? Okay. I will read the proposed recommendation, “That further investigations into the production and rearing of juvenile fish be conducted; particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.” Task Force members, any final concerns or questions to this recommendation?

Andy Dana: Yes, I’m going to block this, solely for the purpose of having Daryl make a comment if he wants to regarding those last two words.

John Bailey: OK, we’re back in Step 1.

Daryl Smith: I wouldn’t have any problem with this as long as the people that work with us on the studies do not interfere with our fishing operation.

John Bailey: I think the funding to do the studies could be difficult, but certainly from the data that came in, I don’t know that they actually know where the fish are, so it’s a good idea. Okay, we’re back to Step 2. I’ll re-read it again, “That further investigations into the production and rearing of juvenile fish be conducted; particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.” Any further concerns or questions? Not hearing any, are we comfortable with this? I see all positive nods; this recommendation reaches consensus.

Recommendation Passed by Consensus

“That further investigations into the production and rearing of juvenile fish be conducted; particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.”

John Bailey: Bob do you have more?

Bob Wiltshire: I'm out of ones that I'm willing to introduce tonight.

John Bailey: Anybody have further recommendations? Okay, the Chair has one.

#9. Proposed Recommendation by John Bailey

"Encourage the US Geological Survey Helena and the US Geological Survey-Biological Resources Division to monitor and measure the effect of structures over time."

I used structures because there are so many things to be brought to bear, that we need to get something over a 10 or even 20-year period; to see what happens over time. If we go through a long period of drought or high water, they all react differently, and Doug always says, "How can we do it better?" Until we have somebody look at what some of these things do and how they react in the Yellowstone I don't think there are ever going to be any answers for Doug or any of us. Somebody proposes something but we really haven't looked at things over a timeframe to see how they react with the different kinds of fish. And the reason why I picked these two agencies is that I had Liz actually ask them if they could do it, and they're interested in doing this.

Andy Dana: What effects do you want them to measure and monitor?

John Bailey: They're the scientists. I think they have to determine this. They have to talk to landowners about how they were put in and the conditions etc. The BRD showed on that one map how the currents go around things like bars.

Andy Dana: Are you talking about bank stabilization structures?

John Bailey: It may also be a bridge structure. I was going to put in "bank stabilization structures," but there may be other kinds.

Andy Dana: So, structures in the river, okay. But I'm still not clear on "effects." That could mean effects on yellow warblers; effects on geomorphology; I think you might want to consider limiting the direction if you have a particular concern.

John Bailey: Well, they're going to do the studies and they're going to be looking at them, and we have no idea what they're going to start to see.

Andy Dana: What they see is based on what their study design is, and we can control what their study design is. If we want them to study the effects on yellow warblers, we can tell them to measure that. If we want them to study the effect on sediment movement, then we can tell them to do that. I'm searching for a way to signal to the USGS what the critical issues are.

John Bailey: My sense was that the work that the BRD has done sort of had some context, but I don't know. I don't know the science well enough to put those limits on it. Comments? Joel.

Joel Tohtz: I have a question. Structures meaning channel modifying structures, or what?

John Bailey: Well, I was going to say, "channel modification," but then there are bridges and I'm not sure they fit that. They certainly have some effect. People worry about all the cottonwoods that are out in the flood plain, I mean if they're out doing and seeing what BRD did with all those points they can look at how currents are reacting to lots of things. If we want to restrict what they do, we can do that; but we're not going to be in existence to review what they do. We might want to put things in here but they can certainly expand on any of our recommendations. When somebody's getting money, whoever funds them will put some other conditions on them.

Roy Aserlind: Would it defeat the purpose of your recommendation to include "structures and large, woody debris"? I think they have an effect on the river channels.

John Bailey: It may be expanding it, but Andy may think it's too broad.

Andy Dana: I just want to know what effects we're measuring and monitoring.

Bob Wiltshire: I guess I'm seeing this exactly opposite of the way Andy is. I would hate to put a sideboard on it, because that says that we have some sort of a preconceived notion of what kind of effects or damage we want to know about. We want to know what happens in five years or 10 years or 30 years. Does a structure work hydrologically or does it fail? Does it work hydrologically, but decrease the warbler population? I would just as soon know that. That helps our decision makers make better decisions.

John Bailey: My sense is that it doesn't tell you much for maybe 20 to 25 years. You were talking about barbs and how they were designed for high-water events, and yet we've had a lot of low-water events and as to the things we're seeing, they weren't really designed for. So that's when I said, "We've got to get someone looking at it long term, because individual years may not do what I would like to see them do, just because I'm a fisherman, or something. What are we doing? Are we moving the rivers?"

Andy Dana: My concern, I think, echoes some of what Jerry has said throughout some of these proceedings in that the Task Force is really charged to look at the Yellowstone River system. So I'd feel more comfortable if we directed them to measure the effects 'on' something, and it might be "the river system." That might make me feel that this isn't sort of a cart blanche to the Biological Resources Division to seek funding for studies all up and down, from mountain peak to mountain peak.

John Bailey: I assumed it was within the river. I have no problem with adding that.

Bob Wiltshire: Would "riparian structures" work?

Andy Dana: Sure, or structures on the riparian system, because that would be broad enough for them to look at wildlife, I guess.

John Bailey: Well, riparian says to me that they're up on the banks and back of the banks. I'm interested in how water is reacting to what's in the river. It's sort of going back to Doug's question about how we build better structures. But I don't think we're going to know that until we have something done over a period of time.

Andy Dana: Well that's much more limited.

Bob Wiltshire: Well, I'd like to know how they impact the fish.

John Bailey: Well, we're not limiting that. Further comments? Ready to go to Step 2? I will read the proposed recommendation, "Encourage the US Geological Survey-Helena and the US Geological Survey-Biological Resources Division to monitor and measure the effects of structures on the river system over time." Any further comments, Task Force? Are we comfortable with this?

Jerry O'Hair: I'm just a little bit uncomfortable with "system," but maybe I misinterpreted it. How broad is this when you talk about the river system.

John Bailey: Our charge is the upper 80 miles. Are you concerned that it's outside the banks?

Jerry O'Hair: Yeah.

John Bailey: That's why we took riparian out, because that was the banks. So if we're using the wrong terminology then let's change it. Okay, we lack consensus, so let's go back. Jerry?

Jerry O'Hair: Well, I think just "river" would be best.

John Bailey: Let's change it.

Roy Aserlind: Would just river include warblers and cottonwoods?

Allan Steinle: Would it help to say “instream” structures?

John Bailey: That’s fine with me. That’s what I’m assuming they’re looking at. Okay with you Jerry? We’re back to Step 2. I will read the proposed recommendation, “Encourage the US Geological Survey-Helena and the US Geological Survey-Biological Resources Division to monitor and measure the effects of instream structures on the river over time.” Any further concerns, Task Force? Are we comfortable with this? Seeing no negatives, this recommendation reaches consensus.

Recommendation Passed by Consensus
“Encourage the US Geological Survey-Helena and the US Geological Survey-Biological Resources Division to monitor and measure the effects of structures on the river system over time.”

John Bailey: It is now after ten o’clock. Our next meeting is one week from tonight. Thank you very much. We’re adjourned.

Note: See *Attachment B* for summary of recommendations that have reached consensus.

VI. Next Task Force meetings:

July 15th, 2003, Tuesday – Task Force Recommendation Deliberations
Location: Yellowstone Inn

July 22nd, 2003, Tuesday – Task Force Recommendation Deliberations
Location: Yellowstone Inn

July 29th, 2003, Tuesday – Task Force Recommendation Deliberations
Location: Yellowstone Inn

VII. The meeting was adjourned at 10:15 p.m.

Attachment A. Governor's Upper Yellowstone River Task Force, Conference Subcommittee Update July 8, 2003

Subcommittee Members: Roy Aserlind, Bob Wiltshire, Duncan Patten, and Liz Galli-Noble
Subcommittee met on June 17 and 24, 2003.

Task Force Approval:

Subcommittee is not asking for a detailed discussion about these particulars at this meeting. Instead, we simply want to get approval to proceed as roughly laid out and to 100 percent solidify the October 20 to 22 dates.

All Task Force members are encouraged to make changes where needed in discussions with the Conference Subcommittee at a later date.

The Subcommittee plans to meet again after the July 8 Task Force meeting to continue to fine-tune details. They also plan to go out to Chico and look over the facilities as a group in the near future.

General Conference Issues:

Target Audience: Everyone agreed that we have a varied target audience, which includes:

- (1) Governor
- (2) Local residents/citizens and landowners
- (3) Governmental agency folks (local, state, and federal)
- (4) Interested members of the scientific community
- (5) Other watershed groups (YRCDC, Upper Shields, others)
- (6) Non-profit groups (TU, GYC, American Rivers, TNC, etc.)

**Congressional Delegation hope to attend, but can use teleconferencing if available.

Timing (Weekday v. Weekend?)

The group debated if weekdays or weekends were best for the conference. They came to the conclusion that for the overall audience, weekdays would work best.

*It was agreed that if we were going to get locals, we would have to have specific sessions that would interest them (general, overview-type sessions) and would be held in the evening when they would likely attend (if missing work was an issue). It was also agreed that most local citizens would not likely attend the full two- or three-day workshop, no matter when it was held. Also mentioned is that ag-based people would likely not have a preference between weekdays and weekends (their work is the same during both periods). For government agency participants, weekdays would absolutely be preferred to weekends, and some would not attend if scheduled over a weekend. Finally, accommodating the Governor's schedule was likely the most important aspect when choosing a date/time.

Location

The majority of subcommittee members commented that the conference should be held in Park County and NOT in Bozeman. The only two facilities that can house more than 200 people in Park County are Chico Hot Springs (250) and the Yellowstone Inn (220, 100 rooms). Without much debate, the Subcommittee chose Chico Hot Springs as the final location for the conference.

Date and Schedule

Liz was asked how she and John Bailey came up with the October 20 – 23 dates for Chico. She explained that earlier dates were not available, and later dates (later October and November) also were options. She simply took the earliest available dates at Chico.

Since earlier dates were not an option, and the fact that the Governor is already able to attend on October 20, the subcommittee decided not to change the original date selected. There would never be a time when someone would have a conflict.

It was debated if two full days were really necessary. The decision was to shorten the length of the conference if the timeframe would accommodate all the agenda items.

A preliminary schedule to be further refined at their 2nd meeting is as follows:

October 20 pm Dinner, speeches [John Bailey, Governor Martz, Congressionals (?)]
 October 21 all day All meals, breakout sessions, etc (?)
 October 22 ½ day Morning sessions and lunch

Funding & Expenses

Liz did a very rough budget for a two-day event for 200 people and came up with \$32,125 with all rooms and meals paid. No travel expenses were included. The subcommittee members agreed that some participants would want to pay for their own rooms and meals, so those costs will go down.

Possible Funding:

- (1) Duncan \$7,000 Left over EPA funding that may be used for TAC expenses.
- (2) Liz \$50,000 MACD funding for coordinator/office, which would then free-up 319 funding for conference; **problem** not available until October 2003.
- (3) Liz \$10,000 Watershed Planning Assistance Grant (DNRC)
Plan to apply immediately

Registration Fee

It was agreed that we should charge a minimum of \$25 registration fee. This will ensure that people, who say they are coming, actually come. It also will give us an idea of how many people to plan for. Liz should send out an announcement soon and tell people that a limited number can attend. We can waive fees for Governor, Task Force & TAC members, and others who cannot afford it. If too many people sign-up, we can ask agencies (Corps Omaha for example) to limit their participants.

Revised DRAFT Conference Schedule/Agenda

DAY 1 MONDAY, OCTOBER 20, 2003

6:00 – 7:00 pm Dinner & No Host Bar
 7:00 – 10:00 pm Speeches: John Bailey (Welcome, Thank you’s; Recommendations)
 Governor Martz
 Congressionals (?)

DAY 2 TUESDAY, OCTOBER 21, 2003

7:00 – 8:30 am Breakfast

Session #1	<u>Plenary Session</u>		
	I. Greetings/Introduction	John Bailey	10 mins
	II. Task Force Overview & Project Intro	Liz Galli-Noble	10 mins
	III. The River & Its Watershed		
	Upper Yellowstone River Watershed	Tom Pick	15 mins
	Physical River	Duncan Patten	15 mins
	Human River	Ed Harvey	15 mins
	Modifications to the River	Tom Pick	15 mins
	IV. Studies Overview	Duncan Patten	10 mins

10:00 - 10:30

Break

Session #2	<u>Breakout Session A</u> Track 1. Science Session Hydrology & Geomorphology	1 hour
	Track 2. Process/Policy Session Policy & Science Integration	1 hour

11:30

10-minute Break

Session #3	<u>Breakout Session B</u> Track 1. Science Session Riparian Trend Analysis & Wildlife	1 hour
	Track 2. Process/Policy Session Task Force Model	1 hour

12:15 – 1:45 pm

Lunch

Session #4	<u>Breakout Session C</u> Track 1. Science Session Fish Populations & Fish Habitat	1 hour
	Track 2. Process/Policy Session Flood Plain & River Channel, Policies & Regulation	1 hour

2:30 – 3:00 pm

Break

Session #5	<u>Breakout Session D</u> Track 1. Science Session Integrating the Science (Duncan Patten)	1 hour
	Track 2. Process/Policy Session Landowner Application (?)	1 hour

4:00 pm

10-minute Break

Session #6	<u>Plenary Session</u> View of the Task Force Process	1 hour
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5:00 – 6:00 pm

Break

6:00 – 7:00 pm

No Host Bar & Poster Session

7:00 – 8:30 pm

Dinner & No Host Bar

DAY 3 WEDNESDAY, OCTOBER 22, 2003

7:00 – 8:30 am

Breakfast

Session #7	<u>Plenary Session</u> Cumulative Effects Analysis Duncan Patten & Panel	1½ hours
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10:00 – 10:30 am

Break

Session #8	<u>Plenary Session</u> Conference Wrap Up John Bailey Recommendations Task Force members	1½ hours
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Noon – 1:30 pm Lunch

POSSIBLE ADDITIONS (?)

Monday, October 20, 2003	Noon – 5:00 pm	River Tour (?)
Wednesday October 22, 2003	2:00 – 6:00 pm	River Tour (?)

Conference Agenda and Sessions:

Breakout sessions take two distinct tracks:

(1) Science track, and (2) Process/Policy track.

Policy Sessions

Brainstorming Ideas:

- **Task Force Model—relationship between voting Task Force members & Ex-Officios; targeted constituencies (opposing views) how they carried out their work?
- **Process issues—we struggled with the facilitator v. no facilitator issue
- **Strong leadership—how it is crucial for group success?
- **Consensus process
- **Liz’s perspective: ask her to talk about her impressions and thoughts on the Task Force process/project
- **Task Force members: time, trust, longevity, continuity, consistency, commitment, honesty, able to speak freely.
- **Evolution of
 - Task Force – TAC relationship
 - Task Force – Corps relationship
 - Task Force TAC role (agency v. researchers); successful? (at beginning, no; with time, yes)
 - Agencies—rigid at beginning, more loose now
- ** Todd O’Hair mentioned that a possible recommendation that could come out of the Task Force might be: What does the Task Force want to do after they are done?
- Should post- Task Force actions be addressed at the conference?

Policy Sessions Layout:

- A. Policy & Science Integration
 - Relationships between Task Force & TAC; Task Force & TAC & Agencies
- B. Task Force Model
 - Subtopics:
 - Consensus process
 - Ground rules
 - Chair v. Facilitator
 - Meeting protocol (Task Force speaks 1st, public 2nd)
 - Voting v. non-voting members
 - “Science will drive the process”; has this happened, has this worked?
- C. Flood Plain & River Channel, Policies & Regulation
 - SAMP, County & State Regs, What happens next on the Upper Yellowstone?
- D. Landowner Application
 - Conservation easements, land use, bank stabilization clearinghouse, discussion on private property rights v. public rights, hear that people respect the landowner position, how are Task Force recommendations going to implemented? Who is going to make all this reality?

Summary Session

Renamed: **View of the Task Force Process**

Brainstorming Ideas:

Task Force members—How well did we succeed? Did Task Force succeed in providing direction to the agencies with our recommendations? Did science really lead the process?

Task Force members—(representing specific constituencies) give brief intro about who they are, their particular concerns, issues with which they were faced, conclusions.

Ron Archuleta: USFS Ex-Officio, brand new to process; his impressions of Task Force process.

Public perspective: Invite 3 to 4 people (who have been very involved in the process) to speak; give them 5 minutes to address the TF process; possibilities: Scott Bosse, Lionel Dicharry, Karl Biastoch, Jim Barrett, Stan Todd, Bill Moser, etc.

Poster Session

1. Researchers stand by their posters to talk to the public
2. Task Force will have posters with recommendations and other summary info.

Conference Wrap Up Session

Want Liz to put together a PowerPoint presentation with photos of the final recommendations; that presentation could be done by several interested Task Force members. John Bailey would do the introduction and closing of that session.

It would be nice to have that whole session videotaped; could that be done on a CD? Liz will look into that.

Attachment B. Task Force Recommendations

July 9, 2003

Consensus was reached on the following Task Force Recommendations.

Note: These recommendations are subject to final adoption under Step #3 of the *Steps for Formal Action on Task Force Recommendations* (see footnote below for details).

Recommendation 5/22/03—Passed by Consensus

“Create a local Bank Stabilization Information Clearinghouse to provide information about new and existing methods of bank stabilization, including methods that complement the natural system and methods that might be appropriate for specific individual situations.”

Recommendation 5/22/03—Passed by Consensus

“The Task Force recommends that future decisions be made only after thorough consideration has been given to the geomorphology of particular river reaches and their different inherent characteristics.”

Recommendation 5/22/03—Passed by Consensus

“That studies be developed which would indicate what types of bank stabilization would work best to achieve particular goals within different geomorphic reaches of the upper Yellowstone River.”

Recommendation 5/22/03—Passed by Consensus

“That the existing streamlined uniform permit application process be continued among local, state, and federal permitting agencies.”

Recommendation 5/22/03—Passed by Consensus

“Establish financial incentives to help landowners, on a voluntary basis, to remove structures that no longer function properly or are obsolete.”

Recommendation 6/2/03—Passed by Consensus

“Establish financial incentives to help landowners, on a voluntary basis, to modify or replace existing structures provided that such modified or replaced structures eliminate or mitigate undesirable impacts on the riparian system.”

Recommendation 6/2/03—Passed by Consensus

“Modify or replace existing public structures that have undesirable impacts on the riparian system, provided that such modified or replaced structures eliminate or mitigate those undesirable impacts with no significant adverse effects on existing public or private entities.”

Recommendation 6/2/03—Passed by Consensus

“Implement a solution to achieve hydraulically-balanced water surface elevations, with little or no backwater, in the channels separated by Ninth Street and Siebeck Islands.”

Recommendation 6/2/03—Passed by Consensus

“Recommend that when the following bridges are replaced or removed, hydraulic impacts identified in the Geomorphology study be lessened: Emigrant Bridge; Carter’s Bridge; Interstate-90 Bridge; Railroad Bridge at Highway 10 East; Highway 10 East Bridge; Highway 89 Bridge near the Shields River; Railroad Bridge at Highway 89; and Springdale Bridge.”

Recommendation 6/2/03—Passed by Consensus

“Develop solutions to remove abandoned bridge abutments and piers, and reclaim abandoned approaches.”

Recommendation 6/2/03—Passed by Consensus

“That additional studies should be designed and conducted to document the proliferation of noxious or invasive plants along the river corridor, and to evaluate the impacts on fish, wildlife, water quality, soil and bank stability, and economic productivity.”

Recommendation 6/11/03—Passed by Consensus

“All permitting and/or regulatory management decisions (including the SAMP) must recognize and respect:

- a. the function of the flood plain, including but not limited to:
connectivity between the river channel and the flood plain;
regeneration of cottonwoods and other riparian vegetation; and
maintenance of side channel habitat for spawning and juvenile fish; and
- b. the public and private interest in protecting private property and important social, economic, and natural resources existing on or near the flood plain of the Yellowstone River.”

Recommendation 7/8/03—Passed by Consensus

“That no additional Livingston Schools be constructed on McLeod Island.”

Recommendation 7/8/03—Passed by Consensus

“To encourage people to study different techniques or ways to alleviate the flooding damage through the upper Yellowstone River study area.”

Recommendation 7/8/03—Passed by Consensus

“That annual fish population surveys be conducted on all sections where they have historically been made. If indications of a declining population are detected, additional studies must be implemented to identify potential causes and recommend actions that will restore populations.”

Recommendation 7/8/03—Passed by Consensus

“That further investigations into the production and rearing of juvenile fish be conducted; particularly to determine the relative importance of lateral side channels, mainstem habitats, overflow habitats, and spring creeks.”

Recommendation 7/8/03—Passed by Consensus

“Encourage the US Geological Survey-Helena and the US Geological Survey-Biological Resources Division to monitor and measure the effects of instream structures on the river over time.”

Step #3. Adoption of Final Set of Recommendations

- a. Prior to finalizing its recommendations to be forwarded to the Governor, the Task Force will accept public comment (written only) on the recommendations previously adopted in Step 2.
- b. At its last meetings during which the Task Force finalizes the complete set of recommendations to be forwarded to the Governor, Task Force Members may not propose new recommendations but may propose modifications, amendments, or deletion of any of the previously adopted recommendations in Step 2 for any reason, including but not limited to:
 - i. To address concerns expressed by a Task Force Member’s constituency or the public about the original recommendation;
 - ii. To eliminate potential conflicts between recommendations;
 - iii. To delete redundant or duplicative recommendations;
 - iv. To integrate scientific studies and data more efficiently into the recommendations; or
 - v. To correct clerical, typographic, transcription, grammatical, or rhetorical errors.
- c. The Task Force will adopt for transmittal to the Governor a complete set of recommendations based on the individual recommendations adopted by consensus pursuant to Step 2 above, as such recommendation may be modified, amended, or deleted by consensus pursuant to Step 3b above.
- d. The final set of recommendations must be approved by the Task Force for transmittal to the Governor by consensus.