
BAKER RIVER PROJECT RELICENSE

Solution Team

September 23, 2003

9:00 a.m. – 3:00 p.m.

USFS Building
Mountlake Terrace, WA

Mission: By April 30, 2004, the Baker Solution Team will draft a settlement agreement for relicensing of the Baker River Project that best meets the interests of the signatories.

FINAL MEETING NOTES

Note: Call Connie at 425-462-3556 if unable to attend the meeting so she can plan for lunches. Call Lyn's cell phone 425-890-3613 if something comes up at the last minute (on the way to the meeting).

Conference Call Number: This is a toll-free call. The procedure is:

- Dial **1-866-280-6429** at the designated date and time.
- Enter the Participant code of **144995** followed by the # **sign**.
- You will be asked to record your name.
- You will hear hold music until the Host has dialed into the call.

Team Leader: Connie Freeland (Puget Sound Energy) 425-462-3556, connie.freeland@pse.com

Members Present: Nan Allen and Keith Brooks (FERC) by phone, Stan Walsh (Sauk-Suiattle Indian Tribe/Swinomish Tribal Community), Gene Stagner (USFWS), Gary Sprague (WDFW), Steve Fransen (NMFS), Bob Nelson (Rocky Mountain Elk Foundation), Jerry Louthain by phone (City of Anacortes and Skagit County PUD), Bob Helton (Citizen), Len Barson (The Nature Conservancy), Rod Mace and Jon Vanderheyden (USFS), Paul Wetherbee, Cary Feldmann, Kris Olin, Connie Freeland, and Lloyd Pernela (PSE), Chal Martin and Dave Brookings (Skagit County Public Works), Bruce Sexauer (USACE), Dee Endelman (Agreement Dynamics), Lyn Wiltse, Facilitator and Mary Jean Bullock, Note-Taker (PDSA Consulting, Inc.)

ANNOUNCEMENTS: The group welcomed Chal Martin representing Skagit County Public Works. We also welcomed Nan Allen who will be replacing Mike Henry as the FERC aquatics liaison.

Solution Team Meeting Schedule

October 28, November 25, December 16, January 27, February 24, March 23, and April 27.

Note: Extra Solution Team meeting dates (if needed) were set as: November 18, December 9, and January 6.

AGENDA

September 23, 2003 at USFS Office Building in Mountlake Terrace

9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update
 - Attorney Meeting Agenda
 - RESOLVE Sessions
 - Shared Resources Teamlets
 - Next Steps
3. Schedules/Timeline/Document Update (License Application and PDEA)
4. Preparation for FERC Call/ FERC Call
 - Flood Control Update
5. Action Items
6. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
 - Update on HYDROPS Runs
7. Other?
8. Set October 28, 2003 Agenda and Evaluate Meeting

NEW ACTION ITEMS

- Connie: Email out release form to participants as soon as possible.
- Connie and Dee: Provide statement of intent (non-legalese) for each section of the Settlement Agreement.
- Paul: Verify Washington Group is using new hydrography and old datum for flood control study and let PIE know.
- Kris: Update agency authorities in the critical path document and send to Gary to review.
- Connie: Get new USACE contact information from Bruce.
- Connie: Make sure notes from the Fish Passage Expert Workshop goes to Solution Team members (will be posted on the website).
- Dee: Ask Steve J. if DNR will be having their own attorney review our settlement agreement. If so, get necessary contact information.
- Kris: Email revised schedule (after approval by Gary) to Steve, Nan, and Keith (FERC).
- ALL: Contact Paul at 425-462-3746, paul.wetherbee@pse.com re: any HYDROPS runs you are interested in.

SETTLEMENT PROCESS UPDATE

Attorney Meeting Agenda

Dee distributed the preliminary list of attorneys and draft agenda for the initial attorney meeting here October 20, from 10 a.m. – 1 p.m. at the Mountlake Terrace USFS office. The list of attorneys appears to be complete. The agenda looks viable. Feedback on roles/protocols:

- We want to do what we can to limit the amount of time spent in legal review of each iteration of the Settlement Agreement.
- We want to separate the settlement process from the legal review process as much as possible.
- It is each client's responsibility to "rein" in their attorneys. This is a challenging task. We can ask them not to focus /negotiate technical issues (e.g., fish passage, propagation, instream flows, etc.). It will be important for us to direct their efforts to get the value add where we need it. Ideally, the technical issues will be negotiated at the technical level.
- We need to tell the attorney team what our fears about the process are and ask them how they can help us work together to avoid them.
- The Solution Team shouldn't pass anything on to the Legal Team until we have tentative agreement.
- There may be a need for some combination policy/legal meetings downstream. This will be necessary to preserve the context/intent.

RESOLVE Sessions

Cultural: They have reviewed the Historical Properties Management Plan (HPMP). This will be turned in along with the draft license application. This will be shared with a very limited distribution list to preserve issues of confidentiality.

Terrestrial: The last "big issue" revolves around acreage for habitat. The focus is habitat value vs. sheer number of acres. Shared certainty is an interest of all participants. Note: "No Working Group discussion to date" means "no RESOLVE sessions to date."

Recreation: There seems to be general agreement around campsites and trails. Jon and Ed will be meeting September 24 to discuss shared responsibilities for this resource. Note: There is potential for cross-resource impacts here (new trails, etc.).

Aquatics: Downstream passage and instream flows are being handled through Technical Working Groups. In RESOLVE sessions, they are waiting on answers from technical Working Groups. They are coming to tentative agreement where they can.

Shared Resource Teamlets

Technical working groups are meeting around the issues of access management, large woody debris, reservoir management/instream flows, and ground disturbing activities. Each of these issues will be addressed on a site specific case-by-case basis.

Next Steps

All Working Groups have scheduled additional RESOLVE sessions through October. Dee suggested that we (the Solution Team) spend the majority of our October 28 meeting developing a work plan to address the issues that the Working Groups were not able to RESOLVE. It was pointed out that this may be premature if we don't have a suggested flow regime from the instream flows Technical Working Group.

Maybe we could set the work plan in October around issues that are not related to water. We could also review an overall work plan at that time.

We also discussed setting up additional meeting dates for the Solution Team in the next few months. We would identify which issues would be covered at each meeting ahead of time and those who are interested in various topics could make every effort to attend these meetings. Note: Extra Solution Team meeting dates (if needed) were set as: November 18, December 9, and January 6.

FERC CALL

Supplemental EA (post license application):

Could this process be used for environmental issues not included in the PDEA? We would address the bulk of the issues in the Settlement Agreement. Another option might be to come up with a couple of distinct options, each of which could be included in the PDEA. If we do submit a supplemental EA, we would also submit associated supplemental license articles. We would include a letter with specific milestones for supplemental documents.

Flood Control

In reviewing the Upper Skagit Tribes August 21 memo, we addressed the questions on the back page as follows (questions in italics):

1. *A decision by Skagit County as to whether they will continue to participate in the Baker Relicense Process development of studies on additional flood control.*
Skagit County wants to integrate its study into this relicensing process. Skagit County will review and comment on the Washington Group/Tetra Tech Study. Concern was expressed with the timeline. The USACE and Skagit County are meeting regularly to resolve key issues. They will keep us posted. We need to know at what point in time the USACE could make a recommendation.
2. *An agreement amongst relicense participants not to consider additional flood control as a Settlement Agreement measure without relicense studies that analyze the environmental effects of additional flood control.*
All members voted “Thumbs up,” with one abstaining.
Concerning the Upper Skagit’s second question, although agreeing in principle that the environmental effects of additional flood control must be studied, Chal Martin expressed a concern about the timeline associated with the environmental analysis and that the time required to conduct the environmental analysis not be used as an excuse to not address the issue of additional flood control.
3. *An agreement among relicense participants that a placeholder will not be provided for in settlement agreements pending the outcome of the Corps/County study.*
No consensus at this time.
4. *A timeline and rough scope of work from the Operations and Economics Workgroup that will ensure environmental analysis will be completed for SA discussions if phase one of the study goes forward.*
Deferred. This will be discussed by the Economics/Operations Working Group at its next meeting.

Re: The September 9 letter to the Solution Team from Skagit County Commissioners: we agreed not to respond as “The Solution Team.” Individuals and/or agencies may choose to respond separately.

TST REPORT - UPDATE ON HYDROPS RUNS

Paul distributed a one-page summary of TST activities to date.

- The HYDROPS model is complete.
- The hourly model is complete.
- The daily physical habitat simulation model is underway (due out next month)

The summary he distributed also contains progress of technical issues and a table showing HYDROPS runs to date. These runs (with the requestor in parentheses) are:

- Recent conditions and Draft Actions for Energy Years 1993, 1995, 1996, 2001, 2002. (PSE)
- Analysis to identify the maximum Baker River flow possible under all conditions, with/without flood control, with/without recreational reservoir levels. Conclude maximum (with 100% reliability) is 1000/1100 cfs depending on whether recreation levels are required. (SSC)
- Analyses evaluating Forest Service optimum recreational reservoir levels at Baker Lake, with and without flood control. (FS)
- Analysis comparable to FS.01b using higher Baker River minimum flows and state ramping guidelines. (FS)
- "Run of River," all constraints open, both reservoirs fixed elevations with a 2-ft buffer. (FS)

All modeling work will be archived in the E-room. See Paul for an invitation.

DOCUMENT UPDATE

License Application

Connie reported that the license application will consist of three volumes. Volumes I and II will each have two parts. Part 1 of each will be for public distribution; Part 2 of each will contain Critical Energy Infrastructure Information (CEII) or Non-Internet Public information (NIP). Volume III will contain the Historical Properties Management Plan and be for a limited distribution.

- Volume I, Part 1 of 2: Initial Statement and Exhibits A, B, C, D, H (public document; no CEII, no NIP information)
- Volume I, Part 2 of 2: CEII – Exhibits F (drawings) and G (maps)
- Volume II, Part 1 of 2: PDEA (public document; no CEII, no NIP information)
- Volume II, Part 2 of 2: NIP – Maps from PDEA
- Volume III – HPMP (privileged information; limited distribution)

On October 1, PSE will file all volumes with FERC and send out on CD Volume I, Part 1 and Volume II, Part 2 to the Baker mailing list and the FERC mailing list. The attached cover letter will provide the context for the documents and explain that the PDEA is based on June PMEs. The letter will also note that some studies are still incomplete and mention HYDROPS and the datum change. It will note that all comments (and preliminary terms and conditions) are due approximately January 2, 2004 (90 days after the filing is officially noticed by FERC). Comments will be sent to Connie and FERC.

The packet will also include a release form to request Volume I, Part 2 (CEII) and Volume II, Part 2 (NIP). You will also be able to designate a request for a paper copy.

Nan recommended that any preliminary terms and conditions include a schedule for filing final terms and conditions. PDEA comment letters from agencies should include information/analysis they expect to see in the final EA.

SCHEDULES/TIMELINE

Kris distributed and walked us through the flow chart schedule. It now includes the October 20 attorney meeting. He also referenced Section 10(a). Kris also revised how powerful WDF (Gary) really is. He will update this schedule, run it by Gary for approval, and send it out for our review. He also distributed a single sheet outlining milestone dates.

REPORT ON OLD ACTION ITEMS

- Connie: Sent out Dee's handouts along with draft minutes from this meeting.
- Steve H.: Sent Notice of Draft License Application and PDEA and Request for Preliminary Terms and Conditions to Connie to distribute. She sent this out along with the draft minutes from our August meeting.
- Dee: Brought Agreement Dynamics consensus charts to September Solution Team meeting for Upper Skagit memo discussion.
- ALL: Reviewed four steps for resolving flood control issue included in Upper Skagit memo.
- Lyn/Paul: Brought TST run update summary to September Solution Team meeting.
- Dee and Lyn: Brought draft of initial attorney meeting agenda to September Solution Team meeting.
- ALL: Submitted to Dee contact information for their attorney.

WHAT'S HOT IN THE WORKING GROUPS?

Aquatics

- Nick's smoked salmon.

Economics/Operations

- They did not meet this month.

Cultural

- HPMP draft is about to go to FERC.
- We still like each other!
- GIS products from Joetta.

Terrestrial

- Developing PMEs.

Recreation

- People are now more focused on PME's (than technical meetings).
- Education PME (disparate interests).

STUDIES UPDATE FOR SOLUTION TEAM

Aquatics

- Ready for substantive discussions re: flow regimes
- The Fish Passage Technical Working Group is continuing work on Floating Surface Collector design, guide net/barriers net and net transition structure. They are looking at three Floating Surface Collector alternatives. They are also reviewing the fish passage PME. They found no major issues

around fish screening criteria. They are looking at acclimation facilities separately from fish stress relief facilities.

- Alluvial fan assessment: They are looking at restoring form and function to Lower Baker River below the barrier dam. Phase I is complete. This is a potential “big ticket item.”
- The draft report “Habitat Conditions of Tributary Reaches Accessible to Anadromous and Adfluvial Salmonids and Estimated Salmonid Production Potentials: Baker River Basin” is complete.

Economics/Operations

- They did not meet this month.

Cultural

- All studies are complete!
- Good movement on TCP Studies.

Terrestrial

- Grizzly and Elk Study Reports are complete!
- Finalizing reports for Rare Plants and Noxious Weeds.
- Analysis Species Report is complete!

Recreation

- Finalizing studies.
- Tension between getting studies “out” for review by other groups and getting them in final (complete and accurate) form.
- Lake Shannon Development Feasibility Study: Four potential sites were identified. Next step will be around getting legal access to these sites.

PARKING LOT

- Members need to describe their roles in terms of decision-making authority in their organizations (this relates to who would be members of the Policy Team).
- Define a process for delayed resolution (based on incomplete studies).
- Adaptive management:
 - How can we take into account future technology, knowledge, conditions, resources, weather (global warming), etc.?
 - How can we balance licensee exposure?
- How to enlist recreational users
- Define “project induced.” (Teamlet?)
- Develop public information protocol
- Summary Record of Decisions
- PME's listed for each Working Group

HANDOUTS

- Baker Relicensing Project, Legal Working Group, October 20, 2003, Draft Agenda
- Contacts: Members of Attorney Working Group (as of September 23, 2003)
- PME Status (as of September 23, 2003)

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- Group Decision Making: Reaching Consensus (from Agreement Dynamics)
 - Technical Scenario Teamlet (TST) Activities Summary, September 23, 2003
 - Baker Relicense Project: Flow Chart Schedule (Revised September 22, 2003)
 - Baker Relicense Project: Milestone Dates
 - Solution Team Attendance List (September 22, 2003)

TENTATIVE AGENDA

October 28, 2003 at USFS Office Building in Mountlake Terrace

9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update
 - Report from Oct. 20 Attorney Meeting
 - RESOLVE Sessions
 - Shared Resources Teamlets
 - Next Steps: Create Work Plan to address unresolved issues
3. Schedules/Timeline/Document Update
4. Preparation for FERC Call/ FERC Call
5. Action Items
6. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
 - Update on HYDROPS Runs
7. Other?
8. Review Parking Lot
9. Set November 18 and/or November 25, 2003 Agenda(s) as per work plan
10. Evaluate Meeting

MEETING EVALUATION

Done Well

- Got out early
- Chal's articulation of Skagit County's position
- Suggestion to keep flood control issue in Economics/Operations Working Group Meetings
- We get Beth Coffey as a replacement for Bruce
- Nan's participation

Do Differently Next Time

- Flood control discussion went on too long
- Losing Bruce
- Disappointed that Skagit County left right after the flood control discussion