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## **BAKER RIVER PROJECT RELICENSE**

### **Solution Team**

June 27, 2001

9:00 a.m. – 3:00 p.m.

US Forest Service Office  
21905 64th Avenue West  
Mountlake Terrace, WA 98043

### **AGENDA**

1. Introductions
2. Review/Revise minutes/Agenda
3. Action Items
4. Update progress re: Communication Protocol and Process Document (set additional meetings?)
5. Studies update
6. Discussion of “ongoing impacts,” etc.
7. Expectations
8. Other issues?
9. Set next agenda (July 25) – location for August 22?
10. Evaluate meeting

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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

**Team Leader:** Connie Freeland (Puget Sound Energy) (425) 462-3556, cfreel@puget.com

**PRESENT:** Stan Walsh (Skagit System Cooperative), Bob Helton (Citizen), Burt Reanier (Skagit County Public Works), Bill Reinard (Wildcat Steelhead Club), Patrick Goldsworthy (North Cascades Conservation Council), Fred Seavey (U.S. Fish & Wildlife Service), Bob Nelson (Rocky Mountain Elk Foundation), Jon Vanderheyden (U.S. Forest Service), Gary Sprague (WA Dept. Fish & Wildlife), Don Schluter (Trout Unlimited) – phone, Connie Freeland (PSE), Kristen Schuldt (PSE), Lloyd Pernela (PSE), Ed Schild (PSE), Cary Feldmann (PSE), Lyn Wiltse, facilitator (PDSA Consulting, Inc.)

#### **Future Meeting Dates, Times and Locations:**

July 25 – 9 a.m. to 3 p.m. at the Forest Service Office (Mountlake Terrace) (**CANCELED**)

August 22 – 9 a.m. to 3 p.m. at PSE Bothell office (directions to follow)

September 26 – 9 a.m. to 3 p.m. at Skagit County office (directions to follow)

**Note:** If you have trouble with directions or encounter any last minute changes to your plans, call Lyn Wiltse's cell at 425-444-8156. She will have her phone turned on from one hour before the start of the meeting until the start of the meeting.

#### **NEW ACTION ITEMS:**

- Burt: Get contact from Whatcom County.

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- Patrick: Contact environmental organizations in the Puget Sound Area re: participation.
  - Connie: Set up field trip to Project after meeting at Skagit County office.
  - Burt: Check Skagit County conference room for September 26<sup>th</sup> meeting. (done)
  - Fred: Send copy of his digest to Kristen to mail to Bob and Patrick.
  - Connie: Handle food etc for July 6<sup>th</sup> working group meeting.

## **REPORT ON OLD ACTION ITEMS**

- Lloyd: Responded to May 21 versions of Communication Protocol and the Process Document by listing major issues/points of departure and sending this list to Solution Team members by June 13.
- Stan sent out an email to everyone who participated in putting together the May 21 versions of these documents and asked them how they would like to proceed in terms of addressing the issues PSE raises in response to these documents. They agreed to meet with PSE off-line to discuss major differences. Unfortunately, this teamlet was unable to meet prior to this meeting.
- Connie: Contacted Skagit and Whatcom counties re: their participation in this process.
- Connie: Got summary of organizations PSE has already contacted to Patrick so he doesn't try to reinvent the wheel when he goes knocking on doors to other environmental groups.
- Patrick: Contacted environmental organizations in the Puget Sound Area re: participation.
- Connie: Emailed out interests for Fidalgo Fly Fishers and Skagit and Whatcom Counties Noxious Weed Control Boards.
- Gary: Checked relevance of WDFW Hydro Power Plan to what we're doing. He reported that there are a number of details that are relevant to this group (e.g., erosion issues, screening, fish passage, etc.). The WDFW Hydro Power Plan (1997 draft) is a comprehensive plan that is to be considered under actions of the Federal Power Act.
- Fred announced that the summary of federal laws applicable to relicensing is available at: <http://www.laws.fws.gov/lawsdigest/index.html>
- Lloyd: Mailed out FERC's ruling on NMFS Endangered Species Act petition to those with no email access. For others, he emailed out how to access the information on FERC's website.
- Connie: Checked on availability of PSE Everett Office meeting room for our August 22 meeting. Everett was not available; we will be having the meeting at the PSE Bothell office.
- Kristen: Emailed: 1) study requests index by Working Group and 2) approved new preliminary study requests (for 2001 field season) for each Working Group to members prior to June meeting.
- Lloyd: Drafted questions/issues for Steve Hocking (FERC) and invited him to a future meeting.
- Connie distributed copies of the summary of Cultural Resource Laws that pertain to the relicensing process.

## **AGENDA**

**June 27, 2001 Mountlake Terrace, WA**

**9:00 to 3:00 (with working lunch provided)**

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2. Review/revise minutes/agenda
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## **INTRODUCTIONS**

We welcomed: Burt Reanier (Skagit County Public Works). Burt said that he, Dave Brookings and Jeff McGowan will be representing Skagit County at these meetings.

## **UPDATE ON PROCESS DOCUMENT AND COMMUNICATIONS PROTOCOL**

The question was raised as to whether we could submit only the Communications Protocol and go forward with the ALP. Agency reps said that they would not be comfortable with doing that, as the Process Document provides some certainty about the process. Does it need to be a legal document?

There was discussion about the benefits of going ALP. Benefits of the ALP include faster timeline, saving money, maintaining greater control, a better draft environmental assessment document and a settlement agreement. Regardless of whether we go ALP or traditional, our intent is to collaborate.

Interested parties will get together July 6<sup>th</sup> at the FS office in Mountlake Terrace to hash out differences in the Communications Protocol and Process Document. Listed below are the issues of concern that the off-line team will discuss:

## **ISSUES OF CONCERN**

1. Presence of substantive issues in a procedural document.
  - Substantive relicensing dictates (should these be in Process Document?)
    - a) Interim conditions
    - b) Alternatives prior to scoping
    - c) Studies
      - Subjects of study requests
      - Doing a study regardless of relevancy and relicense process
      - Where do you draw the line?
    - d) P. 6: Studies – are historic conditions pertinent? Should studies relating to historic conditions be considered?
    - e) Studies may be suggested at any time and resource agency studies may not be rejected (too open ended)
      - List under what conditions studies might be rejected
      - Document seems to give special status to resource agencies. How about the NGO's in the process?
      - Implications that after settlement agreement, agencies still have authority to impose additional conditions.
2. Solution Team Role and Authority
  - a) Decision-making process
    - Interest based?
    - Voting?
    - Majority based?

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- Perception of changing “consensus” to “unanimous consent of resource agencies.” (Agency aim was duration and refinement of Process Document after it is approved.)
  - b) How do we define consensus? (Agency aim was balance of power.)
    - Each Working Group has developed its own procedures for developing consensus
    - Create guidelines for consensus (create consistency across groups)
  - c) Role of Solution Team in resolving differences vs. control: original role was approval and dispute resolution – now it seems to be more directive (of consultants, studies, facilitators)
    - Ownership of preliminary documents (draft license application and preliminary environmental assessment) Who prepares/controls these documents?
    - P. 5: In case of dispute over 1<sup>st</sup> Scoping Document – Solution Team would make recommendations for 2<sup>nd</sup> Scoping Document. Concern this might turn costly/overwhelm PSE’s viewpoint. Where do you draw the line? (Agency aim was trust/verify data collection and interpretation.)
  - d) Study request process – shifting from Working Groups to Solution Team
    - We’ve got a process that is working quite well in the Working Groups – why change the process?
    - What will be the impact of Process Document on Working Groups’ “norms”
3. Dispute resolution mechanism removed (Agency aim was Solution Team should be involved prior to settlement; Policy Team should get involved when time was right to start settlement discussion.)
  4. Membership on Solution Team
    - Define “other participants”
    - Who’s allowed to join?
  5. Resource Agencies have unrestricted access to “all” consultants/data?
    - Same access open to others? (Non-agency folks)
    - Re: Confidentiality: Who decides what is confidential?
  6. P. 7: Settlement package in compliance with ...Question completeness of list of laws and regulations – must take into account that there are inconsistencies in the laws/regulations and should add “general” compliance.
  7. Funding: Concern the process might get held up due to limited time and resources
    - External deadlines may not impact studies?
  8. How do we identify issues that would be most difficult to reach agreement on?
    - How can we identify them early?
    - Timeline stuff: missing from current Process Document
  9. Baker Policy Team role, membership
  10. Day-to-day operations of relicensing process
    - How do we make decisions? How can we be efficient?
    - Who are the drivers?
    - Members should get frequent updates on process – more than what’s in six-month report to FERC

## **TIMELINES**

Connie distributed and discussed timelines for the traditional vs. alternative licensing processes. The document that PSE is currently preparing is an updated version of the Project Information Package,

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distributed in July 2000, which is also on the web site. This update includes process information and Working Group activities (studies, maps, etc.)

Traditional path: A draft of the ICP would be ready for the BST to review July 16-27. PSE would summarize responses of feedback they get from BST members by Aug 8<sup>th</sup>. PSE would host a joint meeting with agencies and public between 30-60 days after Aug 8<sup>th</sup>, when they file the ICP. The schedule for traditional vs. ALP diverges at this point. At that time, PSE could formally request to use the ALP. If traditional, agencies have 60 days after the public meeting to prepare comments and any study requests. This would end 1<sup>st</sup> Stage Consultation. If go ALP, we would do joint scoping. This is what we've been doing to date.

## **STUDIES UPDATE**

Connie distributed the Study Request/Plan Index – a high-end index of 2001 field season study requests, showing status as of 6/26/01. For budgeting purposes, PSE is hoping that Working Groups will submit new study requests for the 2002 field season by the end of August 2001.

## **DISCUSSION OF ONGOING IMPACTS**

Lloyd explained that PSE drafted this document in response to the issue of “ongoing” vs. “continuing impacts” raised in the Terrestrial Working Group. The US Forest Service addressed a similar issue in its “Continuing Impacts Analysis in Hydropower Relicensing for Inundated Areas,” which was previously distributed to some Working Groups and to the Solution Team today. PSE finds the FERC mandate for studies is to investigate conditions based on existing (current) facility and operations and identify ongoing (continuing) impacts resulting from the current situation. Investigation into conditions prior to existing (current) operations, like “pre-project” or “since project began,” are not required. Discussions of “without project” and “decommissioning” are not relevant because PSE submitted its Notice of Intent based on continued operation of the existing project. Lloyd encouraged all Solution Team members to review this paper. Gary Sprague pointed out that discussion of mitigation measures should be separate from discussion of enhancement measures, which may relate to different baseline(s) than existing (current).

The question was raised: when is the right time to consider various NEPA alternatives? The current studies being done by the Working Groups are aimed at the NEPA process.

## **EXPECTATIONS**

This topic has been tabled for now.

## **NEW INTERESTS**

### **Draft Interest for Skagit County (Burt Reanier)**

- No net loss of flood storage.

### **Missing Interests:**

Interests are still needed from the following:

- U.S. Fish & Wildlife Service (Fred Seavey)
- WA Department of Natural Resources (Steve Jennison)\*

\* Have early draft

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## **OTHER ISSUES**

- Preparation for Steve Hocking's visit: Because the July meeting will focus on discussion of status of the Communications Protocol and Process Document, it was suggested that the July visit of Steve Hocking of FERC be postponed until the August meeting. Lloyd will contact Steve.

## **HANDOUTS**

- Laws Pertaining to Cultural Resources
- Timelines for Traditional and Alternative Licensing Processes
- Study Request/Plan Index
- Relicensing Issues: Scope and Content of Scientific Studies (sent to Solution Team June 19, 2001)
- Continuing Impacts Analysis in Hydropower Relicensing For Inundated Areas

## **PARKING LOT**

- Members disclose legal requirements (perceived authority and responsibility).
- 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 Solution Team).
- Develop a template for Working Group recommendations.
- Define a process for delayed resolution (based on incomplete studies).
- PSE provides their expectations of license legal ramifications.
- Adaptive management:
  - How can we take into account future technology, knowledge, conditions, resources, etc.?
  - How can we balance licensee exposure?
- Clearly define everything to be included in a settlement agreement (expectations).
- Determine what is/isn't part of the administrative record.
- Develop procedures around press attending these meetings.
- How to enlist recreational users.
- Define "mitigate."
- Define "baseline." (Teamlet?)
- Define "project induced." (Teamlet?)
- Consider tour.
- FERC boundary.
- How do we handle new people coming into the process?

## **MEETING EVALUATION**

### **Well-Dones:**

- Burt's participation
- Got good list of issues defined
- Good, responsible communication (entertaining)
- Setting up a Technical Working Group to help expedite Communications Protocol/Process Document discussion
- FS hosting
- Caffeinated facilitator

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**Need to Improve:**

- Offer no red meat alternative for lunch
- Missing several participants
- Ran over
- Not have such a packed agenda
- Undefined process for comparing/detecting alternatives – part of Process Document
- Caffeinated facilitator

**TENTATIVE AGENDA FOR NEXT MEETING (*CANCELED*)**

**July 25, 2001 Mountlake Terrace, WA**

**9:00 to 3:00 (with working lunch provided)**

1. Introductions
2. Review/revise minutes/agenda
3. Action Items
4. Status of Communications Protocol/Process Document from Technical Working Group
5. Protocol to bring Working Group issues to Solution Team for resolution
6. Set next agenda (August 22<sup>nd</sup> at PSE office in Bothell—directions to follow) and arrange transportation
7. Evaluate meeting