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## BAKER RIVER PROJECT RELICENSE

### Solution Team

### Conference Call Meeting

January 6, 2004

***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](mailto:connie.freeland@pse.com)

**Note:** In case of inclement weather, call Connie's voicemail to see if the meeting will still occur.

### Future Solution Team Meeting Dates

Jan. 27, Feb. 10, Feb. 24, Mar. 2, Mar. 23, Apr. 6, and Apr. 27.

These meetings will be held at the USFS Building in Mountlake Terrace, unless otherwise specified.

**Members Present:** Keith Brooks and Steve Hocking (FERC), Stan Walsh (Sauk-Suiattle Indian Tribe/Swinomish Tribal Community), Scott Schuyler (Upper Skagit Indian Tribe), Gene Stagner (USFWS), Steve Fransen (NMFS), Gary Sprague (WDFW), Steve Jennison (DNR), Bob Nelson (Rocky Mountain Elk Foundation), Jerry Louthain (City of Anacortes and Skagit County PUD), Len Barson (The Nature Conservancy), Bill Reinard (Wildcat Steelhead Club), Rod Mace (USFS), Ed Schild, Cary Feldmann, Kris Olin, Connie Freeland, (PSE), Arn Thoreen (Skagit Fisheries Enhancement Group), Dave

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Brookings (Skagit County Public Works), Rob Mohn (Louis Berger Group), Dee Endelman (Agreement Dynamics), Lyn Wiltse, Facilitator and Note-Taker (PDSA Consulting, Inc.)

## **AGENDA**

### **January 6, 2004 Conference Call**

**9:00 a.m.–11:00 a.m.**

1. Introductions
2. Settlement Process Update
  - RESOLVE Session Updates
  - Shared Resources Teamlets
    - Progress Made with Cross Resource Evaluation Tool
      - How to integrate into NEPA document
3. Schedules/Timeline/Document Updates
4. FERC Call: 11:00
5. Revise/Expand Elements of 2004 Solution Team Settlement Work Plan
7. Working Group and Technical Working Groups:
  - What's Hot?
  - Status of Studies in Working Groups
  - Update on Technical Working Groups (TST, Fish Passage, Instream Flows, etc.)
8. Other?
9. Set January 27, 2004 Agenda
10. Evaluate Meeting

New Norm for Conference Calls: *No backing up to orient folks who call in late.*

How to get access to FERC website to review comments/draft terms and conditions:

To electronically access the comment letters and draft terms and conditions that have been filed with FERC so far for the Baker License and PDEA, follow these steps:

- Log onto the FERC website at [www.ferc.gov](http://www.ferc.gov)
- Click on the Documents and Filing tab and click on "eLibrary"
- Under General Search, put in the date range (12/20/03 to 1/7/04) and the docket number (P-2150), and hit submit
- You will have a Search Results page
- For the file that you want to look at, check the "Word" or "PDF" box under "Files" and then double click on the word next to the box you checked ("Word" or "PDF"). This will bring up "File Download." You can either open the file or save it to disk. From there you can either read it on the screen or print it.

## **NEW ACTION ITEM**

- Rod: Reserve Conference Room at Mountlake Terrace for newly-scheduled Jan. 23 Aquatics RESOLVE session (9:00 to 2:30). *DONE!*
- Connie: Email out PME status table to all for discussion at Jan. 27 Solution Team Meeting.
- ALL: Review status of PMEs and come to Jan. 27 meeting prepared to discuss possibly setting up Policy Teams to address unresolved issues in February.

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## SETTLEMENT PROCESS UPDATE

### RESOLVE Update:

Cultural: This working group continues to meet the timeline it set out for itself. There will be only one license article coming out of this group's work (which will result in a detailed Historic Properties Management Plan). That license article has already been drafted by the Berger Group and is currently being reviewed by the working group.

Terrestrial: This working group seems close to reaching agreement in most major areas, although they are still working on the size of the package (in terms of dollars). They meet again as a regular working group on Jan. 15. There will be a RESOLVE component to that meeting where they will be discussing costs.

Aquatics: The Instream Flow TWG will be meeting Jan. 7 and 8. All are working toward the common goal of getting updated information to the Berger Group in time to be included in the next version of the PDEA. Arnie Aspelund has set up an additional RESOLVE meeting at the Mountlake Terrace Office on Jan. 23. We agreed that it made sense to set up Policy Team meetings in February to address any unresolved aquatics issues.

TST: In addition to continuing to request and review output from HYDROPS runs that reflect the interests of their own organizations, TST members, at the end of their December 12 meeting, began defining the elements of a shared reservoir management regime.

Instream Flows: Members of this Technical Working Group agreed to meet again January 7 and 8 with the expectation of having an agreed-upon flow regime for inclusion in the next version of the PDEA. Input on this is due to the Berger Group by January 26.

Fish Passage: Efforts now focus on engineering design development of the Upper Baker floating surface collector for installation in 2007, as well as refining the performance standards and evaluation procedures for the facility. The phased development schedule has been refined by the technical team to better reflect logistical and information needs as deployment progresses.

Recreation: This working group has been working on prioritizing the PME package and discussing costs. They set up a teamlet to meet on Dec. 20 to look at how to reduce the scope. They have passed this list on to the Policy Team (of USFS and PSE). The Policy Team and working group will meet separately on Jan. 9 to continue the discussion. They hope to have a tentative package by mid-month so updated information can be included in the PDEA.

Economics and Operations: This group has continued to deal with the issue of flood control. The group has not met since its last working group meeting in November. PSE is meeting with Skagit County Jan. 7 to see how mutual interests can be met. (Rescheduled to Jan. 12 because of inclement weather.) The next working group meeting will include the Flood Control Teamlet and be at the PSE Mt. Vernon Office on Jan. 14. At that meeting, the PSE consultant (Tetra-Tech) will share what is available from the flood control study commissioned by the working group.

Legal: The legal working group last convened on November 10. At that meeting, Richard Roos-Collins, attorney for The Nature Conservancy, and Lorna Luebbe and Pamela Krueger, attorneys for PSE,

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volunteered to do a re-draft of the boilerplate language based on concerns discussed at the meeting. On December 17, the re-drafted language was sent to the legal group. The group will reconvene on January 13, 2004, to finalize the boilerplate language and to set the stage for legal review of the license articles that the working groups have been reviewing. We agreed to allow the draft license articles that have been approved by the working groups to be shared with the attorneys at that meeting (without having been reviewed by the Solution Team first). We also stressed how important it is for Solution Team members to attend the Legal Working Group meetings to reinforce the urgency of the schedule.

Adaptive Management: Dee has asked members of the Solution Team Teamlet for Adaptive Management to give her feedback by Jan. 9 on the three draft PME's related to Adaptive Management (6.1, 6.2 and 6.6), as re-drafted by Cary to reflect current RESOLVE discussions. If necessary, they will meet in person to continue discussions. They should have something for the Solution Team to review at the Feb. 10 meeting.

### **PME STATUS**

Kris discussed a table (see attached) dated Dec. 19, 2003, giving the status of PME's. Those noted in bold print have tentative agreement from the working group and have either gone to or are ready to go to the Berger Group for drafting into license article language. License articles have been drafted for 10 PME's and are being reviewed by the working groups. Those that have been approved by the working groups will be given to the Legal Working Group on Jan.13.

### **Totals by Status Category (Number of PME's and % of total):**

- 4 (7%) have had no discussion
- 14 (24%) are in RESOLVE discussions
- 2 (3%) have been deleted
- 13 (22%) have reached preliminary tentative agreement
- 25 (43%) have reached tentative agreement

### **SCHEDULES/TIMELINE/DOCUMENT UPDATE**

As of this meeting, Connie reported that as of the end of the day Jan. 5, PSE and FERC have received PDEA comments and, where appropriate, preliminary recommendations, terms, and conditions from the following: Swinomish Tribal Community, Sauk-Suiattle Indian Tribe, WDFW, NMFS, WDOE, TNC, and the USFS. Dave, Jerry and Gene will follow up re: the status of the comments from their organizations.

Rob Mohn reminded us that the deadline for input into the next version of the PDEA will be Jan. 16. The deadline for the PDEA and license application to be submitted to FERC is April 30, 2004. The Berger Group expects a new proposed action from PSE on Jan. 16 and operational model runs by Jan. 26. The deadline for the cost estimates for the package will be Feb. 9. If there are substantial differences between the proposed draft action and the preliminary terms and conditions put forth by the agencies, the Berger Group will analyze both or even put forth an alternative that falls between the two. The comments received on the draft PDEA and the disposition of those comments will be included in an appendix to the PDEA that will be filed in April.

### **DRAFT 2004 SETTLEMENT WORK PLAN OUTLINE**

Connie walked us through the draft outline of the Work Plan as shown in the December 19 Status Report in Lieu of Solution Team Meeting. The only change we made to the plan was adding the identification of

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Policy Teams to address any issues that are still unresolved at the time of our next meeting on Jan. 27. This change is shown in italics below:

**Baker Solution Team  
Draft 2004 Settlement Work Plan Outline**

*Team 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.

*January 2004 Actions:* These actions are geared towards assuring that major issues to be included in the PDEA are completed and towards keeping the momentum going regarding the settlement agreement itself.

1. 1/6/04 – Review and approve license articles completed to date.
2. 1/6/04 – Review current status of all working groups' PME discussions and develop strategy to resolve issues in case they are not completed by working groups by 1/16/04.
3. 1/27/04 – Review PME package<sup>1</sup> as a whole for inclusion in the PDEA/Settlement Agreement.

*Added: At this time, we will also identify any Policy Teams that need to meet in February to resolve any outstanding issues.*

*February 2004 Actions:* These actions are geared towards the drafting and approval of the settlement agreement.

1. Continue to review and approve license articles completed to date.
2. Continue to monitor working groups as they complete the package.
3. Review and approve PMEs on Adaptive Management.
4. Develop and execute strategy to ensure endorsement of settlement agreement by various signing officials.
5. Monitor legal working group's progress and develop strategies to keep collaborative drafting process going.

*March 2004 Actions:* These actions are geared towards approval of the settlement agreement and making plans for closure of this phase of your work together.

1. Review completed license articles completed to date.
2. Review settlement language completed to date.
3. Develop a plan for completion of drafting and signing of the settlement agreement.
4. Plan a celebration!

*April 2004 Actions:*

1. Monitor signing progress.
2. Celebrate!

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<sup>1</sup> The working groups will continue to flesh out PMEs and accompanying details into February. The Solution Team will be working on Adaptive Management PMEs in February also. Therefore, this review is of substantive areas of agreement, recognizing that not all of the details will be filled in.

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## **REGULAR WORKING GROUP MEETINGS**

Note: only the Aquatics Working Group met in the month of December. Other groups met within the context of RESOLVE sessions

### **Aquatics: What's Hot?**

- Strategy to come up with consensus flow regime proposal

### **Aquatics: Studies Update for Solution Team**

- Analysis decisions on A09a Middle Skagit Habitat Models output processing to be made at December 15, 2004 Technical Sub-committee meeting on Instream Flows
- A16 – Lower Baker Alluvial Fan Assessment: Potential PME measures for the Lower Baker alluvial fan will undergo coarse analysis of the biological impacts of each. Working group members are to discuss the options with their policy-level staff.

## **ATTACHMENTS**

- Solution Team Status Report in lieu of December Meeting - Including Draft Work Plan
- Agreement Status of Overall PMEs – 12/19/03

## **TENTATIVE AGENDA**

**January 27, 2004 at USFS Office Building in Mountlake Terrace**

**9:00 a.m.–3:00 p.m.**

1. Introductions
2. Settlement Process Update/Work Plan
  - RESOLVE Session Updates
  - Shared Resources Teamlets
  - Plan for Policy Team Meetings as needed to RESOLVE outstanding issues/PMEs
3. Schedules/Timeline/Document Updates
4. Action Items
5. Working Group and Technical Working Groups:
  - What's Hot?
  - Status of Studies in Working Groups
  - Update on Technical Working Groups (TST, Fish Passage, Instream Flows, etc.)
6. Other?
7. Set February 10, 2004 Agenda
8. Evaluate Meeting