
BAKER RIVER PROJECT RELICENSE

Solution Team

April 22, 2003

9:00 a.m. – 3:00 p.m.

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

AGENDA

1. Introductions
2. Settlement Process Update – Cross Resource Workshop (May 14)
 - Workshop Agenda
 - Next Steps
3. Preparation for FERC call/ FERC call
 - Flood Control Update
4. Action Items
 - PDEA Update
 - HYDROPS Update
5. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
6. Schedules/Timelines
7. Other?
8. Set May 20, 2003 Agenda and Evaluate Meeting

BAKER RIVER PROJECT RELICENSE

Solution Team

April 22, 2003

9:00 a.m. – 3:00 p.m.

U.S. Forest Service 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: Steve Hocking, Keith Brooks by phone (FERC), Arn Thoreen (Skagit Fisheries Enhancement Group), Bob Nelson (Rocky Mountain Elk Foundation), Rob Mohn (Louis Berger Group), Jon Vanderheyden and Rod Mace (USFS), Bill Reinard (Wildcat Steelhead Club), Marian Valentine by phone (U.S. Army Corps of Engineers), Bob Helton (Citizen), Len Barson (The Nature Conservancy), Steve Fransen (NMFS), Paul Wetherbee, Cary Feldmann, Kris Olin, Connie Freeland, and Lloyd Pernela (PSE), Steve Jennison, (DNR), Patrick Goldsworthy (North Cascades Conservation Council), Rod Sakrison (DOE), Dave Brookings (Skagit County Public Works), Stan Walsh (Skagit Systems Cooperative), Dee Endelman (Agreement Dynamics), Lyn Wiltse, Facilitator and Mary Jean Bullock, Note-Taker (PDSA Consulting, Inc.)

NOTE: Our May 22 meeting has been moved to May 27. Location: Department of Ecology office in Bellevue.

2003 Solution Team Meeting Schedule:

May 27*, June 24, July 22, August 26, September 23, October 28, November 25, December 16. [**Was the 22nd due to Memorial Day holiday, but was moved to the 27th because it worked better for most.*]

AGENDA

April 22, 2003 at USFS Office Building in Mountlake Terrace

9:00 a.m. – 3:00 p.m.

1. Introductions
2. Settlement Process Update – Cross Resource Workshop (May 14)
 - Workshop Agenda
 - Next Steps
3. Preparation for FERC call/ FERC call
 - Flood Control Update
4. Action Items
 - PDEA Update
 - HYDROPS Update
5. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
6. Schedules/Timelines
7. Other?
8. Set May 27, 2003 Agenda and Evaluate Meeting

NEW ACTION ITEMS

- Connie: Send out Cary's white paper on White River Project Fish Operations with these minutes.
- Kris: Send out next draft of diagram (Flow Chart for Preparing Settlement Agreement and License Articles) for Solution Team review before May 27 meeting.
- Cary: Put together PSE meeting to discuss Recreation issues as they relate to continuing impacts.
- Marian: Invite Ken Brettman or Chuck Ebel to attend May 14 workshop.
- Dave: Give an update on flood control status and its relationship to relicensing process from May 2 meeting at the May 14 workshop.
- ALL: Remember to get Scoping Document 2 comments to Connie ASAP (preferably by 4/25).
- Cary: See that an Agenda for the Instream Flows meeting gets sent out ASAP.
- ALL: Contact Paul at 425-462-3746, paul.wetherbee@pse.com re: any HYDROPS runs you are interested in.
- Kris: Revise and send out updated version of Baker Relicense Project Flow Chart Schedule, changing "1st Draft SA" to "1st Draft Outline of Boilerplate for SA."
- Jon: Check availability of conference room at USFS building in Mountlake Terrace for our May 27 meeting.

INTRODUCTIONS

We welcomed Paul Wetherbee who joined PSE a couple of months ago. He is a hydrologist with broad experience in the modeling arena. He is pretty much working full time on the HYDROPS model.

SETTLEMENT PROCESS UPDATE – CROSS RESOURCE WORKSHOP

Dee walked us through a revised flow chart for preparing a Settlement Agreement and License Articles. Concern was expressed about the representation of “agree/disagree” options as being too simplistic. We need to capture also the “need additional information” option.

Skepticism was also expressed about the aggressive timeline. We will ask FERC during the conference call when we really need to submit the Settlement Agreement. Do we have some wiggle room? Are we compromising the quality of the decisions we make in an effort to get information for the PDEA?

There were also questions raised about who is the custodian/owner of the license articles. PSE suggested that they have their attorneys draft these for review by others. Others suggested they be drafted by a neutral third party attorney (selected by all).

It was also suggested that, to avoid a repeat of the seemingly endless struggle to complete the Communication Protocol/Process Document, we have the Attorney Team meet with the Policy Team (together, to ensure intentions are preserved).

Kris explained that the philosophy underlying this flow chart was that PSE attorneys would come up with an initial outline for the license articles and, after it is reviewed/edited/accepted by other parties’ attorneys, would begin to put some “flesh on the bones.” Ideally, the attorneys would work together as a team and co-create acceptable draft articles as they come out of the Working Groups and are accepted by the Solution Team. It was suggested that we go forward with the philosophy of using legal folks as resources to us and not a separate line. Collaborative processes rely heavily on trust – something difficult to gain and so easily lost. Serious concern was expressed about PSE’s legal department (preparing Settlement Agreement and license articles). They might misrepresent intentions.

It will be a real challenge to get attorneys out of their traditional legalistic mind-set and to understand the notion of interest-based collaborative decision making. Due to a scarcity of legal resources at the USFS, their attorney will not be able to become involved in legal review until near the end of the process, when studies are complete and license article language has been drafted.

It was suggested we ask the attorneys what process they would suggest, with their limited resources, to produce a document that is collaborative in nature.

Does it make sense, since PSE has more legal resources at its disposal than anyone else, for PSE to act as custodian of the document? This may be acceptable with Solution Team review and approval of the “final” document.

Rob Mohn offered that perhaps the Louis Berger Group could draft the license articles since they have a good understanding of FERC language and they know our interests whereas the attorneys do not. This seemed to be a popular idea. In response to this suggestion to have the Louis Berger Group take the

agreed-on draft actions (PMEs) and translate them into FERC-acceptable license article language, Kris said, “Yes!”

Next Steps

Dee will revise the flow chart to integrate suggestions from this team. This will be sent out for all to review prior to our May 27 meeting.

Lyn and Dee will poll attorneys to get their suggestions as to how they suggest we proceed. Ideally, we could do a conference call with them to set norms.

Rob will take steps for Louis Berger to take over the drafting of license articles from the PSE Attorneys.

How might we handle the drafting of the Settlement Agreement? We would make sure attorneys had boilerplate from recently-completed Settlement Agreements (Seattle City Light, North Umpqua, Chelan). It's not clear how the flow chart ties into the timeline. We will remove dates so it is strictly a process flow and then impose the timeline on it.

May 14 Cross-Resource Workshop

Dee distributed a draft agenda for this one-day workshop. By May 1, all Working Groups will submit their second draft actions (PMEs) to PSE for formatting. By May 7, PSE will send out the revised draft actions (PMEs) in their entirety (along with the rationale). Additionally, they will send out, as two separate documents, the proposed actions (in general form, containing ranges to be narrowed later on), and the statements of intent (rationale). This will allow us, during the workshop, to concentrate on the actions. The facilitator team will also distribute a list of issues/conflicts for discussion during the afternoon of the workshop.

FERC CONFERENCE CALL

Settlement Agreement

Steve explained that the Settlement Agreement is not required by law to be submitted along with the license application; however, to the extent that it is not filed with the application (4-30-04), then FERC would be forced to rely on the Draft Environment Assessment.

If we could demonstrate to FERC that we were actively working on a Settlement Agreement, but we weren't yet finished, FERC would take whatever percent was complete and go forward with it. If this were the case, FERC suggested that we work to complete as much as possible by April 30, 2004. At that time, whatever is not yet decided should be addressed by PSE. If we miss the deadline, we could informally continue to work on whatever was not complete. Keith suggested it would be helpful to FERC if we submitted to them a schedule for completion of the Settlement Agreement.

At this point FERC is looking at issuing our license October, 2005.

Steve warned that, with the current FERC chairperson, we should not expect extensions (beyond April 30, 2004) to complete the Settlement Agreement. We could also use Adaptive Management to address future issues where agreement wasn't reached – especially for issues where we are awaiting study results.

Flood Control Update

Two weeks ago, PIE (Pacific International Engineering) completed their reconnaissance-level study. The study indicated that significant benefits would be derived from additional flood storage. Last Tuesday, there was a technical briefing with the USACE and PSE of the findings of the study. Dave reported that the report was well received. Lloyd said that PSE had a problem with the numbers in the report and their interpretation. There has not been a proof statement about what benefits might come from additional flood control. Marian reported that the PIE study was an insufficient study for the Corps to use as a first step in that it was at a too high level for economic analysis. Further, the Corps disagrees with many of the assumptions in that report.

The USACE is responsible for operating the Baker Project for flood control. PSE will not assume the risks of providing for flood control.

Lloyd suggests crafting a new Article 32, keeping it open for increased flood control, depending on the findings of a more in-depth study conducted by the USACE.

The County is pushing to have this addressed as part of the relicensing process, rather than putting it off, since this is an issue of public safety.

Concern was expressed that increased flood control would decrease the creation of new salmon habitat and hasten the loss of current habitat. Some felt that it wouldn't be fair for Puget to mitigate this. Others were not so sure. They felt that mitigation should occur, somehow.

Marian reported that, in order for the Corps to consider including additional flood control as part of the new license, they would require a detailed study (showing costs and benefits). In addition to NEPA, the Corps would have to do a Biological Assessment to address Endangered Species Act, etc. She doesn't see how all of this can be done within the relicensing timeline.

Dave reported that Skagit County is aware of the tight timeline and is willing to bring on additional resources to help try to get the required studies done in the next 12 months.

Keith reported that the Corps has congressional authorization for flood control. We could include a recommendation around flood control as part of the Settlement Agreement. Until new information became available, the existing flood control agreement would stay in place. If the Corps were silent, the existing flood control agreement would stay in place. If the Corps lacked the studies to make a decision, a placeholder could be put in the license to re-examine the flood control amount after the completion of those studies. Marian reported that the Corps would not need an environmental analysis for a placeholder; Steve said nor would FERC. In the meantime, Skagit County would continue to work with the Corps to complete the analyses required to make a determination re: benefits of additional flood control. At that time, FERC would re-open the license (for flood control and related issues).

Next Steps

Dave will continue discussions with the Corps (he is meeting with Colonel Graves on May 2) to firm up the amount of available resources for studies required for the Corp's process, and see if the necessary studies could be complete within the relicensing timeline.

An EIS would need to be done and the Corps would need to make a decision based on that.

TST (TECHNICAL SCENARIO TEAMLET) UPDATE

Paul Wetherbee (newly hired PSE hydrologist) distributed a Functional Flow Diagram explaining the operations of the newly formed TST. Paul is serving as the leader of this teamlet. So far, the TST has met twice and is meeting weekly to get things set up. The teamlet is made up of representatives from the various resource Working Groups. They will serve as a clearinghouse for scenario requests, providing standardized formats for input and output of model runs. They will supplement results with some interpretation. They will also initiate their own runs, based on results they observe from requests from the different Working Groups. At their next meeting, they will come up with a ranking of soft constraints so we can do comparable runs.

HYDROPS UPDATE

Paul reported that the Powel Group is finishing up some final modifications to the HYDROPS model. These have been prioritized, according to their importance. The first tier of changes should be complete by 4/28. Re access: the USFS will be getting a computer loaded with the model. Otherwise, there will be a dedicated computer at the PSE offices in Bellevue. There is still the ability to access the model in Victoria through the internet. This connection, however, is very slow.

The R-2 Models should be operational by June (early?).

We'll get an update at the May 14 workshop.

PDEA UPDATE

Rob Mohn distributed a review schedule for the PDEA. By 4/22, Louis Berger will submit *to PSE* the first introductory chapters and partial environmental assessment (preliminary partial draft) for review *for accuracy and sensitivity of information, especially cultural*. [Team leader clarification.] It would go to the Solution Team May 1, with comments due May 30. *These comments plus the "proposed action," derived from the PME's, will go to Berger June 2* for use in the Public Draft. [Team leader clarification.] By August 1, the Environmental Effects section would be provided for Working Groups to review/comment (by August 15). September 5, Berger will deliver the Draft PDEA to PSE for production and distribution. On October 1, PSE will release the draft PDEA (and License Application Exhibits). January 2, 2004 is the due date for the Draft Application and PDEA comments and for preliminary terms, conditions, and prescriptions (Section 10(j), 4(e), 18). April 30, 2004 is when PSE will file the License Application and Final PDEA.

Rob explained that ~~the PDEA will consider both project effects and non-project effects as rationale for measures--in the PDEA, all PMEs will be evaluated for their beneficial effects, whether or not they are directly associated with ongoing project impacts.~~ [Rob Mohn] We will get an update on PDEA progress at the May 14 workshop.

REPORT ON OLD ACTION ITEMS

- Dave: Sent Lloyd contact information on Skagit County legal person for Flood Teamlet.
- ALL: Gave feedback on Settlement Process to facilitation team.
- Lyn: Revised Meeting Norms and sent to Connie to include in Meeting Notes.
- Steve H: Sent sample license articles drafted from PME's to Connie to distribute to Working Group members.
- Steve F, Gene, Jon: Reviewed the revised schedule. Saw if it works with their internal processes.
- Steve F: Talked with Steve H. about how and when NMFS's essential fish habitat determination will be made.
- Marian: Brought flood control update to next meeting along with timeline.
- Cary: Sent out list of HYDROPS scenarios that are being run to the team leaders to distribute by March 28th.
- Jon: Discussed continuing impacts with Recreation team members.
- Kris: Checked out better phone technology. [A new conference call phone should be available at the next Solution Team meeting.]

SCHEDULES/TIMELINE

Kris distributed an updated version of the flow chart schedule. It includes revisions based on meetings with Ecology and FERC. After some discussion, he agreed to change the May, 2003 box from "1st Draft SA" (for Settlement Agreement) to "1st Draft Outline of Boilerplate for SA." PSE's attorneys will be responsible for this action. After we see their product, we will discuss whether it makes sense for them to be the owners/custodians of this document going forward.

WHAT'S HOT IN THE WORKING GROUPS?

Aquatics

- Missing some critical information
- Definition of HYDROPS scenarios
- Downstream fish passage is a potential deal breaker

Economics/Operations

- Flood control
- Will be drought PME
- Need to discuss priorities of elements that will roll into models

Cultural

- Need a fan in the room
- Development of HPMP
- Schedule

Recreation

- Continuing/Ongoing Impacts Philosophies
- Fleshing out Resource Management Plans (with tight schedule and little data)
- Lack of study results

STUDIES UPDATE FOR SOLUTION TEAM

Aquatics

- Downstream Fish Passage Progress - \$20 – \$200 million
- Instream flows/TST

Recreation

- Still waiting for study results
- Got draft report for R-13 Visitor Survey
- Need “Needs Analysis” Report

Economics/Operations

None

Cultural

- Archaeology Study was finished March 31 (all they could safely get to)
- Historic Structures Study (draft report is out) – Presentation at Baker Lodge on May 13.
- Traditional Cultural Properties (TCP) studies are underway
 - Presentation to Tribes on TCPs and archaeology set for early May

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 Solution 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 listed for each Working Group.

HANDOUTS

- Flow Chart for Preparing Settlement Agreement & License Articles – Date revised 4/21/03
- Baker River Project Relicense, Cross Resources Working Group Meeting, May 14, 2003, Agenda
- Technical Scenario Teamlet (TST) Functional Flow Diagram – Version 2.0, 04/22/03.
- Baker River PDEA Review Schedule – April 21, 2003
- Baker River Project – Status of Second Draft Proposed Actions
- Baker Relicense Project – Flow Chart Schedule – Date revised 4/21/03

Tentative Agenda May 27, 2003 at Department of Ecology office in Bellevue

9:00 a.m. – 3:00 p.m.

1. Introductions

-
-
2. Settlement Process Update
 - May 14 Workshop Debrief
 - Next Steps
 3. Schedules/Timelines
 4. Preparation for FERC call/ FERC call
 - Flood Control Update
 5. Action Items
 - PDEA Update
 - HYDROPS/TST Update
 6. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
 7. Other?
 8. Set June 24, 2003 Agenda and Evaluate Meeting

MEETING EVALUATION

Done Well

- Settlement Process discussion
- Humor abounded
- Well attended
- We are getting somewhere re: flood control responsibilities
- Dee's new words: "complexify" and "difficultize"
- First urine joke

Do Differently Next Time

- Got out late
- Missed Gary/Gene
- Ran out of water
- Room warm, stuffy
- First urine joke