
BAKER RIVER PROJECT RELICENSE

Solution Team

February 28, 2001

9:00 a.m. – 3:00 p.m.

Forest Service Office
Mountlake Terrace, WA

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 Kathy Anderson (U.S. Forest Service), Stan Walsh (Skagit System Cooperative), Bob Helton (Citizen), Bill Reinard (Wildcat Steelhead Club), Don Schluter (Trout Unlimited) (by phone), Patrick Goldsworthy (North Cascades Conservation Council), Steve Fransen (National Marine Fisheries Service), Rod Sakrison (Dept. of Ecology), Gary Sprague (WA Dept. Fish & Wildlife), Fred Seavey (U.S. Fish & Wildlife), Bruce Freet (National Park Service), Arn Thoreen (Skagit Fisheries Enhancement Group), John Boggs (Concrete Heritage Museum Association), Bob Nelson (Rocky Mountain Elk Foundation), Larry Wasserman (Skagit System Cooperative), Jim Eychaner (Interagency Committee for Outdoor Recreation: IAC), Connie Freeland (PSE), Lloyd Pernela (PSE), Cary Feldmann (PSE), Lyn Wiltse, facilitator (PDSA Consulting)

Future Meeting Dates, Times and Locations:

March 28 – 10 a.m. to 3 p.m. at Lower Baker Office (Concrete)

April 25, May 23 – 9 a.m. to 3 p.m. at the Forest Service Office (Mountlake Terrace)

NEW ACTION ITEMS

- ALL: Consider expectations of this process.

-
-
- ALL: Write short explanation of the significance of each of the Federal Power Act authorities to the relicensing process for their organization and send to Connie by March 9th. (How this authority relates to the relicensing process.)
 - Cary/Connie: Coordinate a project tour among interested team members to take advantage of low water levels.
 - Don: Request American Rivers' interests from Brett Swift.

REPORT ON OLD ACTION ITEMS

- ALL: Reviewed *Communications Protocol* and sent comments by Feb. 9th.
- Connie: Sent out summary of comments to members by Feb. 16 to 21st depending on the number to discuss with group by meeting on Feb. 28th.
- PSE: Collated input on above document to guide review at the Feb. 28th meeting.

AGENDA

February 28, 2001 Mountlake Terrace, WA

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

1. Introductions
2. Review/revise minutes/agenda
3. Action Items
 - Update on MOU draft
4. Review/finalize Communications Protocol (excluding the Process Document)
5. Review list of authorities
6. Review initial working group study requests
7. Review interests/objectives/expectations of the relicensing proceeding
8. Other issues?
9. Set agenda for Mar. 28 meeting and confirm location
10. Evaluate meeting

INTRODUCTIONS

The team welcomed Bruce Freet of the National Park Service who is attending this meeting for the first time.

UPDATE ON MOU DRAFT

Stan reported that the agencies and tribes had ceased work on drafting a Memorandum of Understanding (MOU) and that they had agreed that an MOU is unnecessary and that the necessary structure can be achieved through the Process Document within the Communications Protocol.

In lieu of the MOU, attorneys for the Tribes, State and Federal agencies (Tribes, USFS, NMFS, U.S. & State Fish & Wildlife, BIA) will work together to create drafts of the Communications Protocol and Process Document. This team will review and comment on those drafts at a future meeting. We'll aim for the March 28th meeting.

The question was raised as to whether the new draft version of the Process Document was indeed created by the Process Working Group as stated. Process Working Group members considered the latest draft to be a near complete rewrite of their earlier work.

REVIEW OF COMMUNICATIONS PROTOCOL

After the above announcement regarding redrafting of the Communications Protocol, it was decided not to do a thorough review of the latest red-line version of the Protocol.

REVIEW OF LIST OF FEDERAL POWER ACT AUTHORITIES:

The team reviewed the list of authorities they came up with at the January meeting. They added:

- Wild & Scenic Rivers Act: Section 7 (a) & 10 (a)
- Wilderness Act
- IAC Section 10 (h) Comprehensive Outdoor Recreation Plan (SCORP)

Those that were listed at the January meeting were:

- Federal Tribal Trust...Trust obligation of all federal agencies; Department of Interior has special responsibilities (BIA, USFWS, NPS)
- §18...Fish passage mandatory condition (USFWS, NMFS)
- §10j...Fish and wildlife recommendations (USFWS, NMFS, WDFW)
- Migratory Bird Treaty Act: protection of neo-tropical birds and other migratory birds
- §10a...Comprehensive planning (State and federal resource or land management plans)
- §10a...Fish and wildlife recommendations (Tribes, state and federal agencies)
- §4e...Federal land management agency mandatory terms and conditions (Forest Service)
- Clean Water Act...Section 404 discharge into rivers
- ESA, §7...Consultation process under the Endangered Species Act; could result in mandatory terms or conditions (USFWS, NMFS)
- Clean Water Act...401 certification (WQ Standards)
- Coastal Zone Management Act...Shoreline management certification
- FWCA...Fish and Wildlife Coordination Act: provide mechanism for fish and wildlife recommendations on any water development project by state and federal agencies
- SHPO (State Historic Preservation Office)

All members were asked to come up with a brief explanation of the significance of each of these authorities to the relicensing process and send it to Connie by March 9.

REVIEW OF INITIAL WORKING GROUP STUDY REQUESTS

Lyn distributed a high-level list of the studies that the Working Groups are considering for the 2001 field season. The working groups will be finalizing the list of studies at their April meetings. PSE's Working Group team leaders are sharing study topics from their respective resource areas at weekly PSE meetings (chaired by Lloyd Pernela) to explore opportunities for synergies.

STUDIES

The question was raised regarding PSE's willingness to fund an independent review of analyses in resource area studies. It was acknowledged that the Working Groups need to feel comfortable with the

consultants and scopes used for the various studies. Any economic/operations model used for relicensing purposes should entail verification and validation of the computer code and must be understood (re: any assumptions/system constants/variables) and trusted by all stakeholders.

The finalized list of studies for the 2001 field season will be reviewed by Solution Team members at the April meeting.

DISCUSSION OF INTERESTS

We reviewed the draft interest statements for the Rocky Mountain Elk Foundation, Skagit Fisheries Enhancement Group and the National Park Service and reviewed the interests of Puget Sound Energy. During discussion of PSE interests, it was noted that a longer-term license (50-year versus 30-year) would be preferable to PSE in terms of providing an attractive rate of return for shareholders and certainty around license conditions. PSE noted that the WUTC dictates rates based on a 10.3% return on investments. Representatives from agencies noted that a 50-year license term would not be in their interests and a 30-year license would be preferable from a resource agency standpoint.

[The following note of clarification regarding license terms was sent via email to team members from Steve Fransen on 3/19/01: “FERC does set the term of an operating license, but the applicant and stakeholders can influence that decision. Based on our understanding of FERC's actions on relicense, NMFS would generally support 30 year operating licenses that include moderate new expenses for PM&E and other measures, a 50 year operating license for new expenses approximating the cost of complete project re-development complete with comprehensive PM&E and other measures, and a 40 or other intermediate terms for proportional intermediate investment in the new license operating term. A significant part of the rationale for initial operating licenses of 50 years is to allow the licensee to amortize capital development and other investments in the licensed project, including building the dams and powerhouses, etc.”]

We agreed that interest statements would stay in draft form and may be revised over time. We'll pull them out of the meeting minutes as a separate document on the website. We will continue to refer to them throughout the process. New interests will be listed in the body of the minutes of the meeting where they are discussed.

New Interests:

Interests of the Rocky Mountain Elk Foundation and Wildlife Interest Groups (Bob Nelson)

Ensure the future of wildlife by conserving, restoring and enhancing habitats.

- Minimize negative impacts to terrestrial resources from human caused activities, including but not limited to roads, recreation activities and hydroelectric project operations.
- Protect, maintain, restore, and enhance suitable habitats for critical life requisites of threatened, endangered and sensitive species.
- Maintain current distribution and restore distribution of terrestrial wildlife in previously occupied areas.
- Maintain game species populations to provide harvest and other recreational opportunities.

Interests of the Skagit Fisheries Enhancement Group (Arn Thoreen)

To educate and engage the public in protecting diverse anadromous salmon habitat in the Skagit watershed and to enhance, restore, and/or mitigate for the loss of habitat caused by human encroachment.

National Park Service Core Interests (Bruce Freet)

- **Preserve, maintain or restore, and manage the unique natural and cultural resources and associated values unimpaired and within their broader ecosystem and cultural context** for the benefit, use and inspiration of present and future generations.
- **Protect Wilderness values**, "...where the earth and its community of life are untrammelled by man, and where man himself is a visitor who does not remain." (North Cascades NPS Complex is 93% Wilderness.)
- **Provide for the public enjoyment and safe visitor experience** in NPS areas by providing availability, accessibility, diversity, and quality facilities, services, and appropriate recreational opportunities.
- **Undertake a scientific program of inventory and monitoring National Park System resources** to establish baseline information and to provide information on the long-term trends in their condition. (ecological integrity)
- **Inform the public of our current knowledge of natural and cultural resources** to gain their understanding and appreciation for these unique resources.

Interests of Puget Sound Energy (Lloyd Pernela)

1. Stay in business.
2. Maintain competitive rates for customers.
3. Earn allowed rate of return on shareholder investments.
4. Maintain and expand distribution business.
5. Maintain good relationships with public and agencies.
6. Assure certainty around licensing conditions

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 Solutions 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 settlement agreement.
- 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."
- Define "project induced."

-
-
- Consider tour.

OUTAGE UPDATE

Cary gave an update on the Skagit River flows and PSE's response. Cary distributed the following handouts: **Cumulative September-January Precipitation At Upper Baker Dam (1966-2001)** and **Real-Time Data For USGS On Skagit River, (August 1 to February)**. Fred acknowledged that PSE had been working collaboratively with the tribes and agencies since November and has adjusted its operations accordingly. Our drought caught everyone off guard. Up to mid November, weather forecasters were predicting normal rainfall.

PSE will be going off line at 8:00 tonight (to prevent the stranding of fish). They expect to be back on line by July 1st. Concern was expressed regarding public "looting" of artifacts on the exposed lakebed. Bruce will bring this up with the NPS archeologist today.

There was also concern expressed about turbidity of the lake. This is likely the result of the low reservoir levels exposing silt that is being transported by the Baker River and is out of PSE's control.

MEETING EVALUATION

Well-Dones:

- Timing of earthquake
- Bruce's participation
- Lunch sandwiches

Need to Improve:

- Some rambling
- Facilitator too loud
- More coffee

TENTATIVE AGENDA FOR NEXT MEETING

March 28, 2001 Mountlake Terrace, WA

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

1. Introductions
2. Review/revise minutes/agenda
3. Action Items
4. Review/finalize Process Document and Communications Protocol (?)
5. Review 2001 studies
6. Review interests/expectations
7. Other issues?
8. Set agenda for April 25
9. Evaluate meeting