
BAKER RIVER PROJECT RELICENSE

Solution Team

June 24, 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: Arn Thoreen (Skagit Fisheries Enhancement Group), Bob Nelson (Rocky Mountain Elk Foundation), Jerry Louthain (City of Anacortes and Skagit County PUD), Pam Klatt by phone (Louis Berger Group), Steve Jennison (DNR), Bill Reinard (Wildcat Steelhead Club), Bob Helton (Citizen), Len Barson (The Nature Conservancy), Jon Vanderheyden and Rod Mace (USFS), Paul Wetherbee by phone, Cary Feldmann, Kris Olin, Connie Freeland, and Lloyd Pernela (PSE), Patrick Goldsworthy (North Cascades Conservation Council), Dave Brookings by phone (Skagit County Public Works), Dee Endelman (Agreement Dynamics), Lyn Wiltse, Facilitator and Mary Jean Bullock, Note-Taker (PDSA Consulting, Inc.)

New Location for Puget Sound Energy:

Puget Sound Energy Building
10885 NE 4th St. (9th floor south)
Bellevue, WA 98004-5591

Note: If visiting, check in with the 11th floor receptionist

Note: The mailing address is still the same; only the mailstop has changed:
P.O. Box 97034 PSE-09S
Bellevue, WA 98009-9734

2003 Solution Team Meeting Schedule:

July 22 *[Note: Meeting canceled; an email status report will be sent out.]*, August 26, September 23, October 28, November 25, and December 16.

Agenda June 24, 2003 at USFS Office Building in Mountlake Terrace

9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update
 - Settlement Outline
 - RESOLVE Sessions
 - Next Steps
3. Schedules/Timelines
4. Preparation for FERC call/ FERC call
 - Flood Control Update
5. Action Items
 - HYDROPS/TST Update
6. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
7. Other?
8. Set July 22, 2003 Agenda and Evaluate Meeting

NEW ACTION ITEMS

- ALL: Submit to Dee contact information for your attorney as soon as possible.
- ALL: Contact Paul at 425-462-3746, paul.wetherbee@pse.com re: any HYDROPS runs you are interested in.
- Lloyd: Copy Bob H. on TST notes.
- Rod M: Check with USFS attorneys re: models they like for drafting “boilerplate” settlement language.
- Connie: Get Rod the models FERC suggested the PSE attorney use for “boilerplate” settlement language.
- Steve: Let Dee know if DNR will be having their own attorney review our settlement agreement.
- Patrick: Do the same for the North Cascades Conservation Council.
- Jerry: Do the same for Skagit County PUD and the City of Anacortes.
- Connie/Kris: Create “status report” for PME's going forward (this will be attached to Solution Team minutes or distributed as a handout).

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- Connie: Call Louis Berger Group re: availability to participate by phone (if needed) for July meeting.
 - Connie: Attach a list of cross resource Working Group members to Solution Team notes. [See pg. 9 of notes.]
 - Pam: Draft August PDEA email notice for our review at July meeting.
 - Lloyd: Invite Paul Wetherbee to participate in July Solution meeting (if TST members agree that HYDROPS runs are ready for review).
 - Connie: Send draft of second FERC Semi-Annual Progress Report (January-June 2003) out to members for review by June 27.
 - All: Please get any comments (blatant omissions, etc.) on Semi-Annual Progress Report to Connie by July 8.
 - All: Consider time/location for Solution Team Party. Be ready to discuss at our July meeting.

SETTLEMENT PROCESS UPDATE

Settlement Outline

Kris distributed copies of the settlement agreement outline which had been edited to reflect the changes suggested at the last Solution Team Meeting. This version of the outline has been shared with PSE attorneys Pamela Krueger and Lorna Luebbe. They will be working on adding “boilerplate” detail to the outline in time for us at our next meeting.

Attorneys

Concern was expressed about the timing around bringing the attorneys together. We need to manage the tension between getting them together *early enough* so they still have ownership of the document (format, etc.), and *late enough* so they have some substance to respond to. We may need to operationally define “boilerplate,” because it means different things to different folks.

Dee shared the list of attorney contact information she has so far. All were reminded to get the contact information for their attorneys who will be involved in this process to Dee as soon as possible. The USFS attorney won’t be available to meet until the fall. Dee will continue to collect the names for now. After we see the boilerplate language next month, we can discuss when would be best to pull the attorneys together. The initial attorney meeting would include setting up communication and operating guidelines. This will help set them up to successfully review, edit and ultimately recommend approval of the settlement agreement.

It was suggested that we expand the contact list to include areas of specific interest for each attorney (which areas of the settlement agreement they want to review, etc.). We decided not to do this because the attorneys will be serving the interests of their organizations reflected in their respective interest statements.

Update on RESOLVE Sessions

Dee reported that the Recreation, Terrestrial, and Aquatics Working Groups have set up separate RESOLVE sessions to further develop the PMEs from their resource areas. These separate meetings will take place this summer. By the end of September, the Solution Team will see how far the groups have progressed.

Note: Forest Service folks will attend RESOLVE sessions to the extent they are available this summer. Studies and field work will come first.

At the Recreation RESOLVE session, they reached tentative agreement on four PMEs:

1. Safety, 2. Boating Hazards, 3. New Trails, and 4. ADA Compliance

They have asked the Louis Berger Group to begin drafting corresponding license articles.

The Terrestrial RESOLVE session also went well. They reached tentative agreement on osprey nest structures after reviewing the draft license article language. Next time they will be reviewing draft license language for three additional PMEs.

The Aquatics folks have yet to hold their first RESOLVE session (see schedule below).

The following is a list of currently scheduled RESOLVE sessions:

Terrestrial: June 18, July 17, August 8

Aquatics: July 29, August 12, and August 25

Recreation: June 16, July 21, August 11

Process Change: Working groups will ask Louis Berger directly to begin drafting license articles when they have agreed on PMEs. Once the Working Groups have approved the draft language, it will be sent to the Solution Team to be incorporated into a more holistic view. (The original plan was to have the draft license articles go directly to the Solution Team for review.)

Dee is reconstituting the Adaptive Management teamlet because this is being discussed within the context of several PMEs.

Starting in July, we will begin status reports for all PMEs.

SCHEDULE/TIMELINE

Kris reported that there were no real changes to the timeline since last month. He will update the schedule to reflect planned discussions with the Counties and the Town of Concrete re: the shoreline development permitting process.

PDEA Update

The official deadline set by the Louis Berger Group for input into the October 1 version of the PDEA was June 2. The draft actions PSE submitted to the Louis Berger Group for drafting of the fall PDEA were distributed. Connie's cover letter stressed that some of the draft actions reflect Working Group agreements while others do not.

The official draft PDEA will be out October 1 for a 90-day public comment period. During this time, agreements made by Working Groups since the June 2 deadline will be integrated into the April 2004 final PDEA.

At our July Solution Team meeting, we will discuss what will be involved in the Working Group review of the environment effects section of the PDEA. A draft of this section will be available by request on

August 1. Pam Klatt of the Louis Berger Group explained that this interim review of the PDEA was requested by the Terrestrial Working Group. The Louis Berger Group wants comments (notification of any “fatal flaws”) by August 15.

After some discussion, we agreed to handle the environmental effects review by having the Louis Berger Group send out an announcement to all Working Group and Solution Team members saying that a preliminary draft of the environmental effects section of the PDEA is available upon request. Pam will draft this email notice for review at our meeting in July. The email will stress that any review would be only to look for fatal flaws. It was emphasized that the Louis Berger Group is trying to meet regulatory deadlines, while we are working on coming to agreement.

FERC CONFERENCE CALL

Keith did not call in today. Steve was unavailable for the call as he was on assignment in Montana.

Flood Control Update

Lloyd reported that a teamlet of the Corps, Skagit County, WDFW and PSE has been formed to address the issue of a feasibility study for additional flood control storage (approach and scope). TetraTech will write the feasibility study and the Washington Group will address any associated physical changes to project works. If the benefit/cost ratio isn't found to be compelling, no future action would be taken. (The Corps has rigid standards around this ratio. It must be greater than 1.)

The initial emphasis will, therefore, be on economics. By the end of August, we will know if the rough economics pan out. If they do, next steps might include incorporating environmental costs into the assessment. Assuming a positive feasibility study, the Economics/Operations Working Group will review the findings and agree on next steps. This would begin in the November time frame.

At their June meeting, the Economics/Operations Working Group reviewed a preliminary paper put out by R2 Resource Consultants outlining some of the environmental impacts associated with flood control storage. Concern was expressed that work on flood control storage could cause a possible drain on already scarce resources supporting other parts of the relicensing process.

Appreciation was expressed for PSE choosing to collaborate with the County and the Corps in doing the feasibility study.

REPORT ON OLD ACTION ITEMS

- Keith: Got dispute resolution case citation to Connie. She sent it out on June 3.
- Lloyd: Buttoned up with FERC re: flood control study request after June 11, Economics/Operation meeting.
- Connie: Buttoned up with FERC re: Whatcom County and the Town of Concrete meetings re: Shoreline Development permitting process (fall timeframe).
- Kris: Buttoned up with Lorna Luebbe (PSE attorney) re: expanding settlement agreement outline and boilerplate language.

TST UPDATE

The Technical Scenario Teamlet (TST) last met June 6. Paul Wetherbee reported that their progress to date includes reaching the following agreements:

- A “recent conditions” summary statement (that alternatives will be compared against);
- The five energy years they will use to represent wet, normal and dry conditions, economics and biological considerations;
- A consistent energy price schedule to use across all analyses; and
- A draft ranking of the soft constraints (see explanation below).

At the June 6 TST meeting, they met in person (rather than the usual conference call) and established six groups of relative soft constraint rankings (five according to the different resource areas and one overall ranking of soft constraints to allow for apples-to-apples comparison).

HYDROPS

Paul reported that the final set of software modifications should be delivered to PSE by the Powel Group on June 25. They expect the testing/debugging to be complete by June 27. The model should be considered complete at that time.

There will be another in-person TST meeting on July 11. They will review a couple of “strawman” runs (a sample run for recent conditions and an additional run for proposed conditions). Along with these runs, they will review a corresponding full suite of post process analyses.

R2 Model

At the July 11 meeting, they will also be looking at integrating the R2 model by reviewing a proposed work plan for model linkages. Note: The R2 and HYDROPS models will be *linked*, not *integrated*.

The hourly downstream routing of the R2 model should be complete by July 18. They are looking at mid August for the hourly habitat component as well as the daily.

SEMI-ANNUAL PROGRESS REPORT TO FERC

Connie reported that the second Semi-Annual Progress Report, a requirement of the ALP, is due to FERC July 19. She will get a draft of the report out to the Solution Team for review by June 27. All were asked to let her know of any glaring omissions by July 8.

WHAT’S HOT IN THE WORKING GROUPS?

Aquatics

- Timelines
- Flood control
- PME RESOLVE sessions!

Economics/Operations

- Flood control – Economic evaluation and how it might (adversely) impact the settlement process and other analysis processes.

Cultural

- Not meeting again until August.

Terrestrial

- Concern re: ambitious schedule
 - Doubling up on meetings is difficult
- Big topics – when are we going to discuss them?

Recreation

- PDEA package specifics (vs. generalities)

STUDIES UPDATE FOR SOLUTION TEAM

Aquatics

- Hydrology data have been updated
- Alluvial fan is going forward
- Shoreline erosion is ready for cross-resource evaluation
- Made progress on the native non-salmonid study

Economics/Operations

- Flood Control Study Request was deferred until we see what comes of the initial feasibility analysis.

Cultural

- Not meeting again until August.

Terrestrial

- Everything is going swimmingly!

Recreation

- R-11/15 (Recreation Capacity and Suitability Analysis), R-9 (Recreation Use Survey – Electronic Monitoring), R-13 (Recreation Visitor Surveys), R-12 (Dispersed Site Inventory), and R-16 (Recreation Needs Analysis) are all out for comment/reviews.
- Moving ahead with R-5 (Visuals and Aesthetics Study) request.

The Fish Passage Technical Working Group reports that they have agreed on the approaches for downstream as well as upstream passage. They are working out the details.

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?

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- 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

- Draft Settlement Agreement Outline, Baker Hydroelectric Project, June 4, 2003 revisions
- Preliminary List of Contacts: Members of Attorney Working Group, Baker River Project Relicense, June, 2003
- Draft Actions Submitted for PDEA (June 2, 2003), with Cover Letter from Connie Freeland dated June 10, 2003
- Addenda to DRAFT PME's (June 2, 2003) – June 23, 2003

Tentative Agenda ~~July 22~~August 26, 2003 at USFS Office Building in Mountlake Terrace 9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update
 - Settlement Outline
 - RESOLVE Sessions
 - Cross Resource Teamlets
 - Adaptive Management Teamlet
 - Next Steps
3. Schedules/Timeline/PDEA Update
4. Preparation for FERC Call/ FERC Call
 - Flood Control Update
5. Action Items
 - HYDROPS/TST Update
6. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
7. Other?
8. Set ~~August 26~~September 23, 2003 Agenda and Evaluate Meeting
 - Consider Summer Solution Team celebration

MEETING EVALUATION

Done Well

- Good lunch
- Got out early
- We know more about what we don't know

Do Differently Next Time

- Faulty hot water air pot
- Steve's BO (biological opinion), which kept him from being here

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- Cary's spear point analogy
 - We're less sure about what we do know
 - Lyn's handwriting (blame it on the new glasses)

Baker Project Cross Resources Teamlets

Access Management, Campsites, Land Management (3 areas combined):

- Andy Hatfield – PSE
- Tony Fuchs – PSE
- Lauri Vigue – WDFW
- Jim Eychaner – IAC
- Ann Dunphy – USFS
- Ken Wilcox – Osprey/NW Wild Books
- Gary Sprague – WDFW
- Brian Adams – Skagit Co.
- Len Barson – The Nature Conservancy

Large Woody Debris – Will be handled in Aquatics Working Group

Reservoir Management/Instream Flows:

- Cary Feldmann – PSE
- Andy Hatfield – PSE
- Marty Vaughn – Biota Pacific
- Dave Brookings – Skagit Co.
- Chuck Ebel – Corps

Upstream Fish Passage: Will be handled in Fish Passage Technical Working Group

Ground Disturbing Activities:

- Jessie Piper – PSE
- Tony Fuchs – PSE
- Jan Hollenbeck – USFS

I. PREAMBLE

A. Collaborative Process

B. Parties

II. INTRODUCTION

A. Purpose

B. Definitions

C. Scope

D. Term

E. Support for Settlement and License

F. Compliance with Laws

G. Reservation of Rights

III. USE OF SETTLEMENT AND RELATION TO LICENSE

A. Measures Recommended to be Incorporated in FERC License

1. General ~~Provisions~~Measures
2. Specific Measures to Meet Section 4(e) of Federal Power Act
3. Specific Measures to Meet Section 18 of Federal Power Act
4. Specific Measures to Address Clean Water Act 401 Certification
5. Specific Measures to Address Endangered Species Act Section 7 Consultation

6. Specific Measures to Address Congressional Mandate

B. Measures Agreed to But Not To Be Included In License

IV. IMPLEMENTATION

A. Consistency of Settlement and License

B. Cooperation Among Parties and Decisionmaking

C. Responsibility for Costs

D. Schedule

V. GENERAL ~~PROVISIONS~~CONDITIONS

- A. Successors and Assigns
- B. No Third Party Beneficiaries
- C. Severability
- D. Force Majeure
- E. Governing Law
- F. Notice
- G. Reopeners and License Amendments
- H. Settlement Amendments
- I. Withdrawal from Settlement
- J. Termination of Settlement
- K. Dispute Resolution

VI. APPROVAL AND EXECUTION

- A. Signatories
- B. Effectiveness

APPENDIX A: Measures Agreed To By Parties And In License

~~General Provisions~~1. Proposed License Articles

2. Detailed Action Plans in Support of License Articles

3. FPA Section 18 Conditions

4. FPA Section 4(e) conditions

5. CWA 401 Certification

6. ESA Section 7

7. Congressional Mandates

APPENDIX B: Measures Agreed to by Parties But Not In License

APPENDIX C: Other Agreements Not Related to Settlement

APPENDIX D: Collateral Process Partners and Authorized Representatives