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## **Baker River Project License Implementation**

### **Baker River Interim Coordinating Committee Draft Meeting Notes**

April 25, 2007  
9:00 am - 3:00 pm  
WDFW Mill Creek

## **FINAL MEETING NOTES**

### **PRESENT**

Cary Feldmann, Tony Fuchs, Arnie Aspelund, Kellie Anderson, Paul Wetherbee, Elizabeth Dubreuil, and Connie Freeland (PSE); Stan Walsh (SRSC); Rich Johnson and Gary Sprague (WDFW); Patrick Goldsworthy (NCCC); Alice Kelly (Dept. of Ecology); Bob Nelson (RMEF); Steve Fransen (NOAA); Arn Thoreen (Skagit Fisheries); Jon Vanderheyden (USFS); Tom Karsh (Skagit Co. Public Works); Chuck Ebel (USACE); Bob Helton by phone (Citizen); Lou Ellyn Jones by phone (USFWS); Jon-Paul Shannahan by phone (Upper Skagit); Ric Abbett by phone (Trout Unlimited); Len Barson by phone (TNC); Jamie Riche, facilitator (PDSA Consulting, Inc).

### **NEXT MEETING DATE**

**BRICC Meeting:** June 27, 9 a.m. – 3 p.m., USFS Mountlake Terrace

### **TODAY'S AGENDA TOPICS**

Project Updates  
Timelines and Relicensing Updates  
Flood Control Language  
Quorum Definition

### **NEW ACTION ITEMS**

- Tony – Mail Arn loon platform design
- Connie – Send out the BRICC and Resource Group representative lists for folks to update
- Connie – Check location of 6/27 meeting, share with the group
- Cary – Draft Quorum message (see below)
- Connie – Distribute Quorum message by May 3 (see below)
- All – Respond to Connie re: Quorum by May 31 (see below)
- Connie – Collate the Quorum responses, distribute to all by June 11 (see below)

## PROJECT UPDATES

**ARG:** Arnie shared that the hatchery has been designed to the 15% level and they're ready to move forward. They'll be issuing an RFP in May, with the contractor to be chosen in June. The goal is to begin construction March 2008. ARG will initiate outline of Aquatic-Article related plans (gravel, etc) in May. Floating Surface Collector (FSC) site visit is scheduled for May 7, with an ARG (a.m.) / Fish Passage (p.m.) meeting scheduled for May 8. They will review the much anticipated instream flow report on the 8<sup>th</sup>. Details of the site visit and meeting agendas will follow via email.

**CRAG:** The CRAG is meeting regularly again (monthly since January); the next meeting is May 16. They are gearing up for license issuance (the Historic Properties Management Plan is due one year after issuance). They have a site visit to the FSC scheduled for May 9; they are interested in the old gulper for showing the evolution of technology. They'll have other trips, too (ex: review old spawning beaches for possible educational opportunities). They're looking at reuse / restoration of historic buildings at Lower Baker. On the archaeological side of things, they monitored the FSC anchor installations. They are also completing a site stabilization project. The Lower Baker DC spillgate car has been disassembled and removed; it may be used in part or whole for educational / historical display. **Note:** As a group, we discussed the value of public education opportunities and the need to balance that with preservation.

**TRIG:** The first (prototype) loon nest platform has been installed on Lake Shannon with a 500-foot exclusionary zone. Also installed was an osprey nest platform (the 10<sup>th</sup>) – and there are birds there! The Elk Teamlet is very active. The property search is heating up; there are a lot of possibilities, including trades and easements. They met recently with WDFW to gain clarity on the Nooksack Elk Management Plan (which is being revised this summer), and the implications that has for land acquisition / land management. The team is also continuing to develop the Terrestrial Resources Management Plan; they revived the Botanical Teamlet to move those plans forward. **Note:** We emphasized the importance of good communications between the team leads to ensure coordination of joint interests (ex: RRG/CRAG interest in TRIG-acquired elk lands).

**RRG:** The RRG is meeting regularly and is engaged in dialogue regarding aesthetic questions. Their pressing issue is Article 303, decommissioning the Baker Resort. At this point, they're keeping it running so it can be decommissioned per the agreement with the Forest Service. They are also reviewing recreational access to Lake Shannon (Article 305); there is an issue with the ownership, right-of-way, maintenance, and liability associated with the access road. **Note:** Any new buildings / construction within an historic district will require CRAG involvement.

### Roads and Access:

Roads, culverts and bridges damaged last fall and this spring are affecting access to every project in the basin. Repairs are complicated by (of course) financial issues, as well as questions of who is responsible and cultural considerations. At this time, there is no road access above Lake Shannon; folks are hoping for an early June repair.

### LICENSE UPDATE:

FERC probably has the license written, and is just waiting to incorporate the CZMA, 401 and BiOps. One of the BiOps has been written and sent to PSE for review; the other is coming along.

**Early Implementation Activities and a “Master Schedule”:**

Paul (PSE) shared that he is now working with the project managers associated with the license to coordinate implementation activities. PSE is acting internally to be prepared for a June license issuance. PSE has not yet calculated the escalation clause into its budget, but is factoring that into planning since we’re now looking at a 2007 issuance rather than the intended 2006. In terms of scheduling, those projects that have a firm deadline (ex: FSC in 2008), as well as those with a biological timeline of their own (ex: loon nesting season), have been acted on in an “early implementation” process. Cary noted that the implementation groups will need to ratify these activities once the license is issued to “formalize” PSE’s compliance with the license requirements. Other projects are generally staying on track per the schedule in the Settlement Agreement. The group requested the opportunity to review and discuss a “Master Schedule” of project work using the latest information on early implementation activities and settlement agreement / license requirements. This is on the agenda for the June 27 meeting.

Once the license is issued, we will all have just 30 days to read it and decide whether or not to appeal (and/or coordinate a shared response). We noted value in scheduling a BRICC meeting within that 30-day window.

**Shoreline Hearing:**

The Concrete hearing on the Shoreline permit was held 4/9. The council voted unanimously to approve the permit as applied. There is another hearing 5/7 to address procedural issues regarding which shoreline plan / process was used to issue the permit. At this time, the process is this: the town will issue the permit, Alice shared that the Dept. of Ecology will approve it; this will trigger a 30-day appeal window. An appeal is a real possibility and the implication of this on our timeline for license issuance is uncertain.

**Flood Control:**

At our last meeting, the BRICC talked about a proposal Representative Larson was planning to take to Congress regarding flood control. That legislation died. At this time, Cary doesn’t see that language coming back. The Corps signed the cooperative agreement with the county – more information to come.

**QUORUM:**

We discussed the intent and interpretation of the quorum language in Article 601, and the need to balance the ability to move business forward with the need to ensure the opportunity for full and fair participation in decisions and actions. The question is whether a quorum requires all 11 parties listed in the article or whether the language created four “affinity groups” (PSE, federal agencies, state agencies and tribes) with at least one party from each group required to be present to achieve a quorum. We discussed a variety of options and issues, including: proxies, establishing different definitions of quorum for each resource group, the level of decision which would necessitate a quorum / vote, and the interpretation of silence or absence. Cary emphasized that PSE is interested in clarity to ensure that there aren’t any openings for appeals to group decisions based on the representation / quorum process.

**Proposal / Next Steps:**

By May 3, PSE will send out the background, including the various positions, and an explanation of the “affinity model” clarification to all Settlement Agreement signatories. All parties will be asked to review and discuss this with their folks (legal, etc): “Do you concur with this definition?” All parties will need to weigh in by responding to Connie by May 31. She will collate the responses and distribute to all by June

11, thus setting the stage for the full group to affirm / ratify a written shared understanding of the “affinity model” as our definition of quorum at our 6/27 BRICC meeting.

## **MEETING EVALUATION**

### **What Went Well**

- Excellent dialogue
- Great FSC video!
- Pretty good facilitation
- Rich made it, despite fiery brakes ...

### **What to Do Differently**

- Quorum déjà vu
- Hot tamale – Brakes o’ fire!!

## **AGENDA TOPICS, NEXT MEETING**

- Review Notes, Agenda
- Review “Master Schedule”
- Definition of Quorum
- License Update
- Project Updates
- Next Steps
- Set next meeting date; evaluate meeting

## **Baker River Interim Coordinating Committee**

### **Status Report: Baker Relicensing and Implementation Activities**

#### **Baker Relicensing Activities**

**Shoreline Permit:** A public hearing on the Shoreline Permit will be held on March 12 at the Town of Concrete City Council meeting.

**SEPA:** This process is complete. The Dept. of Ecology filed the State Environmental Policy Act (SEPA) Threshold Determination and Adoption of Existing Environmental Document with Addendum on January 12, 2007. This means that Ecology adopted the Baker Final Environmental Impact Statement (the National Environmental Policy Act document) for purposes of SEPA, with an addendum addressing Priority Habitats and Species Update and Non-native Invasive Plant Management.

**CZM:** By mutual agreement, Ecology and PSE have filed to extend the deadline for Ecology's review of the Certificate of Consistency with the Washington State Coastal Zone Management Program until March 30. This review cannot be completed until the Shoreline Permitting process is finished.

**WQC:** Ecology is continuing to address comments received on the draft Water Quality Certificate. If the final WQC is not completed by March 8, Ecology will request that PSE withdraw and resubmit our application, because the one-year clock for the process will have expired. PSE will do so.

**BiOps:** The US Fish and Wildlife Service and NOAA Fisheries are targeting February 28 to have the Biological Opinions completed.

**Diking Districts' Appeal:** The Superior Court's hearing on the merits of the Diking Districts' appeal of the Skagit County shoreline exemption decision is scheduled for February 26.

#### **Baker Implementation Activities**

**FSC:** FERC approved the construction of the Floating Surface Collector as an upgrade to the existing structure, thus not requiring a license amendment. Mobilization for construction began the first week of February. Five of the 13 belly tank modules had been delivered by last week; all modules are expected by the first week of March. The Biological Evaluation Study Plan was reviewed and commented on by the Fish Passage Technical Working Group in December.

**Adult Trap:** Design of the adult trap is continuing to a near final stage. Despite the hope to complete this feature early, by initiation of construction this year, schedule, budget, design, and permitting uncertainties related to the accelerated schedule have combined to prevent start of construction in 2007. The trap will be pushed back one year from the original accelerated schedule to ensure a successful project.

**Hatchery:** Design of the hatchery is continuing to a near final stage. Statements of qualifications from four potential design/build contractors are being reviewed. For reasons similar to the adult trap, the start date for hatchery construction has been pushed back one year from the original accelerated schedule.

**Historical/Cultural:** Prior to construction of the FSC, training was given to construction personnel regarding working in possibly culturally sensitive areas. An archaeological monitor will be on-site during construction when appropriate. Memoranda of Agreement have been drafted for several historical projects, including removal of historic equipment. Work continues on plans for monitoring archaeological sites. The Cultural Resource Advisory Group continues to discuss project impacts on cultural resources within the Baker River Project area.

**Terrestrial:** Design and construction of the first loon floating nest platform is underway. An osprey/loon teamlet meeting was held, during which design and siting of the platform was decided upon. It was agreed that since we are still “pre-license,” we would only install one loon platform this March (instead of the three specified by Article 507) on Lake Shannon, and that we would install the other two next year (perhaps on Baker Lake). During the teamlet meeting, we also decided upon the location of the new osprey nest platform, which will be on Lake Shannon across the lake from the boat ramp on a low lying stump (a previous snag that held a nest but has fallen over recently).

We are in discussions with the owners of our priority property for elk land acquisition. Several options for acquisition are being explored, since the owner wishes to continue to use the property. We have also re-initiated discussions with other land owners in the area west of Lake Shannon to begin the work of acquiring additional lands for elk and for future acquisitions for the wetland, forest, and aquatic riparian articles.

### **Recreation:**

The Recreation Resources Group has met and continues to review items related to ongoing preparation for the license. In the interim, an agreement has been reached related to aesthetics and the appearance of the FSC that the colors used will be compatible with an overall blending with the lake environment.