



---

## BAKER RIVER PROJECT LICENSE IMPLEMENTATION

---

**Terrestrial Resources Implementation Group  
Technical Meeting – Call in and WebEx  
December 3rd, 2009 (9:00 a.m. – 12:00 p.m.)**

**WDFW Mill Creek Office  
16018 Mill Creek Boulevard  
Mill Creek, Washington 98012-1296  
Telephone (425) 775-1311**

**Conference Call Line:** 1-888-228-0484, ID: 2821, Password: 4567  
WebEx link below, Meeting Number: 334 492 635  
Meeting Password: terrestrial

<https://pseinc.webex.com/pseinc/j.php?ED=118686782&UID=0&PW=09b9031e001f1148434d435a5358>

**Please call Tony (206-276-1204 (m)) if you can't get into meeting**

### AGENDA

- |  |
|--|
| 1. Review notes/agenda/action items from November 5th, 2009 meeting.   |
| 2. Review recent BRCC meeting activities and License review/issues. <ul style="list-style-type: none"><li>• License/BRCC update</li><li>• TRIG budget update – Kim and Christina</li></ul> |
| 3. Decisions Required at Today's Meeting: None <ul style="list-style-type: none"><li>• Decision Item #1:</li></ul>   |
| 4. Land Acquisition Update <ul style="list-style-type: none"><li>• Property Y Update – Ira, Tony</li><li>• Alternative Properties, WDFW review of alternative – Ira, Tony</li></ul>        |
| 5. Adaptive Management Proposal <ul style="list-style-type: none"><li>• Review Wetland Article funding proposal - Don</li></ul>  |
| 6. Bald Eagle Night Roost Survey <ul style="list-style-type: none"><li>• Update – Haley</li></ul>  |
| 7. Botanical Teamlet <ul style="list-style-type: none"><li>• Report from PSE/USFS Plant propagation meeting – Scott and Kathy</li><li>• <i>Carex flava</i> report status - Scott</li></ul> |
| 8. Evaluate meeting, set location (PSE office?) and agenda for next meeting (Jan. 7th, 2010)   |

# Final Meeting Notes

December 3, 2009 / 9 a.m. - Noon / Web-X, Call



## *Baker River Project License Implementation*

### **Terrestrial Resource Implementation Group Final Meeting Notes**

#### **Team Leader Note:**

Where possible, clarifying comments (typos, word choice, etc.) that can be readily incorporated into notes are so incorporated in *italics*. However, for this meeting there were some suggested paragraphs describing discussion that were not part of the notes taken at the meeting by the official Notetaker. Because the paragraphs are more descriptive of minutes than the traditional notes, and to avoid the arduous process of wordsmithing these comments to consensus of the group, the comments have been appended entirely to the notes below.

**Team Leader:** Tony Fuchs (PSE), 425-462-3553, [tony.fuchs@pse.com](mailto:tony.fuchs@pse.com)

#### **PRESENT BY PHONE:**

Tony Fuchs, Cary Feldmann, Scott Heller, Haley Edwards, Christina Verheul, and Ira McDaniels (PSE); Kathy Smayda (Smayda Environmental); Marty Vaughn (Biota-Pacific); Don Gay and Ann Risvold (USFS); Stan Walsh (SRSC); Todd Wilbur (Swinomish); Lou Ellyn Jones (USFWS); Bob Nelson and Bill Richardson (RMEF); Brock Applegate (WDFW); Jamie Riche, facilitator (PDSA).

**DECISIONS:** None today

**NEXT MEETING:** Jan. 7 (in person or Web-X, TBD), and continue to hold 1<sup>st</sup> Thursdays (to generally be Web-X / Conference Call with quarterly meetings in-person)

#### **ACTION ITEMS**

- Tony Update TRIG on Property Y status before year-end
- Ira Contact the "Property T" owner, report back to TRIG
- Brock Continue WDFW review of "Property Z", report to Tony / Ira
- Ira & Ray Depending on response from Brock, contact owner of "Property Z"
- Marty, Kathy, Scott, Haley - As efficiently as possible, create a GIS base map of polygons and their related acreages on "Property Y"
- Marty & Tony - Outline post-acquisition activities and data needs related to "Property Y," with a draft of how to allocate the associated costs between license funds
- Cary Follow up with PSE attorneys re: TRIG questions about Article 603
- All Follow up with attorneys on the question of whether Article 603 allows for money transfer between funds of the same license article; does it require an amendment of the S.A.?
- Tony Check with Jacob about the 505 ARHWG and their next meeting date
- Tony Let the TRIG know whether the Jan. meeting will be in person or via Web-X / phone
- Tony Work with Web-X to try to make it full-screen
- Tony Explore locations for future in-person TRIG meetings
- All Reminder: if you haven't already provided comments on the draft 505 plan, please do so asap

#### **PREVIOUS - STILL RELEVANT - ACTION ITEMS**

- Kim Work on simplified budget report sheet, provide to TRIG when available

# Final Meeting Notes

December 3, 2009 / 9 a.m. - Noon / Web-X, Call



## BRCC / LICENSING UPDATE

Cary reported that PSE provided a project update to the BRICC via email 11/30/09. Fourth Wednesdays are reserved for BRCC conference call as needed (probably quarterly), with in-person meetings semi-annually.

## TRIG BUDGET REPORT UPDATE

Christina reported that Kim is reviewing a draft budget report. The internal PSE process continues to move forward; the RAM fund has been set up and PSE has an internal meeting next week to discuss the accounting for TRIG's capital funds. Tony and Cary noted that there is money in PSE's budget for all the license funds; the accounting set-up process is taking longer than expected because PSE wants to be sure they do it right and meet all FERC, Settlement Agreement / License, and "bean counter" requirements.

## LAND ACQUISITION UPDATE

**Property Y:** Ira reports that they are still working on the easement with the neighboring landowner. A cost estimate for this easement could be available by next week; this would be the seller's obligation. Ira needs to know the cost in order to continue negotiations. It isn't yet clear whether the neighboring property owner could close the easement by the end of the year. At the last TRIG meeting, Ira noted that if the easement can't be complete by *year end*, PSE and the current property owner will need to *decide how and when to close the transaction*. Ira will continue to work on this and Tony will send an update to the TRIG before year-end.

## Other potential parcels:

Ira provided an update on the property he spoke with Kye (WDFW) about. This is the property Brock previously ran through a WDFW review and reported that WDFW gave a preliminary OK for, as long as hunting is allowed as a management tool. Kye indicated that the owner is interested in keeping the property in agricultural production, so Ira commented that this property could be another complicated scenario, similar to the TRIG's "initial property," involving easements or partial purchase. He hasn't yet approached the property owner, and will update the TRIG once he has had a conversation with the owner. For purposes of confidentiality in the notes, we agreed that we'll start calling this site Property T.

Brock has begun some preliminary internal WDFW conversations / review of the properties identified in the maps Tony emailed out. Some of the parcels are too close to the highway, but others may be promising. Stan commented that these sites are low elevation (good for winter forage), and may have future development potential. Brock will continue WDFW review and report back. We agreed to call these parcels Property Z.

Ira also reported on the property that is near the project and currently priced higher than the TRIG thinks is reasonable. Ira talked with the property owner, who still places a higher value on the property than the TRIG does. PSE already holds an easement to this property related to operating the project. The group agreed to keep the property "on the list" but to set it aside for now.

## WETLAND ARTICLE AND FUND TRANSFERS

Don emailed a proposal to Tony re: using Article 603 to transfer money and, if a transfer is possible, to use that article to transfer O&M money into capital acquisition funds. Tony distributed this proposal to the full TRIG for review and the group discussed it during the call today.

Cary reported that PSE's attorneys believe this proposal would constitute a license amendment and would therefore require an amendment to the Settlement Agreement, thus elevating the decision on this proposal to

# Final Meeting Notes

December 3, 2009 / 9 a.m. - Noon / Web-X, Call



the BRCC level. Section 3.7 of the Settlement Agreement does allow for and outline procedures for amendment. He noted that PSE would not be in support of amending the Settlement Agreement.

Don requested a written response outlining PSE's interpretation of the proposal; Cary will ask the attorneys about this, but suspects they will say their response is legal advice for Puget, not legal advice for the TRIG. Don reiterated his request for a written response outlining why PSE believes Article 603 is not an appropriate mechanism for this proposal, and Cary will follow up.

Stan asked Cary to broach the following concept with PSE's attorneys: Can the attorneys see a different way - one that does not require the amendment process - to meet the underlying interest of the wetland folks?

LouEllyn asked whether PSE has additional concerns with the proposal, other than the interest to avoid amending the Settlement Agreement. Cary outlined PSE's concern that this could be precedent-setting, could undermine the nature of the finality of the settlement, and could open PSE to additional liability if FERC later determines that PSE must spend the agreed-to management money on management (even if the money has been reallocated toward acquisition, thus causing PSE to spend management money twice).

Cary noted that the land referenced in the proposal hasn't been assessed yet. The assessment will come out of O&M funds, and it may show a need for management. It was noted that, if additional lands are purchased with O&M money, both the current and future acquisitions would need to be pristine - in need of no add'l management.

The group discussed the property itself and the estimated allocation of acreage toward particular PME measures. It was noted that this conversation might be more productive after a more extensive review of this property and development of management plan(s). Marty suggested that he and Kathy work with Haley, Scott and Tony to draft a list of post-acquisition activities and the data needs related to this property. Between now and the January meeting, they will also work on a GIS base map of the property's polygons to facilitate the identification of next steps for developing management plans for this property.

## **EAGLE NIGHT ROOST SURVEY UPDATE**

Haley reported that there have been three surveys so far, Nov. 9, Nov. 19, and Dec. 2. Two eagles were seen at the first survey, none was seen at the second, and four or five were seen at the most recent survey. As winter goes on, the survey team will not be able to go as far up the lake due to water levels, but they suspect they will continue to see more eagles. The next survey is tentatively scheduled for Dec. 16. Haley will confirm the date with Brock. If anyone else would like to participate, let Haley know.

## **BOTANICAL TEAMLET**

Scott reported that PSE and USFS met on November 13th, 2009 to discuss the USFS *Native Plant Materials Policy* and compliance related to noxious weed control and wetlands, including the *Carex flava* site. They agreed to a *preliminary list* of "workhorse species," including about five trees, 10-15 shrubs, and 10-15 other herbaceous species. *The group also identified upcoming projects and the people responsible for each. Scott and Tony noted that we don't yet know how many (if any) plants / species will be needed for each project, but listing the projects is a good start.* A possible source for these plants is the Washington Conservation District Native Plant Materials Center in Bow, WA. There is a site visit planed for Dec. 10. Let Scott know if you would like to attend this. The Webster Nursery in Olympia may be another possible source for plants.

# Final Meeting Notes

December 3, 2009 / 9 a.m. - Noon / Web-X, Call



After the PSE / USFS meeting a site visit to the lower Sandy Creek dispersed site was set for November 17, 2009 to review the site in general and specifically *Platanthera orbiculata* (Round Leaved Rein Orchid). Next step will be to develop a draft site-specific management plan.

The Carex Working Group is in the process of completing the report: *Baseline Census and Methods for Long-Term Monitoring of Carex flava and Phalaris arundinacea at Baker Lake Whatcom County, Washington*. It will be final by the end of 2009.

Scott and Kathy conducted a site visit to GPS locations, photograph and determine density of reed canary grass in wetland area WB-30 on Dec. 2 (orig. scheduled for Nov. 10); they will share a report at the next the Botanical Teamlet, which will be sometime in January.

## MEETING EVALUATION

**Worked Well:** Web-X, Phone (*much* better than when TRIG is at WDFW), spirited dialogue, facilitation.

**Do Differently:** Expand Web-X to full screen, if possible

## January 7, 2009 Agenda

- BRCC / License Update, TRIG Budget Update
- Land Acquisition Update
  - Property Y Update, celebration?
  - Other properties
- Post-acquisition plan, checklist for Property Y
- Adaptive Management proposal, attorney responses
- Bald Eagle Update
- Botanical Teamlet Update
- Evaluate meeting, set location and agenda for Feb. 4

## Team Leader Note:

Below are some suggested additional paragraphs from comments on the meeting notes related to the section titled **WETLAND ARTICLE AND FUND TRANSFERS**, added by Don Gay, Marty Vaughn, and Brock Applegate. Inclusion of these comments as appendices to the notes does not imply consensus on accuracy, completeness or appropriateness of the comments.

Don's comments:

*Tony displayed a table showing a different amount of wetland acres on the property than was indicated in the draft proposal. Brock stated that the wetland acres that Tony was referring to were on the eastern parcel and intended for management for elk forage and that is why the proposal did not account for them. Marty noted that there had not been a clear documentation of what acres had been purchased with the three articles and this should be more clear in future multi-article financed acquisitions. He suggested that this be a part of the post-acquisition management plan.*

*Brock suggested that the post-acquisition management plan also be used to determine the amount of management/restoration expected for the wetlands and that this information be used to provide a more sound method of addressing PSEs risk of future financial exposure.*

# Final Meeting Notes

December 3, 2009 / 9 a.m. - Noon / Web-X, Call



*Tony presented WADNR definition of wetland buffers and suggested that they should also be included as wetland acres in the proposal. Don indicated that buffers were not what the TRIG used to define its interests and was concerned that reinterpreting another party's interests was not productive. Don added that he was disappointed that PSE had not raised its concerns earlier and participated in the proposal development so that the effort had the best chance of a successful outcome. Don expressed that he felt that the value his, Brock's, and LouEllyn's time was not respected by being asked by PSE to develop a proposal that PSE was not supportive of.*

Cary noted that the land referenced in the proposal hasn't been assessed yet. The assessment will come out of O&M funds, and it may show a need for management. It was noted that, if additional lands are purchased with O&M money, both the current and future acquisitions would need to be pristine - in need of no add'l management. Don reminded Cary that the proposal did not include allocating all of the O&M funds to acquisition. Rather it merely allowed whatever portion the TRIG determined was not needed to be used for additional acquisition. Don noted that as a member, PSE would always retain veto options if it felt its financial interest was at risk and that the proposal had been developed that way to specifically address PSE's stated interest.

Brock and Marty's comments:

*Tony displayed a table showing a different amount of wetland acres on the property than was indicated in the draft proposal. Brock stated that the wetland acres that Tony was referring to were on the eastern parcel and intended for management for elk forage and that is why the proposal did not account for them. Todd responded that the wetlands on the eastern parcel were not good elk foraging habitat, and it was not his understanding they were being acquired with elk funds. Marty noted that there had not been a clear documentation of which acres were to be credited to which of the three articles, and suggested this be clarified as soon as possible. He recommended it be resolved before post-acquisition planning, because the TRIG members will need to set the management objectives for each habitat polygon before planning begins, and they will need to know how to divide the costs of planning among the three articles*

*Brock suggested that the post-acquisition management plan also be used to determine the amount of management/restoration expected for the wetlands and that this information be used to provide a more sound method of addressing PSE's risk of future financial exposure.*

*Tony presented WADNR definition of wetland buffers and suggested that they should also be included as wetland acres in the proposal to be consistent with Lou Ellyn's email from August 13 requesting a 300-foot no-harvest buffer on the wetland in the west parcel. Don indicated that buffers were not what the TRIG used to define its interests and was concerned that reinterpreting another party's interests was not productive. Don added that he was disappointed that PSE had not raised its concerns earlier and participated in the proposal development so that the effort had the best chance of a successful outcome. Don expressed that he felt that the value his, Brock's, and Lou Ellyn's time was not respected by being asked by PSE to develop a proposal that PSE was not supportive of.*

Cary noted that the land referenced in the proposal hasn't been assessed yet. The assessment will come out of O&M funds, and it may show a need for management. It was noted that, if additional lands are purchased with O&M money, both the current and future acquisitions would need to be pristine - in need of no add'l

# Final Meeting Notes

December 3, 2009 / 9 a.m. - Noon / Web-X, Call



management. Don reminded Cary that the proposal did not include allocating all of the O&M funds to acquisition. Rather it merely allowed whatever portion the TRIG determined was not needed to be used for additional acquisition. Don noted that as a member, PSE would always retain veto options if it felt its financial interest was at risk and that the proposal had been developed that way to specifically address PSE's stated interest.