
BAKER RIVER PROJECT RELICENSE

Solution Team

August 26, 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
 - Settlement Boilerplate Language
 - RESOLVE Sessions
 - Cross Resource Teamlets
 - Adaptive Management Teamlet
 - Next Steps
3. Schedules/Timeline
4. Preparation for FERC Call/ FERC Call
 - Document Update
 - License Application
 - PDEA
 - CEII
 - Terms and Conditions
 - 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 September 23, 2003 Agenda and Evaluate Meeting
 - Consider Summer Solution Team celebration

BAKER RIVER PROJECT RELICENSE

Solution Team

August 26, 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: Steve Hocking and Keith Brooks (FERC) by phone, Stan Walsh (Sauk-Suiattle Indian Tribe/Swinomish Tribal Community), Gene Stagner (USFWS) by phone, Gary Sprague (WDFW), Steve Fransen (NOAA Fisheries), Arn Thoreen (Skagit Fisheries Enhancement Group), Bob Nelson (Rocky Mountain Elk Foundation), Jerry Louthain (City of Anacortes and Skagit County PUD) by phone, Pam Klatt and Rob Mohn (Louis Berger Group), Bill Reinard (Wildcat Steelhead Club), Bob Helton (Citizen), Len Barson (The Nature Conservancy), Jon Vanderheyden (USFS), Paul Wetherbee, Ed Schild, Cary Feldmann, Kris Olin, Connie Freeland, and Lloyd Pernela (PSE), Patrick Goldsworthy (North Cascades Conservation Council), Dave Brookings (Skagit County Public Works), Bruce Sexauer (USACE), Dee Endelman (Agreement Dynamics), Lyn Wiltse, Facilitator and Mary Jean Bullock, Note-Taker (PDSA Consulting, Inc.)

ANNOUNCEMENTS

- Record sockeye return (over 20,000).
- Best wishes to Rod Sakrison with his health concerns.
- Stan announced that Skagit System Cooperative is in the process of being re-formed. From this day forward, Stan represents only the Sauk-Suiattle Indian Tribe and the Swinomish Tribal Community. We should communicate directly with Scott Schuyler of the Upper Skagit Tribe. Stan will be getting a memo out on this later this week. He will be getting Scott's contact information to Team Leaders.

2003 Solution Team Meeting Schedule

September 23, October 28, November 25, and December 16.

Note: For RESOLVE Meeting Schedule, please see page 4.

AGENDA

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 Boilerplate Language
 - RESOLVE Sessions
 - Cross Resource Teamlets
 - Adaptive Management Teamlet
 - Next Steps (attorney meetings, etc.-October 20)
3. Schedules/Timeline/PDEA Update
4. Preparation for FERC Call/ FERC Call
 - Document Update (License Application, PDEA, CEII, Terms and Conditions)
 - 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 September 23, 2003 Agenda and Evaluate Meeting
 - Consider Summer Solution Team celebration

NEW ACTION ITEMS

- Connie and Dee: Provide statement of intent (non-legal) for each section of the Settlement Agreement.
- Connie: Send out Dee's handouts along with draft minutes from this meeting.
- Connie: Make sure notes from the Fish Passage Expert Workshop go to Solution Team members (or are posted on website).
- Kris: Email revised schedule to Steve and Keith.
- Steve H.: Send Notice of Draft License Application and PDEA and Request for Preliminary Terms and Conditions to Connie to distribute.

-
-
- Dee: Bring Agreement Dynamics consensus charts to September Solution Team meeting for Upper Skagit memo discussion.
 - ALL: Review four steps for resolving flood control issue included in Upper Skagit memo.
 - Lyn: Bring TST run update summary to September Solution Team meeting.
 - Dee and Lyn: Bring draft of initial attorney meeting agenda to September Solution Team Meeting.
 - 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.
 - Steve J.: Let Dee know if DNR will be having their own attorney review our settlement agreement.

FISH PASSAGE EXPERT WORKSHIP

Steve Fransen reported that the Workshop (which pre-empted the July Solution Team Meeting) served as a confirmation that “nobody does it better”! Another key learning is that one of the reasons fish reject passage facilities is the change in velocity from where there are normally and at the entrance of the facility. We are confident we can engineer a solution for this.

SETTLEMENT PROCESS UPDATE

Settlement Agreement “Boilerplate Language”:

Connie discussed the Settlement Agreement boilerplate language that has been drafted from the Settlement outline by PSE attorney, Lorna Luebke. The definitions piece remains to be defined. A question was raised about the difference between Appendices B and C. Concern was shared about some redundancy in the language.

Note: Steve and Keith will give us guidance from the FERC perspective on which PMEs have a nexus to the project and should be included in the Settlement Agreement. They will advise us regarding what the Commission would or would not incorporate into the license. Steve reminded us that Appendix A will end up being draft articles that we all agree to.

RESOLVE Sessions

Dee reported that all the groups are making a wonderful effort at RESOLVING outstanding issues as we move toward settlement. She walked us through a table showing the status of PME resolution for each of the groups.

The Terrestrial Working Group has reached agreement on many PMEs. They are still far apart on issues of acreage for habitat. They are re-grouping to move past positions on this. The BAWG will reformulate their acreage assumptions. The working group will form a plan from there. Special thanks to Gene Stagner for leadership on this.

The Recreation Working Group is waiting on Aesthetics Study results (will be complete by September 15). They are making good progress on law enforcement talks, trails, and reaching tentative agreement on issues such as boating safety.

The main challenge is around cost sharing between USFS and PSE. Ed and Jon have set a date (September 24) to meet to resolve this issue.

The Aquatic Working Group has reached tentative agreement on Upstream Passage and Connectivity. They are working out the details. Steve Fransen is helping lead the effort to resolve issues around propagation. Philosophical differences need to be resolved first; then goals for each species (e.g., steelhead) and the methodology to achieve the goals will be determined. They are also close on Sediment and Large Woody Debris.

They are awaiting Study Results on: Water Quality, Flow Regime, and Erosion. A couple of new PMEs are being drafted (by the TNC and USFS).

The Cultural Working Group: The Historic Properties Management Plan (HPMP) will contain their major PMEs. They approved an outline of this plan in June and will be reviewing a draft of the plan at their September 11 meeting.

The Economic/Operations Working Group has not scheduled a RESOLVE meeting to date. The major issue is flood control.

The following is a list of currently scheduled RESOLVE sessions:

Terrestrial: September 17, September 30

Aquatics: September 12, September 19, September 29, October 16, October 27

Recreation: September 15, October 3

Cultural: September 11

Shared Resources Teamlet Updates

- **Adaptive Management**

A teamlet will be meeting again this fall.

- **Access Management, Campsites, Land Management (3 areas combined)**

Gene reported that August field trips found relatively small impact on terrestrial resources at boat access sites. Some were flagged to be monitored for potential hardening. Some major sites with vehicle access had some ground disturbance, trampled vegetation, and defaced trees. Old growth is away from the shore. They estimated low, if any, disturbance to habitats for spotted owls and marbled murrelets.

Marty Vaughn has written up some notes to summarize these findings. Once these have been approved by field trip participants, they will be posted on the website.

- **Large Woody Debris** – Being handled in Aquatics Working Group.
- **Reservoir Management/Instream Flows** - Being handled by Aquatics Technical Working Group.
- **Upstream Fish Passage** - Being handled by Aquatics Fish Passage Technical Working Group.
- **Ground Disturbing Activities** - Will be handled on a case-by-case basis, checking in with Terrestrial and Cultural interests.

Note: We should all consider October to be a major month for cross resource checking/verification!

Attorney Meeting

Dee explained that the initial meeting for the attorneys will likely be here at Mountlake Terrace, October 20. Both Lyn and Dee will facilitate this meeting. The aim of this meeting would be to review our

process to date, verify the timeline with key milestones, establish operating protocols, and review the draft outline of the Settlement Agreement. We will also have some Solution Team members attend to ensure that the meeting preserves the intent of the Solution Team.

We need to discuss with the attorneys our experience with the Communications Protocol /Process Document and ask them how they suggest we can avoid a repeat of that experience.

Prior to the October 20 meeting, Dee will work to produce a schedule of subsequent meetings with attorneys. We will review a draft agenda of this initial attorney meeting at our September Solution Team meeting. Solution Team members will be encouraged to get feedback from their attorneys on the agenda prior to October 20.

SCHEDULES/TIMELINE

Kris distributed an updated schedule showing milestone dates for the duration of our process with a focus on near term. We are behind schedule regarding our tentative agreements. Steve Hocking expressed concern about how long it will take for the Louis Berger Group to draft the license article language. The Working Groups will approve this language before it goes to the Solution Team. Working Groups will also review the language after it has been (potentially) modified by the Attorney Team.

Regarding Terms and Conditions, Gary pointed out that WDFW (not a federal agency) lacks Section 18 authority. Also missing from the schedule is reference to 10(a) recommendations. Steve suggested that the agencies begin preparing draft Terms and Conditions they have authority over; FERC will request these by January 2, 2004.

FERC CALL

Documents

Pam reported that the license application is approximately 80% complete. She explained each of the eight license exhibits. Exhibits A-D and H will be included in the license application. Exhibit E will be the PDEA. Exhibit F (drawings) and Exhibit G (maps) will be in a separate document, in accordance with the new FERC CEII (Critical Energy Infrastructure Information) rule. This rule is in response to the events of 9/11. This means that critical information regarding location and details about key facilities are put into a separate document that is not available to the public from FERC.

Pam distributed a handout explaining the various levels of confidentiality and how members of our process can request access to this information. If you want any CEII from FERC, you need to file a CEII request. Licensees are free to distribute CEII information as they see fit. PSE and Skagit County will be meeting September 18 to discuss an MOU for release of CEII information.

PDEA

Rob Mohn reviewed what we can expect in the October 1 PDEA draft. The PDEA will include a comparison of the draft action alternative (based on the PMEs as of June 1) versus a no-action alternative. The only addition to the June PMEs has been PSE's decision to propose a small new turbine generator at the Lower Baker powerhouse to afford additional generating flexibility. Berger is using HYDROPS output for Recent Conditions and Draft Action runs. The Middle Skagit Habitat Model was not available to them to include.

Comments on the License Application and PDEA will be due January 2, 2004, following a 90-day public review period. At that time, the draft action will be modified to more closely reflect the Settlement Agreement.

Flood Control Update

Bruce Sexauer, our new liaison with the USACE, explained where the Corps is currently with looking at reservoir storage options. This is part of their basin-wide flood reduction program. They are examining hydraulics and hydrology at Baker. Initially, they are not looking beyond economics and technical feasibility. This is part of going to Congress to request additional levels of flood control if warranted. The Corps estimates they may have this larger-scale study complete in 2008. The environmental review along with cost of environmental mitigation will be included in the basin-wide flood damage reduction study.

Skagit County initiated a flood control study request in the Economics/Operations Working Group in December of 2002 to examine an additional increment of flood control at Upper Baker. The City of Anacortes and Skagit County PUD joined the request. Their intent is to generate information to be used in this relicensing process. *This study request is currently on hold and has not been officially approved by the Economics Working Group. [Dave Brookings]*

At the last Econ/Ops Working Group meeting, FERC said they would not be likely to put anything in this license that is not backed by the Corps. At that same meeting, the Corps said they would not be able to make a recommendation on Baker storage until their entire basin-wide flood damage reduction study is complete (currently estimated to be complete in 2008). *Skagit County indicated that they did not agree with the Corps' assessment on this and that they are currently performing additional research and working with the Corps in an attempt to clarify this position. [Dave Brookings]*

A question was raised: how can we go forward in our relicensing process with two similarly scoped flood control studies? Dueling studies is not collaborative. *Jerry L. suggested we let the two studies progress and then review the information as it becomes available. [Jerry Louthain]*

Lloyd reported that the preliminary economic benefit and project construction costs for an additional increment of flood control will be determined by early October. These data will appear in the Relicensing Flood Control Study report. The next step will be to take the results of this report to the Econ/Ops Working Group where further action will be determined. *Skagit County indicated that it will be prepared to present its information at an upcoming working group meeting as information becomes available. [Dave Brookings]*

A question was raised as to how it makes sense to try to keep the additional increment of flood control in this process. Are we wasting our time until the data come in? Steve H. reminded us that FERC is not likely to grant us an extension on filing the license application by April 30, 2004.

Bruce wanted to go on record agreeing with NMFS in that the whole package needs to be holistic. ESA concerns are very real. The EA for the Corps' flood control study won't be complete until approximately 2008.

Maybe the best we can do is put a placeholder in the Settlement Agreement for flood control. This would put us back to where we are now since additional flood control would affect so much of the settlement agreement.

In 2008, Skagit County and/or the Corps could file a request to FERC to amend the flood control license article, i.e., request a license re-opener. A re-opener would mean that all articles affected by flood control storage would be re-examined. Steve H. told us we could draft our own license article listing what needs to be re-evaluated if flood control levels change in 2008. A re-opener may be voluntary or involuntary. The Settlement Agreement may have to be re-negotiated at that time.

In the meantime, do we, within this process, consider the results of both studies? After considerable discussion, we agreed that we will continue with our present course. The results from the Relicensing Flood Control Study (in collaboration with the Corps on scope and study methodology) will be shared with all participants in the process, including Skagit County. Skagit County is also collaborating with the Corps in the scope and methodology of their study. The results of their study are expected to be out by the end of the year. They are free to bring their study results to us.

A memo from Scott Schuyler of the Upper Skagit Indian Tribe (dated Aug. 21, 2003) regarding Baker Relicense Studies on Additional Flood Control was distributed. At next month's meeting, we will address the four steps in the memo calling for resolution of the flood control issue.

TST (TECHNICAL SCENARIO TEAMLET) UPDATE

Paul Wetherbee (Team Leader of the TST) explained how this cross-resource technical working group is working with hydrological and habitat models to provide Working Group members with technical analyses of various flow regimes.

The HYDROPS model is nearly complete, as is the first half of the Middle Skagit Habitat Model. The final piece of the physical habitat simulation model is scheduled to be complete in mid-September. Initial runs include Recent Conditions and Draft Action (for purposes of the PDEA). The TST has also completed (about 10) runs requested by the Skagit System Cooperative.

Paul distributed sample standardized input and output packages for HYDROPS run requests. The TST has established five energy years (August 1 through July 31), which constitute the full hydrologic spectrum. They have set up an e-Room where TST members can view the voluminous results of various model runs.

They have also set up various levels of analysis. The samples distributed today are an abbreviated version of level 2A. This is the standard high level (briefest) level of analysis. There is also a Level 3 (with more frequency curves). Level 4 would only be utilized on a few runs, and the results would fill a CD.

REPORT ON OLD ACTION ITEMS

(As listed on July status Report from Connie Freeland in Lieu of July Solution Team Meeting.)

WHAT'S HOT IN THE WORKING GROUPS?

Aquatics

- 20,000 record sockeye fish return (more than 6 times the historic average!)
- Paul's presentation HYDROPS Status/TST Report
- We are in the *Golden Age of Collaboration*
- A9a (Instream Flows) is just about ready!
- Settlement Process
 - PMEs – making progress – still need the details
 - Uncertainty introduced by dueling flood control studies

Economics/Operations

- Flood control!

Cultural

- Not meeting again until September.

Terrestrial

- Did not meet in month of August.

Recreation

- Cross resource checks.
- Overlap between RESOLVE and technical working group meetings.

STUDIES UPDATE FOR SOLUTION TEAM

Aquatics

- A9a – going great!
- Scour Upper Baker spawning surveys ongoing
- First year we get to test the early drawdown (as per the IPP)
- Alaska Stream Surveys (Stan's slide show)
- Large Woody Debris Report is complete!

Economics/Operations

- Flood Control: We have competing studies for this. Need to work to collaborate/improve trust.
- Low Flow Augmentation: Currently being worked offline. Jerry will keep us posted.

Cultural

Not meeting again until September.

Terrestrial

- Did not meet in month of August.

Recreation

- Ongoing study: R5-Aesthetics Field interviews being conducted August 15-September 15
- Reviewed comments on R11/15-Capacity/Suitability Analysis
- Reviewed comments on R12-Dispersed Site Inventory

Comments are due September 2nd for studies above plus:

- R9-Recreation Use Surveys
- R13-Recreation Visitor Surveys
- R16-Recreation Needs Analysis

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?
- How to enlist recreational users.
- Define “project induced.” (Teamlet?)
- Develop public information protocol.
- Summary Record of Decisions.
- PME listed for each Working Group.

HANDOUTS

- August 21, 2003 Memo From Scott Schuyler, Upper Skagit Indian Tribe re: Baker Relicense Studies on Additional Flood Control
- Contacts: Members of Attorney Working Group, Baker River Project Relicense as of August 25, 2003.
- August 26, 2003 Table Showing PME Status Across all Working Groups
- Baker Relicense Project – Milestone Dates; Flow Chart Schedule (Aug. 25, 2003)
- Critical Energy Infrastructure Information (CEII) Filing Instructions from FERC (Revised August 8, 2003)
- Baker Project Relicensing – Draft Flood Control Chronology (Aug. 25, 2003)
- Technical Scenario Teamlet (TST) Functional Flow Diagram (Version 2.0 08/26/03)
- Sample HYDROPS Input and Output Forms (Level 2a) for Draft Action for PDEA (Aug. 14, 2003)

TENTATIVE AGENDA

September 23, 2003 at USFS Office Building in Mountlake Terrace

9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update
 - Attorney Meeting Agenda
 - RESOLVE Sessions
 - Shared Resources Teamlets
 - Next Steps
3. Schedules/Timeline/Document Update (License Application and PDEA)
4. Preparation for FERC Call/ FERC Call
 - Flood Control Update
5. Action Items
6. Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
 - Update on HYDROPS Runs
7. Other?
8. Set October 28, 2003 Agenda and Evaluate Meeting

MEETING EVALUATION

Done Well

- Bruce Sexauer is our new Corps liaison!
- Meeting was well attended
- Good flood control discussion
- Good job with keeping up with notes
- FERC's involvement!
- Honest, frank discussions

Do Differently Next Time

- Ran late
- Flood control discussion was allowed to ramble (could have been better facilitated)