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## **Baker River Project License Implementation**

### **Recreation Resource Group Meeting Final Meeting Notes**

May 09, 2006  
9:30 am - 1:30 pm

**Forest Service Building, Mountlake Terrace**

### **FINAL MEETING NOTES**

**Team Leader: Pam Garland, PSE,** (pamela.garland@pse.com)

#### **PRESENT**

Brian Adams (Skagit County Parks and Rec.), Ann Dunphy (USFS), Patrick Goldsworthy (North Cascades Conservation Council), Cary Feldmann, Andy Hatfield, Pam Garland (PSE); Lyn Wiltse, facilitator and note-taker (PDSA Consulting, Inc).

#### **NEXT RRG MEETING DATES**

**October 3, 2006, 10:00 – 2:00,** (USFS Building, Mountlake Terrace)

#### **AGENDA TOPICS**

- 9:30 – 9:45 Welcome, Review Agenda
- 9:45 – 9:55 Lake Shannon Access/Agreement with County/Opening Fishing Weekend
- 9:55 – 10:00 Upper Baker Shop Update
- 10:00 – 11:30 FERC Schedule
  - DEIS Comment Deadline (application for extension by PSE)
  - Other Agency Processes and Dates
- 11:30 – 11:45 Set agenda and due date for next meeting
- Evaluate the Meeting

#### **NEW ACTION ITEMS**

- All: Funnel any DEIS-related questions for PSE through Pam.
- Pam: Get Creel Survey numbers for Opening Day of Fishing and email stats (in comparison to last year) to team members.
- Lyn: Send draft notes to Pam to review and distribute to team members.
- Pam: Attach most recent version of Recreation Working Group Norms to draft notes when

distribute them to team members.

- Ann: Keep us informed re: the availability of the Mountlake Terrace Office Building as a meeting location.

### **LAKE SHANNON ACCESS UPDATE/OPENING DAY OF FISHING**

Pam announced that public access to Lake Shannon boat launch is open. A temporary agreement between Skagit County and Glacier Northwest for access to the road allows Skagit County to maintain the road and also includes a flagging provision required by Glacier. An agreement between PSE and Skagit County is in place and in that agreement, PSE has agreed to fund flagging on weekends and holidays from April 29, 06 through October 30, 06 or until the road is “established” with County. The County is maintaining and accepting liability for the road and is working hard to get a right-of-way to the road. They hope to have something signed with Glacier and by the end of May or early June. The right-of-way will extend from Main Street all the way down to the PSE property at the boat launch.

Pam reported that the Opening Day of Fishing was very quiet this year. The Sheriff was there Saturday – no problems and no campers. Some fisheries folks were doing creel surveys. They heard some negative feedback about no camping. These complaints were far fewer than last year. Skagit County Sheriffs have been very helpful generally and in terms of letting people know there is no camping, etc. Signage is still in place.

PSE did a traffic count last year. They don’t have any counters out this year. Pam reported that PSE will continue to provide flagging there every weekend including holidays 24 hrs/day until the “road is established.” Pam will check the numbers associated with creel surveys to see if more people were visiting this year and let team members know by email.

The County has been maintaining the road. It is in pretty good shape. This is a high priority on the District Commissioner’s list (Ted Anderson). PSE is planning to give the County a turnaround easement that would run all the way up to the Baker Gate. This would allow sufficient room for large boats to turn around easily. While the Park closes at dusk, the turnaround would provide a place for vehicles to turn around.

### **UPPER BAKER SHOP**

Pam explained that this building will replace a shop in the upper compound that burned two years ago. It will be two stories and slightly larger than the one it is replacing. Construction for this building is currently out for bid. They are hoping to start construction the end of June. Ann and Pam have been discussing various building options with the PSE Project Manager, Dave Jenness. They have been looking at aesthetics issues from the 1106 road. They will be using shade and colors to bring the apparent size of the building down. They will be providing view screening with plants. They are beginning to establish a color palate to use for all buildings in the area. This building will be two-toned in the brown and green palate. Pam will keep us posted.

### **FERC/DEIS DEADLINES**

- The USFS’ internal DEIS comment deadline for the DEIS is May 17.
- 4(e) is due June 13 (USFS) Note: Ann reported that the Forest Service intends to issue the 4(e)s as in the Settlement Agreement and will bolster justifications to address FERC’s responses.

- Section 18 prescriptions are due July 31 (USFWS and NMFS)
- CZMA due June 2 (Dept. of Ecology)
- 401 is due Mar. 8, 2007 (Dept. of Ecology)
- Biological Opinions are due Aug. 28 (USFWS and NMFS)

Cary announced that the Section 10(j) meeting will be June 1.

DEIS Comment deadline is May 30. PSE has requested an extension to June 16. They have not yet heard whether the extension will be granted. (extension granted May 9, 2006)

At this point, FERC intends to issue the license along with the duration in September of 2006.

### **MAY 1 AND 2 FERC PUBLIC MEETINGS**

Pam read from local newspaper article coverage of these meetings. The articles reported that the re-license participants “felt wronged” by the Commissions failure to include many of the recommendations in the Settlement. During the meeting the settlement was compared to a house of cards and the crowded cargo hold of a freighter. FERC cut about 4% of the settlement package. FERC judgments were made as balancing calls with an eye toward enforceability, need, and nexus to the project. Flood control issue was referred to the USACE.

Cary reported that the two meetings were well attended. The Skagit County meeting in Mt. Vernon had much more of an emphasis on flood control. There was considerable discussion from the Diking Districts.

### **DEIS DISCUSSION**

#### Attempts To Persuade FERC Not To Tamper With The Settlement

1. Make oral comments
2. Make written comments
3. 10 (j) meetings

We also want to make use of an expanded network of contacts we have to encourage FERC to withdraw its recommendations that differ from our settlement agreement. We want to emphasize our PME approach and bolster our justification statements.

If these tactics fail, we can use more rigorous methods including 4(e), 401, and Section 18. These are mandatory conditioning and FERC cannot challenge these. Cary notes that there are some instances where FERC has challenged 4(e) conditions and there are some ongoing lawsuits as a result.

If we can't get FERC to change their minds and add the things back in that they removed (approximately \$37 million), and PSE decides to voluntarily put those things back in, they would be in the difficult position of having to defend that as a prudent decision to the WUTC. One of the ways to possibly justify PSE spending the extra money might include the avoidance of litigation.

\$10-15 million funding to the Forest Service was dropped by FERC. The riparian PME was also dropped (\$10.2 million) as was \$6 million that was associated with the contingency funding (RAM, HERC, TRF funds). We noted that this translates to cutting law enforcement and campground funding. In some

instances FERC changed the responsibility for certain actions from the Forest Service to PSE. The loon platforms made it through with the provision that if they aren't working after 15 years, they are removed and not relocated.

Cary plans to tell FERC where they are inconsistent (vs. wrong) and point again to the strength of the justification statements and point them to the Settlement Agreement. He encourages others to take a similar approach in defense of the Settlement Agreement.

We agreed that once campgrounds are included, other things follow logically, with the exception of trails. Ann explained that to justify the campgrounds, the FS will show from a social standpoint people are attracted to coming to the lake (activities are lake related, etc.). Studies show there is a close relationship with visitor surveys and the attraction to the site. FERC doesn't seem to want to make the social argument as much as it does the environmental one. EDAW has shown that 60% usage is not sustainable over time. They have also made a relationship of need to ecological damage. FS will take the approach of % use and tie to industry standard and relate it to environmental damage and the need to manage more actively or look for expansion opportunities. FERC doesn't seem to understand the Special Use Permit with regard to the resort re-development. Ann will also seek to clarify that things under PSE ownership would typically go away. The cabins at the resort would be outside the ROS for that site.

The main thrust will not be on the numbers for either PSE or the FS. We agreed FERC seemed to generally use the numbers we supplied in the Settlement Agreement. None of us understands FERC economics.

The Upper Trail seems to have a nexus problem in FERC's eyes. Nexus to the project aligns you with the purpose. How far does the recreation purpose extend outside the boundaries of the project? It is key to establish project nexus.

Cary suggests the *continuing impact* would be a strong justification in FERC's eyes. He feels this would be stronger than *original impact*. FERC has supported the establishment of ramping rates. This supports campgrounds out of the project boundary because that area of the reservoir is unusable because we can't ramp it slow enough to allow the re-population of that area. We want to mitigate that shoreline in the variable zone. The only way to do this is to build things out of the reservoir. This is a continuing impact.

PSE established ramp rates downstream so fish can get off the bars and then re-populate them. This is part of the normal dynamic. Ramp rates on reservoir are analogous to reservoir drafting. FERC supported the ramp rates on the river. They should be consistent with how they view ramping (rivers to reservoir).

Andy observed that FERC seemed offended by our language around water safety. They said they (FERC) would tell PSE how to make the project safe. In PSE's mind, this is a place where FERC is not going to budge. PSE can still do the things that are called out in the Settlement Agreement. These aren't high cost items. The Forest Service will comment on the necessity of the buoys, the booms, etc.

Interpretive Information: FERC said they want this to happen within the project boundary. We will end up putting it where we want to and then extend the project boundary or create an island to include it. Education was the terminology used by FERC, where we used Information and Interpretation. Field

people (stewards) were removed. We had put these people into the category of law enforcement. FERC seems to associate law enforcement with police officers. We were looking at this more broadly, including camp hosts, etc.

Law Enforcement: In higher level discussions, this was very important to WDFW. In other venues, they have not been able to keep this in. We will argue that times have changed. The project draws people who need to be managed. There are greater security interests e.g., mudding in the drawdown, and other activities who use project facilities in a way that negatively impacts other resources, etc. We could also tie this to Homeland Security. Pam explained that PSE currently pays Whatcom County Sheriffs overtime pay to police the Baker basin on busy weekends and holidays so there is a stronger law enforcement presence there.

### **HANDOUTS**

- Agenda
- Program from Public Meeting for DEIS, May 2, 2006

### **MEETING EVALUATION**

#### **What Went Well:**

- Good review of FERC's DEIS
- Good to see everyone again – we are re-capturing our momentum
- Welcome to our new Team Leader Pam!
- Food was great.
- Facilitation was excellent as usual

#### **What to Do Differently:**

- Meet again Oct. 3 from 10 -2 at Mountlake Terrace
- Missed some key people
- No more Andy going forward – Thanks for a job well done!
- Provide phone access for next meeting

### **AGENDA FOR NEXT ARG MEETING**

**January 10, 2006 at Mountlake Terrace**

**10:00 a.m. - 2:00 p.m.**

1. Welcome, review notes, action items, agenda
2. BRICC/FERC Status/Update
3. Discuss Next Steps
4. Review/Revise Meeting Norms for RRG
5. Evaluate meeting, set next meeting date and agenda