
BAKER RIVER PROJECT RELICENSE

Solution Team

January 27, 2004
9:00 a.m. – 1:30 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

Note: In case of inclement weather, call Connie's voicemail to see if the meeting will still occur.

2004 Solution Team Meeting Dates

Feb. 10, Feb. 24, Mar. 2, Mar. 23, Apr. 6, and Apr. 27.

These meetings will be held at the USFS Building in Mountlake Terrace, unless otherwise specified.

Members Present: Steve Hocking, on phone (FERC), Stan Walsh (Skagit River System Cooperative), Scott Schuyler and Doreen Maloney (Upper Skagit Indian Tribe), Gene Stagner (USFWS), Steve Fransen (NMFS), Gary Sprague (WDFW), Rod Mace and Jon Vanderheyden (USFS), Bob Nelson (Rocky Mountain Elk Foundation), Patrick Goldsworthy (North Cascades Conservation Council), Jim Eychaner (IAC), Jerry Louthain (City of Anacortes and Skagit County PUD), Jack Oelfke (National Park Service), Ruth Mathews (The Nature Conservancy), Bill Reinard (Wildcat Steelhead Club), Rod Mace (USFS),

Cary Feldmann, Kris Olin, Paul Wetherbee, Connie Freeland, and Bob Barnes (PSE), Arn Thoreen (Skagit Fisheries Enhancement Group), Bob Helton (interested citizen), Linda Smith (USACE), Dave Brookings and Lorna Ellestad (Skagit County Public Works), Rob Mohn (Louis Berger Group), Laura Johnson (guest), Dee Endelman (Agreement Dynamics), Lyn Wiltse, Facilitator and Mary Jean Bullock, Note-Taker (PDSA Consulting, Inc.)

INTRODUCTIONS

The group welcomed Jack Oelfke of the National Park Service, Linda Smith of the United States Army Corps of Engineers, Doreen Maloney of the Upper Skagit Indian Tribe, and Laura Johnson, artist. (Laura may be commissioned to create a piece of mixed media art to commemorate our accomplishments in this process.)

AGENDA

January 27, 2004 at USFS Office Building in Mountlake Terrace

9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update/Work Plan
 - RESOLVE Session Updates
 - Shared Resources Teamlets
 - Plan for Policy Team Meetings as needed to RESOLVE outstanding issues/PMEs
3. Schedules/Timeline/Document Updates
4. Action Items
5. Working Group and Technical Working Groups:
 - What's Hot?
 - Status of Studies in Working Groups
 - Update on Technical Working Groups (TST, Fish Passage, Instream Flows, etc.)
6. Other?
7. Set February 10, 2004 Agenda
8. Evaluate Meeting

NEW ACTION ITEMS

- Steve F. and Gene: Talk with Steve H. to get clarification on schedule for final terms and conditions.
- All: Consider adoption of proposed norm (see end of notes).

SETTLEMENT PROCESS UPDATE

It was agreed that the February 24 Solution Team meeting would be the deadline for working groups to reach resolution on PMEs. The working groups need to be sure that they are *really* at an impasse before passing associated PMEs to the Solution Team for resolution. The Solution Team will also review any details in the context of the entire PME package at the February 24 meeting.

RESOLVE Update

Cultural: This working group continues to meet the timeline it set out for itself. There will be only one license article coming from this group's work (which will result in a detailed Historic Properties Management Plan). That license article has already been drafted by the Berger Group and is currently being reviewed by the working group.

Terrestrial: This working group seems close to reaching agreement in most major areas, although they are still working on the size of the package (in terms of dollars).

Terrestrial PMEs yet to be resolved:

- 1.1.1 Provide deciduous forest bird habitat
- 1.2.4 Provide wetland habitat
- 1.3.4 Support bald eagle habitat on non-project lands
- 1.6.1 Wildlife Plan Development
- 1.6.3 Monitoring

Resolution of the PMEs listed above is anticipated at the February 5 technical meeting. They will report status and next steps at the February 10 Solution Team Meeting.

Aquatics: The major task of the Aquatics Working Group and the Instream Flow Technical Working Group is settling on an instream flow regime. The Technical Working Group met January 7 and 8. NMFS has requested some HYDROPS runs that are aimed at meeting the diverse interests of team members. The Technical Working Group will meet again on January 30. They will be reviewing output from NMFS HYDROPS runs. At the end of that meeting, members will agree on what will be analyzed in the PDEA. They hope to complete details on a suggested flow regime by the February 12 Aquatics Working Group meeting.

Aquatics PMEs:

- 3.1.1 Provide fish propagation and enhancement programs and facilities: Resolution is anticipated at their February 12 meeting.
 - 3.3.1 Implement flow regime for the Baker River Project: Possible resolution is anticipated at the January 30 Instream Flow Technical Working Group meeting. *Comment from Jerry Louthain: Stan Walsh said that he expected it would be a couple of months before this would be resolved.*
 - 3.4.1 Implement fluvial geomorphic management
 - 3.4.3 Shoreline erosion management
 - 3.4.4 Implement aquatic habitat restoration and conservation measures
- Resolution is anticipated of 3.4.1, 3.4.3 and 3.4.4 at the February 12 meeting.

TST: This team has agreed that its work in terms of tool development is complete. They will meet only once more on February 11. At that time they will finish definition of Level 4 output.

Instream Flows: See Aquatics above.

Fish Passage: Efforts now focus on engineering design development of the Upper Baker floating surface collector for installation in 2007, as well as refining the performance standards and evaluation procedures for the facility. The phased development schedule has been refined by the technical team to better reflect logistical and information needs as deployment progresses.

Recreation: This working group is continuing to work on agreement of scope of their PMEs. They have been interfacing regularly with the Policy Team (made up of PSE and USFS). This group has, in general, defined the PMEs that meet the interests of participants. Definition of PME cost and scope is in progress.

PMEs outside the USFS core interests:

2.5.3 Provide access and development to Lake Shannon or another suitable lakefront site

2.5.4 Provide improvements to Kulshan Campground

2.5.6 Provide funding for wildlife observation facility

2.5.7 Provide and fund ADA compliance

A teamlet of PSE, USFS, and Skagit County will be meeting in the near future to discuss *all proposed PMEs*.

Note: 2.1.3 (law enforcement) is truly a shared interest.

Shared Resources

Resolution is anticipated by February 24. We will need to check in with the tribes about access management, in terms of the protection of culture resources.

Adaptive Management: Members of the Adaptive Management teamlet should have something for the Solution Team to review at the February 10 meeting.

Economics and Operations

Policy-level meetings between PSE, Skagit County, and the Corps have been ongoing over the past few months, dealing with the issue of flood control. The last meeting of the Economics/Operations Working Group was October. At their next meeting (January 27), Tetra-Tech will share what is available from the flood control study commissioned by the working group, including Skagit County.

Early in this process, the Solution Team agreed (with the exception of Skagit County) to use the existing flood control agreement as a default. The agreement is a Congressional mandate and the environmental analysis that would be required to support changes in flood control levels would be part of a Corps process. Linda reported that the USACE has developed a Project Management Plan to address the issue of additional flood storage. The preliminary hydraulic and hydrologic (storage capacity, etc.) analysis should be complete in the next few months. If it passes the economic test, environmental impacts will be analyzed along with other alternatives for flood control as well.

The Economics/Operations Working Group has commissioned a separate study to assess the preliminary economic benefit/cost ratio of additional flood control. When these results are available, the working group will define next steps.

After considerable discussion, we agreed that next steps for resolving this PME will be to treat it in a manner consistent with other PMEs. This means that the Economics/Operations Working Group would continue to work the issue until the February 24 Solution Team meeting. At that meeting they will report the progress they have made on the flood control PME and the Solution Team will decide next steps. The working group needs to be prepared to answer the question: "If (*When*) the economic analysis comes back positive (*benefits less costs > 0*), would it impact what we do in this relicensing process?" *This answer is expected in a year or two at the minimum.*

SCHEDULES/TIMELINES/DOCUMENTS

Rob reported that the Louis Berger Group has received comments and terms and conditions on the initial PDEA. They will list these comments and how they will be addressed in an appendix, and integrate the comments into the document as appropriate. Rob has received feedback from FERC that they were comfortable with what they saw in the October 2003 PDEA. He then summarized the following sections which will be in the next PDEA:

- **The No Action Alternative** will not change from what was included in the October 2003 PDEA other than incorporating updated model runs.
- **The Proposed Action** will be updated by PSE. It will incorporate all agreements in place by January 30. For areas where there is no agreement, PSE will include its proposal.
- **Alternatives to Proposed Action:** If we were in the traditional process, and FERC were producing an EIS, it would evaluate agency terms and conditions and recommendations. Rob plans to list all preliminary terms, conditions, and recommendations in the next PDEA (in summary form). He will note where agreement has been reached on PME's that would supersede the terms and conditions. Where no agreement has been reached, the Louis Berger Group will evaluate PSE's proposed action plus an "agency proposal." For operations, if no agreement is reached, they will likely use what came from NMFS. For others, they will go with terms and conditions as filed by January 2. FERC is aware that as additional agreements are reached (including operational models), they will be included in the Settlement Agreement.

Kris reviewed the near-term schedule:

- January 30, 2004 – PME's due to Louis Berger for inclusion in the PDEA
- February 9, 2004 – Cost estimates for PME's and project economics due to Louis Berger from PSE
- February 10, 2004 – Solution Team Meeting
 - Review PME status and begin to review initial license articles
- February 24, 2004 – Solution Team Meeting
 - All PME's due! Solution Team reviews the complete package, sends unresolved PME's to appropriate Policy Teams and sends the rest to the Legal Working Group.
- March 11, 31, *April 7*, and April 27 (*with Solution Team*) – Legal Working Group Meetings
 - The Legal Working Group meets to complete boilerplate language, review license articles and put total Settlement Agreement together.
- April 30, 2004 – DEADLINE:
 - License Application
 - PDEA
 - Settlement Agreement
- July 1, 2004 – FERC requests final terms and conditions from agencies
- September 1, 2004 – NMFS and USFWS file draft 10(j) and 4(e) recommendations
- February 1, 2005 – Final Draft terms and conditions due to FERC?
 - Steve and Gene will get clarification on this from Steve Hocking.

Legal: The Legal Working Group last met on January 13. At that meeting, Richard Roos-Collins, attorney for The Nature Conservancy, and Lorna Luebke, Kendall Fisher and Pamela Krueger, attorneys for PSE, shared the draft of the boilerplate language that they developed based on concerns discussed at the meeting. At that meeting they outlined a schedule to finalize the boilerplate language and to review the license articles that the working groups have approved.

Note: There is a movement at FERC to make license articles short and concise, often referring to drafting and implementing management plans, with details included in the PME's and Settlement Agreement. The license articles must be specific enough to be enforceable. Louis Berger will attempt to follow this model in drafting our license articles.

REPORT ON OLD ACTION ITEMS

- Rod: Reserved Conference Room at Mountlake Terrace for newly-scheduled Jan. 23 Aquatics RESOLVE session.
- Connie: Brought PME status table to at Jan. 27 Solution Team Meeting.
- ALL: Reviewed status of PME's and came to Jan. 27 meeting prepared to discuss possibly setting up Policy Teams to address unresolved issues in February.

MEETING EVALUATION

Things That Went Well

- Got out in time for Economics/Operations Meeting
- Great attendance
- Clarified settlement process/deadlines
- Evaluation was short

Things That Needs To Be Changed

- Ran out of coffee
- Turn overhead fan off for talking; turn fan on during breaks
- Missed Dept. of Ecology
- Missed FERC (appreciated Steve's participation by phone until he had to leave due to impending snowstorm)

PROPOSED NEW NORM

Limit number of analogies used in this meeting to three per participant. Each analogy will be rated by meeting participants, using the 7-point semantic differential scale. Participants whose analogy ratings average '2' or below (over a period of at least two meetings) will be forbidden from using analogies in meetings going forward. This new norm would also apply to metaphors.

REGULAR WORKING GROUP MEETINGS

Note: only the Cultural/Historical Working Group met in the month of December. Other groups met within the context of RESOLVE sessions.

Cultural: What's Hot?

- We are!
- Draft license article
- Getting key draft documents reviewed

Cultural: Studies Update for Solution Team

- All studies are on track!

HANDOUTS

- Solution Team Conference Call Notes – January 6, 2004
- PME Status as of January 26, 2004
- PME 5.1 Maintain current levels of flood control at Upper Baker – January 26, 2004 (submitted by PSE; preliminary draft PME – for purposes of discussion only)

TENTATIVE AGENDA

February 10, 2004 at USFS Office Building in Mountlake Terrace

9:00 a.m.–3:00 p.m.

1. Introductions
2. Settlement Process Update/Work Plan
 - Review PME status (updated table)
 - Review Draft License Articles
 - Review Cost Estimates
3. Schedules/Timeline/Document Updates
4. Action Items
5. Other?
6. Set up time and location for celebration! (Note: The Upper Skagits have offered their facilities for the event!)
7. Set February 24, 2004 Agenda
 - Final review of disposition of all PMEs. Recommended next steps for PMEs still unresolved by Working Groups.
8. Evaluate Meeting