

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF SPORT FISH

SEAN PARNELL, GOVERNOR

Research and Technical Services
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December 22, 2010

Ms. Kimberly Bose, Secretary
Federal Energy Regulatory Commission
888 First Street
Washington D.C. 20426

Re: Cascade Creek Hydroelectric Project, FERC No. 12495-002
Protest of changes in Communication Protocol (CP), and filing of meeting summary comments.

Dear Ms. Bose:

On September 28, 2010 an agency meeting was conducted by Cascade Creek LLC (CCLLC or the applicant) in Petersburg, Alaska to inform the agencies of project progress. At that meeting the agencies were told that the Public Reading File that was supposed to be housed at the Petersburg Public Library, as identified in the CP filed with FERC in 2007, was actually being housed at the CCLLC website at Thomas Bay Hydro. CCLLC stated that this was due to space concerns at the public library.

As a signatory of the 2007 CP, the Alaska Department of Fish and Game (ADF&G or the department) was never contacted regarding moving the public reading file from a physical location in Petersburg to the Thomas Bay Hydro website. The department would have protested this move due to the extensive public interest and comments filed after public scoping occurred in Petersburg. Placement of a paper reading file in Petersburg is viewed by this department as imperative for public information and comment on the Alternative Licensing Process (ALP). An alternative physical location in Petersburg for the Public Reading File should have been sought.

The September 28, 2010 agency meeting notification was selective and did not include many individuals or groups which have filed motions to intervene. All meetings are supposed to be open to the public with notices published in the media. Attendees of the meeting were notified that a meeting summary would be sent within two weeks (as required by the CP) and comments would be accepted. The summary was received on October 13, 2010 and the department comments were generated. On receipt of the department comments, Allison Murray (Kleinschmidt) replied by e-mail: "I have made some modifications to the summary in an effort to address your comment; however, to avoid paraphrasing your concerns, I suggest that folks append them in their entirety to the meeting summary." This approach to comments does not satisfy the CP section on meeting summaries which states: "Comments will be incorporated into a Final Meeting Summary, with the goal of agreement among all Participants on its content."

The CP further states: "All Draft and Final Meeting Summaries will be available on the Licensing Website and in hard copy by request." A check of the Thomas Bay Hydro website shows only the meeting summary posted by CCLLC without department comments attached. This eliminates department comments from public information and reduces public knowledge of this project.

Additionally, Scoping Document 2 (SD-2), filed with FERC by CCLLC on October 15, 2010, completely rewrites the 2007 CP. This has been done without any notification or consultation with signatories of the 2007 CP and as such, is a violation of the existing CP.

Because of the violations of the CP and attempted changes to that CP in SD-2, the department requests that the SD-2 document filed with FERC by CCLLC be declared invalid, and that CCLLC be directed to follow agreed upon processes with regard to directives in the 2007 CP including public process, public reading files, proper consultation with signatories of the CP, proper posting of meeting comments submitted and proper filing with FERC of those comments.

To allow the applicant to ignore due process and the clear and agreed upon directives of the CP, damages public trust and sends a message to other applicants that they can agree to one set of rules but they don't have to follow any rules.

In the interest of public information and inclusion in the public record, my September 28, 2010 meeting notes follow.

/s/ Monte D. Miller

Monte D. Miller
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Date: November 16, 2010

Cascade Creek Hydroelectric Project Proposal - FERC 12495

Attached are Alaska Department of Fish and Game (ADF&G) comments on the Draft Meeting Notes for the agency meeting held in Petersburg on 9-28-2010. The Cascade Creek LLC (CCLLC) request for comments on Draft Meeting Summary is attached along with the Draft Meeting Summary at the end of ADF&G comments.

GENERAL COMMENTS

The first and most important comment on this draft meeting summary is that it does not reflect the content of the discussions which took place. At the start of the meeting, participants were asked to identify themselves for the record when speaking but there is no transcript of this meeting. The draft meeting summary contains little if any specific questions, comments or statements made by participants. All controversial issues are glossed over and referred to only as discussions.

Second, the Oasis and Historical Research Associated personnel presented their study information (to date) by telephone. There were no handouts, documents or powerpoint presentations used during their reporting. This left the participants at a disadvantage in following, understanding and being able to appropriately clarify issues. These telephone conversations were difficult to follow and no study summary information was dispersed for participants. The study data was presented as partial and not final.

Because of ADF&G's disagreement with CCLLC on several topics of discussion which were not presented in the draft meeting summary, my meeting notes are attached for your review.

CCLLC was represented by Chris Spens at this meeting who spoke as "CCLLC". Allison Murray spoke as the "Project Manager" for Kleinschmidt, under contract to CCLLC.

SPECIFIC COMMENTS BY SUMMARY TOPIC

Project Design Review

Chris Savage (USFS) asked about noise levels. We note that this discussion should be included in the meeting minutes.

The transmission route discussion is not referenced.

The CCLLC photo/map presentation showed the transmission lines running through currently undeveloped city land platted for residential subdivision. When questioned, CCLLC said it was only a possible routing, saying perhaps they could use an existing public utility corridor. Chris Spens was asked if CCLLC had contacted Petersburg Municipal Light and Power (PMLP) and the reply was no. I asked if CCLLC, as a private for profit company, expected or was even allowed to use public utility corridors maintained by a public utility, if a tie to the PMLP grid was anticipated and if that grid could handle the load. CCLLC said it would build a grid and switching substations if necessary. This could require completely different easements and would likely change the needed study areas and associated issues.

Water Resources Discussion

The draft meeting summary states "Discharge graphing of Cascade Creek shows that during 5 months of the year there is very low contribution from Swan Lake". We have seen no hydrologic data presented and question the ability to make this statement as well as the statement that data is consistent with USGS historical data. Additionally, it was presented by Oasis that portions of Cascade Creek were "dry" or "essentially dry". This statement was disputed by ADF&G. We hold that water does flow between the rocks and boulders and that fish still utilize this area. The contributions of Falls Lake were talked about by Oasis, but no photographic evidence was presented. No hydrological data collections have been revealed to substantiate the draft meeting summary statement by Oasis that "Falls Lake is a dynamic system, with significant increases and decreases in stage even with no contribution from Swan Lake". Oasis also indicated that other point sources of water downstream of Swan Lake influence flow levels in lower Cascade Creek.

FERC Visit

This section of the draft meeting summary references KA. Who is KA? Is that Kleinschmidt or Kleinschmidt Associates?

The draft meeting summary failed to present any of the actual discussion on the determination by CCLLC of non nexus for the spawning studies in upper and lower

Cascade Creek and the rainbow trout telemetry studies. These core fisheries studies were to be used to identify spawning timing windows, detect areas utilized for spawning, detect intra-basin movements/migrations by rainbow trout through areas potentially affected by the project (such as between the bypassed reach and Swan Lake outlet sill structure), as well as identifying rainbow trout seasonal habitat utilization patterns for feeding and overwintering. This is a major area of disagreement between CCLLC and ADF&G and the draft meeting summary minimizes the discussion to almost nothing.

Further, CCLLC ignored a very definite statement by ADF&G about side agreements. It was made very clear to CCLLC, Kleinschmidt and all participants that ADF&G would not enter into any side agreements regarding studies which are needed to properly evaluate a project under the FERC process. CCLLC and ADF&G agreed that there was a disagreement and that FERC will be the final arbiter.

It should be noted that the Alaska Department of Natural Resources (DNR) was not at this meeting and therefore did not have the ability to respond to off license agreements.

There was no agreement from anyone at the table on use or format of an MOA. Chris Savage of USFS indicated that they would entertain looking at a draft of an MOA but did not commit to this process.

Also stated in this draft meeting summary is that USFWS was in agreement with using a MOA for second year studies. No documentation of an agreement was presented and no USFWS personnel attended this meeting or participated by telephone.

Updates on studies

Recreation

The recreation section fails to indicate that people, including Doug Fleming (ADF&G) asked questions and it appears that this whole section was scripted, not reflecting the meeting. It doesn't indicate any discussion about the surveys, how they would be distributed, the sample size (only 100), or how and why CCLLC is planning to include additional communities (Kake and Wrangell). There was no indication of any final review of survey instruments developed for the study. There was discussion about the timing of these surveys and about responses of the public and the ability of CCLLC to contact appropriate people for this survey.

Cultural

The last half of the first paragraph, starting with "CCLLP anticipates".....is boilerplate added and was not discussed as presented. Discussions did indicate a complete lack of public and tribal participation in cultural surveys. My statements regarding tribal

unwritten policies with regard to protecting cultural resources is not part of the draft meeting summary. Neither has my statement that “tribal concerns also center on respect and dignity issues” been recorded. It was stated by CCLLC that all reports of cultural resources would be held in confidence with regard to site identification and that CCLLC and its subcontractors would open a better communication line with tribes and other potential cultural contacts.

Habitat Assessment

The removed habitat studies were identified by Shelly Adams (Oasis). These studies are not identified adequately in the draft meeting summary.

Funding of surveys through ADF&G is not the real issue. What is pertinent is that the equipment and staff allocation to do a mountain goat survey was for 2010. Due to CCLLC’s lack of movement in 2010, the equipment was re-allocated for another study and is currently unavailable. ADF&G staff time must be budgeted ahead of need and now this would delay any study a minimum of 1-2 years.

The cooperative (ADF&G) moose study was discussed at the meeting but not included in this draft meeting summary. It also may suffer the same issues as the mountain goat study.

Water Quality and Fisheries Studies

Studies have not been successful as indicated in this draft meeting summary. Data presented in the meeting showed minimal success at capturing and marking fish with no recaptures in subsequent sampling events. This does not constitute success at any level.

Doug Fleming (ADF&G) and John Gangemi (Oasis) discussed the need to clarify commitment to seasonal fisheries inventory sampling beyond September in lower Cascade Creek. With Chris Spens input, Oasis agreed that a November and January sampling would occur, and that March sampling could possibly be included under additional comments if it is available within 90 Days of license application.

Project Operations

Discussion was raised about penstock depth and run of river. Questions were asked of CCLLC as to the need of a 40 ft deep penstock and if CCLLC were planning a license amendment to change back to a previous operational plan after a license was in hand. CCLLC stated that they had no plans to do that but that as a project developed, many changes to the design and operation were possible. Allison Murray stated that a project would face the same FERC process to amend their license. My statement was that the

license and amendment processes receive different levels of scrutiny and are not truly the same. Chris Spens stated that the run of river definition is open to debate and they choose to define this project as such.

Closing

The following statement by CCLLC in the “meeting summary” was never stated in the meeting: “Though CCLLC has been trying to schedule a public community meeting, there hasn’t been any interest indicated”. Doug Fleming expressed concern that the public was not being kept in the loop since he keeps getting calls about this project. Chris Spens stated that any information could be accessed through the Thomas Bay Hydro website.

After more discussion, Chris Spens said that perhaps another public meeting could be held in Petersburg. The SD-2 and all final study plans were promised within a week and CCLLC and Kleinschmidt were asked to give agencies adequate time for review. Adequate response time is needed and multiple filings will be difficult to properly assess.

The comments presented above reflect comments from myself, Shawn Johnson, Rich Lowell and Doug Fleming.

/s/ Monte D. Miller

Monte D. Miller

Statewide Hydropower Coordinator

Alaska Department of Fish and Game

Division of Sport Fish/RTS

333 Raspberry Road, Anchorage, Alaska 99518-1565

ATTACHMENT 1

Notes of:

Monte D. Miller

Statewide Hydropower Coordinator

Alaska Department of Fish and Game

Division of Sport Fish/RTS

333 Raspberry Road, Anchorage, Alaska 99518-1565

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Meeting was held at the USFS office conference room in Petersburg on Sept 28, 2010..

Meeting was opened at about 9:05 AM with introductions of those in attendance and on the telephones. There were 8 US Forest Service personnel in attendance along with our ADFG group, Chris Spens (CCLLC) and Allison Murray of Kleinschmidt. Shawn Johnson (ADF&G SF/RTS) and Katie Eaton (ADF&G Habitat) called in as did John Gangemi and Shelly Adams (Oasis Environmental) who are conducting studies for CCLLC. Kleinschmidt also had a person on the phone to keep notes of the meeting.

Chris Spens asked those attending if they had received the link for documents which he had sent out. Most had received the link with some having trouble opening the individual documents on this web site. Chris Spens said he would send me the link on his return to his office. (done on 9-30-2010)

Several maps/drawings/photos were on the table for review. These were conceptual drawings related to placement of structures like the powerhouse and transmission lines. Discussion included questions regarding where this power was to go and it appeared that CCLLC's intention was to tie into the PMLP system. Chris Spens stated that if the PMLP system could not handle this power then they would build a new system.

FERC Visit

A summary of CCLLC's trip to DC to meet with FERC was presented.

Chris Spens (CCLLC) and Allison Murray (Kleinschmidt) met with Mr. David Turner (FERC) in Washington DC in August. Apparently, CCLLC was told that all appropriate materials must be included in the FERC license application. FERC will not accept any additional filings with regard to studies to be completed in 2011 or after. CCLLC will seek side agreements with the agencies to do studies after licensing. CCLLC is looking into a MOA format as a way to seek agreement from the agencies. Questions about the two studies identified by CCLLC as non-nexus led to a disagreement. CCLLC stated that many of these delayed or removed studies may be completed in out years with a MOA agreement directly with agencies. Allison Murray also stated that these studies could be identified in the license stipulations and terms.

Alaska Department of Fish and Game objected to the CCLLC determination of non nexus on spawning and telemetry studies and objected to removal by CCLLC. ADF&G contends that these studies are part of baseline data necessary to properly evaluate this

application. These studies were the core of 11 freshwater aquatic studies which were agreed upon following the March 2010 meeting in Petersburg, at which time CCLLC presented their current operating model. At that time CCLLC requested the ADF&G to reexamine all previously requested studies that were to occur under the earlier proposed storage project, and revise our request based on the current proposed operation model, called run of river. ADF&G worked at and supplied CCLLC with a matrix showing studies needed for the so-called run of river project as well as for any phased approach which would utilize a more typical storage approach. CCLLC accepted this revised listing of projects and secured biological consultants to develop these studies with additional consultations with ADF&G.

ADF&G stated that we believe the FERC process should be followed, which means all studies need to be completed in the application period and that ADF&G is not interested in any side agreements with the applicant to allow them to modify the FERC process to their own needs. Also stated was that ADF&G is not in the habit of requesting non-essential studies. These studies were identified early in the process and have only been contested at the “eleventh hour”. ADF&G will not set precedence by entering into side agreements or a MOA that defers needed baseline studies.

Chris Spens stated that “we agree to disagree” and that FERC will have to decide. ADF&G stated that we definitely disagree. Chris Savage of the USFS said he would like to see a draft MOA from CCLLC to determine what they are proposing. Chris Spens stated that the SD-2 will be coming out within a week and that it will not contain the study plans for studies to be done in years past 2010 under an MOA. When asked when the next public comment period would be, it was stated (Allison) that the public would have a chance to comment on the EA after a license application is turned in. There would be plenty of time then. This felt like an attempt to keep the public in the dark until CCLLC could get paperwork filed and then CCLLC would not have to deal with more comments from the public..

John Gangemi (Oasis) was asked to provide an update of his efforts.

Flow Data to date:

Swan Lake - 9 months

Mouth of Cascade Creek -1 ½ years

Swan Lake (outlet) - 1 year

Swan Lake (inlet) - 9 months

ADF&G requested the hydrology be sent ASAP. We were told that it would be included in the SD-2 document.

A summary of current ongoing studies was presented.

Cultural Resources – To be completed spring/summer 2011. CCLLC is having problems getting responses to questions. I stated in meeting discussions that cultural resources and sites are held in confidence with native American groups. This is done to protect them from public looting and to respect the cultural importance of these sites. In general, inquiries from a “developer” are not well received. CCLLC agreed that cultural data should be held in confidence. CCLLC is continuing to attempt to make new tribal contacts to obtain information but have been totally unsuccessful.

Shelly Adams (Oasis) discussed progress with wildlife studies:

Sitka Blacktail Deer – Winter Assessment (Done)

Small Mammal Trapping (Done) Two more surveys in 2011.

Northern Goshawk Survey – None Found

These studies were completed in the areas of the powerhouse and transmission lines. Final wildlife study plans are due out within a week.

Other studies mentioned:

Murlett – Will be a boat study. When?

Bald Eagle – Next year

Amphibians – Visual Study When?

Osprey – Removed

Owls – Removed

Migratory Songbirds – Removed

Vegetation – Next Year

The wolverine study (ADF&G) is complete and available to meet the needs of a licensing study (Rich Lowell). Rich also expressed concern that study plans for moose and mountain goat were submitted to CCLLC months ago with no indication of receipt

or acceptance. The mountain goat study was developed with the 2010 field season in mind. Collars were identified to be sent out for reconditioning and repair but with no response from CCLLC the equipment (ADF&G owned) has been re-designated for other studies. Equipment availability as well as staff availability would be in question for at least a year or longer due to budget development and resource allocation framework.

John Gangemi (Oasis) discussed aquatic survey work being undertaken:

This prompted questions regarding the September 12, 2010 Aquatic Resources Study Plan prepared by Oasis. The group was told to disregard that plan as it was sent out in error. A revised and corrected final plan would be included with the SD-2. Questions on why this plan was released and if not being used then what was being used went unanswered. New plan due with SD-2.

Mark and Recapture – Two sampling events have occurred, one in August 2010 and one in September 2010.

In August 2010 the pond and Falls Lake were identified as being sampled with minnow traps and hoop nets. There is some confusion as to catch by location and date. My notes show a report of four (4) fish captured and marked with a fin clip and released. The September 2010 sampling also captured four (4) fish. These four were marked with a VIE (elastomer) mark. There were no (0) recaptures. September catch numbers may have been reported as higher but only four fish were marked with elastomer. Fish varied in length from 75mm to 240mm. Additional sampling will occur in November. ADFG asked what the tag identification method was and was told “visual”. When Oasis was asked about the use of a black light to identify VIE recaptures it was indicated that they would be used. With so few fish sampled and marked in the August sampling event, greater catches in September, but with no recaptured fish, there cannot be any estimate of abundance generated. If catch rates in September did increase, as mentioned by Oasis staff, this may indicate immigration occurred between sampling events which is a major violation of the assumptions with the abundance model selected for study (Petersen model). With only a few fish in the mark/recapture study and with no recaptures, there can be no statistical validity at this time. Since ADF&G does not have study data to evaluate, we are unable determine the validity or strength of these studies.

ADF&G (Doug Fleming) brought up the seasonal fish inventory sampling and pointed out sampling should occur every two months through March. This was agreed to by John Gangemi (Oasis) and Chris Spens (CCLLC). Ideally, studies should be year round to determine stock assessments and populations but CCLLC only has through January due to end of preliminary permit and their need to file a license application. There also is no attempt to creel for tag recovery information or for use of the resource information. Perhaps a creel would not be efficient but it would be another effort to identify recreational use.

ADF&G also requested that a complete and unedited copy be provided of the helicopter habitat video. Edited clips are not acceptable. CCLLC stated that it would be supplied.

Other studies being undertaken include:

Limnology of Swan Lake to a depth of sixty-five (65) feet to include pH, Temperature, DO and conductivity.

Fish passage was looked at in August. Note: The Petersburg and Thomas Bay area has been in an extended drought and August and September levels and flows in area lakes and streams have been reported as very low. This appears to be a “flyer” year in that most protocols in a multiyear study would screen out “flyer” year data to strengthen a data set. The data would be declared abnormal and noted in a study. This can be said for all data sets involving water.

Geomorphology – Upper Cascade Creek and the inlet delta into Swan Lake.

Bathymetry of Falls Lake and the Swan Lake inlet was briefly described as successful.

Benthic Macro Invertebrate Studies – Lower Cascade Creek, Swan Lake outlet, Falls Lake area.

Temperature Probes – Upper Cascade Creek (Spring Creek), Surface water at the inlet and outlet of Swan Lake, and Falls Lake.

Spawning Assessment and Monitoring – Has been declared not nexus by CCLLC and removed from plan.

Fish Telemetry study – Has been declared not nexus by CCLLC and removed from plan.

Project Operations

The SD-2 Document was discussed and it will not include 2011 study plans. It will be a policy document with milestones. Off license agreements were again brought up by Allison. Should this be an MOA? Will this be acceptable to agencies? Draft format? How do agencies want this document to be formatted? Needs of the MOA? She stated that this could be a legal binding contract between CCLLC and the agencies and perhaps could be made a condition of the license. Allison stated that she was not a biologist and that she could not determine nexus of studies. About three minutes later in discussion she stated that she had determined the spawning assessment and telemetry studies to be non nexus. Which is it?

Questions were asked about the need for a 40 foot deep penstock for a run of river designation. CCLLC indicated it was to protect boaters from a whirlpool effect if water was removed from the lake at a lesser depth and to protect the intake from avalanches and associated debris. I stated that the depth does leave it open for a modification back to a drawdown reservoir in the future. Chris Spens stated that there was no plan to do that but that they reserved the right to file for an amendment if further engineering

or economic conditions dictate a change. Allison was quick to point out that any amendment would undergo the same process and scrutiny as this process. My point back was that the process does not treat these processes equally. An amendment to an existing license does not have the same concerns within the process. Also, when there is an existing capital investment and construction occurring the intention of the process is to facilitate the best outcome for both the environment and the developer. It is not to rehash the questions which should have been answered during the preliminary permit phase. Once a license is issued it is assumed that all disagreements have been worked out and that amendments will not be necessary. At some point in this discussion Chris Spens also stated that they anticipated only operating this project based on need, perhaps five (5) month of the year. That statement raised questions regarding the economic feasibility of this project.

Doug Fleming (ADF&G Sportfish Biologist – Petersburg) brought up that as an area management biologist he has received telephone calls from residents asking what is going on with this project. There has been little or no communication to the residents of the area. Chris Spens stated that residents could find information on the company website. After some discussion Chris Spens did agree that a November public meeting should be held.

A question was again asked about what study plans would be included in the SD-2 document. The following were cited:

- Hydrology
- Cultural
- Wildlife
- Fisheries-Aquatic Resources
- Recreation

END OF MEETING

ATTACHMENT 2

CCLLC e-mail sent to agency representatives attending this meeting. There are many people on this mailing who were not a participant in person or by telephone. Only the participants should have been sent a draft of the meeting minutes. Communication protocols would include the global contacts list for the final meeting minutes. This is how misinformation is allowed to spread. Only final agreed on minutes with participant's comments should be sent out by the applicant to the global list.

Sent: [Wed 10/13/2010 2:45 PM](#)

To: susan.walker@noaa.gov; Richard_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'; Charles Parsley; Miller, Monte D (DFG); Klein, Joseph P (DFG)

Cc: Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser

Folks,

Attached is our draft meeting summary for your files/review/comment.

We are also working to get you the SD2. CCLLC's efforts to provide the most up to date design drawings pushed us back a little longer than we had expected. Given the size of some of the attachments/renderings we're going to distribute it on disks. Look for it in your mailboxes next week.

We expect to have a draft MOA outline for your review by the end of October.

Please feel free to contact me with any questions or comments.

Regards,

Allison

Allison Murray

Senior Regulatory Coordinator

Kleinschmidt

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ATTACHMENT 3

CCLLC Draft Meeting Summary as attached to the above e-mail from Allison Murray of Kleinschmidt

Cascade Creek Hydroelectric Project (FERC No. 12495)
Cascade Creek LLC

DRAFT MEETING SUMMARY

Follow-up Agency meeting
USFS Ranger District Offices
Petersburg, Alaska

Tuesday, September 28, 2010
9 a.m. – 12 noon

Attendees

Casey Duncan – USFS
Mary Clemens – USFS
Rich Lowell – ADFG-Wildlife
Doug Fleming – ADFG – Sport Fish
Chuck Parsley – USFS - Petersburg
Barbara Stanley – USFS - Juneau
Shelly Adams - Oasis
Shawn Johnson - ADFG
Allison Murray - Kleinschmidt
Gina Esposito - USFS
Weber Greiser – Historical Research Associates
John Gangemi - Oasis
Katie Eaton – ADFG-Habitat
Russ Beers – USFS - Petersburg
Chris Savage – USFS - Petersburg
Heath Whitacre – USFS- Petersburg
Monte Miller – ADFG – Hydropower Coordinator
Chris Spens - Cascade Creek LLC

MEETING PURPOSE AND AGENDA

The goals of the meeting were to go over Project design renderings, update agency participants on the FERC meeting in DC, and begin a discussion of the implications of the FERC meeting and how to move forward with a modified timeline, including the possibility of a Memorandum of Agreement (MOA). Additional meeting goals included updates on studies and the Scoping Document 2.

PROJECT DESIGN REVIEW

Chris Spens of CCLLC provided printed versions of design renderings for the site plan and access plan to aid in the determination of Project effects and aesthetics. The water view rendering of the powerhouse showed that the powerhouse will be screened by trees and located near the hill-slope for noise attenuation and aesthetic values. CCLLC noted that their intention is that the Project will not be physically apparent or visible, except for the dock and stream like tailrace, and that the site footprint will be limited.

The transmission line route discussion highlighted the fact that the majority of the proposed route occurs within previously/currently developed corridors. At present, CCLLC does not propose using the local poles, rather installing new poles within the transmission right of way. CCLLC will develop power purchase and line interconnection agreements post licensing. FERC does not require a power purchase agreement to process the license application. Should CCLLC find it needs to develop a new substation (which it does not anticipate at this time) FERC would require a license amendment application prior to construction. Currently CCLLC bases its project economics on the southeast connection and regional electric system. Should the AK/BC interconnect come to fruition, CCLLC would seek an interconnection with Canada and the lower 48.

WATER RESOURCES DISCUSSION

CCLLC provided an overview of their water resources analyses to date. They noted that both flow data and visual data (photographs) are being collected and pulled together in report form. It was explained that the lowest summer flow was observed on Sept 21, 120 cfs. It was further noted that this was a lower snowpack year, and a drier summer. Discharge graphing of Cascade Creek shows that during 5 months of the year there is very low contribution from Swan Lake. At this point in time, data currently collected is consistent with USGS historical data. The lake stage fluctuation is at about 4.5 ft in this year.

During site surveys and field work, staff noted that portions of Cascade Creek were dry. Photo documentation depicts that Cascade Creek is essentially dry from about 300 feet from outlet to just above the pond. However, up to that point, Falls Lake held steady with about 60 cfs contribution; Falls Lake levels have been observed to decrease with about 20 cfs of contribution. Oasis explained that their GPS studies of Falls Lake show that it is a dynamic system, with significant increases and decreases in stage even with no contribution from Swan Lake.

FERC VISIT

Allison Murray and Chris Spens met with FERC in August to provide an update of the Project. FERC indicated that CCLLC must include appropriate baseline information within the Environmental Analysis for FERC to determine environmental effects at the time of application filing. FERC will not accept additional information filings requiring 2011 studies in its determination of application completeness. CCLLC expressed that they wholly intend to carry out the studies agreed to with the agencies; however they hoped to come to agreement regarding those studies that could be preformed this season, and are necessary to analyze direct project effects in the PDEA, and those studies that could be agreed to under a Memorandum of Agreement (MOA) or other document codifying CCLLC's intent to undertake additional studies that inform broader agency management goals next season. In order to provide a level of

assurance, CCLLC and KA also suggested the possibility of drafting license articles that specify studies and phases that must be completed prior to construction and inclusion of protection, mitigation, and enhancement (PME) measures that proactively anticipate addressing concerns that agencies have previously expressed. The group discussed the fact that while CCLLC seeks collaborative agreement, if these agreements cannot be developed, FERC will be the final arbiter of unresolved issues or disagreements regarding project effects, nexus, and the appropriate level of baseline data.

CCLLC will continue to work on studies, and will have enough data for lake level fluctuation, and an examination of presence, distribution, and key habitat areas for rainbow trout populations in order to determine project operational effects on the bypass reach. ADFG and ADNR expressed concern that all studies they had previously requested were directly related to project effects and off license agreements were not a preferred method of addressing their issues. ADFG stated that they want to be sure they can look at data collected to date before they make a decision about license conditions or other agreements. Allison Murray explained that it takes time for FERC to evaluate the environmental analysis, so the request for mandatory prescriptions (4e) is likely a year or more out. It was also noted that USFWS was agreeable to the format of using a MOA to complete second year studies. Allison Murray noted their hope to utilize this method with all agencies and develop a multi-party MOA. USFS requested CCLLC develop a draft MOA including studies that it intends to undertake “off license”.

UPDATES ON STUDIES

Recreation

Allison Murray explained that the modified proposed study plan would remove 2011 aerial counts as part of the overall recreation studies but that CCLLC intends to include this aspect of survey as part of its “off license study agreements with agencies. Instead, efforts to provide appropriate baseline data for the PDEA will focus on surveying commercial outfitters and private recreationists. Furthermore, the desktop research will expand to encompass other activities in the region, with the overall goal of providing a regional perspective. The surveys CCLLC is distributing will include photorenderings of project facilities to garner responses and opinions of users to determine potential project effects to recreational uses and aesthetic values. CCLLC expects results to be ready by the time the FLA is filed.

Cultural

Weber Greiser, from Historical Research Associates (HRA), provided the group with an update on Cultural Resources. Wrangell residents have traditionally used the Thomas Bay area, but HRA is trying to uncover additional information. Per USFS recommendations, a broader area was surveyed. Thus far, the only historic structure obvious from the walking reconnaissance is the old Agassi School structure from the 1920s – this is likely within the broader Area of Potential Effect, but outside the transmission line gap. Several sites have already been recorded in this area from previous investigations, so there is interest to see if other sites will show up. Additional field work will be completed late spring early summer 2011. CCLLC anticipates including a draft license article in the license application requiring the preparation of a Historic Properties Management Plan encompassing these efforts as well as ongoing evaluation of potential construction effects to sensitive cultural sites. Pursuant to USFS and SHPO

feedback, aspects of additional cultural resource work could also be included as part of an inter-agency MOA or as a standalone MOA in accordance with Section 106 of the Federal Historic Preservation Act.

Tribal consultation is not complete. Letters have been sent out, but so far, no responses have been received. After discussion, an agreement was reached that a Phase 1 investigation will provide enough information for analysis, with Phase 2 being complete before doing any site disturbance. It's expected that FERC will require a Cultural Resources Management Plan that would offer specifics and PME measures. Following a concern about potential public disturbance, CCLLC confirmed that reports will be CEII and not public record.

Habitat Assessment

Shelly Adams from Oasis provided an update of the habitat assessment. Oasis was able to conduct the Sitka winter range assessment along the transmission line and powerhouse sites, and recently completed small mammal trapping. Results of the trapping included shrews, voles, field mice, and red squirrels. No fox were found in the area. Oasis is in the process of completing desktop amphibian studies, which will include a literature review and habitat assessment maps, and an intense look at what could occur in the area linked to hydrologic data. Shelly Adams explained that an updated draft wildlife study plan has been drafted. Currently, the new wildlife study plan includes black-tailed deer, small mammals, fox, and amphibians. Shelly also noted that several of the studies have already been removed from the previous study plan and will be included in an MOA pursuant to the direction of USFWS. Owls and migratory songbird surveys were removed after discussions with USFWS regarding CCLLC's proposal to use existing transmission corridors.

CCLLC will continue to support the ADFG through funding for wolverine and mountain goat surveys.

Water Quality and Fishery Studies

John Gangemi, from Oasis, gave the group an update on the fishery study. He reviewed study events that have already occurred, including mark and recapture, fin clips, trapping, and tagging. Successful sampling occurred in Cascade Creek between Swan and Falls Lake.

He further explained that water quality data has been recorded and mapping/geomorphology work has occurred. Bathymetric mapping was also done at Swan Lake inlet to get an idea of substrate and topography. John Gangemi continued to note that macroinvertebrate sampling was performed in Cascade Creek, Falls Lake, and Lower Cascade Creek. Oasis plans to do spring monitoring and fish telemetry work next year. Agencies requested that any video data of the survey work be provided on CD.

ADFG posed questions regarding trapping and tagging methods. John Gangemi assured the group that proper measures were being taken and that backlights will be used when elastomer tags are to be re-identified. A total of 8 fish were clipped in the first sampling effort (4 in the pond and 4 in Falls Lake). Oasis noted their plans to perform sampling again in November. Chris Savage and Doug Fleming agreed that sampling every two months through January would be acceptable. There was some disagreement between ADFG and CCLLC regarding a project nexus of rainbow trout issues, which had to potential to be left up to FERC to determine.

PROJECT OPERATIONS

The group continued discussion on an MOA. As a result, the group conferred over the Project in more detail and concerns were raised about the project's run-of-river designation. ADFG noted that they believe that a true run-of-river would not necessitate a 40ft-deep penstock and that it seems to leave the project open for future operational changes. CCLLC noted that penstock depth is influenced by the possible need for winter storage. While the depth of the penstock could allow for future project operation modification, there currently is no plan to propose anything different than the proposed operation within normal lake level fluctuations. Any future changes in operation would require a license amendment, which would open the process back up for agency comment.

CLOSING

In closing, CCLLC indicated that draft field reports will be included in the PDEA for agency review. CCLLC further explained that comments on the PDEA will be addressed by mid-January for final submittal of the Final License Application before the end of January. Though CCLLC has been trying to schedule a public community meeting, there hasn't been any interest indicated. However, the public has a chance to comment during draft EIS and the PDEA review will be announced to the public, as well. Chris Spens also noted that a November review meeting may be appropriate.

CCLLC will also distribute the SD2 and will include study plans that reflect the studies that will be performed in 2011. An outline of the formal MOA will follow and will include items no longer in the 2010 study plans.

The group closed discussions and adjourned.

Document Content(s)

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