

MEETING SUMMARY
COOPER LAKE PROJECT RELICENSING
SETTLEMENT WORKING GROUP MEETING
JULY 26–28, 2005 (CHUGACH TRAINING ROOM)

Attendance:

Margaret Beilharz * [7/27, 7/28]	USDA Forest Service (USFS)
Dave Blanchet	USFS
Phil Brna	U.S. Fish and Wildlife Service (USFWS)
Karen Demsey	Long View Associates (LVA)
Jim Ferguson	Alaska Department of Fish and Game (ADFG)
Todd Glass	Heller Ehrman LLP
Jan Konigsberg	Natural Heritage Institute
Mike Massin	Pinon Services
Tom Meyer * [7/27]	NOAA National Marine Fisheries Service (NMFS)
Sally Morsell * [7/28]	HDR
Karen Oleary	USFS
Steve Padula	LVA
Larry Peltz	NMFS
Gary Prokosch	ADNR, Water Resources division (ADNR-Water)
Andy Schmidt	USFS
Bill Stockwell	Fish for Cooper Creek Coalition
Cassie Thomas	National Park Service Rivers and Trails Program (NPS)
Burke Wick	Chugach

* participated by phone

Planned Agenda:

- Discuss results of Stetson Creek studies:
- Status updates:
 - Interagency Committee bylaws
 - Transmission Line ROW/Access Management Plan
 - Snug Harbor Road agreements
- Discuss draft Joint Explanatory Statement
- Review and resolve outstanding issues on:
 - draft Settlement Agreement
 - draft license articles

Handouts Provided:

The following document was distributed prior to the meeting for the SWG's consideration:

- *Draft Relicensing Settlement Agreement* [including License Articles; redline showing SWG and Legal Subgroup comments]. Draft dated July 22, 2005; prepared by Chugach.

The following documents were distributed at the meeting for discussion:

- *Cooper Lake Project (FERC No. 2170) Relicensing Settlement Agreement Joint Explanatory Statement*. Draft dated July 25, 2005.
- *Proposed Stetson Creek Diversion 2005 Studies Technical Memoranda, Cooper Lake Project (FERC No. 2170)*. Draft report dated July 2005. Prepared by HDR Alaska, Inc., Cultural Resource Consultants, Land Design North, and Northern Ecological Services.

Meeting Summary:

I. Stetson Creek Studies

The collection of draft technical memoranda summarizing the results of the Stetson Creek diversion studies program was distributed in hard copy to the meeting attendees on the first day of the meeting and subsequently by email to the full SWG. To provide time for the SWG to review the memoranda, the discussion of the study results was postponed until day 3 of the meeting. At that time, review comments on the study results and technical memoranda were provided verbally and discussed. Meeting attendees indicated their desire to allow technical experts within their organizations the opportunity to review and comment on the draft memoranda. It was agreed that the SWG would provide any additional comments on the study reports by end of day the following Friday, August 5.

II. Updates

Interagency Committee Bylaws

The status of the Interagency Committee Memorandum of Understanding ("Bylaws") was briefly discussed. It was noted that Todd Glass (Heller Ehrman) had provided comments on the previous version. It was agreed that agency representatives would review Todd Glass's comments and provide any further edits or comments to Dave Blanchet (USFS); the agency group would then schedule another work session on the Bylaws if needed.

Transmission Line Right-of-Way Corridor and Access Management and Maintenance Plan (Plan)

Mike Massin (Pinon Services) summarized the discussion at the July 26 ROW/Access Technical Working Group (TWG) meeting. He noted that all the components of the Plan were moving forward, and that TWG comments on the version of the Plan that had been discussed on July 26 were to be provided no later than the following Wednesday, August 3. The TWG had scheduled a follow-up conference call on August 5, to discuss the comments received.

Snug Harbor Road Agreements

Andy Schmidt (USFS) reported that he had received comments from Chugach on the Snug Harbor Road maintenance agreement, and that he had just received response comments back from others in the USFS. Andy Schmidt indicated there were still issues to be worked out regarding liability.

Phil Brna (USFWS) indicated his agency's only interest related to Snug Harbor Road is the modification of the Porcupine Creek culvert. The SWG discussed this issue and identified uncertainties in permitting authority that needed to be addressed before an approach and timeline for fixing the culvert could be settled on. Chugach indicated its interest in addressing the problem sooner rather than later. It was recommended that Chugach contact the Kenai River Center to inquire about permitting requirements.

III. Joint Explanatory Statement

The SWG reviewed the draft Joint Explanatory Statement (JES) on the first day of the meeting and agreed on certain specific edits. A revised/redlined version was distributed on day 2 of the meeting, and the JES was discussed again in greater detail on day 3. Phil Brna pointed out that the JES did not mention any potential impacts in its discussion of the public benefits anticipated from the proposed settlement measures. After further discussion, the SWG agreed that the potential impacts should be specifically mentioned so that outside readers would not get the impression that the SWG had ignored potential impacts. It was agreed that Long View Associates would modify the JES, addressing the additional comments and adding mention of potential impacts that had been identified. It was agreed that the modified JES would be sent back out to the SWG on July 29.

IV. Draft Settlement Agreement and License Articles

During day 2 of the meeting, the SWG reviewed the composite redline of SWG / Legal Subgroup comments on the draft Settlement Agreement and draft license articles, and identified further changes needed. Portions of the Settlement Agreement and draft license articles were revised following day 2, and the new language was reviewed by the SWG on day 3. It was agreed that the full document, as revised per the discussion on days 2 and 3, would be redistributed by close of business on Friday, July 29, for final SWG review. It was also agreed that the deadline for the SWG to provide any substantive comments would be Monday morning, August 8, to allow final discussion and finalization of the document during the August 10–11 SWG meeting.

VIII. Closing

After confirming the upcoming meeting schedule and reviewing assignments, the meeting ended on day 3 at approximately 2:00 P.M.

Action Items:

Due Date / Timeframe	Responsibility	Task
<i>Interagency Committee MOU</i>		
August 5	Agency representatives	<ul style="list-style-type: none"> ▪ Provide comments on draft MOU to Dave Blanchet.
August 12	USFS (D. Blanchet)	<ul style="list-style-type: none"> ▪ Provide final draft to Chugach for circulation/approval with final SA.
<i>Settlement Agreement</i>		
[done, July 29]	Chugach team	<ul style="list-style-type: none"> ▪ Provide revised SA, license articles, flow allocation/banking procedures, and JES to SWG for final review.
August 8 (morning)	SWG	<ul style="list-style-type: none"> ▪ Provide all substantive comments on SA, draft license articles and JES.
August 24	SWG	<ul style="list-style-type: none"> ▪ Deadline for submitting signatures on SA.
<i>Other</i>		
[done]	Chugach (B. Wick)	<ul style="list-style-type: none"> ▪ Contact the Kenai River Center for information on permitting requirements for Porcupine Creek culvert.
August 5	SWG	<ul style="list-style-type: none"> ▪ Provide any additional review comments on Stetson Creek study memos.
August 19	HDR (S. Morsell)	<ul style="list-style-type: none"> ▪ Work with authors of Stetson Creek study memos to revise/finalize memos per SWG review comments.

Next SWG/TWG Meeting:

Date: August 10–11, 2005
Location: Chugach Training Room
Proposed agenda (preliminary):

- Update on additional Cooper Creek fish sampling
- Review final SWG edits on July 29 draft Settlement Agreement and license articles
 - Discuss any remaining outstanding issues
 - Agree on final language
- Discuss proposed revisions to Joint Explanatory Statement
 - Discuss any remaining outstanding issues
 - Agree on final language
- Confirm status of all attachments to Settlement Agreement
 - Flow Allocation and Banking Procedures
 - Right-of-Way Management Plan
 - Others
- Discuss Chugach’s and others’ approval processes
- Confirm logistics for providing signatures
- Confirm schedule

Calendar Overview:

SWG and related meetings:

- August 5: ROW TWG meeting to discuss USFS comments on ROW Management Plan
- August 9 (1:30–3:30 p.m.): Cultural Resource Study consultation group meeting to discuss revised draft studies report and HPMP
- August 10–11: SWG meeting to finalize / reach final agreements on all SA components

FERC Schedule:

- June 21, 2005 – due date for FERC to receive any requests for additional studies/information
- July 2005 – FERC to issue letter regarding acceptance of the FLA
- August 2005 – Scoping Document 1 issued
- September 6, 7:00–9 P.M. in Cooper Landing – Scoping meeting
- September 7, 2005 – Site visit (helicopter tour, starting at powerhouse)
- September 8, 2005 – Scoping meeting (Chugach training room)
- November 2005 – Scoping Document 2 issued
- December 2005 – Ready for Environmental Analysis notice issued (followed by 60-day window for parties to officially intervene in the licensing proceeding)
- June 2006 – FERC’s analysis completed
- November 2006 – Licensing decision