

MEETING SUMMARY
COOPER LAKE PROJECT RELICENSING
SETTLEMENT WORKING GROUP MEETING
DECEMBER 14–15, 2004

Attendance:

December 14 (Chugach Training Room):

Margaret Beilharz (phone)	USDA Forest Service, Hydropower Assistance Team
Dave Blanchet	USDA Forest Service (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)
Suzanne Fisler	Alaska Department of Natural Resources, Parks division (ADNR-Parks)
Ricky Gease (phone)	Kenai River Sport Fishing Association (KRSFA)
Bill Hauser	Alaska Flyfishers
Jan Konigsberg	Natural Heritage Institute
Sue Magee	ADNR
Mike Massin	Chugach
John Morsell	Northern Ecological Services (NES)
Sally Morsell	HDR Inc. (HDR)
Steve Padula	LVA
Larry Peltz	NOAA Fisheries
Gary Prokosch	ADNR, Water Resources division (ADNR-Water)
Jim Topolski	Chugach
Brenda Trefon	Kenaitze Indian Tribe
Cassie Thomas	National Park Service Rivers and Trails Program (NPS)
Burke Wick	Chugach

December 15 (Hampton Inn):

Margaret Beilharz (phone)	USFS
Dave Blanchet	USFS
Phil Brna	USFWS
Karen Demsey	LVA
Jim Ferguson	ADFG
Suzanne Fisler	ADNR-Parks
Ricky Gease	KRSFA
Todd Glass	Heller Ehrman
Jan Konigsberg	NHI
Mike Massin	Chugach
John Morsell	NES

Sally Morsell	HDR
Steve Padula	LVA
Larry Peltz	NOAA
Gary Prokosch	ADNR-Water
Robert Ruffner	Kenai Watershed Forum
Rob Spangler	USFS
Cassie Thomas	NPS
Burke Wick	Chugach

Agenda:

- Day 1:
 - Report on TWG meetings
- Day 2:
 - Offsite mitigation
 - Development of criteria for projects
 - Trust fund mechanism
 - Net economic value
 - Analytical framework
 - Begin discussion of structure for AIP
 - Review assignments for TWGs
 - Status check / plans for Jan. 11–12 meetings

Handouts Provided:

The following documents were distributed prior to the meeting for the SWG's consideration:

- *Cooper Lake Project (FERC No. 2170) Analytical Framework for Relicensing Settlement Negotiations*. Review draft dated Dec. 9, 2004
- Two examples of trust fund provisions from recent relicensing settlement agreements

Meeting Summary:

I. Report on Technical Working Group (TWG) Meetings

Participants in the various TWG meetings that had been held between Dec. 7 and Dec. 13 summarized the substance of those meetings. The meetings included the Snug Harbor Road Working Group (Dec. 7), Recreation Working Group (Dec. 8), Fish Habitat Working Group (Dec. 10), and ROW/Access Working Group (Dec. 13). Proceedings of those meetings are summarized separately.

II. Offsite Mitigation

The SWG continued its discussion from previous Fish Habitat Working Group meetings. After lengthy discussion about potential offsite mitigation opportunities relative to mitigation priorities, it was essentially concluded that onsite restoration is the only mitigation that many parties feel would be worthwhile in this context. Chugach reiterated its fundamental concern with the high cost of the potential onsite mitigation alternatives that had been identified to date.

To resolve the apparent impasse, the SWG began to consider the concept of cost-sharing for Cooper Creek mitigation alternatives as a possible solution. Various suggestions were made regarding potential sources of outside funds (in addition to Chugach's funding) to help achieve the desired mitigation. The SWG generally agreed this concept was worthy of further consideration in future negotiation sessions. In the meantime, various SWG members indicated they would investigate potential funding sources.

III. Net Economic Value

Ricky Gease (Kenai River Sport Fishing Association) requested this brief item be added to the agenda to bring to the SWG's attention that his organization's report on current economic value of the Kenai River sport fishery will be available in spring 2005.

IV. Analytical Framework

The SWG discussed the *Analytical Framework for Relicensing Settlement Negotiations*, prepared by LVA as a proposed tool to track settlement issues and mitigation priorities. The SWG provided comments and requested revisions to the framework, and agreed that with these changes, the matrix was ready to be used. LVA was tasked with filling in the matrix as a first draft, to be issued to the SWG for review before the January 11–12 meetings.

V. Agreement in Principle

Steve Padula (LVA) walked the SWG through the general contents of a recent AIP, as one possible example of a framework for an AIP for the Cooper Lake Project relicensing. SWG members were requested to provide any additional examples of other AIPs they may want the SWG to consider. LVA agreed to distribute the example AIP components by email to the SWG.

The SWG also discussed the timing for convening of the Legal Subgroup. Burke Wick (Chugach) explained to the SWG that Todd Glass (Heller Ehrman) would be contacting the designated legal representatives to schedule a meeting or conference call. It was discussed that the Legal Subgroup could work on the legal framework of an AIP at the same time the SWG worked to come to agreement on the substance of the AIP.

VI. Assignments for the TWGs

Steve Padula (LVA) reviewed the list of assignments, which were confirmed by the SWG. The TWG assignments were as follows:

- Fish Habitat Working Group:
 - Jason Kent (HDR) to:
 - complete five new temperature modeling runs, and issue results to the members of this TWG by Wednesday January 5. [Subsequent to the meeting, this was changed to January 3.]
 - complete and issue the final instream flow report.
 - Meet on January 6 or 7 [subsequently, the 7th was selected] to review the new modeling results.

- Recreation Working Group:
 - Steve Hennig (USFS) and Suzanne Fisler (ADNR-Parks) to meet before the January SWG meeting to develop a list of recreation priorities.
 - Meet to discuss this list of priorities during the January 11–12 timeframe, in conjunction with the next SWG meeting.

- Snug Harbor Road Working Group:
 - Jim Topolski (Chugach) to draft a road maintenance MOU and distribute it for the TWG's review no later than January 7.
 - Suzanne Fisler to check with Kenai Peninsula Borough on future plans for land acquisitions in the Snug Harbor Road area.
 - Meet on January 24 to review the draft MOU and discuss future obligations.

- ROW/Access Working Group
 - Chugach to send out electronically (in .jpeg file format, if possible) revised maps of the access routes showing the powerline structures and which structures are accessed by each route. Due date is Jan. 6.
 - Chugach to issue a draft protocol/template for use of access route categories no later than Jan. 6.
 - Agencies to provide comments on revised draft Road and Access Route Condition Survey report no later than Jan. 7.
 - Suzanne Fisler to contact Chugach State Park to get more detailed information regarding vehicle access issues.
 - Andy Schmidt (USFS) to discuss within the USFS the issue of joint access on Forest lands.

The meeting adjourned at approximately 2:00 P.M.

Action Items:

In addition to the TWG action items listed above, LVA was tasked with sending out the AIP example and producing a first draft of the substance in the settlement issues matrix and issuing it to the SWG for review no later than January 5. In addition, Todd Glass (Heller Ehrman) was tasked with organizing the first meeting of the Legal Subgroup.

Next SWG Meeting:

Date: January 12, 2005

Location: TBD

Proposed agenda (preliminary):

- TWG updates
- Review settlement issues matrix
- Legal Subgroup status report
- Cooper Creek discussion: status, next steps
- Report on funding mechanisms and sources

Calendar Overview:

[*Note:* The following dates are currently being held for settlement negotiations related meetings, including technical working group sessions, Settlement Working Group meetings, and/or caucus sessions as needed. Specific dates and agendas to be confirmed.]

- Jan. 7 Instream Flow Review Team meets to discuss new modeling output
- Jan. 10 ROW/Access TWG meeting (10:00 – 1:30)
- Jan. 11 TWG meetings:
 - Legal Subgroup meeting (tentative)
 - Recreation TWG meeting
 - Fish Habitat TWG meeting
- Jan. 12 SWG meeting
- Jan. 24 Snug Harbor Road TWG meeting
- Feb. 1–2 SWG/TWG/Legal meetings (TBD)
- Feb. 23–24 SWG/TWG/Legal meetings (TBD)
- Mar. 10–11 SWG/TWG/Legal meetings (TBD)