

MEETING SUMMARY
COOPER LAKE PROJECT RELICENSING
SETTLEMENT WORKING GROUP MEETING
MAY 20, 2005 (CHUGACH TRAINING ROOM)

Attendance:

Margaret Beilharz (phone)	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 (phone)	NOAA General Counsel
Steve Padula	LVA
Larry Peltz	NOAA Fisheries
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)
Jim Topolski	Chugach
Burke Wick	Chugach

Planned Agenda:

- Update on FLA filing related activities
- Discuss possible approaches for continuing to engage AIP non-signatories
- Confirm schedule and plans for upcoming SWG meetings
- Review proposed Settlement Agreement materials
- Discuss need for TWG meetings
- Review Assignments

Handouts Provided:

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

- *Proposed Joint Statement by Signatories to the Relicensing Agreement in Principle.*
Revised draft dated May 16, 2005; prepared by Chugach.

The following document was distributed at the meeting for discussion:

- *Draft Relicensing Settlement Agreement* [table of contents and sections 4 and 5 only].
Draft dated May 20, 2005; prepared by Chugach.

Meeting Summary:

I. Update on FLA Filing Related Activities

A recap of the public meeting that had been held in Cooper Landing on May 18 to discuss the Agreement in Principle (AIP) was given for the benefit of those SWG members who were not able to attend the meeting.

FERC's published target schedule for processing the Final License Application (FLA), as follows, was also discussed:

- 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 8, 2005 – Site visit [tentative]
- September 9, 2005 – Scoping meeting (Anchorage) [tentative]
- 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

Regarding the site visit and scoping meeting tentatively planned for September 8 and 9, the SWG agreed that it would be a good idea to recommend to FERC that an additional scoping meeting be held in Cooper Landing (preferably during the evening on September 8, following the site visit).

The SWG also reviewed and provided comments on the May 16 draft of the proposed joint statement on the AIP. It was agreed that once the agreed to revisions were made, the document would be final and should then be posted on the Chugach's relicensing website and mailed to the full list of relicensing participants.

II. Possible Approaches for Continuing to Engage AIP Non-Signatories

The SWG discussed the potential benefits and logistical challenges of continuing to engage parties that did not sign the AIP (but that had signed the Negotiations Protocol) in the settlement negotiations. The SWG agreed that those parties that did not sign the AIP would no longer be invited to actively participate in the settlement negotiations, but that they would be provided with information from the Stetson Creek study results in mid-summer and would also be provided the opportunity to sign the Settlement Agreement (SA) developed by the AIP signatories later in the summer.

III. Negotiations Schedule

The SWG revisited and confirmed the schedule and objectives for upcoming SWG meetings; a third day was added to the July meeting (see the calendar overview at the end of this meeting summary). It was also agreed that meetings of Right-of-Way (ROW)/Access Technical Working Group (TWG), the Snug Harbor Road TWG, and the Legal Working Group would need to be scheduled. The SWG confirmed that agreement on the final SA would need to be reached by the end of the August 10–11 meeting, to allow final documents to be circulated, signed and filed by August 31.

IV. Review Draft Settlement Agreement Components

Todd Glass (Heller Ehrman LLP) reviewed the proposed table of contents of the SA. The SWG had no suggested changes or additions to the table of contents. Todd Glass proposed that the Legal Working Group focus on the legal framework sections (sections 1–3 and 6) of the SA over the next month, with the target of having these sections essentially completed by the June SWG meeting. Then, the focus would shift to the substantive provisions (sections 4 and 5) of the SA.

The SWG then reviewed the draft text of sections 4 and 5 of the SA. Section 4 describes the license provisions and section 5 describes the non-license provisions of the SA. The SWG discussed certain specific questions pertaining to these sections. The major question with regard to section 4 was sequencing the timing of construction, reservoir filling, and initiation of flow diversion/releases. The major question with regard to section 5 was how the proposed interagency committee would function. It was noted that the by-laws of this committee would be included as an appendix to the SA. Other specific topics discussed were the transmission line ROW/access provisions and Snug Harbor Road provisions of the SA (see next section).

The SWG also discussed the Joint Explanatory Statement (JES) that will need to accompany the SA. It was agreed that the existing joint statement regarding the AIP would be a good starting document for the JES. Margaret Beilharz (USFS) noted that the JES may also need to include more detailed information (e.g., on the science) to document the USFS's (and presumably other agencies') rationale for signing the SA.

Todd Glass indicated he would incorporate all input provided at this meeting into the draft SA, and send the entire draft (including legal framework sections) out to the full SWG and Legal Working Group the following Tuesday (May 24). The SWG agreed to provide comments back on sections 4 and 5 within two weeks. In addition, it was agreed that at least two weeks prior to the June 22–23 meeting, Chugach would send out draft license articles for the SWG's review and discussion at the June meeting. Agency representatives agreed to meet and draft by-laws for the interagency committee in time for review and discussion at the June meeting.

V. TWG Meetings

Mike Massin (Pinon Services) discussed the current proposed approach for the Transmission Line ROW and Access Management and Maintenance Plan; the proposed approach was now that, instead of including data forms for each individual ROW segment and access route in the plan, the plan would include detailed matrices showing which items of concern identified in the plan (e.g., wetlands, stream crossings) applied for each route/segment. Standard operating

procedures would also be presented in the plan indicating how Chugach would propose to address the noted items of concern under most operating conditions; unique or emergency situations would still be addressed on a case by case basis with appropriate agency staff. He noted that Chugach’s intent for this plan remains that it provide the basis for maximizing the permitting efficiency for all routine work. The SWG expressed general support for the proposed approach.

Mike Massin proposed that the ROW/Access TWG review the preliminary matrices and provide input, to ensure that the final matrices include all information that agencies need for their permitting processes. It was agreed that the preliminary matrices would be developed and provided by the end of the following week (May 27), and that the TWG would subsequently meet to discuss review comments. A date of either June 2 (afternoon) or June 6 (afternoon) was tentatively selected for this TWG meeting (to be confirmed).

The Snug Harbor Road provisions in the draft SA were also discussed. Andy Schmidt (USFS) noted that the USFS was still working on the next draft of the Snug Harbor Road maintenance agreement. Andy Schmidt indicated that he would send the new draft agreement to Chugach on Friday, May 27, along with a suggested date and time for a follow-up meeting of the Snug Harbor Road TWG.

VI. Review Assignments

The SWG confirmed the assignments that had been made during the meeting. The assignments are listed below under Action Items.

VII. Closing

The meeting adjourned at approximately 2:20 P.M.

Action Items:

Due Date / Timeframe	Responsibility	Task
May 24	LVA/Chugach	Make final changes to Joint Statement on AIP, post the statement on the relicensing website, and issue the statement by mail to all relicensing participants
May 24	Todd Glass / Chugach	Incorporate changes to the draft SA sections 4 and 5 discussed at today’s meeting and send out the full SA to SWG and Legal Working Group
May 27	LVA/Chugach	Send out proposed agenda and draft materials for ROW/Access TWG meeting, and confirm date for TWG meeting
May 27	LVA/Chugach	Contact John Morsell (Northern Ecological Services) to confirm field work schedule for Stetson Creek fish survey and see if verbal results can be provided at June SWG meeting
May 27	Andy Schmidt	Send proposed Snug Harbor Road agreement to Chugach and set

Due Date / Timeframe	Responsibility	Task
		a date for a follow-up meeting of the Snug Harbor Road TWG
May 27	Steve Padula / Todd Glass	Contact Richard Roos-Collins to confirm representation status
June 8	All non-Chugach SWG parties	Provide redlined comments on draft SA sections 4 and 5
June 8	Todd Glass / Chugach	Provide draft of license articles to SWG
June 15	LVA/Chugach	Produce a consolidated redline of SA sections 4 and 5 and send this out to the SWG for discussion at the June meeting
June 22	Agency representatives	Meet to discuss interagency committee by-laws, and provide draft by-laws for discussion at June SWG meeting

Next SWG/TWG Meeting:

Date: June 22–23, 2005
Location: Chugach Training Room
Proposed agenda (preliminary):

- Review final-draft legal framework of SA (sections 1–3 and 6)
- Review/discuss SA sections 4 and 5
- Review/discuss draft license articles
- Review/discuss proposed by-laws for interagency committee
- Update on status of ROW/Access and Snug Harbor Road TWG efforts
- Update on status of Stetson Creek studies

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.]

- June 2 or 6 (tentative) ROW/Access TWG meeting
- June 22–23 SWG meeting
- July 26–28 SWG meeting
- August 10–11 SWG/TWG/Legal meetings (TBD)