ACC Participants Present (22)

Eli Asher, LCFRB
Clifford Casseseka, Yakama Nation
Michelle Day, NMFS
Jeremiah Doyle, PacifiCorp Energy
Pat Frazier, WDFW
David Hu, US Forest Service
Bernadette Graham Hudson, LCFRB
Adam Haspiel, USDA Forest Service
LouEllyn Jones, US Fish and Wildlife Service
Eric Kinne, WDFW
George Lee, Yakama Nation
Erik Lesko, PacifiCorp Energy
Jim Malinowski, Fish First
Kimberly McCune, PacifiCorp Energy
Todd Olson, PacifiCorp Energy
Frank Shrier, PacifiCorp Energy
Shannon Wills, Cowlitz Indian Tribe
Kate Miller, Trout Unlimited
Neil Turner, WDFW

Brad Caldwell, Washington Department of Ecology (WDOE)
Chris Maynard, Washington Department of Ecology (WDOE)
Eric Schlorff, Washington Department of Ecology (WDOE)

Calendar:

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>April 8, 2009</td>
<td>TCC Meeting</td>
<td>Merwin Hydro</td>
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<tr>
<td>April 9, 2009</td>
<td>ACC Meeting</td>
<td>Merwin Hydro</td>
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Assignments from March 12, 2009 Meeting:

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Status</th>
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<tbody>
<tr>
<td>McCune: Email Aquatic Fund Evaluation Matrix, 2008/2009 to ACC</td>
<td>Complete – 4/2/09</td>
</tr>
</tbody>
</table>

Assignments from February 12, 2009 Meeting:

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Status</th>
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</thead>
<tbody>
<tr>
<td>McCune: Add Bernadette Graham-Hudson to the H&amp;S Plan Subgroup email distribution list.</td>
<td>Complete – 2/13/09</td>
</tr>
<tr>
<td>McCune: Check availability of Woodland City Hall council chambers and the conference room at the Merwin Hydro Control Center and advise the H&amp;S Plan Subgroup attendees.</td>
<td>Complete – 2/13/09</td>
</tr>
</tbody>
</table>
Doyle/McCune: Provide a copy of the Baseline Monitoring Subgroup 2/4/09 meeting notes and distribute to the ACC. Complete – 2/20/09
McCune: Proceed with securing contract extensions with US Forest Service relating to the 2007 aquatic fund projects. Complete – 2/20/09
McCune: Contact the appropriate individuals and request a closeout project report for 2008 aquatic fund projects. Complete – 2/19/09

Opening, Review of Agenda and Meeting Notes

Frank Shrier (PacifiCorp Energy) called the meeting to order at 9:05am. Shrier requested a roundtable introduction for the benefit of new attendees. He also reviewed the agenda for the day and requested any changes/additions. No changes were requested.

Shrier requested comments and/or changes to the ACC Draft 2/12/09 meeting notes. No changes were requested. The meeting notes were approved at 9:15am.

Federal Energy Regulatory Commission (FERC) Update

Todd Olson (PacifiCorp Energy) informed the ACC that the Shoreline Management Plan was submitted to the FERC last fall. The FERC is still deliberating and PacifiCorp has not heard back from the FERC regarding the status.

In addition, the Amendment No. 1 to the Lewis River Settlement Agreement (SA) has been sent to all SA Parties for a 90-day review and comment period. Thus far PacifiCorp has received verbal approval from all parties that the amendment is acceptable and they plan to sign the document within the 90-day period. A follow-up meeting scheduled in May 2009 may not be needed.

Hatchery & Supplementation Plan Subgroup Update

Erik Lesko (PacifiCorp Energy) informed the ACC attendees that the wild winter Steelhead (WWSTH) Annual Operations Plan is nearly complete and collection has begun. So far three non-clipped males have been collected and waiting for genetic analysis. No females have been collected as of yet. Eric Kinne (WDFW) informed the ACC attendees that they are working on the Winter Steelhead HGMP update and resubmitting to the NMFS for approval.

H&S Plan needs to be submitted to the FERC on or before December 26, 2009. PacifiCorp will be requesting an approval from the FERC to submit at the end of this year due to conflicting dates in the FERC licenses where one license calls for the plan in June 2009.

The H&S Plan Subgroup still need to work through the spring Chinook and coho HGMPs.

Study Updates

Lesko and Shrier provided the following study updates:
Swift Constructed Channel Concept Design and Swift Upper Release Design – Bid meeting will take place soon which will include a visit to the site. PacifiCorp pushed the construction out to May 2009. The large woody debris required for the constructed channel is currently being collected at Merwin. Current design calls for approximately 140 pieces of large woody debris including root wads. The construction permits are in place.

Hatchery Upgrades
Lewis River Pond 15 – Demolition taking place now and construction completion is expected by September 2009.

Acclimation Pond Plan – A re-approval and redesigned request for proposal is needed, which will be submitted today or tomorrow.


Monitoring and Evaluation Plan (ACC Review Draft) –The Draft Plan is due to the ACC within one year of license issuance (6/26/2009) at which time PacifiCorp will provide a draft and a 90-day review and comment period.

Baseline Monitoring Plan – If time allows the Baseline Monitoring Plan Subgroup will meet after the ACC meeting today. The subgroup is working toward finalizing a plan by June 2009.

Yale Entrainment Net – A contract was awarded; PacifiCorp requested an early construction window but now may need to request a late construction window for permitting related to fish enhancement projects. Permits may take as long as six months which creates significant delay in construction.

ACC/TCC 2008 Annual Report – Approximately 90% complete. The Utilities plan to send out to the ACC and TCC for review by late March 2009.

Merwin Upstream 60% Design Report – Is available for the 30-day review and comment period. Comments are due on or before April 2, 2009. See McCune if you would like electronic or hard copies.

Other Topics
Rainbow trout require special handling at the Swift Downstream Facility and the Engineering Subgroup requested that the ACC provide an opinion on the handling which involves a Braille system for removing large fish. The separator may allow smaller rainbows to go out with the smolts. WDFW does not want Goldendale rainbows in the lower river Shrier stated the Goldendale are fall spawners and would not interfere with native stocks. (Frazier) WDFW – if the Goldendales were to become established they could create competition-there are a lot of unknowns Shrier – The separator is adjustable and will be set for smolt size fish; approximately 180 – 300mm. If WDFW were to plant only large rainbows, this could keep them out of the
lower river. Shrier stated that this would not be reliable if there were smaller rainbow present that were offspring of the Goldendales. WDFW is considering this issue and may sort rainbow planted fish according to size prior to release into Swift reservoir and focus on growing the fish to a larger size.

Eli Asher, Brad Caldwell, Chris Maynard and Eric Schlorff joined

Washington Department of Ecology (WDOE) – Eric Schlorff

Eric Schlorff (WDOE) provided a PowerPoint presentation titled, “Water Quality Issues, 401 Certifications vs. Settlement Agreement for ACC review and comment. A copy of the presentation has been included as Attachment A for additional detail, which may have not been addressed below. Schlorff provided an overview of water quality issues comparing the 401 certifications vs. the Lewis River Settlement Agreement. He discussed water quality issues such as temperature criteria, total dissolved gas (TDG) and spill control of oil. The PowerPoint contains maps of the Lewis River systems and areas of potential elevated temperatures. Schlorff discussed temperature monitoring and attainment to include that the 401 requires identification of reasonable & feasible methods for reasons such as:

- To ensure water temperature is low enough not to cause harm
- May need to model system and manage as system with cold releases
- May need temperature offsets
- Identify adaptive management to improve temperature fluctuations

Schlorff discussed in detail the spill TDG limits and that the standard does not apply if flows are > 7Q10 exceedance flow.

7Q10 = for 7 days of the highest flows out of every year for 10 years
TDG = when water plunges, the air that is entrained creates a gas, basically the fish will get the bends; nitrogen narcosis; embolism in the heart and could kill the fish

Furthermore, TDG exceedance (if any) requires a gas attainment plan. The Settlement agreement addresses this requirement as follows:

- PacifiCorp shall obtain a 3-day river flow forecast...determine forecasted flow with 85% probability...If flood will use the 17 foot hole reserved for flood control then PacifiCorp must make a prerelease.”

And the 401 certification indicates

- In 401 certification: During high flows > 7Q10, manage spill levels & gates to minimize TDG.

The attainment plan shall include:

- Description of standard operations to minimize TDG
- Description of how to minimize spills that produce TDG
- Evaluation of structural and operational ways to minimize TDG
- Timeline for operational adjustments
- Schedule for construction
Monitoring plans to further evaluate TDG and test effectiveness of gas abatement controls

Schlorff also discussed the 401 requirements specific to oil spill prevention and control to include oil water separators, oil, fuel, chemical—no discharge to state waters, containment and removal of oils from water and immediately report and clean-up any oil spills to water, sumps, or ground.

Transformer decks must be impervious, containment area must contain all spill fluids—resurface, fill and caulk, must use industry standards to protect water quality and snowy or icy conditions require daily inspections of transformer deck—inspect drains for freeze-up, remove pooling water. Also discussed was oil spill prevention from installation of oil sensors at the surface and set to a level that catches the top and bottom of each pumping cycle, weekly inspection, immediate repair of leaks in the turbine pit that cannot be contained (or greater than 1 gal/hr) and oil, fuel and chemical storage containment areas.

Washington Department of Ecology (WDOE) – Chris Maynard

Chris Maynard (WDOE) provided a PowerPoint presentation titled, “Lewis River Settlement Agreement and 401 License Conditions” for ACC review and comment. A copy of the presentation has been included as Attachment B for additional detail which may not have been addressed in the text below. Maynard presented a walk-through of the 401 water quality certification (401) and a detailed walk-through and discussion of the settlement agreement as it relates to the 401.

Maynard informed the ACC attendees that ecology was not part of Settlement Agreement (SA) and that WDOE developed the 401 conditions after SA, however it is the interest of WDOE to work cooperative with the ACC efficiently by way of good communication to ensure compliance with the 401 conditions as they are interwoven with the settlement agreement.

Maynard communicated that the 401 is in each License as Appendix B, although the conditions differ a bit in each but contain:
  o General conditions
  o Flow and habitat
  o Water quality
  o Construction and oil
  o Monitoring and evaluation

The 401 addresses flow conditions to include below Merwin, the upper release below Swift 1 and the constructed Channel below Swift No 1. In addition, the 401 also addresses habitat improvements such as to the upper constructed channel, channel configuration and gravel.

Maynard further addressed the purpose of the Settlement Agreement is for the SA Parties to agree that the SA covers all 401 requirements and will not object through legal or
administrative proceedings in this regard. Ecology included additional conditions in the 401 as well as adaptive management requirements that are not in the SA. The 401 certification recognizes a potential for a disjunct between SA/PME conditions and 401 conditions.

He further discussed the goals, evaluation, program phases and adaptive management of the Lewis River fish reintroduction, fish passage measures, flow release of the constructed channel i.e., permitting and construction, interim flows and flow interruptions.

General discussion took place regarding water right timeline and any unforeseen delays with WDOE issuing permits in a timely manner. PacifiCorp was instructed by WDOE to allow a minimum of two years.

Maynard also discussed WDOE’s areas of interest specific to the aquatic habitat enhancement projects such as the spawning gravel below Merwin, the aquatic habitat fund, the hatchery supplementation program and aquatic monitoring.

Lastly, Maynard reviewed the coordination and decision making of the Settlement Agreement specific to how could WDOE best coordinate with the ACC’s implementation efforts.

PacifiCorp will notify WDOE of upcoming ACC meetings via email distribution and WDOE will participate from time to time when appropriate.

Bernadette Graham-Hudson, Brad Caldwell, Chris Maynard and Eric Schlorff departed

<Break 12:10pm>
<Reconvene 12:40pm>

Kate Miller joined

Aquatic Funding Proposal Selection

Olson provided the following aquatic fund schedule clarification to the ACC attendees:

- Full Proposals due: January 2009
- Project Information Meeting: February 2009
- Proposal Evaluation from Utilities: March 2009
- Project Selection: April 2009
Olson requested each ACC representative in attendance to provide comment on the following remaining projects, which will be recorded in the *Lewis River Aquatic Fund ACC Evaluation Matrix 2008/2009*, dated March 17, 2009 (Attachment C).

<table>
<thead>
<tr>
<th>USDA Forest Service</th>
<th>Pine Creek Instream Nutrient Enhancement</th>
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</thead>
<tbody>
<tr>
<td>USDA Forest Service</td>
<td>Clear Creek Instream Habitat Restoration</td>
</tr>
<tr>
<td>USDA Forest Service</td>
<td>Pepper Creek Instream Habitat Restoration</td>
</tr>
<tr>
<td>Lower Columbia Fish Enhancement Group</td>
<td>North Fork Lewis River RM 13.5 Habitat Enhancement</td>
</tr>
<tr>
<td>Cowlitz Indian Tribe</td>
<td>Plas Newydd RM 2.0 Off-Channel Habitat Enhancement</td>
</tr>
<tr>
<td>USDA Forest Service</td>
<td>Spencer Peak Road Decommission</td>
</tr>
</tbody>
</table>

**Kate Miller, George Lee and Clifford Casseseka departed**

**Public Comment**
None

**Agenda items for April 9, 2009**

- Review March 12, 2009 Meeting Notes
- Aquatic Funding Proposals Selection – ACC Decision Required
- Blue Ridge Timber Cutting, Stream Restoration Presentation
- Update from H&S Plan Subgroup
- Update from Baseline Monitoring Subgroup
- Study/Work Product Updates
- FERC Update

**Next Scheduled Meetings**

<table>
<thead>
<tr>
<th>April 9, 2009</th>
<th>May 14, 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merwin Hydro Control Center</td>
<td>Merwin Hydro Control Center</td>
</tr>
<tr>
<td>Ariel, WA</td>
<td>Ariel, WA</td>
</tr>
<tr>
<td>9:00am – 3:00pm</td>
<td>9:00am – 3:00pm</td>
</tr>
</tbody>
</table>

**Meeting Adjourned at 3:00 p.m.**

**Handouts**

- Final Agenda
- Draft ACC Meeting Notes 2/12/09
- Attachment B - WDOE PowerPoint: Lewis River Settlement Agreement and 401 License Conditions, presented by Chris Maynard
Water Quality Issues

401 Certifications VS Settlement Agreement
Big issues for Certification (Covered under SA too)

- Temperature
- Total Dissolved Gas
- Spill Control of Oil (No detail in SA)
Temperature Criteria

- 16° C In Main Stem and Most Tributaries
- 13° C Below Merwin (Sept 1 – June 15)
  - (16° C June 16- August 31)
- Temperature Fluctuations (Yale, Merwin)
Lewis River System
Lewis River
Areas of Potential Elevated Temperature
Temperature monitoring and Attainment (401 cert. section 4.4.3)

- Swift Bypass Reach
  - Difficult to meet Criteria now, but added flows may cool

- Merwin Tailrace
  - Difficult to meet Criteria during early fall
401 Requires ID of Reasonable & Feasible Methods

- To ensure Water Temperature is Low Enough Not to Cause Harm

- May need to model system and manage as system with cold releases

- May need temperature offsets

- ID adaptive management to improve temperature fluctuations
Total Dissolved Gas (TDG)

- TDG Excursions Above 110 Percent
  
  - Does not count if flows are > 7Q₁₀ exceedance flow
    
    - > 32,884 CFS at Merwin & Yale
    
    - > 21,322 CFS at Swift No. 1

- And 7Q₁₀ exceedance occurs at Swift No. 1
  (exceedance was formed outside of the system)
If exceedance occurs when flows $< 7Q_{10}$

Or flow originates from within the system

Or operations used to reduce TDG have not been followed
Control Over Qualifying 7Q10 Events (in the 401 & the SA)

- “PacifiCorp shall obtain a 3-day river flow forecast...determine forecasted flow with 85% probability...If flood will use the 17 foot hole reserved for flood control then PacifiCorp must make a prerelease.”

- In 401 certification: During high flows > 7Q10, manage spill levels & gates to minimize TDG
TDG Attainment Plan Includes:

- Description of standard operations to minimize TDG
- Description of how to minimize spills that produce TDG
- Evaluation of structural and operational ways to minimize TDG
- Timeline for operational adjustments
- Schedule for construction
- Monitoring plans to further evaluate TDG and test effectiveness of gas abatement controls
Oil Spill Prevention and Control (401)

- Oil, fuel, chemical—no discharge to state waters (Ch. 90.56 RCW and Ch. 90.48 RCW)

- Contain and remove oils from water

- Immediately report and clean-up any oil spills to water, sumps, or ground.
Oil Spill Prevention

- Oil-Water Separators (OWS)
  - Only admit rain and water run-off to the OWS
  - Maintenance plan—test oil stop valves and other maintenance
  - Total volume of all transformers plus 10 percent
  - Verify oil will not be “washed through” the OWS
Oil Spill Prevention

- Transformers
  - Deck must be impervious, containment area must contain all spill fluids—resurface, fill and caulk
  - Use industry standards to protect water quality
  - Snowy or icy conditions require daily inspections of transformer deck—inspect drains for freeze-up, remove pooling water
Oil Spill Prevention

- Sumps
  - Oil sensors at surface and bottom of each pumping cycle
  - Inspect weekly (immediately if oil spill is suspected)
  - Immediately repair leaks in the turbine pit that cannot be contained (or greater than 1 gal/hr)
Oil Spill Prevention

- Oil, fuel and chemical storage containment areas
  - Provide proper containment (110%)
  - Provide external level gages (with translation of gage reading to volume & gallons)
  - Regularly check hoses, oil drums, fuel transfer valves and fittings for drips and leaks.
  - No refueling within 50 feet of rivers, creeks, wetlands or other waters
  - Keep records
  - Contain wash water with oils and grease
My Contact information

Eric Schlorff
Department of Ecology

360/407-6554

esch461@ecy.wa.gov
Lewis R Settlement Agreement and 401 License Conditions

• **Background**

• Walk through the 401 water quality certification (401)

• A detailed walk through and discussion: the settlement agreement as it relates to the 401

Chris Maynard  360 407-6641
Hydropower and Instream Flows
Water Resources Program
Ecology was not part of settlement agreement (SA)

Ecology developed 401 conditions after SA

Involved SA parties in 401 development through meetings and formal public review

Still, need to work together
Background

Flow and water quality is our focus

Ecology is not bound by the SA

Required compliance with 401 conditions is interwoven with the settlement agreement. To avoid conflict we need to:

1. Work cooperatively with the ACC
2. Work efficiently: less meetings, good communication
3. Require compliance with the 401
The 401 is in each license as ‘appendix B’

Conditions differ a bit in each but contain:
• General conditions
• Flow and habitat
• Water quality
• Construction and oil
• Monitoring and evaluation

Let’s walk through the 401…
The 401 – general conditions

The 401 certification conditions are dynamic requiring continuing coordination to adapt to new information:

• The State retains authority to respond/adapt to changes in water quality standards

• adapt to new information

• Clearly retain State Authority in the federal license
The 401 – general conditions

• 4.0  - 401 does not authorize exceedance of water quality standards
• 4.1.1 - Must comply with state water quality laws
• 4.1.2 - Future changes in standards apply to the licensee.
• 4.1.3 - Ecology approval for any discharge into water required
• 4.1.4 - Ecology approval for any significant change in operation
• 4.1.5 – Requires compliance with other state (and federal) laws
• 4.1.6 - WDFW Hydraulic approval required
• 4.1.7 - Ecology can issue Orders to modify schedules
• 4.1.8 - Ecology can issue Orders to modify monitoring and studies
settlement agreement/401 walkthrough

The 401 – general conditions (continued…)

• 4.1.9 - Ecology can amend the 401 conditions to meet state law
• 4.1.10 - Ecology can initiate state legal actions
• 4.1.11 - The Licensees can protect beyond the limits of the 401
• 4.1.15 – Access for inspection required
• 4.1.16 – Respond to Ecology for request for information
• 4.1.17 – If violations occur or work causes pollution, fix it
• 4.1.18 or 19 - Keep Ecology informed and keep working on water quality issues through water quality management plans.
The 401 – flow conditions

4.2 Flows:
- Below Merwin
- Upper release below Swift 1
- Constructed Channel below Swift No 1

Habitat Improvements:
- Upper constructed channel
  - Channel configuration
  - Gravel
- Constructed Channel
  - Gravel

Currently actively involved in design and construction of channel below Swift No 1.
Settlement Agreement
Settlement Agreement

Section 1. Purpose and Effect

§ 1.1 – Purpose. Parties to the SA agreed that the SA covers all 401 requirements and will not object through legal or administrative proceedings in this regard. Ecology included additional conditions in the 401 as well as adaptive management requirements that are not in the SA.

§ 1.1.6 - 401 certification. Recognizes a potential for a disjunct between SA/PME conditions and 401 conditions. Water rights needed, additional measures may be needed.
Settlement Agreement

Section 3. Fish Reintroduction

§ § 3.1 – 3.5 Goals, Evaluation, Program Phases and Adaptive Management. Based on future fish use, success of reintroductions, in the bypass reach below Swift No. 1 and below Merwin, flows may have to be adjusted and habitat improvements adjusted—such as gravel enhancement.
Settlement Agreement

Section 4. Fish Passage Measures

§ 4.1.3 – Permits. Construction permits from Ecology are already covered in the 401 issued in 2006. Short term water quality modifications are no longer required—unlike the license says in Appendix B § 4.5.1. Over the license, construction requirements may change through amendments to 401 if needed. Would talk to ACC about that.

Water rights are required for diverting water for fish passage, rearing ponds, collection facilities, and hatcheries. Can get new water rights or change existing ones. The ability to get one affects timing and potential of fish passage measures.

Ecology wants involvement in upstream and downstream fish passage and collection facilities to ensure they have the permits they need and comply with water quality standards.
Settlement Agreement

Section 5. Additional Aquatic Measures

§ 5.1 – Yale Spillway Modification. Will likely have flow and water quality impacts. Must have Ecology review.
Settlement Agreement

Section 6. Flow Release. The flow section of the 401 has several places it specifies ‘coordination with the ACC, with final approval by Ecology’.

Section 4.2.6 of the 401 has flows for the bypass reach, upper and lower release points from the canal. Ecology has approval authority over changes in flows.

§ 6.1.3.f – Constructed Channel. If the lower channel isn’t constructed, the SA directs the flow to the upper channel. Since the channel is being built, we do not see a need to discuss upper channel suitability for higher flows. We expect both channels to be constructed and flows released by Oct/Nov, 2009.

§ 6.1.3.g – Constructed Channel flows. The 401 (§4.2.6) flows are different, less than the SA. But in the 401, flows can never be interrupted.
Settlement Agreement

Section 6. Flow Releases.

§ 6.1.2 – Construction of upper release point. The licensee determines location and design. Thought the SA language leaves design up to Licensee, and the 401 includes Ecology approval, we see and hope to enhance communication between SA, Licensee and Ecology on this matter. Ecology and PacifiCorp have finalized the design and location.

Possible to alter stream flows of both channels through coordination and staying within the water budget.
Settlement Agreement

Section 6. Flow Releases

§ 6.1.3 d– Permitting and construction. Licensee to obtain necessary permits. Construction 401 permits have already been obtained through language in the 401 and therefore the license. May consult with other permitting agencies though—like the Corps. May consider amending 401 in the distant future if there are significant changes in construction requirements.

§ 6.1.3 Ecology wants fish habitat (§ 4.2.4) as the primary goal of the constructed channel – hence the need to be involved with this decision-making review process—even after construction and with future operation.

§ 6.1.4a – Interim Flows. The ACC may change flows in the bypass channels based on certain considerations. The 401 (§ 4.2.6) says that any changes to these flows must have Ecology’s approval.
Settlement Agreement

Section 6. Flow Releases

§ 6.1.5a – Licensee may, at times stop releases from this channel. Ecology requires continuous flows through this channel (§ 4.2.5 and (§ 4.2.6) Let’s talk about this.

§ 6.1.6 – Flow Interruptions. Allowed under certain circumstances. The 401 (§ 4.2.6) does not allow disruption of flows. We don’t ever want to see this occur. It is a replacement stream allowing the dam to be there—mitigation. The 401 recognized that there might be something out of the dam owner’s control; but everything possible would have to be done to keep flows going. In this vein, input into design of ‘temporary replacement facilities’ per SA §6.1.6c. Is important to us.
Settlement Agreement

Section 6. Flow Releases

§ 6.2 Merwin Flow Releases. Requires min flows, ramping rates and plateau flows. The 401 for Merwin requires settlement agreement flows (§ 4.2.1) Any changes to these flows need Ecology input and approval through amending the 401.

§ 6.1.3.g Swift No 1 Canal Releases Upper release. Interim release differ slightly from the 401 (§ 4.2.6). The 401 releases supersede the SA when they are higher. October, March, April, May = 1 cfs higher.

See canal release flow comparisons in next two slides...
Settlement Agreement

Section 6. Flow Releases – Settlement Agreement
Upper channel release until Oct-Nov 2009 (as constructed channel is complete)
60 cfs July-October
100 cfs November-January
75 cfs February–June

Before both channels are operational, allocate monthly, annual, and continuous flow for the constructed channel.
During the next 12 months, adjust based on constructed channel. Revise flow if needed every 5 years.
annual between the two release points: <55,200af
<17,078 af July-October (averages to 70/month)
<80 cfs max between July -October
<100 cfs November– June
<47cfs canal drain
Settlement Agreement

Section 6. Flow Releases 401

Canal Drain: 14 cfs

Combined: 55200 af annual.

Upper Release Point:
Cannot interrupt flow releases through upper release point

- November 1-15: 76 cfs
- November 16-30: 56 cfs
- December – January: 51 cfs
- February: 75 cfs
- March – May: 76 cfs
- June - September 23: 54 cfs
- September 24 – 30: 55 cfs
- October: 61 cfs
Settlement Agreement

Section 7. Aquatic Habitat Enhancements. Water rights may be needed

§7.2 Spawning Gravel below Merwin. We felt the gravel below Merwin was already supporting good salmon spawning. So we did not put in any more conditions for gravel habitat below Merwin.

The 401 has conditions for placement, evaluation and adaptive enhancement of Gravel in the upper constructed channel and swift bypass. We welcome ACC involvement with this.
Settlement Agreement

Section 7. Aquatic Habitat Enhancements. Water rights may be needed

§7.5 Aquatic Habitat Fund. Can provide information about enhancement opportunities. Involved with other projects in the N & E Fork watersheds. Could work with group or WDFD...what do you think?
Settlement Agreement

Section 8. Hatchery Supplementation Program

Areas of Ecology interest:
- Water Rights
- NPDES
- 401
  - §4.1.3 appropriate requirements of state law
  - 4.1.3 Pollution Prohibited
  - 4.1.4 Ecology Approvals Required
  - 4.1.5 Does not provide exemption from other state laws
- SA activities should avoid conflicting with water quality standards goals, core species, and criteria:
  For instance, the standards are set to protect the most cold-water sensitive fish. Over the years, introduction of anadromous fish may require different levels of protection.
Settlement Agreement

Section 9. Aquatic Monitoring. Ecology is interested in fish introduction successes as this may affect how water quality standards change and related activities are carried out such as introduction of anadromy.

Coordination between the 401 monitoring measures and some of the SA monitoring requirements would be useful.
Settlement Agreement

Section 14. Coordination and Decision Making. Ecology is excluded from specific coordination and decision making procedures outlined in this section. At the same time, Ecology is not limited by this decision-making language. How could the SA best coordinate with Ecology?

Section 15. Implementation of the Agreement. Again, Ecology is not bound by the agreement. A water-quality, habitat, or flow issue may rise to a level of concern that conflicts with the Agreement but warrants action to protect beneficial aquatic uses. If so, Ecology will work through with the ACC to resolve the conflict but can take independent action if needed.
<table>
<thead>
<tr>
<th>ACC Decision</th>
<th>Applicant</th>
<th>Project Title</th>
<th>NMFS</th>
<th>WDFW</th>
<th>Fish First</th>
<th>LCFRB</th>
<th>Yakama Nation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>USDA Forest Service</td>
<td>Lewis River AQ Fund ACC Evaluation for Funding 2008-09</td>
<td></td>
<td>Carcasses may contain invasive species in certain cases. We do have some concerns about lack of funds to complete project and the need for additional funding. Needs to consider additional steps to ensure success. Support funding this project.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>USDA Forest Service</td>
<td>South Fork Lewis River Instream Structures</td>
<td></td>
<td>Carcasses may contain invasive species in certain cases. Support funding this project.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>3</td>
<td>USDA Forest Service</td>
<td>Clear Creek Instream Habitat Restoration Project</td>
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**Strongly prefers carcasses:**
- If beneficial showing results in prior years of nutrient enhancement, supports funding this project.

**What are plans for monitoring?**
- Does not have a preference of carcasses vs. analogs.

**Support full funding.**
- Supports full funding.

**Undecided at this time.**
- Undecided at this time.

**Support funding whether analog or carcasses.**
- Supports funding whether analog or carcasses.

**Prefer use of carcasses; tethering would not happen naturally and increase costs.**
- Prefer use of carcasses; tethering would not happen naturally and increase costs.

**Fits in with the big picture;**
- Good project, side channel habitat limited. Supports funding this project.
- Did this make it into the stimulus package award list? If it did not, supports funding this project.

**Supports funding this project.**
- Supports funding this project.
- Supports funding this project.
- Supports funding this project.
- Supports funding this project.

**Tentatively favoring funding this project.**
- Tentatively favoring funding this project.
- Tentatively favoring funding this project.
- Tentatively favoring funding this project.

**Do not support funding this project but will not stand in the way.**
- Do not support funding this project but will not stand in the way.

**USFS / Cowitz Indian Tribe / USFWS / Trust Unlimited / Utilities / Next Step**
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