

FERC Permit Fee Stakeholder Advisory Group – Meeting Notes

Date: June 17, 2015

Place: Sea-Tac Airport Conference Center, SeaTac, Washington

Summary of actions

Item	Action
Information on Ecology's "6 buckets" of time accounting for permit work	The agencies will prepare an FAQ and provide this to the work group
How to submit report to legislature	Report will be combined with the regular biennial report
Website with background information and meeting materials	Will be live within one week on Ecology's website
Workplan	Approved with some revisions
Additional proposals for fee restructuring	Contact Neil ASAP if additional proposals will be provided

Welcome/Introductions/Agenda Review

The meeting was called to order at 9:00 a.m. by facilitator Neil Aaland. Introductions were made around the room. Neil reviewed the agenda for the day.

Summary of April 14th meeting

Don Seeberger provided a summary of the first stakeholder meeting, held in Olympia on April 14th. The meeting lasted for two hours. Representatives Fey and Short had attended and provided some overview. Participants at the meeting provided some initial perspectives on HB 1130 and the fees. Don was asked how Ecology tracks their time for project work. He said there are six "buckets" of time for project work; he will send those out to the committee. WDFW does not track at that fine a level.

Chad Brown reviewed the spreadsheet of projected workload for the next ten years. The agencies want to provide some context for future work. A question was asked about the source of funding for agency review pre-2007. Some came from EPA and some came from the state general fund.

Work Plan

The latest version of the proposed work plan was prepared by Justin Allegro. He summarized the changes. Language was used from the budget proviso, which directs the agencies to conduct a stakeholder process around permit fees. The work plan lays out a schedule for products and for work group meetings, with a target of providing a report to the Legislature by December 1, 2015. Chad Brown said Ecology is setting up a web page to post information relevant to this effort; it should be live in one week. In response to a question, he said the state has not prepared a use attainability analysis (UAA) on relicensing.

The work group discussed how recommendations should be submitted. The agencies suggested it could be an addendum to the legislative report that is prepared every two years. The other option is a stand-alone document. In general, workgroup members were okay with a combined report.

Additional Stakeholder Perspectives on the Intent of the 2007 Legislation

Some participants shared their perspectives during the April 2015 meeting. This is intended to provide an opportunity for others to add to that. Additional perspectives included:

- There was a large body of work coming up, especially for the mid-Cs; agencies were need to staff up. Douglas PUD was okay with the sunset date.
- This provided fees for the use of Washington waters; wanted resources to protect beneficial uses and respond to workload (Hydropower Reform Coalition)
- Fee was needed to ensure that staffing would be there; hadn't been increased for 80 years (Seattle)

- There were a lot of projects, not just the mid-Cs, going into relicensing; there wasn't a lot of dialogue about relicensing
- The use of water is a base fee; additional fee was for relicensing. Some funding was for implementation. The thinking was by 2017 most relicensing would be done (Grant)
- If the first ten years was for use of water, what is it for now? Are we re-setting the table? (Pend Oreille)
- Agree with these points; the idea was it had to be revisited; what's the need now? (Chelan)
- Brief discussion about resident fish species and migratory species; migratory have a 2-3 year cycle and are more difficult to manage
- Does Ecology plan to keep tracking under their six categories?
 - Don said the 6 categories are ways for staff to identify work associated with the FERC certification; we need to discuss whether we break down into finer categories
 - Justin thinks coding by project sounds like a fee for service
- Neil suggested that Ecology and WDFW put together a FAQ on coding time and what goes into it; the workgroup was interested in that.

BREAK: 10:50 – 11:00

What Information is needed to Consider Re-Structuring Proposals (Sideboards)?

Don Seeberger started by discussing the rule amendment process that the state uses under the Administrative Procedures Act (APA). It starts with listening sessions, and the agencies have a process to then develop changes. There are usually multiple iterations. When it appears they have a preferred version, a CR-102 is filed with the Office of the Code Reviser. The rule goes through economic analysis as part of that process. Public hearings are held and a public comment period provided. If there are no "significant changes" to the rule as filed, the agencies formally adopt a new rule by filing a CR-103 document with the Office of the Code Reviser. A typical rule process takes 18-24 months; a fast process is 6 months.

Don then asked a question of the workgroup: are the utilities willing to maintain the current funding level? If not, what comes off the table? Discussion points included:

- Are we still thinking in 10 year increments
- Sunsets are used to re-evaluate processes
- Good to think in 10-year increments (several comments in favor)
- 10 year is good but might need to re-evaluate sooner
- Sometimes congressional actions get in this mix
 - Don commented that a proposed bill in Congress would pre-empt state authority

Should the agencies stay at the current funding level?

- There are two different questions --- staffing level and funding level
- In 2007 fees were supposed to augment the general fund; then later the general fund was cut
 - Now it's not only staffing level, but responsiveness
- Ratio should stay the same
- If a proposal is put on the table for this workgroup to consider, what's the funding source? General fund?
 - What is the legal basis for shifting the fee authority?
 - We need to understand the implications of using another statute as the legal authority
 - No comments yet suggest taking the authority out of water resources fees
- Other parameters to consider include thinking about prioritizing – what is the state prioritizing (e.g. bull trout)
- Don pointed out that by having a fee, those paying the fee are in first place
- 10-year re-evaluation provides an accountability loop from the agencies; this needs to be a component of each proposal

- Don asked about addressing the “social good” – how is the workload balanced?
 - Neil suggested coming back to that at the next meeting
- The fee is an insurance policy to ensure staff is available; want to avoid roller-coaster effect (several others agreed)

LUNCH BREAK: Noon to 12:30

Fee Restructuring Proposal Ideas

Ross Hendrick, Grant PUD, agreed to bring a proposal in order to stimulate discussion. He explained that this proposal only addresses the FERC fee, not the base fee. There would be a primary fee based on horsepower, and an additional fee based on the life cycle a particular project is in. Ross acknowledged that this proposal requires more out of the secondary surcharges to provide necessary resources to the state. Discussion points include:

- We’ve been paying the fee for ten years; now that my project is going through relicensing we have to pay more – it doesn’t seem fair to pay more now. I do like the accountability for the agencies (Chelan)
- Same concern – and in ten years do we change it again? (Seattle)
- Proposal is to lock in a certain fee structure for ten years, not to adjust as projects go into different phases
- For the option A fee, is this also tiered based on project size? [No for option A]
- Option A is existing projects in relicensing, is option B new? [option B is also for existing]
- The state agencies will work with Ross and conduct fiscal analysis on his draft restructuring options; one goal is to reach the same amount of money generated annually as is currently raised.

Are there any other ideas?

- Direct payment for a geographic area, such as mid-C utilities paying for a dedicated staff
 - Don Seeberger said they are already structure in that way
- Todd Olsen suggested that only two phases be considered for Option B – one that includes relicensing and the first 10 years of implementation; and another for years 10+ of a license
- Todd said there is another alternative, although one he doesn’t like. In Oregon all pay a flat fee; if the agency doesn’t have enough funding then they negotiate with the state for additional work
- Speed Fitzhugh (Avista) and Dawn Pressler (Snohomish) suggested considering a primary fee plus an added surcharge that would be unique to regions/watersheds;
- Fee for service?
 - Concerns raised included potential conflict of interest; requirement in some cities to pay prevailing wages and pay consultants, at a much higher rate
 - The discussion did not show much support for this option; could be noted in the report as an option that was considered but eliminated
- Speed also suggested simply divide 1.2 million by 47 utilities (approximately \$20,000 each)
- Would be good to have a breakdown of Ecology staff on each project
- Want the fee to be related to a level of effort that project owners are receiving
- Need to provide service and also protect the resources
- If there are an other proposals, please be in touch with Neil as soon as possible
- Neil will call some attendees to see if there is additional feedback on Grant PUD’s proposal

Summary/Next Steps

Next meeting dates and locations will be:

- July 10 in Wenatchee
- August 12 at Sea-Tac
- September 14 in Wenatchee

The meeting adjourned at 2:15 pm.

The next meeting is scheduled for July 10, 2015 in Wenatchee, at the Chelan PUD offices.

Attendee:

Neil Aaland, Facilitator	Justin Allegro, WDFW
Chad Brown, Ecology	Don Seeberger, Ecology
Rich Bowers, Hydropower Coalition	Diane Carlen, TPU/Cowlitz/Lewis
Mark Cauchy, PO	Kim Clausen, PSE
Rose Feliciano, SCL	Speed Fitzhugh, Avista
Micah Goo, Centralia	Ross Hendrick, Grant PUD
Julie Henning, WDFW	Andrea Matzke, Wild WA Rivers
Todd Olson, PacifiCorps	Dawn Presler, Snohomish
Lisa Rennie, TPU	Michelle Smith, Chelan
Marcie Steinmetz, Chelan	Meaghan Vibbert, Douglas