

Technical Working Group - Steering Committee

Pebble Project

November 14, 2008

Atwood Building Room 1270

Draft Minutes Recorded by Charlotte MacCay/Pebble Partnership (PLP)

I. PRESENT:

Andrea Meyer (ADNR)
Tom Crafford (ADNR)
Charlotte MacCay (PLP)
Ken Taylor (PLP)
Scott Maclean (ADF&G)
John Pavitt (EPA)
Leroy Phillips (USACE)
Mike Daigneault (ADF&G)
Phil Brna (USFWS)
Doug Limpinsel (NOAA)
Jeanne Hanson (NOAA)
Mike Smith (PLP) by phone

II. PROPOSED AGENDA

- Call to Order
- Approval of Agenda – Additional Agenda Items
- Project Update/Developments
- Steering Committee (SC)
 - Membership – ADF&G, Scott Maclean & Mike Daigneault
 - Next SC Meeting – Quarterly meetings?
 - Action Items from June SC meetings
 - SC member roles
- TWG Members
 - Status of ‘Leads’ for individual TWG’s
 - Addition of Dave Szumigala (DNR-DGGS) to Geochem TWG
 - Addition of Bob Small (ADF&G) to Marine Wildlife
 - Other TWG membership changes/additions?
- Individual TWG minutes approval and posting
- Keystone process vs. TWG process
- 2009 Study Plans
 - NMFS & DNR letters
 - Anticipated timing of Study Plans
 - TWG input & review of Study Plans?
- ‘Monitoring’ Discussion
- Other?
- Public Comment

III. PROJECT UPDATES/DEVELOPMENTS

- (PLP) There have been several changes to the PLP staff including the addition of John Shively as CEO, and Ken Taylor as Vice President, Environmental,
- (PLP) Drilling will be shutting down in December
- (PLP) A proposed project design is under development. There is a lot of interactive discussion and input between the environmental team and the project engineers.

IV. STEERING COMMITTEE

- (Agency) Mike Daigneault is the Regional Supervisor for the ADF&G, Division of Habitat, Anchorage Office and would like to join the Steering Committee as a second representative for ADF&G. Scott Maclean, an ADF&G Habitat Biologist and Large Projects Coordinator for the Anchorage Office, is already on the Steering Committee, but ADF&G has broad representation over issues related to the proposed Pebble Project. There is precedent for an agency to have two Steering Committee members; NMFS has two (one for habitat and one for protected resources). PLP has two representatives (Mike Smith as the main representative and Charlotte MacCay as the scribe).

(PLP) Each agency has one formal member, but they are also welcome to bring additional agency personnel as back-up.

(Agency) There is no voting or decision making, so this is not an issue of power.

(All) There were no dissenting comments regarding ADF&G adding Mike Daigneault to the Steering Committee.

FUTURE TWG MEETINGS

(PLP) There were no TWG meetings during the field season by request of the TWGs. They have been scheduled to occur during the agency meetings as was suggested by the Steering Committee as a time to set up subsequent meetings and to give input into the 2009 Study Plans.

(Agency) The Steering Committee will communicate with the TWG representatives regarding their plans for the TWGs better next time. The TWG members were not well aware of the Steering Committee's recommendation to have TWG meetings during the agency meetings.

(Agency) PLP needs to work better with the leads to set up the meetings.

(PLP) True. This is part of the transition from PLP setting up the first round of meetings prior to the TWGs having appointed leads and now transferring the responsibility of the agenda and meeting notification over to the leads

(Agency) We need to work to make the meetings less contentious.

(Agency) We need a better understanding of what we expect to accomplish with the TWGs, clearer action items and deliverable dates. We also need project definition or definitive information on which to base recommendations.

(Agency) Regularly scheduled quarterly meetings may be helpful.

(Agency) TWG's were effective during the review of the Cooper Lake Dam. A difference between that project and Pebble is that FERC was an arbitrator. The TWG's also met more frequently.

(Agency) Some of our agency personnel question the value of their continued participation. they don't see the usefulness because they feel there is not enough information available to have meaningful input and

because their information requests have not been adequately addressed. These people don't want to attend anymore.

(Agency) Some staff are frustrated because they don't see the recommendations they've made reflected in the meeting notes.

(Agency) Change in staff has also added a challenge to the effectiveness of the TWGs.

(PLP) We would like all the agencies to participate, but it is still useful for us even if only some of the agencies participate. We are providing information as it is available. We do believe there is valuable input that the agencies can provide without having the results of the studies to date. At the beginning of any study there is input and ideas that the agencies would have on which methods they prefer etc... This is the type of speculative input we are asking for at this time.

(Agency) Why should the Agencies continue to participate if very little information is made available for Agency use, review or discussion? On what little information has been submitted thus far regarding freshwater or fish studies, the Agencies have submitted comments or suggestions to PLP. None of those Agency suggestions (letters or meeting minutes) have been incorporated into any of the studies thus far, nor has PLP felt the need to submit any formal response as to why these suggestions haven't been incorporated into the studies.

(Agency) This can be double-edged sword, if we participate, but our recommendations are not followed, it could be perceived that we approved the procedures that were followed, if we don't participate then we are open to criticism for not taking advantage of the opportunity to provide input – this has been the mindset in some other projects.

(Agency) Some Agencies feel there's been little benefit thus far from the TWG process, but want to continue the dialogue in hopes that the process will improve. There is concern that Agency participation implies they are satisfied or have benefitted from the current TWG process, when they feel just the opposite. Conversely, Agencies are concerned that lack of participation might be seen as an unwillingness to cooperate.

(PLP) PLP fully expects that as data is available for review, that agencies may change their position and decide that a different method would have been better. PLP expects that the agencies will then bring those new ideas to the meetings for reconsideration. There is nothing binding about any suggestions made at these meetings. We are just looking for open dialogue to help shape the best program possible.

(Agency) For next week's meetings we need to send out a clearer message that they are about monitoring, and planning for upcoming in-depth meetings.

(Agency) The leads need to set up the agenda, PLP is often the one sending out the agenda.

(Agency) Are there any other projects with TWGs?

(Agency) Our agency goes to the meetings because we are a potential NEPA lead, but we are not getting anything out of it.

MINUTES

(PLP) The minutes are written to contain all comments and views, even if they are not later incorporated by PLP. Being at the meeting does not infer that anyone approved of PLP's resulting choice of action. If viewpoints were not recorded in the minutes by the note-taker (CMcC), they can be added in by the members when they review the minutes. Not every comment gets captured.

(Agency) Several agency representatives argued that specific discussion point in the TWG's were not being adequately captured in the minutes.

(PLP) This is why Agencies are encouraged to review and edit draft minutes and to add any missing discussion points.

(Agency) There have been examples where Agency reps in the TWG's re-submitted comments and discussion points that were not included in the draft meeting minutes. To illustrate this point, relevant discussion points made by several Agency reps in the freshwater fish TWG meeting (1/9/08) were not included in the draft meeting minutes. Agency personnel re-submitted the specific points, as well a summary of the discussion points via e-mail, but those points were not re-included in the final posted meeting minutes.

(Agency) There seems to be a lack of response to concerns and requests. The minutes need to be improved by adding a list of action items with deadlines. We need definitive answers to data requests.

(PLP) There has been some misunderstanding. PLP has been writing down all the information requests. I stated at the time that we may not be able to provide all the data, but if you let us know what data you want and in what form you would like it, then we can try to start providing data as is becomes ready. There is an understanding by some that all of this data would be ready for the next meeting, this was not my intent.

(Agency) Steering Committee members need to communicate better and work through the leads of the TWGs. There needs to be more back and forth to establish agenda items and deliverables. Is the lack of resources the problem? Is it too much for PLP to take the notes and participate at the same time? There is concern about the minutes. There is too much delay in getting the minutes, and concern whether all comments are included. Maybe there should be a stenographer to take the notes, it make be more objective. Maybe DNR has someone they can provide to be the note-taker. There needs to be a definitive timeline that is reasonable for the minutes to go out. Two weeks would be a reasonable goal for the notes to go out in draft form, and one month for the notes to be posted on the web. Notes need to go to the lead for distribution. The lead will finalize the minutes and give them to DNR to post. We need to review the note-taking arrangement.

(PLP) A stenographer will not have the knowledge to make sense of the minutes. If we bring in someone from DNR, who knows enough about the project to take the notes, they will not be objective. Anyone who knows anything about this project has an opinion about the project. Now that there are leads, I no longer need to lead the meetings and participate as much. During most meetings, it is the consultants that are the main participants for PLP, therefore I will able to focus more on recording the minutes. Also, if we don't plan multiple TWG meetings within the same week, it will allow me better opportunity to write up the minutes in a timely manner. If there are comments that are left out, there is opportunity for all the TWG members to review the draft and add any comments that were missed. PLP set up the TWGs with DNR with the arrangement that PLP would be taking the minutes. PLP will continue to take the minutes, this is not a task they are willing to negotiate.

(Agency) Our goal will be to try to achieve the best minutes we can. Charlotte will take the notes, circulate them to the consultants for their review and additional input, and send them out to the TWG within two weeks.

The leads will send the minutes out with a two-week deadline for members to edit and comment. If necessary they may be sent out for a second editing. The leads will finalize the minutes and send them to PLP to review and to DNR to post. The goal is to post the minutes within one month of the meeting.

(Agency) When/if there is obvious disagreement/agreement on an issue, this should be indicated in the minutes by noting that there were several members who concurred/disagreed.

NEW TWG MEMBERS

(Agency) It is requested that Dave Szumigala be added to the Geochemistry TWG

(All) No objections were stated.

(Agency) A draft MOU is being developed with USGS but needs further work. PLP is willing to fund Bob Seals's participation for help with the Geochemistry TWG, he is a geochemist.

(Agency) Jim Vohden (DNR) was also added to the Geochemistry TWG which makes more than one DNR person in that TWG, but he is a chemist and a hydrologist with the mining section who can bring a helpful background to the group.

(All) No objections were stated.

KEYSTONE PROJECT

(PLP) The Keystone Project does not really involve the agencies. It is more of a public process that Anglo employs with its projects. It proceeds with little to no involvement of the PLP itself. I am not entirely clear on the process myself.

(Agency) There is a science advisory board which may involve agencies – this is perceived as an overlap with the TWGs. There is concern about the confusion this could create.

(PLP) The Advisory Board is expected to result in input about alternatives that may feed into the proposal PLP puts on the table, but it is still ultimately the agencies that make the decision independently of Keystone.

(Agency) NMFS has written a letter to John Shively about Keystone, but has not yet received a response.

(Agency) It might be helpful if PLP would clarify the Keystone process.

(Agency) National Geographic had an article on ALCOA using the Keystone process last summer. How many mining operations does Anglo have in North America where they have employed this process?

(Agency) We do not want to have to participate in two processes.

(Agency) Keystone has stated only USGS will be part of the process as they are the only agency with no management or regulatory control and because they are not part of the TWGs - this is in their report. The report says the agencies are not objective. It is our role to be objective.

(Agency) There are specific areas where USGS has valuable expertise (e.g., geochemistry) that could contribute to the TWG's. DNR is working on a MOU to fund USGS involvement in TWG's,

(Agency) There were expressions that Keystone weakens, or at least confuses, the TWG process and the NEPA process.

2009 STUDY PLANS

(PLP) PLP has changed their internal schedule for the approval of consultant budgets and scopes from January/February to October. This was done so that the consultants would be able to know their scope sooner in the year, and therefore write up their study plans sooner in the year. It is our hope that we will be able to distribute the study plans to the TWGs in January

(Agency and PLP) A goal was set for February TWG meetings set approximately 1 month after distribution of the 2009 study plans. TWG members will be notified that they will be expected to provide comments on the study plans at the February meeting. If comments are in writing with rationale, it will make it easier for PLP to give them full consideration. One month later, PLP will present in writing which suggestions were incorporated, PLP will also explain in writing why other suggestions were not incorporated. Two weeks following PLP's statement, there will be a follow-up TWG meeting to discuss PLP's revisions and to provide any new comments on the study plans. The study plans are open for additional comment at all times, sometimes suggestions can be incorporated even after a study has begun.

MONITORING AND CHARACTERIZATION

(PLP) The data collected to date has been collected for site characterization. It is meant to be used to write the Affected Environment Section of the NEPA (EIS) document. Because NEPA calls this "baseline information" PLP has also been referring to this data as baseline data. This has led to some confusion. To scientists, baseline means something quantifiable that can be used for comparison with data collected during operations to see if there have been any impacts. That was not the intent of the data we have collected to date. Although PLP hopes that some of this data will be useful for monitoring purposes as well. PLP is finishing up the characterization data and moving into monitoring data, data to be used for comparison purposes with data collected after operations begin, but this term is causing confusion as well. Some people interpret monitoring data to be the data collected during operations.

(Agency) Have the TWG's said there has been enough characterization data collected. Is there any feedback on that?

(PLP) The TWGs do not make decisions. The TWGs have given some feedback, but the feedback has been confusing due to different interpretations of the term baseline. It is hard to differentiate between concerns for monitoring purposes and concerns for characterization.

(Agency) It is a suggestion that when the EBD portions are ready, that each TWG review and comment on those sections before the EBD goes out as a draft. This would allow PLP to conduct additional analyses if necessary and minimize delays for the project.

(Agency) There is some disagreement related to the fundamentals of the instream flow program that need to be resolved for that study to go forward.

(PLP/Agencies) For future discussion we would like to get away from the term 'baseline' and refer to 'site characterization for NEPA affected environment'

(PLP/Agencies) For future discussion the term monitoring needs to be clarified because to many people it means the project has been built. The term 'pre-term' monitoring can be used to denote data being collected for comparative analysis.

(Agencies) The presentations given at the annual agency presentations don't differentiate between what's being used for characterization and what's being used for monitoring. Maybe there should be some comments to clarify this at the Agency Presentations next week.

(Agency) I am not sure I am seeing everything that needs to be done for site characterization yet.

(PLP) The TWGs can still provide input on site characterization, we just want to clarify which is which and start moving into 'pre-term monitoring'.

(Agency) It's hard to comment on pre-term monitoring programs when we don't know what the project is yet. It's a Catch 22, chicken and the egg thing.

(Agency) When would you like to have permit applications ready to submit?

(PLP) Late 2009 or early-mid 2010.

(Agency) That's an ambitious goal. We advise people to start studies five years prior to permit application.

(PLP) Some of the characterization data collected over the past 5 years will be hopefully also be helpful in this process. That will be determined when we define the project.

(Agency) Projects can still continue monitoring once the permit is submitted while it is being processed.

(Agency) Pebble has changed more than most proposed projects, but that doesn't mean that those changes represent a change to the overall scope of the project. The scope may be limited by how much waste can be stored. There is only so much space for waste rock and tailings.

ACTION ITEMS

- Communicate to leads regarding today's discussion on note-taking (minutes) Tom Crafford (done)
- Send edits on the membership matrix to Andrea at DNR. EVERYONE NOV 17
- Revise the membership matrix and distribute ANDREA MEYER NOV 21
- Finalize the MOU with USGS TOM CRAFFORD
- Send E-mail to all TWG members clarifying the Keystone process PLP NOV 27
- Revisit the potential for a facilitator for the Freshwater Fish TWG TOM CRAFFORD DEC 15
- Write to ANGLO regarding the TWG Steering Committee view/concerns related to Keystone. PLP DEC 15
- Provide a brief explanation of Keystone at the Agency Presentations PLP (done)
- Provide a clarification of the terms 'characterization' and 'pre-term monitoring' at the agency presentations. PLP (done)
- Create an agenda for the Fish TWG meetings Scott/Jeff/Charlotte (done)
- Create an agenda for the Trace Element TWG meeting Charlotte (done)
- Create an agenda for the Marine Fish and Invertebrate TWG meeting Jeff/Charlotte (done)
- Create an agenda for the Marine Wildlife TWG meeting Charlotte (done)

NEXT MEETING

- (Agency) We should have quarterly meetings.
- (Agency) Set the next meeting for mid-January about the time the study plans should be going out for review.
- Meeting tentatively set for Friday January 16 from 9 – 12 at the Atwood building Room 1860. No lunch.