

Technical Working Group - Steering Committee

Pebble Project

October 27, 2009

Atwood Building Room 1860

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

As with all Technical Working Group (TWG) Meetings, the minutes reflect discussion of suggestions and concerns raised by individuals. Discussion does not reflect any decision making from the TWG.

I. PRESENT

Andrea Meyer (ADNR),
Tom Crafford (ADNR)
John Pavitt (EPA)
Dave Casey (USACE)
Mike Daigneault (ADF&G)
Jeanne Hanson (NMFS)
Bud Rice (NPS)
Alan Nakanishi (ADEC) - introduced as new to the group replacing David Johnson
Charlotte MacCay (PLP)
Ben Mohr (PLP)

Public: None

II. MEMBERSHIP

- (Agency) Ron Benkert will be replacing Scott McLean as the ADF&G Large Mine Permitting Coordinator for the Chuitna and Pebble projects. Scott has moved on to a position with ADF&G as Hydropower Coordinator.
- (Agency) NMFS is in the process of hiring a hydrologist

III. PROPOSED AGENDA

- Call to Order
- 20090519 Minutes and TWG guidelines
- State of Alaska Update
- Draft 3/16/09 Fish Study Recommendations
- Future TWG Meetings?
 - Geochem TWG 11/04/09
 - Instream Flow?
 - Other?
- Additional Items?
- New Action Items?
- Next Steering Committee?
- Public Comment

IV. OLD BUSINESS

- The revised Guidelines were approved with no changes
- (Agency) On page 2, there is a reference to an agency indicating interest in a Subsistence TWG, has there been any movement on that topic?
- (PLP) No, as there hasn't been much working going on. Is this a continued need?
- (Agency) Yes, members of a variety of agencies would like a subsistence TWG meeting. It should cover not just the deposit, but tidewater as well.
- (Agency) There was a recommendation to rename the "Uber – group". No particular movement on this issue other than agencies suggesting using the term "Senior" or "Upper" management to reflect the make-up of the group.
- Minutes were approved pending notification of Phil Brna (absentee member)

V. PEBBLE PROJECT UPDATE AS PRESENTED BY CHARLOTTE MACCAY (PLP)

- PLP continues to explore and develop a conceptual design for the project. PLP is working towards development of a conceptual design that the board is willing to approve so that we can hopefully move on to a prefeasibility study. If all goes well, we could possibly have:
 - a prefeasibility study completed in late 2010.
 - take a project description out to the communities for 3 – 6 months
 - initiate the permitting process in early 2011.
- Drilling has continued during 2009 supported by an original budget of \$59 million that was later increased to \$70 million. PLP sponsored 15 apprentices from the Bristol Bay region to pursue the goal of "certified drillers" through 144 hours of training from the Mining & Petroleum Training Services and 3,000 – 4,000 hours of on the job training.
- Drilling has ended for the 2009 season
- PLP is also training local employees of Boyz Corner to become environmental technicians through training with SLR Alaska and Hoefler Consulting Group

DISCUSSION

- (Agency) Will PLP be submitting applications in 2011?
- (PLP) If this schedule holds, then we would be submitting enough of an application to trigger NEPA in 2011
- (Agency) The PLP schedule includes a 3 – 6 month period discussing the proposed project with the communities before initiating permitting and the NEPA process. We may want to use this time to conduct pre-scoping prior to filing the NOI for the EIS.
- (PLP) Doing that may diminish the intent of our meetings. The public sometimes has the perception that once the permitting process has begun that the train has already left the track and they will not have much influence through their comments. PLP is choosing to have these meetings prior to scoping or pre-scoping so that it is clear to the public that they have opportunity to comment prior to the permitting process.
- (Agency) In the past PLP has stated that there would be a 6 month period where PLP takes the design out to the public, today you said 3 – 6, which is it?
- (PLP) I am not sure what the range represents.
- (Agency) Is the public roll-out through Keystone?
- (PLP) No, that is not the intent at this time. How much PLP adopts the Keystone process is unknown.
- (Agency) How long does prefeasibility take?
- (PLP) We hope to complete the prefeasibility study in 2010 – when we are more certain of a timeframe we will share that with you.

PLP Drilling

- (Agency) Is the exploration drilling primarily condemnation drilling?
- (PLP) I don't have information on this with me today, I'm not sure.
- (Agency) The drill holes have been scattered around the outside. There have only been three drill rigs this year. Early holes were around the periphery of the deposit, late in the season they were scattered more around the south of the deposit.

Agency Visit in 2010

- (Agency) USACE will be setting up a compliance inspection next summer to inspect the exploratory drilling program. We'd visit samples out of the approximate 640 drill holes and trench sites that have been conducted over the past few years within wetlands under our jurisdiction.
- (Agency) That would be a good opportunity for other agencies to also visit the site.
- (Agency) The USACE would have to conduct their inspection according to their travel regulations
 - (Agency) – would aircraft for site visit be DOI certified?
- (Agency) DOD has its own certification program and to my knowledge, a DOI certification does not substitute for the DOD program, For example, it is required for a chartered fixed wing aircraft, DOD personnel are transported in twin engine planes with 2 pilots. There are different helicopter restraints and payment issues. The USACE inspection would be to serve a specific purpose but it may be able to be coordinated with a multi-agency site visit afterwards.
- (Agency) The best window of opportunity would be around the week of June 21st.

BASELINE STUDIES

The focus in 2009 has been to process data and write EBD chapters, field work has continued at a less intense level.

2009

- Completed a bear population survey
- Conducted port area eider/otter Surveys
- Ongoing monthly hydrology/water quality/seep studies
- Ongoing PSD meteorological and air quality studies for PM
- UT salmon escapement tower counts/aerial surveys
- UT Rainbow trout telemetry
- Mainstream index surveys
- Westbay – deep groundwater monitoring
- Subsistence and traditional knowledge surveys
- Completion of 30 HCT tests – test data and rationale for test completion was provided to ADEC, ADF&G, ADNR through the Large Mine Permitting Team for review and comment prior to terminating the tests.

2010

- ARD drum sampling
- Will conduct a Moose Population Survey (ABR/ADF&G)
- Bear telemetry survey (ABR and ADF&G)
- Breeding seabirds boat survey
- Conduct port area eider/otter surveys
- Ongoing quarterly water quality/hydrology/seep studies
- Rainbow trout telemetry study
- Additional wetlands field work and Functional assessment analysis for the Recon Corridor segments
- Ongoing PSD meteorological and air quality studies for PM

- Proposed marine studies:
 - Nearshore fish/invertebrates
 - Herring spawn
 - Marine tissues baseline
 - Intertidal sediment/infauna
 - Subtidal benthos/sediment
 - Lagoons
 - Eelgrass mapping
- Salmon spawning escapement in the Kuktuli River
- Westbay – deep groundwater monitoring
- Transportation Corridor/port cultural resources surveys
- Subsistence and traditional knowledge surveys

DATA RELEASES

- Meteorology
- Surface and ground water hydrology
- Surface and ground water quality
- Surficial geology
- Trace elements: sediments, soils, vegetation, fish, mammal, mussel tissue
- Aquatic macroinvertebrates and periphyton
- Nearshore marine habitat
- Marine nearshore fish and benthic invertebrates
- Noise
- Upcoming in 2009 are: Lake Iliamna Studies, Visual Resources, and Terrestrial Habitat and Wildlife
- Some geochemistry HCT data was provided to the LMPT and Geochemistry TWG
- 2010 data releases have not been scheduled yet.
- Data releases are available on the web at pebblepartnership.com

DISCUSSION

Rural Training Programs

- At Cordilleran Roundup there was a course being offered at NWCC in Smithers B.C. for training rural native people in environmental sampling, and reclamation. It takes place in a camp-like setting and runs for 6 weeks.

Subsistence Data

- (Agency) It would be helpful if the ADF&G subsistence harvest files were transferable to socio-economic surveys in such a manner that the data would relate well.
- (Agency) ADF&G Subsistence Division has a lot of data that could be added to that process.
- (Agency) Beluga harvest information would also be helpful

APDES

- (Agency) What is the status of APDES assumption? Primacy will be assumed at the end of October 2010 for mining.

Air Monitoring

- (Agency) The Park Service has baseline air quality at several locations that could be reviewed for additional comparative data. There are 20 years at Denali. There are also data from Tuxedni Wilderness (Silver Salmon Creek Lodge) Bettles, and Petersburg; as well as PM 2.5 and PM 10 data in Anchorage, Fairbanks, Juneau and Mat-Su. The IMPROVE air quality monitoring program can speciate dust particles and determine their source.
- (Agency) Is the air monitoring at Pebble just for PM – not speciating?
- (PLP) Correct. We are running two technologies at the Iliamna site to correlate two separate technologies. The technology that is more practical for rural areas is approved by EPA, but ADEC would like to see a correlation before they also approve the methodology.

Marine Studies

- (Agency) The draft list of Recommendations for Fish Studies provide some suggestions for marine studies.
 - (PLP) PLP is trying to balance what is being done at other projects with what is needed for this one. Sometimes they have added work (Fish Towers for example) but PLP is not always sure why the work is necessary. Also, Agencies decide that their input is not pertinent once a study has begun; however their recommendations, if not useful that season, may be incorporated into the same or similar studies in future years.
 - (Agencies – 3) Recommends PLP use the Marine TWG to identify the studies agencies think are necessary.
- (Agency) There are studies in the Cook Inlet Watersheds, are there discussions of other marine studies in the Bristol Bay Watershed?
- (PLP) PLP does not have any planned.
- (Agency) There are some agency studies underway such as:
 - MMS – offshore Alaska Studies program on their website
 - North Pacific Research Board
 - North Pacific Fisheries Management Council
 - The Nature Conservancy
 - The Shore Zone Data website has videography and biological data (i.e. location of eelgrass beds) for the lowtide areas along the shorelines. Good site for spill response. It is an interagency partnership between NPS, NOAA, and ADNR. They are trying to incorporate NOAA models. Cook Inlet may be mostly done by now. It would be nice if it tied in to the state digital mapping initiative.
- (Agency) Can we arrange a presentation on shore zone at the next meeting?
- (Agency) It depends on what level you want an overview or the technical.
- (Agency) On a related issue, it may be of value to talk about data management at each TWG meeting.
- (Agency) The Marine TWG may want to get together to discuss data management and resources.
- (Agency) PLP has collected tidal information for Cook Inlet in the area of potential port sites as a means to define the limits of authority (which is based on landmarks such a mean low low tide, etc.). This information has been conveyed to the ADNR surveying group to determine if the data is in compliance with their surveying standards.

Geochemistry

- (Agency) The Geochemistry TWG is meeting next week. The agencies have been provided the data that the decision to complete HCT tests was based on. This TWG meeting is a good chance for agencies to get a good look at geochemistry and kinetic tests form an expert
- (Agency) Can we WEB-EX in?

- (PLP) Yes. This TWG serves very well as a means to educate the agencies on geochemistry.
- (Agency) I will send out the invite for the meeting and the time and date

Study Plans

- (Agency) Is there a role for TWGs to identify potential studies?
- (PLP) There is always room for comment. To date, studies are based on consultant experiences and comments we receive from the agencies.
- (Agency) Is there value to engaging TWGs prior to PLP setting the study plans? Sometimes study plans are not seen until after-the-fact. When will they be prepared for 2010?
- (PLP) It is not yet known when the 2010 study plans will be ready. We always attempt to have them prepared well ahead of time so the agencies can review them, but budgets have to be set before plans can be made and that can cause delays. However, even if the plans are not reviewed until after the studies are underway – many of the studies go on for multiple years. Your comments may be able to take effect mid-season, or for follow-up studies in future years.
- (Agency) If we look at your past study plans that could give us an idea for comments to give you prior to the 2010 studies. Can we see past study plans to review?
- (PLP) Certainly. All the past study plans are available for the agencies to view on our pebbleproject.com web site, there are also past field sampling plans and QA/QC plans on the same site.

Visual Resources and EPA's 404(b)(1) Guidelines

- (Agency) These regulations include an analysis to the impacts on aesthetics and visual resources of interest. If the visual resources are significantly degraded by the project, then the 404 permit can be denied.

VI. STATE OF ALASKA UPDATE DELIVERED BY TOM CRAFFORD (ADNR)

- The State of Alaska has had a lot of time taken up by lawsuits on:
 - Nondalton vs. BBAP (05) -- this lawsuit addresses the revision of the Bristol Bay Area Plan including complaints that there was no subsistence land use classification in the plan, and issues on the status of the plan if it was advisory or law. The State moved to dismiss the complaint as it was not timely; the comments were not made during the public comment period when the plan was issued. The court has allowed the suit to move forward. At the time (in the '80's) the original plan designated 100' buffers that denied mineral entry around many anadromous streams – an analysis that was directed primarily at placer mining, but the State does not draw distinctions between types of mining claims. The area to the north of Pebble and up against Lake Clark was recognized for mineral potential as well as fish habitat. It was placed under a Leasehold Location Order (LLO)– a person must first obtain a lease (with stipulations) before mineral development could proceed in this area.
 - Trustees of Alaska on behalf of Nunumta is also challenging the State's mineral exploration permitting process. This is currently working its way through the courts. The basis proposed is that the process is constitutionally inadequate as it lacks a best interest finding and public notice. The filing doesn't focus on Pebble but applies across the bar. However, the complaint does ask for a preliminary injunction on further exploration that is only applicable to Pebble. Oral arguments on the preliminary injunction are scheduled for Friday November 27th.

VII. FISH/MARINE TWG DRAFT LIST OF RECOMMENDATIONS

- (PLP) PLP prepared a response and this was sent out – there is not much more we have to say on the matter.
- (Agency) The Draft Recommendations are a good starting point for a discussion. None of these are mandatory. They were just ideas on the table. I think they should be used.
- (Agency) They key word here is draft. We are in anticipation of further dialogue regarding the studies.
- (Agency) These are just a draft, they provide a list of ideas for achieving principles. They are meant to be a starting point for discussion. The overall intent was to reduce uncertainty on studies of the resources. The idea was to make sure studies met confidence levels so they were accurate within reasonable bounds. If studies don't adequately quantify impacts for NEPA then it's possible to get sued as occurred with cruise ships in Glacier Bay regarding impacts on whales. This provides data to avoid lawsuits.
- (PLP) The Draft Recommendations are very prescriptive with extreme standards. They do not promote discussion. The letter appears to be dictating perfection. If the TWG wants to raise a topic such as reducing uncertainty and then the group discusses various means to achieve that (reducing uncertainty), that would be fine. PLP recognizes the value of reducing uncertainty in studies, but when we are hit with a list of extreme specific recommendations which have the appearance of a consensus document it's like being blown back against a wall with no room for discussion. PLP may not be willing to go through the document. PLP is not necessarily willing to work with this document.
- (Agency) Our agency is working on developing a voice for the department. There is an internal push to see how each division interacts with PLP and then establish a unified position. This is a work in progress; there is no schedule.
- (Agency) PLP needs to give adequate responses back to recommendations when we make them, and provide the reasoning for not accepting recommendations. It would be good to get a better explanation of how suggestions made during TWGs are received.
- (PLP) We have not had many meetings yet where we discussed specific ideas or suggestions, most of the meetings have been focused on protocol, minutes, and the release of data. Suggestions, however, are taken back to PLP, considered, and then sometimes do lead to changes. Reactions and response to suggestions does not necessarily happen right away. For instance, the suggestion for using fish counting towers is not a study that PLP felt was necessary, as we stated in the TWG meetings. However, we later decided to agree to do one tower site last summer and there was a fish counting tower site established on Upper Talarik in cooperation with ADF&G, and next summer one is proposed for the Kaktuli River.
- (PLP) I did not come to this meeting prepared to discuss this issue; PLP does not have the right people here to offer a useful discussion. In fact, I had opposed this item being on the agenda because I would not have the people I needed with me to discuss this, so I am surprised it is on the agenda.

- (Lead) That's true. PLP did tell us they were not ready to discuss this at this meeting. I just put it on the agenda because other members had mentioned it, and I thought we should explain why we weren't covering the list of recommendations at this meeting. It may have been contentious to omit it on the agenda.
- (Agency) What agency has the authority to say "these are the data the state needs??" For instance, fish.
- (Agency) Fish will be ADF&G. Authority rests with the authorizing agencies.
- (Agency) What comes out of the pre-application stage?
- (Agency) There is a process for application but no process for pre-application, it's the nature of the beast.
- (Agency) Draft documents are not part of the Administrative Record.
- (Agency) The agencies are looking for PLP to give reasons to use or not use the recommendations, because the agencies will have to do the same at a later date.
- (Agency) There was a draft letter, there was a thoughtful reply, hopefully some kernels of wisdom will fall out.
- (PLP) It's the role of the TWGs to advise, but not to set standards and PLP feels these standards are too high. One of the difficult aspects of the document is its public perception as a formal document. The public will not necessarily understand it's a draft meant for discussion. The public will want to know why all of the recommendations aren't followed and assume the agencies "got rolled" by industry despite the real reasons for modifying the recommendation.
- (Agency) The fact is a draft is not a part of the Administrative Record.
- (PLP) However, as part of the TWG it becomes part of the Public Record.
- (Agency) PLP, you are stonewalling this issue.
- (Agency) I have had inquiries from the public regarding the document, who seem to have believed the document represented some kind of a position statement by the agencies.
- (Agency) Interesting that there has been public inquiry. I still feel like the document does serve a purpose of providing context to these discussions and to the TWG.

VIII. NEXT FISH TWG

- (Agency) We could take the List of Recommendations and clarify the intent, and then use it for discussion stimulus.
- (Agency) There is a strong desire to reengage the Fish TWG.
- (Agency) We should have a strong facilitator, limit the concepts to be discussed so we stay on topic.
- (PLP) If you take the general principles, we could maybe pick one such as reducing uncertainty and talk about ways and means to achieve the principle, if we are not starting out with specific prescriptive, often extreme, recommendations. I can take the idea back to PLP for their input. A facilitator would be good, but we do not have the funds to provide the TWG with a professional facilitator.

- (Agency) Maybe we should have a member of the Steering Committee present to help facilitate the meeting and determine what the topics would be.
- (Agency) The large size of the Fish TWG complicates its function. Maybe we should go back to the structure where only the official members sit at the table, other attending support personnel can sit in chairs around the outside of the room and provide input to their official member.
- (Agency) This puts a lot of responsibility on the lead to facilitate. Maybe we want co-leads. One that is a facilitator and one that is technical.
- (All) PLP and agencies will look into funding and trained facilitators within their ranks
- (Agency) We should rewrite the guidelines to provide the Steering Committee authority to assign an ad hoc facilitator and/or a co-chair to help manage the discussion of a TWG to help the group move forward.
- (All) The guidelines were revised to provide authority to the Steering committee as suggested above. See revised guidelines and protocol section 3.4.22.

IX. INSTREAM FLOW TWG

- (Agency) Jason Mouw is going through the exercise of reviewing what's been received by PLP and what else may be needed before agreeing to schedule a TWG meeting. He doesn't have everything he needs to move forward.
- (PLP) PLP supplied information to ADF&G last summer and has been waiting to have this meeting. Jason communicated that ADF&G was delaying the meetings, but said he couldn't explain the reasoning at that time. This is the first PLP has heard that ADF&G may need more information. We are also anxious to have the meeting. Let us know what other information you may be asking for. The direction from these meetings factors in a big way with this study.

X. TERRESTRIAL WILDLIFE TWG

- (Agency) It might be good to re-engage the terrestrial wildlife TWG to review the Bear and Moose studies that were conducted in 2009 and those planned for 2010.

XI. MARINE TWG

- (Agency) There is also interest in having a Marine TWG meeting for both fish and wildlife.
- (Agency) Some of the marine wildlife people are swamped right now with the Beluga issues.
- (PLP) We could schedule for after the new year to accommodate their schedules.
- (Agency) Steve Davis could be a good addition to the Marine TWG. He is on the NMFS/NEPA Analytical team. He has worked with north Pacific Fisheries Management Council.

XII. USACE COMMENTS ON PEBBLE – PRESENTED BY DAVE CASEY (USACE/KENAI)

- USACE has been meeting with PLP to discuss how to tackle the data set, age of data, and the small pools study.
- There is also discussion on compensatory mitigation, looking at the big picture.
- One compensatory mitigation concept we are interested in having PLP explore is looking for a method to protect/preserve aquatic resources in the Pebble Mining District for the purpose of providing on-site compensatory mitigation for unavoidable impacts to aquatic resources and addressing cumulative impacts with potentially reasonable foreseeable satellite mines. There may be some legislative challenges associated with this concept in terms of securing the mineral right so they are not developed.

PLP has also discussed seeking compensatory mitigation projects along the Pacific Flyway to mitigate impacts to water fowl from the project area.

- PLP could complete compensatory mitigation projects ahead of a permit decision with the hope that such projects would be acceptable. USACE probably wants a good chunk of compensatory mitigation done before the impacts occur to reduce the temporal impacts associated with delayed mitigation projects.
- USACE has also discussed with PLP the idea that we will need to find a structure to manage mitigation recommendations, some sort of oversight role giving recommendations to USACE to use when making mitigation decisions. EVOS might be a model.
- There is a new federal rule that requires restoration projects to also have perpetual protection. The project has to be on land or ownership where future disturbance won't occur.

DISCUSSION

- (PLP) PLP has been contemplating the flyway mitigation concept because there may not be enough impacted wetlands in Alaska to provide sufficient mitigation opportunities.
- (Agency) NPS is building a mitigation bank for Kantishna placer mines – tailings piles have damaged the riparian zones. This is an internal process at NPS to determine if it makes sense and is feasible. Could USACE and PLP consider restoring abandoned mine sites in wetland areas around the State of Alaska for mitigation of wetlands impacts?
- (Agency) DNR cannot guarantee restored mining sites would not be disturbed in the future.
- (Agency) NPS can guarantee restored sites remain so in perpetuity.
- (Agency) Cal Kerr has also been compiling a list of prior disturbances. (Where?)
- (Agency) The Port of Anchorage could be another example of an advisory committee for mitigation recommendations.

XIII. MISCELLANEOUS

- (Agency) NOAA met with the North Pacific Management Council to advise that them that NOAA is engaged in the Pebble TWGs and what NOAA does and does not know about the project.
- (Agency) What's going on with power?
- (PLP) We still do not have any specific power plans, there are a lot of potential options such as LNG.
- (Agency) But it would be on site generation. Is PLP looking at alternative energy, hydropower in the region?
- (PLP) On site power generation has not been ruled out, we are still considering all power options. Alternative energy options are being considered as well, but they may not be able to provide an adequate supply.
- (Agency) If Pebble decides to distribute power, they will need to go through FERC.

XIV. NEXT MEETING

- First week of February – Tuesday February 2nd targeted

XV. PUBLIC COMMENT

- No Public present.