

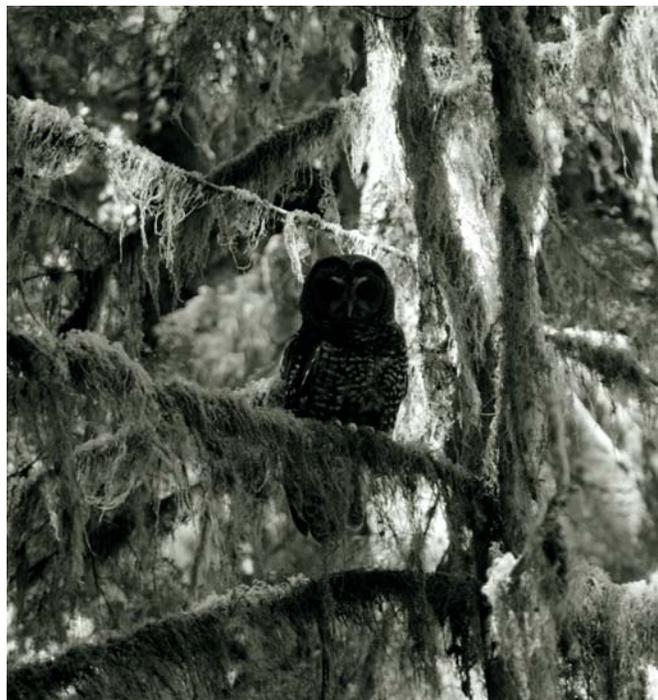


**PUGET SOUND ENERGY**  
*The Energy To Do Great Things*

# THREATENED, ENDANGERED & SENSITIVE SPECIES PLAN

## LICENSE ARTICLE 410

BAKER RIVER PROJECT, FERC No. 2150-033



**Puget Sound Energy**  
Bellevue, Washington

**October 2009**

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## 1.0 Executive Summary

This Threatened, Endangered, and Sensitive Species Plan establishes the standards and guidelines for the minimization of impacts to bald eagles, bull trout, marbled murrelets, northern spotted owls, and the habitat associated with these species on existing and acquired Baker River Project lands. This plan has been prepared as directed by license article 410, “Threatened, Endangered, and Sensitive Species,” (LA 410) of the *Order on Offer of Settlement, Issuing New License and Dismissing Amendment Application as Moot* for the Baker River Hydroelectric Project (FERC Project No. 2150). This plan is also designed to be consistent with the other Settlement Agreement and License Articles and the U. S. Fish and Wildlife Service (USFWS) Biological Opinion (BiOp) and the National Marine Fisheries Service (NMFS) BiOp. This plan was prepared by Puget Sound Energy in consultation with the USFWS.

## 2.0 Introduction

This Threatened, Endangered and Sensitive Species Plan has been prepared for the Baker River Hydroelectric Project, FERC No. P-2150 (Baker Project) pursuant to the *Order on Offer of Settlement, Issuing New License and Dismissing as Moot* dated October 17, 2008 (the “license”). Specifically License Article 410, “Threatened, Endangered and Sensitive Species” (LA 410), sets forth the applicable requirements for this plan.

This plan describes the steps Puget Sound Energy will take to meet the requirements of LA 410. It establishes the goals and objectives for threatened, endangered and sensitive species management and the guidelines for the consultation that will occur over the term of the license. This plan was prepared collaboratively by Puget Sound Energy and the USFWS.

This plan includes:

- Review of the license article to ensure the plan meets the requirements of the article.
- Statements of the purpose, goals, and objectives of the plan.
- Regulatory references and definitions to maintain consistency between the plan and other pertinent laws, regulations and policies.
- Plan implementation requirements describing the site-specific and species-specific criteria and actions that will be taken under this plan.
- Reporting mechanisms for this plan including implementation of the Terms and Conditions of the USFWS and NMFS BiOps.

## 3.0 Basis for the Plan

The Threatened, Endangered, and Sensitive Species Plan was prepared in response to LA 410, which is provided in its entirety below. This plan has also been designed to comply with other related Settlement Agreement and license articles which are referenced in the following sections.

License article 410 states:

Within one year of license issuance, the licensee shall file, for Commission approval, a plan to protect threatened, endangered, and sensitive species. The plan shall include, at a minimum, provisions to implement the following conservation measures:

#### Bald Eagles

(1) when planning future work at recreation sites, avoid removing large over story trees that could be used for bald eagle nesting or roosting and, time construction activities to occur outside of the bald eagle nesting season from January 1 through August 15 to avoid disturbing nesting bald eagles

#### Bull Trout

(2) minimize the impacts of trail and campground construction/reconstruction by minimizing or avoiding the placement of trails near or across streams used by bull trout; maintain or restore adequate vegetative buffer strips to avoid erosion and sedimentation into lakes or streams and; integrate the management of storm water runoff into the design of campgrounds and other recreational facilities that are likely to include impervious surfaces;

(3) include and maintain up-to-date information on angling regulations/restrictions for bull trout, and on appropriate handling of incidentally caught bull trout, at visitor information facilities, interpretive services, and information boards, and develop informational materials on bull trout and associated conservation efforts for distribution at these facilities;

#### Marbled Murrelets, Northern Spotted Owls, and their Critical Habitat

(4) conduct surveys for northern spotted owls and/or marbled murrelet nest trees or nest tree structures within a quarter mile of any construction project that could cause disturbance to nesting marbled murrelets or northern spotted owls or the removal of suitable habitat;

(5) wherever thinning of timber or vegetation management occurs, take all feasible measures to retain the largest available snags, trees, and down woody debris in order to accelerate the development of northern spotted owl habitat; and

#### Notification

(6) notify the U.S. Fish and Wildlife Service of all actions taken under this plan to comply with the above species conservation measures.

The licensee shall prepare the plan after consultation with the U.S. Fish and Wildlife Service. The licensee shall include with the plan documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agency, and specific descriptions of how any comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the U.S. Fish and Wildlife Service to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the plan. The licensee shall not begin any land-disturbing activities or make any operational changes until the Commission notifies the licensee that the plan is approved. Upon commission

approval, the licensee shall implement the plan, including any changes required by the Commission.

## 4.0 Goals and Objectives

The goal of the Threatened, Endangered, and Sensitive Species Plan is to address impacts of project-related activities to threatened, endangered, and sensitive species. This Plan will also serve to consolidate and act as the comprehensive vehicle for reporting consultation and compliance for all ESA references to the FERC to assure consistency. The Plan will also address several specific actions and species (bald eagles, bull trout, marbled murrelets, northern spotted owls, and the habitat associated with these species) identified by the FERC in Article 410. Other Articles in the License (e.g., SA 104, 505, etc.), as well as the USFWS and NMFS Biological Opinions (and associated Terms and Conditions), also reference or address ESA species and actions associated with those species.

The objectives at a minimum of the Baker River Project Threatened, Endangered, and Sensitive Species Plan, in accordance with requirements specific to Federal and non-Federal lands are to:

- Avoiding the removal of overstory trees in suitable bald eagle nesting and roosting habitat during work at recreation sites.
- Time work within 0.5 mile of active bald eagle nests to occur during the non-breeding season.
- Avoid placing recreational trails near or across streams used by bull trout.
- Maintain or restore vegetative buffers to avoid erosion and sedimentation into lakes and streams used by bull trout.
- Integrate stormwater management into designs for campgrounds and other recreational facilities.
- Provide funding to the U. S. Forest Service (USFS) for production of informational material on angling regulations and restrictions for bull trout, appropriate handling of bull trout, and conservation efforts.
- Avoid disturbance to nesting marbled murrelets and northern spotted owls.
- Avoid removing suitable marbled murrelet and northern spotted owl habitat.
- Retain the largest available trees, snags, and down woody debris whenever possible during vegetation management and thinning of timber.
- Summarize activities implementing the Terms and Conditions of the USFWS and NMFS BiOps.

## 5.0 Regulatory Reference

Activities associated with threatened, endangered, and sensitive species under this plan will be in compliance with all applicable local, state, and federal laws and regulations. If conflicts exist between the objectives or guidelines of this plan and any applicable law or regulation, the objectives and guidelines will be followed to the extent possible while still complying with the law or regulation.

## 5.1 Federal Authority and Reference

### 5.1.1 Endangered Species Act

The Federal Endangered Species Act of 1973 (ESA), as amended, prohibits the “take” of species listed as threatened or endangered. The definition of take includes activities that harm or harass individuals of a listed species. Modification of forest habitat (such as the killing or felling of trees) occupied by a listed species can be considered take if it leads to the harm or harassment of individual animals.

### 5.1.2 Bald and Golden Eagle Protection Act (16 USC 668)

Bald eagles are federally protected under the Bald and Golden Eagle Protection Act, which prohibits the “taking” of bald eagles. The Act defines take as, “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.” The USFWS defines disturb to mean, “to agitate or bother . . . to a degree that causes, or is likely to cause, based on the best scientific information available: 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” Concurrent with the federal ESA delisting of the bald eagle, the USFWS (2007) provided management guidelines for protecting the bald eagle and its habitat, and complying with the Bald and Golden Eagle Protection Act.

### 5.1.3 Migratory Bird Treaty Act (16 USC 703-712)

The bald eagle is considered a migratory bird under the jurisdiction of the Migratory Bird Treaty Act (16 USC 703-712). For purposes of this act, “take” is defined as, “pursue, hunt, wound, kill, trap, capture, possess or collect,” and is prohibited. The management guidelines provided by the USFWS (2007) are intended to describe compliance with the Migratory Bird Treaty Act as well as the Bald and Golden Eagle Protection Act.

## 5.2 Washington State Authority and Reference

Bald eagle habitat in Washington State is protected by the Bald Eagle Protection Rules, which were promulgated under the authority of RCW 77.12.655.

### 5.2.1 Habitat Buffer Zones for Bald Eagles (RCW 77.12.655)

Washington State law requires habitat buffers for bald eagles, as follows:

The department (WDFW), in accordance with chapter 34.05 RCW, shall adopt and enforce necessary rules defining the extent and boundaries of habitat buffer zones for bald eagles. Rules shall take into account the need for variation of the extent of the zone from case to case, and the need for protection of bald eagles. The rules shall also establish guidelines and priorities for purchase or trade and establishment of conservation easements and/or leases to protect such designated properties. The department shall also adopt rules to provide adequate notice to property owners of their options under RCW 77.12.650 and this section.

### 5.2.2 Bald Eagle Protection Rules (WAC 232-12-292)

The Bald Eagle Protection Rules are designed to “protect the habitat and thereby maintain the population of the bald eagle so that the species is not classified as threatened, endangered or sensitive in Washington State.” The rules accomplish this by requiring site management plans for land use activities that land would adversely impact bald eagle habitat, and by providing WDFW assistance in the preparation of plans. The intent of the rules is to promote “cooperative efforts to manage for eagle habitat needs through a process which is sensitive to the landowner goals as well.”

### 5.2.3 Washington Forest Practices Act

Management activities on non-federal forest lands in Washington are generally subject to the Washington Forest Practices Act (RCW 76-09) and Forest Practices Rules (FPR). As such, certain forest management activities require prior approval through the Forest Practices Approval process, and others simply require conformance to the FPR without prior approval. Timber harvesting and other Project-related activities may require approval under the FPR. There are several provisions within the FPR to protect bull trout, marbled murrelets and northern spotted owls while conducting timber management activities.

## 6.0 Implementation

### 6.1 Plan Area

This Threatened, Endangered and Sensitive Species Plan applies to existing and acquired Baker River Project lands. Although all Project lands are included in the plan area, individual sites may be treated differently according to site-specific activities, conditions, and parameters.

### 6.2 Funding

PSE will provide funding for development and implementation of this plan, and compliance with LA 410. Funding for site-specific planning, consultation, surveys, and management activities will be tied to the Project-related construction activities requiring these measures.

### 6.3 Schedule

Activities related to this plan will begin upon receipt of approval of the plan from the Commission. Activities related to threatened, endangered, and sensitive species, including consultation with the USFWS, will be ongoing throughout the term of the license in coordination with Project-related activities and operational changes.

### 6.4 Procedures, Standards, and Criteria

The USFWS BiOp examines the effects of the Project in its entirety on each of the four species listed in LA 410. In addition, the BiOp discusses conservation measures to minimize potential Project effects on grizzly bears and gray wolves. When conducting Project-related activities, Puget Sound Energy will refer to the USFWS BiOp and the following guidelines to minimize potential impacts from proposed Project modifications,

ground-disturbing activities, habitat management activities, and recreational activities. Puget Sound Energy will consult with the USFWS prior to initiating activities that have the potential to impact the following species.

### 6.4.1 Bald Eagles

When conducting Project-related activities within 0.5 mile of a bald eagle nest territory, or within 0.25 mile of a roost or suitable bald eagle habitat, Puget Sound Energy will consult with the USFWS to minimize impacts to bald eagles and their habitat. Bald eagle conservation measures will be consistent with the USFWS National Bald Eagle Management Guidelines (USFWS 2007). Actions taken under this plan will also be consistent with SA 512, “Bald Eagle Night Roost Surveys,” and SA 513, “Bald Eagle Management Plans.”

#### 6.4.1.1 Bald Eagle Suitable Habitat

Suitable bald eagle habitat capable of supporting nesting, foraging, and roosting is defined in Washington Department of Fish and Wildlife (WDFW) Priority Habitat and Species Management Recommendations (WDFW 2004) as including:

- Uneven aged, multi-species stands with mature, tall codominant conifer or hardwood trees, especially black cottonwood, bigleaf maple, Douglas-fir, and Sitka spruce, often with lateral limbs, broken tops, or other decadent features.
- Accessibility to foraging areas, with suitable perching locations, and food availability.
- Proximity to lakes, rivers, and other bodies of water.

#### 6.4.1.2 Bald Eagle Conservation Measures

Puget Sound Energy will implement the following measures to protect bald eagles and suitable bald eagle habitat:

- If suitable but un-surveyed bald eagle habitat is within 0.5 mile of a planned project-related activity, conduct bald eagle nest surveys consistent with WDFW protocol prior to initiating the activity.
- When conducting project-related activities that could cause disturbance to bald eagles, maintain a buffer of 660 feet from an active nest during the breeding season (January 1 – August 15), and 330 feet during the non-breeding season. Consult with the USFWS on options to minimize disturbance if disturbance cannot be avoided.
- For other activities that have potential for significant disturbance, such as blasting or impact pile driving, consult with USFWS about the need for increased buffer distances.

### 6.4.2 Bull Trout

Prior to conducting vegetation management or ground disturbing activities instream or within one site potential tree height, as defined in Washington Forest Practice Rules (WAC 222-16), of a stream containing bull trout suitable habitat, Puget Sound Energy will consult with the USFWS to develop and implement site-specific measures to minimize impacts to bull trout and their habitat.

#### 6.4.2.1 Bull Trout Suitable Habitat

When conducting project-related activities near, across, or in streams used by bull trout, PSE will follow permitting procedures and consult with the USFWS to minimize impacts to bull trout. If there is connectivity between where bull trout occur and where the activity will be conducted, it will be considered bull trout habitat. The following indicators are associated with bull trout, according to the USFWS BiOp.

- Water temperature (below 15°C or 59°F, and 9°C or 48°F for spawning).
- Cover (large woody debris, undercut banks, boulders, pools).
- Valley and Channel form and stability (low levels of sediment).
- Spawning and rearing substrate
- Migratory corridors and connectivity

#### 6.4.2.2 Bull Trout Conservation Measures

Puget Sound Energy will consult with the USFWS to implement site-specific conservation measures to avoid or minimize impacts to bull trout and suitable bull trout habitat from the following:

- Sediment runoff from disturbed soils
- Increasing turbidity from instream construction
- Stormwater runoff and increased turbidity from road maintenance
- Vegetation removal within one site potential tree height of the stream
- Sedimentation and contaminants from recreational activities
- Alteration of shoreline habitat along banks and shorelines (within one site potential tree height) due to heavy use (exposed soils, erosion, vegetation removal)
- Incidental catch of bull trout due to increased recreational fishing

#### 6.4.3 Marbled Murrelets and their Critical Habitat

When conducting Project-related activities in or near suitable marbled murrelet habitat, Puget Sound Energy will consult with the USFWS to develop and implement conservation measures to minimize impacts to marbled murrelets and their habitat. If Puget Sound Energy, in consultation with the USFWS, decides to consider suitable marbled murrelet habitat, “occupied habitat,” then marbled murrelet surveys will not be necessary, and Puget Sound Energy will implement marbled murrelet conservation measures. If a proposed project-related activity will occur within critical marbled murrelet habitat, Puget Sound Energy, in consultation with the USFWS, will implement measures to avoid adverse modification of marbled murrelet critical habitat.

##### 6.4.3.1 Marbled Murrelet Suitable Habitat

Suitable marbled murrelet habitat as defined in Washington Forest Practices Rules (WAC-222-16) is a contiguous forested area with trees capable of providing marbled murrelet nesting opportunities. Stands of suitable habitat include the following indicators:

- At least 40 percent of the dominant and co-dominant trees are Douglas-fir, western hemlock, western redcedar or Sitka spruce;
- Two or more nesting platforms per acre; and
- Total patch size of at least seven acres, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

#### 6.4.3.2 Marbled Murrelet Critical Habitat

According to the USFWS BiOp, almost all the federal land surrounding Baker Lake is designated marbled murrelet critical habitat. The land around Lake Shannon, however, is not. The following criteria were used to designate marbled murrelet critical habitat.

- Large contiguous areas of suitable nesting habitat (individual trees with potential nesting platforms, and forested areas within 0.5 mile of individual trees with potential nesting platforms and a canopy of at least one-half the site-potential tree height.
- Proximity to marine foraging habitat (generally within 37 miles or 60 km).

#### 6.4.3.3 Marbled Murrelet Conservation Measures

When conducting activities related to vegetation management, trail development, road maintenance and tree removal or timber harvest, Puget Sound Energy will consult with the USFWS to implement site specific conservation measures to protect marbled murrelets and the associated critical habitat. Conservation measures may include the following:

- If suitable, but un-surveyed marbled murrelet habitat is within 0.25 mile of a planned project-related activity, conduct marbled murrelet surveys consistent with the Pacific Seabird Group protocol (Evans Mack et al. 2003) prior to initiating activity, unless Puget Sound Energy considers the habitat to be occupied.
- During the marbled murrelet nesting season (April 1 – September 15), avoid the use of heavy equipment (including impacts pile drivers, jackhammers, and rock drills), power tools (including chainsaws) and blasting with charges less than or equal to two pounds of explosives within 810 feet of occupied habitat, and avoid blasting using charges greater than two pounds of explosives within 1.0 mile of occupied habitat during the breeding season to avoid disturbing nesting marbled murrelets.
- Retain all trees within occupied marbled murrelet habitat whenever possible. If tree removal cannot be avoided, consult with USFWS.
- Avoid removal of trees within 300 feet of occupied marbled murrelet habitat that reduces tree density below an equivalent of 75 trees per acre. Tree removal should retain the tree size class distribution prior to harvest.
- Retain all live trees, snags, and downed woody debris in designated marbled murrelet critical habitat unless it causes an imminent threat to human safety, project operation, project structure, or poses a significant threat to another federally protected species. If removal of trees, snags, or downed woody debris cannot be avoided, Puget Sound Energy will consult with the USFWS.

#### 6.4.4 Northern Spotted Owls and their Critical Habitat

When conducting Project-related activities in or near suitable northern spotted owl habitat, Puget Sound Energy will consult with the USFWS to develop and implement measures to minimize impacts to northern spotted owls and their habitat. If Puget Sound Energy, in consultation with the USFWS, decides to consider suitable northern spotted owl habitat “occupied habitat,” then northern spotted owl surveys will be deemed unnecessary, and Puget Sound Energy will implement northern spotted owl conservation measures. If a proposed project-related activity will occur within critical northern spotted owl habitat, Puget Sound Energy, in consultation with the USFWS, will implement measures to avoid adverse modification of northern spotted owl critical habitat.

##### 6.4.4.1 Northern Spotted Owl Suitable Habitat

Suitable spotted owl habitat capable of supporting nesting, foraging, roosting and dispersal (old forest habitat) as defined in Washington Forest Practice Rules (WAC-222-16-085) includes the following indicators:

- A canopy closure of 60 percent or more and a layered, multi-species canopy where 50 percent or more of the canopy closure is provided by large overstory trees (typically there should be 75 trees greater than 20 inches dbh per acre, or at least 35 trees over 30 inches dbh per acre); and
- Three or more snags of at least 20 inches dbh and at least 16 feet in height per acre with various deformities (large cavities, broken tops, dwarf mistletoe infections, and other indications of decadence); and
- More than two fallen trees of at least 20 inches dbh per acre and other woody debris on the ground.

##### 6.4.4.2 Northern Spotted Owl Critical Habitat

The USFWS BiOp identified northern spotted owl critical habitat in the Baker basin, located on national forest lands surrounding Baker Lake. When conducting project-related activities, Puget Sound Energy, in consultation with the USFWS, will determine whether the proposed activity will occur in critical habitat, and implement the appropriate conservation measures. The following criteria were used to designate northern spotted owl critical habitat.

- A moderate to high, multi-layered, multi-species canopy (60-90 percent) with large overstory trees (at least 30 inches dbh).
- A high incidence of large trees with deformities (large cavities, broken tops, mistletoe infections, or other signs of decadence).
- Large snags, large accumulations of logs and other woody debris.
- Sufficient space below canopy for flight.

##### 6.4.4.3 Northern Spotted Owl Conservation Measures

Puget Sound Energy will implement the following measures to protect spotted owls and suitable spotted owl habitat:

- If suitable, but un-surveyed spotted owl habitat occurs within 0.25 mile of a planned project-related activity, conduct spotted owl surveys consistent with the USFWS

(2001) protocol prior to initiating the activity, unless Puget Sound Energy considers the habitat to be occupied.

- During the spotted owl nesting season (March 1 – August 31), avoid the use of heavy equipment (including impacts pile drivers, jackhammers, and rock drills), power tools (including chainsaws) and blasting with charges less than two pounds of explosives within 810 feet of an active nest site, and avoid blasting with charges greater than two pounds of explosives within 1.0 mile of an active nest site during the breeding season to avoid disturbance to nesting spotted owls.
- Avoid removing suitable spotted owl habitat whenever possible, including snags, logs, and other woody debris.
- Avoid selectively felling trees with a dbh greater than 20 inches in suitable spotted owl habitat within 0.25 mile of an active spotted owl nest during the breeding season. If suitable but un-surveyed habitat is within these distances, conduct spotted owl surveys consistent with the USFWS (2001) protocol prior to initiating activity.
- Retain all live trees, snags, and downed woody debris in designated northern spotted owl critical habitat unless it causes an imminent threat to human safety, project operation, project structure, or poses a significant threat to another federally protected species. If removal of trees, snags, or downed woody debris cannot be avoided, Puget Sound Energy will consult with the USFWS.

#### 6.4.5 Other Federally-listed Species

Over the term of the license, additional fish and wildlife species under the jurisdiction of USFWS or NMFS may become listed by either USFWS or NMFS under the ESA as threatened or endangered. If a species becomes listed or is proposed for listing in accordance with ESA Section 4, Puget Sound Energy will consult with the agency having ESA jurisdiction (USFWS or NMFS) to:

1. Determine if the species is present or potentially present on project lands or lands potentially influenced by project operation.
2. Determine if operation and maintenance of the project or compliance with one or more articles of the license or settlement agreement could result in take of the species.
3. Identify steps that will be necessary to avoid, minimize or mitigate take of the species associated with the project.

#### 6.5 Notification

Terms and Conditions associated with NMFS and USFWS Biological Opinions, as well as other articles (e.g., SA 104, 505, etc.) identify actions necessary to address listed species. Puget Sound Energy will notify NMFS and the US Fish and Wildlife Service of any actions taken under this plan related to listed species. In addition, PSE will provide an annual report to the FERC of consultations and conservation measures undertaken related to listed species under this plan.

## 7.0 Reporting

Puget Sound Energy will prepare an annual report that summarizes activities taken under this plan, including USFWS and NMFS consultation, conservation measures, and implementation of the BiOp terms and conditions carried out the previous January through December. The annual report on the implementation of the Threatened, Endangered, and Sensitive Species Plan will provide a comprehensive framework for USFWS and NMFS consultation and will serve as a tracking system regarding the implementation of the measures in this plan and the terms and conditions of the BiOps.

### 7.1 Reporting Schedule

Puget Sound Energy will provide a draft Threatened, Endangered, and Sensitive Species report to the USFWS for a 30-day review by March 31 of the year following the reporting period. Revised annual reports, incorporating USFWS comments, will be submitted to the FERC by May 1 of that year.

### 7.2 Reporting Format

The annual report will include:

- A summary of USFWS and NMFS consultation
- A summary of activities conducted in response to USFWS and NMFS consultation
- A summary of activities associated with the conservation measures in this plan and the implementation of the terms and conditions in the USFWS and NMFS BiOps
- A summary of any issues and concerns raised by PSE, USFWS, or NMFS and how they were addressed
- Any proposed modifications to the plan.

## 8.0 References and Literature Cited

Department of the Interior, Federal Register Vol. 73: No. 157. 2007. pp 47326-47522.

Evans Mack, D., W. P. Ritchie, S. K. Nelson, E. Kuo-Harrison, P. Harrison, and T. E. Hamer. 2003. Methods for surveying Marbled Murrelets in forests: a revised protocol for land management and research. Pacific Seabird Group unpublished document available at <http://www.pacificseabirdgroup.org>.

U. S. Fish and Wildlife Service. 2007. National Bald Eagle Management Guidelines. <http://www.fws.gov/midwest/Eagle/guidelines/NationalBaldEagleManagementGuidelines.pdf>

U.S. Fish and Wildlife Service. 2008. Revised Critical Habitat for the Northern Spotted Owl. <http://www.fws.gov/pacific/ecoservices/nsofch.html>

Washington Department of Fish and Wildlife. 2004. Priority Habitats and Species Management Recommendations, Vol. IV <http://wdfw.wa.gov/hab/phs/vol4/birdrecs.htm>

## 9.0 Review Comments and Responses

Puget Sound Energy distributed a draft of this plan via mail and e-mail for a 30-day review period on August 17, 2009. Comments on the draft were due to Puget Sound Energy on September 18, 2009.

### 9.1 *Distribution List*

Table 1. Threatened, Endangered, and Sensitive Species Plan reviewers.

Name	Organization	Address
Lou Ellyn Jones	US Fish and Wildlife Service	510 Desmond Dr. SE, Suite 102 Lacey, WA 98503
Steve Fransen	NOAA Fisheries	510 Desmond Dr. SE, Suite 102 Lacey, WA 98503

## 9.2 Transmittal Letter

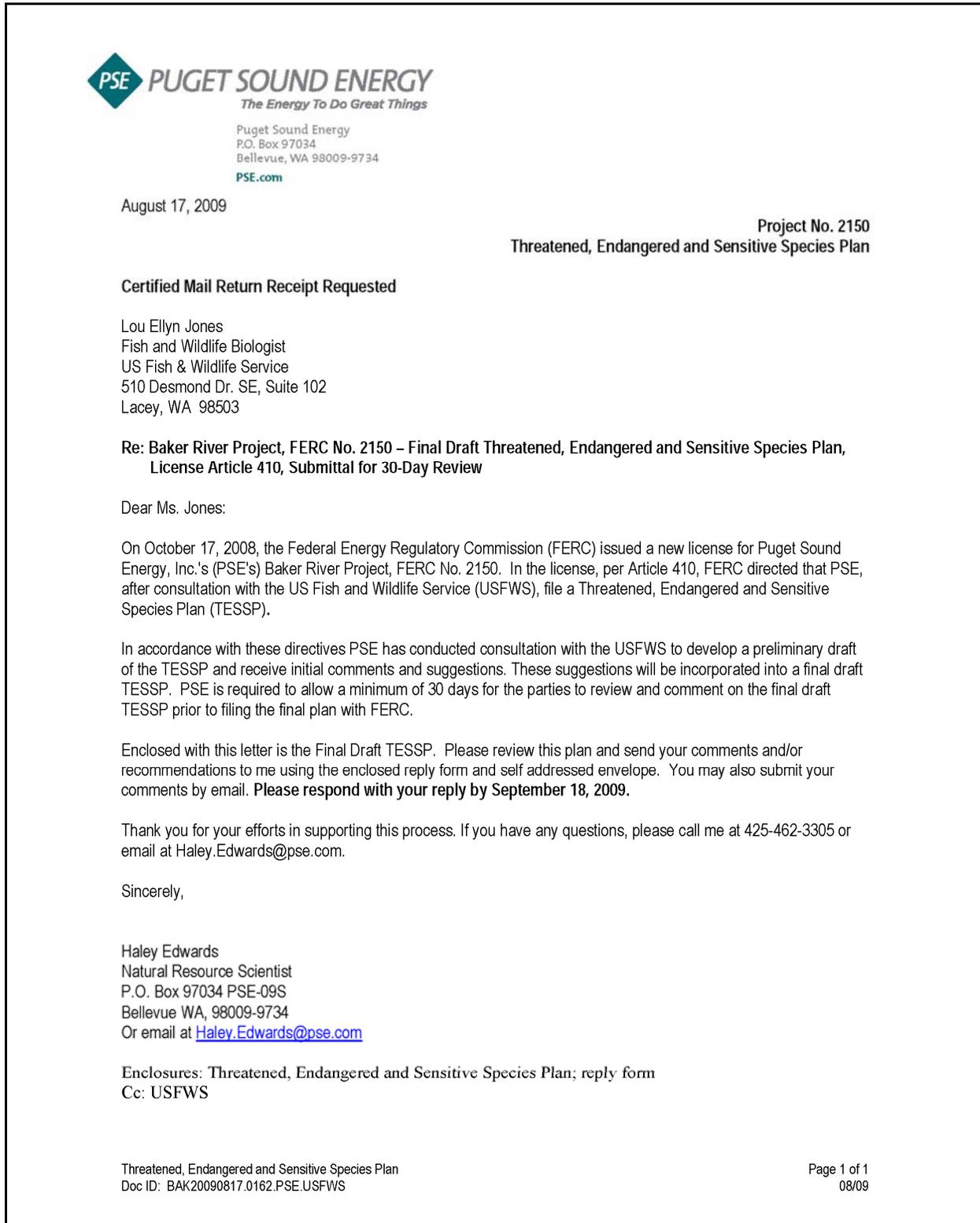


Figure 1. Sample transmittal letter from PSE.

### 9.3 Summary of Reviewer Replies

The following reviewer sent comments to PSE (see subsection 9.4 for details).

- Lou Ellen Jones, USFWS

The following reviewer replied but had no comments.

- Steve Fransen, NOAA Fisheries

### 9.4 Reviewer Comments and PSE Responses

Table 2. Comments following formal review of the Threatened, Endangered, & Sensitive Species Plan, August 17 – September 18, 2009.

Comment	Puget Sound Energy Response
USFWS – Lou Ellyn Jones, received September 21, 2009 (via e-mail)	
[Comment 1.] USFWS recommends that the following language be inserted into the plan to be consistent with the Biological Opinion. This material was taken directly from the BiOp, page 13 (Gray Wolf Letter of Concurrence).	[Response 1] Comment noted.
[Comment 2.] On page 8, 6.4 Procedures, Standards, and Criteria, the following language should be inserted after the first sentence: “In addition, the BiOp discusses conservation measures proposed as part of the project by Puget Sound Energy to minimize potential project effects on grizzly bears and gray wolves.”	[Response 2.] Section 6.4 has been modified as suggested.
[Comment 3.] On page 8, 6.4.1 Bald Eagles, Bald Eagle Conservation Measures, add the following bullet: For other activities that could have potential for significant disturbance, such as blasting or impact pile driving, consult with USFWS about the need for increased buffer distances.	[Response 3.] Section 6.4.1 has been modified as suggested.
[Comment 4.] On page 10, Marbled Murrelet Conservation Measures, second bullet, the marbled murrelet nesting season should be “April 1-September 15).”	[Response 4.] Section 6.4.3 has been modified as suggested.

Comment	Puget Sound Energy Response
<p>[Comment 5.] On page 12, the following paragraphs should be inserted under 6.4.5 Other Federally-listed Species:</p> <p>6.4.5.1 Conservation Measures for Grizzly Bear</p> <p>The following conservation measures, proposed as part of the project action, should minimize potential effects of the action on grizzly bears.</p> <ol style="list-style-type: none"> <li>1. Bear resistant trash containers will be installed at all developed sites and hardened dispersed sites. Garbage will be collected regularly to prevent attractants to grizzly bears.</li> <li>2. Educational signs will be installed in all developed sites and hardened dispersed sites that discuss measures to improved sanitation and protect wildlife.</li> <li>3. New trail construction will be limited during the life of the license to 6 miles of construction connecting existing developed campgrounds on the west side of Baker Lake.</li> <li>4. The Upper Baker River Trailhead will not be expanded to encourage increased visitor use.</li> </ol>	<p>[Response 5.] PSE agrees with the goals of the USFWS in the comments for these two species. However, these are conservation measures to be taken in the management of recreation sites that are owned, operated and managed by the USDA-FS. The control of USDA-FS over these activities is reflected in the USFWS Biological Opinion. As both the "Gray Wolf Letter of Concurrence" and "Grizzly Bear Letter of Concurrence" note, USFWS appropriately reached its conclusions regarding the effects of the proposed recreation articles "[b]ased on [USFWS's] conversations with USFS staff and review of USFS documents." (USFWS Biological Opinion, p. 9 and p. 18)</p> <p>According to pages 9, 12 to 13, and 16 to 17 of the USFWS Bi-Op, the conservation measures listed in the September 21, 2009 comments from USFWS stem from the USDA-FS activities funded, in part, by PSE under the following Settlement Agreement Articles:</p> <ul style="list-style-type: none"> <li>• Article 303 – Baker Lake Resort Redevelopment</li> <li>• Article 306 – Upper Baker Visitor Information Services</li> <li>• Article 307 – Upper Baker Visitor Interpretive Services</li> <li>• Article 308 – Managing Dispersed Campsites</li> <li>• Article 309 – Bayview Campground Redevelopment</li> <li>• Article 310 – Upper Baker Trail and Trailhead Construction</li> <li>• Article 316 – USFS Road Maintenance and Paving</li> <li>• Article 517 – Road Closures for Grizzly Bears</li> </ul> <p>USDA-FS is to use the funds provided by PSE under these articles to implement the recreation management objectives described in these Settlement Agreement Articles. PSE expects USDA-FS will use the funds it provides to implement conservation measures related to the funded recreation activities, including those identified in the USFWS Biological Opinion. However, neither the License nor the Settlement Agreement authorizes USDA-FS to undertake these recreation activities; the USDA-FS will undertake these activities pursuant to separate authorities.</p>
<p>[Comment 6.] If grizzly bears are augmented into North Cascades Grizzly Bear Ecosystem during the life of the permit and grizzly bears start using the Baker River trail area, educational signage that addresses safety and sanitation practices will be installed at the trailhead to reduce potential conflicts between bears and recreationists, and bear-proof garbage receptacles with regular garbage collection will be installed at the trailhead and at any dispersed camp sites adjacent to the trailhead.</p>	<p>[Response 6.] See response 5.</p>

Comment	Puget Sound Energy Response
<p>[Comment 7.] 6.4.5.2 Conservation Measures for Gray Wolf</p> <p>The following conservation measures, proposed as part of the project action, should minimize potential effects of the action on grizzly bears. [From the context, PSE understands the reviewer to mean "gray wolves," not "grizzly bears."]</p> <ol style="list-style-type: none"> <li>1. New trail construction will be limited during the life of the permit to 6 miles of construction connecting existing developed campgrounds on the west side of Baker Lake.</li> <li>2. The Upper Baker River Trailhead will not be expanded to encourage increased visitor use.</li> <li>3. Approximately 73.6 miles of roads on the North side of Baker Lake, to the east of Swift Creek and those roads to the southeast of Baker Lake will be decommissioned. In addition, Puget will close 13.1 miles of roads year round and gate and close seasonally 3.3 miles of roads. As a result of these closures, there will be an increase of ungulate foraging habitat throughout the Baker River Basin. Seasonal road closures include roads that access the lake during the winter and spring, which will reduce the use of ATVs and reduce boating activity in the winter and spring.</li> </ol>	<p>[Response 7.] See response 5.</p>