



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

# **ELK FORAGING HABITAT PLAN**

## **SETTLEMENT AGREEMENT ARTICLE 503**

Appendix B to the SA 501 Terrestrial Resource Management Plan

**BAKER RIVER PROJECT**  
**FERC No. 2150-033**



**Puget Sound Energy**  
Bellevue, Washington

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## 1.0 Executive Summary

This Elk Foraging Habitat Plan establishes standards and guidelines for the enhancement and monitoring of elk foraging habitat on existing and acquired Baker River Project lands. It has been prepared as a means to facilitate the implementation of Settlement Agreement Article 503, “Elk Habitat,” 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). It is also designed to be consistent with License Article 20, License Article 410, Settlement Agreement Article 508, and Settlement Agreement Article 511. This plan was prepared collaboratively by the Baker River Project Terrestrial Resource Implementation Group (TRIG), which is composed of representatives of the signatories to the Settlement Agreement and other interested parties.

## 2.0 Introduction

This Elk Foraging Habitat Plan has been prepared for the Baker River Hydroelectric Project, FERC No. 2150, pursuant to the *Order on Offer of Settlement, Issuing New License and Dismissing Amendment Application as Moot* dated October 17, 2008 (the “license”). Specifically, Settlement Agreement (SA) 503, “Elk Habitat,” sets forth the applicable guidance for this plan.

This plan describes the steps Puget Sound Energy will take to meet its requirements under SA 503. It establishes the objectives for elk foraging habitat management, the criteria for elk foraging habitat acquisition, the information to be collected on elk foraging habitat parcels before and after acquisition, and the general guidelines that will be followed for developing parcel-specific elk foraging habitat management procedures. All management procedures will be prepared collaboratively by Puget Sound Energy and the other signatories to the Settlement Agreement, and reviewed/modified collaboratively as needed over the term of the license consistent with the guidelines established in this plan.

This Elk Foraging Habitat Plan includes:

- Reviews of the pertinent license articles and Settlement Agreement articles to ensure the plan meets the requirements of each.
- Statements of the goals and objectives of the plan.
- Regulatory references and definitions to maintain consistency between the plan and other pertinent laws, regulations, and policies.
- General provisions to describe the process by which the plan has been developed and can be modified in the future.
- Plan implementation requirements describing the site-specific and project-specific criteria and actions that will be taken under the plan.
- Reporting procedures that describe the content and format for annual reports, as required by the license.

## 3.0 Basis for the Plan

The Elk Foraging Habitat Plan has been prepared in response to SA 503, which is provided in its entirety below. The plan also has been designed to comply with License Article (LA) 20, LA 410, SA 508, and SA 511. Relevant portions of these three articles are also provided below.

### *3.1 Settlement Agreement Article 503*

Article 503 of the Settlement Agreement, “Elk Habitat,” states:

Within one year of license issuance, or on an alternative schedule to be submitted to the Commission for approval, the licensee shall begin efforts to acquire elk foraging habitat land for the purpose of providing significant and reliable foraging resources for the Nooksack Elk Herd during the term of the license, to improve habitat conditions for its recently declining population.

If licensee needs to submit an alternative schedule to the Commission, licensee shall prepare the schedule in consultation with the TRIG. In the event the licensee elects to submit an alternative schedule, the licensee shall forward a copy of the proposed alternative schedule to the TRIG at least 30 days prior to submitting the alternative schedule to the Commission, and shall forward any comments on the alternative schedule to the Commission along with the proposed alternative schedule. Upon approval, the alternative schedule becomes a requirement under the license, and the licensee shall implement the alternative schedule, including any changes required by the Commission.

The licensee, in consultation with the TRIG, shall develop site acquisition and selection criteria, in order to obtain lands suitable for long-term management as elk habitat. Such criteria and procedures shall: (A) consider any potential to impair, diminish, or abrogate tribal treaty or cultural rights, by providing that the licensee shall identify suitable alternative sites or management activities if the designated representative of any affected tribe notifies the TRIG of its conclusion that a particular site or management activity will impair, diminish, or abrogate specific tribal treaty or cultural rights and describes the basis for its conclusion; (B) consider the potential for integration of the site acquisition and management required by this article and other articles to optimize the resulting ecosystem benefits; (C) consider appropriate land acquisition costs; (D) consider the potential to secure grant funds to supplement the funds otherwise for implementation of this article; (E) consider whether any sites so acquired are appropriately included in the Project boundary, and if so, provide for the filing of an appropriate request to the Commission; and (F) provide for continuing consultation with the TRIG in the implementation of the approved plan.

Initially site selection criteria should be based on the following geographic criteria in order of priority: a) within the core area of the Nooksack Elk Herd, b) within the peripheral area of the Nooksack Elk Herd if consultation with WDFW determines that animal damage complaints are unlikely to occur, and c) in the Sauk Game Management Unit if consultation with WDFW determines that animal damage complaints are unlikely to occur. Based on consensus within the TRIG, these geographic priorities should be revisited in response to changes in scientific information, landownership patterns, game management agreements or WDFW’s elk management plan. Licensee shall, when considering land acquisition or

management activities, evaluate the extent of required noxious weed management in accordance with criteria developed in Article 508.

Phase I. Initial acquisition. The licensee shall make good faith efforts to acquire, if possible, tract(s) having a total area of approximately 300 acres, and a combined elk forage equivalency value of at least 1,437, calculated as described in the Elk Habitat Table below. If the licensee is unable to acquire initial tract(s) with the required elk forage equivalency value, funding made available for the initial tract(s) shall be carried over for general acquisition purposes consistent with this article.

General. Funding for the total costs associated with acquisition is not to exceed \$3,700,000 (2006\$), with the first phase of acquisitions not to exceed \$1,200,000. Funding shall be made available for the following acquisition periods: \$1,200,000 within three months of license for the initial tract(s), another \$1,250,000 within one year following license issuance, and the remaining \$1,250,000 within five years following license issuance. Any funding not required for acquisition purposes may be made available to supplement the enhancement, management, and maintenance of acquired elk forage lands. If funds are available twenty-five years following license issuance, and licensee, in consultation with the TRIG, determines lands are not available and/or habitat enhancement or management actions are not feasible for any of the intended purposes of this article, the remaining funds required by this article may be made available for the TERF, as described in Article 602.

Within one year of each acquisition, the licensee shall prepare, or update, the elk forage habitat enhancement and management element of the Terrestrial Resources Management Plan, in accordance with Article 501. Acquired lands shall be managed and maintained in accordance with the plan developed in accordance with Article 501.

The licensee's annual obligation for total costs associated with planning, habitat enhancement, management (for elk forage purposes and noxious weed management purposes), and maintenance of acquired lands is not to exceed \$50,000 per year during the term of the license. In the event of a shortfall in acquisition funds, the funds to be made available for planning, habitat enhancement, management (for elk forage purposes and noxious weed management purposes), and maintenance of acquired lands may be converted for use for acquisition purposes following the licensee's consultation with the TRIG in accordance with Article 501.

The licensee shall use the following Elk Habitat Table below to calculate the elk forage equivalency value for the initial tract(s) by multiplying the acres of each habitat type by the corresponding elk forage equivalency score, and summing the products for all habitat types in the tract(s).

### Elk Habitat Table

Elk forage equivalency rankings of habitat types in the Baker River basin.

Habitat Type; Successional Stage	Elk Forage Equivalency Rank	Elk Forage Equivalency Score per acre
Upland Conifer Forest; Shrub/Seedling Stage	Good	3
Riparian Conifer Forest; Shrub/Seedling Stage	Good	3
Upland Mixed Forest; Shrub/Seedling Stage	Good	3
Riparian Mixed Forest; Shrub/Seedling Stage	Good	3
Upland Deciduous Forest; Shrub/Seedling Stage	Good	3
Upland Deciduous Forest; Sapling/Pole and Small Tree Stages	Moderate	1
Riparian Deciduous Forest; Shrub/Seedling Stage	Good	3
Riparian Deciduous Forest; Sapling/Pole and Small Tree Stages	Moderate	1
Forested Wetland; Shrub/Seedling Stage	Good	3
Shrub Wetland; Grass/Forb and Shrub/Seedling Stages	Good	3
Wet Meadow; Herbaceous Wetland Stage	Good	3
Cultivated Pasture (under management to provide elk forage)	Excellent	9
All Other Habitats	To be determined by TRIG	

Unless otherwise approved by the Commission in accordance with the requirements of Article 601, all lands acquired in accordance with this article shall remain in licensee's ownership during the term of the license.

For the purposes of this article, acquisition costs may include: transaction costs, such as completion of appropriate site assessments for hazardous materials and noxious weeds; land surveys, including timber cruise if needed; appraisals; habitat surveys; filing fees; excise taxes; title searches, reports, fees and insurance; closing costs; preparation of land acquisition agreements and any required governmental approvals. Acquisition costs may exclude: internal personnel and administrative costs of the parties associated with land acquisitions, such as staff salaries and benefits; attorney fees and other legal expenses incurred by the licensee or any other party not related to the preparation of land acquisition agreement and any required government approvals; and fees paid by the licensee to third parties for administrative costs associated with a third parties' acquisition of interests in land on behalf of the licensee. Prior to completing any transaction, the licensee will notify the TRIG or ARG, as appropriate, if it appears that transaction costs will be significantly higher than expected, and shall, in consultation with the TRIG or ARG, determine whether to proceed with a transaction with significant transaction costs.

### 3.2 License Article 20

License Article 20 states:

The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during

operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

### ***3.3 License Article 410***

Items 4, 5, and 6 of License Article 410, “Threatened, Endangered and Sensitive Species Plan,” state:

(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.

### ***3.4 Settlement Agreement Article 508***

Article 508 of the Settlement Agreement, Noxious Weeds, states, in part:

The initial plan shall adjust treatment of all lands within the Project boundary, and those lands outside the Project boundary that were surveyed for noxious weeds during pre-licensing studies, as documented in the T-6 Final Study Report, December 23, 2003. The plan shall address how noxious weed management considerations will be addressed when evaluating land acquisition proposals or other activities pursuant to Articles 502, 503, 504, and 505.

### ***3.5 Settlement Agreement Article 511***

Article 511 of the Settlement Agreement, “Decaying and Legacy Wood,” states, in part:

Within three years following license issuance, and annually thereafter, the licensee shall manage snags, logs and residual live trees (“Decaying and Legacy Wood”)



located on existing or acquired Project lands for the purpose of enhancing Decaying and Legacy Wood structure to increase its value to snag and log dependant species.

## 4.0 Goals and Objectives

The goal of the Elk Foraging Habitat Plan is to acquire and manage elk foraging habitat for the purpose of providing significant and reliable foraging resources for the Nooksack Elk Herd during the term of the license, thereby improving habitat conditions for its recently declining population.

The objectives of the Elk Foraging Habitat Plan are as follows.

- Approach elk foraging habitat in three phases: initial acquisition, secondary acquisition and long-term management.
- Phase 1, Initial Acquisition – Expend the Phase 1 budget of \$1.2 million (in 2006 dollars) to identify and acquire, if possible, one or more habitat parcels having a total area of approximately 300 acres and a combined elk forage equivalency value of at least 1,437, calculated as described in SA 503. If habitat parcels cannot be acquired to satisfy Phase 1, transfer the remaining Phase 1 funds to Phase 2.
- Phase 2, Secondary Acquisition – Expend \$2.5 million (in 2006 dollars), plus any remaining budget from Phase 1, to acquire additional elk foraging habitat. Acquisitions in Phase 2 will not be required to meet specific elk forage equivalency values, but preference will be given to those habitat parcels that contribute most to elk forage. A specific number of elk forage equivalency units is not a requirement of SA-503.
- Phase 3, Long-term Management – Manage the lands acquired in Phases 1 and 2 to optimize their elk foraging habitat value over the term of the license.

## 5.0 Regulatory Reference and Definitions

The management of elk foraging habitat under this plan will be in compliance with all applicable local, state, and federal laws and regulations. If conflicts exist between the objectives or management 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. Elk forage enhancement activities on project lands will be conducted in a manner that does not result in take of listed species. Project lands with the potential to support listed species will be checked for such presence prior to any elk forage enhancement, and enhancement activities will be adjusted as needed to avoid impacts if a listed species is present.

## 5.2 Washington State Authority and Reference

### 5.2.1 Washington Forest Practices Act

Management activities on non-federal forestlands in Washington are subject to compliance with the Washington Forest Practices Act (RCW 76-09) and Forest Practices Rules (FPR). Certain forest management activities require prior approval through the Forest Practices Approval (FPA) process, and others simply require conformance to the FPR without prior approval. Elk forage enhancement involving the harvest of trees may require prior approval, and may be subject to certain reforestation requirements under the FPR.

Portions of Skagit County, including portions of the project lands, are with the Finney Block Spotted Owl Special Emphasis Area (SOSEA) designated by the Washington Forest Practices Board. Under the FPR [WAC 222 -16-080 (1) (h)], "critical habitats (state)" include, "suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands," as well as, "the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA." In Skagit County, a spotted owl median home range circle has a radius of 1.8 miles. Timber harvesting and certain other forest practices in critical habitat (state) are considered Class IV-Special forest practices and subject to detailed environmental review under the FPR.

### 5.2.2 Shoreline Management Act

Activities conducted within "shores of the state" (non-federal lands within 200 feet of lakes of 20 acres or more and streams with an average annual flow of 20 cubic feet per second [cfs] or more) are subject to review and approval under the Washington State Shoreline Management Act and pertinent county and city Shoreline Management Master Programs. The shorelines of Lake Shannon, the Baker River, and several of the Baker River tributary streams fall under the jurisdiction of the Shoreline Management Act. Elk forage enhancement activities within shorelines of the state could require approval under the Shoreline Management Act.

## 6.0 Plan Implementation

### 6.1 Plan Area

This Elk Foraging Habitat Plan applies to all lands acquired to satisfy SA 503. The Plan Area may be modified by amendment of the FERC project boundary to include new parcels.

### 6.2 Funding

Funding for the acquisition, planning, enhancement, and management of elk foraging habitat will be provided as described in TRMP section 6.0, "Funding." The use of funds will be reported annually as described in TRMP section 5.0, "Monitoring and Reporting."

The total cost to Puget Sound Energy associated with acquisition of elk foraging habitat will not exceed \$3,700,000 (in 2006 dollars), with the first phase of acquisitions not to

exceed \$1,200,000. Funding will be made available in two phases. For Phase 1, \$1,200,000 will be made available by December 31, 2008 for the initial parcel(s). For Phase 2, another \$1,250,000 will be made available by October 1, 2009 and the remaining \$1,250,000 will be made available by October 1, 2013. If Puget Sound Energy is unable to acquire an initial parcel or parcels with the elk forage equivalency value described in section 4.0, funding for the initial parcels will be carried over into Phase 2 funding for subsequent acquisitions of elk foraging habitat. If acquisition funds specified in SA 503 are available in 2033 and Puget Sound Energy, in consultation with the TRIG, determines lands are not available and/or habitat enhancement or management actions are not feasible for any of the intended purposes of SA 503, the remaining funds required by this article may be made available to the Terrestrial Enhancement and Research Fund (TERF) established pursuant to SA 602.

Costs applied to the elk foraging habitat acquisition budget may include:

- Transaction costs, such as completion of appropriate site assessments for hazardous materials and noxious weeds.
- Land surveys, including timber cruises if needed.
- Appraisals.
- Habitat surveys.
- Filing fees.
- Excise taxes.
- Title searches, reports, fees, and insurance.
- Closing costs.
- Preparation of land acquisition agreements and any required governmental approvals.

Acquisition costs may exclude:

- Internal personnel and administrative costs of the parties associated with land acquisitions, such as staff salaries and benefits.
- Attorney fees and other legal expenses incurred by Puget Sound Energy or any other party not related to the preparation of land acquisition agreements and any required government approvals.
- Fees paid by Puget Sound Energy to third parties for administrative costs associated with a third parties' acquisition of interests in land on behalf of Puget Sound Energy.

Prior to completing any transaction, Puget Sound Energy will notify the other members of the TRIG, as appropriate, if it appears that transaction costs will be significantly higher than expected at the time of license issuance, and will, in consultation with the other members of the TRIG, determine whether to proceed with a transaction with significant transaction costs.

Puget Sound Energy's annual obligation for total costs associated with planning, habitat enhancement, management (for elk foraging purposes and noxious weed management purposes), and maintenance of acquired elk foraging habitat lands will be \$50,000 per year during the term of the license. In the event of a shortfall in acquisition funds, the funds to be made available for planning, habitat enhancement, management (for elk foraging habitat purposes and noxious weed management purposes), and maintenance of acquired lands may be converted for use for acquisition purposes following Puget Sound Energy consultation with the other members of the TRIG in accordance with SA 601 and SA 602.

During the course of elk foraging habitat acquisition and management, Puget Sound Energy and the other members of the TRIG may identify supplemental sources of funding to acquire additional elk foraging lands, implement additional habitat enhancement measures, and/or cover unanticipated costs associated with meeting the commitments of Puget Sound Energy in this plan.

### ***6.3 Provisions for Development and Modification of the Plan***

The Elk Foraging Habitat Plan was developed by consensus of the TRIG for approval by the FERC. The TRIG may propose future modifications of the plan to the FERC according to the procedures described in TRMP, section 3.2.1, "Process for TRMP Implementation and Modification." Within 90 days after acquisition of each elk foraging habitat parcel, the TRIG will determine whether changes to the Elk Foraging Habitat Plan are warranted by the acquisition. Puget Sound Energy will then revise the plan to include any such provisions and submit it to the FERC within one year after the acquisition.

### ***6.4 Implementation Schedule***

Acquisition of elk foraging habitat is anticipated to occur by 2013, but the timing of habitat acquisition will depend on availability. Once acquired, elk foraging habitat parcels will be managed according to SA 503 and the Elk Foraging Habitat Plan for the term of the license.

### ***6.5 Procedures, Standards and Criteria***

#### **6.5.1 Habitat Acquisition**

The acquisition of elk foraging habitat parcels by Puget Sound Energy and the other members of the TRIG will be guided by the criteria described in TRMP section 4.1.1, "General Acquisition Criteria" and TRMP section 4.1.3, "Criteria for Elk Habitat Acquisition." The evaluation of potential acquisitions will be based on information collected in accordance with TRMP section 4.2, "Identification and Selection of Habitat Parcels."

#### **6.5.2 Post-acquisition Habitat Assessment**

Within one year of acquisition of an elk foraging habitat parcel, a post-acquisition habitat assessment will be prepared for the parcel. It will be funded from the elk foraging habitat management budget established in SA 503, except that stand-specific assessments of any legacy wood will be funded from the budget established in SA 511. The post-

acquisition habitat assessment for each parcel may include the following items as determined through consultation with the TRIG:

- Topographic maps and aerial photos showing actual locations of parcel boundaries, structures, roads, surface water features (streams, lakes, and wetlands), current forest cover (individual forest stands based on significant differences in tree species composition and size), non-forest habitats, and adjacent ownerships.
- Detailed descriptions of mapped forest stands (species, DBH, height, age, canopy cover and vertical diversity of trees; slope and access).
- General description of the current forest understory vegetation, including species composition, cover, and any presence of wetland indicator species.
- Stand-specific assessments of the number, size, and distribution of legacy wood features (snags, logs, and residual live trees), as determined in accordance with, and funded under, the Decaying and Legacy Wood Plan (SA 511).
- Estimated current and potential future elk forage equivalency values for the Phase 1 acquisition.
- The presence of any unique, sensitive or otherwise important wildlife or their habitats, including Washington Department of Fish and Wildlife (WDFW) priority habitats and species, in areas that may be disturbed by proposed habitat management.
- The presence of any nests, dens or important habitats for animals listed by the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) as threatened or endangered, or candidates for such listing, and the potential for their presence in areas that may be disturbed by proposed habitat management.
- The presence of any special-status plant species in areas that may be disturbed by proposed habitat management.

## ***6.6 Elk Foraging Habitat Management***

Lands acquired to comply with SA 503 will be managed according to site-specific procedures developed by Puget Sound Energy in collaboration with the other members of the TRIG, as described in TRMP section 3.3, “Preparation of Site-specific and Resource-specific Procedures.” At the discretion of the TRIG, management procedures may be prepared individually for each elk foraging habitat parcel, or collectively for multiple parcels with similar conditions and objectives. All procedures will be consistent with the Elk Foraging Habitat Management Guidelines in subsection 6.6.1 of this plan.

Draft elk foraging habitat management procedures will be prepared by Puget Sound Energy and submitted to the TRIG for review and comment. Prior to the preparation of draft procedures, the TRIG will provide Puget Sound Energy with direction as to the habitat parcels to be covered, the elk foraging habitat objectives for the parcels, and any other management considerations specific to the parcels. Puget Sound Energy will implement elk foraging habitat management procedures once they are approved by the TRIG.

Puget Sound Energy will report to the TRIG annually on the implementation of elk foraging habitat management procedures as described in subsection 7.0. The content and timing of annual reports will be determined by the TRIG and specified in the final

procedures. Modifications to the final procedures can be made annually by consensus of the TRIG.

### 6.6.1 Elk Foraging Habitat Management Guidelines

Elk foraging habitat management procedures will adhere to the following guidelines, unless alternate management approaches are approved by the TRIG for meeting the overall elk foraging habitat objectives.

- Elk foraging habitat management should be consistent with the best available science on elk habitat, energetics, and population dynamics, and pertinent State and Tribal elk herd management plans.
- The TRIG may direct their management actions according to elk forage equivalency values.
- Roads on elk foraging habitat lands should not be kept open (travelable) any longer than needed. Roads will be closed or gated to motorized vehicles unless needed for management or to comply with easements.
- Roads on acquired lands that are no longer needed for elk foraging habitat management or to comply with existing easements or road use agreements will be closed and re-vegetated to the standards of the Washington Forest Practices Rules.
- Public access may be seasonally restricted in elk calving areas where there is a demonstrated need.
- Elk hiding cover may be provided where elk vulnerability to disturbance is too high to meet herd management objectives and is consistent with elk foraging habitat objectives, and where vulnerability cannot be controlled by other management actions, such as access management.
- Forest habitat managed for elk forage should be managed to maintain forest canopy closure at 20 percent or less. In rare cases, planting or seeding with palatable forage species may be necessary in forest stands dominated by unpalatable forbs and shrubs.
- Timber harvest slash may be managed by crushing, windrowing, or removing from the site so that slash depths average less than 1.5 feet (Black et al. 1976, Lyon 1976, Thomas et al. 1979, Witmer et al. 1985). Slash windrows can be used to provide temporary hiding cover (Lyon 1976, Witmer et al. 1985). Slash may also be piled away from forage areas to increase habitat for small mammals where doing so will not conflict with elk forage objectives.
- Tree replanting density following regeneration harvest of forest stands will be at the minimum number of seedlings per acre necessary to meet the requirements of the Washington Forest Practices Rules.
- Elk forage plantings, where necessary, may include both native forage species and non-invasive, non-native forage species, as determined on a site-by-site basis by the TRIG, and consistent with Potash (2006). No invasive non-native plant species will be included in the plantings.
- Herbicides will be used only where necessary to control noxious weeds and other plants that are inconsistent with the objectives of the elk foraging habitat management procedures. Herbicide formulations and application methods will be

selected to avoid or minimize impacts to desirable forage, cover plant species, and the surrounding environment.

- Cultivated pastures will be mowed and fertilized as needed to maintain forage quality.
- Take of federally-listed plant and animal species will be avoided unless approved in advance by the appropriate federal agency (USFWS and/or NMFS).
- Unlawful taking of fish and wildlife species designated as endangered or protected by the Washington State Fish and Wildlife Commission and as defined in RCW 77.15.120 and 77.15.130, will be avoided. Impacts to other state special status species will be avoided or minimized based on consultation with WDFW and the other members of the TRIG.
- Timber harvesting and other modification of forest habitat will be in compliance with provisions of the Washington Forest Practices Rules (WAC 222) for the protection of northern spotted owl habitat. As noted in section 5.2.1, portions of Skagit County are with the Finney Block Spotted Owl Special Emphasis Area (SOSEA) designated by the Washington Forest Practices Board. Under the Forest Practices Rules [WAC 222 -16-080 (1) (h)], "critical habitats (state)" include, "suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands," as well as, "the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA." In Skagit County, a spotted owl median home range circle has a radius of 1.8 miles. Timber harvesting and certain other forest practices in critical habitat (state) are considered Class IV-Special forest practices and subject to detailed review under the Forest Practices Rules.

### 6.6.2 Elk Foraging Habitat Management Procedures

Within one year after acquisition of an elk foraging habitat parcel, habitat management procedures will be developed for the parcel. Based on input from the TRIG specific to each parcel, the habitat management procedures may include:

- Maps and aerial photos of the parcel prepared for the post-acquisition habitat assessment, with any relevant modifications and updates.
- The elk foraging habitat objectives for the parcel, describing seasonal elk use and desired habitat conditions for each delineated forest stand and non-forest habitat. Stand-specific objectives should include desired elk foraging habitat value and forest cover condition.
- Stand-specific objectives for the number, size, and distribution of legacy wood features (snags, logs, and residual live trees), as determined in accordance with and funded under the Decaying and Legacy Wood Plan (Settlement Article 511).
- An action plan describing management activities recommended over the succeeding years to achieve the habitat objectives. The term of the plan will be specified. The measures may include:
  - Minimizing construction of new roads to facilitate management.
  - Permanently closing and revegetating existing roads not required for management.
  - Seasonally closing roads during periods when they are not in use.
  - Managing human access to the parcel.

- Replacing stream-crossing structures (such as bridges and culverts).
  - Managing habitat to stimulate elk forage production.
  - Managing elk access within and through managed areas.
  - Planting trees to establish visual buffers, particularly along roads and in other areas with public access.
  - Planting or sowing forage species.
  - Managing noxious weeds.
  - Retaining and/or creating snags and logs.
  - Mowing or other activities to maintain forage availability over time.
  - Other actions that are warranted for management of the parcel.
- If needed, site-specific measures to protect nests, dens, and other important habitats and species of plants and animals present on the parcel.
  - Criteria for monitoring the effectiveness of the action plan and modifying the action plan as needed.
  - An implementation budget and schedule.
  - On a site-by-site basis, PSE should maintain access for public hunting and fishing where consistent with other management objectives and constraints.
  - Seasonal and spatial buffers to avoid or minimize impacts to federally-listed species, developed in collaboration with the USFWS and/or NMFS, as appropriate.
  - Seasonal and spatial buffers to avoid or minimize impacts to priority habitats and species, developed in collaboration with the WDFW.
  - Contingency measures for complying with the ESA and dealing with new federal listings of threatened or endangered species on or near the parcel.

### 6.6.3 Noxious Weed Management

The following text describes how noxious weed management will be approached and funded with respect to acquired lands, per SA 508, which specifies that, “The plan [TRMP] shall address how noxious weed management considerations will be addressed when evaluating land acquisition proposals or other activities pursuant to Articles 502, 503, 504, and 505.”

Puget Sound Energy will evaluate the extent of noxious weed management required for each tract under consideration for acquisition or land management activities. The evaluation will include the steps described below. Each step will be developed in coordination with the TRIG, and will require TRIG approval prior to implementation.

Prior to acquisition:

1. Conduct reconnaissance level field surveys to determine occurrence of weeds listed by Washington State and/or the county. This will be a cursory look without extensive data gathering or analysis.
2. If weeds occur on the site, determine if any of the following three conditions exist:
  - a. The species is a Class A or Class B designate in the county/region where the tract occurs; or
  - b. The weeds preclude or inhibit attaining the habitat value for the species for which the tract was acquired; or



- c. There is a comprehensive strategy on adjacent lands that applies to the weed species on the tract (e.g. Skagit basin knotweed control strategy).
3. If any of the three conditions (2a, b, or c) exist, then complete more accurate surveys, develop site and species-specific treatment plans for the tract, and estimate costs for management of the weeds, so the TRIG can evaluate the cost/benefits of acquiring the tract.

After acquisition:

4. Management funds from the acquisition articles will only be used to manage weed sites if any of the three conditions (2a, b, or c) above are applicable.

If conditions a, b, or c are not applicable, but there is a legal requirement for weed management, then funding will come from a source other than article management funds. In all other respects, management of elk habitat lands will comply with the noxious weed plan (Noxious Weed Plan, SA 508).

#### 6.6.4 Plants of Special Status

Plants of special status will be designated for management on a site-specific basis, consistent with Settlement Article 509, and as specified in the Plants of Special Status Plan.

#### 6.6.5 Revegetation

Revegetation, restoration, and enhancement activities on elk foraging habitat parcels will be consistent with the *Noxious Weed Plan* and will reflect the overall goal of using native plant species whenever practicable.

### 6.7 Rationale

The Nooksack elk herd has experienced a population decline that is at least in part due to limited nutritional resources. As a response to this decline, protecting elk foraging habitat was identified as a resource objective for the basin by the TRIG. Puget Sound Energy will identify and evaluate parcels of land for increasing elk foraging habitat cooperatively with the TRIG. The evaluation considers the compatibility of elk foraging habitat with adjacent land uses and the potential habitat provided by a particular parcel against the cost of acquisition and management of the parcel to meet the goals for this article. This approach will assure funds provided for elk foraging habitat acquisition and management are used efficiently and affectively.

### 6.8 Monitoring and Adaptive Management

By October 1, 2009, Puget Sound Energy, in consultation with the TRIG, will develop and prepare in accordance with SA 501 a monitoring plan to determine the effectiveness of the implementation the Elk Foraging Habitat Plan as outlined in SA 514. The plan will require monitoring the effectiveness and implementation of the Elk Foraging Habitat Plan through periodic assessments of habitat quantity and quality, using USFWS Ecological Service Manual (ESM) parts 101, 102, and 103 (USFWS 1980a, 1980b and 1981); Habitat Evaluation Procedures (“HEP”); or another appropriate methodology selected in consultation with the TRIG.

Puget Sound Energy will develop by October 1, 2013, in consultation with the TRIG, the schedule for specific monitoring actions, the timing of each monitoring period, monitoring criteria, the scope of monitoring given available funding, and the format for monitoring reports as outlined in SA 514 and in accordance with the consultation requirements of SA 501

## 7.0 Reporting

Reporting on implementation of the Elk Foraging Habitat Plan will be consistent with TRMP section 5.0, “Monitoring and Reporting.” Puget Sound Energy will prepare an annual report that describes elk foraging habitat management activities carried out during the previous reporting year. Each report will include a summary of expenditures made during the preceding year in conformance with the requirements of the license, as well as an accounting of funding expenditures, interest earned, disbursements made as required by any article, and a report indicating adjustments made for inflation in accordance with SA 602. Reports will be provided to the TRIG for review and comment prior to being filed with the FERC.

### 7.1 Schedule

Puget Sound Energy will submit a draft Elk Foraging Habitat Plan Annual Report to the TRIG for a 30-day review and comment period no later than March 31 of each year. Puget Sound Energy will revise the draft Elk Foraging Habitat Plan Annual Report as appropriate, and combine it with reports for other license articles into a draft Baker River Project Annual Report for review and comment prior to submittal to the FERC.

### 7.2 Elk Foraging Habitat Plan Annual Report Format

The draft report will include:

- The results of monitoring described in subsection 6.8, “Monitoring and Adaptive Management.”
- A summary of all acquisition and management activities conducted on elk foraging habitat lands during the year.
- A copy of each set of habitat management procedures developed or updated during the year.
- A list of all expenditures billed to the elk foraging habitat acquisition and management budgets during the year, including an accounting of funding expenditures, interest earned, disbursements made, and adjustments made for inflation.
- A summary of any issues or concerns with implementation of the Elk Foraging Habitat Plan raised by Puget Sound Energy or other members of the TRIG during the reported year.
- Any changes to the Elk Foraging Habitat Plan proposed by consensus of the TRIG.
- A list of management activities and expenditures planned for the upcoming year.

## 8.0 References

- Black, H., R. J. Scherzinger, and J. W. Thomas. 1976. Relationships of Rocky Mountain elk and Rocky Mountain mule deer habitat to timber management in the Blue Mountains of Oregon and Washington. Pages 11-31 in: Proceedings, Elk-logging-roads symposium. University of Idaho, Moscow, ID.
- Hamer Environmental, AESI, and R2 (Hamer Environmental, Associated Earth Sciences, Inc., and R2 Resource Consultants, Inc.). 2004. Vegetation mapping in the Project Area and wetland inventory. Relicense studies T2 and T5. Final Report. Prepared for Puget Sound Energy, Bellevue, WA. Hamer Environmental, Mt. Vernon, WA; Associated Earth Sciences, Inc., Kirkland, WA; and R2 Resource Consultants, Inc., Redmond, WA. January 22, 2004. 93 pp.
- Hanley, T.A. 1980. Nutritional constraints on food and habitat selection by sympatric ungulates. Ph.D. Thesis, Univ. Washington, Seattle.
- Lyon, L. J. 1976. Elk use as related to characteristics of clearcuts in western Montana. Pages 69-72 in: Proceedings, Elk-logging-roads symposium. University of Idaho, Moscow, ID.
- Potash, L. 2006. Technical report on effects of plants used for elk forage. Last revised December 13, 2006.
- Thomas, J. W., H. Black Jr., R. J. Scherzinger, and R. J. Pedersen. 1979. Chapter 8, deer and elk. Pages 104-127 in: Thomas, J. W., ed. Wildlife habitat in managed forests, the Blue Mountains of Oregon and Washington. USDA, Forest Service, Agricultural Handbook No. 553.
- U.S. Fish and Wildlife Service (USFWS). 1980a. Ecological Services Manual 101: Habitat as a Basis for Environmental Assessment. Division of Ecological Services, Washington, D. C. Release No. 4-80. Unnumbered.
- 1980b. Ecological Services Manual 102: Habitat Evaluation Procedures. Division of Ecological Services, Washington, D. C. Release No. 2-80. Unnumbered.
1981. Ecological Services Manual 103: Standards for the Development of Habitat Suitability Index Models. Division of Ecological Services, Washington, D. C. Release No. 1-81. Unnumbered.
- Witmer, G. W., M. Wisdom, E. P. Harshman, R. J. Anderson, C. Carey, M. P. Kuttel, I. D. Luman, J. A. Rochelle, R. W. Scharpf, and D. Smithey. 1985. Chapter 11, deer and elk. Pages 231-258 in: Brown, E. R., tech ed. Management of wildlife and fish habitats in forests of western Oregon and Washington. USDA, Forest service, Pacific Northwest Region, R6-F&WL-192-1985, Portland, OR.

## 9.0 Review Comments and Responses

Puget Sound Energy prepared a final draft of the plan and distributed it via certified US Mail to the TRIG for a 30-day review period on August 14, 2009. Comments on the final draft were due September 14, 2009.


### 9.1 Distribution List

Table 1. Elk Foraging Habitat Plan reviewers.

Name	Organization	Address
Brock Applegate	WA Dept of Fish & Wildlife	Post Office Box 1100 La Conner, WA 98257
Cathy Baker	The Nature Conservancy	1917 First Avenue Seattle, WA 98101
Len Barson	The Nature Conservancy	1917 First Avenue Seattle, WA 98101
Mignonne Bivin	National Park Service	7280 Ranger Station Road Marblemount, WA 98267
Bob Carey	The Nature Conservancy	410 N. 4th Street Mount Vernon, WA 98273
Chris Danilson	Sauk-Suiattle Indian Tribe	5318 Chief Brown Lane Darrington, WA 98273
Don Gay	USDA Forest Service	810 State Route 20 Sedro-Woolley, WA 98284
Patrick Goldsworthy	North Cascades Conservation Council	P.O. Box 95980 Seattle, WA 98145
Joann Gustafson	WA Dept of Natural Resources	919 North Township Sedro-Woolley, WA 98284
Mark Hunter	WA Dept of Fish & Wildlife	600 Capitol Way North Mail Stop 43143 Olympia, WA 98501
Lou Ellyn Jones	US Fish & Wildlife Service	510 Desmond Dr. SE, Suite 102 Lacey, WA 98503
Robert Kuntz	National Park Service	810 State Route 20 Sedro-Woolley, WA 98284
Chris Madsen	Northwest Indian Fisheries Commission	6730 Martin Way East Olympia, WA 98512
Laura Martin	USDA Forest Service	42404 SE North Bend Way North Bend, WA 98405
Greta Movassaghi	USDA Forest Service	810 State Route 20 Sedro-Woolley, WA 98284
Bob Nelson	Rocky Mountain Elk Foundation	45 Overmeyer Road Raymond, WA 98577
James Roberts	Sauk-Suiattle Indian Tribe	5318 Chief Brown Lane Darrington, WA 98241

Name	Organization	Address
Regina Rochefort	National Park Service	810 State Route 20 Sedro-Woolley, WA 98284
William Rogers	Skagit County Noxious Weed Control Board	302 South First Street Mount Vernon, WA 98233
Scott Schuyler	Upper Skagit Indian Tribe	25944 Community Plaza Sedro-Woolley, WA 98284
Jon-Paul Shannahan	Upper Skagit Indian Tribe	25944 Community Plaza Sedro-Woolley, WA 98284
Laurel Shiner	Whatcom County Noxious Weed Control Board	901 W. Smith Road Bellingham, WA 98226
Stan Walsh	Swinomish Indian Tribe	P.O. Box 368 La Conner, WA 98233
Brenda Werden	WA Dept of Natural Resources	919 North Township Sedro-Woolley, WA 98284
Todd Wilbur	Swinomish Indian Tribe	P.O. Box 368 La Conner, WA 98233

## 9.2 Transmittal Letter

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

Puget Sound Energy  
P.O. Box 97034  
Bellevue, WA 98009-9734  
PSE.com

August 14, 2009

Project No. 2150  
Elk Foraging Habitat Plan

**Certified Mail Return Receipt Requested**

Lou Ellyn Jones  
US Fish & Wildlife Service  
510 Desmond Dr. SE, Ste. 102  
Lacey, WA 98503

**Re: Baker River Project, FERC No. 2150 – Final Draft Elk Foraging Habitat Plan,  
Settlement Agreement Article 503, Submittal for 30-Day Review**

Dear Lou Ellyn:

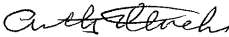
On October 17, 2008, the Federal Energy Regulatory Commission (FERC) issued a new license for Puget Sound Energy, Inc.'s (PSE's) Baker River Project, FERC No. 2150. In the license FERC directed that PSE, after consultation with the parties to the Settlement, file an Elk Foraging Habitat Plan (EFHP).

In accordance with these directives PSE has conducted consultation with the Terrestrial Resource Implementation Group composed of representatives from the Settlement parties to develop a preliminary draft of the EFHP and receive initial comments and suggestions. These suggestions were incorporated into a final draft EFHP. PSE is required to allow a minimum of 30 days for the parties to review and comment on the final draft EFHP prior to filing the final plan with FERC.

Enclosed with this letter is the final draft EFHP. Please review this plan and send your comments and/or recommendations to me. You may submit your comments using the enclosed reply form and self-addressed stamped envelop or by email. **Please respond with your reply by September 14, 2009.**

Thank you for your efforts in supporting this process. If you have any questions, please call me at 425-462-3553 or email at [Tony.Fuchs@pse.com](mailto:Tony.Fuchs@pse.com).

Sincerely,



Tony Fuchs  
Consulting Natural Resource Scientist  
P.O. Box 97034 PSE-09S  
Bellevue WA, 98009-9734  
Or email at [Tony.Fuchs@pse.com](mailto:Tony.Fuchs@pse.com)

Enclosures: Final Draft Elk Foraging Habitat Plan; reply form  
cc: TRIG members

Elk Foraging Habitat Plan  
Doc ID: BAK.20090813.0155.PSE.TRIG

Page 1 of 1  
8/14/2009

Figure 1. Sample transmittal letter from PSE, August 14, 2009.

### 9.3 Reviewer Comments and PSE Responses

Table 2. Comments following formal review of the Elk Foraging Habitat Plan, August 14 – September 14, 2009.

Comment	Puget Sound Energy Response
<b>WDNR – JoAnn Gustafson, received August 27, 2009</b>	
I have no comments (checked on comment form)	Comment noted. No revisions to plan.
<b>NCCC – Patrick Goldsworthy, received August 27, 2009</b>	
I have no comments (checked on comment form)	Comment noted. No revisions to plan.
<b>NPS – Robert Kuntz, received September 11, 2009</b>	
I have no comments (checked on comment form)	Comment noted. No revisions to plan.
<b>NPS – Mignonne Bivin, received August 25, 2009</b>	
I have no comments (checked on comment form)	Comment noted. No revisions to plan.
<b>WDFW – Brock Applegate, received September 14, 2009 (via e-mail)</b>	
[Comment 1.] The Washington Department of Fish and Wildlife (WDFW) has reviewed the Final Draft Elk Foraging Habitat Plan Settlement Agreement (SA) Article 503. We offer the following comments. As a member of the Terrestrial Resources Implementation Group (TRIG), WDFW has participated in continuous consultation and collaboration with Puget Sound Energy (PSE) and other TRIG members for many years before and after the issuance of the Baker River Project License. WDFW appreciates PSE's collaborative process and willingness to work with all TRIG members and SA signatories on the implementation of their license articles.	[Response 1.] Comment noted.
[Comment 2.] Overall, WDFW approves of the current Article 503 Elk Foraging Habitat Plan. We have listed a few specific comments at the end of the letter. In general, WDFW would like to see more specifics in the plan. Although we recognize the TRIG should not start focusing on any one particular option at this time, PSE should record and list the ideas, thoughts, and possible management actions for future consideration. WDFW has sensed a hesitancy to write specific buffer distances and management recommendations from WDFW and other TRIG members because of the fear of becoming committed to implementing them without any alternatives or flexibility. WDFW would like our recommendations recorded as options to consider in the current plan.	[Response 2.] PSE does not agree that the Elk Foraging Habitat Plan lacks specificity. In fact, the majority of the input from TRIG members during the review of previous drafts of the Plan involved requests to remove specificity that PSE had provided. Nevertheless, PSE agrees that ideas and thoughts of TRIG members for the management of elk foraging habitat should be recorded for future reference during the development of site-specific management procedures. The TRIG meeting notes will continue to document these ideas for future reference by the membership. However, those that were inconsistent with the controlling documents (i.e., Settlement Agreement, License order, Section 4(e) terms and conditions or Biological Opinions); or those that did not receive consensus support for inclusion by the TRIG could not be included in this plan.  We believe the management approach that satisfies the interests of all TRIG members, within the confines of controlling documents, can be best achieved after we have acquired specific habitat parcels for which site specific management objectives can be developed for implementation.

Comment	Puget Sound Energy Response
<p>[Comment 3.] In the plan, PSE should consider all parameters of elk (<i>Cervus canadensis</i>) habitat that affect forage production. PSE should evaluate cover and security from human disturbances when creating elk forage, especially when measuring effectiveness in the Article 514, the Effectiveness Monitoring Plan. WDFW anticipates that PSE will have to apply some of the elk management money toward securing the area from trespassing motorized vehicles, creating visual screens and cover, and coordinating with law enforcement to secure the area. WDFW would like to have all project lands open to non-motorized hunting and fishing, where PSE does not anticipate a conflict with safety, other wildlife objectives, or operations of the project.</p>	<p>[Response 3.] The need for hiding cover and use of elk habitat management funds to provide hiding cover have been discussed by the TRIG, but no clear consensus has been reached. PSE anticipates the TRIG will address these matters on a site-specific basis once elk foraging habitat has been acquired. Section 6.6.2 of the Elk Foraging Habitat Plan identifies the need to address public use restrictions and public hunting access in the site-specific management procedures that will be developed in consultation with the TRIG. When developing those procedures, the TRIG will weight the benefits of allowing non-motorized hunting and fishing, against the costs of committing land and management funds to the maintenance of hiding cover.</p>
<p>[Comment 4.] WDFW welcomes the opportunity to work with PSE on future projects. We value our working relationship with PSE and encourages future dialog. If you have any questions or need more information or clarification to comments from the WDFW, please feel free to call me at (360) 466-4345 x254.</p>	<p>[Response 4.] Comment noted.</p>
<p>[Comment 5.] SPECIFIC COMMENTS CONCERNING THE ELK FORAGING HABITAT PLAN, ARTICLE 503:</p> <p>5.2.1 Washington Forest Practices Act. PSE could have additional Critical habitat (state) for marbled murrelets (<i>Brachyramphus marmoratus</i>), Bald eagles (<i>Haliaeetus leucocephalus</i>), and Peregrine falcons (<i>Falco peregrinus</i>) on their project lands. WDFW recommends PSE follow Washington Administrative Code (WAC) 222-16-080 (a), (f), (h), and (j) for protecting Critical habitat (state). Please consult with WDFW for additional measures to avoid or minimize impacts to all special status species while conducting management activities.</p>	<p>[Response 5.] As a general rule, PSE assumes the TRIG will avoid acquiring critical habitat (state) to manage intensively for elk foraging habitat under SA 503. The pre-acquisition process described in Section 4.2 of the Terrestrial Resource Management Plan (TRMP) includes provisions for identifying potential occurrences of special status plant and animal species and their habitats on prospective land acquisitions. If the TRIG elects to acquire lands containing critical habitat (state) or habitats for other special status species, the management procedures developed for those lands will include appropriate provisions identified by WDFW.</p>
<p>[Comment 6.]</p> <p>6.6.1 Elk Foraging Habitat Management Guidelines, 6<sup>th</sup> bullet. The bullet suggests that hunting is the only disturbance that can make elk vulnerable or need hiding cover. Please replace the word "hunting" with the word "disturbance" so that the 6<sup>th</sup> bullet will read:</p> <p>"Elk hiding cover will be provided only where elk vulnerability to <b>disturbance</b> is too high to meet herd management objectives and is consistent with elk foraging habitat objectives, and where vulnerability cannot be controlled by other management actions, such as access management."</p>	<p>[Response 6.] The text of the Plan has been revised as suggested.</p>



Comment	Puget Sound Energy Response
<p>[Comment 7.] 6.6.1 Elk Foraging Habitat Management Guidelines, 14<sup>th</sup> bullet. WDFW cannot approve the "take" of state-listed plant or animal species. We recommend the bullet to read:</p> <p>"Take of state-listed plant and animal species will be avoided. The Revised Code of Washington (RCW) 77.15.120 and 77.15.130 prohibits the 'unlawful taking' of 'Endangered' or 'Protected' fish or wildlife. Impacts to other state special-status species will be avoided or minimized after consultation with the TRIG, including WDFW."</p>	<p>[Response 7.] This comment has been addressed through the insertion of new text similar to that suggested.</p>
<p><b>USDA-FS – Greta Movassaghi, received September 14, 2009 (via e-mail)</b></p>	
<p>I have no comments (checked on comment form)</p>	<p>Comment noted. No revisions to plan.</p>
<p><b>RMEF – Bob Nelson, received September 21, 2009</b></p>	
<p>I have no comments (checked on comment form).</p>	<p>Comment noted. No revisions to plan.</p>

## 9.4 Comment Correspondence

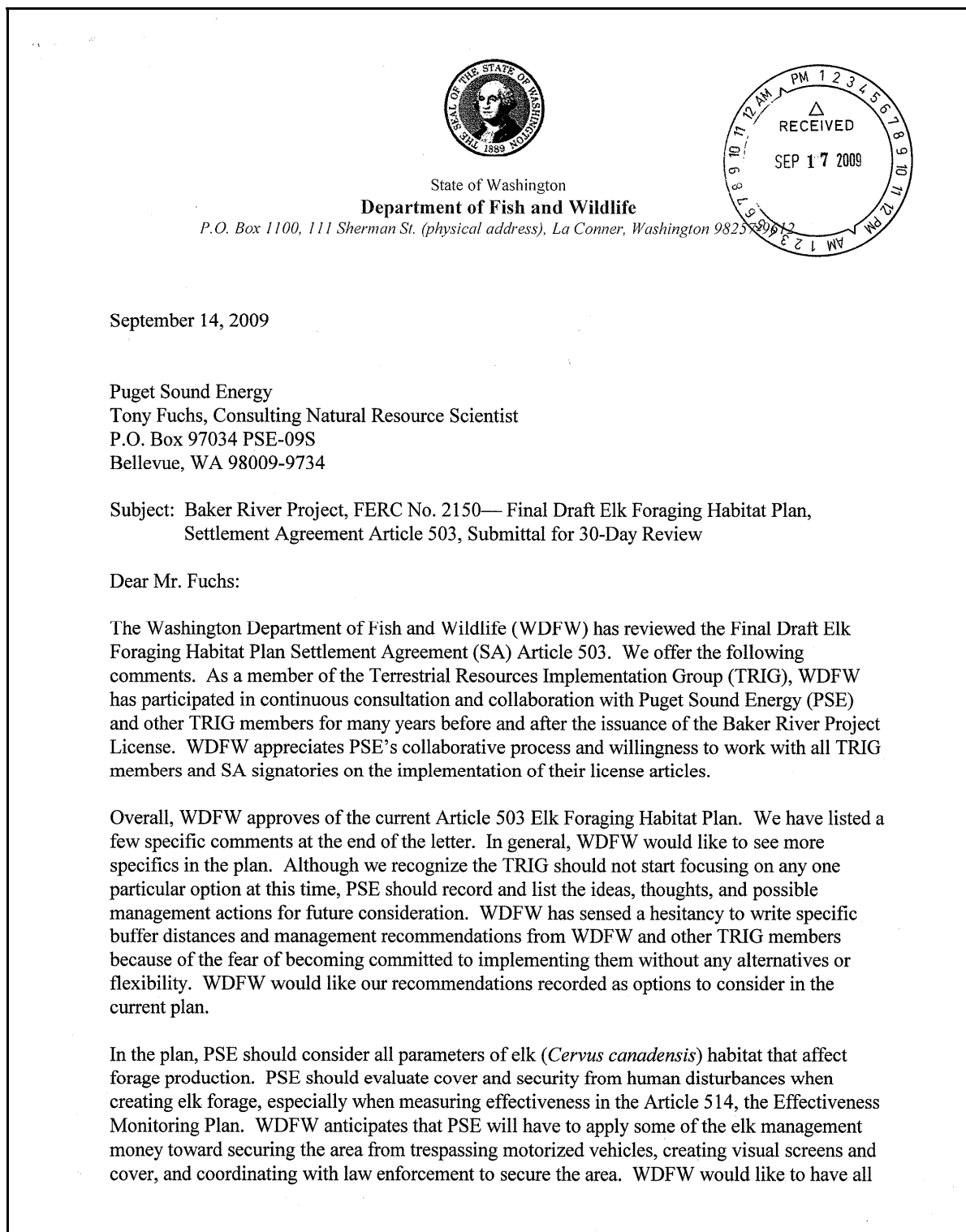


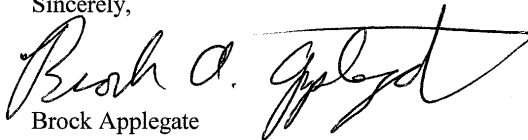
Figure 2. Reply from Brock Applegate, Washington Department of Fish and Wildlife.

Mr. Tony Fuchs  
September 14, 2009  
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project lands open to non-motorized hunting and fishing, where PSE does not anticipate a conflict with safety, other wildlife objectives, or operations of the project.

WDFW welcomes the opportunity to work with PSE on future projects. We value our working relationship with PSE and encourages future dialog. If you have any questions or need more information or clarification to comments from the WDFW, please feel free to call me at (360) 466-4345 x254.

Sincerely,



Brock Applegate  
Fish and Wildlife Biologist

Cc: David Brock, WDFW Mill Creek  
Wendy Cole, WDFW La Conner  
Mike Davison, WDFW La Conner  
Bob Everitt, WDFW Mill Creek  
Mark Hunter, WDFW Olympia  
Lora Leschner, WDFW Mill Creek

Figure 2, continued.

Mr. Tony Fuchs  
September 14, 2009  
Page 3 of 3

**SPECIFIC COMMENTS CONCERNING THE ELK FORAGING HABITAT PLAN,  
ARTICLE 503:**

**5.2.1 Washington Forest Practices Act.** PSE could have additional Critical habitat (state) for marbled murrelets (*Brachyramphus marmoratus*), Bald eagles (*Haliaeetus leucocephalus*), and Peregrine falcons (*Falco peregrinus*) on their project lands. WDFW recommends PSE follow Washington Administrative Code (WAC) 222-16-080 (a), (f), (h), and (j) for protecting Critical habitat (state). Please consult with WDFW for additional measures to avoid or minimize impacts to all special status species while conducting management activities.

**6.6.1 Elk Foraging Habitat Management Guidelines, 6<sup>th</sup> bullet.** The bullet suggests that hunting is the only disturbance that can make elk vulnerable or need hiding cover. Please replace the word “hunting” with the word “disturbance” so that the 6<sup>th</sup> bullet will read:

“Elk hiding cover will be provided only where elk vulnerability to **disturbance** is too high to meet herd management objectives and is consistent with elk foraging habitat objectives, and where vulnerability cannot be controlled by other management actions, such as access management.”

**6.6.1 Elk Foraging Habitat Management Guidelines, 14<sup>th</sup> bullet.** WDFW cannot approve the “take” of state-listed plant or animal species. We recommend the bullet to read:

“Take of state-listed plant and animal species will be avoided. The Revised Code of Washington (RCW) 77.15.120 and 77.15.130 prohibits the ‘unlawful taking’ of ‘Endangered’ or ‘Protected’ fish or wildlife. Impacts to other state special-status species will be avoided or minimized after consultation with the TRIG, including WDFW.”

Figure 2, continued.