



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

# **WETLAND HABITAT PLAN**

## **SETTLEMENT AGREEMENT ARTICLE 504**

**Appendix C to the SA 501 Terrestrial Resource Management Plan**

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



**Puget Sound Energy**  
Bellevue, Washington

**September 30, 2009**

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## 1.0 Executive Summary

This Wetland Habitat Plan establishes standards and guidelines for the acquisition and management of wetland habitat for the Baker River Project. It has been prepared as a means to facilitate the implementation of Settlement Agreement Article 504 (SA 504), “Wetland 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, 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.

## 2.0 Introduction

This Wetland Habitat Plan has been prepared for the Baker River Hydroelectric Project, FERC Project 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 Article 504 (SA 504), “Wetland Habitat,” sets forth the applicable guidance for this plan.

This plan describes the steps Puget Sound Energy will take to meet the requirements of SA 504. It establishes the goals and objectives for wetland habitat management and the criteria and procedures for site selection, acquisition, management, and reporting that will occur over the term of the license. This plan was prepared collaboratively by the Baker River Project Terrestrial Resources Implementation Group (TRIG), which includes representatives of Puget Sound Energy and the other signatories to the Settlement Agreement.

This plan includes:

- Reviews of the pertinent license articles and Settlement Agreement articles to ensure the plan meets the requirements of each.
- 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, policies, and articles of the license.
- 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 Wetland Habitat Plan has been prepared in response to Settlement Agreement (SA) 504, 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 four articles are also provided below.

### 3.1 *Settlement Agreement Article 504*

Settlement Agreement Article 504 states:

The licensee shall acquire wetland habitat lands for conservation of wetlands and wetland-dependent species, placing a priority on acquiring high quality, functioning wetland breeding habitat for native amphibian and other native species, for the purpose of conserving wetlands and providing long-term protection for species using the wetland habitat. The licensee shall, in consultation with the TRIG, develop site acquisition and selection criteria in accordance with the general geographic preferences set forth in Article 505(b). 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. 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. Following acquisition, the licensee shall undertake habitat enhancement and management (including noxious weed control) activities in accordance with a plan prepared after consultation with the TRIG and in accordance with Article 501.

Funding for acquisition is not to exceed \$340,000 (2006\$), and shall be made available within four years of license issuance. Funding for planning and for habitat enhancement, habitat management, and noxious weed management of existing or acquired parcels is not to exceed \$190,000 and shall be made available according to the following schedule: \$10,000 shall be made available within four years of license issuance, \$140,000 shall be made available in the fifth year following license issuance, and \$20,000 shall be made available in each of the sixth and seventh years following license issuance. 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 to the TERF established pursuant to Article 602. Unless otherwise approved by the Commission in accordance with the requirements of Article 601, acquired lands 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, as appropriate, if it appears that transaction costs will be significantly higher than expected at the time of license issuance, and shall, in consultation with the TRIG, determine whether to proceed with a transaction with significant transaction costs.

### ***3.2 License Article 20***

Article 20 in Form L-1 of the license 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***

License Article 410, "Threatened, Endangered and Sensitive Species Plan," states:

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.

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

Article 508 of the Settlement Agreement states:

The plan shall address site-specific and species-specific management and monitoring programs, based on the guidelines and treatment options identified in the tables attached as Appendix A-1, which are based upon the results of pre-licensing Terrestrial Study T-6 and the Forest-Wide Environmental Assessment for Noxious Weed Management on the Mt. Baker-Snoqualmie National Forest, published by the USDA-FS in May 1999. 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 T6 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 states:

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 Wetland Habitat Plan is to acquire and manage habitat for the long-term purpose of conserving wetlands and native wetland-dependent species. When evaluating wetlands for acquisition, the TRIG will place a priority on acquiring high quality, functioning wetland breeding habitat for native amphibians and other native species.

## 5.0 Regulatory Reference and Definitions

The management of wetland 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 Clean Water Act

Wetlands are regulated by the U.S. Army Corps of Engineers under the Clean Water Act. A Section 404 permit may be required to work in or near wetlands and other waters of the U.S. if excavation, placement of fill, modification of hydrology, or other direct or indirect effects are anticipated.

Under the Washington State Water Pollution Control Act, a permit is required to discharge pollutants that alter the biological or chemical characteristics of a water body. The Washington Department of Ecology regulates the application of aquatic herbicides through two general permits. The Aquatic Noxious Weed Control General Permit is used to regulate the discharge of pesticides to control state-listed noxious weeds. For plant species that are completely aquatic and grow submerged in water, the Aquatic Plant and Algae Management Permit must be used.

Management activities proposed under the Wetland Habitat Plan will be designed to enhance and/or restore wetland habitat values; however, permits may still be required, and would be coordinated with the appropriate federal and state agencies and local jurisdictions.

#### 5.1.2 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 wetland habitat (e.g., snag creation) that is occupied by a listed species can be considered take if it leads to the harm

or harassment of individual animals. Management activities on wetland habitat lands will therefore need to be conducted in a manner that does not result in unpermitted take. Wetland habitat with the potential to support listed species will be checked for such species prior to any management activity, and the activity will be adjusted as needed to comply with the ESA.

## ***5.2 Washington State and Local Jurisdiction Authority and Reference***

### **5.2.1 Section 401 Water Quality Certification**

Aspects of the federal authority under the Clean Water Act have been delegated to the Washington State Department of Ecology (WAC Chapter 173-201A State Water Quality Rule; WAC Chapter 173-225 Federal Clean Water Act, Section 401; RCW Chapter 90.48 State Water Quality Law). All projects requiring a U.S. Army Corps of Engineers 404 Certification are required to obtain a Section 401 Water Quality Certification. Other projects not requiring Corps permits may require a Section 401 certification.

### **5.2.2 Hydraulic Project Approval**

A Hydraulic Project Approval (HPA) is required for instream work that uses, diverts, obstructs, or changes the natural flow or bed of any of the salt or fresh waters of the state (RCW Chapter 77.55.021). The Washington Department of Fish and Wildlife issues the HPA.

### **5.2.3 Aquatic Use Authorization**

Activities planned for state-owned aquatic lands require an Aquatic Use Authorization, issued by the Washington Department of Natural Resources.

### **5.3.4 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 management activities conducted under the Wetland Habitat Plan may require approval under the FPR.

### **5.2.5 Shoreline Management Act**

Activities conducted within “shorelines 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.

## 6.0 Plan Implementation

### 6.1 Plan Area

This Wetland Habitat Plan applies to non-federal lands acquired in whole or in part to satisfy SA 504, and to sites on existing non-federal Project lands designated by the TRIG for wetlands management. 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 wetland habitat will be provided as described in Terrestrial Resource Management Plan (TRMP) section 6.0, "Funding." The use of funds will be reported annually as described in TRMP section 5.0, "Monitoring and Reporting." If the wetland habitat funds specified in SA 504 are still available in 2033, and if Puget Sound Energy, in consultation with the TRIG, determines that lands are not available and/or habitat enhancement or management actions are not feasible for any of the intended purposes of SA 504, the remaining funds required by this article may be made available to the Terrestrial Enhancement and Research Fund (TERF) established pursuant to SA 602.

### 6.3 Development and Modification of the Wetland Habitat Plan

The Wetland 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."

### 6.4 Implementation Schedule

Acquisition of wetland habitat is anticipated to begin in 2012 coincident with funding availability, but the timing of acquisition will depend on the availability of suitable wetlands. Once acquired, wetland habitat parcels will be managed according to SA 504 and the Wetland Habitat Plan for the term of the license.

### 6.5 Procedures, Standards and Criteria

#### 6.5.1 Habitat Acquisition

The acquisition of wetland 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 4.1.4, "Criteria for Wetland 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."

Selection of parcels will be based on the geographic criteria outlined in Article 505(b), "Aquatic-riparian Habitat," which states:

The location of sites for the purpose of implementation shall be used to aid in prioritization in the following order: i) within the Baker River Basin, ii) within the middle Skagit River and tributaries immediately downstream of the Baker River

(from the confluence with the Baker River to the Pipeline Crossing at RM 24.3.), iii) within the lower Skagit River and estuary, and iv) elsewhere in the Skagit River Basin, or as may otherwise be established in the (Wetland Habitat Plan).

### 6.5.2 Post-acquisition Habitat Assessment

Within one year of acquisition of a wetland habitat parcel, a post-acquisition habitat assessment will be prepared for the parcel according to the following procedures. The post-acquisition habitat assessment will consist of detailed and focused field surveys and reviews of best available science. The assessment will be funded from the wetland habitat management budget established in SA 504 except for stand-specific assessments of legacy wood, which will be funded from the budget for the Decaying and Legacy Wood Plan (SA 511). Based on the site-specific conditions and anticipated management objectives of the parcel, the post-acquisition habitat assessment may include:

- Topographic maps and aerial photographs showing actual locations of parcel boundaries, structures, roads, surface water features, wetland habitats, wetland buffers, upland habitats, and adjacent ownerships.
- A wetland baseline conditions assessment for the parcel, describing the area and plant species composition of each wetland class (per Cowardin, 1979). A wetland delineation will be completed, based on existing data. Additional field data will be collected to refine the delineated wetland boundaries only as necessary for management and/or permitting purposes.
- Descriptions of the area, vegetative cover and species composition (including noxious weeds) of the wetland buffers and non-wetland habitats.
- Assessment of baseline conditions for any species/guilds/habitats selected for evaluation on the parcel. The following models and assessment methods may be considered:
  - WDFW habitat suitability index (HSI) model for pond breeding amphibians (WDFW 1997), which includes consideration for the potential effects of bullfrogs and fish on native amphibian habitat quality.
  - WDOE Functional Assessment Methodology general habitat suitability model (Hruby, et al. 1999). This model assesses habitat for fauna, and can be considered a surrogate for general wildlife habitat. It indicates general habitat suitability for a broad range of wetland dependent species including invertebrates, decomposers, mammals, birds, and amphibians based on vegetation, hydrology, structural complexity, and land use characteristics.
  - WDOE modules for wetland-dependent and wetland-associated species and plants (Hruby, et al. 1999).
  - Additional HEP models for individual species and guilds available through WDFW, USFWS, or other sources. Final or draft HSI models currently are available for the following Baker River Project wetland/riparian evaluation species: killdeer, black-capped chickadee, mink, pileated woodpecker, and yellow warbler.

- Assessment of the long-term habitat potential based on site conditions. Draft habitat objectives for the parcel will be developed, including desired acres and vegetative condition of each wetland class and buffer.
- 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).
- The presence of any unique, sensitive, or otherwise important wildlife or their habitats, including Washington Department of Fish and Wildlife 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.

### 6.5.3 Habitat Management Procedures

Wetlands acquired to comply with SA 504 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, individual wetland habitat parcels may have their own specialized management procedures, while multiple parcels with similar conditions and objectives may share a single set of management procedures.

Draft 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 Wetland habitat objectives for the parcels, and any other management considerations specific to the parcels. Puget Sound Energy will implement wetland habitat management procedures once they are approved by the TRIG.

Site-specific objectives may include, for example, decreasing percent cover of noxious weeds, revegetating disturbed areas, reducing suspended solids in tributary streams, reducing soil and vegetation damage due to human use, or reducing human disturbance during specified breeding seasons. One or more specific measures will be implemented to achieve each site-specific objective.

Based on input from the TRIG specific to each parcel, the wetland habitat management procedures may include:

- Habitat objectives for the parcel, describing the desired vegetative cover and other site-specific habitat conditions for each wetland class, each wetland buffer, and other non-wetland habitats in the parcel. Specific objectives may include, for example, target values for plant species diversity and cover, targets, for percent cover of

overhanging shoreline vegetation along undercut banks, and for cover ratios of submergent and emergent vegetation.

- 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 (SA 511).
- An action plan describing management activities recommended over the succeeding years to achieve the habitat objectives. The term of the action plan will be specified. The management activities in the plan may include planting of native vegetation; management of noxious weeds; retention and/or creation of residual live trees, snags, and logs; other measures to manipulate the vegetation and/or hydrology of the parcel; construction, maintenance, or abandonment of roads; installation of gates; and/or replacement of stream-crossing structures.
- Site-specific measures to protect nests, dens, and otherwise important habitats and species of plants and animals present in the parcel.
- Criteria for monitoring the effectiveness of the action plan and modifying it as needed.
- An implementation budget and schedule, including planning for potential long-term use of SA 504 dedicated funds.
- Provisions for public access (pursuant to LA 18), with restrictions based on capacity, wildlife security, human safety, and protection of environmental and cultural resources. Public access should not interfere with other objectives of the Wetland Habitat Plan.
- Seasonal and spatial provisions to avoid or minimize impact on Federally-listed species, developed in collaboration with the USFWS and/or NMFS, as appropriate.
- Seasonal and spatial provisions to avoid or minimize impact on priority habitats and species, developed in collaboration with the WDFW.
- Provisions to address the impacts of herbicides and associated surfactants on amphibians. Amphibians have shown some high sensitivity to herbicides and their surfactants. PSE and the other TRIG members may consult with local experts and review current science with respect to herbicide composition and amphibian sensitivity. Measures such as restricting application of herbicides to wicking or painting techniques may be considered.
- Contingency measures for complying with the ESA and dealing with new Federal and state listings of threatened or endangered species on or near the parcel.
- Maps and aerial photos of the parcel prepared for the post-acquisition habitat assessment, with any relevant modifications and updates.

#### 6.5.4 Noxious Weed Management

The following text describes how noxious weeds will be managed on 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 shall evaluate the extent of noxious weed management required for each parcel 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 parcel occurs; or
  - b) The weeds preclude or inhibit attaining the habitat value for the species for which the parcel was acquired; or
  - c) There is a comprehensive strategy on adjacent lands that applies to the weed species on the parcel (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 parcel, and estimate costs for management of the weeds, so the TRIG can evaluate the cost/benefits of acquiring the parcel.

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.

### 6.5.5 Plants of Special Status

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

### 6.5.6 Revegetation

Revegetation, restoration, and enhancement activities on wetland habitat parcels will be consistent with SA 508, “Noxious Weed Plan,” Section 6.3.7, Weed Prevention, and will reflect the overall goal of using native plant species whenever practicable.

## 6.6 Rationale

Wetland habitat has been affected by agricultural, residential, and hydroelectric development in the Skagit River Basin. Many native wildlife species, including several amphibian species, rely on wetlands for habitat. Protection of wetland habitat was identified by the TRIG as a resource objective for the basin. Puget Sound Energy and the other members of the TRIG will cooperatively identify and evaluate parcels of land for providing wetland habitat. The evaluation will consider the quality and quantity of habitat provided by a particular parcel against the cost of acquisition and management of

the parcel to meet the goals of SA 504. This approach will promote the efficient and effective use of funds provided for wetland habitat acquisition and management.

### ***6.7 Monitoring and Adaptive Management***

Monitoring and adaptive management protocols will be site-specific for each parcel managed under the Wetland Habitat Plan. Implementation monitoring will be performed to determine whether measures were implemented on schedule and as specified. Performance monitoring will be conducted to measure the effectiveness of measures implemented.

## **7.0 Reporting**

Reporting on implementation of the Wetland Habitat Plan will be consistent with TRMP section 5.0, "Monitoring and Reporting." Puget Sound Energy will prepare annual reports that describe the wetland management activities carried out during the previous January through December. 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 interest earned, adjustments for inflation, and disbursements as required by any article.

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 Wetland 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 Wetland Habitat Plan Annual Report as appropriate and combine it with other license article reports into a draft Baker River Project Annual Report for review and comment prior to submittal to the FERC.

### ***7.2 Wetland Habitat Annual Report Format***

The Wetland Habitat Annual Report will:

- Summarize any changes in the number of acres of habitats by parcel, including wetlands by wetland class, wetland buffers, and other upland habitats.
- Summarize all acquisition and management activities conducted during the year, by parcel.
- Summarize the results of any monitoring or adaptive management activities conducted during the year, by parcel.
- List each set of habitat management procedures developed or updated during the year.
- List all expenditures applicable to the wetland habitat acquisition and management budgets during the year, including an accounting of funding expenditures, interest earned, disbursements made, and adjustments made for inflation.

- Summarize issues or concerns identified by Puget Sound Energy or other members of the TRIG during the year regarding implementation of the Wetland Habitat Plan.
- List any changes to the Wetland Habitat Plan proposed by consensus of the TRIG.
- List management activities and expenditures planned for the upcoming year.

## 8.0 Review Comments and Responses

Puget Sound Energy prepared a final draft 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.

### 8.1 Distribution List

Table 1. Wetland 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

Name	Organization	Address
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
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

## 8.2 Transmittal Letter

 <b>PUGET SOUND ENERGY</b> <i>The Energy To Do Great Things</i>	Puget Sound Energy P.O. Box 97034 Bellevue, WA 98009-9734 <b>PSE.com</b>	<b>Project No. 2150 Wetland Habitat Plan</b>
August 14, 2009		
<b>Certified Mail Return Receipt Requested</b>		
Lou Ellyn Jones US Fish & Wildlife Service 510 Desmond Dr. SE, Ste. 102 Lacey, WA 98503		
<hr/> <b>Re: Baker River Project, FERC No. 2150 – Final Draft Wetland Habitat Plan, Settlement Agreement Article 504, Submittal for 30-Day Review</b>		
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 a Wetland Habitat Plan (WHP).		
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 WHP and receive initial comments and suggestions. These suggestions were incorporated into a final draft WHP. PSE is required to allow a minimum of 30 days for the parties to review and comment on the final draft WHP prior to filing the final plan with FERC.		
Enclosed with this letter is the final draft WHP. 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. <b>Please respond with your reply by September 14, 2009.</b>		
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.		
Sincerely,		
		
Tony Fuchs Consulting Natural Resource Scientist P.O. Box 97034 PSE-09S Bellevue WA, 98009-9734 Or email at Tony.Fuchs@pse.com		
Enclosures: Final Draft Wetland Habitat Plan; reply form cc: TRIG members		
Wetland Habitat Plan Doc ID: BAK.20090813.0156.PSE.TRIG	Page 1 of 1 8/14/2009	

Figure 1. Sample transmittal letter from PSE.

### 8.3 Reviewer Comments and PSE Responses

Table 2. Comments following formal review of the Wetland 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>	
[Comment 1.] Article 504 states that \$190,000 for planning, habitat enhancement and management, and noxious weed management. NPS believes that the original intent of this provision would also allow some of these management funds to be used for acquisition if we, the TRIG, thought it appropriate and did not plan to use them all for management (depending on the quality & condition of wetland acquisitions).	[Response 1.] PSE will continue to operate the Baker River Project in full compliance with the Settlement Agreement, License, and associated 4(e) Terms and Conditions. Where there is flexibility in interpretation of the Settlement Agreement, License, and 4(e) Terms and Conditions, PSE will continue to work collaboratively with NPS and the other members of the TRIG to meet their interests.  In addition, the Settlement Agreement was the result of several years of collaboration by the parties, with intense scrutiny of the final language by all parties. The intent of SA 504 is reflected in the final text of the article. SA 504 states, "Funding for acquisition (of wetland habitat) is not to exceed \$340,000(2006\$). . ." This does allow for the use of management funds for land acquisition.
<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 2.] The Washington Department of Fish and Wildlife (WDFW) has reviewed the Final Draft Wetland Habitat Plan, Settlement Agreement (SA) Article 504. 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 2.] Comment noted.

Comment	Puget Sound Energy Response
<p>[Comment 3.] Overall, WDFW approves of the current Article 504 Wetland 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.</p>	<p>[Response 3.] PSE agrees that ideas and thoughts of TRIG members for the management of wetland habitats should be recorded for future reference during the development of site-specific management procedures. We will continue to document these ideas in TRIG meeting notes or as separate documents available to all TRIG members. Many of these ideas are already included in the Wetland Habitat Plan, and those that were not adopted by consensus of the TRIG or were inconsistent with controlling documents (e.g. License order, Settlement, etc.) were not included at this time.</p>
<p>[Comment 4.] The Wetland Habitat Plan Introduction says, "This plan includes: Plan implementation requirements describing the site-specific and project-specific criteria and actions that will be taken under this plan." WDFW has not found the site-specific and project specific criteria or actions in this plan or the Article 501 Plan. WDFW has sensed hesitancy to record possible management actions, specific buffer distances for wildlife, and management recommendations from the TRIG because of the fear of becoming committed to implementing them without any alternatives or flexibility. In the current plan, WDFW would like our recommendations and comments recorded as options to consider for the future writing of the site-specific Habitat Management Procedures.</p>	<p>[Response 4.] See response to Comment 3. Recommendations and comments provided by TRIG members, including WDFW, will be recorded in TRIG meeting notes or other summary documents available to all TRIG members.</p>
<p>[Comment 5.] Under the 5.3.4 Washington Forest Practices Act Section, the plan mentions timber harvesting in the Wetland Habitat Plan. In most cases, WDFW will not support timber harvesting within a delineated wetland without a specific wildlife habitat objective such as creating snags or down wood or diversifying tree species. WDFW would like to evaluate tree harvesting in wetland areas or buffers on a case-by-case basis. WDFW recognizes a value to wildlife through some tree species management, for example replacing small alders with cottonwoods, maples, cedar, or Oregon Ash in a wetland area or buffer with no soil compaction issues. Generally, WDFW will not support timber harvests in wetland areas or buffers with permanent deleterious environmental impacts.</p>	<p>[Response 5.] Section 5.3.4 of the Wetland Habitat Plan simply reflects the jurisdiction of the Washington Forest Practices Rules over certain activities in wetlands. However, Section 5.3.4 does not suggest or promote timber harvesting in wetlands. As noted in Section 6.5.3 of the Plan, all habitat management activities in wetland parcels acquired to comply with SA 504 will be conducted in accordance with site-specific procedures developed in consultation with WDFW and the other members of the TRIG.</p>
<p>[Comment 6.] 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 6.] Comment noted.</p>

Comment	Puget Sound Energy Response
<p>[Comment 7.] SPECIFIC COMMENTS CONCERNING THE WETLAND HABITAT PLAN, ARTICLE 504:</p> <p>4.0 Goals and Objectives, Last Sentence. WDFW recommends stronger language closer to the License Article language that emphasizes placing a priority on native amphibian habitat. We also recommend including more language from the License Article that includes "wetland breeding habitat" as these areas remain important habitats for native amphibians. For the second sentence, WDFW recommends:</p> <p>"When evaluating wetland for acquisition, the TRIG will place a priority on acquiring high quality, functioning wetland breeding habitat for native amphibian and other native species."</p>	<p>[Response 7.] The text of Section 4.0 has been revised as suggested.</p>
<p>[Comment 8.]</p> <p>5.3.4 Washington Forest Practices Act, Last Sentence. WDFW has concerns with timber harvests in the wetland or wetland buffer. Please change last sentence to read:</p> <p>"Timber harvesting and other management activities conducted under the Wetland Habitat Plan my require approval under the FPR and will require consultation with the TRIG including WDFW."</p>	<p>[Response 8.] See Response 5. The proposed edit is unnecessary. As noted in Section 6.5.3, all management activities conducted on wetland habitat parcels will require prior consultation with the TRIG (which includes WDFW).</p>
<p>[Comment 9.]</p> <p>6.5.1 Habitat Acquisition. After the highest priority of making wetland acquisitions for wetland breeding habitat for native amphibians, WDFW recommends the TRIG consider wetland habitat for cavity-nesting ducks and Neotropical migrants as secondary priorities.</p>	<p>[Response 9.] Priorities for wetland habitat acquisition would need to be established by the TRIG. PSE does not have the latitude to establish acquisition priorities absent TRIG consensus.</p>
<p>[Comment 10.]</p> <p>6.5.3 Habitat Management Procedures, third bullet, last sentence. In managing for fish and wildlife, the TRIG may decide to install gates, replace stream-crossing structures, conduct management on old forest roads, or take other actions. WDFW recommends that we not limit any management actions to when Forest Practices Rules require us to complete them. With our objective of managing for fish and wildlife, the TRIG may often do more than Forest Practices Rules requires because we have a different objective of managing for fish and wildlife instead of maximizing timber production.</p>	<p>[Response 10.] The text of Section 6.5.3 has been revised to reflect this comment.</p>

Comment	Puget Sound Energy Response
[Comment 11.] 6.5.3 Habitat Management Procedures, 11th bullet. WDFW would like to see contingency measures considered for new state threatened and endangered species as well.	[Response 11.] The text of Section 6.5.3 has been revised to reflect this comment.
<b>USDA-FS – Greta Movassaghi, received September 14, 2009 (via e-mail)</b>	
I have no comments (checked on comment form)	Comment noted. No revisions to plan.
<b>RMEF – Bob Nelson, received September 21, 2009</b>	
I have no comments (checked on comment form).	Comment noted. No revisions to plan.

## 8.4 Comment Correspondence

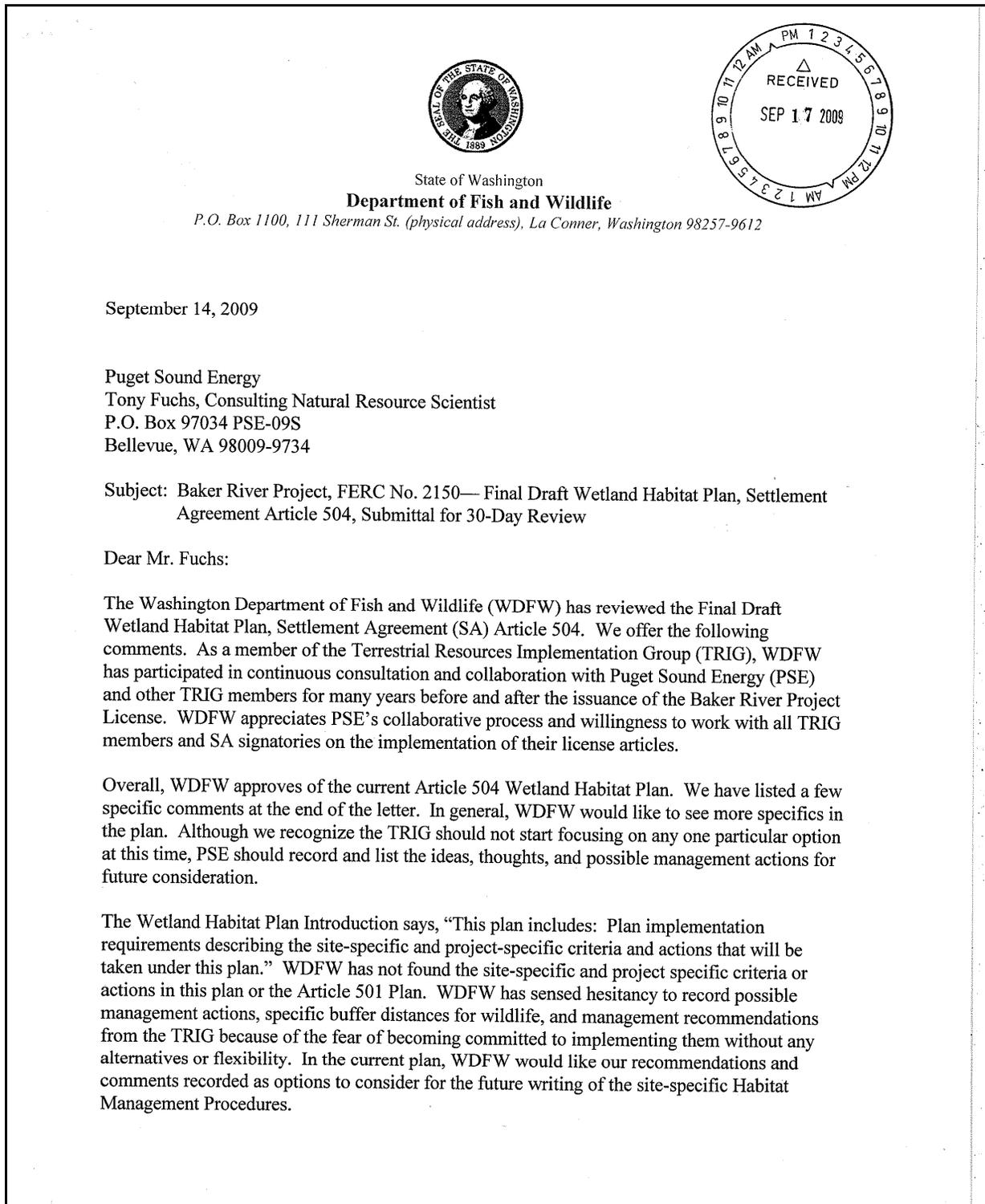


Figure 2. Reply from Brock Applegate, Washington Department of Fish and Wildlife.

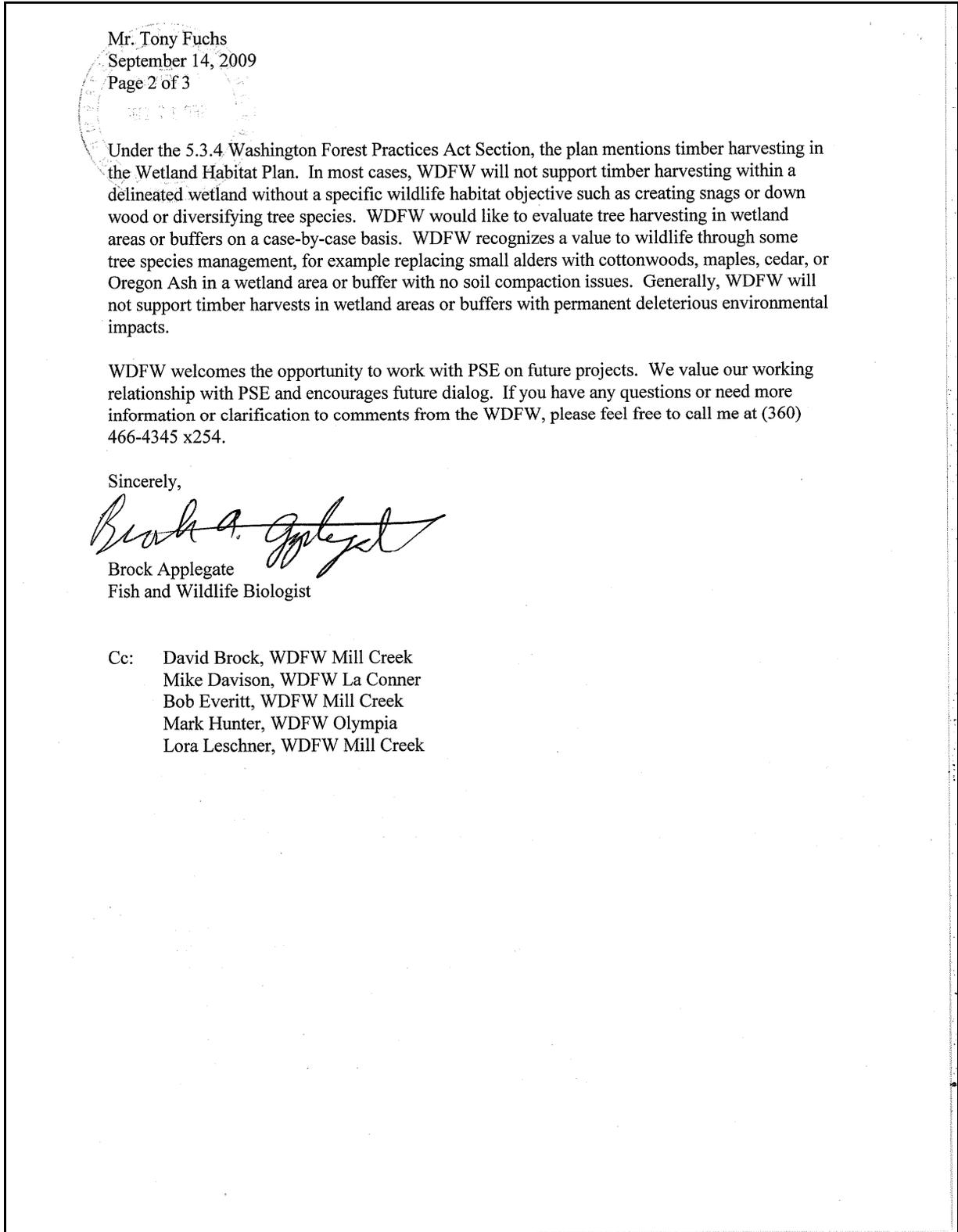


Figure 2, continued.

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

**SPECIFIC COMMENTS CONCERNING THE WETLAND HABITAT PLAN, ARTICLE 504:**

**4.0 Goals and Objectives, Last Sentence.** WDFW recommends stronger language closer to the License Article language that emphasizes placing a priority on native amphibian habitat. We also recommend including more language from the License Article that includes “wetland breeding habitat” as these areas remain important habitats for native amphibians. For the second sentence, WDFW recommends:

“When evaluating wetland for acquisition, the TRIG will place a priority on acquiring high quality, functioning wetland breeding habitat for native amphibian and other native species.”

**5.3.4 Washington Forest Practices Act, Last Sentence.** WDFW has concerns with timber harvests in the wetland or wetland buffer. Please change last sentence to read:

“Timber harvesting and other management activities conducted under the Wetland Habitat Plan may require approval under the FPR and will require consultation with the TRIG including WDFW.”

**6.5.1 Habitat Acquisition.** After the highest priority of making wetland acquisitions for wetland breeding habitat for native amphibians, WDFW recommends the TRIG consider wetland habitat for cavity-nesting ducks and Neotropical migrants as secondary priorities.

**6.5.3 Habitat Management Procedures, third bullet, last sentence.** In managing for fish and wildlife, the TRIG may decide to install gates, replace stream-crossing structures, conduct management on old forest roads, or take other actions. WDFW recommends that we not limit any management actions to when Forest Practices Rules require us to complete them. With our objective of managing for fish and wildlife, the TRIG may often do more than Forest Practices Rules requires because we have a different objective of managing for fish and wildlife instead of maximizing timber production.

**6.5.3 Habitat Management Procedures, 11th bullet.** WDFW would like to see contingency measures considered for new state threatened and endangered species as well.

Figure 2, continued.