



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT. CORPS OF ENGINEERS
P. O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

December 21, 2004

Planning Branch

Honorable Magalie Roman Salas
Secretary, Federal Energy Regulatory Commission
888 First Street Northeast
Washington, DC 20426

Dear Ms. Salas:

This letter is in response to the Federal Energy Regulatory Commission's (FERC) Notice of Settlement for the Baker River Project (P-2150-033). On December 8, 2004 PSE held a video teleconference to provide FERC with an overview of the Settlement Agreement for the Upper and Lower Baker Dams. It became clear during this event that the U. S. Army Corps of Engineers (Corps) needed to comment on the Settlement Agreement to clarify the Corps' position on Article 107 for flood control. The Corps is confident that the Settlement Agreement Article 107 (a) is consistent with the Corps' authorized flood control project. The existing Corps project provides for 58,000 acre- feet of water storage for flood control in Upper Baker Dam in addition to the 16,000 acre-feet of storage originally required by FERC for lost valley storage, for a total of 74,000 acre-feet of water storage. The proposed 29,000 acre-feet of flood control storage at Lower Baker Dam that is included in Article 107 (b) has not been thoroughly addressed during the Alternative Licensing Process (ALP) and the Corps considers this section of Article 107 as a place holder for possible future action. The Corps has no authority to evaluate the 29,000 acre-feet of additional storage nor undertake the operation of new additional flood control as part of the FERC process.

The Corps does have the authority from Congress to evaluate additional flood control storage at Lower Baker Dam under our General Investigation (GI) program, which is a separate action from the relicensing process. The evaluation of additional flood storage at Lower Baker Dam through the GI process will involve a thorough evaluation by the Corps and be open to the scrutiny of the public for economic, social, and environmental impacts of additional storage. Without the completion and Congressional approval of the GI study, the Corps does not have the authority to regulate any additional storage at Upper or Lower Baker Dam.

The Corps expects to become a cooperating agency with FERC regarding this relicensing agreement and is looking forward to working with FERC on addressing the project's National Environmental Policy Act (NEPA) and Endangered Species Act (ESA) issues. The Corps is confident that the vast majority of the environmental issues related to the existing 74,000 acre-feet of flood control storage have been addressed during the ALP, and the requirements

under NEPA and ESA will be met through the Settlement Agreement NEPA process. However, the environmental effects of an additional 29,000 acre-feet of storage at Lower Baker Dam has not been thoroughly addressed through the ALP; and the Corps does not believe that the requirement under NEPA and ESA can be met during this license review period and should not be considered part of this license application review. The Corps recommends that the additional 29,000 acre-feet of storage be considered as a placeholder for future action. The Corps will continue its evaluation of additional flood control storage as part of the GI study.

I look forward to our partnership on this very important license during the NEPA process. If you have any questions concerning our role as a cooperating agency, please contact Mr. Charles Ebel at (206) 764-3626 or charles.j.ebel@usace.army.mil.

Sincerely,

A handwritten signature in black ink that reads "Debra M. Lewis". The signature is written in a cursive, flowing style.

Debra M. Lewis
Colonel, Corps of Engineers
District Engineer