

COOSA FISH PASSAGE AND SECTION 7 MEETING

April 15, 2004

Revision 4-21-04

Meeting Location – APC Corporate Headquarters Birmingham, AL

Attendees

Jeff Powell	USFWS	Larry Goldman	USFWS	Jim Crew	APC
Bill Sim	APC	Malcolm Pierson	APC	Andy Sheppard	APC
John Grogan	APC	Jim Lochamy	APC	Jim Hancock	Balch & Bingham
Henry Mealing	Kleinschmidt	Kelly Schaeffer	Kleinschmidt	Shane Boring	Kleinschmidt
Jason Moak	Kleinschmidt				

Action Items

Fish Passage -

- Draft a Fish Passage Concept Document (items 1 to 4) and distribute to the group for review
Henry Mealing
First Draft – May 2004
- Draft meeting notes from this meeting and distribute to attendees for comment
Jim Crew
April 30, 2004
- Investigate USFWS & NOAA Fisheries coordination of fish passage
Larry Goldman
June 2004

Section 7 -

- Schedule a Section 7 working meeting in Daphne
Shane Boring, Jeff Powell, Malcolm Pierson, Bill Sim
May 11, 2004
- Share copies of example BA's with the work group
Larry Goldman & Jeff Powell
May 11, 2004

Meeting Notes

These notes summarize the major items discussed during the meeting and are not intended to be a transcript or analysis of the meeting.

Fish Passage

Jim Crew opened the meeting by reviewing our discussions on fish passage to date. The consensus has been to investigate the possibility of APC helping with fish passage on the Alabama River (Clairborne and Miller's Ferry Lock & Dam). Since our last meeting, Larry Goldman has had discussions with the DOI attorney. The FWS has several concerns regarding the Agreement and the Corp of Engineers' (COE) responsibility at the projects. FWS is reviewing the statutes with the COE lawyers and they are close to a final recommendation. Larry also stated that the FWS wants to review some agreements from out West. Kelly offered to summarize the North Umpqua agreement to help with their review.

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The next step of this process is to create a “concept document” that outlines what we are trying to accomplish and will guide the development of an Agreement. Larry presented seven (7) elements that the FWS believes are essential to the Agreement.

1. Biological Objectives Identified – Which species? What are passage goals? What are restoration goals?
2. Scientific background – What information do we have now on the fisheries community and need for migration?
3. Science unknowns – What information do we need to know about fish biology and fish passage needs (lifts, locks, or ladders) in addition to our current base knowledge? What type of effectiveness studies would be needed?
4. Initial approach – What is the sequence of events - passage, culture, restocking?
5. Logistical Issues – How would the Agreement work? How would money or resources be transferred and to whom?
6. Policy Legal Issues – How do we resolve the requirements of Section 18, ESA, NEPA, and the COE?
7. Draft Agreement with an Implementation Schedule.

The Agreement should (at a minimum) be between USFWS and APC. The COE will be included as necessary. ADCNR will also be involved at various levels of planning.

Kelly reminded the group that timing is critical and we need to move forward to develop our options to analyze in the Environmental Assessment since the draft is scheduled for distribution for public comment in September 2004. We can tell FERC that we are in negotiations and request more time to resolve this issue if we are still working out the Agreement in June 2005. The group discussed this at length and decided to analyze “reservation of Section 18 authority” in the draft EA and work on the Agreement on a parallel track. Kelly stated that the Agreement can be included or excluded from the license. It depends on what makes everyone most comfortable.

The group decided that Kleinschmidt should pull together available information and prepare a draft of items 1 through 4. They will begin on items 1 through 4 immediately and then the larger group will work on items 5 through 7 once the FWS lawyers have given the “green light” to move forward on a formal Agreement. Kleinschmidt will try to have an initial draft of items 1 to 4 by end of May 2004 since a FWS “go/no-go” decision is expected by then.

Jim Hancock will contact the FWS lawyer to discuss a few issues. APC will also do some internal checks with Jim Hancock to head off any problematic areas.

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Section 7

APC now has copies of the FWS Section 7 letters for the Coosa and Warrior projects. The FWS has eliminated multiple species and counties that aren't applicable or in the project vicinity.

There was a question regarding inclusion of the interrupted rocksnail. Jeff Powell will look back over his notes and clarify the reason for inclusion. There were several counties added to the list which are related to a candidate species and proposed critical habitat. The group was in agreement about the species and the areas to analyze. Malcolm Pierson asked how the FWS dealt with species that are probably extirpated. Larry stated that their policy is to cite the best information available and eliminate the species for further analysis as appropriate.

The next step of the process is to get a small work group (Jeff Powell, Malcolm Pierson, Bill Sim, and Shane Boring) together in Daphne to review the available FWS data. The group will review species location information, survey data, or other tools available. During that meeting, the FWS will also provide examples of a template for the BA.

Shane Boring will coordinate the work group meeting for the last two weeks of May 2004.

Conclusions

APC will coordinate the next meeting with the FWS after the two work groups have met and made progress.