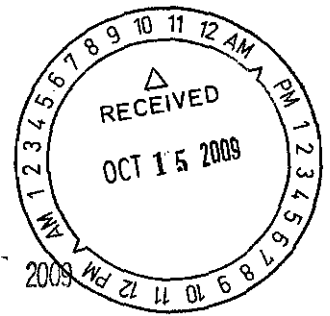




REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-2255



OCT 14 2009

Water Management Section

Mr. Kenneth Dahlstedt
Skagit County Commissioner
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

Mr. Edward Schild
Director of Hydroelectric Resources
Puget Sound Energy, Inc.
PO Box 97034
Bellevue, WA 98009-9734

Dear Messrs. Dahlstedt and Schild:

This responds to your jointly signed letter of August 27, 2009, regarding a request for the U.S. Army Corps of Engineers, Seattle District (Corps) to revise the Baker River Water Control Manual. Puget Sound Energy (PSE) and Skagit County (County) are requesting this revision so that the Water Control Manual will include proposed operational protocols for reservoir drawdown included in the Baker River Hydroelectric Project Settlement Agreement (Settlement Agreement) dated November 20, 2004.

The proposed operational protocols in the Settlement Agreement involve the Corps actively requesting reservoir drawdown at Upper Baker Dam and Lower Baker Dam when a flood event is imminent. As you are aware, the Corps is not a signatory to the Settlement Agreement. Furthermore, it is important to clarify that the proposed operational protocols do not reflect current practices followed by the Corps and PSE on a formal or an informal basis in advance of flood events. While the Corps has not been opposed to these protocols because they do not negatively impact currently authorized flood control operations at the Upper Baker Project, the Corps has in no way been an active participant in the implementation of these protocols.

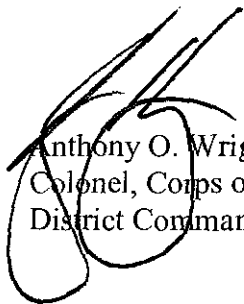
The Corps' Upper Baker Flood Control project associated with Upper Baker Dam was authorized by Section 201 of the Flood Control Act of 1965 (P. L. 89-298) in accordance with House Document (H. Doc) 95-149 dated May 9, 1977. The H. Doc and its Environmental Impact Statement (EIS) and Statement of Findings recommended this project to provide 16,000 acre-feet of flood control space in Upper Baker Reservoir as replacement for valley storage eliminated by the development, as well as an additional 58,000 acre-feet of flood control storage. H. Doc 95-149 also provided that the Bonneville Power Administration would provide replacement power to PSE and in turn reflect a credit to their treasury payments as a result of the additional 58,000 acre-feet of flood control storage.

A final EIS for the Baker River Hydroelectric Project was issued by the Federal Energy Regulatory Commission on September 8, 2006. As noted in the EIS, the Corps cannot take advantage of any earlier storage provisions in the license or additional storage beyond that contained in H. Doc 95-149 (as authorized by P.L. 89-298) until it completes a study and receives Congressional authorization for taking such additional action (see EIS at 3-52). Because Article 107(a) requires the Corps to compensate PSE for any storage it requires greater than 16,000 acre-feet at the Upper Baker Development, earlier storage or greater storage than provided for in H. Doc 95-149 would require additional authorization to compensate PSE for earlier flood control operations or the additional 29,000 acre-feet of storage at the Lower Baker Development. Such changes would also require compliance with other statutory and regulatory requirements.

The Water Control Manual for the Baker River Project was last updated in 2000 and reflects the currently authorized Corps flood control operation at Upper Baker Dam. The Corps' operation of the project for flood control is limited solely to an authorized storage of 74,000 acre-feet at Upper Baker Dam. We believe it is inappropriate to revise a Water Control Manual to reflect operations which the Corps currently has no authorization to employ. However, the Corps is not opposed to the continued implementation of the operational protocols by PSE, as has been done in the past, as long as the implementation of these protocols does not negatively impact the Corps' ability to manage the authorized flood storage space at the Upper Baker Project.

If you have any questions regarding this matter, please contact Mr. Ken Brettmann, Senior Water Manager, at (206) 764-6567.

Sincerely,



Anthony O. Wright
Colonel, Corps of Engineers
District Commander