



**SKAGIT COUNTY
BOARD OF COMMISSIONERS**

**DON MUNKS, First District
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VIA E-MAIL and U.S. MAIL

November 14, 2008

Mr. Edward R. Schild
Puget Sound Energy
P.O. Box 97034
Bellevue WA 98009-9734

RE: PSE Obligation to Advance Additional Flood Storage

Dear Mr. Schild,

We respond to your November 5, 2008 letter, as well as your legal counsel's November 10, 2008 letter to the Skagit County Prosecuting Attorney.

The County continues to be deeply concerned about the matter of Puget Sound Energy Inc.'s ("PSE") compliance with the terms of the "Baker River Hydroelectric Project Comprehensive Relicensing Agreement" ("Comprehensive Agreement") filed with the Federal Energy Regulatory Commission ("FERC") on November 30, 2004, and the "Agreement Between Skagit County and Puget Sound Energy, Inc." executed on November 15, 2004 ("County-PSE Agreement").

After careful analysis and extensive discussion, the County has decided not to exercise its right to request rehearing of the Baker River Project new license order ("new license") issued by FERC on October 17, 2008. We have reached this decision in large measure because of your promises and representations concerning PSE's intention to begin complying with its contractual and license obligations.

With that in mind, we take this opportunity to clearly and unambiguously communicate our expectations associated with the Comprehensive Settlement and County–PSE Agreement.

In the short–term, it is the County’s expectation that PSE will begin advocating with the U.S. Army Corps of Engineers (“Corps”) and others for the interim drawdown targets set forth in Comprehensive Settlement 4.1.1 and 4.1.2, and will proactively begin insisting that the Corps modify the Water Control Manual for the Baker River system to that end.

Moreover, it is the County’s expectation that PSE will proactively and energetically begin advocating for the 29,000 acre/feet of dedicated additional flood storage behind the Lower Baker Dam for the life of the new license.

It is the County’s continuing expectation that PSE will take the lead in action–forcing with federal agencies to accomplish these objectives. Absent that, it is our view that PSE would be intentionally depriving the County of its principal benefit of the various agreements culminating in PSE’s new license.

With this in mind, it is the County’s intention and expectation that PSE will proactively and energetically begin advocating for interim drawdown targets and additional flood storage with federal agencies and officials, mobilizing PSE’s extensive lobbying, legal, financial and political resources to that end. Because PSE has not undertaken any meaningful efforts to this end in the four years since the agreements were executed (despite the County’s requests), it is our view that PSE has thus far failed to meet its basic obligations under the Comprehensive Settlement and County–PSE Agreement.

It is our understanding that the cities of Mount Vernon and Burlington agree with and fully support our position in these matters.

Consistent with Section 4.3 of the Comprehensive Settlement regarding Dispute Resolution Procedures, the County requests that PSE meet informally with the County within 30 days of our initial notice. If a meeting within the 30 day period is impracticable, the County is amenable to a meeting after the 30 day period, provided there is no undue delay.

The County respectfully requests that senior PSE officials attend this meeting, prepared to describe in detail and in writing, including specific steps and timetables, how PSE intends to comply with the following license and/or contractual requirements regarding flood control:

- Articles 107 and 305 of the new license, with particular emphasis regarding means and operational methods to operate the Project reservoirs in a manner addressing imminent flood events;
- Comprehensive Agreement Sec. 4.1.1 Cooperation regarding Flood Control–Drawdown Target Elevations;
- Comprehensive Agreement Sec. 4.1.2 Cooperation regarding Flood Control–Amendment to the Water Control Manual;
- County–PSE Agreement, with particular emphasis on the need to develop and execute a strategy for obtaining funding to secure the full benefits of Article 107;
- Specific resources, financial and otherwise, that PSE will commit to lobbying for compensation necessary to effectuate additional flood storage per Article 107 and accomplishing the other objectives set forth in this letter.

County staff will follow up with PSE to schedule the meeting at a time that is mutually acceptable to both PSE and the County.

We thank you in advance for your consideration, and look forward to meeting with you in the future.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



DON MUNKS, Chair



KENNETH A. DAHLSTEDT, Commissioner



SHARON D. DILLON, Commissioner

cc: Dan Adamson, Davis Wright Tremaine
Will Honea, Skagit County Prosecuting Attorney
Jim Voetberg, Skagit County Public Works Director
Mayor Bud Norris, City of Mount Vernon
Mayor Ed Brunz, City of Burlington
Chal Martin, City of Burlington Public Works Director
Settlement Agreement Parties
District Cmdr., U.S. Army Corps of Engineers
Federal Energy Regulatory Commission