

To: Aurelia Skipwith[aurelia_skipwith@ios.doi.gov]
Cc: Theresa Carroll[Theresa.Carroll@res-group.com]; Sean Bell[Sean.Bell@res-group.com]; Gareth Rees[gareth_rees@ios.doi.gov]
From: Voyles, James
Sent: 2018-09-18T16:37:21-04:00
Importance: Normal
Subject: Re: [EXTERNAL] FW: Skookumchuck Question
Received: 2018-09-18T16:38:28-04:00

Good afternoon,
Happy to chat. 202-733-7477.

On Tue, Sep 18, 2018 at 4:30 PM, Aurelia Skipwith <aurelia_skipwith@ios.doi.gov> wrote:

I'm including James Voyles, who can address timelines and NEPA. Thanks.

Aurelia Skipwith
Deputy Assistant Secretary
for Fish and Wildlife and Parks

U.S. Department of Interior
1849 C Street NW, Room 3148
Washington, DC 20240
202-208-5837

On Sep 18, 2018, at 4:25 PM, Theresa Carroll <Theresa.Carroll@res-group.com> wrote:

Thank you Aurelia, I sent you an invite for 6pm EST. I look forward to speaking with you.

Gareth, good to meet you via email; I am hoping that Bernhardt is available to meet before October 7, do you think there is room in his schedule for a project update?

Thank you,

Theresa

Theresa Carroll
Director, Permitting, Americas

C 510 828 3714 | D 720 509 8776 | O 303 439 4200

theresa.carroll@res-group.com | <http://www.res-group.com>

<image001.gif>

From: Skipwith, Aurelia [mailto:aurelia_skipwith@ios.doi.gov]
Sent: Tuesday, September 18, 2018 10:44 AM
To: Theresa Carroll <Theresa.Carroll@res-group.com>
Cc: Sean Bell <Sean.Bell@res-group.com>; Gareth Rees <gareth_rees@ios.doi.gov>
Subject: Re: [EXTERNAL] FW: Skookumchuck Question

Theresa,

I'm available for a call this evening - 6pm EST.

Also, Dep. Secretary Bernhardt is out of the office the week of October 7th. I've included Gareth Rees who can help in arranging a meeting with Bernhardt. Thank you.

Aurelia Skipwith

Deputy Assistant Secretary

for Fish and Wildlife and Parks

U.S. Department of Interior

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Washington, DC 20240

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NOTE: *Every email I send or receive is subject to release under the Freedom of Information Act.*

On Mon, Sep 17, 2018 at 9:52 PM, Theresa Carroll <Theresa.Carroll@res-group.com> wrote:

Aurelia,

I wanted to follow up regarding the Skookumchuck HCP. We submitted our last revisions of the HCP for the public comment period to the Lacey Field Office on **September 14** based on several more rounds of comments than we expected. I was also informed by the Lacey office that the start of the public comment period would be delayed to late October or the first week of November instead of September 17 (today).

The Lacey office explained that they requested a meeting with Deputy Secretary Bernhardt for October 12 or 19 to provide a project briefing before it goes to the Federal Register for Public Comment. Because October 19 would push the publishing to November 5, and it could cause the project to fail based on several commercial deadlines, I am requesting help to get that briefing meeting set on **October 12**. I would also like to request advice on the best way to set a meeting prior to the Lacey Field office briefing to provide more project background to you and/or the Deputy Secretary's team.

If you have time for a call tomorrow, I would love the opportunity to discuss these issues.

Thank you for your time,

Theresa

Theresa Carroll

Director, Permitting, Americas

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theresa.carroll@res-group.com | <http://www.res-group.com>

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From: Skipwith, Aurelia [mailto:aurelia_skipwith@ios.doi.gov]

Sent: Tuesday, August 21, 2018 3:58 PM

To: Theresa Carroll <Theresa.Carroll@res-group.com>

Subject: Re: [EXTERNAL] FW: Skookumchuck Question

Thank you.

Aurelia Skipwith

Deputy Assistant Secretary

for Fish and Wildlife and Parks

U.S. Department of Interior

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On Tue, Aug 21, 2018 at 1:35 PM, Theresa Carroll <Theresa.Carroll@res-group.com> wrote:

Hi Aurelia,

Thank you so much for the response. I am happy to report that we submitted the Draft HCP to the Field office on August 16, after some additional revisions through coordination with the field and regional offices. They have been responsive to our questions and provided clarification on the take estimate and mitigation approaches during multiple calls, which is much appreciated. I understand that the draft HCP will be published with the draft EIS for public comments, and I believe that is on track for the target date of September 17, as identified in the NEPA timeline prepared earlier this year.

Please let me know if you have any questions, and thank you again for your interest and assistance.

Thank you,

Theresa

Theresa Carroll

Director, Permitting, Americas

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theresa.carroll@res-group.com | <http://www.res-group.com>

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From: Skipwith, Aurelia [mailto:aurelia_skipwith@ios.doi.gov]

Sent: Tuesday, August 14, 2018 5:36 PM

To: Theresa Carroll <Theresa.Carroll@res-group.com>

Cc: Sean Bell <Sean.Bell@res-group.com>

Subject: Re: [EXTERNAL] FW: Skookumchuck Question

Theresa,

I received your update that the discussions went well. I'm available for a call, if you would like. Thanks.

Aurelia Skipwith

Deputy Assistant Secretary

for Fish and Wildlife and Parks

U.S. Department of Interior

1849 C Street, NW, Room 3148

Washington, DC 20240

(202) 208-5837

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On Mon, Jul 30, 2018 at 4:45 PM, Theresa Carroll <Theresa.Carroll@res-group.com> wrote:

Hi Aurelia,

Here is the second email I mentioned. Also, after our call on Friday, I had a call with the Lacey Field Office, and we discussed a solution that might work for the project. I'm going to discuss further with them today, and I will let you know how that progresses. Perhaps we can come to a positive solution with the Field and Regional offices to keep from adding to your workload, and instead have a document that you can review in just a short time.

Thank you!

Theresa

Theresa Carroll
Director, Permitting, Americas

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theresa.carroll@res-group.com | <http://www.res-group.com>

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From: Wahlberg, Brooke M.
Sent: Tuesday, July 10, 2018 9:50 PM
To: Bernstein, Jeffrey <jeff.bernstein@sol.doi.gov>
Subject: RE: Skookumchuck Question

Hi Jeff,

My answer would be that it's a separate question. There's specific language in the eagle rule related to which issuance criteria applies when seeking eagle coverage under an HCP. The eagle rule is silent with respect to no surprises and coverage under an HCP. Regardless, the "no surprises" rules should apply to the ESA species covered by the HCP (It's unclear from your question below whether you are questioning the applicability of no surprises as a blanket question or just specific to eagles). If the USFWS takes the position that no surprises rule would not extend to the eagle coverage, the eagle rule has other provisions very similar to no surprises that occurs in five-year increments. The eagle rule provision limits what the USFWS can request over the course

of the five-year check-ins if the permittee remains within its eagle take limit, is in compliance with its permit, or if the adaptive management program prescribes a response. The HCP's monitoring and adaptive management program have been designed to align with the eagle rule framework. The relevant "eagle no surprises" language from the eagle rule is pasted below (I've added emphasis that gets to the heart of the provision) and should be applicable to the eagle authorization.

50 CFR 22.26(c)(iv)

Actions to be taken based on the permit review.

(A) In consultation with the permittee, the Service will update fatality predictions, authorized take levels and compensatory mitigation for future years, taking into account the observed levels of take based on approved protocols for monitoring and estimating total take, and, if applicable, accounting for changes in operations or permit conditions pursuant to the adaptive management measures specified in the permit or made pursuant to paragraphs (c)(7)(iv)(B) through (D) of this section.

(B) If authorized take levels for the period of review are exceeded in a manner or to a degree not addressed in the adaptive management conditions of the permit, based on the observed levels of take using approved protocols for monitoring and estimating total take, the Service may require additional actions including but not limited to:

- (1) Adding, removing, or adjusting avoidance, minimization, or compensatory mitigation measures;
- (2) Modifying adaptive management conditions;
- (3) Modifying monitoring requirements; and
- (4) Suspending or revoking the permit in accordance with part 13 of this subchapter B.

(C) If the observed levels of take, using approved protocols for monitoring and estimating total take, are below the authorized take levels for the period of review, the Service will proportionately revise the amount of compensatory

mitigation required for the next period of review, including crediting excess compensatory mitigation already provided by applying it to the next period of review.

(D) Provided the permittee implements all required actions and remains compliant with the terms and conditions of the permit, **no other action is required**. However, **with consent of the permittee**, the Service may make additional changes to a permit, including appropriate modifications to avoidance and/or minimization measures or monitoring requirements. If measures are adopted that have been shown to be effective in reducing risk to eagles, appropriate adjustments will be made in fatality predictions, take estimates, and compensatory mitigation.

Hopefully that answers your question, but please feel free to reach out if it doesn't.

Thanks for continuing to look at this.

Brooke

From: Bernstein, Jeffrey <jeff.bernstein@sol.doi.gov>
Sent: Tuesday, July 10, 2018 12:11 PM
To: Wahlberg, Brooke M. <bwahlberg@nossaman.com>
Subject: Skookumchuck Question

Hi Brooke - I'm preparing for our call and I have a question. Does your client expect to get HCP no surprises assurances if it does not provide mitigation for bald eagles? Thanks - Jeff

Jeff Bernstein
Attorney-Advisor
U.S. Department of the Interior
Office of the Solicitor
503-231-2355

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Best,
James

James Voyles
Senior Counsel
Office of the Deputy Secretary
U.S. Department of the Interior
202 733 7477

