

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

November 2, 2005

OFFICE OF ENERGY PROJECTS

Project No. 2145-060-Washington
Rocky Reach Hydroelectric Project
Public Utility District No. 1 of Chelan County

To the Party Addressed:

Reference: 10(j) Meeting Summary for the Rocky Reach Hydroelectric Project

Enclosed is a summary of the Section 10(j) meeting for the Rocky Reach Hydroelectric Project (FERC No. 2145-060), held by Commission staff on October 19, 2005 in Wenatchee, Washington. I'm distributing copies of this summary to all parties and affected resource agencies, as required under section 4.34(e)(5) of the Commission's regulations.

Sincerely,

Kim Nguyen
Team Leader
Hydro West Branch 1

Enclosures:

Summary of 10(j) meeting (Enclosure A)
List of Attendees (Enclosure B)

cc: Public Files
Service List

Enclosure A

SUMMARY OF 10(j) MEETING

Rocky Reach Hydroelectric Project
FERC No. 2145-060
Washington

On October 19, 2005, from 12:20 p.m. to 1:15 p.m. (PST), representatives from the Federal Energy Regulatory Commission (Commission) and the U.S. Fish and Wildlife Service (FWS) participated in a Section 10(j) meeting. Representatives from the Washington Department of Fish and Game (WDFW) and the Public Utility District No. 1 of Chelan County (Chelan PUD), also attended (*see* enclosure B).

After introductions, Commission staff described the 10(j) process and stated that the purpose of the meeting was to attempt to resolve inconsistencies between a Section 10(j) recommendation submitted by Interior and the Federal Power Act (FPA). The recommendation that was determined to be inconsistent was one recommending that Chelan PUD complete, fund, and implement a wildlife habitat management plan for the Chelan Wildlife Management Area (WMA). This inconsistency was described in a letter to Interior dated September 7, 2005, and was reiterated at the start of the discussion. The 10(j) conference immediately followed a technical conference on the draft Environmental Impact Statement conducted between 10:00 and 12:00 a.m. (PST) during which representatives of WDFW and Chelan PUD representatives also described the benefits of providing funding to support the Chelan WMA. Relevant portions of that discussion referenced during the negotiations are included below. Measures proposed for protecting Chelan PUDs Sun Cove properties for wildlife were also discussed.

Staff advised the participants that it would prepare and distribute a summary of the meeting within about two weeks and that our final decision on these issues would be documented in the final environmental impact statement (FEIS) and the license decision. The following summarizes the results of the discussion on each of the issues.

Wildlife Management Plan

Inconsistency: FWS recommended that Chelan PUD complete, fund, and implement its proposed comprehensive wildlife management plan to mitigate for wildlife losses related to past, current, and future project operations. The management plan is to identify goals, objectives, and procedures for management of riparian and wetland habitats, native vegetation, noxious weeds, bald eagle habitat, recreation, and wildlife monitoring on project lands, other lands adjacent to the reservoir, and on lands that may be purchased to meet mitigation objectives. The upland habitats that would be subject to management

include native shrub-steppe and agricultural lands within the Chelan WMA and U.S. Bureau of Land Management and Forest Service lands intermixed with the Chelan WMA.¹

Staff's analysis found that the project is not affecting the Chelan WMA and adjoining upland habitats, that even though the state has not had sufficient operation and maintenance funding to achieve its management goals for these lands such obligations are generally borne by the managing agency; that the proposed plan lacked detail to understand what management actions would occur each year and where; and that, as recommended, the Commission could not ensure that any future measures would be implemented because parties other than the applicant would be responsible for implementing the plan and would occur outside the project boundary. Staff thus made the preliminary determination that the recommendation to include this provision in any new license for the project is inconsistent with the comprehensive development standard of section 10(a)(1) of the Federal Power Act (FPA) and equal consideration provisions of section 4(e) of the FPA.

Discussion: Interior and WDFW reiterated that continued inundation of riparian areas was affecting mule deer and other wildlife by blocking migration and reducing available wintering grounds and that the habitats in the Chelan WMA were not functioning at levels expected when original agreement was reached with Chelan PUD to purchase the lands. WDFW also noted that the points raised during the technical conference should be considered by staff; that is, that changing demographics place greater importance and demands on habitats than when the lands were first purchased with mitigation funds provided by Chelan PUD; that noxious weeds, fire, roads, and orchards further reduce the quality and quantity of remaining habitats; and that improvements to large tracts of native upland habitats in the Chelan WMA are needed to maintain winter mule deer and big horn sheep habitats and to prevent mule deer from crossing roads to agricultural fields for food during winter where they are subject to high mortality from collisions with cars, hunting, and poorer quality winter food sources. WDFW pointed out there are no tracks of land large enough within the project boundary that could be managed to sustain wintering deer.

Staff acknowledged the value of remaining habitats in the Chelan WMA to mule deer and other wildlife and the benefits that the proposed measures would have on mule deer and other wildlife. However, staff reminded the participants that the Commission

¹ WDFW recommended pursuant to section 10(j) of the FPA that Chelan PUD provide operation and maintenance funding for the Chelan WMA and funding for restoration of 1,400 acres of agricultural habitats. Staff explained that it did find this recommendation within the scope of section 10(j) because the recommendation to provide funding is not a specific fish and wildlife measure.

does not require mitigation for original project construction effects at relicensing, that the baseline by which we judge project effects is with the project, including the reservoir, in place and that our interpretation of the baseline had been upheld by the court.

FWS and WDFW noted that under the agreement being worked out with Chelan PUD, the Commission could be assured that the funds being provided would be applied to measures that benefit resources because there would be an accounting of the proposed measures that would be implemented each year, there will be wildlife forum to decide on the appropriate measures to be implemented each year, and Chelan PUD would approve the measures that would be implemented. Staff reminded the agencies that a settlement agreement has not been filed and the analysis is based on the recommendations and proposals on file with the Commission.

Both Interior and WDFW said that they would consider staff's advice in crafting their comments on the draft EIS, but they stood fast with their recommendation and did not have any additional alternatives to propose at this time. The inconsistency identified by staff remains unresolved.

Additional Section 10(a) Recommendations

Sun Cove Properties

WDFW recommended that Chelan PUD, in addition to providing funding for operation and maintenance of the Chelan WMA discussed above, maintain native shrub-steppe habitats on Chelan PUD-owned Sun Cove properties at their current level of habitat function. WDFW recommended this measure because the lands represented a relatively large undeveloped tract of native habitat that is becoming increasingly rare due to conversion to suburban/industrial use. Staff recommended adopting the measure because of its immediate proximity to the project, impacts that were resulting from recreation, and the low cost of the measure.

During the technical conference, WDFW noted that the Sun Cove properties had little habitat value due to its small size, and constant disturbance because of its proximity to human activity. WDFW explained that the agreement being worked out with Chelan PUD to provide a 200 foot conservation easement along the reservoir would be sufficient to ensure protection of waterfowl and other wildlife associated with the projects riparian zone. At the 10(j) negotiations, Chelan PUD acknowledged that they currently own all the land in question, including the riparian habitats, and that under the agreement being worked out with WDFW they would turn over a conservation easement and management of the lands to land trust.

Based on the arguments against managing the Sun Cove properties, staff asked if WDFW would be withdrawing its recommendation to maintain the upland shrub-steppe habitat.

WDFW noted that it had reached an agreement with Chelan PUD to “back-off” the request for maintaining the Sun Cove properties because greater benefits to wildlife could be achieved with the agreed-to funding levels for the Chelan WMA. However, it would not be withdrawing its recommendation if staff was not willing to support the funding levels for the Chelan WMA. Staff noted that it analyzed each recommendation on its own merits.

Enclosure B

LIST OF MEETING ATTENDENTS

David Turner,	FERC
Jennifer Hill (by phone)	FERC
Patti Leppert	FERC
Kim Nguyen (by phone)	FERC
Marcelle Lynde	Berger (FERC contractor)
Steve Lewis	FWS
Mark Miller	FWS
Sonia Wolfman	Washington Atty General Office
Carmen Andonaegui	WDFW
Dennis Beech	WDFW
Tony Eldred	WDFW
Brian Cormick	CSE Group
Gregg Carrington (by phone/part time)	Chelan PUD
Janel Duffy	Chelan PUD
Kelly Boyd	Chelan PUD
Jeff Osborn	Chelan PUD
Michelle Smith	Chelan PUD
Suzanne Crassell	Chelan PUD
Dan Adamson (by phone/part time0	Attorney for Chelan PUD