



Public Utility District No. 1 of Douglas County

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March 30, 2007

Honorable Philis J. Posey, Acting Secretary
Federal Energy Regulatory Commission
888 First Street, NE
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**Subject: Wells Hydroelectric Project No. 2149-131
Licensee Comments on Scoping Meeting Transcript**

Dear Secretary:

Public Utility District No. 1 of Douglas County, Washington (Douglas PUD), licensee of the Wells Hydroelectric Project, hereby submits comments on the transcript of the Scoping Meeting that took place on February 28, 2007 in the town of Brewster, Washington.

Douglas PUD appreciated FERC staff's professional and straightforward approach during both the morning and evening scoping meetings. In particular, FERC staff did an excellent job providing stakeholders with an overview of the new Integrated Licensing Process and the resource issues identified in Scoping Document 1 (SD1), and answering stakeholder questions related to FERC licensing policies.

During our review of the transcript for the evening Scoping Meeting in Brewster, Douglas PUD made note of several inaccurate statements made by members of the public that are directly related to the relicensing of the Wells Project. At this time, Douglas PUD would like to offer clarification on some of the more significant issues raised during the meeting.

Several stakeholders alleged that Douglas PUD was out of compliance with the license for the Wells Project. We would like to clearly state for the record that these allegations are not true. Douglas PUD has demonstrated an excellent record of compliance with the terms of the existing license articles and associated agreements for the Wells Project. There have been no recurring instances of non-compliance throughout the term of the Wells Project license. Additional information regarding compliance with the Wells Project license can be found in the Wells Pre-Application Document (PAD), Volume 1, Section 3.8.5.

There were several allegations that Douglas PUD has not supported recreation, including the construction of recreation facilities contained within the FERC approved Recreation Action Plans.

However, Douglas PUD's commitment to developing and enhancing recreational access to lands and waters within the Wells Project Boundary has been documented in its Wells Recreation Plan (1967), Wells Recreation Plan Supplement (1974), Public Use Plan (1982) and Recreation Action Plans (1987, 1992, 1997, and 2002). Over the course of the current license, Douglas PUD has established over 30 access sites and use areas along both sides of the Wells Reservoir and on the Methow and Okanogan rivers. In addition, Douglas PUD has funded and developed major parks and recreation facilities along the Wells Reservoir in Pateros, Brewster and Bridgeport. Since 1974, Douglas PUD's contributions toward recreation facilities have been in excess of \$8.9 million. Additional details regarding the above described recreational enhancements can be found in PAD Volume 1, Section 5.6.

Douglas PUD has complied with all of the measures proposed in the Recreation Action Plans. The measures within each of the plans were developed in consultation with the Wells Project stakeholders and then submitted to FERC for approval. Once FERC approved the plans, Douglas PUD implemented the proposed measures. A summary of all recreation plan actions conducted between 1967 and 2005 was provided to the Recreation Resources Work Group on January 13, 2006. This material can be found in the PAD, Volume 2, Appendix B (Summary of Consultation and Contacts), Pages 174-178.

The transcript also indicates that some members of the general public do not have an accurate understanding of Douglas PUD's land acquisition policies and the amount paid for project lands during the construction of Wells Dam in the mid 1960s. The elected board of commissioners for Douglas PUD gave serious consideration to the question of acquiring fee title versus flowage easement. Fee title was selected because of the superior ability to control the use of the reservoir and adjacent lands in order to protect wildlife, address erosion, provide for public access, enhance recreation (FERC Order 313) and prevent encroachment within project boundary.

Several landowners challenged the PUD's authority to acquire fee title in both state and federal courts. The Washington Supreme Court and the Ninth Circuit Court of Appeals both ruled that Douglas PUD was authorized to acquire lands for the Wells Project in fee title.¹

In regard to the amount paid for land, all property was appraised by qualified professional appraisers at fair market value using the highest and best use. That amount was offered to the landowners. The vast majority of project lands were acquired by negotiation between Douglas PUD and the land owner. Out of roughly 575 acquisitions made by Douglas PUD, including many orchards, warehouses, churches, businesses, etc., less than 10% resulted in condemnation actions being filed. Less than 15 of the cases actually went to trial. Most acquisitions around the Wells Reservoir involved willing sellers to Douglas PUD. The purchase price was usually well above what property was actually selling for in the mid 1960s.

¹ *PUD No.1 of Douglas County v. Cooper et al.* 69 Wash.2nd 909 (1966); *Chapman v. PUD No. 1 of Douglas County* 367 F.2nd 163 (1966).

Related to the topic of fee-title ownership of project lands, several stakeholders stated that Douglas PUD has barred the public from accessing the Wells Reservoir for recreation purposes. These statements are not accurate. Douglas PUD owns approximately 2,140 acres of land within the Wells Project Boundary. These lands are open and available for “full public utilization of such lands” as required by Article 7 of the FERC License for the Wells Project. However, there are locations within the Wells Project where full utilization is restricted, including restrictions for dam safety and cultural and environmental protection.

Douglas PUD has developed and continues to implement a comprehensive Land Use Policy. The Land Use Policy allows for private use of Project lands if an applicant acquires all of the required local, state, and federal environmental permits prior to receiving a land use permit from Douglas PUD. An overview of Douglas PUD’s Land Use Policy can be found in PAD Volume 1, Section 5.5.4.1 and 5.6.9.2. Douglas PUD’s current Land Use Policy is posted on the Wells Relicensing Website and can be viewed by utilizing the following link:
http://relicensing.douglaspud.org/background/images/LandUsePolicy_REV2.pdf

Based upon the transcript of the Brewster meeting, there also appears to be a lack of understanding regarding the tangible Wells Project economic and electric benefits that are received by residents of Okanogan County.

Douglas PUD is subject to a variety of taxes in Washington State. The primary taxes that Douglas PUD pays are the Public Utility Tax, Sales Tax, Use Tax, Wholesaling Tax, Retailing Tax, Service and other Taxes, Leasehold Excise Tax and Privilege Tax. Most of these taxes are paid to the State of Washington and are then incorporated into the state’s general fund, benefiting all of the citizens of the state. In 2004, Douglas PUD paid a total of approximately \$1.7 million in taxes, not including Sales Taxes, to the State of Washington. The State of Washington disperses some of this money to the counties and cities adjacent to the Wells Reservoir, including money collected pursuant to the Privilege Tax.

Douglas PUD is subject to the Privilege Tax, which is “a tax for the act or privilege” of engaging in the generation, distribution and sale of electric energy (RCW 54.28.20). Land and land rights costs contribute, in part, to how the tax receipts are distributed. A summary of taxes paid by Douglas PUD, and how those taxes have been dispersed by the state of Washington can be found in the PAD, Appendix B (Summary of Consultation and Contacts), Pages 170-173.

In 2004, Douglas PUD paid a total of \$904,575 in Privilege Taxes to the State of Washington. The state then dispersed \$178,393 and \$115,570 to Douglas and Okanogan counties respectively. The state also allocates a portion to local schools. In 2004, the state dispersed \$326,515 of the Douglas PUD privilege tax to local schools. According to RCW 54.28.090, the counties have the authority to distribute the tax receipts remitted to them by the state, “according to the manner they deem most equitable.”

In addition to Douglas PUD paying substantial taxes, many of the personnel that work at Wells Dam live in, and contribute to the economy of, Okanogan County. Staff at Wells Dam also utilize local vendors, when possible, to acquire materials to be used in the maintenance and operation of the dam. A portion of the sales taxes on materials and equipment purchased by Douglas PUD within Okanogan County is remitted by the state to Okanogan County.

In addition to these economic benefits of the Project, perhaps the greatest benefit to Okanogan County residents served by Okanogan County PUD is that Okanogan PUD receives, at cost, 8% of the electricity generated at the Wells Project after meeting project obligations. This amounts to enough power and energy to cover approximately one third of Okanogan PUD's load. Because of the contribution of Wells output, for the life of the Wells Project Okanogan PUD has been able to offer its customers substantially lower prices than if they were only relying upon other sources of electricity.

Douglas PUD and Okanogan PUD are nearing completion of a long-term power sales agreement under which Okanogan PUD would receive, starting in 2018, a larger percentage of Wells Project output to meet the electricity needs of its customers.

If you have any questions related to Douglas PUD's comments and referenced material contained within this letter or if you require additional information beyond that contained within this letter or the PAD, please feel free to contact me at (509) 884-7191.

Sincerely,



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