



State of Washington
Department of Fish and Wildlife

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October 8, 2010

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Subject: WDFW PRELIMINARY RECOMMENDATIONS FOR TERMS AND
CONDITIONS FOR WELLS HYDROELECTRIC PROJECT (FERC
Project No. P-2149-152)**

Dear Secretary Bose:

Enclosed for filing in the above-referenced proceeding are the Washington Department of Fish and Wildlife's (WDFW) preliminary recommendations for terms and conditions to protect, mitigate, and enhance fish and wildlife resources at the Wells Hydroelectric Project. WDFW is providing these Recommendations, and Terms and Conditions for the licensing of the Wells Hydroelectric Project because this project has continuing impacts on fish and wildlife resources.

Without protection, mitigation, and enhancement measures, the project will continue to impact the State's fish and wildlife resources for the term of the next license. WDFW therefore, recommends that the following terms and conditions be included in the Project license to protect, mitigate, and enhance fish and wildlife resources affected by continued operation of the Wells Hydroelectric Project.

Summary of WDFW Jurisdictional Authority

WDFW has jurisdictional authority to review hydroelectric projects that could impact anadromous and resident fish resources. WDFW is provided consultation requirements for hydroelectric project development by the Fish and Wildlife Coordination Act and Federal Energy Regulatory Commission (Commission) rules 18 C.F.R. Part 4 to set forth recommended Terms and Conditions for the protection, mitigation of damages to, and enhancement of fish and wildlife.

WDFW, pursuant to Sections 10(a) and 10(j) of the Federal Power Act (FPA), provides recommendations for fish and wildlife enhancement, protection and mitigation. Fish enhancement measures provide benefits of preserving and protecting fish populations, providing fish for harvest and for wildlife that depend on fish as a food source.

Settlement Agreements

In March 2006, Douglas County Public Utility District (Applicant) approached stakeholders regarding development of an Aquatic Settlement Agreement (ASA) for those resources not already protected by the original license, the Wells Anadromous Fish Agreement and Habitat Conservation Plan (AFA/HCP), and other related agreements. Stakeholders participating in the development and implementation of the Aquatic Settlement Agreement included WDFW, the United States Fish and Wildlife Service (USFWS), the Bureau of Land Management (BLM), NOAA Fisheries, Washington Department of Ecology (Ecology), the Confederated Tribes and Bands of the Colville Reservation (CIN), and Confederated Tribes and Bands of the Yakama Nation (YIN). The final ASA was distributed for execution in October 2008 and signed by the Applicant, WDFW, Ecology, USFWS, BLM, Ecology, CIN, and YIN.

The ASA contains six aquatic resource management plans intended to protect and enhance populations of white sturgeon, Pacific lamprey, bull trout and native resident fish; protect and restore water quality within the Project; and prevent the introduction and further spread of aquatic nuisance species. These resource management plans have been identified and included in their entirety in the Final License Application as the Applicant proposed environmental measures. The Application requested the Commission to incorporate, without modification, the proposed license articles and aquatic resource management plans as conditions of the new license.

The six aquatic resource management plans, together with the Wells AFA/HCP, form the foundation of the Applicant's Final License Application for the Project with respect to management of aquatic resources. In addition to measures for the protection of aquatic resources, the Final License Application includes several management plans for the protection and enhancement of terrestrial, recreation, and cultural resources associated with the Wells Project.

Several of the plans and environmental measures contained in the ASA are to be developed under the new license and will necessitate the continued involvement of State and Federal resource agencies and other affected parties. Implementation of the plans and measures were discussed during settlement negotiations, and addressed in the ASA by the formation of several resource management groups. These groups, as proposed in the ASA and the Final License Application, are referred to as the Aquatic Settlement Work Group (Aquatic SWG) and the Terrestrial Work Group (TWG). These groups will provide input on and review of several plans and specific measures called for in the ASA that will not be finalized until after the new license is issued. In addition, these groups will be consulted on actions and decisions that are proposed for implementation several years after issuance of the new license, and after post-construction monitoring and evaluations are completed. WDFW supports the formation of these groups and recommends that representatives from the Aquatic SWG and the TWG meet as necessary to provide technical input for fish and wildlife issues related to license implementation.

WDFW Recommendations

Approve Settlement Agreements

WDFW recommends FERC adopt the Aquatic Settlement Agreement and the Wells Anadromous Fish Agreement and Habitat Conservation Plan (AFA/HCP) into the next long-term license for the Wells hydro project.

License Term Recommendation

WDFW recommends a fifty-year term for the Wells FERC license per the ASA section 5.2.2 and opposes the coordinated expiration of the Wells license with the new licenses for the Rocky Reach, Wanapum, and Priest Rapids Projects.

Justification:

1. Support for a 50-year term was an essential element considered during the negotiation of the Aquatic Settlement Agreement and Off-License Settlement Agreement. Stakeholders wanted a longer term to ensure that the benefits of the project were available for the longest term possible. The final agreed upon Aquatic Settlement Agreement and off-License Settlement Agreement requires the parties to these agreements to support a 50-year license term for the Wells Project.
2. The ASA and Final license application are consistent with the No Net Impact survival standards, and therefore supports a long-term license.
3. The proposed relicensing of the three PUD projects at the same time is not in the public interest as the associated workload would exceed WDFW's staff and resources. It would also likely place an undue burden upon other state and federal resource agencies, tribes and non-governmental organizations expected to be involved in these future relicensing proceedings. All parties, including FERC, that have been actively involved in the ILP, recognize that each relicensing proceeding requires a significant time and resource investment by all participants. The coordinated relicensing of three of the largest projects in the nation at the same time will significantly compound that burden without providing any corresponding benefits.

WDFW supports the issuance of a new license for the Wells Hydroelectric Project provided our comments, recommendations, terms and conditions are considered by the Commission and incorporated into the new license. However, because a draft NEPA document has not yet been issued by the Commission, this response contains preliminary recommendations and prescriptions only. Accordingly, WDFW reserves the right to amend these comments and recommendations, if warranted, based on the results of information and conclusions developed during the Commission's environmental analysis.

Thank you for your consideration of our preliminary recommendations. If you need clarification about our requests or have comments on WDFW's preliminary recommendations terms and conditions regarding the license for the Wells Hydroelectric project, please contact me by email at Travis.Nelson@dfw.wa.gov or telephone (360) 902-2390.

Sincerely,



Travis Nelson
WDFW Renewable Energy Section Manager

cc: FERC Service List