



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274

July 21 2011

ELECTRONICALLY FILED

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

Subject: National Marine Fisheries Service's Modified Fishway Prescriptions for the
Wells Hydroelectric Project (FERC Project No. 2149)

Dear Secretary Bose:

Enclosed for filing is the National Marine Fisheries Service's (NMFS) Modified Fishway Prescriptions, for the above referenced project, and Certificate of Service. Questions regarding this filing should be directed to Bryan Nordlund at 360-534-9338 or Bryan.Nordlund@noaa.gov or Steve Fransen at 360-753-6038 or Steve.M.Fransen@noaa.gov.

Sincerely,

Regional Administrator
William W. Stelle, Jr.

Enclosure

cc: Service List (sent electronically unless hard copy specifically requested)



**UNITED STATES OF AMERICA FEDERAL
ENERGY REGULATORY COMMISSION**

Douglas County Public Utility District No. 1)	Wells Hydroelectric Project
Douglas County PUD)	Project Relicensing
_____)	FERC No. P-2149

**NATIONAL MARINE FISHERIES SERVICES' COMMENTS, RECOMMENDED
TERMS AND CONDITIONS AND MODIFIED FISHWAY PRESCRIPTIONS**

On October 8, 2010, the U.S. Department of Commerce, National Marine Fisheries Service (NMFS), filed with the Federal Energy Regulatory Commission (Commission) its Recommended Terms and Conditions and Preliminary Fishway Prescriptions pursuant to §§ 10 and 18 of the Federal Power Act (FPA) for the Wells Hydroelectric Project, FERC No. P-2149. This filing indicated that the Terms, Conditions and Preliminary Fishway Prescriptions included therein may be modified by a subsequent filing within 60 days of the close of the comment period for the Commission's National Environmental Policy Act (NEPA) documentation. The purpose of today's filing is to notify the Commission as to NMFS' actions regarding Modified Fishway Prescriptions.

SECTION 18 FISHWAY PRESCRIPTIONS

In response to NMFS' Preliminary Fishway Prescriptions, we received no comments, requests for a trial type hearing, or recommended alternatives. Nor has NMFS received any information that would lead us to reconsider the preliminary prescriptions and the underlying Aquatics Settlement Agreement entered into by numerous parties and submitted to FERC on

May 27, 2010. Therefore, NMFS is hereby foregoing the opportunity to submit a Modified Fishway Prescription in accordance with the pre-licensing schedule, and submits as its final Fishway Prescriptions the preliminary prescription on file with the Federal Energy Regulatory Commission.

NMFS' Administrative Record for this project was previously updated with the Commission following Endangered Species Act (ESA) Section 10(a)(1)(B) consultation, when NMFS issued an Incidental Take Permit (ITP) to Douglas PUD based upon inclusion of the Habitat Conservation Plan (HCP) for the Wells Hydroelectric Project in the project license. Before NMFS could issue this ITP, NMFS was required to determine for purposes of ESA Section 7(a)(2) that its issuance of the ITP was not likely to jeopardize the affected listed species. This process culminated in a biological opinion issued on August 12, 2003, which found that NMFS issuance of an ITP under Section 10(a)(1)(B) of the ESA for the lawful operation of the Wells Hydroelectric Project in accordance with the HCP was not likely to jeopardize the continued existence of ESA-listed Upper Columbia River (UCR) steelhead or UCR spring-run Chinook salmon. NMFS completed its NEPA process for the HCP by preparing a Record of Decision in 2003. The effects of the project on steelhead, Chinook salmon and sockeye salmon are fully described in NMFS' December 2002 Final Environmental Impact Statement and the August 12, 2003, and March 3, 2004, Biological Opinions issued for the Project. These documents were filed with the Commission by Douglas PUD as part of a license amendment process.

Today's action in no way limits or affects NMFS' authority, pursuant to §18 of the FPA, to modify its Fishway Prescriptions during the life of the license, in accordance with the Reservation of Authority on file with the Commission and restated below. This filing is solely intended to indicate that NMFS is satisfied that its Preliminary Fishway Prescriptions are sufficient for the Commission's forthcoming decision on issuance of a license for this project. We further

note that the Preliminary Fishway Prescriptions, as finalized by this filing, are intended to facilitate implementation of the HCP, without material modification.

RESERVATION OF AUTHORITY

NMFS reserves its right under Section 18 of the FPA to modify these fishway prescriptions based upon significant new information and conclusions developed in connection with the fulfillment of other statutory consultation and review requirements, including consultation under Section 7 of the ESA, 16 USC §1536, or Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 USC §1855, regarding essential fish habitat. NMFS respectfully requests the Commission, upon issuance of any new license in this proceeding, retain by means of a specific reopener provision for fishway prescriptions, in accordance with Section 18 of the FPA, and other appropriate reservations of authority, sufficient discretionary involvement or control with respect to project construction, operation, maintenance, and modification under the new license, or any amendments thereto, so as to ensure full compliance with the requirements of Section 18 of the FPA and any new or modified fishway prescription issued hereunder.

In addition, NMFS respectfully requests the Commission, upon issuance of any new license in this proceeding, retain by means of a specific ESA reopener provision and other appropriate reservations of authority (including authority to require license amendments or project modifications to comply with the ESA following reinitiation of ESA Section 7 consultation at the request of the NMFS), sufficient discretionary involvement or control with respect to project construction, operation, maintenance, and modification under each new license, or any amendments thereto, so as to ensure full compliance with the requirements of the ESA, with respect to the carrying out of such actions during the term of the new license.

UNITED STATES OF AMERICA FEDERAL
ENERGY REGULATORY COMMISSION

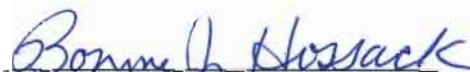
Douglas County Public Utility District) Wells Hydroelectric Project

Douglas County PUD) FERC No. P-2149

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by electronic or first class mail, a letter to Kimberly D. Bose, Federal Energy Regulatory Commission, from the National Marine Fisheries Service, regarding Comments, Recommended Terms and Conditions and Modified Fishway Prescriptions for the Wells Hydroelectric Project (FERC No. P-2149) and this Certificate of Service to each person designated on the official service list compiled by the Commission in the above captioned proceeding.

Dated on July 21, 2011



Bonnie J. Hossack
Administrative Assistant
FERC & Water Diversions Branch
Hydropower Division