

121 FERC ¶ 62,154
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of
Chelan County

Project No. 637 - 037

ORDER MODIFYING AND APPROVING QUALITY ASSURANCE PROJECT
PLAN, ARTICLE 401 AND WQC CONDITION V.B

(Issued November 30, 2007)

On May 4, 2007, Public Utility District No. 1 of Chelan County (licensee) filed its Quality Assurance Project Plan pursuant to Article 401 of the Order Issuing New License issued November 6, 2006¹ for the Lake Chelan Hydroelectric Project. The project is located on the Chelan River in Chelan County, Washington.

BACKGROUND AND LICENSE REQUIREMENTS

License Article 401 requires various plans to be filed for Commission approval. Condition V.B of the Washington Department of Ecology's (WDOE) 401 Water Quality Certification (WQC) for the Lake Chelan Hydroelectric Project requires the licensee, within one year of the date of license issuance, to prepare a Quality Assurance Project Plan (QAPP) for water quality monitoring and temperature modeling, and submit the plan to WDOE for review and approval. The Condition V.B requires the following:

i) The QAPP shall be prepared in accordance with the Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, February 2001, Ecology Publication Number 91-16.

ii) The QAPP shall describe methods used to sample and monitor various water quality parameters. The QAPP shall also include proposed methods to assess the data collected. This is likely to include future modeling of temperature using the model SNTEMP.

iii) In year 6, Chelan PUD shall provide the results of a study to determine the geomorphic influences on water temperatures in the Chelan River in order to address

¹ 117 FERC & 62,129 (2006)

temperature, velocity, depth, and substrate to determine the best methods to achieve the biological objectives for cutthroat trout. The plan and results shall be approvable by Ecology. This study shall be incorporated into the second submittal of the Biological Objectives Status Report.

iv) Chelan PUD shall re-evaluate and propose needed revisions to the QAPP. Changes to the QAPP need written approval by Ecology before taking effect.

LICENSEE'S PLAN

The licensee states that their plan was prepared in accordance with the Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies as required by the Condition V.B. The licensee states that because the Chelan River bypassed reach has been generally dewatered for the last 79 years, little is known about what level of fish production and attainment of water quality criteria for temperature can reasonably be expected. Therefore, the WQC requires a monitoring plan, as part of the 10-year adaptive management plan, to gather and assess the data necessary to identify all known, reasonable, and feasible measures to achieve biological objectives, and to determine whether implementing these measures would meet the numeric water quality criteria as specified in Washington Administrative Code 173-201 A.

In order to accomplish these measures, the licensee plans to monitor and evaluate water temperature, dissolved oxygen (DO) concentrations, flows, pH, turbidity, and total dissolved gas (TDG) at various locations in the Chelan River and the powerhouse tailrace. The licensee states that temperature modeling will likely be a substantial component of the assessment plan after the data collected under this effort have been evaluated. Due to the complexity of the water temperature modeling that will be necessary to determine whether the Chelan River can meet temperature criteria for its current use designation, the licensee plans to develop a separate QAPP for their temperature modeling study. The QAPP for the study would be developed for implementation by the summer of 2010.

The licensee states that the monitoring schedule will conform to the requirements stated in the WQC. Monitoring would begin immediately upon initiation of the minimum flows provided by the implementation of the low level outlet (LLO) structure to be constructed at the dam in order to provide required minimum flows when the lake level is below the spillway crest. The licensee's filing included a detailed monitoring plan (location(s), frequency, metric and standards), including sampling and measurement procedures, for each required water quality parameter: temperature, flow, DO, turbidity, pH, TDG, petroleum products, and intergravel DO.

Data collected would be evaluated and flagged to indicate any water quality exceedances and measures taken by the licensee. The data would be available no later than the 30th of the month following the reporting period and would be posted on the licensee's website. The licensee would report exceedances of the water quality criteria within 48 hours to the WDOE's Central Regional Office. If petroleum product sheen is observed, it would be considered a violation of the Class A water quality criteria and would also be reported to the WDOE within 48 hours.

The licensee plans to file an Annual Summary Report with the WDOE by February 28, beginning 2008, providing the data assessment described in the licensee's plan to determine compliance with state water quality criteria. Each year, the reports would include temperature and flow data on a monthly basis, from July to September, and quarterly the rest of the year. The results of the petroleum product monitoring would be reported annually, unless sheen is observed. In years four and six, results of DO, turbidity, pH, and TDG monitoring would be reported as a part of the annual report. The annual reports would include the results of all field activities, sampling and measurement procedures, conclusions, and recommendations for further action, if necessary. Additionally, the reports would include a location map, a site map illustrating the location of the sampling positions and the values observed for each parameter. The licensee would prepare project reports that would include a discussion of the work and recommendations for further investigations, or actions based on the monitoring results. Each report would contain all monitoring data, data review and verification write-ups, non conformance with their plan, and completed monitoring logs reports.

AGENCY CONSULTATION

License Article 401 requires the licensee to prepare plans for approval by some or all of the signatories of the Lake Chelan Settlement Agreement. The WQC Condition V.B requires the licensee to file their plan with the WDOE for approval. The licensee's filing included an extensive record of consultation with the Chelan River Fisheries Forum, which includes the WDOE. The licensee states that their draft plan was provided to the resource agencies, Tribes, and non-governmental organizations, including the WDOE, on March 15, 2007. All comments were incorporated into the licensee's filed plan and the WDOE approved the licensee's plan via email dated April 25, 2007.

DISCUSSION AND CONCLUSIONS

We note that the licensee's plan under the subject Article and associated WQC Condition V.B was filed concurrently with their plan under license Article 405. Under Article 405, the licensee plans to file an *Annual Flow Report* with the WDOE and the

Commission by February 28, beginning in 2008. In their plan under Article 405, the licensee states that the Annual Flow Report is required under their WQC and subject plan. However, the licensee refers to their report under the subject plan as an *Annual Summary Report* albeit includes flow monitoring data (required under Article 405). In their subject plan, the licensee plans to file their Annual Summary Report with the WDOE by February 28 of each year; however, does not state that their report would be filed with the Commission. We do note, however, that the licensee states in their plan under Article 405, that the Annual Flow Report would be coordinated with the reporting of water quality data and biological evaluations required under their WQC and the subject plan. Although it is unclear if the licensee is referring to the same report in both plans, the licensee should include in their Annual Flow Report under Article 405, to be filed with the Commission by February 28, beginning 2008, the reporting information proposed by the licensee and discussed herein with regard to determining compliance with state water quality criteria.

The licensee states that due to the complexity of the water temperature modeling that will be necessary to determine whether the Chelan River can meet temperature criteria for its current use designation, the licensee plans to develop a separate QAPP for their temperature modeling study. The QAPP for the study would be developed for implementation by the summer of 2010. Although the licensee does not state that the plan would be filed with the Commission, considering the WQC Condition V.B addresses future modeling of temperature, the licensee should file for Commission approval by September 1, 2010, their QAPP for their temperature modeling study.

Additionally, the WQC Condition V.B addresses providing study results in year 6 to determine the geomorphic influences on water temperatures in the Chelan River with regard to achieving biological objectives for cutthroat trout. The Condition V.B also states that the associated plan and results should be approvable by the WDOE. Further, the Condition requires that the licensee re-evaluate and propose needed revisions to the QAPP and receive written approval from WDOE before any such changes take effect. Although it is unclear whether a revised plan is actually required in year 6 under the Condition V.B, Article 401 requires the licensee to file a revised plan by April 30 of year 6 of the license, which would be April 30, 2012. Therefore, the licensee should file for Commission approval by April 30, 2012, a revised QAPP.

The licensee's QAPP should assist in gathering and assessing the data necessary to identify all known, reasonable, and feasible measures to achieve biological objectives, and to determine whether implementing these measures would meet the numeric water quality criteria required under their WQC.

The licensee's plan satisfies the requirements of license Article 401 of the Order Issuing New License issued November 6, 2006, and the WDOE's WQC Condition V.B for the Lake Chelan Hydroelectric Project. Therefore, the licensee's plan, as modified, should be approved.

The Director orders:

(A) The Quality Assurance Project Plan, filed May 4, 2007, under license Article 401 of the November 6, 2006 Order Issuing New License and under the Washington Department of Ecology's Water Quality Certificate Condition V.B for the Lake Chelan Hydroelectric Project, as modified by paragraphs (B) and (C), is approved.

(B) The licensee shall file with the Commission for approval by September 1, 2010, the Quality Assurance Project Plan for their temperature modeling study. The licensee shall allow the Washington Department of Ecology 30 days to provide comments and/or recommendations on their plan before filing the plan with the Commission. Prior to filing their plan with the Commission, the licensee shall obtain approval from the Washington Department of Ecology. The filing shall include comments and/or recommendations from the Washington Department of Ecology and the licensee's response to any comments. If the licensee does not adopt a recommendation, the plan shall include the licensee's reasons, based on project-specific information. Based on review of the plan, the Commission reserves the right to require changes to the project to ensure compliance with the license.

(C) The licensee shall file with the Commission for approval by April 30, 2012, a revised Quality Assurance Project Plan. The licensee shall allow the Washington Department of Ecology 30 days to provide comments and/or recommendations on their plan before filing the plan with the Commission. Prior to filing their plan with the Commission, the licensee shall obtain approval from the Washington Department of Ecology. The filing shall include comments and/or recommendations from the Washington Department of Ecology and the licensee's response to any comments. If the licensee does not adopt a recommendation, the plan shall include the licensee's reasons, based on project-specific information. Based on review of the plan, the Commission reserves the right to require changes to the project to ensure compliance with the license.

(E) The licensee shall file an original and seven copies of any filing required by this order with:

The Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.3
888 First Street, NE
Washington, DC 20426

(F) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days from the date of issuance of this order, pursuant to 18 CFR ' 385.713.

George H. Taylor
Chief, Biological Resources Branch
Division of Hydropower Administration
and Compliance