August 12, 2002

Ms. Magalie Roman Salas, Secretary

FEDERAL ENERGY REGULATORY COMMISSION
888 First Street NE
Washington, DC  20426

Subject: Lake Chelan Hydroelectric Project - Project No. 637-022: Chelan PUD’s Response to the American Rivers’ Motion to Intervene, Comments and Recommendations for the Lake Chelan Hydroelectric Project dated June 28, 2002

Dear Ms. Salas:

Enclosed for filing with the Federal Energy Regulatory Commission (FERC) are comments from the Public Utility District No. 1 of Chelan County (Chelan PUD) in response to the American Rivers’ (AR) Motion to Intervene, Comments and Recommendations dated June 28, 2002, regarding the Lake Chelan Project (Project).

GENERAL COMMENTS

Comment - Project Retirement and License Term

P.2, III: “American Rivers finds that the Applicant Prepared Environmental Assessment is deficient in several respects. It fails to adequately assess the environmental benefits of the proposed protection, mitigation and enhancement measures associated with the various alternatives, and it provides inadequate analysis for rejection of a project retirement alternative. Importantly, the proposed measures and accompanying analysis do not justify issuance of a 50-year rather than 30-year license.”

P.5: “American Rivers proposes that the Commission consider a 30, rather than a 50-year license for the Lake Chelan Hydroelectric Project. There is no need to commit to 50 years of ongoing adverse impacts to the Chelan River, especially in light of evolving energy technology.”


**Chelan PUD Response**

Many of the comprehensive plans are incorporated by reference. The purpose of the license application and PDEA is to summarize and analyze the results contained in the various study reports and comprehensive plans.

The PDEA considered all alternatives that were considered “reasonable.” Dam decommissioning and/or project retirement were not considered as reasonable, nor did any group participating in the collaborative process recommend these alternatives.

Chelan PUD strongly disagrees. The protection, mitigation and enhancement (PME) measures proposed in Chelan PUD’s license application are premised on a 50-year license term. Chelan PUD will reconsider its support for this package of PME measures in the event that other parties do not agree to a 50-year license term.

Chelan PUD provided its basis for a longer license term in a paper titled *License Term Analysis – 50 Versus 30 Years* dated February 22, 2002. The purpose of the paper was to compare project enhancement measures being proposed for the Lake Chelan Project to other projects in the U.S. Since it is impossible to compare enhancement measures directly (because each project is different), a comparison of costs was made using FERC’s *Report on Hydroelectric Licensing Policies, Procedures and Regulations Comprehensive Review and Recommendations Pursuant to Section 603 of the Energy Act of 2000* dated May 2001. Results indicated that Chelan PUD was proposing measures ($580 per kW of installed capacity) that far exceeded the national average ($212 per kW of installed capacity). The primary justification for these increased costs was a longer license term. If a longer license term was denied, Chelan PUD would reanalyze the proposed enhancement package and make necessary changes. Chelan PUD recognizes most agencies would only sign a settlement agreement if their individual PME measures were included in the overall proposal. However, based on the economic analysis, Chelan PUD will only sign an agreement if a longer license term is included in the overall proposal.

As explained in the *License Term Analysis – 50 versus 30 Years*, February 22, 2002, Chelan PUD believes the resources would be better served by a 50-year license term. The reason is that with a longer license term the Project is able to afford to undertake more PME measures and that those measures could be implemented in a more timely manner.

The decision on whether to issue a 30-year or longer license term is not based solely on the magnitude of modifications to Project works. The decision to issue a longer license is also based on the magnitude of enhancement measures in the Project area. The FERC has the authority to grant new licenses “for a term which the Commission determines to be in the public interest but not less than 30 years, nor more than 50 years, from the date on which the license is issued” [Federal Power Act (FPA), Section 15(e)]. FERC’s policy is set forth in a recent order issuing a new license for the Central Vermont Public Service Corporation’s Weybridge Hydroelectric Project (Order Issuing New License, FERC Project No. 2731-020, August 1, 2001, 96 FERC ¶ 62,097). The order states:
“Section 15(e) of the FPA specifies that any license issued shall be for a term determined to be in the public interest, but the term may not be less than 30 years nor more than 50 years. The Commission’s policy establishes 30-year terms for those projects that propose little or no development, new construction, new capacity or enhancement; 40-year terms for those projects that propose a moderate amount of redevelopment, new construction, new capacity or enhancement; and 50-year terms for those projects that propose extensive redevelopment, new construction, new capacity or enhancement.”

The proposal set forth by the parties working to relicense the Lake Chelan Project fulfills this standard of “extensive redevelopment, new construction, new capacity or enhancement.” The PME measures outlined in the Comprehensive Management Plans included in the Preliminary Draft Environmental Assessment (PDEA) have a net present value of $30 million. The Chelan River (bypassed reach) Comprehensive Management Plan would reestablish a riverine ecosystem in a riverbed that has been dry for most of the year for almost 80 years. This extensive redevelopment project accounts for approximately 33 percent of the total relicensing cost. In addition, approximately $7.8 million, or 26 percent of the total costs for a 50-year license, will be spent on recreation-related measures that benefit the lower Lake Chelan area. Another major redevelopment and enhancement measure under the 50-year scenario is nearly $3 million dollars for erosion control on federal lands. A detailed explanation of these and other proposed protection, mitigation and enhancement (PME) measures is included in the next section. Most of these measures are “enhancements” or improvements over existing conditions.

In addition to the standard outlined above, the Commission has generally deferred to the recommendation of parties involved in the relicensing proceedings regarding license term and has granted license terms substantially exceeding 30 years. Therefore, FERC is very likely to issue a 50-year license for the Lake Chelan Project if supported by the interested parties. Between January 1995 and March 2002, a total of 143 new licenses have been issued – 81 have been for terms greater than 30 years.

As stated since 1998, Chelan PUD is seeking a 50-year license. The PME measures described in the license application and PDEA were based on a 50-year license. The PME measures outlined in the license application, PDEA and the various comprehensive plans are “extensive” for a project of this size (e.g. 48 MW) and complexity (e.g. a natural lake without anadromous fish). In addition, the PME measures are even more “extensive” in light of the fact that this is the second relicensing process that the Lake Chelan Project has gone through. The Project was relicensed by the Commission in 1981 and it is the first hydroelectric project in the U.S. to go through the relicensing process twice. For example, Chelan PUD invested over $10 million for recreational improvements pursuant to the 1981 license and is still paying for the long-term debt and maintenance for these facilities. The extensive scrutiny and review of the Lake Chelan Project from being subject to relicensing twice further reinforces the justification for a 50-year license term.
Comment – Minimum Flows

P.3: “…American Rivers recommends that the Commission consider the flow regime represented in Table 9 (proposed by Rod Woodin, Washington Department of Fish and Wildlife). In contrast to the flow regime proposed by Chelan PUD, this flow regime would optimize benefits to various fish species and provide greater certainty that such benefits would be attained.”

Chelan PUD Response

Chelan PUD disagrees. The proposed flow regime referenced (Woodin, 2000) was changed significantly by the Natural Sciences Working Group. The Chelan River Comprehensive Management Plan (CRCMP) describes the current flow regime supported by the U.S. Forest Service (USFS), the National Park Service (NPS), the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the Washington Department of Fish and Wildlife (WDFW). The minimum flow regimes were fully studied and analyzed (Bypass Reach Flow Releases Study Report, 2000). A significant portion of settlement negotiations that occurred in 2000 and 2001 involved discussion within the Natural Sciences Working Group regarding minimum flows for the Chelan River, lake level management, and numerous other factors in order to strike the proper balance between environmental needs and power benefits.

Comment – Viable Riverine Ecosystem

P.4: “The Bypass Reach Flow studies utilized a methodology - IFIM - that assesses flows needed for fish, but does not evaluate other parameters of river health. While the proposed flow regime is certainly an improvement over existing conditions in the river, the analysis to date is inadequate to find that a viable riverine ecosystem will result from the proposed flows. Benefits to riparian vegetation and other aquatic organisms have not been considered.” “…American Rivers recommends that the Commission consider supplementing Chelan River flows even in dry years.”

Chelan PUD Response

Significant study of natural resources has occurred during the course of the Lake Chelan relicensing process. A major component of the Bypass Reach Flow Releases Study involved conducting a Limiting Factors Analysis (Section 2) to investigate effects on, and potential production of, the Chelan River based on water temperature, nutrient levels, invertebrate abundance and density, spawning gravel availability, and gravel scour. All these factors were considered by the Natural Sciences Working Group when setting the proposed minimum flow regime for the Chelan River, with one primary goal of restoring a viable river ecosystem.
Comment – Water Quality

P. 4-5: “American Rivers recommends that the Commission consider possible measures that could be implemented in the event that the proposed flow regime fails to meet water quality standards, especially temperature.”

Chelan PUD Response

The Flow Group, a sub-group that is part of the settlement process directed to address flow-related issues, is developing an implementation plan for making decisions regarding Chelan River flows, water temperatures meeting water quality standards, the technical basis for meeting biological objectives, and potential alternatives that Washington Department of Ecology (WDOE) may support. The Flow Group has stated clearly that they have no intention of renegotiating the current minimum flow proposal contained in the Chelan River Comprehensive Management Plan (CRCMP).

Chelan PUD reserves the right to object to conditions proposed by AR on a variety of legal grounds, including that they are not best adapted to a comprehensive plan for improving or developing a waterway, are not supported by substantial evidence or are otherwise in violation of the Federal Power Act, Pacific Northwest Electric Power Planning and Conservation Act or other applicable law.

Sincerely,

PUBLIC UTILITY DISTRICT NO. 1
OF CHELAN COUNTY, WASHINGTON

Gregg Carrington
Director of Licensing

cc: FERC Service List