

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No.1 of Chelan County, Washington  
Project No. 637

ORDER ISSUING NEW LICENSE (MAJOR)  
(Issued May 12, 1981 )

On October 30, 1975, the Public Utility District No. 1 of Chelan County (District) filed an application under Part I of the Federal Power Act (Act) for a new major license to authorize the continued operation and maintenance of the constructed Lake Chelan Project No. 637. The project is located on the Chelan River, at the outlet of Lake Chelan, in Chelan County, Washington. The project affects navigable waters and lands of the United States within Wenatchee National Forest and Lake Chelan National Recreation Area (NRA) of the North Cascades National Park. The original license for Project No. 637 expired on March 31, 1974, and since that time, the project has operated under successive annual licenses.

Public notice of the filing of the application was given in accordance with the Act. The Washington Department of Ecology (Ecology), the Washington Department of Game (Game), the City of Chelan (City), and the Chelan County Property Owners Protective Association (Association) were permitted to intervene. No protests or additional interventions were filed. Comments on the license application were requested from the appropriate Federal, State, and local agencies. The issues raised by the intervenors and the substantive comments received are discussed below.

#### PROJECT HISTORY

Since 1892, five dams have been constructed at the project site on the Chelan River for navigation, water supply, and power purposes. Between 1892 and 1903, spring floods caused failure of three of the dams. The City completed construction of a fourth dam and powerhouse by 1906. The Chelan Electric Company purchased the property in 1907 and operated the plant until 1928. On May 8, 1926, the Federal Power Commission issued a 50-year license to the Chelan Electric Company authorizing the construction of the existing project to replace the dam and powerhouse constructed in 1906. In 1937, all Chelan Electric Company properties were transferred to the Washington Water Power Company. On June 21, 1955, the District purchased the Lake Chelan Hydroelectric Project properties and the Commission transferred the project license to the District.

#### PROJECT DESCRIPTION

The constructed Lake Chelan Project consists of the following principal project works: a 40-foot high concrete dam; a 55-mile long reservoir, Lake Chelan; a tunnel and penstocks; an indoor powerhouse containing two units with a total rated capacity of 48,000 kW; and a switchyard. The project is more fully described in ordering paragraph (B) below.

#### RECREATIONAL FACILITIES

The existing public recreational development consists of 30 sites along the periphery of the project reservoir, providing campsites, picnic areas, boat docks, boat launch ramps, swimming areas, and other day-use areas.

In the Exhibit R filed on January 26., 1977, the District proposes additional recreational development at four sites. It is concluded that the Exhibit R reasonably provides for the recreational needs at the project and, therefore, will be approved in ordering paragraph (C).

#### PROJECT OPERATION

The project reservoir is operated between a maximum normal water surface elevation of 1,100 feet and a at minimum water surface elevation of 1,079 feet to ensure an optimum utilization of the reservoir for: the generation of power at the project and generating plants downstream from the project; flood control; irrigation; municipal and domestic water supplies; fish and wildlife conservation; recreation; and other beneficial uses. Inflow in excess of the reservoir storage capacity and the hydraulic capacity of the generating plant is discharged through the diversion and control dam spillway.

The District proposes no change in the operation of the Lake Chelan Project

#### SAFETY AND ADEQUACY

All project structures, machinery, and appurtenant facilities have been inspected by the Commission's staff and found to be adequately maintained and generally in good operating condition. The spillway capacity and adequacy were evaluated and found to be satisfactory. The concrete structures were checked for stability and found to be safe against overturning and sliding for various combinations of loading conditions, including earthquake loading.

It is concluded that the dam would be safe for continued operation during the term of the new license provided the project works continue to be monitored, inspected, and properly maintained.

#### COMPREHENSIVE DEVELOPMENT

The operation of the project is coordinated by the U.S. Army Corps of Engineers (Corps) and the Bonneville Power Administration with other hydroelectric projects so as to maximize the power production from the Columbia River Basin. The power generated at the project is utilized by the District and by the Washington Water Power Company to meet their respective system requirements.

The only other operating hydroelectric project w-ithin the Chelan River Basin is a 200 kW project located on Company Creek., a tributary to Lake Chelan. A preliminary permit for the Antilon Lake Pumped Storage Project No. 2718 was issued on December 12, 1972, and expired on December 11, 1975. No application for a license has yet been filed for that project which would utilize Lake Chelan as its lower reservoir and have an installed capacity between 1,000 and 2,000 MW.

The Lake Chelan Project currently provides base-load type power. Since 1971, studies iihave been made of the economic and technical feasibility of expanding the project. The most promising expansion plan, at this time, would consist of constructing a new dam downstream of the existing one, a new tunnel and penstock, and a new powerhouse containing a single generating unit rated at 224 MW. However, investigations iiiindicate that the raised reservoir, necessary under the expansion plan, would have an unacceptable amount of leakage into the Columbia River throughout the strata dividing the two rivers. The cost of treatment to minimize the leakage would make the proposal infeasible. There are no plans to further develop the Lake Chelan Project, except for the proposed

expansion of the recreational facilities. No agency comments on the license application have included any recommendations that would adversely affect power operations.

The staff's Water Resources Appraisal Report for the Chelan River Basin indicates that the Lake Chelan Project is not in conflict with any planned or potential developments in the basin. It is concluded that the project is best adapted to the comprehensive development of the Chelan River Basin.

#### WATER QUALITY

A water quality certificate for the project was issued on July 8, 1977, by Ecology in accordance with Section 401 of the Federal Water Pollution Control Act Amendments of 1972. The certificate was granted subject to the condition that the project's operation remains substantially as described in the District's request for certification dated April 27, 1977.

#### RECREATION AND LAND USE

The U.S. Forest Service (FS), Ecology, and the Association expressed concern over the effects of the Project's operation on the piers, docks, and ramps used primarily for recreational purposes. The Association alleges that the project operation, as proposed by the Applicant, would unreasonably curtail recreational use of the reservoir inasmuch as a significant number of docks and other water access facilities are operational only when the reservoir is maintained at or near its maximum elevation of 1,100 feet. Applicant proposes to operate the reservoir at elevation 1,098 feet, on a 95 percent assurance basis, between June 30 and September 15 of each year. The Association seeks modification of the operation to maintain the maximum reservoir elevation at a more traditional recreation season of June 1 to September 30 of each year.

Applicant calculates that maintaining maximum elevation through the month of June would result in the loss of approximately 33 million kilowatt hours of energy annually. The loss in power is due to the effective loss of approximately 100,000 acre-feet of storage to power operations. Lake Chelan is drawn down over the winter by project power generation, and the spring snowmelt or freshet refills the reservoir. A large portion of the spring freshet comes during June of each year so that if the reservoir were required to be near full, at elevation 1,098, by June 1 the high flows in June would have to be spilled due to lack of available storage space in the reservoir.

Extending the period of maintaining the reservoir at elevation 1,098 feet from September 15 to September 30 would not, however, have a similarly adverse effect. The power plant is operated as close to maximum capacity from September 15 through March 31 to reduce reservoir storage by about 650,000 acre-feet. This license will allow the project to be operated at maximum capacity during the month of April as well. Therefore, deferring the commencement of this drawdown by two weeks would not measurably affect total energy production.

In order to accommodate and enhance recreational use of the project to the extent it is economically feasible to do so, Article 38 requires the Licensee to maintain the reservoir at or near maximum reservoir elevation from June 30 through September 30 of each year.

The United States Department of the Interior (Interior) commented that the District has the responsibility to work with the Corps and local planning agencies in regulating shoreline development. Under Part I of the Federal Power Act all licensees have an affirmative duty to take appropriate measures to

protect the integrity of project lands and waters, including regulating the use of project shoreline in the interests of comprehensive development.

On July 15, 1980, the District filed a Project Lands Management Plan (Plan) that utilizes existing permit procedures under the State of Washington's Shoreline Management Act of 1971, RCW 90.58.010 et. seq., and the Shoreline Use Regulations for Chelan County. Under the proposed plan, the District would: (1) review all Chelan County shoreline permit applications on non-Federal project lands; (2) recommend inclusion of appropriate prescribed standard conditions in permits on non-Federal project lands not owned by the District; and (3) require inclusion of appropriate prescribed standard conditions in permits on project lands owned by the District. For major actions, the District would apply for Commission approval. For specified actions on privately held project lands (where the District holds a flowage easement only) when the District's recommendations have not been incorporated into the shoreline permit, the District states that it will make application for Commission approval.

In submitting the proposed Plan: the District explained that a substantial portion of its project lands are not owned in fee by the District but are utilized solely for reservoir purposes pursuant to a flowage easement. Noting that the Commission has on recent occasions imposed on its licensees the obligation of increasing their efforts to control project lands in the interest of protecting and enhancing the scenic, recreational and environmental values of such lands, the District maintains that due to the flowage easements it lacks the authority to impose such more-demanding limitations and controls. The District maintains, however, that its proposed Plan will adequately protect and enhance scenic, recreational and environmental values at the project.

It is noted that under the District's Plan the District has no enforcement power over activities on privately-owned project lands subject to a flowage easement. Under the Plan., the District will merely "review" shoreline permit applications and "recommend" certain conditions for inclusion in any permit issued. Should the designated State or local authority fail to include the District's recommended conditions in the shoreline permit, the District states that it will make application to the Commission. However, no procedure is provided by which the District, absent some further property right, could prevent or regulate the proposed use of privately-owned project land before or after the District makes application to the Commission for approval.

Contrary to the District's assertion, it does, under the Federal Power Act and the terms of its license, have the authority (and the duty) to impose appropriate restrictions on the use of project lands and waters to protect project resources. To the extent that the District is unable to control shoreline activities and uses that adversely affect project resources, it is due to the District's failure to acquire adequate property interests for project purposes, as required by Article 5. We are cognizant of the potential expense to a licensee in acquiring property rights beyond those held by it under a flowage easement at a project which has been constructed for a substantial number of years and which has experienced extensive shoreline recreational development. It is not necessary at this point to require the District to acquire further property rights on all those parcels of project lands where it now holds only a flowage easement. Article 5 requires the District to acquire sufficient property rights for the maintenance and operation of the project. It is emphasized that the "maintenance and operation of the project" encompasses the broad range of project purposes mandated by the comprehensive development standard of Section 10(a). Should the District at some point in the future find itself unable to control or prevent an objectionable use of project lands, the District may be

directed to take appropriate measures to protect project resources, including, inter alia, the acquisition of additional rights in the project lands involved.

The District's proposed Plan represents a salutary effort to coordinate the responsibilities of a licensee under Part I of the Federal Power Act (Act) with other relevant local and State regulatory processes. Although it will not relieve the District of its fundamental statutory responsibilities for protecting the integrity of project lands and waters, it will, to the extent it is consistent with the Act and the requirements of the license, serve as an appropriate vehicle for the District in carrying out some of its responsibilities in conveying or granting permission to use project lands and waters under Article 39.

There is one aspect of the Plan that is inconsistent with Article 39 and irapermissible. Under Section V, Inventory of Existing Uses and Request for Blanket Approval, the District requests that following the adoption of the Plan, all uses of project lands and waters existing on the date of that approval be summarily approved based upon an appropriate inventory of those uses and activities. The District proposes to undertake the inventory during the month following Commission approval. Without that inventory before the Commission at this time there is no basis for determining whether all existing uses are consistent with project purposes, and thus no blanket approval will be given. i Without blanket approval, the District may not authorize uses or occupancies of project lands that fall outside the authority of Article 39 without Commission approval.

Interior commented that a site presently owned by the District on the south side of the Chelan River downstream from the dam has potential for development as a camping or large day-use area.

The potential site is located over the tunnel connecting the dam and powerhouse. The integrity of the tunnel which is vital in assuring the proper operation of the project would be placed in question since the soils overlying the tunnel would be saturated through the application of irrigation water. Therefore, no recreational development for the site is being required.

The FS commented that the proposed recreational development should not be limited to the downstream third of Lake Chelan and suggested that consideration be given to the development of Fields Point, an FS-owned site on the middle third of the lake. The District responded that the development of Fields Point should not be the responsibility of the District since the Fields Point development is a joint proposal of the FS and the National Park Service (NPS). v Because most of the demand for recreation is limited to the downstream third of Lake Chelan and because the District's recreational development plan adequately addresses that demand, no further recreational development is required at this time.

The City commented that the recreation development of the Chelan Riverfront as proposed does not adequately consider the City's views. Therefore, the City does not, at this time, agree to operate and maintain the proposed facilities. The reviewing Federal and St'ate agencies concur with the development as proposed. Article 34 requires the District to consult furthe-r with the appropriate agencies, including the City. If, after consultation, there is a need for a substantial change in the design of the recreation site plans, the District .would be required to file an amended Exhibit R-.

FISH AND WILDLIFE RESOURCES

Interior and Game commented that the proposed fish and wildlife enhancement program was based on inadequate data and represents inadequate mitigation. Interior noted the District's failure to include wildlife protection and enhancement measures in the proposed program. Interior and Game, therefore, recommended the completion of an in-depth baseline survey of aquatic and terrestrial habitat and associated fish and wildlife resources prior to the formulation of a fish and wildlife management plan. Article 33 requires a baseline study of the fish and wildlife habitat and resources leading to the formation of a management plan that ensures the conservation and enhancement of the fish and wildlife resources within the project area.

Interior recommended that any mitigation should include the restoration of the fish and wildlife resources to pre-project levels. Interior notes, however, that the extent of losses to fish and wildlife due to project development is virtually undocumented. The Commission's staff concurs with the District that various factors other than project development may have contributed to any decline in the fish and wildlife resources. It is therefore concluded that fish and wildlife mitigation based on pre-project resource levels is unrealistic and unwarranted.

#### OTHER ENVIRONMENTAL MATTERS

The Washington State Historic Preservation Officer (SHPO) commented that the District adequately address any impacts to historical and archeological resources and recommended that the District notify the SHPO prior to the commencement of construction. Article 35 requires the District to provide such notification and further, to provide for the protection of any significant historic or archeological resources.

FS and Interior commented that water level fluctuations due to project operation will continue to cause substantial shoreline deterioration. More specifically, they are concerned that dust problems associated with exposed sediments and eroded shorelands will have an adverse impact on residents of Stehekin, and visitors to the NRA. Applicant replied that it has worked in the past with the FS and the Soil Conservation Service in an experimental program of plantings on the area known as the Stehekin Flats in an attempt to stabilize the sediments described. To date, the program has not yielded any satisfactory results. Pursuant to Article 19 of the license, the District is required to continue to work with FS and Interior to resolve this issue.

The FS and the Association recommended that the Commission prepare an environmental impact statement because pre-project conditions were not described, and mitigation for losses due to original project construction and operation were not proposed. The action proposed by the District's application for new license is the continued operation of an existing project. It is not necessary to have a description of pre-project conditions in the application, or to mitigate for any losses that may or may not have occurred. Because project operations would remain essentially the same, with the exception of limited recreational development, the preparation of an environmental impact statement is not required. Further, any adverse impacts resulting from the proposed recreational development would be of short-term duration and minor in nature. Therefore, approval of the application for a new license would not constitute a major Federal action significantly affecting the quality of the human environment.

#### TRANSMISSION FACILITIES

The energy generated by the project is transmitted to the 115-kV substation bus located in a switchyard adjacent to the powerhouse. Five 115-kV transmission lines connect to the 115-kV substation bus, as follows: (1) Manson (formerly Holden); (2) Wapato; (3)

Rocky Reach (Project No. 2145); (4) Stratford No. 1; and (5) Stratford No. 2. The District included the Manson (formerly Holden) and the Wapato 115-kV transmission lines as part of Project No. 637 in the application for a new license. The 115-kV substation bus is part of the District's interconnected system and not subject to license as part of a hydroelectric project. Therefore, Article 36 requires the submission of revised exhibits deleting the two transmission lines from the project.

#### TERM OF LICENSE

The project has remained essentially unchanged since the original license was issued on May 8, 1926, effective on April 1, 1924. The original license for Project No. 637 expired on March 31, 1974. The issuance of the new license does not authorize any significant new project construction or change in project operation. Therefore, in accordance with the policy established in the order issuing license for project No. 2301, with the new license for Project No. 637 will terminate 30 years from the expiration date of the original license. It is ordered that: (A) This license is issued to the Public Utility District No. 1 of Chelan County, Washington pursuant to Part I of the Federal 'Power Act, for a period effective the first day of the month in which the order is issued and terminating on March 31, 2004, for the continued operation and maintenance of the Lake Chelan Project No. 637, located on the Chelan River at the outlet of Lake Chelan, in Chelan County, Washington. The license is subject to the terms and conditions of the Act, which is incorporated by reference as part of the license, and to the regulations the Commission issues under the provisions of the Act.

(B) The Lake Chelan Project consists of:

{1} All lands, to the extent of the Licensee's interests in those lands, constituting the project area and enclosed by the project boundary, shown and described by certain exhibits which form part of the application for license and which are designated and described as:

Exhibit-Sheet

FERC No.

Entitled

J

K-1 K-2 K-3 K-4 K-5 K-6 K-7 K-8 K-9 K-10 K-11 K-12 K-13 K-14 K-15 K-16 K-17 K-18  
K-19 K-20 K-21 K-22 K-23 K-24 K-25 K-26 K-27 K-28 K-29 K-30 K-31 K-32 K-33 K-34  
K-35 K-36 K-37

637-37 637-38 637-39 637-40 637-41 637-42 637-43 637-44 637-45 637-46 637-47  
637-48 637-49 637-50 637-51 637-52 637-53 637-54 637-55 637-56 637-57 637-58  
637-59 637-60 637-61 637-62 637-63 637-64 637-65 637-66 637-67 637-68 637-69  
637-70 637-71 637-72 637-73 637-74

General Map-Project Area Detail Map-Project Area

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Detail Map-Project Area  
Project Boundary Survey Notes

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Project Boundary Survey Notes

(2) The Lake Chelan Project consisting of: (1) a reservoir, Lake Chelan, approximately 55 miles long, with a surface area of approximately 32,800 acres and a useable storage capacity of 676,100 acre-feet, impounded by; (2) a concrete dam, approximately 40 feet high and 490 feet long; (3) an intake structure, in the west abutment of the dam; (4) a concrete-lined tunnel, 14 feet in diameter and 10,578 feet long, (5) a steel-lined tunnel which reduces to a 12-foot diameter penstock, and then divides into two 8.83-foot diameter penstocks, approximately 1,000 feet in total length; (6) an indoor type powerhouse containing two vertical axis 34,000 hp Francis-type turbines, each connected to a 24,000 kW generating unit for a total capacity of 48,000 kW under a net head of 377 feet; (7) a switchyard adjacent to the powerhouse; and (8) other appurtenant facilities.

The location, nature, and character of the project works are generally shown and described by the exhibits cited above and are more specifically shown and described by certain other exhibits designated and described as:

FERC No.	Entitled
L-1	637-88
L-2	637-89
L-3	637-90
L-4	637-91
L-5	637-92
L-.6	637-93
L-7	637-94
R-1	637-95
R-2	637-96
R-3	637-97
R-4	637-98
R-5	637-99
R-6	637-100

Diversion and Control Dam Plan Diversion and Control Dam Sections Power  
 Conduit Profile, Sections  
 and Detail Powerhouse Sectional Plan Powerhouse Sections Switchyard and  
 Powerhouse Tailrace Channel General Plan Existing Recreational Development  
 Initial Recreational Development Ultimate Recreational Development  
 Chelan Riverfront Shore Access .East Manson - Manson Bay  
 Boating Destination & Launching  
 Points

Exhibit M - Four pages of general description of equipment filed as part of the application on October 30, 1975.

Exhibit R - Thirty-five pages of text filed as part of the application on January 26, 1977.

(3) all of the structures, fixtures, equipment, facilities, used or useful in the maintenance and operation of the project and located within the project boundary, all portable property that may be employed in connection with the project, whether located within or outside the project boundary, as approved by the Commission, and all riparian or other rights which are necessary or appropriate for the maintenance or operation of the project.

(C) Exhibits J, K, L, M, and R designated and described in Ordering Paragraph (B) above are hereby approved and made a part of the license.

(D) The license is further subject to Articles 1 through 32, inclusive, set forth in Form L-5 (revised October 1975) and entitled "Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters and Lands of the United States" attached to and made a part of the license. In addition, the license is subject to the following special conditions which are set forth as additional articles:

Article 33. Licensee shall, within three years of the date of issuance of this license, and in cooperation with the State of Washington Department of Game and the U.S. Fish and Wildlife Service of the Department of the Interior, develop a comprehensive fish and wildlife mitigation plan for the protection, conservation, and improvement of these resources within the project area, and file for 'Commission approval a revised Exhibit S, prepared in accordance with

Section 4.41 of the Commission's regulations (1979), that incorporates the measures contained in the fish and wildlife management plan and any other measures deemed appropriate to conserve and enhance fish and wildlife resources within the project area.

Article 34. Licensee shall assume overall responsibility for implementing the recreational use plan set forth in the Exhibit R approved herein; and shall, conforming to the initial development schedule set forth as Pages 31 through 34 of the Exhibit R, provide, operate, and maintain, or arrange for others to provide, operate, and maintain the facilities approved for initial development. Licensee shall continue to consult and cooperate with appropriate Federal, State, and local agencies, including the City of Chelan, in the development of recreation facilities at the project. Should it be determined after consultation with the appropriate agencies that there is a need for a substantial change in the initial development schedule, or in the design of the site plans, Licensee shall file for Commission approval an amendment to its Exhibit R prior to implementing the changes.

Article 35. Prior to the commencement of any construction or development of any project works or other facilities at the project, the Licensee shall consult and cooperate with the State Historic Preservation Officer (SHPO) to determine the need for, and extent of, any archeological or historic resource surveys and any mitigative measures that may be necessary. The Licensee shall provide funds in a reasonable amount for such activity. If any previously unrecorded archeological or historic sites are discovered during the course of construction, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historic resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historic work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

Article 36. Licensee shall, within 60 days after the date of issuance of the license, file for approval revised Exhibits J and K, deleting from the project the 115-kV Chelan-Manson transmission line (formerly the Holden transmission line) and the 115-kV Wapato transmission line, and showing any other previously approved changes to the project boundary.

Article 37. Licensee shall pay to the United States the following annual charges, effective as of the first day of the month in which the license is issued:

(a) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The total authorized installed capacity for such purposes is 67,330 horsepower.

(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 501.02 acres of its lands, exclusive of transmission line rights-of-way, an amount as may be determined from time to time pursuant to the Commission's regulations.

Article 38. Licensee shall not operate the project reservoir at elevation greater than 1,100 feet m.s.l. or at elevation less than 1,079 m.s.l.

and shall make every reasonable effort to maintain the reservoir at or above elevation 1,098 from June 30 through September 30 each year.

Article 39- (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational-, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable State and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modifications of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support

structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina--; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph

(d) , the Licensee must file a letter to the Director, Office of Electric Power Regulation, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or State agency official consulted~ and any Federal or State approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the Licensee shall consult with Federal and State fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable

precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic recreational, and environmental values of the project.

(4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such an operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(E) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d) (1979), as amended, 44 Fed. Reg. 46449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. Failure of the Licensee to file a petition appealing this order to the Commission shall constitute acceptance of this license. In acknowledgment of acceptance of this license, the license shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

(SEAL)

William W. Lindsay ~  
Director, Office of Electric  
Power Regulation

Project No. 637

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IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this Order, Public Utility District No. 1

of Chelan County this day of  
9, , 19 81, has

JUNE

caused its corporate name to be signed hereby by ALFRED PFLUGRATH

its  
President, and its

corporate seal to be affixed hereto and attested by

ROBERT D. McDOUGALL, its

Secretary, pursuant to a resolution of its Board of Directors

duly adopted on the 9th day .of  
JUNE, 19 81 ,

a certified copy of the record of which is attached hereto.

Attest:

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(Executed in quadruplicate)

Form L-5  
Revised October, 1975)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED  
MAJOR PROJECT AFFECTING NAVIGABLE WATERS  
AND LANDS OF THE UNITED STATES

Article 1. The entire project., as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2o No substantial change shall "be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however=, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be Changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity-with the approved exhibits referred to in Article 2 heroin or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of" the Commission any .-substantial alteration or addition not in conformity with the approved plans to any dam-or other project works under the license or any substantial use of project lands and waters not authorized heroin; and any emergency alteration, addition., or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such

changes will not result in a decrease in efficiency, in a material increase in cost, in "an adverse environmental impact, or in impairment of' the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to .such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life., health, or property..

Article 5-. The Licensee, within five years from the date of issuance of the license, shall ::acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project:. The Licensee or its successors and assigns shall, during the period of the license retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and

assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse

the owner of the headwater improvement for such-part of the annual charges for interest., maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or or\_her headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission. under the Federal Power Act.

Article 12. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 13. On the application of any person, associate, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life, None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement

which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the

project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. Material may be dredged or excavated from, or placed as fill in, project lands and/or waters only in the prosecution of work specifically authorized under the license; in the maintenance of the project; or after obtaining Commission approval, as appropriate. Any such material shall be removed and/or deposited in such manner as to reasonably preserve the environmental values of the project and so as not to interfere with traffic on land or water. Dredging and filling in a navigable water of the United States shall also be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 22. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and rights-of-way and such rights of passage through its dams or other structures, and shall permit such control of its pools, as may be required to complete and maintain such navigation facilities.

Article 23. The operation of any navigation facilities which may be constructed as a part of, or in connection with, any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

Article 24. The Licensee shall furnish power free of cost to the United States for the operation and maintenance of navigation facilities in the vicinity of the project at the voltage and frequency required by such facilities and at a point adjacent thereto, whether said facilities are constructed by the Licensee or by the United States.

Article 25. The Licensee shall construct, maintain, and operate at its own expense such lights and other signals for the protection of navigation as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Article 26. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands. Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to others than the Licensee: Provided, That timber so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

Article 27. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 28. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 29. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 30. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 31. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved .

Article 32. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 33. The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 34. The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, et \_se\_~.), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: Provided further, That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 35. If the Licensee shall cause or suffer essential project property. to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited heroin, deems it to be the intentof the Licensee to surrender the license.

Article 36. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 37. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth heroin.

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i Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. ~375.308 (1980), as amended by 46 Fed. Reg. 14119 (1981).ii See Lake Chelan Project Expansion Appraisal Report, R. W. Beck and Associates, December, 1971.iii See Lake Chelan Project Expansion Report on Preliminary Reservoir Investigations, R. W. Beck and Associates, February, 1973.iv This is the energy equivalent of about 76,010 barrels of oil or 30,000 tons of coal. Based on an incremental cost of energy in the Pacific Northwest of 30 mills per kilowatt hour, the value of lost energy would be about 1-.4 million dollars annually.

v See the North Cascade Management Plan of 1968, U.S. Forest Service and the National Park Service, 1974.

vi The Montana Power Company, Project No. 2301, "Order Issuing New License (Major)," (issued October 5, 1976).