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# PROPOSED LICENSE ARTICLES

**Second Draft**

**LAKE CHELAN HYDROELECTRIC PROJECT  
FERC Project No. 637**

**August 15, 2001**



**Public Utility District No. 1 of Chelan County  
Wenatchee, Washington**

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**PROPOSED LICENSE ARTICLES**  
**SECOND DRAFT**  
August 15, 2001

**LAKE CHELAN HYDROELECTRIC PROJECT**  
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**Article 1 – Erosion Control Plans**

Within two years after issuance of the license, the Licensee will provide funding for implementation of the Erosion Control Plans submitted as part of the license application. The plans were developed in conjunction with the U.S. National Park Service (NPS) and U.S. Forest Service (USFS) to address the management of ongoing shoreline erosion and include provisions for monitoring shoreline erosion as well as preliminary designs, cost estimates, and tentative schedules for repairing 46 high-priority sites managed by the NPS and USFS where the Licensee holds no damage waivers. The Licensee will provide one-time capital funding of \$2,137,775 (2001\$) and \$324,995 (2001\$) for implementation of the USFS and NPS plans, respectively. The funds will be included as core components of the Lake Chelan Endowment Fund described in Article 9.

**Article 2 – Stehekin Natural Resources Management Plan**

Within two years after issuance of the license, the Licensee will provide one-time capital funding to assist in addressing wildlife, riparian vegetation, fugitive dust, and other issues in the Stehekin area as set forth in the Stehekin Natural Resources Management Plan. The funds will be included as one of the core components of the Lake Chelan Endowment Fund described in Article 9.

The issues and amounts of funding will be as follows:

1. The Licensee will provide \$160,000 (2001\$) to assist with efforts to enhance wildlife and riparian vegetation. A portion of this funding will assist the NPS in controlling dust in the Stehekin area.
2. The Licensee will provide \$90,000 (2001\$) to implement the Stehekin River Delta Monitoring Plan submitted as part of the license application. These funds will be used by the Licensee to obtain the services of a surveyor and for modeling of the lower river using the survey results, in accordance with the plan.

**Article 3 – Survey Monument Relocation Plan**

Within five years of issuance of this license, the Licensee shall provide one-time capital funding of up to \$80,000 for survey work to locate and document 25 survey monuments at the project

listed in the plan submitted as part of the license application. This work, to be done in support of USFS land management activities at the project, will be performed by a professional licensed surveyor under contract with the USFS. If the monuments cannot be located, the surveyor will re-establish the survey monuments. The funds will be included as one of the core components of the Lake Chelan Endowment Fund described in Article 9.

**Article 4 – Lake Level Operating Plan**

The Licensee shall not operate the project reservoir at elevations greater than 1,100 feet (USGS) or less than 1,079 feet. The Licensee shall also make every reasonable effort to achieve the following minimum reservoir elevations:

| Day       | Minimum Elevation <sup>1</sup> |
|-----------|--------------------------------|
| May 1     | 1,086.8 feet                   |
| June 1    | 1,091.4 feet                   |
| July 1    | 1,097.2 feet                   |
| August 1  | 1,099.3 feet                   |
| Labor Day | 1,098.7 feet                   |

If the project is unable to be operated within these parameters, the Licensee will submit a report to the Commission within 30 days of any deviation with an explanation of why the deviation occurred and, if possible, how the situation was corrected.

**Article 5 – Chelan River Comprehensive Management Plan**

Within two years after issuance of the license, the Licensee will implement its responsibilities highlighted in the Chelan River Comprehensive Management Plan submitted with the license application. As specified in the plan, Chelan PUD will be responsible for the following activities:

1. Minimum flows – Chelan PUD will install a new gate in the existing dam and will release a year-round minimum flow<sup>2</sup> of 80 cfs. Additional minimum flows will be provided May through June during average and wet years as specified in the plan.

<sup>1</sup> Lake elevations will vary between the minimum elevations indicated during each time period. Minimum elevations after Labor Day will vary from year to year depending on the runoff type (wet, dry or average); however, at no time will the reservoir be lowered below 1,079 feet. Minimum elevations may be impacted by minimum flows required in Article 5.

<sup>2</sup> Instantaneous releases are as measured at the dam by calibrated gate rating tables. Minimum flows will equal amounts indicated or the previous day's average inflow to the Project, whichever is less. Minimum flows will be provided even if minimum lake elevations required in Article 4 are not met.

| Runoff Type <sup>3</sup> | Period     | Additional Amount |
|--------------------------|------------|-------------------|
| Average                  | May - June | 120 cfs           |
| Wet                      | May – June | 240 cfs           |

2. Ramping rates – Currently being discussed by the Natural Sciences Working Group.
3. Reach 4 habitat modifications and flows – Chelan PUD will modify Reach 4 of the bypassed reach to create spawning and rearing habitat for steelhead and chinook salmon. Chelan PUD will provide spawning flows of 320 cfs in this area by either spilling water from the dam or pumping water from the tailrace. Spawning flows will be provided from March 15 through May 15 and from October 15 through November 30.
4. Tailrace habitat modifications – Chelan PUD will modify a portion of the tailrace channel to create spawning and rearing habitat for steelhead and chinook salmon.
5. Entrainment – Chelan PUD will provide funding for fish stocking as specified in the Comprehensive Fishery Management Plan for Lake Chelan (Article 6).
6. Fishery Advisory Committee (FAC) – As specified in Article 6, the Licensee will hold an annual meeting with the FAC to discuss issues pertinent to the Lake Chelan Comprehensive Management Plan. Summaries of these meetings will be provided to the FERC as part of the annual reporting requirement (Article 10).

**Article 6 – Comprehensive Fishery Management Plan**

Within two years after issuance of the license, the Licensee will provide funding for implementation of its responsibilities highlighted in the Comprehensive Fishery Management Plan (CFMP) submitted with the license application. Funding provided by Chelan PUD will be for the following activities:

1. Tributary barriers – The Licensee shall provide one-time capital funding of \$100,000 (2001\$), to mechanically remove alluvium barriers in up to five tributaries to facilitate access to the tributaries for spawning.
2. Fish stocking – The Licensee will provide funding of \$30,000 (2001\$) by January 31 of each year for fish stocking and/or tributary enhancements. Specific measures will be determined in coordination with the Fishery Advisory Committee (FAC). At the request of the FAC, funds may be allowed to accumulate for expenditure on projects in future years.
3. Monitoring program – The Licensee will provide matching funds of up to \$7,500 (2001\$) by January 31 of each year for funding of the monitoring and evaluation program described in the CFMP. The Licensee will be responsible for matching the average amount of funding provided by the Washington Department of Fish and Wildlife (WDFW), the U.S. Forest Service (USFS) and the National Park Service (NPS) (up to the \$7,500 limit).

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<sup>3</sup> Average runoff is defined as when the expected runoff amount (between April 1 and August 1) is between 410 and 620 thousand cfs-days. Wet runoff is defined as when the expected runoff amount (between April 1 and August 1) is greater than 620 thousand cfs-days. Expected runoff amounts will be estimated by the Licensee on April 1 of each year.

4. Fishery Advisory Committee – At least annually after license issuance, the Licensee will hold a meeting with the FAC to discuss issues pertinent to the CFMP. Summaries of these meetings will be provided to the FERC as part of the annual reporting requirements (Article 10).

### **Article 7 – Cultural Resources Management Plan**

Within two years after issuance of the license, the Licensee will implement the provisions of the Cultural Resources Management Plan (CRMP) and Programmatic Agreement (PA) submitted with the license application and approved with the issuance of this license. The provisions of the CRMP and PA are intended to ensure that continued project operation would not adversely affect the National Register-eligible cultural resources currently identified within the Area of Potential Effect. The Licensee will provide annual funding of up to \$30,000 (2001\$) for implementation of the CRMP and up to \$225,000 (2001\$) capital funding for cultural resource site protection. The CRMP will address the following areas:

1. Pedestrian survey of NPS lands – The Licensee will conduct a pedestrian survey of the National Park Service lands for historic-era properties.
2. Evaluation of potential historic properties – A total of 17 sites has been scheduled for evaluation; of these, only eight have been evaluated during the 2001 field season. Nine sites remain to be evaluated.
3. Consultation with stakeholders – The Licensee will be responsible for conducting meetings at least once every five years during the term of the new license. A protocol for cultural resources consultation is included in the cultural resources management plan. Summaries of these meetings will be provided to the FERC as part of the reporting requirement (Article 10).
4. Site protection – Protection measures will be implemented for prehistoric and historic-era sites that have been evaluated and determined eligible for listing on the National Register of Historic Places and that are impacted by Project operations. Site protection measures include avoidance of Historic Properties, Data Recovery at Historic Properties where avoidance or erosion control cannot be met, protection of Historic Properties through erosion control, and periodic site monitoring.
5. Inadvertent discovery contingency plan – Continued project operation as well as any future construction may expose undocumented cultural materials. Contingency plans are included in the cultural resources management plan to address the possible inadvertent exposure of undocumented archaeological remains.

### **Article 8 – Recreation Resources Management Plan**

Within two years after issuance of the license, the Licensee will implement the provisions of the Recreation Resources Management Plan submitted with the license application and approved with the issuance of this license. This plan includes the following elements:

1. Docks – The Licensee will provide one-time capital funding to the USFS and NPS for recreational facilities and repair, replacement and maintenance of federal docks affected by project operation on properties not covered by damage waivers/easements at the Project.

Capital funding for recreational facilities and docks has been established at \$775,360 for the USFS and \$427,000 for the NPS for a total of \$1,202,360 and is included as one of the core components of the Lake Chelan Endowment Fund described in Article 9. The Licensee will provide funding of \$39,100 (2001\$) by January 31 of each year to the USFS for operation and maintenance expenses associated with these docks. Additional money to address needs at other USFS and NPS docks, campsites and annual operation and maintenance of facilities managed by these agencies, as well as environmental education projects, will be provided through funds generated by the Lake Chelan Endowment Fund (Article 9).

2. Whitewater boating – The Licensee shall file with the FERC, for approval, a study plan to monitor whitewater, non-motorized watercraft use in the Chelan River. The three-year study shall include, but not be limited to, provisions for:
  - a) Flow releases of 300 cfs and 450 cfs on consecutive days for six hours each day on two weekends each in July and September.
  - b) Flow releases shall be subject to a minimum number of advance reservations as specified in the whitewater monitoring study plan. Signed release-of-liability waivers from each boater will be required. Flow releases will not be provided during drought or energy emergencies (when the previous day’s average inflow is less than 500 cfs or the Mid-Columbia Index is greater than \$150/MWh (2001\$)). In the event of an emergency that would preclude the release of a scheduled flow, the Licensee will provide 48-hour notice to boaters and the recreation community.
  - c) Filing a summary of the results of each year’s monitoring study and a final report and recommendation at the end of the third year that considers: (1) demand for whitewater boating in the Chelan River, (2) safety, (3) costs, (4) effectiveness of the reservation system, and (5) and an evaluation of the need for maintaining, increasing, or decreasing the flows in item (a) during the rest of the license term.
3. Reach 1 access – The Licensee will provide one-time capital funding of \$250,000 (2001\$) for the planning and development of access to Reach 1 (located just below the Chelan Dam) of the Chelan River and for studying the feasibility of viewing and managed access to other sections of the Chelan River. The fund is one of the core components of the Lake Chelan Endowment Fund described in Article 9.
4. Existing parks operation and maintenance – The Licensee will continue with the ownership and/or management and operation and maintenance of the existing recreational facilities at Riverwalk, Manson Bay, and Old Mill parks as defined in the Recreation Resources Management Plan.
5. Plan Review – The Recreation Resources Management Plan will be reviewed every six years to coincide with FERC's schedule for submittal of Form 80.

## **Article 9 – Lake Chelan Endowment Fund**

Within two years after issuance of the license, the Licensee will contribute one-time funding of \$4,245,000 into an Endowment Fund as specified in the Recreation Resources Management Plan. The primary purpose of this Endowment Fund is to finance the costs of mitigation and enhancement measures outlined in License Articles 1, 2, 3 and 8. The Endowment Fund will be allowed to earn returns for five years prior to spending for mitigation and enhancement measures. The sum of the returns after five years, plus the funding amount associated with planning and development of Reach 1 access (\$250,000), will be used as principal to begin a

Local Endowment Fund. Returns generated by both Endowment Funds will be used for additional enhancement measures as defined by the criteria established for each fund in the Recreation Resources Management Plan. Federal enhancement projects or annual operation and maintenance costs for facilities will be determined by the appropriate agency. The decision-making authority will be retained by the USFS and NPS on how Endowment Fund returns are used for federal lands within the Lake Chelan Basin area.

The Endowment Fund’s original capital investment will fund financial obligations agreed to under the following License Articles:

| License Article | Description                                   | Amount of Capital Funding |
|-----------------|---|---------------------------|
| 1               | Erosion Control Program .....                 | \$2,462,770               |
| 2               | Stehekin Area Issues .....                    | \$250,000                 |
| 3               | Survey Monument Relocation Plan .....         | \$80,000                  |
| 8               | USFS / NPS Recreational Facilities/Docks..... | \$1,202,360               |
| 8               | Chelan River Access in Reach 1 .....          | <u>\$250,000</u>          |
| Total .....     |   | \$4,245,130               |

The amount of funds that will be available for additional projects will be determined solely by investment returns generated by the Endowment Fund over the term of this license.

**Article 10 – Annual Reporting**

Within two years from the date of this order, and on or before Oct. 1 of each year for the following year, in accordance with the articles of this license and the Commission's Uniform System of Accounts, the Licensee shall file a plan for Commission approval that shows the amounts of money the Licensee will spend pursuant to the license funding provisions and all expenses to be paid from these funds for the following year, including funds provided to other federal, state and local agencies.

The Licensee shall also file with the Commission an annual statement on or before April 1 of each year for the previous calendar year, in accordance with the articles of this license and the Commission's Uniform System of Accounts, showing the amounts of money the Licensee has spent or contributed pursuant to the license funding provisions and all expenses paid from these funds, including funds provided to other federal, state and local agencies. This filing should also include signed statements from the signatory agencies of money received from the Licensee pursuant to the license funding provisions and all expenses paid from these funds. These statements shall be in sufficient detail to show whether the money has been contributed and spent on the approved purposes.