

Rocky Reach Hydroelectric Project Social Sciences Working Group

- *Communications Protocol*
- *Consultation Guidelines*
- *Federal Power Act and Mandatory
Conditioning Authority*

Communications Protocol

- *Purpose:*

Provides a framework for documenting consultation among interested parties, and communications with the Federal Energy Regulatory Commission (FERC)

Consultation Guidelines and Procedures

- *Purpose:*

Define goals, schedule, organizational structure, decision-making process and ground rules for participation

Consultation Guidelines and Procedures

■ *Decision Making Process*

- *Settlement Agreement*
 - *Reach consensus for license terms and conditions*

Consultation Guidelines and Procedures

■ *Definition of consensus*

- majority of the participating members agree (do not object) to the decisions being made*
- Chelan PUD and those agencies having mandatory conditioning authority (for those decisions related to the agencies' mandatory conditioning authority) unanimously agree (do not object) to those decisions*
- Participants will work in good faith effort to address the concerns of others so that most participants do not object to the terms and conditions.*

Consultation Guidelines and Procedures

■ In Reaching Agreement

- participants are expected to make compromises in some areas*
- participating members will make a good faith effort to address the concerns of others so that most participants do not object to the terms and conditions*

Consultation Guidelines and Procedures

■ *Dispute Resolution*

- May file a request with FERC to resolve a dispute. However, must make every reasonable effort to resolve the dispute with other participating members*
- No request will be accepted unless certified that it has also been served on all other participating members*
- The request must document what efforts have been made to resolve the dispute*

Mandatory Conditioning Authority

- *The Federal Power Act (FPA), as amended by the 1986 Electric Consumers Protection Act, gave FERC exclusive authority to issue licenses for the development of hydropower on federal lands.*
- *The FPA also empowered state and federal resource agencies and Tribes the right to impose conditions on the licenses essential to fulfilling their respective roles in resource protection (Section 4(e) and 18).*
- *The Clean Water Act gives state agencies authority to issue Section 401 Water Quality Certificates.*

Mandatory Conditioning Authority

Agencies with Mandatory Conditioning Authority

- National Marine Fisheries Service (Section 18, FPA)*
- US Fish & Wildlife (Section 18, FPA)*
- Dept. of Ecology (Section 401, CWA)*
- US Forest Service (Section 4(e), FPA)*
- Bureau of Land Management (Section 4(e), FPA)*
- Bureau of Indian Affairs (Section 4(e), FPA)*