

UNITED STATES OF AMERICA 123 FERC ¶ 62,039
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of Chelan County

Project No. 637-042

ORDER MODIFYING AND APPROVING WILDLIFE HABITAT PLAN
UNDER ARTICLE 406

(Issued April 10, 2008)

On November 6, 2007, the Public Utility District No. 1 of Chelan County (Chelan PUD), licensee for the Lake Chelan Project, FERC No. 637, filed a wildlife habitat plan (plan) pursuant to article 406 of the license.¹ The plan was supplemented on December 13, 2007. The project is located on the Chelan River, near the City of Chelan, in Chelan County, Washington. The project occupies 465.5 acres of federal lands administered by the U.S. Forest Service (FS), and the U.S. Department of the Interior, National Park Service (NPS).

Article 406 requires the licensee to file, for Commission approval, a wildlife habitat plan for upland and riparian habitat improvements in the Lake Chelan basin. The plan is to be updated and filed for Commission approval every five years. In addition to the upland and riparian habitat improvement funding measures set forth in Article 9 of the Lake Chelan Settlement Agreement (SA),² the plan shall include the measures below.

For the upland habitat improvements, the plan is to include a detailed description of habitat improvement measures, including methods used and their locations; a description of any annual or periodic maintenance and monitoring needed to ensure their success; and a detailed implementation schedule. All lands requiring annual periodic maintenance to ensure the success of the habitat improvements are to be brought into the project boundary and shown on the exhibit drawings filed pursuant to Article 301. The plan should also include provisions and a schedule for maintaining upland bird feeders, conducting annual winter wildlife surveys, and reporting the results to the Washington Department of Fish and Wildlife (WDFW). The annual wildlife surveys are to be conducted in coordination with the WDFW.

The plan is also to include a description of riparian habitat improvements including: (1) a description of the lands subject to riparian habitat enhancements; (2) a

¹ Order on Offer of Settlement and Issuing New License, issued November 6, 2006 (117 FERC ¶ 62,129, and Order on Rehearing, issued April 19, 2007 (119 FERC ¶ 61,055).

² The Chelan PUD, on behalf of the signatories, filed a comprehensive settlement agreement on October 17, 2003. The SA includes articles that were included in the license.

detailed description of the measures to be implemented and any annual or periodic maintenance and monitoring required to ensure the success of the measures; and (3) a schedule for conducting the improvements. All lands requiring annual or periodic maintenance to ensure the success of the habitat improvements should be brought into the project boundary and shown on the exhibit drawings filed pursuant to Article 301.

Finally, the plan is to include a summary of the upland and riparian habitat improvement measures implemented during the previous five years, as well as the measures proposed for the next five years, and a summary of the wildlife surveys. The plan is to be developed in consultation with the WDFW, NPS, FS, U.S. Fish and Wildlife Service (FWS), Confederated Tribes of the Colville Reservation, the Yakama Nation, the Wenatchee Sportsman's Association, Lake Chelan Sportsman's Association, the NCW Mule Deer Foundation, the Foundation for North American Wild Sheep, the Audubon Society, and the National Wild Turkey Federation.

LICENSEE'S PLAN

In its plan, the licensee proposes to implement upland habitat improvements by providing funds to the Chelan-Douglas Land Trust for the acquisition of conservation easements on private land, providing funds to the FS for habitat and wildlife enhancement measures, and conducting wildlife surveys and maintaining upland bird feeders in coordination with WDFW. The FS enhancement measures would include native plant/seed propagation, mountain winter range thermal cover planting, restoration measures at the Lucerne Late-Successional and Shady Pass Late-Successional Reserves, Coyote Creek prescribed burning and other prescribed burning, noxious weed control, and other contingency projects as funding becomes available.

Implementation of riparian habitat improvements would involve providing funds to the NPS, FS, and WDFW for various improvement measures. Funds provided to the NPS will be used for improvements or enhancements to the Stehekin area habitat.³ Funds provided to the FS will be used for tree plantings, cedar seed collection and tree propagation, and identification and placement of large woody debris in identified areas. Funds provided to the WDFW would be reserved until the conservation easements are acquired, and then used for additional habitat restoration and enhancement activities in the Lake Chelan basin.

The licensee provides estimated dates for providing funds for each of the habitat improvements discussed in the plan. Generally, funds would be provided annually from 2008 through 2011. According to the plan, these dates may change due to the changing

³ Improvements to be implemented under article 406 in this area overlap with measures to be implemented under article 403, so the NPS and the licensee agreed to combine these in the Stehekin area implementation monitoring plan (filed on November 6, 2007).

nature of the landscape, opportunities to partner with other agencies, the combination of internal and external funding sources, and the desire to implement projects with the greatest potential benefit to wildlife and their habitats.

The licensee will provide an annual report on the results of the winter wildlife surveys by April 30 of each year to the Commission, WDFW, FWS, FS, and NPS. Every five years from the approval date of this order, the licensee will file, for Commission approval, a summary of upland and riparian habitat improvements implemented during the previous five years, and those projected for the next five years. The update will also include a summary of the results of the wildlife surveys. In addition, the licensee will file an annual report with the Commission on work planned and completed with funding provided to the FS, NPS, and WDFW.

According to the plan, none of the upland or riparian habitat improvements require annual or periodic maintenance in order to ensure their success, so none of the lands need to be included in the project boundary.

CONSULTATION

The licensee met with the Lake Chelan Wildlife Forum (LCWF)⁴ to discuss the wildlife habitat plan on the following dates in 2007: January 30, April 25, July 10, and August 29. The licensee provided a draft plan to the members of the LCWF on September 28, 2007, with comments due by October 29, 2007. No comments were received on the draft plan. The plan supplement filed on December 13, 2007 included the notes from the August 29 meeting with the LCWF, and indicates that three bird feeders will be installed on the north side of Lake Chelan. This measure was added to the plan to address the only outstanding issue from the LCWF meetings.

DISCUSSION AND CONCLUSION

The licensee indicates that they will file annual reports with the Commission on work planned and completed with funding provided to the FS, NPS, and WDFW. However, they did not provide a date for filing this report; therefore, we will require that this report be due to the Commission by April 30 of each year.

⁴ The LCWF includes all of the entities that the licensee is required by article 406 to consult on the plan. It also includes the Confederated Tribes of the Umatilla Indian Reservation.

The plan's five year updates will ensure that measures implemented under the plan adapt to potential changing needs in habitat improvements in the project area. We agree that no additional lands need to be included in the project boundary at this time. We reserve the right to make changes to the plan based on the plan updates, if necessary. The licensee's wildlife habitat plan, with the modification discussed above, meets all of the requirements of article 406 and the SA for upland and riparian habitat improvements. The plan, as modified, should be approved.

The Director orders:

(A) The wildlife habitat plan filed by the Public Utility District No. 1 of Chelan County on November 6, 2007, and supplemented on December 13, 2007, for the Lake Chelan Project, FERC No. 637, pursuant to article 406, as modified by paragraph (B), is approved.

(B) The licensee shall file with the Commission an annual report on work planned and completed with funding provided to the FS, NPS, and WDFW, by April 30 each year, beginning on April 30, 2009.

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

Robert J. Fletcher
Chief, Land Resources Branch
Division of Hydropower
Administration and Compliance