

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of Chelan County

Project No. 637-076

ORDER GRANTING EXTENSION OF TIME

(Issued May 10, 2011)

1. On November 8, 2010, the Public Utility District No. 1 of Chelan County, licensee for the Lake Chelan Hydroelectric Project, FERC No. 637, requested an extension of time (EOT) until November 1, 2011, to comply with article 401 and Appendix A, article 10(f) of the license.¹ 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).²

2. Article 401 and Appendix A, article 10(f) require the licensee to initiate development and implementation of a Traditional Cultural Property (TCP) Management Plan. The licensee's treatment plans for identified TCPs within the Area of Potential Effect (APE) are subject to the approval of the land management agency responsible for the property on which the TCPs are located. The licensee is also required to consider any recommendations from the Tribes regarding treatment plans.

3. The license article and appendix require the licensee to file, for Commission approval, a TCP Management Plan within one year of the issuance of the license following consultation with interested parties, including the members of the Lake Chelan Cultural Forum (LCCF).³ In the request for an EOT, the licensee states that the LCCF has held a series of meetings to reach agreement on the process to follow to determine the

¹ See Order on Offer of Settlement and Issuing New License, (117 FERC ¶ 62,129 (2006)). See also Order on Rehearing, issued on April 19, 2007 (119 FERC ¶ 61,055). Previous EOTs, issued September 14, 2007, and October 2, 2008, extended the filing date to November 1, 2008, and November 1, 2010, respectively.

² The federal lands are in the Wenatchee National Forest and the Lake Chelan National Recreation Area of the North Cascades National Park.

³ Members of the LCCF include the Washington State Historical Officer (SHPO), the Confederated Tribes of the Colville Reservation, the Confederated Tribes and Bands of the Yakama Indian Nation, the FS, the NPS, the U.S. Bureau of Indian Affairs, and the licensee.

eligibility requirements of a TCP. In preparing the TCP Management Plan, all members of the LCCF must agree and work from the most current list of places of traditional value and a single set of maps with TCPs identified as bounded properties. Therefore, a “quantification database” of TCPs along with associated maps must be developed. In addition, a place name study is required to ensure linguistic accuracy by implementing the International Phonetic Alphabet, and proper translation and transcription of Indian names. Some translations may require additional informant interviews.

4. In November 2007, the licensee contracted with Colville Confederated Tribes to develop the quantification database described above. In December 2009 and April 2010, the licensee received recommendations for expanding the project’s APE and significant TCPs, to be included in the TCP Management Plan. In August and September 2010, the Colville Tribes contracted with Willamette CRA to complete a draft TCP Management Plan for Lake Chelan. The licensee reviewed the draft plan and determined that it needed additional time to complete a final TCP Management Plan.

5. On October 22, 2010, the licensee consulted with members of the LCCF, explaining the reason for seeking an EOT. Concurrence to the request for a one year EOT was received from the NPS, Colville Tribes, and Forest Service. In a letter dated November 1, 2010, the SHPO expressed reluctance to support an EOT. It stated that it was concerned that the third EOT request “did not provide any substantive details nor a comprehensive plan to meet the goal of this License Article.” It also stated that the licensee must commit to having a professional staff on board that is experienced in professional cultural resource consultation and creating a TCP document that is acceptable to the consulting parties. If the third EOT is granted, the licensee should be required to develop a timeline, schedule, identify the cultural resource professional staff responsible for attaining this goal, and an outline of the proposed report within six months. In a telephone conversation with Commission staff, the SHPO also expressed concern that there were a number of areas within the APE that had not been surveyed, that it was the licensee’s obligation to protect cultural resources within these areas.

6. The SHPO’s concerns were sent to the licensee on March 8, 2011, with a request to respond within 30 days. In a letter, dated April 6, 2011, the licensee responded to the SHPO’s concerns, identifying its professional staff and consultants within its organization. It also stated that it contracts for the services of three archaeological contractors when specific cultural expertise and guidelines are needed. According to its letter, a schedule was submitted to the LCCF subsequent to the SHPO’s letter, with a detailed schedule for completion of the TCP Management Plan. It stated that on January 18, 2011, it sent the first draft of the TCP Management Plan to the LCCF for review and comment. It also included a schedule for additional revisions and consultations, with plans to submit the final TCP Management Plan to the Commission by July 25, 2011. Finally, in regard to the comment that a number of areas within the APE had not been surveyed, it states that a status report in 2005 included a table of 126

cultural resources identified in the APE. It submitted Determination of Eligibility and Site Addendum forms to the LCCF for review in 2008-2009.

7. Commission staff reviewed the licensee's response to the SHPO's comments, and determined the licensee is attempting to resolve the SHPO's concerns. Given the scope of work involved, and the licensee's on-going efforts to complete the required TCP Management Plan, pursuant to article 401 and Appendix A, article 10(f), the reasons advanced by the licensee in support of the requested EOT are reasonable and justify an extension. However, the licensee is reminded that this is the third EOT granted by the Commission, and a final TCP Management Plan must be forthcoming by this deadline. The deadline should be extended to November 1, 2011.

The Director orders:

(A) The deadline to file a Traditional Cultural Property Management Plan for the Lake Chelan Hydroelectric Project, FERC No. 637, pursuant to article 401 and Appendix A, article 10(f) of the license, is extended to November 1, 2011.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251(2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2010). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order. 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.

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Document Content(s)

P-637-076.DOC.....1-3