

148 FERC ¶ 62,149
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of Chelan County

Project No. 637-035

ORDER APPROVING 2013 FINAL BIOLOGICAL OBJECTIVES
STATUS REPORT UNDER ARTICLES 401 AND 408

(August 21, 2014)

1. On April 30, 2013, Public Utility District No. 1 of Chelan County, licensee for the Lake Chelan Project, filed its 2013 Final Biological Objectives Status Report (2013 final status report) pursuant to Articles 401 and 408 of the project license.¹ The project is located on the Chelan River, near the City of Chelan, in Chelan County, Washington. The project occupies federal lands administered by the U.S. Forest Service (Forest Service) and the U.S. Department of the Interior, National Park Service (Park Service).²

LICENSE REQUIREMENTS

2. License Article 408 requires the license to file, for Commission approval, a Threatened and Endangered Species Protection Plan. The plan is to include a series of elements specified in the article to satisfy requirements of the Lake Chelan Settlement Agreement (Settlement Agreement), which is attached to the license as Appendix A, and incidental take terms and conditions stipulated by the National Marine Fisheries Service (NMFS), which are attached to the license as Appendix E. The licensee's plan was approved in an order issued November 28, 2007.³

3. Pursuant to the approved plan, as well as Article 7(c) of the Settlement Agreement, and Condition IV.E of the Washington State Department of Ecology (Washington DOE) Water Quality Certification (WQC) which is attached to the license as Appendix D, the licensee is to provide final biological objectives status reports to the Chelan River Fisheries Forum (CRFF)⁴ by April 30 of the years 2010, 2012, 2014, and

¹ Order on Offer of Settlement and Issuing New License, issued November 6, 2006 (117 FERC ¶ 62,129).

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

³ Order Approving Threatened and Endangered Species Plan Under Article 408 (121 FERC ¶ 62,143).

⁴ Members of the CRFF include the NMFS, Forest Service, Park Service, U.S. Fish and Wildlife Service (FWS), Washington DOE, Washington State Department of

2016. The reports are to summarize the results of the monitoring and evaluation program contained in the Settlement Agreement, evaluate the need for modifications, describe the degree to which biological objectives have been achieved and prospects for achieving them, review measures implemented to meet those biological objectives, and recommend any new or modified measures needed to achieve the objectives, to the extent practicable.

4. License Article 401 requires the licensee to file, for Commission approval, certain plans and reports required by the Settlement Agreement and the WQC, including the Final Biological Objectives Status Reports. On March 11, 2010, the licensee requested a revision to the schedule for filing the final status reports, which was approved in an order issued May 19, 2010.⁵ Under the revised schedule, the final status reports are to be filed by April 30 of 2013, 2015, 2017, and 2019.

LICENSEE'S 2013 FINAL BIOLOGICAL OBJECTIVES STATUS REPORT

5. The licensee's 2013 final status report contains four sections that review work done primarily in 2010, 2011, and 2012 on the biological objectives described in the Settlement Agreement. These four sections cover: (1) Chinook salmon and steelhead spawning and incubation; (2) Chinook salmon and steelhead rearing; (3) fish communities in Reaches 1 and 3, with emphasis on cutthroat trout and use of Reach 4 by other species; and (4) monitoring of factors that meet or limit achievement of a functional aquatic ecosystem.⁶ The report includes the results of monitoring that was implemented since placement of spawning gravels in the project tailrace in 2008, and completion of the spawning and rearing habitat in Reach 4 and implementation of required minimum flows in 2009.

6. In summary, the 2013 final status report indicates that some of the biological objectives will take longer to achieve than others, such as establishment of fish communities and functional aquatic ecosystems in Reaches 1-3, because the stream channel and riparian zones continue to develop to match a new flow regime that was instituted at the project in 2009. However, Chinook salmon and steelhead spawning and incubation were found to have increased in response to new spawning habitat created in

Fish and Wildlife, Confederated Tribes of the Colville Reservation, Yakima Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, City of Chelan, and Lake Chelan Sportsman Association.

⁵ Order Revising Threatened and Endangered Species Protection Plan Schedule Under Article 408 (131 FERC ¶ 62,151).

⁶ The four river sections referenced in the report, designated Reaches 1, 2, 3, and 4, span the length of the 3.9-mile-long bypassed reach of the Chelan River. The report also addresses work in a 0.5-mile Habitat Channel within Reach 4, and in the 1,700-foot-long tailrace.

the tailrace and the Habitat Channel. The number of steelhead redds have fluctuated, but there is no previous record of steelhead spawning in the area on a regular basis. Development of guidelines for powerhouse operations to assure adequate intra-gravel dissolved oxygen levels in Chinook salmon redds, and measurement of Chinook salmon egg-emergence survival, is now being completed in a second year of study. Protocols for minimum powerhouse operation scheduling will be in place prior to the 2013 Chinook salmon spawning season. Use of the Habitat Channel by Chinook salmon fry in May was documented, and other native and non-native fishes were also documented using the channel for spawning and rearing. Use of Reaches 1-3 by adult rainbow and cutthroat trout, was documented with indications that cutthroat trout can survive through the summer in Reach 3.

7. Water quantity and quality were found to meet biological objectives in all reaches, although some further study is needed regarding dissolved oxygen, pH, total dissolved gas and turbidity. Water temperatures in August and September were found to be above the state water quality criteria for salmonid spawning, rearing, and migration, but were no worse than those observed in the Okanogan, a major salmon-producing tributary to the Columbia River, which is also fed by a large lake.

CONSULTATION

8. The licensee provided a draft of the 2013 status report to the members of the CRFF on March 15, 2013. The licensee received comments from CRFF members in a meeting held April 3, 2013, and further comments from Washington DOE, FWS, and Forest Service via email. The comments were summarized and addressed in the 2013 final status report as supplied to CRFF members and filed with the Commission.

DISCUSSION

9. The licensee's 2013 Final Biological Objectives Status Report, filed April 30, 2013, fulfills the relevant 2013 filing requirements of license Article 401. The report includes the information required by the Settlement Agreement and the project WQC, and incorporates the comments provided by members of the CRFF. The report should be approved.

The Director orders:

(A) Public Utility District No. 1 of Chelan County's 2013 Final Biological Objectives Status Report, filed April 30, 2013, fulfills the relevant 2013 filing requirements of Article 401 of the license for the Lake Chelan Project, and is approved.

(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 Federal Power Act, 16 U.S.C. § 825*l* (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2014). 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.

Steve Hocking
Chief, Environmental Review Branch
Division of Hydropower Administration
and Compliance