

121 FERC ¶ 62,143
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of Chelan County

Project No. 637-035

ORDER APPROVING THREATENED AND ENDANGERED SPECIES PLAN
UNDER ARTICLE 408

(Issued November 28, 2007)

On May 3, 2007, the Public Utility District No. 1 of Chelan County (Chelan PUD), licensee for the Lake Chelan Project, FERC No. 637, filed a threatened and endangered species protection plan (plan) pursuant to article 408 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

Article 408 requires the licensee to file, for Commission approval, a threatened and endangered species protection plan. The plan is to include, but not be limited to, provisions for the following: (a) timely development of a system to release water at the Lake Chelan Dam or pump water from the project powerhouse tailrace to the Chelan River, and subsequent operation of that system at rates sufficient to continuously maintain flows equal to or greater than the flows required by the license for Chelan River Reach 4; (b) timely development of final designs and implementation of channel improvements in Chelan River Reach 4 and the powerhouse tailrace, and timely maintenance of anadromous fish habitat value of those improvements throughout the life of the license; (c) timely determination of the need to take actions to improve water quality characteristics adversely affecting anadromous fish, and identification and implementation of appropriate actions; (d) timely annual payments to the tributary streamflow enhancement program pursuant to Article 14 of the Lake Chelan Settlement Agreement (included in Appendix A to the license); (e) ensuring that any construction activities in or near waterways at the project comply with the construction practices described in Appendix E to the license; (f) monitoring of flows in the project tailrace and in Reach 4 of the Chelan River, electronic posting (e.g., on a website) of information, and annual reporting of monitoring results; and (g) filing of an annual implementation and

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

monitoring report with the National Marine Fisheries Service (NMFS) and the Commission by January 31 of each year to document all measures completed in the previous year in accordance with article 14 of the Lake Chelan Settlement Agreement (SA).³

LICENSEE'S PLAN

The licensee's plan describes the design and implementation of the minimum flow release system for the Chelan River. It provides plans, including the construction and implementation schedule, for a new low level outlet at the dam to provide the required minimum flows when the lake level is below the spillway crest. It also provides plans for a tailrace pump station to pump water from the powerhouse tailrace to the Chelan River at rates sufficient to meet the required minimum flows for reach 4 of the river.

The plan includes a description of the design and implementation schedule for the powerhouse tailrace fish habitat improvements. The primary goal of the improvements is to increase usable spawning and rearing habitat for Chinook salmon and steelhead. The plan for the habitat improvements includes the development of a new channel in Reach 4, a monitoring and evaluation program, and provides for on-going maintenance of and/or modifications, as necessary based on monitoring or repairing flood damage. Chelan PUD will ensure that all construction of the minimum flow release system and habitat improvements will follow practices to control sediment, disturbance, and other potential harmful effects to salmonids.

In order to determine whether actions are needed to improve water quality characteristics for fish, the licensee will produce a final biological objectives status report, pursuant to article 7(c)(2) of the SA, that summarizes the results of the monitoring and evaluation program, evaluates the need for modification of the program, and recommends any new measures needed to achieve the biological objectives required by article 408 of the license. The licensee will submit this report to the Chelan River Fisheries Forum (CRFF)⁴ according to the following schedule⁵:

³ The Chelan PUD, on behalf of the signatories, filed a comprehensive settlement agreement on October 17, 2003, and those proposed articles were included in the license.

⁴ Members of the CRFF are NMFS, WDE, FS, NPS, Washington State Department of Fish and Wildlife, U.S. Fish and Wildlife Service, 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 Article 401 requires the licensee to also submit the final biological objectives status report to the Commission for approval.

Report	Submittal Dates
Total dissolved gas, dissolved oxygen, pH, turbidity	February 28, 2010, and 2012
Draft biological objectives status report	February 28, 2010, 2012, 2014, and 2016
Final biological objectives status report	April 30, 2010, 2012, 2014, and 2016

Chelan PUD will make up to \$20,000 available annually to the SA's tributary streamflow enhancement program for spring-run Chinook or steelhead habitat adversely affected by low water conditions. The amount provided will be determined by a yearly list of proposed measures for water conservation prepared by NMFS and the Washington State Department of Ecology (WDE). The licensee will file an annual report with NMFS and the Commission by January 31 that documents all measures completed and funds provided in the previous year for water conservation measures in accordance with article 14 of the SA.

According to the plan, flows measured or calculated from the lower lever outlet, pump station, spillway, and powerhouse discharge area will all be equipped for local and remote readability and control. Recorded flow data will be provided in writing to the Chelan River Fishery Forum (CRFF) and posted electronically on the Lake Chelan Implementation web page (<http://www.chelanpud.org/lake-chelan-implementation.html>) on a quarterly basis. If deviations from minimum flow requirements occur, Chelan PUD will notify the Commission and the WDEC within 48 hours. Chelan PUD will file an annual report of the minimum instream flow data and compliance by February 28 of each year, concurrent with the initiation of minimum flows into the Chelan River, beginning no later than February 28, 2009.

CONSULTATION

The licensee provided a draft of the plan to NMFS, as required by the license, on March 27, 2007. Although not required by the license, the licensee also provided a draft of the plan to the (CRFF). The licensee received comments from NMFS and CRFF through April 26, 2007, and incorporated all comments into the plan.

CONCLUSION

The licensee's threatened and endangered species protection plan meets all of the requirements of article 408 and the SA. It provides provisions for minimum flows and habitat enhancement that should protect fish species in the vicinity of the project tailrace and Reach 4. The plan should be approved.

The Director orders:

(A) The threatened and endangered species protection plan filed by the Public Utility District No. 1 of Chelan County on May 3, 2007, for the Lake Chelan Project, FERC No. 637, pursuant to article 408, is approved.

(B) 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
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Administration and Compliance