

RESOLUTION NO. 94-9978

A RESOLUTION RESTATING AND SUPPLEMENTING RESOLUTION NO. 90-8652 ESTABLISHING APPROPRIATE RESTRICTIONS ON USE OF PROJECT LANDS AND WATERS UTILIZED FOR RECREATIONAL PURPOSES WITHIN THE LAKE CHELAN PROJECT NO. 637, THE ROCKY REACH PROJECT NO. 2145 AND THE ROCK ISLAND PROJECT NO. 943

WHEREAS, the District is the Licensee for the Lake Chelan Project No. 637 pursuant to a license issued by the Federal Energy Regulatory Commission (FERC) on May 12, 1981, the Licensee for the Rocky Reach Project No. 2145 pursuant to a license issued by FERC on July 11, 1957, as amended, and the Licensee for the Rock Island Project No. 943 pursuant to a license issued by FERC on January 18, 1989, and

WHEREAS, in accordance with the terms of its FERC licenses for each of the above-named hydroelectric projects, the District has been required to establish recreational use plans for full public utilization of hydro project waters and adjacent lands and to assume overall responsibility for implementing the Recreational Use Plan (Exhibit R) pertaining to each such project and has further been required to provide, operate and maintain, or arrange for others to provide, operate and maintain the recreational facilities approved for each said project, and

WHEREAS, the District, in accordance with the provisions of each of the aforesaid FERC licenses, has acquired the real property necessary for implementation of the Recreational Use Plans (Exhibit R) for each of said projects, and has constructed or is constructing said Recreational Use Plans (Exhibit R) as required, and

WHEREAS, the FERC has previously advised the District that under the Federal Power Act and the terms of its project licenses for each of the aforesaid hydroelectric projects, more particularly Article 39 of the Lake Chelan Project license, Article 412 of the Rock Island Project license and Article 50 of the Rocky Reach Project license, it has the duty to impose appropriate restrictions on the use of project lands and waters for the purpose of protecting and enhancing the scenic, recreational, and other environmental values of said projects, and

WHEREAS, the District, under the laws of the State of Washington (RCW 4.24.210) may allow members of the public to use lands and waters owned or controlled by it for the purposes of outdoor recreation, as that term is defined in the aforesaid statute, without liability to such users for the unintentional injuries they may sustain, and

WHEREAS, the District has periodically received requests for the use of project lands and waters devoted to Exhibit R within one or more of the aforesaid hydroelectric projects, which requests have been considered to be inconsistent with the intended use of those lands and waters for recreational purposes, and

WHEREAS, the Commission of the District is of the opinion that the District's recreational obligations under its respective FERC licenses, the District's duty to attempt to limit its liability exposures in connection with each of its recreational facilities, and the District's obligation to serve the public interest can best be fulfilled by establishing appropriate restrictions and limitations on the use of Exhibit R lands and waterways which are a part of each of the aforesaid hydroelectric projects;

WHEREAS, the Commission of the District recognizes that since the establishment of the District's several Exhibit R facilities (parks) that it has periodically permitted their use on a non-discriminatory, equal access basis for political purposes such as meetings and picnics and the Commission desires that said policy be made a part of a formal resolution governing the public utilization of said recreational facilities,

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON, as follows:

Section 1. That in the absence of an emergency, no use shall be made of the lands and waters acquired for and devoted to the District's Recreational Use Plans (Exhibit R) for the Lake Chelan Project No. 637, Rocky Reach Project No. 2145 and Rock Island Project No. 943, except for purposes of recreation, which term includes, but is not limited to, fishing, camping, picnicking, swimming, hiking, bicycling, boating, boat launching, temporary boat moorage, day use recreation, performing arts presentations, arts and crafts fairs, hobby and sporting events, dog, car equipment and boat shows, concessions oriented toward park users and events providing for the sale of food and beverage items, sundries, and temporary (not to exceed 90 days) rental of recreational equipment, and other temporary activities and/or special community events as approved by the District.

Section 2. The lands and waters acquired for and devoted to the District's several Recreational Use Plans (Exhibit R) are for the purpose of providing full public utilization of such lands and waters and as such Exhibit R facilities (park areas) have been and will continue to be made available on a non-discriminatory, equal access basis for political uses in accordance with the protections afforded by the First and Fourteenth Amendments to the United States Constitution and the relevant provisions of the Washington State Constitution.

Section 3. The District, its officers and employees shall be authorized to take such further actions as may be necessary to implement the provisions of Section 1 of this resolution.

ADOPTED this 29th day of August, 1994.

Don R. Kay
President

ATTEST:

Barbara B. Tilly
Vice President

William D. Scott
Secretary

David P. Hughes
Assistant Secretary

James R. Wall
Commissioner

S E A L