

LIHI CERTIFICATION HANDBOOK

-- PART VII -- CERTIFICATION QUESTIONNAIRE

** PLEASE SUBMIT THIS QUESTIONNAIRE IN WORD FORMAT **

Background Information	
1) Name of the Facility as used in the FERC license/exemption.	<i>Falls Creek H.P. Limited Partnership</i>
2) Applicant's name, contact information and relationship to the Facility. If the Applicant is not the Facility owner/operator, also provide the name and contact information for the Facility owner and operator.	<i>Gary Marcus, President and General Partner Falls Creek H.P. Limited Partnership P.O. Box 359 Eugene, OR 97440-0400</i>
3) Location of Facility including (a) the state in which Facility is located; (b) the river on which Facility is located; (c) the river-mile location of the Facility dam; (d) the river's drainage area in square miles at the Facility intake; (e) the location of other dams on the same river upstream and downstream of the Facility; and (f) the exact latitude and longitude of the Facility dam.	<i>20 miles east of Sweet Home, Oregon. Diverting stream is Falls Creek. Receiving river is South Santiam. Located 2.3 miles upstream from the confluence with the South Santiam River, Falls Creek creates a small pool (0.07 acres) from which the Facility diverts water into a penstock. There are no other dams located upstream or downstream on Falls Creek. Falls Creek does not operate a dam, but diverts water at river mile 2.35. Latitude – 44° 22' 8" Longitude - 122° 20' 56"</i>
4) Installed capacity.	<i>4.9 MW</i>
5) Average annual generation.	<i>15,200,000 kWh</i>
6) Regulatory status.	<i>FERC Exempt Generator, Project #6661-004. Original FERC Order granting exemption was issued March 4, 1983. An Order amending the exemption was granted on Dec 14, 1984.</i>

7) Reservoir volume and surface area measured at the normal maximum operating level.	<i>Diversion structure is 5.25 feet in height, 25 feet in length, and creates a pool area of .1 acres. Estimated pool storage is negligible.</i>
8) Area occupied by non-reservoir facilities (e.g., dam, penstocks, powerhouse).	<i>In accordance with USDA Forest Service Special Use Permit #FSM 2714, the area occupied and permitted to occupy is 6.5 acres. The permit is issued for the purpose of operation and maintenance of the project's roads, diversion dam, penstock, powerhouse, self-contained toilet, and antenna.</i>
9) Number of acres inundated by the Facility.	<i>Approximately .25 acres. This is an area of about 80 feet wide by about 136 feet in length.</i>
10) Number of acres contained in a 200-foot zone extending around entire reservoir.	<i>Approximately 2.16 acres. Added 200 feet to the length and width to calculate sq ft, then divided by 42,560 to determine acreage.</i>
11) Contacts for Resource Agencies and non-governmental organizations	<i>See Updated Agency Contacts List accompanying this application.</i>
12) Description of the Facility, its mode of operation (i.e., peaking/run of river) and photographs, maps and diagrams.	<i>The Falls Creek project is a "run of the river" facility, which means it uses whatever water is flowing in Falls Creek and does not hold or store it for later use. The Project is sited to take advantage of the mountainous terrain-water is diverted from Falls Creek and funneled through a buried penstock that drops nearly one half a mile to the powerhouse below. Because of the natural steep drop in the Creek, salmon have never migrated up it, although trout are located in some of the pools, and a minimum instream flow is provided to protect that habitat. This "high head" facility has a capacity of 4.3 megawatts, and produces nearly 15 million kilowatt hours of electricity a year.</i>
<p>Questions for "New" Facilities Only:</p> <p>If the Facility you are applying for is "new" (i.e., an existing dam that added or increased power generation capacity after August of 1998) please answer the following questions to determine eligibility for the program</p>	
13) When was the dam associated with the Facility completed?	
14) When did the added or increased generation first generate electricity? If the added or increased generation is not yet operational, please answer question 18 as well.	
15) Did the added or increased power generation capacity require or include any new dam or other diversion structure?	
16) Did the added or increased capacity include or require a change in water flow	

<p>through the facility that worsened conditions for fish, wildlife, or water quality (for example, did operations change from run-of-river to peaking)?</p>		
<p>17 (a) Was the existing dam recommended for removal or decommissioning by resource agencies, or recommended for removal or decommissioning by a broad representation of interested persons and organizations in the local and/or regional community prior to the added or increased capacity?</p> <p>(b) If you answered “yes” to question 17(a), the Facility is not eligible for certification, unless you can show that the added or increased capacity resulted in specific measures to improve fish, wildlife, or water quality protection at the existing dam. If such measures were a result, please explain.</p>		
<p>18 (a) If the added or increased generation is not yet operational, has the increased or added generation received regulatory authorization (e.g., approval by the Federal Energy Regulatory Commission)? If not, the facility is not eligible for consideration; and</p> <p>(b) Are there any pending appeals or litigation regarding that authorization? If so, the facility is not eligible for consideration.</p>		
<p>A. Flows</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is the Facility in <i>Compliance</i> with <i>Resource Agency Recommendations</i> issued after December 31, 1986 regarding flow conditions for fish and wildlife protection, mitigation and enhancement (including in-stream flows, ramping and peaking rate conditions, and seasonal and episodic instream flow variations) for both the reach below the tailrace and all bypassed reaches?</p> <p><i>N/A. The Falls Creek Hydroelectric Project received its exemption prior to 12/31/86.</i></p>	<p>YES = Pass, Go to B N/A = Go to A2</p>	<p>NO = Fail</p>
<p>2) If there is no flow condition recommended by any Resource Agency for the Facility, or if the recommendation was issued prior to January 1, 1987, is the Facility in Compliance with a flow release schedule, both below the tailrace and in all bypassed reaches, that at a minimum meets Aquatic Base Flow standards or “good”_habitat flow standards calculated using the Montana-Tennant method?</p> <p><i>No.</i></p>	<p>YES = Pass, go to B NO = Go to A3</p>	
<p>3) If the Facility is unable to meet the flow standards in A.2., has the Applicant demonstrated, and obtained a letter from the relevant Resource Agency confirming that demonstration, that the flow conditions at the Facility are appropriately protective of fish, wildlife, and water quality?</p> <p><i>Yes. Letters (Exhibits 10 and 11 submitted with the original LIHI application) and conversations with the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Forest Service, confirmed that Falls Creek demonstrated that flow conditions at the</i></p>	<p>YES = Pass, go to B</p>	<p>NO = Fail</p>

<p><i>Facility are protective of fish, wildlife, and water quality. Falls Creek remains sensitive to the environmental effects of its activities. The facility continues to maintain a streamflow of at least one cubic foot per second continuously, as required by the ODFW. Moreover, structural constraints of the project prevent it from operating at streamflows less than 3 cfs, thereby guaranteeing that at least this amount (if it is naturally flowing) will flow in the channel.</i></p>		
<p>B. Water Quality</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is the Facility either: a) In Compliance with all conditions issued pursuant to a Clean Water Act Section 401 water quality certification issued for the Facility after December 31, 1986? Or b) In Compliance with the quantitative water quality standards established by the state that support designated uses pursuant to the federal Clean Water Act in the Facility area and in the downstream reach?</p> <p><i>Yes. The determination was made as part of the FERC application and approved as part of the exemption that the Facility would have no impact on water quality above or below the diversion. The letter of support from Oregon Department of Environmental Quality (ODEQ) (Exhibit 12 of the original LIHI application) corroborates the compliance by Falls Creek with quantitative water quality standards. According to the state's water resources license, no other water quality issues are relevant.</i></p>	<p>YES = Go to B2</p>	<p>NO = Fail</p>
<p>2) Is the Facility area or the downstream reach currently identified by the state as not meeting water quality standards (including narrative and numeric criteria and designated uses) pursuant to Section 303(d) of the Clean Water Act?</p> <p><i>Yes. Although Falls Creek is not on the Clean Water Act 303 (d) list, the South Santiam River, of which Falls Creek is a tributary, is listed for exceeding temperatures criteria.</i></p>	<p>YES = Go to B3 NO = Pass</p>	
<p>3) If the answer to question B.2 is yes, has there been a determination that the Facility does not cause, or contribute to, the violation?</p> <p><i>Yes. Conversations with ODEQ during prior LIHI certification in 2002 determined that records did not indicate the Facility was the cause of the violation. Nothing has changed in the Facility's operations or methods since 2002 that would impact or cause any changes in water quality.</i></p>	<p>YES = Pass</p>	<p>NO = Fail</p>
<p>C. Fish Passage and Protection</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream and downstream passage of anadromous and catadromous fish issued by Resource Agencies after December 31, 1986?</p> <p><i>N/A. The Facility's exemption was granted prior to 1986 and therefore this criterion is not applicable. Furthermore, no mandatory fish passage prescriptions have been issued by resource agencies.</i></p>	<p>YES = Go to C5 N/A = Go to C2</p>	<p>NO = Fail</p>

<p>2) Are there historic records of anadromous and/or catadromous fish movement through the Facility area, but anadromous and/or catadromous fish do not presently move through the Facility area (<i>e.g.</i>, because passage is blocked at a downstream dam or the fish no longer have a migratory run)?</p> <p>a) If the fish are extinct or extirpated from the Facility area or downstream reach, has the Applicant demonstrated that the extinction or extirpation was not due in whole or part to the Facility?</p> <p>b) If a Resource Agency Recommended adoption of upstream and/or downstream fish passage measures at a specific future date, or when a triggering event occurs (such as completion of passage through a downstream obstruction or the completion of a specified process), has the Facility owner/operator made a legally enforceable commitment to provide such passage?</p> <p><i>No.</i></p>	<p>YES = Go to C2a NO = Go to C3</p> <p>YES = Go to C2b N/A = Go to C2b</p> <p>YES = Go to C5 N/A = Go to C3</p>	<p>NO = Fail</p> <p>NO = Fail</p>
<p>3) If, since December 31, 1986:</p> <p>a) Resource Agencies have had the opportunity to issue, and considered issuing, a Mandatory Fish Passage Prescription for upstream and/or downstream passage of anadromous or catadromous fish (including delayed installation as described in C2a above), and</p> <p>b) The Resource Agencies declined to issue a Mandatory Fish Passage Prescription,</p> <p>c) Was a reason for the Resource Agencies' declining to issue a Mandatory Fish Passage Prescription one of the following: (1) the technological infeasibility of passage, (2) the absence of habitat upstream of the Facility due at least in part to inundation by the Facility impoundment, or (3) the anadromous or catadromous fish are no longer present in the Facility area and/or downstream reach due in whole or part to the presence of the Facility?</p> <p><i>No.</i></p>	<p>NO = Go to C5 N/A = Go to C4</p>	<p>YES = Fail</p>
<p>4) If C3 was not applicable:</p> <p>a) Are upstream and downstream fish passage survival rates for anadromous and catadromous fish at the dam each documented at greater than 95% over 80% of the run using a generally accepted monitoring methodology? Or</p> <p>b) If the Facility is unable to meet the fish passage standards in 4.a, has the Applicant either i) demonstrated, and obtained a letter from the U.S. Fish and Wildlife Service or National Marine Fisheries Service confirming that demonstration, that the upstream and downstream fish passage measures (if any) at the Facility are appropriately protective of the fishery resource, or ii)</p>	<p>YES = Go to C5</p>	<p>NO = Fail</p>

<p>committed to the provision of fish passage measures in the future and obtained a letter from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service indicating that passage measures are not currently warranted?</p>		
<p>5) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream and/or downstream passage of <i>Riverine</i> fish? <i>N/A – No fish passage prescriptions for riverine fish have been issued.</i></p>	<p>YES = Go to C6 N/A = Go to C6</p>	<p>NO = Fail</p>
<p>6) Is the Facility in Compliance with Resource Agency Recommendations for Riverine, anadromous and catadromous fish entrainment protection, such as tailrace barriers? <i>YES. At the time of construction, resource agencies recommended that a screen be installed in the tailrace to prevent fish from trying to swim into the tailrace pipe when the Facility was being constructed. A screen was installed and continues to be in use. No other recommendations have been issued.</i></p>	<p>YES = Pass, go to D N/A = Pass, go to D</p>	<p>NO = Fail</p>
<p>D. Watershed Protection</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is there a buffer zone dedicated for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low-impact recreation) extending 200 feet from the average annual high water line for at least 50% of the shoreline, including all of the undeveloped shoreline? <i>No. No agency recommendations of FERC license conditions were issued regarding watershed protection.</i></p>	<p>YES = Pass, go to E and receive 3 extra years of certification</p>	<p>NO = go to D2</p>
<p>2) Has the Facility owner/operator established an approved watershed enhancement fund that: 1) could achieve within the project’s watershed the ecological and recreational equivalent of land protection in D.1, and 2) has the agreement of appropriate stakeholders and state and federal resource agencies? <i>No. Per FERC exemption “No significant impacts will result from approval of this amendment.” No agency recommendations of FERC license conditions were issued regarding watershed protection.</i></p>	<p>YES = Pass, go to E and receive 3 extra years of certification</p>	<p>NO = go to D3</p>
<p>3) Has the Facility owner/operator established through a settlement agreement with appropriate stakeholders, with state and federal resource agencies agreement, an appropriate shoreland buffer or equivalent watershed land protection plan for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low impact recreation)? <i>No. No agency recommendations of FERC license conditions were issued regarding watershed protection.</i></p>	<p>YES = Pass, go to E</p>	<p>NO = go to D4</p>
<p>4) Is the facility in compliance with both state and federal resource agencies recommendations in a license approved shoreland management plan regarding protection, mitigation or enhancement of shorelands surrounding the project? <i>N/A.</i></p>	<p>YES = Pass, go to E N/A = Pass go to E</p>	<p>No = Fail</p>

E. Threatened and Endangered Species Protection	PASS	FAIL
<p>1) Are threatened or endangered species listed under state or federal Endangered Species Acts present in the Facility area and/or downstream reach? <i>Yes. The ODFW identified three state or federal endangered or threatened species present within the Facility area or downstream reach. Winter steelhead and spring-run Chinook salmon both occur in the South Santiam River and the lower 0.1 miles of Falls Creek at the confluence of the South Santiam River. Northern Spotted Owl is also present in the Project area.</i></p>	<p>YES = Go to E2 NO = Pass, go to F</p>	
<p>2) If a recovery plan has been adopted for the threatened or endangered species pursuant to Section 4(f) of the Endangered Species Act or similar state provision, is the Facility in Compliance with all recommendations in the plan relevant to the Facility? <i>N/A. Per conversations with the ODFW, no recovery plans have been issued for the listed species found within the Project area or potentially affected by the Project.</i></p>	<p>YES = Go to E3 N/A = Go to E3</p>	<p>NO = Fail</p>
<p>3) If the Facility has received authorization to incidentally Take a listed species through: (i) Having a relevant agency complete consultation pursuant to ESA Section 7 resulting in a biological opinion, a habitat recovery plan, and/or (if needed) an incidental Take statement; (ii) Obtaining an incidental Take permit pursuant to ESA Section 10; or (iii) For species listed by a state and not by the federal government, obtaining authorization pursuant to similar state procedures; is the Facility in Compliance with conditions pursuant to that authorization? <i>N/A. The Facility has not received authority to incidentally take a species.</i></p>	<p>YES = Go to E4 N/A = Go to E5</p>	<p>NO = Fail</p>
<p>4) If a biological opinion applicable to the Facility for the threatened or endangered species has been issued, can the Applicant demonstrate that:</p> <p>a) The biological opinion was accompanied by a FERC license or exemption or a habitat conservation plan? Or</p> <p>b) The biological opinion was issued pursuant to or consistent with a recovery plan for the endangered or threatened species? Or</p> <p>c) There is no recovery plan for the threatened or endangered species under active development by the relevant Resource Agency? Or</p> <p>d) The recovery plan under active development will have no material effect on the Facility's operations?</p>	<p>YES = Pass, go to F</p>	<p>NO = Fail</p>

<p>5) If E.2 and E.3 are not applicable, has the Applicant demonstrated that the Facility and Facility operations do not negatively affect listed species? <i>YES. Fish screens in the tailrace channel prevent upstream movement of fish through the tailrace. A 20-ft corridor of trees was removed for the construction of the penstock. Potential impacts to Northern Spotted Owl were not assessed during construction because the species was not listed at the time. Both USFWS and ODFW concur that the project has no adverse impacts on listed species or their habitats.</i></p>	<p>YES = Pass, go to F</p>	<p>NO = Fail</p>
<p>F. Cultural Resource Protection</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) If FERC-regulated, is the Facility in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license or exemption? <i>YES. There are no specific requirements regarding cultural resource protection within the exemption. Appropriate surveys and research by qualified anthropologists were conducted prior to construction as part of the exemption application. No archaeological sites were found as part of these surveys. The penstock crosses under Santiam Wagon Road, a historic road eligible for nomination; the road was restored once construction was complete. This was accepted by the Oregon SHPO as adequate mitigation, as indicated in the FERC application.</i></p>	<p>YES = Pass, go to G N/A = Go to F2</p>	<p>NO = Fail</p>
<p>2) If not FERC-regulated, does the Facility owner/operator have in place (and is in Compliance with) a plan for the protection, mitigation or enhancement of impacts to Cultural Resources approved by the relevant state or federal agency or Native American Tribe, or a letter from a senior officer of the relevant agency or Tribe that no plan is needed because Cultural Resources are not negatively affected by the Facility?</p>	<p>YES = Pass, go to G</p>	<p>NO = Fail</p>
<p>G. Recreation</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) If FERC-regulated, is the Facility in Compliance with the recreational access, accommodation (including recreational flow releases) and facilities conditions in its FERC license or exemption? <i>YES. No specific recommendations were issued as part of the FERC exemption. However, the Facility is located on Forest Service lands and a campground is located across the river from the powerhouse. The applicant has a Special Use Permit with the Forest Service, which provides conditions guiding the use of Forest Service Lands. Recreational access and use is not impacted by the Project. Conversations with the Forest Service corroborated this, adding that the applicant is very agreeable to giving tours and providing campfire presentations at the campground describing the Facility. Although some noise can be heard from the powerhouse during high flow periods, the campground's peak season (July-August) generally coincides with when the Facility is off-line, resulting in minimal impacts to recreational resources.</i></p>	<p>YES = Go to G3 N/A = Go to G2</p>	<p>NO = Fail</p>

<p>2) If not FERC-regulated, does the Facility provide recreational access, accommodation (including recreational flow releases) and facilities, as Recommended by Resource Agencies or other agencies responsible for recreation?</p>	<p>YES = Go to G3</p>	<p>NO = Fail</p>
<p>3) Does the Facility allow access to the reservoir and downstream reaches without fees or charges? <i>YES. Because the Project is located on Forest Service lands, access to the Project reach is available without fee.</i></p>	<p>YES = Pass, go to H</p>	<p>NO = Fail</p>
<p>H. Facilities Recommended for Removal</p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is there a Resource Agency Recommendation for removal of the dam associated with the Facility? <i>NO. There have been no recommendations for removal of the diversion.</i></p>	<p>NO = Pass, Facility is Low Impact</p>	<p>YES = Fail</p>