

**APPLICATION REVIEW FOR
LOW IMPACT HYDROPOWER INSTITUTE
CERTIFICATION
of the
PROSPECT NO. 3 PROJECT NO. 2337**



September 15, 2010

Application Reviewer: Patricia McIlvaine

WRIGHT-PIERCE 
Engineering a Better Environment

**APPLICATION REVIEW FOR LOW IMPACT HYDROPOWER
INSTITUTE CERTIFICATION**

PACIFICORP ENERGY PROSPECT NO. 3 PROJECT NO. 2337

TABLE OF CONTENTS

SECTION	DESCRIPTION	PAGE
1.0	INTRODUCTION AND OVERVIEW.....	1
1.1	Project and Site Characteristics.....	2
1.2	Regulatory History	3
1.3	Public Comment.....	4
2.0	CRITERIA ASSESSMENT	5
2.1	Criteria A - River Flows	5
2.2	Criteria B - Water Quality	7
2.3	Criteria C - Fish Passage and Protection	9
2.4	Criteria D - Watershed Protection.....	13
2.5	Criteria E - Threatened and Endangered Species Protection....	15
2.6	Criteria F - Cultural Resource Protection	17
2.7	Criteria G - Recreation	18
2.8	Criteria H - Facilities Recommended for Removal.....	19
3.0	RECOMMENDATION	20
4.0	RECORD OF COMMUNICATIONS	22

APPENDICES

A	COMMENT LETTERS RECEIVED BY LIHI
B	FERC ORDERS AND RESOURCE AGENCY DOCUMENTS REFERENCED IN THIS REVIEW REPORT
C	KEY EMAIL COMMUNICATIONS

APPLICATION REVIEW FOR LOW IMPACT HYDROPOWER INSTITUTE CERTIFICATION

PACIFICORP ENERGY PROJECT NO. 2337

1.0 INTRODUCTION AND OVERVIEW

This report reviews the application submitted by PacifiCorp Energy (PacifiCorp or Applicant) to the Low Impact Hydropower Institute (LIHI) for Low Impact Hydropower Certification for the Prospect No. 3 Hydroelectric Project. The Prospect No. 3 Project (the Project), located on the South Fork of the Rogue River, Jackson County, Oregon, is currently licensed by the Federal Energy Regulatory Commission (FERC) as Project Number 2337. The Rogue River basin encompasses 3,300,000 acres in southwest Oregon and northern California. The Rogue River originates at Boundary Springs in the southern Cascade Mountains before flowing approximately 220 miles west to the Pacific Ocean. The basin has a complex geologic structure and corresponding vegetation patterns. The Rogue River flows from the lava and pumice of the southern Cascade volcanoes to the irrigated farms and orchards surrounding the population centers of Medford and Ashland. More than half the basin is owned by the federal government, with 37% owned by the United States Forest Service. The Rogue River was one of the eight waterways originally protected by the 1968 Wild and Scenic Rivers Act.

The South Fork of the Rogue River originates in the Sky Lakes Wilderness Area of the Cascades and flows 25 miles to a confluence with the mainstem of the Rogue River. In the vicinity of the Prospect No. 3 Project, the South Fork flows through a steep-sided canyon composed of volcanic rock before passing through a relatively flat plateau. Average annual precipitation in the area is 40 inches, most of which falls as snow. The drainage area above the Prospect No. 3 diversion dam (also called the South Fork Dam) is 83.8 square miles.

Prospect No. 3 is one of four hydroelectric developments operated by PacifiCorp in the Rogue River basin. The other three developments, Prospect Nos. 1, 2, and 4 are operated under FERC License No. 2630 and are not subjects of this application. Each of the four developments diverts

water from a separate tributary to the Rogue River. Prospect No. 3 diverts water from the South Fork and discharges it to the Middle Fork of the Rogue River. Prospect No. 3 project boundary occupies 38.1 acres within the Rogue River-Siskiyou National Forest. In fact, the entire impoundment is located within this undeveloped National Forest land.

1.1 Project and Site Characteristics

The Prospect No. 3 Project was originally built in 1931-32, with the only major modification being the realignment of the forebay section of the canal in 1951. The Project has a 172-foot-long, 24-foot-high concrete diversion dam with a 98-foot-long ogee crest. The project dam creates a 1-acre impoundment with a gross capacity of 10-acre-feet at an elevation of 3,375 feet. The Project has a fish ladder located at the diversion dam, and a fish screen and downstream fish-bypass system located on the canal just below the diversion intake. The Project has a 15,952-foot-long conduit system that consists of two concrete-lined canal sections (6,200 feet total), a 66-inch-diameter, 5,306-foot-long woodstave pipe, a 5-foot-wide by 6.5-foot-high, 699-foot-long, concrete lined horseshoe type tunnel, a canal to penstock transition with a 473-foot-long side channel spillway, and a 66-inch to 68-inch-diameter, 3,274-foot-long, riveted steel penstock. The Prospect No. 3 Project powerhouse contains one generating unit with a rated capacity of 7,200 kW. A concrete tailrace structure approximately 20 feet by 20 feet by 5 feet extends from the powerhouse. A project siphon diverts up to 150 cubic feet per second (cfs) water from the Prospect No. 3 tailrace to the Middle Fork canal, which empties into the North Fork Reservoir that is part of the Prospect Nos. 1, 2, and 4 Projects. The Prospect No. 3 Project generates an annual average of 37,322 Mwh that are transmitted via a 6.8-mile-long, 69-kV transmission line.

The Prospect No. 3 Project is operated remotely in a run-of-river mode with water rights of 150 cfs. Article 402 of the FERC license requires a minimum flow of 10 cfs as measured at the Geological Survey gaging station located 0.25 miles downstream of the Project. The Project is operated in a coordinated manner with the downstream Prospect Nos. 1, 2 and 4 facilities. An operator is onsite at Prospect No. 3 on a daily basis, seven days a week.

1.2 Regulatory History

On January 30, 1989, FERC issued a new license to the Pacific Power and Light Company for the continued operation of the Prospect No. 3 Project for a 30 year period. Pacific Power and Light Company changed its name to PacifiCorp in 1984. A copy of the License, updated with subsequent license amendments, was submitted by PacifiCorp as part of its LIHI application, and therefore has not be attached to this report. A copy of the original License which included discussion of the agency consultation process undertaken during licensing was also reviewed to understand the project history.

The Project had been operated since 1932 by Pacific Power and Light Company. No protests or motions to intervene were filed and no commenting agency objected to issuance of the 1989 License. No comments were received from federal or state fish and wildlife resource agencies under Section 10 (j) of the Federal Power Act in regard to the license application. A number of license conditions, such as upstream and downstream fish passage were incorporated by FERC into Articles 403, 404 and 405 of the License in response to mitigation measures proposed by the applicant following consultation with federal and state agencies. Such measures also allowed the Project to be found consistent with the requirements of the then Oregon House Bill 299 which addressed protection of natural resources in the siting and operation of hydroelectric facilities.

A review of the FERC eLibrary database indicated that since license issuance in 1989, no variances from license conditions have been issued. In the past ten years, since 2000, only three deviations from license conditions, all associated with Article 402 minimum flow requirements, have occurred. None of the deviations were found by FERC to constitute license violations. These events are further discussed in *Section 2.1, Criteria A - River Flows*.

With the exception of extensions associated with the fish passage facilities, all original license deadlines appear to have been satisfied. Starting in 1990 through 1995, annual schedule extensions were requested and granted in regard to compliance with the fish passage facilities required under Articles 403, 404 and 405. Much of the delay was attributed to a delay in establishment of Oregon's statewide criteria to be used in the design of fish passage structures.

Additional detail on this issue is presented in *Section 2.3, Criteria C - Fish Passage and Protection*.

Given that no license variances have been requested, that the license condition extension requests appeared to have been attributable to a delay in availability of state fish passage design criteria, and the limited number of license deviations, PacifiCorp appears to have demonstrated conscientious attention to the environmentally related issues associated with the Prospect No. 3 Project.

1.3 Public Comment

LIHI received comments on PacifiCorp's application for certification for the Prospect No. 3 Project from the Rogue Riverkeepers and the Oregon Department of Fish and Wildlife (ODFW). PacifiCorp also submitted letters to the Rogue Riverkeepers and ODFW, as well as LIHI, in response to these two comment letter. Copies of all four letters are contained in Appendix A. In summary, the Rogue Riverkeepers did not offer a recommendation for or against low impact certification. The ODFW recommended that the Prospect No. 3 Project not receive certification for two reasons:

- the recommendations made by ODFW in the 1980's are not as stringent as current requirements, and as such, Prospect No. 3 does not have the mitigation measures that would be required if undergoing licensing at this time; and
- ODFW believes that Prospect No. 3 Project has a watershed and operation nexus with Prospect Nos. 1, 2 and 4 facilities, thus impacts of all four facilities should be considered jointly. These three later facilities, licensed as a single Project, were not required by its FERC license to implement fish protection measures recommended by the ODFW. Thus, if taken together as proposed by ODFW, Prospect No. 3 would not meet LIHI certification criteria for fish passage and protection.

2.0 CRITERIA ASSESSMENT

The Low Impact Hydropower Institute certifies those hydropower facilities that meet its eight criteria:

2.1 Criteria A - River Flows

***Goal:** The facility (dam and powerhouse) should provide river flows that are healthy for fish, wildlife, and water quality, including seasonal flow fluctuations where appropriate.*

***Standard:** For in-stream flows, a certified facility must comply with resource agency recommendations issued after December 31, 1986, for flows. If there were no qualifying resource agency recommendations, the applicant can meet one of two alternative standards: (1) meet the flow levels required using the Aquatic Base Flow methodology or the “good” habitat flow level under the Montana-Tennant methodology; or (2) present a letter from a resource agency prepared for the application confirming the flows at the facility are adequately protective of fish, wildlife, and water quality.*

PacifiCorp’s Prospect No. 3 Project is in substantial compliance with resource agency recommendations issued after December 31, 1986 regarding flow conditions for fish and wildlife protection. When the project was relicensed in 1989, the ODFW was consulted regarding the establishment of appropriate minimum in-stream flows. The ODFW agreed with the results of a PacifiCorp study indicating that a minimum release of 10 cfs would protect and maintain habitat for resident rainbow trout. (These letters were provided by PacifiCorp as part of their LIHI application.). This recommended minimum flow was adopted in Article 402 of the project license. In a letter dated January 5, 1988, the U.S. Fish and Wildlife Service (USFWS) deferred to ODFW on operational recommendations for fish and wildlife protection.

A United States Geological Survey (USGS) gage located 0.25 mile downstream of the Prospect No. 3 diversion dam monitors the flow released to the bypass reach, as required in Article 402.

Review of FERC's database indicated that in the approximate past ten years, from January 2000 through August 16, 2010, there were limited deviations from the minimum flow requirements. FERC did not find these deviations to be a violation of the license. These events are summarized below:

- From late night July 11 through the morning of July 13, 2000, discharge dropped to approximately 8.7 cfs, which is below the required 10 cfs. Heavy rains on July 11, 2000 caused high flows and increased headpond elevations. A head gate opened to pass these flows, however failure of the motor operator shaft, resulting in failure to close a head gate, resulting in reduction of discharge flows when the headpond level dropped.
- On December 18, 2000, discharge was reduced below the minimum flow of 10 cfs for approximately six hours, from 5am to 11am. The lowest flow discharge recorded during this period was 5 cfs. A pressure transducer upstream of the fishscreen was found to have failed. Although the control system properly responded to the false "pressure differential reading" by implementing a screen washing sequence, the alarm indicating a problem at the completion of the sequence was not detected until staff were onsite.
- On October 11, 2001 equipment malfunction associated with the screen washing sequence again occurred, resulting in failure to discharge the minimum flow for approximately 9 ½ hours. The lowest flow during this period was 9.4 cfs. Adjustment to the screen cables and recalibration of a limit switch, which had not been re-connected following cable replacement, was implemented to remedy the problem.
- In late October of 2007, the USGS made a flow measurement adjustment in the bypass, resulting in a shift in the rating for that gage, but did not notify PacifiCorp. This resulted in several excursions due to PacifiCorp's use of an inaccurate rating curve. Another rating shift took place in February 2008 which was reported to PacifiCorp, at which time the earlier adjustment was identified. PacifiCorp discovered that the October adjustment resulted in minimum flow deviations in early November and mid-December 2007. PacifiCorp has since worked with the USGS to implement more reliable notification procedures for rating changes on the Rogue.

Consultation with Mr. Dave Harris of the ODFW on August 24, 2010 indicated some concern as to the adequacy of the 10 cfs minimum flow established at the time of licensing of this Project. He reported that more current studies performed for the nearby Prospect Nos. 1, 2 and 4 Project require a minimum flow of 30 cfs and 60 cfs, dependant on the season, for healthy fisheries. His opinion is that while the Prospect No. 3 Project is generally in compliance with its license minimum flow condition of 10 cfs, limited data collection from 2009 and 2010 in the South Fork, indicates that trout populations are somewhat depressed. He believes this in part, due to these low minimum flow levels. Further discussion of potential causes for the population condition is located in *Section 2.3 Criteria C - Fish Passage and Protection*.

A. Flows – The Facility is in Compliance with Resource Agency Recommendations issued after December 31, 1986, as specified in the FERC license regarding minimum flow conditions for fish and wildlife protection, mitigation and enhancement. FACILITY PASSES.

2.2 Criteria B - Water Quality

Goal: *Water quality in the river is protected.*

Standard: *The water quality criterion has two parts. First, a facility must demonstrate that it is in compliance with state water quality standards, either through producing a recent (after 1986) Clean Water Act Section 401 certification, or demonstrating compliance with state water quality standards (typically by presenting a letter prepared for the application from the state confirming the facility is meeting water quality standards). Second, a facility must demonstrate that it has not contributed to a state finding that the river has impaired water quality under Clean Water Act Section 303(d) (relating to water quality limited streams).*

The Oregon Department of Environmental Quality (ODEQ) waived issuing a Section 401 Water Quality Certification for the Prospect No. 3 project in a letter dated June 7, 1985 (see Appendix B) because the project was operated under a National Pollution Discharge Elimination System

general permit. Under current US Environmental Protection Agency regulations, and thus also under ODEQ, such a permit can no longer be issued to a hydropower facility.

The Environmental Assessment prepared in May 1988 for the Project's license application states that "Water quality of the South Fork in the project vicinity is generally excellent... Water quality in the project area meets or exceeds the standards established for all uses in the Rogue River Basin by the state of Oregon." Moreover, the ODEQ 2004/2006 Integrated Report on Water Quality Status also provided information that confirms the continued health of the river. ODEQ designated the South Fork Rogue River as a "Category 2" waterway. This classification indicates that state water quality standards are being met, although data are lacking to document compliance with all standards.

PacifiCorp has reported that they requested a letter from the ODEQ on September 21, 2009 regarding the facility's compliance with water quality standards but, the agency declined to provide such a letter, citing a lack of resources to commit to the review of water quality data. Verbal consultation on August 24 2010 with Chris Stine of the ODEQ, and in an email from him on September 1, 2010, he confirmed that no TMDLs have been designated for the South Fork of the Rogue River, nor has the South Fork been identified as "impaired waters" under the Clean Water Act Section 303(d). His email (contained in Appendix C) notes that "no information exists with which to assess TDG in Project tailraces, thermal stratification in impoundments, Project-related algal activity, Anti-degradation, or many of the other parameters which comprise the numeric and narrative components of Oregon's water quality rules".

In the absence of a Water Quality Certification, LIHI certification criteria for Water Quality require that the applicant demonstrate actual compliance with the quantitative standards established by the state to support the designated uses for that body of water. As noted above, the ODEQ does not have sufficient data to confirm compliance with all qualitative and quantitative (numerical) standards, thus such demonstration made via a letter from the ODEQ could not be obtained. The LIHI criteria state that "documentation should include the quantitative standards and evidence that the water quality in the Facility area and the downstream reach meet those

standards". At this time, the required evidence of compliance with all of the standards has not been provided. Anecdotal information supporting compliance with water quality standards was not obtainable. Concerns were expressed by Mr. Dave Harris of the ODFW about the "somewhat depressed condition" of trout populations in the South Fork. Although he did not specifically point to water quality as being the cause for the stressed fishery, certainly these conditions cannot be used as an indicator of good water quality to be used in lieu of quantitative data.

B. Water Quality – A Water Quality certificate was waived by the ODEQ as the Project was licensed under a National Pollution Discharge Elimination System general permit at that time. Although the waters upstream and downstream of the facility are not 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, because of no testing in the area of the facility ODEQ is not prepared to state that this non-identification means compliance. Further, there is insufficient data to know whether all relevant quantitative standards are being attained, and confirming data proving compliance with all qualitative and numerical standards have not been provided by the applicant. Therefore, based on the materials available to reviewer, FACILITY FAILS

2.3 Criteria C - Fish Passage and Protection

Goal: *The facility provides effective fish passage for riverine, anadromous and catadromous fish, and also protects fish from entrainment.*

Standard: *For riverine, anadromous, and catadromous fish, a facility must be in compliance with recent (after 1986) mandatory prescriptions regarding fish passage (such as a Fish and Wildlife Service prescription for a fish ladder) as well as any recent resource agency recommendations regarding fish protection (e.g., a tailrace barrier). If anadromous or catadromous fish historically passed through the facility area but are no longer present, the applicant must show that the fish are not extirpated or extinct in the area because of the facility*

and that the facility has made a legally binding commitment to provide any future fish passage recommended by a resource agency.

When no recent fish passage prescription exists for anadromous or catadromous fish, and the fish are still present in the area, the facility must demonstrate either that there was a recent decision that fish passage is not necessary for a valid environmental reason, that existing fish passage survival rates at the facility are greater than 95% over 80% of the run, or provide a letter prepared for the LIHI application from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service confirming the existing passage is appropriately protective.

Fish passage for Riverine fish is required only if there is a Mandatory Fish Passage Prescription. If there is no such Prescription, then there is no requirement for Riverine fish passage under LIHI certification criteria.

No mandatory fish prescriptions for anadromous or catadromous species were issued by federal or state resource agencies during the licensing of the Project in 1989.

The 2006 Environmental Assessment conducted for the neighboring project, Prospect Nos. 1, 2, and 4, reported that Spring Chinook salmon (*Oncorhynchus tshawytscha*) and winter steelhead (also called rainbow trout) (*Oncorhynchus mykiss*) may have historically migrated to the area. In all but the wettest years, however, a series of waterfalls on the South Fork Rogue River downstream of the diversion blocked passage. The William L. Jess Dam (formerly known as Lost Creek Dam) was constructed in 1977 without fish passage facilities, and it presents a complete fish passage barrier to upstream migration on the Rogue River. The William L. Jess Dam is operated by the Army Corps of Engineers and is located approximately 21 river miles downstream of the Prospect No. 3 diversion dam.

The Environmental Assessment conducted in 1988 in conjunction with relicensing of the Prospect No. 3 Project, as well as the Environmental Assessment conducted in 2006 for relicensing of the nearby Prospect Nos. 1, 2, and 4 Project, found that anadromous fish were

extirpated from the area due to downstream migration barriers that were unrelated to the Prospect facilities.

LIHI certification criteria do not require fish passage for riverine species when there is no mandatory prescription for anadromous or catadromous species. However, the following discussion of the riverine fish passage activities at Prospect No. 3 has been provided for full understanding of fish protection issues at this facility.

Improvements to existing fish passage facilities for riverine species were proposed by Pacific Power and Light Company following consultation with ODFW and USFWS, and adopted by FERC, as license Articles 403, 404 and 405. These facilities primarily benefit resident brook trout (*Salvelinus fontinalis*) and rainbow trout. Articles 403 and 404 of the license require modifying the existing upstream passage facility as well as the fish screening and downstream bypass facility. Article 405 requires PacifiCorp to develop a plan to evaluate the efficiency of the new upstream and downstream facilities.

Both the ODFW and the USFWS were consulted during the development of the fish passage designs and monitoring plans. As noted previously, design and implementation of the fish passage facilities were delayed for 6 years, pending adoption of statewide criteria to be used in the design process. In a letter dated September 7, 1994, which was provided as part of PacifiCorp's LIHI application, ODFW stated that PacifiCorp could proceed with implementing Articles 403, 404, and 405 because the Interim Fish Screen Policy had been finalized by the agency.

In a FERC Order dated February 14, 1995 (see Appendix B), FERC ordered that functional design drawings of the fish passage facilities be submitted to FERC (following agency review) by May 1, 1995, with installation by December 31, 1995. Pacific Power and Light Company filed for a rehearing, asking for an extension until December 31, 1995 for filing of the design drawings, and December 31, 1996 for completion of the fish passage facilities, which was approved by FERC in their Order dated July 3, 1995. PacifiCorp completed the planned modifications to the fish passage facilities in the fall of 1996.

In December 1995, PacifiCorp submitted the Fish Facilities Monitoring Plan to FERC, ODFW, and the USFWS. A letter from ODFW dated December 12, 1995 noted their satisfaction with the designs and monitoring plans. In a letter dated March 27, 1996, the USFWS formally stated their approval of the monitoring plan and the facility designs. (Both letters were provided by PacifiCorp in their LIHI application.) FERC approved the plans for the upstream and downstream fish passage facilities, as well as the plan for passage effectiveness studies, as required by Article 405, in their Order dated May 21, 1996 (see Appendix B).

In consultation with ODFW and USFWS, PacifiCorp tested and adjusted the upstream and downstream facilities to meet ODFW criterion for fish passage approach velocity. Initial studies indicated that the approach velocity of the downstream passage did not conform with state requirements. Physical modifications were implemented in 1998 and 1999. In accordance with Article 405 of the project license, PacifiCorp filed a monitoring report on the effectiveness of fish passage in September 2000. In a letter dated August 20, 2002 (submitted with the LIHI application), FERC accepted the findings, noting that no resource agencies had commented on the report and that the results “indicate that the facilities are functioning as designed.”

During discussions on August 24, 2010, Dave Harris of the ODFW identified that limited studies conducted in 2009 and 2010 on the South Fork have suggested that the trout population appears to be somewhat depressed. Although the data set is somewhat limited, it shows limited spawning trout and juveniles present. He believes that the presence of the numerous dams on the Rogue River system in this area, including Prospect No. 3, are preventing proper movement of the trout up and down the river, thus minimizing proper genetic mixing of the population. He stated that the fish passage at Prospect No. 3 has nine inch high steps, rather than the six inch steps more appropriate for trout. He also raised a concern regarding the 10 cfs minimum flow that is required by the FERC license at this Project. More current evaluations, such as those conducted for the Prospect Nos 1, 2 and 4 Project, indicate that 30 to 60 cfs is more appropriate for healthy fisheries in the river.

As noted in Section 4.0, concerns raised by Mr. Robert Burns of the USFWS in a discussion on August 31, 2010 were primarily related to those associated with Prospect Nos. 1,2 and 4 and as he believes are related to the Prospect No. 3 Project.

C. Fish Passage and Protection – There are no Mandatory Fish Passage Prescriptions for upstream and downstream passage at the Prospect No. 3 Project of anadromous and catadromous fisheries issued by Resource Agencies after December 31, 1986. Anadromous fish were extirpated from the area due to downstream migration barriers that were unrelated to the Prospect facilities. Upstream and downstream fish passage facilities for riverine species recommended by resource agencies during consultation at the time of licensing have been implemented and tested to be effective at their time of installation. FACILITY PASSES.

2.4 Criteria D - Watershed Protection

***Goal:** Sufficient action has been taken to protect, mitigate and enhance environmental conditions in the watershed.*

***Standard:** A certified facility must be in compliance with resource agency recommendations and FERC license terms regarding watershed protection, mitigation or enhancement. These may cover issues such as shoreline buffer zones, wildlife habitat protection, wetlands protection, erosion control, etc. The Watershed Protection Criterion was substantially revised in 2004. The revised criterion is designed to reward projects with an extra three years of certification that have: a buffer zone extending 200 feet from the high water mark; or, an approved watershed enhancement fund that could achieve within the project's watershed the ecological and recreational equivalent of land protection in D.1. and has the agreement of appropriate stakeholders and state and federal resource agencies. A Facility can pass this criterion, but not receive extra years of certification, if it is 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.*

The Prospect No. 3 Project does not have a designated buffer zone extending 200 feet from the high water mark around the impoundment, does not have an approved watershed enhancement fund equivalent to protection offered by a 200 foot buffer zone, nor is there a Settlement Agreement in place providing an equivalent shoreland buffer or watershed land protection plan for conservation purposes.

The entire impoundment is located on undeveloped National Forest land and is managed in accordance with US Forest Service (USFS) regulations. The FERC license also has specific Articles (101 through 109) requiring coordination with the USFS for items such as land disturbance, measures to protect natural resources, wastewater and solid waste management, oil or chemical spill response, and use of pesticides/ herbicides. Article 406 of the license requires the installation and an annual maintenance program for wildlife crossings and canal fencing. The crossings allow a variety of species to access habitat in the watershed, while the fencing prevents accidental drowning. The design of these features, as well as the annual maintenance program was reviewed by and found satisfactory by the USFS, USFWS and ODFW, according to FERC's Order dated September 7, 1989 (see Appendix B). Review of FERC's eLibrary indicates that PacifiCorp consults with the USFS annually (per Article 102) to ensure compliance with federal requirements associated with occupation on these federally owned lands and submits a report to FERC on its priorities for this program. Consultation with Mr. Kerwin Dewberry of USFS on September 1, 2010 has indicated that the consultation process between PacifiCorp and the USFS has been working well.

The FERC license also requires that a Soil Erosion and Sediment Control Plan be developed through consultation with the ODFW for any land disturbance activities. PacifiCorp's Plan was found to be satisfactory to the USFS, ODFW and USFWS and was approved by FERC Order dated March 2, 1990. That Plan would be used as the basis for any specific land disturbance activities at the Project.

D. Watershed Protection – A 200 foot designated buffer zone has not been required for dedication to conservation purposes nor is there an approved watershed enhancement fund
--

equivalent to protection offered by a 200 foot buffer zone. Likewise, there is no Settlement Agreement in place providing an equivalent shoreland buffer or watershed land protection plan for conservation purposes, nor is there has there been a recommendation by state and federal agencies for a shoreland management plan. The Facility, however, is in compliance with required natural resource management requirements of the USFS, due to the location of the reservoir entirely on National Forest land, as well as license conditions addressing habitat protection and erosion control .- FACILITY PASSES.

2.5 Criteria E - Threatened and Endangered Species Protection

Goal: *The facility does not negatively impact state or federal threatened or endangered species.*

Standard: *For threatened and endangered species present in the facility area, the facility owner/operator must either demonstrate that the facility does not negatively affect the species, or demonstrate compliance with the species recovery plan and any requirements for authority to “take” (damage) the species under federal or state laws.*

The Environmental Assessment that was conducted in 1988 for relicensing the project cited no threatened or endangered species in the project area. A more recent 2006 Environmental Assessment for the neighboring downstream projects, Prospect No. 1, 2, and 4, noted that the following federally listed species may potentially occur in the project area: Northern Spotted Owl (*Strix occidentalis caurina*), Gray Wolf (*Canis lupus*), and Canada Lynx (*Lynx canadensis*). The Gray Wolf is considered an "endangered", while the Northern Spotted Owl and Canada Lynx are listed as "threatened" under federal listing. It is interesting to note that the USFWS does not indicate the presence of Gray Wolf or Canada Lynx in Jackson County, but does show both species of occurring within the state of Oregon. (see Appendix B, List of Threatened, Endangered, Candidate Species and Species of Special Concern in Jackson County Oregon.)

PacifiCorp has stated that there has been no documented occurrence of gray wolves in western Oregon and no documented occurrence of Canada lynx in Oregon since 1974. The 2006 Environmental Assessment for Prospect Nos. 1, 2, and 4 reported that a northern spotted owl had

been sighted 0.5 mile east of the Middle Fork diversion (approximately 2 miles north of the Prospect No. 3 South Fork diversion). It also noted that a Bald Eagle (*Haliaeetus leucocephalus*) nest was located near Lost Creek Lake, approximately 20 miles downriver from the project. Although the bald eagle has been removed from the federal Endangered Species list, the state of Oregon continues to list the Bald Eagle as a threatened species.

The only adopted recovery plan for threatened and endangered species that may be present in the project area is the *Recovery Plan for the Northern Spotted Owl*, adopted by the USFWS in May 2008. A Recovery Outline for the Contiguous United States Distinct Population Segment of Canada Lynx (*Lynx canadensis*) has also been prepared by the USFWS, but it has not been finalized and adopted.

As noted above, the Bald Eagle is listed as a threatened species under the Oregon Endangered Species Act (ESA) (ORS 496.171 to 496.192 and 498.026). The species-recovery mechanism under the state ESA is limited to state-owned land, state-leased land and land over which the state has a recorded easement. In addition, endangered species management planning is limited to state agencies. Although the state ESA broadly prohibits *take* of listed species, the definition of *take* ("to kill or obtain possession or control") is narrower than that under federal law. Moreover, the state ESA also provides that "nothing in [the state ESA] is intended by itself to require an owner of any commercial forest land or other private land to take action to protect a threatened or endangered species or to impose additional requirements or restrictions on the use of private land." ORS 496.192(1).

The Prospect No. 3 Project is in compliance with the relevant recommendations in the *Final Recovery Plan for the Northern Spotted Owl*. This Recovery Plan provides broad guidance for agencies such as the USFS to manage forest habitat in specified areas for spotted owls on federal land. The reservoir of the Prospect No. 3 Project is located on USFS land. Since adoption of the Recovery Plan in 2008, PacifiCorp has not conducted any major construction activity that could potentially affect spotted owl habitat on USFS land. Project license articles require PacifiCorp to consult with the USFS prior to conducting any land-disturbing actions. PacifiCorp has confirmed

that compatibility of those activities with the Recovery Plan would be addressed at the time consultation is made if/when such a land disturbance project arises.

At the time of license issuance, no federally-listed species were known to occur in the Prospect No. 3 Project area requiring issuance of an "incidental take" authority. The Environmental Assessment stated that "the project would not affect any federally listed threatened or endangered species". A Finding of No Significant Impact was issued for Prospect No. 3. To assure continued protection for listed species, Prospect No. 3 license articles 101, 102, and 103 require a special use permit, fish and wildlife habitat mitigation plans, and continued consultation with the USFS and FERC, regarding new land disturbing activities on National Forest land.

E. Threatened and Endangered Species Protection – There are two threatened or endangered species listed under state or federal Endangered Species Acts potentially present in the Facility area, and one which is known to be present. The Project is in compliance with the Recovery Plan adopted for the Northern Spotted Owl, the only listed species in the Project area having an approved Recovery Plan. An "incident take" authority was not required for the Project. FACILITY PASSES

2.6 Criteria F - Cultural Resource Protection

Goal: *The facility does not inappropriately impact cultural resources.*

Standard: *Cultural resources must be protected either through compliance with FERC license provisions, or, if the project is not FERC regulated, through development of a plan approved by the relevant state, federal, or tribal agency.*

Article 407 of the project license requires PacifiCorp to consult with the SHPO, and develop a cultural resources management plan, prior to conducting any land-disturbance or land-clearing activities not specifically authorized in the original license. SHPO staff was contacted with regard to the canal fencing and related activities, however development of a cultural resources

plan was found to not be required. No other land-disturbance activities have been conducted requiring SHPO consultation. No issues have been identified by the SHPO regarding this Project (see January 27, 2010 letter in Appendix B).

F. Cultural Resources – The Facility is in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license - FACILITY PASSES.

2.7 Criteria G - Recreation

***Goal:** The facility provides free access to the water and accommodates recreational activities on the public's river.*

***Standard:** A certified facility must be in compliance with terms of its FERC license or exemption related to recreational access, accommodation and facilities. If not FERC-regulated, a facility must be in compliance with similar requirements as recommended by resource agencies. A certified facility must also provide the public access to water without fee or charge.*

Article 408 of the license required PacifiCorp to submit a recreation monitoring report summarizing recreational use and demand at the project every six years. PacifiCorp submitted monitoring reports that were approved by FERC in Orders dated March 6, 1995 and April 3, 2001, respectively. Due to the consistently low amount of recreational use in the project area, the latter Order also stated that further recreational monitoring under Article 408 was unnecessary (see Appendix B). Consultation at that time with the USFS and Oregon Parks and Recreation Division, found they concurred with the finding that there was no reason to develop recreational opportunities in the area. In response to a request made by PacifiCorp on June 8, 2009, FERC, in their Order dated March 3, 2010, exempted PacifiCorp from having to submit future FERC Form 80 Filings for the Project. A copy of that Order is contained in Appendix B. PacifiCorp provides free access to all Project lands that are not specifically excluded for operational security. The upstream portion of the Project which includes the impoundment, is on

USFS land, and therefore, access is also available without charge. Although accessible to the public, the one-acre impoundment is not considered to be a recreational facility.

No recreationally related deficiencies were found during the two most recent FERC Environmental and Public Use Inspections, conducted in 2007 and 2010.

G. Recreation – The Facility is in Compliance with all requirements regarding Recreation protection, mitigation or enhancement included in the FERC license and allows access to the reservoir and downstream reaches without fees or charges - FACILITY PASSES

2.8 Criteria H - Facilities Recommended for Removal

***Goal:** To avoid encouraging the retention of facilities which have been considered for removal due to their environmental impact.*

***Standard:** If a resource agency has recommended removal of a dam associated with the facility, certification is not allowed.*

No resource agency has recommended removal of the Prospect No. 3 Project dam.

H. Facilities Recommended for Removal – There are no Resource Agency Recommendations for removal of the dam associated with the Facility - FACILITY PASSES.

3.0 RECOMMENDATION

This application review was conducted by Patricia McIlvaine, Project Manager with Wright-Pierce. My review of PacifiCorp Hydro LLC's application for certification as a "low impact hydropower facility" under the criteria established by the LIHI consisted of the following:

- review of information submitted by the applicant both in the initial application package and in response to document requests and questions raised by me;
- review of additional documents obtained from the FERC on-line database and PacifiCorp's website available for public review; and
- consultation with the resource agency and non-governmental personnel listed in Section 4.0 of this report.

I believe that the Prospect No. 3 Project is currently in compliance with all of the criteria required for certification with the exception of Criteria B - Water Quality. Their commitment to ensuring compliance with all environmental, recreational and cultural resource obligations specified in their FERC license is apparent from review of the numerous documents and reports prepared by PacifiCorp and other documents available from FERC's eLibrary. However, the absence of a Water Quality Certificate, and lack of information proving, or even anecdotally suggesting, that the water quality in the vicinity of the Project meets all of the qualitative and quantitative standards established by ODEQ, does not allow the Project to be certified as a "low impact" facility under current LIHI certification criteria. While ODEQ's designation of the South Fork Rogue River as a "Category 2" waterway indicates that state water quality standards are being met, ODEQ has told LIHI that data are lacking to document compliance with all standards, and that reliance on the Category 2 designation is not appropriate. (See email dated September 1, 2010 from C. Stine in Appendix C.) Should PacifiCorp elect to conduct monitoring for the applicable quantitative standards, and those data demonstrate compliance with these numerical requirements, than this criterion could be satisfied.

LIHI criteria do not require fish passage for riverine species if there were no mandatory prescriptions for anadromous or catadromous species. With regard to comments issued by the ODFW and USFWS, while fish protection measures for riverine species may be more protective

than what is currently in-place if the Project were licensed today, the current measures do comply with the requirements determined appropriate at the time of licensing, and up to 1996, when ODFW and USFWS approved the designs of the fish passage and screens. Based on application of the measures prescribed in the current LIHI criterion for fish passage and protection, the concerns expressed as to the health of the trout in the vicinity of the Project, in part due to the design of the existing fish passage, now determined to potentially be less suitable for trout than larger anadromous species, are not sufficient to deem failure of this criterion as it is currently established. As such, I believe LIHI's criterion for fish passage and protection are met, even though limited data from 2009 and 2010 suggest that the existing trout populations may not be as healthy as desired (and expected) by the ODFW at this time.

Also, I believe it is appropriate that Prospect No. 3 Project be evaluated based on the merits of that project alone, and not be combined with issues that may be associated with Prospect Nos. 1, 2 and 4 Projects, also owned by PacifiCorp. LIHI's certification process allows an applicant to choose to submit a consolidated application for multiple facilities in a watershed that are operationally or hydrologically connected, but requires that each facility independently qualify under all criteria. The LIHI process also allows for a total watershed protection requirement for multiple facilities to be submitted as a package, and evaluated as such, as long as the total Watershed Protection required for each facility is met. However, the LIHI process does not require that projects that may be viewed as being operationally or hydrologically connected facilities be evaluated jointly. Thus, I do not believe that operational coordination and use of common water flow between Prospect No.3 and Prospect Nos. 1, 2 and 4 Projects necessitate that the projects be considered jointly in terms of LIHI certification review.

4.0 RECORD OF COMMUNICATIONS

This section documents the contacts made with resource agencies and the applicant during the review of this application. A summary of the comments are included. Where the communications were by email, a copy of the email is contained in Appendix C. The Oregon State Historic Preservation Office was not contacted as no cultural resource issues were identified.

Communications Made

Dates of Communication	Various emails
Application Reviewer	Patricia McIlvaine
Persons Contacted	PacifiCorp Hydro LLC Mr. Mike Ichisaka, Hydro Resources Staff
Telephone and/or email address	Mike.Ichisaka@pacificorp.com
Appendix D contains a copy of emails sent to and received from M. Ichisaka. Inquiries were made of PacifiCorp on a variety of topics, seeking information on information not originally provided and not available from FERC's eLibrary. See individual emails for the specific issues.	

Date of Communication	Telephone call on 08/23/10. Email on 8/23/10. Discussion on 08/24/10.
Application Reviewer	Patricia McIlvaine
Person Contacted	Mr. Chris Stine Oregon Department of Environmental Quality
Telephone and email	541-686-7810 stine.chris@deq.state.or.us
Mr. Stine reported stated he needed to review available data on the project before he could comment fully. He was not aware of the NPDES permit issued to the project, which I forwarded to him by email. Appendix C contains an email received from him dated September 1, 2010.	

Date of Communication	Telephone messages on 08/19, 8/23, 8/25 and 9/1/10. Email on 8/23/10
Application Reviewer	Patricia McIlvaine
Person Contacted	Mr. Kerwin Dewberry District Ranger United States Forest Service
Telephone	541-560-3400
Although I did not speak to Mr. Dewberry, he did leave a message in response to several calls I placed. He confirmed that PacifiCorp has been cooperative regarding the annual consultation with the Forest Service. He felt that PacifiCorp has been in compliance with requirements associated with the Forest Service.	

Date of Communication	Telephone messages on 08/19/10 Conversation on 8/24/10.
Application Reviewer	Patricia McIlvaine
Person Contacted	Mr. Dave Harris Biologist Oregon Department of Fish and Wildlife
Telephone and email address	541-440-3353; Dave.A.Harris@ state.or.us
Dave Harris identified that limited studies conducted in 2009 and 2010 on the South Fork have suggested that the trout population appears to be somewhat depressed. Although the data set is somewhat limited, it shows limited spawning trout and juveniles present. He believes that the presence of the numerous dams on the Rogue River system in this area, including Prospect No. 3, are preventing proper movement of the trout up and down the river, thus minimizing proper genetic mixing of the population. He stated that the fish passage at Prospect No. 3 has nine inch high steps, rather than the six inch steps more appropriate for trout. Mr. Harris also indicated concern as to the adequacy of the 10 cfs minimum flow established at the time of licensing of this Project. He reported that more current studies performed for the nearby Prospect Nos. 1, 2 and 4 Project require a minimum flow of 30 cfs and 60 cfs, dependant on the season, for healthy fisheries. His opinion is that while the Prospect No. 3 Project is generally in compliance with its license minimum flow condition of 10 cfs, these flow levels may also be impacting the trout populations. In an email dated 8/26/10 Mr. Harris provided data form recent trout investigations, photographs illustrating the concerns raised about high the flow in the fishway, and information from Justin Miles, a fisheries specialist with the ODFW regarding the health of the trout population in the area of Prospect No. 3. A copy of this email is included in Appendix C. The data and photographs have been provided as back-up information to, but not part of, this report.	

Date of Communication	Telephone message on 08/19, 8/23 & 08/25/10. Conversation on 8/31/10
Application Reviewer	Patricia McIlvaine
Person Contacted	Mr. Robert Burns United States Fish and Wildlife Service
Telephone	541-957-3477
<p>Mr. Burns stated he does not support certification of the project as "low impact". His primary reason is that he believes that Prospect No. 3 must be considered jointly with Prospects Nos. 1, 2 and 4, and that recommendations from both USFWS and ODFW were not adopted in the FERC license for Prospects Nos. 1, 2 and 4. These recommendations included both fish passage and wildlife crossing recommendations. Contrary to the agency recommendations, no fish passage was required in the 2008 license, even though earlier licensing in the 1960's did require fish passage. Also PacifiCorp only agreed to widen the wildlife crossings to 12 feet, and not 36 feet as recommended, and agreed to, by PacifiCorp at another upstream hydro project. He also stated that there have been many unscheduled ramping events at Prospect Nos. 1,2 and 4. Mr. Burns did state that the Northern Spotted Owls known to exist in the area are located sufficient far from Prospect No. 3, such that they would not be impacted by this Project.</p>	

APPENDIX A

COMMENT LETTERS RECEIVED BY LIHI

Hello,

I have two questions regarding the LIHI Pending Application ---
(FERC No. 2337) Prospect No. 3 Hydroelectric Project on the South
Fork of the Rogue River, Oregon.

Are there assessments on how effective release flows at the dam into
the “bypassed reach” are for producing native fish habitat or on water
quality?

Are the ladders and fish screens regularly maintained?

Thank you,

lesley.

--

Lesley Adams, Rogue Riverkeeper
Klamath-Siskiyou Wildlands Center
PO Box 102
Ashland, Oregon 97520
541.488.5789
www.kswild.org

LIHI Pending Application --- (FERC No. 2337) Prospect No. 3 Hydroelectric Project on the South Fork of the Rogue River, Oregon

LIHI also received a response to the Rouge Riverkeeper from PacifiCorp on March 10, 2010:

"Hi, Lesley,

Thanks for your interest in our application for low impact hydro certification for the Prospect No. 3 hydro project.

Our responses to your questions follow:

Question: Are there assessments on how effective release flows at the dam into the "bypassed reach" are for producing native fish habitat or on water quality?

Response: During the FERC relicensing process, various flows were evaluated through the instream incremental flow modeling (IFIM) and wetted perimeter studies. FERC summarized these studies in the relicensing Environmental Assessment (FERC, 1988, pages 9-12) and concluded that:

"Suitable minimum flows must be maintained in the South Fork for the protection of the trout populations. The instream flow study results and the wetted perimeter observations show that a 10-cfs minimum flow release from the project dam would maintain fry habitat and would increase juvenile and adult habitat in the 3.5-mile-long reach downstream of the dam. Therefore, the licensee should release a 10-cfs minimum flow from the project dam for the protection of the fish resources in the South Fork."

Therefore, it was FERC's conclusion during relicensing that bypass flows provided as part of the new license would be adequate for aquatic resources (presumably, both fish habitat and water quality).

Further, PacifiCorp entered into a settlement agreement with ODFW on October 24, 2006, that provides funding of \$1 million (escalated 2006 dollars) through 2018. The purpose of this funding is, in part, to study resident trout and enhancement of their habitat upstream of Lost Creek Reservoir. We do not yet have results of such studies from ODFW, but this effort should entail evaluation of the effectiveness of bypass flows provided at the Rogue River hydro projects.

Question: Are the ladders and fish screens regularly maintained?

Response: Yes, the ladder and screens are inspected 2-3 times per week. Major maintenance on the screens is scheduled annually.

I hope this addresses your questions. Let me know if you have any further questions, or call me at (503) 813-6629. Monte Garrett, PacifiCorp

Note: LIHI's servers were down during the period that the PacifiCorp response was filed and as a result the response wasn't posted on the web site until late April. We also note that Monte Garret's email response was mailed to Lesley Adams, Rogue Riverkeeper on March 10, 2010.



Oregon

Theodore R. Kulongoski, Governor

Department of Fish and Wildlife

Umpqua Watershed District Office

4192 North Umpqua Highway

Roseburg, OR 97470

(541) 440-3353

FAX (541) 673-0372



May 5, 2010

Mr. Fred Ayer
LIHI Executive Director
34 Providence Street
Portland, ME 04103

Subject Comments on proposed certification of the Prospect 3 Hydropower Project (FERC No. 2337)

Dear Mr. Ayer:

The Oregon Department of Fish and Wildlife (ODFW) received your letter of December 31, 2009, requesting comments from our office on the application for certification of the Prospect 3 Hydroelectric Project (Project) by the Low Impact Hydropower Institute (LIHI).

ODFW was involved with the relicensing of this Project in the 1980's. We have reviewed the eight-certification criteria hydropower projects must meet to be certified through the LIHI Certification process. It is our understanding that a hydropower facility must meet all eight certification criteria to become certified as a Low Impact Hydropower Facility and thus be able to use this certification when marketing power to consumers.

In 2009 LIHI solicited comments regarding proposed modifications to its criteria for certification; however LIHI has not yet implemented the new proposed criteria. The new LIHI criteria would require that fish and wildlife recommendations to be filed post-1990. ODFW's fish and wildlife recommendations for the Project were filed post-1986 but pre-1990,

Recommendations made in the late 1980's for screens, fish ladders, and minimum instream flows would not meet ODFW current criteria. Screen criteria now must meet approach and sweeping velocities, while fish ladder step criteria is now 6 inches, which was not the standard in the 1980's. ODFW now considers other ecological factors while setting instream minimum flows.

ODFW feels that LIHI's review the of Prospect 3 Hydropower Project should also consider the impacts of the Prospect 1, 2 & 4 Project which shares the same watershed. Prospect 3 generates power by diverting water from the South Fork Rogue River then transfers the same water via a siphon to the to the Prospect 1, 2 & 4 Hydropower Project. The Prospect 1,2 & 4 Hydropower Project was recently licensed by FERC without adopting fish and wildlife agency recommendations for protective screens at an of the three diversions, and fish passage at two of the three diversion dams. The Prospect 3 Hydropower Project should not be certified by LIHI because it has outdated mitigations measures, and it has a watershed and operations nexus with Prospect 1, 2 & 4 Hydropower Project that will impact fish and wildlife resources for the next 30 years.

Therefore, we suggest that this certification not be issued until present mitigations measures can be implemented.

Thank you for the opportunity to review this proposal. Please contact Ken Homolka (503) 947-6090 or myself at (541) 440-3353 to discuss these comments.

Sincerely,

A handwritten signature in cursive script that reads "David A. Harris".

David A. Harris
Southwest Region Hydropower Coordinator

cc: Ken Homolka, ODFW, Salem, Oregon (e)
Dan Van Dyke, ODFW, Central Point, Oregon (e)
Rob Burns, USFWS, Roseburg, Oregon (e)
Craig Kohanek, OWRD, Salem, Oregon (e)
Chris Stine, ODEQ, Eugene, Oregon (e)

May 14, 2010

Fred Ayer
Executive Director
Low Impact Hydropower Institute
34 Providence Street
Portland, Maine 04103

RE: Pending Application for Low Impact Hydropower Certification of the
Prospect No. 3 Facility

Low impact hydropower certification (Certification) is a process by which hydropower projects may be evaluated to determine that specific projects are 1) well sited and operated so that environmental impacts are minimized; and 2) in compliance with resource agency recommendations with respect to established certification criteria. Hydropower dams, like all generation resources, have both positive and negative environmental impacts. Certification does not require that a hydro project have no environmental impacts (LIHI Guidelines, Part I, p. 7). The objective of Certification is to provide a credible and accepted standard for consumers to use in evaluating hydropower.

PacifiCorp Energy's application for Certification of the Prospect 3 Hydroelectric Project was posted on the LIHI website in December 2009. A comment letter from Oregon Department of Fish and Wildlife (ODFW) was subsequently posted on the LIHI website. The comment letter states objections to Certification of the Prospect 3 facility, based on the age of the agency fish passage recommendations and the relationship of the project to the Prospect Nos. 1, 2 & 4 Hydroelectric Project.

While PacifiCorp Energy (PacifiCorp) respects the right of the ODFW to raise concerns about the impacts of hydropower, PacifiCorp believes that the Prospect 3 project meets criteria established by LIHI for Certification. Specifically, the Prospect 3 project is in compliance with 1) the most recent, environmentally stringent, resource agency recommendations (that were filed after the Electric Consumer's Protection Act of 1986), issued pursuant to a proceeding; 2) requirements of the Clean Water Act and the Endangered Species Act; and 3) license requirements issued by the Federal Energy Regulatory Commission (LIHI Guidelines, Part VI(C)).

The following is a summary of ODFW's comments and PacifiCorp's responses:

ODFW commented that their fish and wildlife recommendations were filed post-1986 but pre-1990. The new proposed LIHI criteria for certification indicate that fish and wildlife recommendations must be filed post-1990. ODFW recommendations made in the late 1980s for screens, fish ladders, and minimum instream flows would not meet ODFW current criteria (including sweeping velocities for fish screens, 6-inch ladder step criteria, and ecological factors

Mr. Fred Ayer
May 14, 2010
Page 2

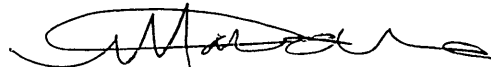
for instream flow). However, the current LIHI criteria require compliance with agency recommendations issued after 1986. Additionally, PacifiCorp continued to work with ODFW and USFWS to adjust the designs of the ladders and screens to meet agency current recommendations *through 1996* when final designs were approved by those agencies. The attachments to the questionnaire document PacifiCorp's cooperation with resource agencies to implement the state-of-the-art ladder and screen designs.

ODFW also commented that the Prospect 3 project has a watershed and operations nexus with the Prospect 1, 2, & 4 project, which was licensed without adopting fish and wildlife agency recommendations for protective screens at any of the three diversions, and fish ladders at two of the three diversion dams. ODFW feels that the impacts of the Prospect 1, 2, & 4 project should be considered. However, PacifiCorp has not applied for Certification at the Prospect 1, 2, & 4 project, so this comment is not relevant. The Prospect 3 project is a separate facility that is licensed independently and located in a different area of the Rogue River watershed, isolated from the Prospect 1, 2, & 4 project. While some of the tailrace water leaving the Prospect 3 project can be diverted into the Prospect 1, 2, & 4 project, the diversion of water is an independent operational decision related to the Prospect 1, 2, & 4 project, and such diversion downstream of the Prospect 3 tailrace is unassociated with operation of the Prospect 3 project.

PacifiCorp feels that the decision by the FERC not to adopt fish passage at the Prospect 1, 2, & 4 project should not be a determining factor in the Certification of the Prospect 3 project. The relicensing environmental assessments for the Prospect 3 and Prospect 1, 2, & 4 projects were conducted independently, each evaluating the respective projects on their own merit. As previously noted, agency recommendations for fish passage were adopted for the Prospect 3 project and the facilities were designed with input from ODFW and USFWS to meet the newest criteria available at that time (mid 1990s).

PacifiCorp is committed to providing low-cost renewable hydropower at its hydroelectric facilities in an environmentally responsible manner. The Prospect 3 project is in compliance with the FERC license and state and federal laws. The goal of PacifiCorp's hydropower project operation is to balance clean, renewable energy for our customers while demonstrating stewardship of resources in the vicinity of our projects, and we appreciate your consideration for low impact hydropower certification.

Sincerely,



RL

Randy Landolt
Hydro Resources, Managing Director

cc: Monte Garrett – PacifiCorp
Mike Ichisaka – PacifiCorp
Todd Olson – PacifiCorp

APPENDIX B

FERC ORDERS AND RESOURCE AGENCY DOCUMENTS REFERENCED IN THIS REVIEW REPORT



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

June 7, 1985

RECEIVED
JUN 10 1985
ENGINEERING

S. A. de Sousa
Manager, Civil Engineering
Pacific Power & Light Company
920 S.W. 6th Avenue
Portland, OR 97204

Re: FERC No. 2337
Prospect No. 3
Hydroelectric Project
Rogue River, Oregon
Jackson County

Dear Mr. de Sousa:

This is a reply to your letter of March 15, 1985, in which you invite our comments on the matter of relicensing the above referenced project.

The project complies with applicable conditions of the Federal Clean Water Act. It operates under a National Pollutant Discharge Elimination System (NPDES) general permit issued by the Oregon Department of Environmental Quality on March 24, 1981.

Sincerely,

Glen D. Carter
Principal Environmental Analyst
Source Control Section
Water Quality Division

GFC:h
WH138

cc: Federal Energy Regulatory Commission
Oregon Fish & Wildlife Department

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Project No. 2337-029
Oregon

ORDER GRANTING EXTENSION OF TIME
(ISSUED FEBRUARY 14, 1995)

The licensee for the Prospect No. 3 Hydroelectric Project has requested an extension of time to comply with the requirements specified in articles 403, 404, and 405 of its license.¹ Specifically, the licensee has requested an extension of time to December 31, 1995, to provide the Commission with its functional design drawings and monitoring plans based on Oregon Department of Fish and Wildlife (ODF&W) interim policies and standards.

The reasons advanced by the licensee in support of the requested 12-month extension of time are not persuasive. However, for the reasons stated below, the licensee will be granted an extension of time until May 1, 1995, to file its functional design drawings and monitoring plans for fish facilities required by articles 403, 404, and 405. Further, the licensee must have those fish facilities installed no later than December 31, 1995.

Article 403 requires the licensee to consult with the ODF&W and the U.S. Fish and Wildlife Service (USF&WS) and file, for Commission approval, functional design drawings of the downstream fish passage facilities, including the fish screening structure and bypass. Article 404 requires the licensee to consult with ODF&W and USF&WS and file, for Commission approval, functional design drawings of the upstream fish passage facilities. Article 405 requires the licensee to consult with ODF&W and USF&WS and file, for Commission approval, copies of the monitoring plans and the implementation schedules, along with comments from the consulted agencies on the plans and schedules.

On January 26, 1990, the licensee requested an extension of time to comply with articles 403, 404, and 405 until six months following the publication of ODF&W's statewide design criteria for fish screening. By Commission order dated February 7, 1990, the licensee was granted until June 30, 1991, to comply with articles 403, 404, and 405 of its license.

1 48 FERC 62,173 (1989).

-2-

On September 10, 1991, the licensee requested another extension of time to comply with the three license articles. In support of its request, the licensee stated that the additional time was needed since the state had not finalized the statewide criteria for the statewide fish protection facilities. By Commission order dated October 9, 1991, the licensee was granted until December 31, 1992 to comply with its license articles.

On December 17, 1992, the licensee requested until December 31, 1994, to comply with the subject and was denied. However, by Commission order dated January 25, 1993, the licensee was granted until December 31, 1993, to comply with articles 403, 404, and 405.

On December 28, 1993, the licensee requested another extension request to comply with articles 403, 404, and 405. The licensee and the ODF&W agreed to postpone a decision on the selection of specific project fish facilities until statewide fish protection facility criteria were finalized. By Commission order dated February 1, 1994, the licensee was granted until December 31, 1994 to comply with its license articles.

In its latest request, the licensee is requesting an extension of time until December 31, 1995, to provide the Commission with its functional design drawings and monitoring plans based on interim policies and standards for design and construction of fish screening systems contained in ODF&W's "Fish Screen Policy", dated September 7, 1994. Since ODF&W anticipates little change to these "interim" policies and standards, it recommends that the licensee proceed with the design of project fish facilities.

We conclude that the licensee should immediately proceed to prepare its functional design drawings and monitoring plans to provide the facilities. The licensee should provide the drawings and plans to the resource agencies for their comments by March 31, 1995. The licensee should file the functional design drawings and monitoring plans for Commission approval by May 1, 1995, and have the facilities installed no later than December 31, 1995.

The licensee must proceed with due diligence and make every effort to complete installation of the fish passage facilities according to the deadline granted in this order.

The Director orders:

(A) The licensee shall file the functional design drawings and monitoring plans, including the comments of the U.S. Fish and Wildlife Service and the Oregon Department of Fish and Wildlife, by May 1, 1995.

-3-

(B) The licensee shall complete installation of the fish passage facilities required by articles 403, 404, and 405, no later than December 31, 1995.

(C) Unless otherwise directed in this order, the licensee shall file an original and eight copies of any filing required by this order with:

The Secretary
Federal Energy Regulatory Commission
Mail Code: DPCA, HL-21.1
825 N. Capitol St., NE
Washington, DC 20426

In addition, the licensee shall serve copies of these filings on any entity specified in this order to be consulted on matters related to these filings. Proof of service on these entities shall accompany the filings with the Commission.

(D) 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.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

72 FERC ¶ 61,004

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Elizabeth Anne Moler, Chair;
Vicky A. Bailey, James J. Hoecker,
William L. Massey, and Donald F. Santa, Jr.

PacifiCorp)

Project No. 2337-034

ORDER GRANTING REHEARING

(Issued July 3, 1995)

On December 21, 1994, PacifiCorp requested a one-year extension of time, until December 31, 1995, to submit plans for fish passage facilities at its Prospect No. 3 Hydroelectric Project No. 2337, located on the South Fork Rogue River, on lands within the Rogue River National Forest, in Jackson County, Oregon. On February 14, 1995, the Director, Division of Project Compliance and Administration, Office of Hydropower Licensing (Division Director), granted the request in part, giving PacifiCorp a five-month extension, until May 1, 1995, to file the required plans. PacifiCorp filed a timely request for rehearing of the February 14 order, asserting that it needed the full year that it had requested. For the reasons discussed below, we will grant PacifiCorp's request for rehearing.

BACKGROUND

In January 1989, a new license was issued to PacifiCorp, authorizing the continued operation of the 7.2-megawatt Project No. 2337. 1/ As explained in Commission staff's Environmental Assessment (EA) for the project, which was attached to, and made a part of, the new license, the South Fork Rogue River in the project area supports a coldwater fishery comprised predominantly of brook and rainbow trout. 2/ Existing downstream fish screening is ineffective in preventing entrainment of fish into the power canal. The existing upstream fish passage facilities, a 14-step weir and pool ladder, are also inadequate; improper maintenance has resulted in inadequate flow control and pool formation through the ladder, producing hydraulic characteristics confusing to fish attempting to move upstream. The Oregon Department of Fish and Wildlife (Oregon) recommended, and the licensee and Commission staff agreed, that any new fish passage

1/ 46 FERC ¶ 62,085.

2/ 46 FERC at p. 63,110. Anadromous fish do not occur in the project area because of migration barriers located downstream.

9507100259

FERC - DOCKETED
JUL 3 1995

Project No. 2337-034

- 2 -

facilities should be designed and constructed according to Oregon criteria. Design criteria for fish screening for downstream passage were, at the time of relicensing, being revised by Oregon. 3/

The new license accordingly required PacifiCorp to consult with Oregon and the U.S. Fish and Wildlife Service (FWS) and file, for Commission approval, plans for upstream and downstream fish passage facilities (license Articles 404 and 403, respectively), and a monitoring plan to evaluate the efficiency of the fish passage facilities (license Article 405). 4/ The fish passage plans required by Articles 403 and 404 must include functional design drawings of the facilities, quantification of flows needed to operate the facilities, and construction schedules.

The deadline for filing the required plans was six months from the date the license was issued, i.e., by July 31, 1989. Because Oregon had not yet completed its criteria for fish passage facilities, PacifiCorp requested, and was granted extensions of the filing deadline to December 31, 1994. 5/

On December 21, 1994, PacifiCorp filed its latest extension request, in which it asked for a one-year extension, until December 31, 1995, to file the required plans. PacifiCorp stated that, on September 7, 1994, it received Oregon's Fish Screen Policy, which contained interim policies and standards for design and construction of fish screening systems. PacifiCorp reported that Oregon anticipated little change to these policies and standards and recommended that PacifiCorp proceed with the design of facilities for the project.

3/ See id.

4/ See 46 FERC at p. 63,103 for the text of license Articles 403 through 405.

5/ On February 7, 1990, PacifiCorp received a two-year extension, until June 30, 1991. On October 9, 1991, the deadline was extended for an additional eighteen months, until December 31, 1992. On January 25, 1993, PacifiCorp received a one-year extension, until December 31, 1993. On February 1, 1994, the deadline was extended for an additional year, until December 31, 1994. All the above orders were unpublished.

Project No. 2337-034

- 3 -

On February 14, 1995, the Division Director issued an order granting PacifiCorp's request in part. 6/ The order required PacifiCorp to submit the functional design drawings and plans required by Articles 403, 404, and 405 to the agencies for their comments by March 31, 1995, and to file them with the Commission by May 1, 1995. 7/

On March 15, 1995, PacifiCorp filed for rehearing of the Division Director's order, stating that it cannot meet the March 31 and May 1, 1995 deadlines. PacifiCorp explains that a meeting was scheduled for March 14, 1995, so that it, Oregon, and FWS could discuss the criteria to be used for the design of the fish facility, since the Oregon statewide design criteria for fish screening does not address certain specific issues germane to PacifiCorp's plans.

PacifiCorp states that, following this meeting, it will require approximately nine weeks (i.e., by May 16, 1995) to develop and competitively bid the design work contract. PacifiCorp estimates that a design for the fish passage facilities can be produced within 26 weeks of awarding a contract (i.e., by November 14, 1995). At this point, PacifiCorp would provide the design drawings to Oregon and FWS for their review. 8/ Based on this schedule, PacifiCorp requests that it be given until December 31, 1995, to submit the design drawings to the Commission. 9/

-
- 6/ This provided nearly eight months after the receipt of Oregon's Fish Screen Policy for PacifiCorp to design the facilities and submit a plan to the Commission for approval.
 - 7/ The order also directed PacifiCorp to have the facilities installed no later than December 31, 1996.
 - 8/ On March 21, 1995, Oregon filed a letter in support of providing PacifiCorp additional time.
 - 9/ At p. 3 of its rehearing request, PacifiCorp requests an extension of time until December 31, 1995, to submit the plans and drawings to the "agencies." Inasmuch as this is inconsistent with the specific schedule proposed at p. 2 of its rehearing, we assume that at p. 3 PacifiCorp meant the Commission when it wrote "agencies."

Consistent with the requirement of the February 14, 1995 order (see n. 7, supra), Pacificorp anticipates that construction of the facilities will start at the beginning of the low-flow period during the summer of 1996 and be completed by the end of 1996.

Project No. 2337-034

- 4 -

DISCUSSION

As part of the process for installing effective fish passage facilities at Project No. 2337, PacifiCorp's license initially required it to submit the materials required by Articles 403, 404, and 405 by mid-summer 1989. Most of the six-year delay in the preparation of these materials is attributable to the wait for Oregon's statewide criteria, which PacifiCorp will use in designing its fish passage facilities. With the promulgation of Oregon's interim fish-screening policies and standards in September 1994, PacifiCorp can move forward with the preparation of the required filings. However, while the planning and construction of these fish passage facilities must occur as soon as possible, we agree that, given the March 14 meeting to discuss the criteria to be used, the May 1, 1995 deadline set in the February 14, 1995 order did not allow sufficient time for PacifiCorp to prepare adequate filings. ^{10/} The schedule proposed by PacifiCorp appears reasonable. Therefore, we will give PacifiCorp until December 31, 1995, to file the required plans and drawings.


The Commission orders:

(A) PacifiCorp's March 15, 1995 request for rehearing of the February 14, 1995 order of the Director, Division of Project Compliance and Administration, Office of Hydropower Licensing, in this proceeding is granted.

(B) PacifiCorp shall file the functional design drawings and plans required by Articles 403, 404, and 405 of its license by December 31, 1995. The filing must include comments of the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

By the Commission.

(S E A L)


Linwood A. Watson, Jr.,
Acting Secretary.

^{10/} PacifiCorp would have had less than two weeks to prepare the filings and submit them to the agencies by the March 31 deadline set in the Division Director's order.

75 FERC ¶ 62,139

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

) Project No. 2337-036, -038
and -039

ORDER APPROVING FISH PASSAGE AND EVALUATION PLANS

MAY 21 1996

On December 29, 1995, PacifiCorp (licensee) filed a downstream fish passage plan under article 403, an upstream fish passage plan under article 404 and a fish passage evaluation plan under article 405 of the license for the Prospect No. 3 Project. The project is located in Jackson County, Oregon, on the South Fork Rogue River. The project occupies lands of the United States within the Rogue River National Forest.

Article 403 requires the licensee, after consultation with the Oregon Department of Fish and Wildlife (DFW) and the U.S. Fish and Wildlife Service (FWS), to file a downstream fish passage plan for Commission approval. Article 403 further stipulates that the plan contain functional design drawings of the fish passage facility, a quantification of flows needed to operate the facility, and a schedule for construction and operation of the facility.

Article 404 requires the licensee, after consultation with the DFW and the FWS, to file an upstream fish passage plan for Commission approval. Article 404 further stipulates that the plan contain functional design drawings of the fish passage facility, a quantification of flows needed to operate the facility, and a schedule for construction and operation of the facility.

Article 405 requires the licensee, after consultation with the DFW and the FWS, to file a plan and implementation schedule to evaluate the effectiveness of the downstream and upstream fish passage facilities required by articles 403 and 404 respectively. Article 405 further stipulates that the results of the studies shall be submitted to the Commission according to the approved schedule. If the results of the evaluation study indicate that modifications to project structures or operations are necessary to minimize adverse effects to fish resources, the licensee also shall file, for Commission approval, recommendations for modifying the facilities along with comments from the consulted agencies.

BACKGROUND

The project boundaries are completely contained within the Rogue River National Forest. The run-of-river project makes use of a 24-foot-high, 172-foot-long dam impounding approximately 1 acre. Water for power production is diverted into a 15,952-foot-

9606030065

FERC - DOCKETED
1316
MAY 21 1996

Project No. 2337-036 et al. -2-

long conduit system to the powerhouse where it passes through a turbine (rated at 7,200 kilowatts) and into another canal.

In the project area (mile 10.5 of the South Fork Rogue River), the South Fork Rogue River supports a coldwater fishery comprised predominantly by rainbow trout and brook trout. Cutthroat trout are reported to inhabit the project area, but no individuals were captured during sampling. Anadromous fish do not occur in the project area because of migration barriers located downstream (the Corps of Engineers has a dam below the project which completely blocks upstream migration).

The project is currently equipped with a fish screening and downstream passage facility and a weir and pool upstream passage facility. However, high velocities and a poorly designed bypass orifice have rendered the downstream facility ineffective. Similarly, the licensee evaluated the efficiency of the upstream facility and determined that rainbow trout experience difficulty and delay in attempting to use the existing ladder. The efficacy of the existing facility is limited by excessive exit water velocities, flooding of the lower pools, and disrepair.

Based upon a study it conducted, the licensee determined that fish begin ascending the ladder in late April with the peak occurring in late May and early June. All 45 fish collected from the ladder were rainbow trout. In the intake canal, entrainment peaked in mid-July. Of the 24 fish entrained 21 were rainbow trout. The remainder were brook trout.

DOWNSTREAM FISH PASSAGE FACILITY

The licensee proposes to install a downstream fish passage facility consisting of a wedge-wire inclined plane screen installed in a rectangular canal section approximately 140 feet downstream of the headgate. The screen will operate with an approach velocity of 0.75 foot per second and bypass flow past the screen will range from 6 to 15 cubic feet per second. Backwashing the screen by rotating the screen along its horizontal axis will allow for debris removal. The entrance to the fish bypass will be located at the tapered end of the screen and consist of an open flume. Bypassed fish will be discharged into pool 6 of the fish ladder. The licensee is proposing to begin construction of the facility in June and complete construction by October.

The project's programmable logic controller (PLC) will continuously monitor debris accumulation via water level fluctuations. When excessive accumulations are detected, the PLC will automatically initiate the automated backwash sequence. Project operators will perform functional tests of the backwash system monthly and inspect the screen for residue (not removed by backwashing) weekly. Project operators will rotate the screen to

Project No. 2337-036 et al. -3-

a neutral position, allowing debris to flow unimpeded past the facility, in late fall (leaf litter) and during conditions that may form ice or slush. As an additional precaution, project operators will remove the screen assembly during periods when frazil ice formation is likely.

UPSTREAM FISH PASSAGE FACILITY

The licensee proposes to modify the existing facility to repair identified deficiencies, improve efficiency, and reduce future maintenance. Proposed modifications will consist of:

- (1) repair and raise deflector wall at base of spillway;
- (2) reduce width of pool 1 entrance;
- (3) replace weirs 2 and 3 (between pools 1 and 2 and 2 and 3, respectively);
- (4) modify remaining weirs to provide a 3-foot-wide crest;
- (5) raise south and west walls of ladder approximately 1 foot; and
- (6) build an additional weir dividing the uppermost pool in two.

The project operators will inspect the ladder weekly during the migration period (April through July) to identify debris blocking the entrance, exit, and the intervening weir slots. Operators will clear any debris jams from the ladder. Finally, annual inspections will be conducted to remove excessive bed load from ladder pools.

The licensee is proposing to begin modifications to the facility in June and complete construction by October.

EVALUATION STUDY

The licensee proposes to evaluate the effectiveness of the upstream facility by measuring water velocity at the entrance to pool 1, flow through the ladder, and water differential across weirs. These measurements will be taken during a high flow period (June) and a low flow period (August or September). The licensee will then compare these measured values against established criteria for the operation of fish ladders. This will ensure that the modified fish ladder provides unrestricted access for upstream migrating rainbow trout.

In order to evaluate the downstream passage facility under worst case conditions the facility will be evaluated during a low flow period. During a low flow period the greatest relative proportion of total project flow is being diverted. Three trials will be conducted for each of 2 size classes of rainbow trout (60 to 100 mm and 110 to 150 mm). Each trial will consist of releasing and recapturing 100 fish (50 from each size class).

Project No. 2337-036 et al. -4-

Test fish will be introduced into the canal upstream of the screening facility. The collection facility will consist of an inclined plane screen and live box sampling the entire fish bypass flow. The licensee will monitor the live box to quantify the number and physical condition of successfully bypassed fish.

The licensee proposes to submit a report summarizing physical parameters of the upstream facility and the effectiveness of the downstream facility for agency comment in January, 1998. The final report will be submitted to the Commission by April 1, 1998.

AGENCY COMMENTS

By respective letters dated December 12, 1995 and March 27, 1996, the DFW and FWS registered their concurrence with the licensee's fish passage and evaluation plans.

CONCLUSION

The licensee provided minutes from meetings with the agencies which document the agencies' involvement and cooperation in the design of the downstream facility and modifications to the upstream facility. A review of the design drawings and description provided by the licensee demonstrate the proposed facility should be adequate to allow the passage of outmigrating fish. The clear bar spacings and approach velocities will segregate fish from the turbines without impinging them. Further, the design of the screens should guide emigrating fish into the flume entrance where they will be delivered downstream.

The licensee's plan to evaluate the downstream facility will directly measure the ability of the facility to provide efficient passage for trout.

The modifications to the existing fish ladder proposed by the licensee should correct identified problems and improve the facility. This should increase the efficiency of the facility. The licensee's plan to evaluate the ladder will verify that the configuration and passage flows are suitable to provide trout efficient access to upstream areas.

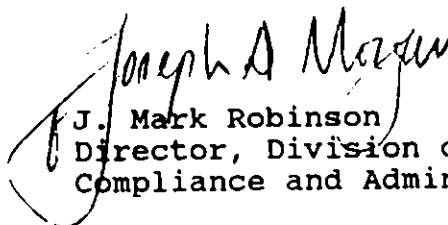
Accordingly, the downstream fish passage plan, upstream fish passage plan and fish passage evaluation plan filed on December 29, 1995, should be approved.

The Director orders:

(A) The downstream fish passage plan, upstream fish passage plan, and fish passage evaluation plan filed on December 29, 1995, are approved.

Project No. 2337-036 et al. -5-

(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.


J. Mark Robinson
Director, Division of Project
Compliance and Administration

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Power & Light Company

Project No. 2337-005
Oregon

ORDER APPROVING ANNUAL MAINTENANCE
PROGRAM FOR WILDLIFE CROSSINGS AND FENCING
AND MODIFYING LICENSE ARTICLE
September 7, 1989

On July 13, 1989, Pacific Power & Light Company (licensee) filed the annual maintenance program for wildlife crossings and fencing required by article 406 of the license for the Prospect No. 3 Hydroelectric Project.

The licensee will inspect the wildlife crossings and fencing in April of each year to assess their condition and recommend required maintenance. Operations personnel will walk the project area from the diversion dam to the powerhouse, including both sides of the canal and associated fencing. Maintenance needs will be identified and necessary maintenance completed to meet the standards required by the license. In addition to the April inspections, maintenance needs will be noted during normal patrols and incidental to other activities. The licensee will maintain a file of recommended maintenance and remedial action.

The maintenance program is satisfactory to the Forest Service, the U.S. Fish and Wildlife Service and the Oregon Department of Fish and Wildlife.

Implementing the licensee's maintenance program will ensure detection and repair of problems with the required wildlife crossings and fencing.

In its filing the licensee identifies a change in the wildlife crossings described in Appendix A of the Addendum to the Application for License and required by article 406. The licensee will construct two wildlife underpasses rather than one overpass along the wood stave pipe near the dam. This change was developed and agreed upon by the agencies and will provide for adequate wildlife movements through the project area.

The Director orders:

(A) The annual maintenance program for wildlife crossings and fencing filed on July 13, 1989, fulfills the requirements of article 406 of the license and is approved.

□

05_FERC Order 090789 approving crossing and fencing maintenance

(B) The wildlife crossings and fencing described in Appendix A of Addendum to Application for License for Prospect

-2-

No. 3 Hydroelectric Project, filed on March 24, 1987, and required by article 406, are changed to include two wildlife underpasses rather than one overpass along the wood stave pipe near the dam.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

OHL/DPCA
Estep J.:gr
8/29/89

□

UNITED STATES OF AMERICA 50 FERC ¶62,137
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Power and Light Company

Project No. 2337-007
Oregon

ORDER APPROVING AND MODIFYING
A SOIL EROSION AND SEDIMENT CONTROL PLAN
March 2, 1990

On July 26, 1989, the Pacific Power and Light Company (licensee) filed a soil erosion and sediment control plan pursuant to article 401 of the license for the Prospect No. 3 Hydroelectric Project, FERC No. 2337.

In letters dated June 28 and July 13, 1989, the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service accepted the plan.

The licensee stated that no construction is currently planned. However, the submitted plan provides for the development, in consultation with the agencies, of a "detailed pollution control report" in the event of any future construction activities within the project boundaries. The licensee should be required to file this report, for Commission approval, 90 days prior to any ground-disturbing or construction-related activities.

The licensee also indicates that an area of slope instability has been identified at the forebay and the project is currently operating with the forebay half full to relieve pressure on the site. The licensee states that a consultant has been retained to study and develop corrective measures for the slope instability, and preventive maintenance action is expected to be completed during the summer of 1990. In order for the Commission to ensure that effective measures are taken to stabilize the slope in the area of the forebay, the licensee should be required to file a report detailing the methods implemented to achieve slope stabilization and documenting their effectiveness.

In the event that slope stabilization efforts prove to be ineffective, the Commission should also reserve the right to require additional measures to ensure stabilization of slope materials.

The proposed erosion and sediment control plan meets the requirements of article 401 of the license for the Prospect No. 3 project. The methods proposed in the plan are adequate to

-2-

control erosion, dust, and slope stability, and to minimize the quantity of sediment and other potential water pollutants resulting from project operation and maintenance.

The Director orders:

(A) The soil erosion and sediment control plan filed on July 26, 1989, as modified by paragraphs B and C below, is approved.

(B) In the event that future construction is planned at the Prospect No. 3 Hydroelectric project, the licensee shall file, for Commission approval, a plan to control erosion, dust, and slope stability and to minimize the quantity of sediment or other water pollutants resulting from construction, spoil disposal, and project operation and maintenance. The plan shall be filed at least 90 days prior to commencement of any construction related activities, and shall include comments from the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.

(C) By September 1, 1990, the licensee shall file a report detailing the methods implemented to achieve slope stabilization in the vicinity of the project forebay and documenting the effectiveness of the measures taken.

(D) If information becomes available indicating that efforts to stabilize the slope in the area of the project forebay have proven to be ineffective, the Commission reserves the right to require additional measures to ensure stabilization of slope material.

(E) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under rule 1902 within 30 days from the date of its issuance.

J. Mark Robinson
Director, Division of Project
Compliance and Administration

06_FERC Order 030290 Order approving and modifying Soil Erosion and Sediment Control Plan

**FEDERALLY LISTED, PROPOSED, CANDIDATE SPECIES
AND SPECIES OF CONCERN
UNDER THE JURISDICTION OF THE FISH AND WILDLIFE SERVICE
WHICH MAY OCCUR WITHIN JACKSON COUNTY, OREGON**

LISTED SPECIES

Birds

Northern spotted owl	<i>Strix occidentalis caurina</i>	CH T
----------------------	-----------------------------------	------

Invertebrates

Crustaceans:

Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	CH T
--------------------------	----------------------------	------

Plants

Gentner's fritillary	<i>Fritillaria gentneri</i>	E
Large-flowered woolly meadowfoam	<i>Limnanthes floccosa</i> ssp. <i>grandiflora</i>	CH E
Cook's lomatium	<i>Lomatium cookii</i>	CH E
Kincaid's lupine	<i>Lupinus sulphureus</i> ssp. <i>kincaidii</i>	CH T

PROPOSED SPECIES

None

No Proposed Endangered Species	PE
No Proposed Threatened Species	PT

CANDIDATE SPECIES

Mammals

Terrestrial:

Fisher	<i>Martes pennanti</i>	
--------	------------------------	--

Invertebrates

Insects:

Mardon skipper	<i>Polites mardon</i>	
----------------	-----------------------	--

Plants

Siskiyou mariposa lily	<i>Calochortus persistens</i>	
------------------------	-------------------------------	--

SPECIES OF CONCERN

Mammals

Pallid bat	<i>Antrozous pallidus pacificus</i>	
Red tree vole	<i>Arborimus longicaudus</i>	
Townsend's western big-eared bat	<i>Corynorhinus townsendii townsendii</i>	
California wolverine	<i>Gulo gulo luteus</i>	
Silver-haired bat	<i>Lasionycteris noctivagans</i>	
Long-eared myotis bat	<i>Myotis evotis</i>	
Fringed myotis bat	<i>Myotis thysanodes</i>	
Long-legged myotis bat	<i>Myotis volans</i>	

**FEDERALLY LISTED, PROPOSED, CANDIDATE SPECIES
AND SPECIES OF CONCERN
UNDER THE JURISDICTION OF THE FISH AND WILDLIFE SERVICE
WHICH MAY OCCUR WITHIN JACKSON COUNTY, OREGON**

Yuma myotis bat

Myotis yumanensis

Birds

Northern goshawk
Tricolored blackbird
Western burrowing owl
Olive-sided flycatcher
Yellow-breasted chat
Acorn woodpecker
Lewis' woodpecker
Mountain quail
Band-tailed pigeon
White-headed woodpecker
Oregon vesper sparrow
Purple martin

Accipiter gentilis
Agelaius tricolor
Athene cunicularia hypugaea
Contopus cooperi
Icteria virens
Melanerpes formicivorus
Melanerpes lewis
Oreortyx pictus
Patagioenas fasciata
Plcoides albolarvatus
Pooecetes gramineus affinis
Progne subis

Reptiles and Amphibians

Northern Pacific pond turtle
Coastal tailed frog
Common kingsnake
California mountain kingsnake
Del Norte salamander
Siskiyou Mountains salamander
Northern red-legged frog
Foothill yellow-legged frog
Cascades frog

Actinemys marmorata marmorata
Ascaphus truei
Lampropeltis getula
Lampropeltis zonata
Plethodon elongatus
Plethodon stormi
Rana aurora aurora
Rana boylei
Rana cascadae

Fish

Jenny Creek sucker
Pacific lamprey
Coastal cutthroat trout

Catostomus rimiculus ssp.
Lampetra tridentata
Oncorhynchus clarki ssp

Invertebrates

Insects:

Denning's agapetus caddisfly
Franklin's bumblebee
Siskiyou chloaeltis grasshopper
Green Springs Mountain farulan caddisfly
Sagehen Creek goeracean caddisfly
Schuh's homoplectran caddisfly
Siskiyou carabid beetle

Agapetus denningi
Bombus franklini
Chloaeltis aspasma
Farula davis
Goeracea oregona
Homoplectra schuhi
Nebria gebleri siskiyouensis

Plants

Rogue canyon rock cress
Crater Lake rock-cress
Greene's mariposa lily
Broad-fruit mariposa lily
Umpqua mariposa-lily
Howell's camassia
Baker's cypress
Clustered lady's-slipper
Siskiyou willow-herb

Arabis modesta
Arabis suffrutescens var. *horizontalis*
Calochortus greenei
Calochortus nitidus
Calochortus umpquaensis
Camassia howellii
Cupressa bakeri
Cypripedium fasciculatum
Epilobium siskiyouense

**FEDERALLY LISTED, PROPOSED, CANDIDATE SPECIES
AND SPECIES OF CONCERN
UNDER THE JURISDICTION OF THE FISH AND WILDLIFE SERVICE
WHICH MAY OCCUR WITHIN JACKSON COUNTY, OREGON**

Wayside aster
Henderson's horkelia
Bellinger's meadowfoam
Dwarf woolly meadowfoam
Mt. Ashland lupine
White meconella
Detling's microseris
Red-root yampah
Coral seeded allocarya
Howell's tauschia
Small-flowered deathcamas

Eucephalus vialis
Horkelia hendersonii
Limnanthes floccosa ssp. bellingerana
Limnanthes floccosa ssp. pumila
Lupinus aridus ssp. ashlandensis
Meconella oregana
Microseris laciniata ssp. detlingii
Perideridia erythrorhiza
Plagiobothrys figuratus var. coralliscarpus
Tauschia howellii
Zigadenus fontanus

DELISTED SPECIES

Birds

American Peregrine falcon
Bald eagle

Falco peregrinus anatum
Haliaeetus leucocephalus

Definitions:

Listed Species: An endangered species is one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become endangered in the foreseeable future.

Proposed Species: Taxa for which the Fish and Wildlife Service or National Marine Fisheries Service has published a proposal to list as endangered or threatened in the Federal Register.

Candidate Species: Taxa for which the Fish and Wildlife Service has sufficient biological information to support a proposal to list as endangered or threatened.

Species of Concern: Taxa whose conservation status is of concern to the U.S. Fish and Wildlife Service (many previously known as Category 2 candidates), but for which further information is still needed. Such species receive no legal protection and use of the term does not necessarily imply that a species will eventually be proposed for listing.

Delisted Species: A species that has been removed from the Federal list of endangered and threatened wildlife and plants.

Key:

E Endangered
T Threatened
CH Critical Habitat has been designated for this species
PE Proposed Endangered
PT Proposed Threatened
PCH Critical Habitat has been proposed for this species

Notes:

**FEDERALLY LISTED, PROPOSED, CANDIDATE SPECIES
AND SPECIES OF CONCERN
UNDER THE JURISDICTION OF THE FISH AND WILDLIFE SERVICE
WHICH MAY OCCUR WITHIN JACKSON COUNTY, OREGON**

Marine & Anadromous Species: Please consult the National Marine Fisheries Service (NMFS) (<http://www.nmfs.noaa.gov/pr/species/>) for marine and anadromous species. The National Marine Fisheries Service (NMFS) manages mostly marine and anadromous species, while the U.S. Fish and Wildlife Service manages the remainder of the listed species, mostly terrestrial and freshwater species.

Marine Turtle Conservation and Management: All six species of sea turtles occurring in the U.S. are protected under the Endangered Species Act of 1973. In 1977, NOAA Fisheries and the U.S. Fish and Wildlife Service signed a Memorandum of Understanding to jointly administer the Endangered Species Act with respect to marine turtles. NOAA Fisheries has the lead responsibility for the conservation and recovery of sea turtles in the marine environment and the U.S. Fish and Wildlife Service has the lead for the conservation and recovery of sea turtles on nesting beaches. For more information, see the NOAA Fisheries webpage on sea turtles <http://www.nmfs.noaa.gov/pr/species/turtles/>.

Gray Wolf: On February 27, 2008, the Service published a final rule that established a distinct population segment and delisted the gray wolf (*Canis lupus*) in the northern Rocky Mountains (which includes a portion of Eastern Oregon, east of the centerline of Highway 395 and Highway 78 north of Burns Junction and that portion of Oregon east of the centerline of Highway 95 south of Burns Junction). Any wolves found west of this line in Oregon are still listed as endangered [see 73 FR 10514]. Gray wolves in Oregon are still State-listed as endangered, regardless of location

UNITED STATES OF AMERICA 95 FERC ¶ 62,006
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp

Project No. 2337-056 & -057

ORDER APPROVING RECREATION MONITORING REPORT AND DELETING
ARTICLE 408
(Issued April 03, 2001)

On February 1, 2001, PacifiCorp, licensee for the Prospect No. 3 Project, filed the recreation monitoring report (report) required by article 408 of the license¹ and the Order Modifying and Approving Recreation Report issued on March 6, 1995 (March order).² The licensee also requested an amendment to the license to delete the requirement to continue monitoring recreational use in the area. The Prospect No. 3 Project is located on the South Fork Rogue River in Jackson County, Oregon.

Article 408 requires the licensee to file, for Commission approval, a recreation report that describes the results of five years of recreation monitoring, the recreation facilities that may be needed to accommodate an increase in recreational demand, the location of any proposed facilities, an implementation schedule, and the methods for continued monitoring of recreational use at the project. Further, article 408 requires the licensee to file documentation of consultation with the Oregon Parks and Recreation Division (OPRD) and the U.S. Forest Service (FS) on the report.

Ordering paragraph (B) of the March order states that not later than January 31 of every sixth year, the licensee shall file, for Commission approval, a recreation monitoring report summarizing recreational use and demand at the project. The report shall include, but not be limited to, a discussion of monitoring results, a plan for the development of any recreational facilities needed to accommodate increased recreational demand in the project area, a schedule for the completion of these facilities, and a map showing the type and location of each proposed facility. It should also include documentation of consultation with the OPRD and the FS.

Based on this report, the Commission reserves the right to require additions or changes to the recreational facilities of the project. Further, the Commission reserves the right to cease recreation monitoring at such time that adequate information has been obtained, or adequate recreational facilities have been constructed. The licensee shall

1 46 FERC ¶ 62,085 (1989)

2 70 FERC ¶ 62,148 (1995)

continue to use the same methodology for monitoring future recreational use and demand at the project as was used for the January 31, 1995 filing. The first 5-year interval of data was to record recreational use and demand at the project from January 31, 1995 to November 1, 2000. The first report was due by January 31, 2001.

LICENSEE'S FILING

The February 1 filing states that the licensee has monitored recreational use since the January 23, 1995 report. The licensee reports fewer than 200 total visitors over the 6-year period indicating that use has not changed much in the last 6 years. The licensee further requested that it be relieved from future monitoring given the limited recreational use in the area.

CONSULTATION

The licensee consulted with the FS and the OPRD. The OPRD stated that there is an abundance of recreational opportunities in the area and that continued access to the project could cause environmental damage. The FS states it does not see any reason to develop recreational opportunities in the area.

DISCUSSION AND CONCLUSION

The recreation monitoring report indicates the recreational opportunities in the area are meeting the needs of the public and that no additional facilities or development is needed. The agencies concur with this assessment. The Commission staff reviewed the report and the Licensed Hydropower Development Report (Form 80) information and believes the licensee's assessment of the recreational opportunities accurately reflects the current conditions. The monitoring report should be approved.

In addition, the recreational use and demand have not changed in the past 6 years and there is no indication that they will in the near future. As a result, the Commission staff concurs with the licensee's request to be relieved of future monitoring. Pursuant to ordering paragraph (D) and the reserved authority to discontinue monitoring, we will delete article 408 from the license. We do reserve the right to require the licensee to monitor recreational use in the future should changes occur in the area that may warrant additional recreational facilities or access.

The Director orders:

(A) The February 1, 2001 filing meets the requirements of article 408 and is approved.

(B) Article 408 of the license is deleted. No further recreational monitoring is required. The Commission reserve the right to require the licensee to monitor recreational use in the future should changes occur in the area that may require additional recreational facilities or access.

(C) 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 CFR § 385.713.

Hossein Ildari
Division of Hydropower Administration
and Compliance



Oregon

Theodore R. Kulongoski, Governor

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE, Ste C

Salem, OR 97301-1266

(503) 986-0671

Fax (503) 986-0793

www.oregonheritage.org



1/27/2010

Mr. Michael Ichisaka
PacifiCorp Energy
825 NE Multnomah STE 1500
Portland, OR 97232

RE: SHPO Case No. 10-0022
Prospect No. 3 Hydro Proj FERC No 2337
Low impact hydro certification
PacifiCorp/FERC
33S 3E Sec 1, 11-12; 33S 4E Sec 7, 18, , Jackson County

Dear Mr. Ichisaka:

Our office recently received a request to review PacifiCorp's application for Low Impact Hydropower Certification. In reading through your documents I find that your project was constructed at some time in the past without a cultural resource survey ever being completed for the area. Your current efforts for site certification are for a renewal of certification and appear to not involve any ground disturbing activities. In addition, I see no mention of any modifications to the existing hydroelectric structures (e.g., dam, wood stave pipe, powerhouse). If my assessment is correct, our office has no problem with the recertification for Prospect #3. A caveat I want to include in my above comments is based on a reading of Section F (Cultural Resource Protection) of your Low Impact Hydropower Questionnaire. Under item #1 of this section you state that "Article 407 of the project license requires PacifiCorp to consult with the State Historic Preservation Office (SHPO) and develop a cultural resources management plan prior to conducting any land-clearing or land-disturbing activities that were not specifically authorized in the license." Our office has no idea what type of land-clearing or land-disturbing activities were authorized by the original license or if any of these activities are still to be conducted. Our office needs to be consulted on any future ground disturbing activities related to this project in the future (previously authorized or not), whether they be on existing historic structures or on lands that might have prehistoric sites. We also look forward to working with your office in the future on the development of a cultural resource management plan (HPMP).

State statutes (ORS 358.905 and ORS 97.740) provide protection for archaeological sites, objects, and human remains on both state public and private lands in Oregon. If you have any questions about the above comments or would like additional information, please feel to contact me at your convenience. In order to help us track your project accurately, please be sure to reference the SHPO case number above in all correspondence.

Dennis Griffin, Ph.D., RPA
State Archaeologist
(503) 986-0674
dennis.griffin@state.or.us



FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 2337-001
Prospect No. 3
ProjectPacifiCorp

March 3, 2010

Mr. R. A. Landolt
Managing Director, Hydro Resources
PacifiCorp
825 NE Multnomah, Suite 1500
Portland, OR 97232

Subject: Form 80 exemption

Dear Mr. Landolt:

This is in response to your June 6, 2009 filing regarding the FERC Form 80. Commission staff has reviewed the project files and project license; available information indicates that there is little recreation potential at the above referenced project. Therefore, in accordance with section 8.11(c) of the Commission's regulations, you are exempted from filing the Form 80 for this project until further order of the Commission. If you have any questions, please contact me at 202-502-8674.

Sincerely,

A handwritten signature in black ink that reads "Shana C High". The signature is written in a cursive, flowing style.

Shana C. High
Outdoor Recreation Planner
Division of Hydropower
Administration and Compliance

APPENDIX C

KEY EMAIL COMMUNICATIONS

Patricia B. McIlvaine

From: Patricia B. McIlvaine [pbm@wright-pierce.com]
Sent: Saturday, July 31, 2010 11:42 AM
To: 'Ichisaka, Michael'
Cc: 'Garrett, Monte'; 'Stenberg, Mark'; 'Davies, Eve'
Subject: Information Request
Attachments: Document Request for Certification Review Process.doc

Pursuant to a discussion I had late last week with Mike, I am forwarding a list of information requests for the Ashton, Prospect No. 3 and Cutler projects. (Right now the Cutler list is limited as I haven't reviewed much of that file as of yet.)

This list is more extensive than normal since the Ashton and Prospect No. 3 projects were licensed in the 1980's. As such, documents in FERC's eLibrary (my typical source for documents I wish to review) only have the documents available as microfiche, which I cannot access. As such, in order to provide a timely review, I need to request them from you. My follow-up consultation with the Resource Agencies, an important aspect of the LIHI certification process, is significantly enhanced when I have a more complete understanding of their past/current concerns.

Please provide the requested information/documents as either scanned, faxed or hardcopy documents, whichever method is easiest for you.

I will not be available until next Wed (Aug 4) if you have any questions on this request. I can be reached at (207-798-3785) between noon and 4pm East Coast Time. Please feel free to call me at my home (207-688-4236) from 5pm to 8pm East Coast time if that works better for you. My fax number and mailing address are noted below.

Thanks

Pat

Pat McIlvaine | Project Manager

Wright-Pierce | Water, Wastewater & Infrastructure Engineers
www.wright-pierce.com

99 Main Street | Topsham, ME 04086
Tel 207.725.8721 x.3785 | Fax 207.729.8414

Serving New England for Over 60 Years

Document Request for Certification Review Process

For Ashton, Prospect No. 3 and Cutler

1. Copies of the latest two FERC Environmental and Public Use Inspection Reports and PacifiCorp Responses to any deficiencies identified. (My interest is in LIHI related issues but it will likely be easiest to send the entire documents....)
2. Summary listing of FERC License deviations associated with issues addressed by LIHI certification criteria. Please provide a summary of any events and resolution to the events (including whether the deviations were considered license non-compliance or not).

Ashton

1. A copy of the Water Quality Certification for the project.
2. Resource Agency comment letters associated with the application for license renewal that are referenced in the FERC order issuing the license.
3. The next questions/requests will help me understand the implications of the dam remediation project scheduled for 2010 - 2012 and how that project may impact LIHI certification:
 - Documentation of Resource Agency consultation associated with the dam remediation project including mitigative/preventive actions to be employed to address any issues raised by the resource agencies.
 - Please provide any requirements in the permits received for this project that address issues associated with LIHI certification.
 - Will there be any permanent operational changes following the dam remediation project that will affect (positively or negatively) issues of concern to LIHI certification (e.g. water flows)? What are these changes? Have such changes been approved by FERC? Were the Resource agencies involved in the review of such changes and did they have any concerns?
 - Please provide a copy of the sections of the Environmental Report prepared for the remediation project that address potential impacts and mitigative measures associated with issues evaluated for LIHI certification.
4. This request will help me understand the status of the original recommendations by Resource Agencies which recommended intake screening at St. Anthony to prevent fish entrainment concerns. As this screening was, in part, mitigation associated with fish losses at Ashton, I believe we need to understand the status of this issue. Therefore, please provide any documentation demonstrating status of the turbine survival studies, Resource Agency comments relative to these studies and final conclusions reached, including any FERC orders resolving the issue.
5. Please provide a summary of the results of the studies referenced on pages 45-53 (Article 402 Enhancement of Fisheries Resources) of the FERC license you provided, as well as

Prospect No.3

1. Please provide a copy of the full FERC Order issued for the project license renewal. The copy provided in your LIHI certification application only included the Articles, and did not include the "upfront sections" of typical FERC orders. Such "upfront" sections address issues and comments raised by Resource Agencies which is important to LIHI certification.
2. Resource Agency comment letters (if any) associated with the application for license renewal that are referenced in the FERC order issuing the license.
3. Please provide a copy of the June 7, 1985 waiver from Water Quality Certification referenced in your Questionnaire response.
4. Please provide a copy of the FERC EA issued for the license renewal (as you did for the Ashton and Culter projects.)
5. Please specify what sections of the Recovery Plan for Northern Spotted Owl which you believe are applicable to this Project and what activities / programs are in place for the Project that demonstrate compliance with these Recovery Plan requirements. Please include any documentation that has been prepared by PacifiCorp or received from Resource Agencies dealing with this issue.
6. Have there been any reports of other threatened or endangered species use of the Project since the original studies prepared as part of the License renewal? If so, have any new recommendations been issued by the Resource Agencies?
7. Please provide a copy of the FERC Order and Resource Agency acceptance letters referenced on pg 14 of the Questionnaire approving your program under Article 401.
8. Please provide a copy of the FERC Order (Sept 7, 1989) referenced on pg 14 of the Questionnaire approving your program under Article 406. Also, please provide any Resource Agency letters which provided recommendations and/or agreement with your proposed program.
9. Please provide any documentation that illustrates compliance with the requirements to consult with the SHPO. As your Questionnaire response references "informal consultation", if no written correspondence exists, please provide a summary of verbal communications that have occurred for "larger" projects, listing the activity requiring consultation and results of such verbal communications. Copies of any telecons would suffice.
10. Please provide the FERC orders referenced on page 19 of your Questionnaire regarding recreational resources. Also, please provide documentation of any Resource Agency comments/recommendations which were received (if any exist) regarding recreational resource compliance.

Patricia B. McIlvaine

From: Ichisaka, Michael [Michael.Ichisaka@PacifiCorp.com]
Sent: Tuesday, August 17, 2010 7:53 PM
To: pbm@wright-pierce.com
Cc: Garrett, Monte
Subject: Prospect No.3 information request answers
Attachments: Info request Part 4 - P3 #7 #8.zip

Hi Pat,

Here's some information on P3 that you requested in your email dated August 3, 2010.. Please see inserted notes in blue and corresponding documents in the zipfile.. Some of the documents have been emailed previously (see 8/17/10 email retransmitting the zipfile containing files for questions #1, 3, 4, and 10) so let me know if you don't have any of the files listed below or if you have any further questions.

Mike Ichisaka
 (503) 813-6617

Prospect No.3

1. Please provide a copy of the full FERC Order issued for the project license renewal. The copy provided in your LIHI certification application only included the Articles, and did not include the "upfront sections" of typical FERC orders. Such "upfront" sections address issues and comments raised by Resource Agencies which is important to LIHI certification.
 - **P3 License Order.pdf**
1. Resource Agency comment letters (if any) associated with the application for license renewal that are referenced in the FERC order issuing the license.

The FERC license order cites and summarizes agency letters but they weren't attached. We have the license consultation correspondence from the license application but not the letters cited in the FERC order that were submitted to FERC at a later date.
1. Please provide a copy of the June 7, 1985 waiver from Water Quality Certification referenced in your Questionnaire response.
 - **ODEQ June 7-1985 ltr + back-up.pdf**
1. Please provide a copy of the FERC EA issued for the license renewal (as you did for the Ashton and Culter projects.)
 - **Prospect 3 FERC 5-23-88 Environ Assessmt.pdf**
1. Please specify what sections of the Recovery Plan for Northern Spotted Owl which you believe are applicable to this Project and what activities / programs are in place for the Project that demonstrate compliance with these Recovery Plan requirements. Please include any documentation that has been prepared by PacifiCorp or received from Resource Agencies dealing with this issue.

The Final Recovery Plan for the Northern Spotted Owl provides broad guidance for agencies such as the US Forest Service (USFS) to manage forest habitat in specified areas for spotted owls on federal land. The upstream portion of the P3 project is located on USFS land. The Recovery Plan was finalized in 2008. Since then, PacifiCorp has not conducted any major construction activity at P3 that could potentially affect spotted owl habitat on USFS land. Several P3 license articles require PacifiCorp to consult with the USFS prior to conducting any land- disturbing

8/18/2010

actions and compatibility with the Recovery Plan would be addressed at that time.

1. Have there been any reports of other threatened or endangered species use of the Project since the original studies prepared as part of the License renewal? If so, have any new recommendations been issued by the Resource Agencies?

As noted on page 15 of the LIHI questionnaire, the 2006 environmental assessment for the nearby Prospect No. 1, 2, and 4 project reported a northern spotted owl sighting approximately 2 miles from the P3 project. Other than that record, I haven't seen any new reports of threatened or endangered species in the P3 area.

1. Please provide a copy of the FERC Order and Resource Agency acceptance letters referenced on pg 14 of the Questionnaire approving your program under Article 401.

PacifiCorp's Soil Erosion and Sediment Control Plan (titled "Pollution Control Plan") was received by FERC on July 26, 1989. Comment letters were attached to the Plan.

FERC Order and agency comment letters:

- **3.2.90 Order approving and modifying Soil Erosion and Sediment Control Plan.txt**
- **1989.6.28 ODFW to PC comments on ECP plan.pdf**
- **1989.6.13 USFWS to PC comments on ECP plan.pdf**

1. Please provide a copy of the FERC Order (Sept 7, 1989) referenced on pg 14 of the Questionnaire approving your program under Article 406. Also, please provide any Resource Agency letters which provided recommendations and/or agreement with your proposed program.

FERC Order:

- **9.7.89 Order approving crossing and fencing maintenance.txt**

I found a letter dated 6/1/89 transmitting the crossing and fencing maintenance plan with agency comment letters to FERC but the agency comment letters were not preserved with that hard copy.

1. Please provide any documentation that illustrates compliance with the requirements to consult with the SHPO. As your Questionnaire response references "informal consultation", if no written correspondence exists, please provide a summary of verbal communications that have occurred for "larger" projects, listing the activity requiring consultation and results of such verbal communications. Copies of any telecons would suffice.

Article 407 of the project license requires PacifiCorp to consult with the State Historic Preservation Office (SHPO) and develop a cultural resources management plan prior to conducting any land-clearing or land-disturbing activities that were not specifically authorized in the license. Because there has not been any "large" land-clearing or land-disturbing activities that weren't already authorized in the P3 license, a cultural resources management plan has not been required for project actions to date. PacifiCorp's staff have had telephone conversations with SHPO regarding the nearby Prospect 1,2 & 4 project and have had the opportunity to mention any relevant activities at P3 at the same time but there is no formal communications in our record for P3 because there have been no major actions that required consultation.

In January 2010, Fred Ayer said that he asked SHPO for comments on the LIHI application package but they said that they require hard copy documents for review so Fred asked me to mail a hard copy to SHPO. I sent the hard copy but I didn't provide an explanation the LIHI process because I assumed that Fred had already discussed their needs. SHPO was confused as to why we had sent the application. PacifiCorp received a letter from SHPO that stated that although there were no relevant above-ground preservation activities that they had reason to be concerned about in the LIHI application, they were taking the opportunity to remind PacifiCorp to be sure to submit a Section 106 Clearance Form to SHPO if there are any future projects.

1. Please provide the FERC orders referenced on page 19 of your Questionnaire regarding recreational resources. Also, please provide documentation of any Resource Agency comments/recommendations which were received (if any exist) regarding recreational resource compliance.
 - **1.23.95 Letter to FERC - recreation report with agency comments.tif**
 - **1.31.2001 Letter to FERC - recreation report with agency comments.pdf**
 - **3.6.95 Order approving recreation report.tif**
 - **4.3.01 Order approving Rec report and deleting Article 408.pdf**

Patricia B. McIlvaine

From: Dave Harris [dave.a.harris@state.or.us]
Sent: Monday, August 23, 2010 6:32 PM
To: Patricia B. McIlvaine
Subject: RE: Telephone call follow-up On PacifiCorp's Prospect No. 3 Project

Pat: I would be happy to let discuss issues that I know about regarding the project. I would also suggest speaking with several other ODFW biologists that can provide information that I may not have or know.

Ken Homolka, ODFW Salem Office (ken.homolka@state.or.us)
Mark Vargas, ODFW Central Point Office (mark.a.vargas@state.or.us)

I typically arrive in office around 7:00am PST if you would like to call. Or email me a list of questions, I'll answer them and get back to you, than we can talk to fill in any blanks. Either way is fine with me.

David A. Harris
Southwest Hydro Coordinator
4192 North Umpqua Highway
Roseburg, Oregon 97470
(541) 440-3353
Fax: (541) 673-0372
Dave.A.Harris@state.or.us

From: Patricia B. McIlvaine [mailto:pbm@wright-pierce.com]
Sent: Monday, August 23, 2010 10:11 AM
To: 'Dave.A.Harris@state.or.us'
Subject: Telephone call follow-up On PacifiCorp's Prospect No. 3 Project

Mr. Harris

I am serving as the independent reviewer for the Low Impact Hydropower Institute on PacifiCorp's application for certification of the Prospect No. 3 Hydropower Project as a "low impact facility". As noted in my voice mail message to you from last week, part of my review is to consult with individuals who are knowledgeable of the project, its environmental license requirements and recommendations that may have been made regarding environmental concerns by agencies such as the Oregon Department of Fish and Wildlife. The purpose of my email is to request your input. I would like to discuss with you, some of the key information presented in their application, and to determine if there are any issues associated with the Project regarding compliance with the FERC license or other recommendations made at the time of license renewal or more recently. I would like to get your perspective on their stewardship policies, timeliness of their actions, etc. related to those issues/resources for which your organization is most interested in seeing protected. Specifically, I would like to obtain your viewpoint on their fish passage compliance measures and their wildlife crossing and canal fencing maintenance program.

I look forward to hearing from you by email response or by phone. I can be reached at 207-798-3785 from 8am to 1pm East Coast time. You can also try me at my home at 207-688-4236 from 2pm to 7pm East Coast time if that time slot works better for you.

The following link will connect you to the application made by PacifiCorp to the Low Impact Hydropower Institute for this project.

<http://www.lowimpacthydro.org/lihi-pending-application-ferc-no.-2337-prospect-no.-3-hydroelectric-project-on-the-south-fork-of-the-rogue-river-oregon.html>

8/24/2010

Thank you for your time.

Pat McIlvaine

Pat McIlvaine | Project Manager

Wright-Pierce | Water, Wastewater & Infrastructure Engineers
www.wright-pierce.com

99 Main Street | Topsham, ME 04086
Tel 207.725.8721 x.3785 | Fax 207.729.8414

Serving New England for Over 60 Years

Patricia B. McIlvaine

From: Patricia B. McIlvaine [pbm@wright-pierce.com]
Sent: Thursday, August 26, 2010 10:39 AM
To: 'Ichisaka, Michael'
Subject: RE: Prospect No. 3 SHPO letter

Mike

Given the letters you sent me I am not planning on contacting the SHPO's office. These suffice for their input to the LIHI certification process as far as I am concerned. Their comments present no issue.

On another issue....I don't remember hearing back from you about your NPDES permit for Prospect No. 3...but I did have a call with the DEQ. Chris Stine informed me that NPDES permits are no longer issued to hydro projects. The USEPA determined hydro projects do not meet the definition of "point source discharges". So you obviously would no longer have one for Prospect No. 3. Although not critical, it would be interesting to know what, if any, communications between PacifiCorp and IDEQ regarding water quality once the NPDES permit expired (general permits are issued only for 5 years).

Pat

From: Ichisaka, Michael [mailto:Michael.Ichisaka@PacifiCorp.com]
Sent: Wednesday, August 25, 2010 6:15 PM
To: pbm@wright-pierce.com
Cc: Fred Ayer; Garrett, Monte
Subject: RE: Prospect No. 3 SHPO letter

Hi Pat,

Attached is the recent correspondence with SHPO regarding the LIHI certification package. At Fred's request, I mailed a hard copy of the certification package to SHPO in January 2010. In my transmittal, didn't explain the LIHI process or that LIHI had contacted SHPO previously and had requested the review. I received letters from Dr. Griffin (state archaeologist) and Dr. Poyser (historic structures) indicating that our effort to obtain certification didn't involve ground-disturbing actions or modifications to the facilities and that the SHPO had no problem with the certification. They also reminded PacifiCorp to consult SHPO on any future ground-disturbing actions per Section 106 and that a cultural resource plan would be required prior to conducting such activities. PacifiCorp, however, is not planning to conduct any major ground-disturbing or above-ground preservation-related activities at the Prospect No. 3 Project in the foreseeable future. If you contact Dr. Griffin on this matter, please reference his SHPO case number 10-0022.

Thanks,
Mike Ichisaka
(503) 813-6617

From: Patricia B. McIlvaine [mailto:pbm@wright-pierce.com]
Sent: Saturday, August 21, 2010 7:50 PM
To: Ichisaka, Michael
Cc: 'Fred Ayer'
Subject: Prospect No. 3 SHPO letter

9/7/2010

Mike:

Could you send both Fred Ayer and me a copy of the letter PacifiCorp received from the SHPO in response to Fred's invitation to them for comment on PacifiCorp's application for the Prospect No. 3 project?

Fred:

I am assuming you did not receive a copy of this letter directly as it is not included as a comment letter on the website. I am planning on including it in my report however.

Thanks, Mike

Pat

Pat McIlvaine | Project Manager

Wright-Pierce | Water, Wastewater & Infrastructure Engineers
www.wright-pierce.com

99 Main Street | Topsham, ME 04086
Tel 207.725.8721 x.3785 | Fax 207.729.8414

Serving New England for Over 60 Years

Patricia B. McIlvaine

From: Patricia B. McIlvaine [pbm@wright-pierce.com]
Sent: Thursday, August 26, 2010 3:42 PM
To: 'Ichisaka, Michael'
Subject: RE: Water Quality Question on Prospect No. 3

Interesting...it was Chris Stine at ODEQ that told me that the NPDES permit could no longer be issued to a hydro...yet here you are.

I think the difference is that this NPDES permit is only for your non-contact cooling water discharge...and technically a 401 certification covers hydro facilities in their entirety. As you know, 401 certificates generally include minimum flow requirements, reservoir elevation limits, ramping rates, etc. as applicable to your facility.

Let me think about this.

Thanks

Pat

From: Ichisaka, Michael [mailto:Michael.Ichisaka@PacifiCorp.com]
Sent: Thursday, August 26, 2010 3:21 PM
To: pbm@wright-pierce.com
Cc: Garrett, Monte
Subject: RE: Water Quality Question on Prospect No. 3

Hi Pat,

Please see answers inserted in your email below in blue text. Sorry it has taken so long to reply on this. I had to check with the hydro facility to find a copy of the most recent permit and I am still waiting for a call back from ODEQ but I think that I've rounded up all of the information that you were looking for. I saw your email this morning about hydropower not being considered a point source discharge and I too have heard this. For some reason, various states choose to handle this differently and it would be nice if everyone was consistent on what is required by EPA. Nevertheless, PacifiCorp is continuing to operate the Prospect No. 3 project in accordance with the existing ODEQ permit (see explanation below).

Thanks,
Mike Ichisaka
(503) 813-6617

From: Patricia B. McIlvaine [mailto:pbm@wright-pierce.com]
Sent: Thursday, August 19, 2010 11:02 AM
To: Ichisaka, Michael; Garrett, Monte
Subject: Water Quality Question on Prospect No. 3

Mike and Monte

I am reviewing the water quality issues for LIHI certification on Prospect No. 3. It appears that the IDEQ waived the need to issue a 401 Certificate because "the project was permitted under a National Pollution Discharge Elimination System (NPDES) general permit". (See attached document you previously sent me.) My questions are:

1. Is Project No. 3 still under a general NPDES permit? Yes. I see that the state has the program

9/7/2010

authority for these permits, rather than EPA...which doesn't surprise me given the ODEQ position noted above.

2. Assuming that the Project has renewed its general permit (the permits expire five years from issuance) can you either send me a copy of either the current permit or standard conditions that show how the Project protects water quality? See attached pdf
3. If it was determined that the Project no longer needs such a general permit, can you provide me the explanation behind that decision?

The Prospect No. 3 project is still operating under a 100-J general NPDES permit that has been "administratively extended" beyond the expiration date. The last permit was issued by ODEQ on 10/13/97 with a 7/31/01 expiration date (see attached pdf). PacifiCorp applied to renew the permit in 12/28/00 with the appropriate forms and fees. No official communications were received from ODEQ. The application was timely (received on 1/16/01, before expiration of the current permit) and was determined by ODEQ to be "complete" on 5/11/01 according to the ODEQ database (see website screen shot **Oregon DEQ_Status of Permit Application search results.pdf**). ODEQ has not yet issued a renewed permit so the conditions of the 1997 permit still apply and the permit remains in effect. The second attached pdf file (**Oregon DEQ_Water Quality – Wastewater Permits Database-Facility Details.pdf**) confirms that the permit for Prospect No. 3 has been administratively extended and that it has active status (Active Permit = true). PacifiCorp has continued to pay the annual ODEQ invoices and file the required monthly reports that demonstrate protection of water quality.

Regarding permit renewal, a recent MOU between ODEQ and EPA dated April 20, 2010, states (section 4.02 - Permit Reissuance, page 8):

All expiring Oregon NPDES permits for which timely and complete permit renewal applications have been submitted must be reissued on or before their expiration date. If such timely reissuance is not possible, the permit may be administratively continued beyond its expiration date in accordance with state law, but in no event will the expired permit be modified. An administratively extended permit remains in effect and enforceable until such time as the ODEQ permit is revised or reissued.

Periodically, PacifiCorp's compliance staff asks the same questions about the permit expiration dates and has had conversations with various ODEQ personnel over the years to check the status of ODEQ 100J general permits. I recently spoke to Tom Rosetta, a ODEQ water quality staff person in Portland and he believed that the status of these permits is on hold until ODEQ sets a revision date and goes through a public comment period. He was going to check on this and get back to me later this week. He said that while ODEQ is not issuing new permits for hydropower projects, pre-existing permits with active status are still current.

Thanks

Pat

Pat McIlvaine | Project Manager

Wright-Pierce | Water, Wastewater & Infrastructure Engineers
www.wright-pierce.com

99 Main Street | Topsham, ME 04086
 Tel 207.725.8721 x.3785 | Fax 207.729.8414

Serving New England for Over 60 Years

Patricia B. McIlvaine

From: Dave Harris [dave.a.harris@state.or.us]
Sent: Thursday, August 26, 2010 4:57 PM
To: Patricia B. McIlvaine
Cc: Justin Miles
Subject: South Fork Rogue_Prospect 3
Attachments: S.Fk.Rogue Tribs.xls; Brown spawning surveys 2009.xls; FishInventoryData 79_80.xls; 20070716-0302(17627594)[1].pdf

Pat: Got your phone message yesterday wanted to get you some data from the South Fork Rogue. I included Justin Miles as a cc, Justin is the lead biologist gathering the trout data on the project, he should also have good input in regards to fish, amphibians, and wildlife.

A dam does block all anadromous fish species from getting to the project. Historically, steelhead and chinook made it to the bottom portion of the project. Several falls, and boulder cascades prevented access to the majority of the project.

The attached is a variety of items. Pictures, spawning survey results, old data from the 70-80.

The baseline data we have is from electrofishing (79-80 excel spreadsheet) surveys completed around the project area. Trout numbers appear to be normal, habitat in the South Fork is average. Recent surveys suggests a drop in the number of trout, we are still looking at length's and weight's of captured fish to compare to our 79-80 data.

The problem we have with wild trout populations in the high cascades is for the most part is that the total numbers are typically small. This is due to the fact that trout take longer to develop into adults due to cold water temperatures in the high elevations. Because adults become mature at 6-7 inches, the fecundity (number of eggs per female) is also small. A mature female may have only 500-1000 eggs to bury. The number of fry that emerge is reduced by another 10-20% depending on winter flow conditions. Habitat is compromised by a lack of gravel passed downstream of the diversion dam, and a lack of large woody debris input. Summer low flow due to diversion reduces the amount of usable rearing habitat for juveniles to increase size. Often these smaller fish are forced into pools with larger predacious adult trout and become a meal. A lack of upstream passage denies the genetic exchange between a species. A lack of screens removes a percentage of that population out of the South Fork, again a loss of genetics, juveniles, and mature adults.

We have fragile wild trout populations that are impacted by slight changes in flows, water quality, lack of spawning size gravels, lack of large woody debris, predation, a lack of genetic exchange, loss due to a lack of protective screens, It appears based on the data we have collected that the trout population in the South Fork has been reduced in numbers. Additional data is needed to confirm.

The pictures of the ladder indicate that it is in good shape structurally, but the water flow may be to high for smaller trout to safely migrate upstream. I attached a report from FERC, it is a 2007 onsite inspection with a few photo's.

Justin can also share his thoughts on the South Fork. Below is a recent email he sent regarding the diversion dam and ladder.

Dave,

Pictures of the South Fork Impoundment dredging are in the prospect folder under photos and under dredging. It is too bad that I don't have any scale really for the fish ladder, but those are steelhead jumps. The pipe up top directs more flow into the ladder. The actual ladder takes a 90 degree turn to the right and into the

canal. The water is flowing pretty fast for small fish to get through it. This particular day they were dredging so they tried to push most of the flow down the canal so they wouldn't muck up the stream so bad, but it is too fast for trout anyway I think. And when there is less flow the jumps are pretty high. This is the ladder they did trapping studies on way back when, when the ladder was in better shape.

I do have e fishing data 1979-80, types of fish present etc.

We did spawning surveys 200 meters above the SF impoundment for rainbow/cutthroat. Did some more spawning surveys downstream of impoundment on a couple tribs plus e traps. Have not done a habitat survey on that river. It is pretty burley to get to and will take a long time to get a hab survey finished. I haven't done much on the SFRR, been spending most of my time recently in the NFRR bypass reach.

Let us know what you need next. I'll send pictures in a separate email.

David A. Harris
Southwest Hydro Coordinator
4192 North Umpqua Highway
Roseburg, Oregon 97470
(541) 440-3353
Fax: (541) 673-0372
Dave.A.Harris@state.or.us

**ENVIRONMENTAL INSPECTION REPORT
(ELECTRONICALLY SUBMITTED)
FEDERAL ENERGY REGULATORY COMMISSION**

Portland Region

Date of Inspection: June 13, 2007

Date of Last Inspection: June 6, 2001

Name: Prospect No. 3

Project No.: 2337

Development(s): South Fork Diversion Dam

Licensee: PacifiCorp

License Type: Major

License Issued: January 30, 1989

License Expires: December 31, 2018

Location (waterway): South Fork Rogue River

Location (geographic): Jackson County, Oregon

Inspector: Erich G. Gaedeke

Licensee Representatives: Diane Barr, Ian Chane, Kelly Gibson and Norm Etling

Other Participants: None

Summary of Findings: The project is currently undergoing relicensing. Although the project license does not expire until 2018, the licensee is currently combining relicensing with P-2630, Prospect No. 1, 2 and 4. The powerhouse had one unit operating with a total generation of approximately 6.2 MW. By follow-up letter dated June 26, 2007, the licensee was requested to submit flow data for the previous 6 months to confirm compliance with the run-of-river operation requirement under Article 402.

Other Notes: Please note that this inspection report only covers current license requirements and activities and does not include license requirements that have already been fulfilled. The photographs included in this report are of existing project features.

Submitted June 25, 2007

Erich G. Gaedeke _____
Fishery Biologist

A. Inspection Findings

Requirements*	Date of Requirement	Follow-up Needed	Photo Nos.
FISH AND WILDLIFE RESOURCES			
Art. 8: Streamflow gauging	LR	No	
Art. 102: Annual Forest Service consultation re: measures to protect and develop natural resource values of project area	LR	No	
Art. 103: Fish and wildlife habitat mitigation plan	LR	No	
Art. 109: Forest Service approved pesticide and herbicide use plan	LR	No	
Art. 402: Run-of-river operation	LR	Yes	
Art. 406: Plans and maintenance program for wildlife crossings and fencing of canal	LR	No	
RECREATION RESOURCES			
Part 8 CFR: Recreation signing and posting	LR	No	
Art. 18: Allow public free access to project waters and adjacent lands	LR	No	
Art. 409: Control of non-project use of project lands and waters	LR	No	
OTHER ENVIRONMENTAL RESOURCES			
Art. 20: Maintain reservoir and canals clear of unused brush and refuge	LR	No	
Art. 104/401: Erosion and sediment control	O: 3/2/1990	No	
Art. 106: Oil and hazardous substance storage and spill prevention and cleanup	LR	No	
PUBLIC SAFETY			
Part 12 CFR: Facilities and measures to assure public safety	LR		
CULTURAL RESOURCES			
Art. 107: Consultation w/Forest Service prior to future construction and when new sites discovered	LR	No	
Art. 407: Consultation w/SHPO prior to future construction and when new sites discovered	LR	No	

* Art = Article Number O = Order LR = License Requirement SA = Settlement Agreement CFR = Code of Federal Regulations On = Operational OP = Ordering Paragraph Letter Ap = Approved F = Filed DF = Draft Filed
 F/P = Filed/Pending Approval EOT = Extension of Time TBD = To Be Determined

B. Comments**FISH AND WILDLIFE**

The South Fork Diversion Dam (Photograph 1) consists of a pool and weir fish ladder (Photograph 2) for resident trout passage and a fish screen in the diversion canal (Photograph 3), which is operated and maintained by the licensee. Juvenile fish are screened into a bypass flume in the diversion canal that discharges into the fish ladder. The diversion canal is fenced to prevent wildlife from accessing the canal. Additionally, the licensee maintains bridges over the canal for wildlife crossing. All features were in satisfactory condition on the day of the inspection.

RECREATION

There are no recreational facilities located at the project.

OTHER ENVIRONMENTAL RESOURCES

The licensee does not currently have any construction activities at the project requiring sediment and erosion control measures. The licensee does not store any oil in the project powerhouses and maintains adequate spill containment supplies. A storage facility containing necessary spill containment supplies is located near the powerhouse (Photograph 4).

PUBLIC SAFETY

The licensees maintain appropriate fencing and warning signs at the project. Due to accessibility, a boat restraining barrier is not necessary at the project. All signage and fencing were in satisfactory condition on the day of the inspection.

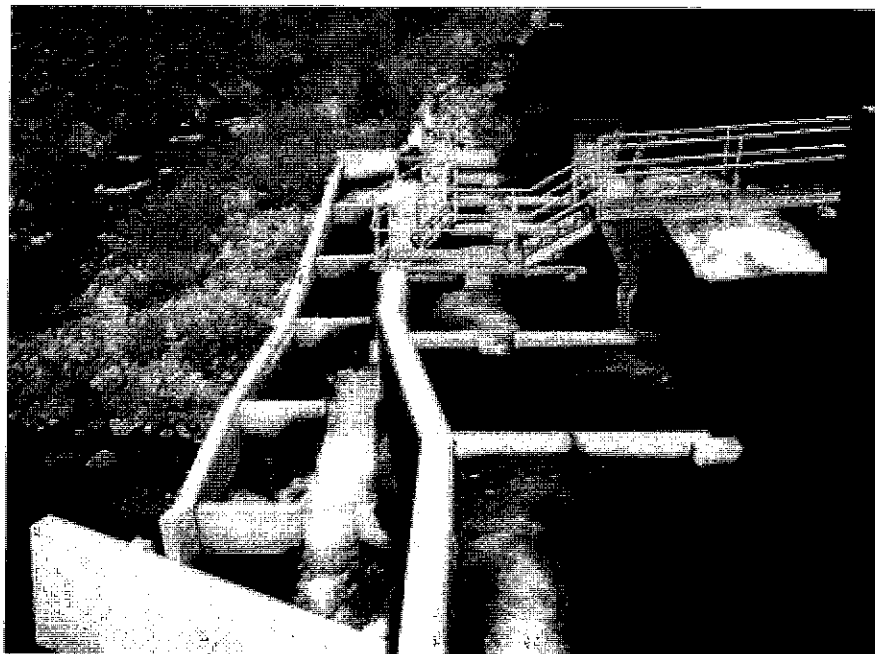
C. PHOTOGRAPHS

Included as part of this report are 4 photographs that show various existing project features.

Prospect No. 3 Project, FERC No. 2337
June 13, 2007

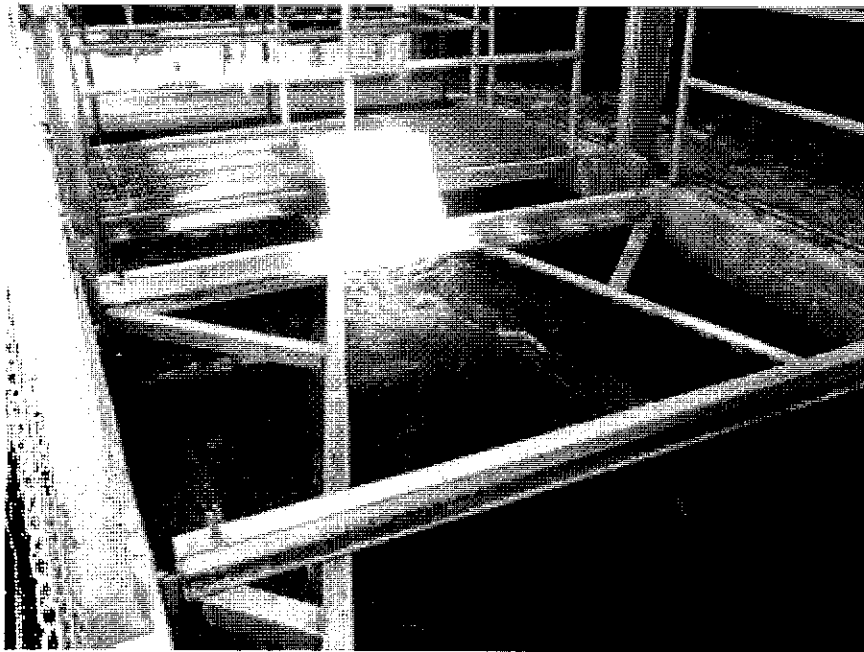


Photograph 1: South Fork Diversion Dam.

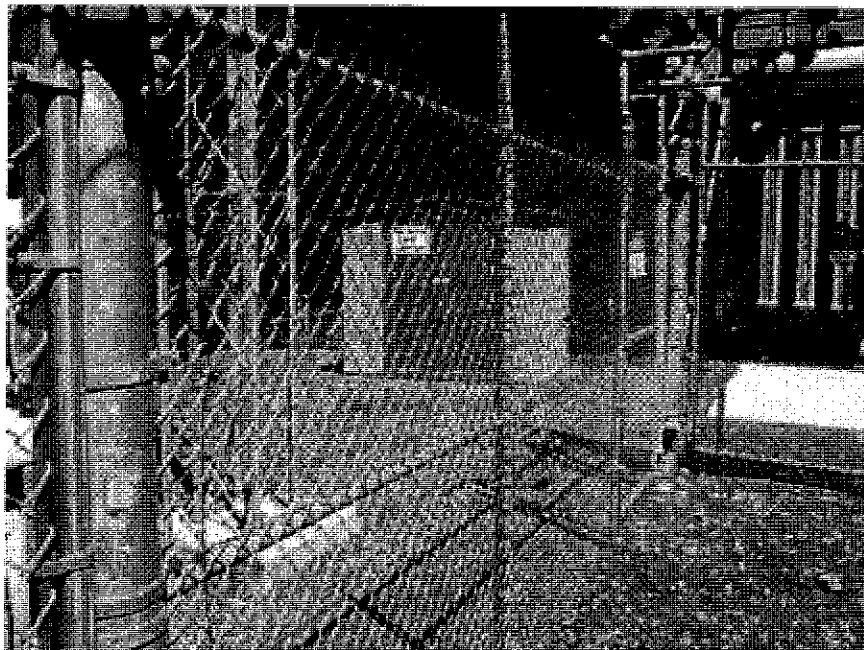


Photograph 2: Pool and weir fish ladder at diversion dam.

Prospect No. 3Project, FERC No. 2337
June 13, 2007



Photograph 3: Fish screen in diversion canal.



Photograph 4: Spill containment supply facility near powerhouse.

Patricia B. McIlvaine

From: Dave Harris [dave.a.harris@state.or.us]
Sent: Thursday, August 26, 2010 5:07 PM
To: Patricia B. McIlvaine
Cc: Justin Miles
Attachments: MVC-018S.JPG; SF impoundment 3.JPG; SF dredge1.JPG

Picture of a penstock break, looking downstream, above the SF dam (Fish ladder on right), dredging the dam.

Justin may have additional photos of the ladder.

Patricia B. McIlvaine

From: STINE Chris [Stine.Chris@deq.state.or.us]
Sent: Wednesday, September 01, 2010 1:16 PM
To: Patricia B. McIlvaine
Cc: STINE Chris
Subject: RE: Question on PacifiCorp's Prospect No. 3 Project

Pat –Here are some thoughts based on our previous conversations.

As you know, DEQ did not issue a certification for this Project and, for that reason, we have very little information to draw upon to process your request. The South and Middle Forks of the Rogue are not included on the 303d list of impaired waterbodies. However, 303d monitoring is intended to provide a broad assessment of river health on a basin scale and is an imperfect measure of Project impacts at the local level. For example, no information exists with which to assess TDG in Project tailraces, thermal stratification in impoundments, Project-related algal activity, Antidegradation, or many of the other parameters which comprise the numeric and narrative components of Oregon's water quality rules. Further, since this Project discharges to a reach which directly feeds the related Prospect-1,2,4 Project (FERC 2630), ODEQ would necessarily need to evaluate the cumulative effects of these Projects on downstream water quality.

Regarding your questions below:

1. For the reasons stated above, the statement ODEQ *"has not indicated that there are any water quality concerns for the project"* does not accurately capture our position on potential Project related impacts. Although Project rivers are not identified on our 303d list of impaired waterbodies, no information is available to assess Project-related water quality at the local scale.

2. NPDES permits are issued for a term of 5 years, so any permit issued in conjunction with the 1985 licensing has long expired. Since dams and hydroelectric projects were subsequently recognized as non-point source discharges, I suspect any request to renew authorization under the NPDES program was declined.

I hope this helps,

Chris

From: Patricia B. McIlvaine [mailto:pbm@wright-pierce.com]
Sent: Monday, August 23, 2010 9:57 AM
To: STINE Chris
Subject: Question on PacifiCorp's Prospect No. 3 Project

Mr. Stine

I am serving as the independent reviewer for the Low Impact Hydropower Institute on PacifiCorp's application for certification of the Prospect No. 3 Hydropower Project as a "low impact facility". Part of my review is to consult with individuals who are knowledgeable of the project, its environmental license requirements and recommendations that may have been made regarding environmental concerns by agencies such as the Oregon Department of Environmental Quality. The purpose of my email is to request your confirmation, if applicable, on the following two items.

1) In their application, PacifiCorp stated that they contacted the ODEQ in September 2009 requesting a letter regarding Prospect No. 3's compliance with water quality standards, but that your office was unable to commit the resources necessary to review existing data in the vicinity of the Project, and therefore could not make a definitive statement on the Project's compliance. **PacifiCorp also stated that the IDEQ "has not indicated that**

9/7/2010

there are any water quality concerns for the project". Therefore my first request is: can you confirm that that the statement in bold is correct?

2) It is also my understanding that the IDEQ waived issuance of a Section 401 Water Quality Certificate in 1985 when the Project was undergoing FERC licensing because the facility was operating under a National Pollution Discharge Elimination System general permit. Can you confirm for me that the facility is still operating under a current NPDES general permit? (I understand that the IDEQ now has primacy in the NPDES program.)

Finally, if there are any issues associated with the Project regarding compliance with water quality or other related license requirements, please give me a call. I would be interested in getting your viewpoint. If you believe that you have no specific issues, concerns or comments you wish to share with me, please feel free to let me know that by email if that better suits your needs.

I look forward to hearing from you by email response or by phone. I can be reached at 207-798-3785 from 8am to 1pm East Coast time. You can also try me at my home at 207-688-4236 from 2pm to 7pm East Coast time if that time slot works better for you.

The following link will connect you to the application made by PacifiCorp to the Low Impact Hydropower Institute for this project.

<http://www.lowimpacthydro.org/lihi-pending-application-ferc-no.-2337-prospect-no.-3-hydroelectric-project-on-the-south-fork-of-the-rogue-river-oregon.html>

Thank you for your time.
Pat McIlvaine

Pat McIlvaine | Project Manager

Wright-Pierce | Water, Wastewater & Infrastructure Engineers
www.wright-pierce.com

99 Main Street | Topsham, ME 04086
Tel 207.725.8721 x.3785 | Fax 207.729.8414

Serving New England for Over 60 Years

Patricia B. McIlvaine

From: Patricia B. McIlvaine [pbm@wright-pierce.com]
Sent: Monday, August 23, 2010 12:57 PM
To: 'stine.chris@deq.state.or.us'
Subject: Question on PacifiCorp's Prospect No. 3 Project

Mr. Stine

I am serving as the independent reviewer for the Low Impact Hydropower Institute on PacifiCorp's application for certification of the Prospect No. 3 Hydropower Project as a "low impact facility". Part of my review is to consult with individuals who are knowledgeable of the project, its environmental license requirements and recommendations that may have been made regarding environmental concerns by agencies such as the Oregon Department of Environmental Quality. The purpose of my email is to request your confirmation, if applicable, on the following two items.

1) In their application, PacifiCorp stated that they contacted the ODEQ in September 2009 requesting a letter regarding Prospect No. 3 's compliance with water quality standards, but that your office was unable to commit the resources necessary to review existing data in the vicinity of the Project, and therefore could not make a definitive statement on the Project's compliance. **PacifiCorp also stated that the IDEQ "has not indicated that there are any water quality concerns for the project"**. Therefore my first request is: can you confirm that that the statement in bold is correct?

2) It is also my understanding that the IDEQ waived issuance of a Section 401 Water Quality Certificate in 1985 when the Project was undergoing FERC licensing because the facility was operating under a National Pollution Discharge Elimination System general permit. Can you confirm for me that the facility is still operating under a current NPDES general permit? (I understand that the IDEQ now has primacy in the NPDES program.)

Finally, if there are any issues associated with the Project regarding compliance with water quality or other related license requirements, please give me a call. I would be interested in getting your viewpoint. If you believe that you have no specific issues, concerns or comments you wish to share with me, please feel free to let me know that by email if that better suits your needs.

I look forward to hearing from you by email response or by phone. I can be reached at 207-798-3785 from 8am to 1pm East Coast time. You can also try me at my home at 207-688-4236 from 2pm to 7pm East Coast time if that time slot works better for you.

The following link will connect you to the application made by PacifiCorp to the Low Impact Hydropower Institute for this project.

<http://www.lowimpacthydro.org/lihi-pending-application-ferc-no.-2337-prospect-no.-3-hydroelectric-project-on-the-south-fork-of-the-rogue-river-oregon.html>

Thank you for your time.

Pat McIlvaine

Pat McIlvaine | Project Manager

Wright-Pierce | Water, Wastewater & Infrastructure Engineers
www.wright-pierce.com

99 Main Street | Topsham, ME 04086
Tel 207.725.8721 x.3785 | Fax 207.729.8414

Serving New England for Over 60 Years

8/23/2010