

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE COMPLIANCE BY )  
WATER QUALITY CERTIFICATION TO )  
Mr. Frank Shrier )  
with Chapter 90.48 RCW and the )  
Rules and Regulations of the )  
Department of Ecology )

ORDER AMENDMENT No. 5743  
THIRD AMENDMENT OF  
ORDER No. 3678

To: Mr. Frank Shrier  
PacifiCorp  
825 Northeast Multnomah  
Portland, OR 97232

Order No. 3678, dated October 9, 2006, is hereby amended as follows. These actions are required at the location known as the Merwin Hydroelectric Project located at River Mile 19.5 on the North Fork Lewis River.

Section 4.2 (1) (found on page 6 of administrative order No. 3678) shall be replaced with the following:

The project shall comply with the instream flow measures identified in Section 6.2 of the Settlement Agreement signed November 30, 2004, submitted to FERC on December 9, 2004, and provided herein as Exhibit A.

The Exhibit A, referred to above, is part of the Settlement Agreement.

Section 4.8 (3) table 2, temperature monitoring in the Merwin tailrace, the depth is changed from 1 ft and replaced with the following:

At a depth that allows for continuous and representative monitoring unaffected by water elevation and represents the temperature in the main river flow.

The modified section of Table 2 shall now read:

Parameter	Location	Depths (ft)	Frequency	Duration	Condition No.
Temperature	Merwin tailrace	± At a depth that allows for continuous and representative monitoring unaffected by water elevation and represents the temperature in the main river flow.	Hourly all year	Ongoing	4.4.5

Section 4.8 (3) table 2, dissolved oxygen monitoring in the Merwin tailrace, the depth shall be changed from 1 ft and replaced with the following:

The shallowest possible depth (deeper than 1 ft) that allows for continuous and representative monitoring unaffected by water elevation changes or bubble formation.

Section 4.8 (3) table 2, dissolved oxygen monitoring in the Merwin tailrace, the duration shall be clarified and language replaced with the following:

Ongoing until dissolved oxygen sags are found not to drop below 8 mg/L for a period of 5 consecutive years.

The section of Table 2 showing the language struck and the replacement language

Parameter	Location	Depth (ft)	Frequency	Duration	Condition No.
Dissolved Oxygen	Merwin tailrace	± The shallowest possible depth (deeper than 1 ft) that allows for continuous and representative monitoring unaffected by water elevation changes or bubble formation.	September and October hourly	<del>Ongoing until dissolved oxygen sags are found not to exceed 8 mg/L for a period of 5 consecutive years</del> Ongoing until dissolved oxygen sags are found not to drop below 8 mg/L for a period of 5 consecutive years.	4.4.5

No other condition or requirement of Order No. 3678 is hereby affected by this amendment.

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

**1. To file your appeal with the Pollution Control Hearings Board**

Mail appeal to:

The Pollution Control Hearings Board  
PO Box 40903  
Olympia WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board  
4224 - 6th Ave SE Rowe Six, Bldg 2  
Lacey WA 98503

**2. To serve your appeal on the Department of Ecology**

Mail appeal to:

The Department of Ecology  
Appeals & Application for Relief  
Coordinator  
PO Box 47608  
Olympia WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology  
Appeals & Application for Relief Coordinator  
300 Desmond Dr SE  
Lacey WA 98503

**3. And send a copy of your appeal to:**

Eric Schlorff  
Department of Ecology  
Southwest Regional Office  
P.O. Box 47775  
Olympia, WA 98504-7775

*For additional information visit the Environmental Hearings Office Website:*

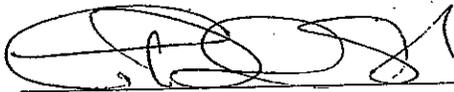
*<http://www.eho.wa.gov>*

*To find laws and agency rules visit the Washington State Legislature Website:*

*<http://www1.leg.wa.gov/CodeReviser>*

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

DATED this 3rd day of October, 2008 at Olympia Washington.



Garin Schriève, P.E.  
Southwest Regional Manager  
Water Quality Program