



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N. Monroe, Suite 202 • Spokane, Washington 99205-1295 • (509) 456-2926

December 4, 1997

CERTIFIED MAIL: P 094 850 871

Mr. William A. Pupo, Manager
City of Spokane
Skywalk Level - City Hall
808 West Spokane Falls Blvd.
Spokane, WA 99201-3334

Dear Mr. Pupo:

RE: Upriver Dam (FERC No. 3074)
Request for Water Quality Certification

The Department of Ecology (Ecology) has completed its review of the City of Spokane's Request for Water Quality Certification for the proposed Upriver Dam project (FERC No. 3074). In our review, we have relied upon the City's Application for License Amendment to the Federal Energy Regulatory Commission (FERC) and the environmental impact statement (EIS) prepared by FERC for the amendment application to increase the reservoir pool for the Upriver Dam Project. We also have considered comments submitted in response to the FERC EIS and Ecology's public notice of the water quality certification request.

Upon receiving a request for water quality certification, Ecology must determine whether the proposed activity meets the requirements of Sections 1311, 1312, 1313, 1316, and 1317 of the Clean Water Act. Section 1313 requires that Ecology implement water quality standards for the waters of the state. Water quality standards for the State of Washington are found at Chapter 173-201A Washington Advisory Code (WAC). In these standards, the Spokane River is designated as a Class A waterbody. Ecology is required to ensure that waterbodies of this class shall meet or exceed the requirements for all or substantially all uses. These uses include water supply, stock watering, fish habitat, wildlife habitat, recreation, commerce and navigation.

WAC 173-201A-070 contains the state's antidegradation policy, which stipulates that "Existing beneficial uses shall be maintained and protected and no further degradation which would interfere with or become injurious to existing beneficial uses shall be allowed." This requirement imposes a mandatory duty upon Ecology to exercise its authority in a manner that prevents any further deterioration of the quality of state waters, even where existing conditions do not allow for full attainment of the water quality standards.



In July 1997, FERC published its final environmental impact statement. The analysis contains conclusions regarding the environmental impacts of the proposed pool raise that are pertinent to our review of the water quality certification request:

1. **Water Resources/Quality:** There would be a moderate, adverse impact on water quality which cannot be effectively mitigated. There would be minor to moderate adverse impacts on the overall water quality from toxic sediments, temperature and DO changes, flooding, and assimilative capacity issues. (Final EIS, p. 5-1).
2. **Fishery Resources:** There would be a moderate adverse impact on the fishery resources of the Spokane River that cannot be mitigated. The impact consists of a permanent loss of wild rainbow trout habitat and spawning beds. (Ibid, pp 5-1, 2)
3. **Terrestrial Resources:** There would be minor adverse impacts on the vegetation communities along the shores of the project's reservoir, including the loss of 200+ mature trees which would take 50-100 years to replace. The loss of riparian habitat and the impacts to wetlands could possibly be mitigated. However, the City has not developed sufficiently detailed wetlands mitigation or riparian management plans on which to make a determination that the terrestrial impacts will be adequately mitigated. (Ibid, pp 5-2, 3)
4. **Aesthetic Resources:** There would be a moderate adverse impact on the aesthetic resources which cannot be mitigated. The impacts would be the loss of shoreline vegetation and the loss of free-flowing water. (Ibid, p 5-4)
5. **Recreation Resources:** There would be a moderate adverse impact on recreation resources. Recreation activities that depend on the 0.4 mile-reach of free-flowing river, which would be lost, include whitewater boating, wild rainbow trout fishing, wildlife observation and scenic viewing. The City's and FERC's proposed measures to address these and other adverse recreational impacts would mitigate only a small portion of them, with most of the measures occurring outside the impacted stretch of the River. (Ibid, pp 5-5,6)

Because the cumulative adverse impacts of this proposal cannot be mitigated, the project would be inconsistent with the requirements of the Clean Water Act. This project would further injure and interfere with existing beneficial uses of the Spokane River, and is therefore contrary to the state's antidegradation policy. In addition, we find that there is incomplete information upon which to develop conditions for the protection of wetlands. This information must include an identification of all anticipated wetland habitat losses by class, an assessment of the impact to existing wetlands, and a conceptual mitigation plan.

Accordingly, the City's request for water quality certification is denied.

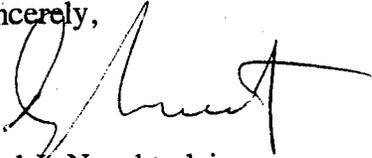
Mr. William A. Pupo

Page 3

December 4, 1997

Any person aggrieved by this decision may obtain review thereof by appeal within thirty (30) days of the date of issuance of this decision, to the Washington Pollution Control Hearing Board, Post Office Box 40903, Olympia, Washington, 98504-0903. We request that a copy of the appeal also be sent to me at the Department of Ecology, Eastern Regional Office, 4601 N. Monroe, Spokane, WA 99205-1295. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

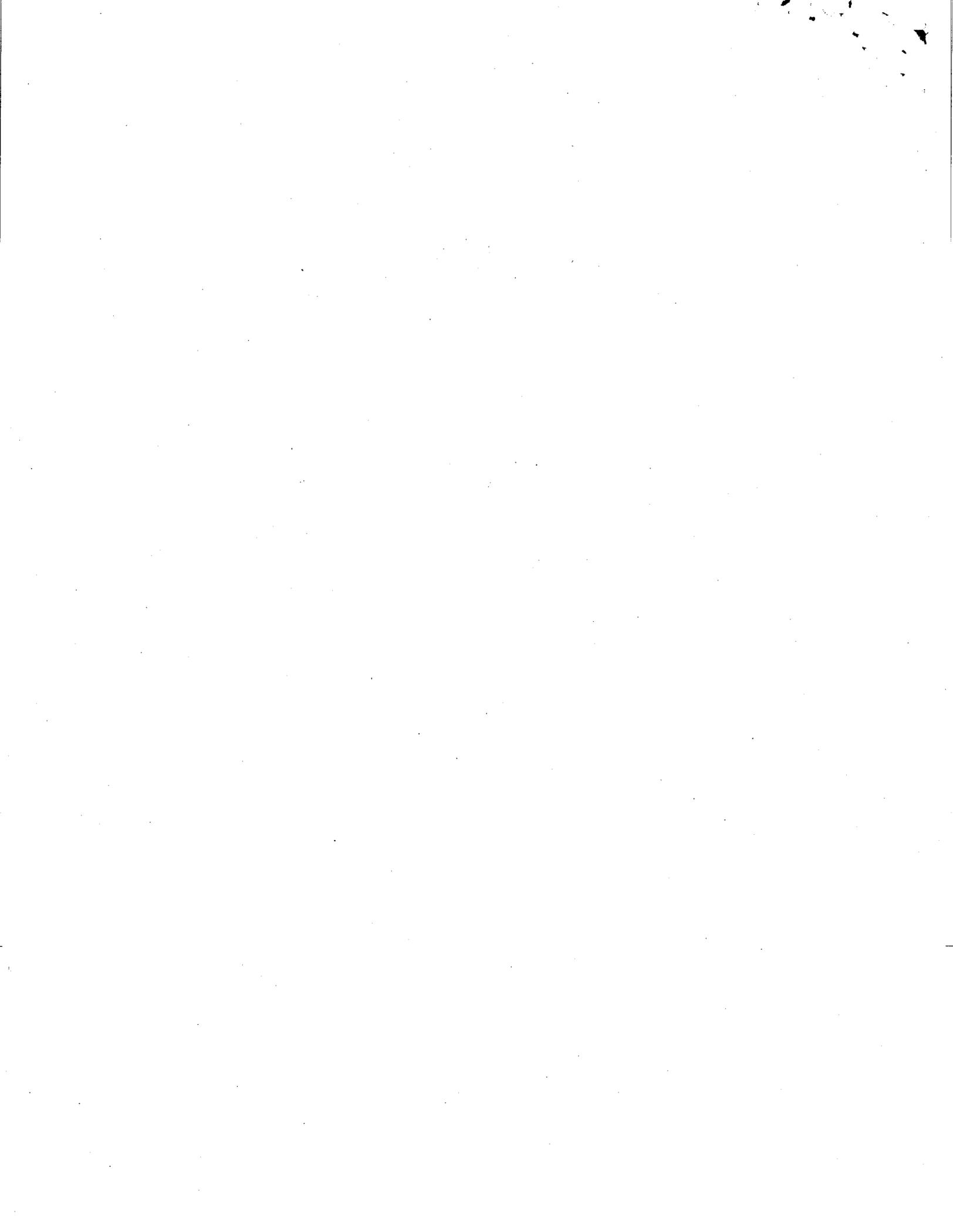
Sincerely,



Carl J. Nuechterlein
Section Manager
Water Quality Program

CJN:dw

Cc: Brad Blegan, Director, Spokane Water and Hydroelectric Services
Lois D. Cashell, Federal Energy Regulatory Commission, Washington, DC
Jim Hastreiter, Federal Energy Regulatory Commission, Portland, OR
Curt Leigh, Dept. of Fish & Wildlife/Olympia
Deborah Mull, Wash. Office of the Attorney General
Megan White, Dept. of Ecology/Olympia
Anthony Grover, Dept. of Ecology/ERO
Jeff Marti, Dept. of Ecology/Olympia





Acres International

150 Nickerson Street, Suite 310
Seattle, Washington 98109

Tel: 206-352-5730

Fax: 206-352-5734

E-mail: seattle@acres.com

FILED
OFFICE OF THE SECRETARY
00 JUL -7 AM 11:15
FEDERAL ENERGY
REGULATORY COMMISSION

7 July 2000

Mr. David P. Boergers, Secretary
Office of the Secretary
Federal Energy Regulatory Commission
888 First St. NE
Washington, D.C. 20429

Dear Secretary:

Cedar Creek Project, FERC Project No. 2103
Application for Subsequent License
Cominco American Incorporated
Request for Water Quality Certification

Cominco American Incorporated (Cominco) requested a water quality certification pursuant to Section 401 of the federal Clean Water Act (401 Certification) on February 10, 2000. Cominco filed its Application for Subsequent License on June 29, 2000. In its Application Cominco noted that the Washington Department of Ecology had notified Nan Nalder that the 401 Certification would be waived and that a letter to that effect would follow.

Enclosed herein please find an Original and eight conformed copies of the letter waiving 401 Certification provided on June 26, 2000.

Very truly yours,

Nan A. Nalder, Project Manager
Application for Subsequent License
FERC Project No. 2103

enc.
cc: Mailing List

~~FERC-D~~

JUL 07 2000

000711-0105-3

