P-2225

ORIGINAL

FILED
OFFICE OF THE SECRETARY
98 JAN 26 PM 4:06
FEDERAL ENERGY
REGULATORY
COMMISSION

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF GRANTING A CERTIFICATION TO **PUD No. 1 of Pend Oreille County** in accordance with 33 USC 1341 [FWPCA § 401], RCW 90.48.260 and WAC 173.201A	)	ORDER No. DE 97WQ-E361

TO: Mr. Larry Weiss
PUD No. 1 of Pend Oreille County
P.O. Box 190
Newport, WA 99156

On October 30, 1996, the Public Utility District No. 1 of Pend Oreille County filed an application with the State of Washington Department of Ecology requesting issuance of a certification under the provisions of 33 USC 1341 (FWPCA § 401) to be submitted with their application for a license to the Federal Energy Regulatory Commission for the Sullivan Creek Hydroelectric Project certifying that the project will comply with applicable provisions of 33 USC 1311, 1312, 1313, 1316, 1317.

The Department of Ecology, exercising its authority pursuant to 33 USC 1341 and RCW 90.48.260, having investigated said application, makes the following findings:

1. The project has been reviewed for conformance with applicable water quality based, technology based, toxic or pretreatment effluent limitations as provided under 33 USC 1311, 1312, 1316, and 1317.

2. The project has been reviewed for conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 USC 1313 and by Chapter 90.48 RCW.

3. The project has been reviewed for conformance with the provision of all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

In view of the foregoing and in accordance with 33 USC 1341, RCW 90.48.260 and Chapter 173-201A WAC, IT IS ORDERED THAT:

1. Subject to the attached conditions, certification under the provisions of 33 USC 1341 is granted to the Public Utility District No. 1 of Pend Oreille County for the Sullivan Creek Hydroelectric Project.

FERC - DOCKETED

980129021-3

JAN 26 1998

2. This certification will cease to be valid if the project is constructed and operated in a manner not consistent with the application for certification.

3. This certification will cease to be valid and the applicant must reapply with an updated application if the information contained in the application is voided by subsequent submittals to the federal agency.

Any person who fails to comply with any provision of this Order may be liable for a penalty of up to ten thousand dollars for each day of continuing noncompliance for every violation.

Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of the date of issuance of the Order, to the Washington Pollution Control Hearings Board, Post Office Box 40903, Olympia, Washington 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Enforcement Section, Post Office Box 47600, Olympia, Washington 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

DATED this 28th day of October, 1997 at Olympia, Washington.

Megan Walker for

Carl J. Nuechterlein
Water Quality Section Manager
Eastern Regional Office
Department of Ecology
State of Washington

ORDER NO. DE 97WQ-E361
CERTIFICATION FOR THE SULLIVAN CREEK HYDROELECTRIC PROJECT
CONDITIONS

I. General Requirements

A. At the point of discharge and within the bypass reach, the waters of Sullivan Creek shall meet the following requirements:

1) All water quality criteria as specified in WAC 173-201A-030 for Class AA waters shall remain in effect. Nothing in this certification shall be construed as to allow the project operator to violate Washington State Water Quality laws (RCW 90.48, Chapter 173-201A WAC).

2) Toxic conditions resulting in dead or dying fish are not allowed. If these conditions exist, operation and/or construction shall cease immediately and the Department of Ecology, Eastern Regional Office shall be notified immediately by telephone at (509) 456-2926, a 24-hour number.

B. Discharge of process wastewater to waters of the state without approval from the Department of Ecology is prohibited.

II. Instream Flow

A. The project shall be operated so that the following minimum instream flows are maintained in Sullivan Creek below Mill Pond Dam.

Dates	Instream Flow Requirements
October 1 - March 31	75 cfs
April 1 – 7	100 cfs
April 8-14	140 cfs
April 9 – 21	160 cfs
April 22-30	200 cfs
May 1 – July 31	200 cfs
August 1 – September 30	125 cfs

*From May 1 through September 30, the required flows are those specified, or the inflow to Mill Pond, whichever is less.

** Cfs means cubic feet per second.

B. The Pend Oreille County PUD shall prepare a plan for two weekends of recreational flow releases in the month of September in consultation with the Washington Department of Fish and Wildlife (WDFW), the Department of Ecology, the United States Forest Service, the U.S. Fish and Wildlife Service and boating organizations. The required releases are 150 cfs on Saturday and 250 cfs on Sunday. These instream flows shall be provided at or before sunlight of each morning, continuing until one hour after sunset. No releases shall be made without consent from WDFW and Ecology.

C. The project shall be operated to ensure that the following ramping rates are not exceeded downstream of Mill Pond and the powerhouse.

Period	Day Rate	Night Rate
May 1– July 31	No ramping	1 inch per hour
Aug 1- Sept 30	2 inches per hour	1 inch per hour
Oct 1 – Apr 30	No ramping	No ramping

Daylight hours are defined as one hour before sunrise to one hour after sunset. Ramping rate refers to the allowable rate of stage decline.

D. The applicant shall establish a telemetered, USGS-approved stream gauging station within one-fourth mile downstream of Mill Pond Dam.

E. Resident fish population studies shall be undertaken in the bypass reach to evaluate the effects of the project. These studies shall be done in consultation with the Washington Department of Fish and Wildlife (WDFW). And the Department of Ecology. The applicant shall file a study plan for approval by WDFW and Ecology. No construction shall begin until Ecology has approved this plan.

F. The project shall adhere to flow continuation criteria as specified by the Washington Department of Fish and Wildlife. The applicant shall file a flow continuation plan for approval by WDFW and Ecology. No construction shall begin until Ecology has approved this plan.

III. Water Quality Monitoring and Reporting

A. A water quality monitoring plan shall be prepared and submitted to the Department of Ecology for approval. The plan shall include, at a minimum, provisions for continuous recording of water temperature in the bypass reach from June 15 through September 15, and for measuring total dissolved gas in the tailrace.

B. Suspension or modification of water quality monitoring may be requested after five years of complete, reliable data for temperature and after one year for total dissolved gas, collected after facility start up.

C. Water quality monitoring results shall be reported quarterly to the Department of Ecology, Eastern Regional Office.

IV. Construction Activities

A. The Pend Oreille County PUD and its construction contractor shall use all known, available and reasonable Best Management Practices (BMPs) to minimize temporary, construction-related, turbidity increases in waters of the state including, but not limited to, Sullivan Creek and Mill Pond. No other water quality criteria, as specified in Chapter 173-201A WAC, may be varied during project construction.

B. An erosion and sediment control plan shall be prepared and implemented in consultation with the Department of Ecology, the US Forest Service, the US Fish and Wildlife Service and the Washington Department of Fish and Wildlife.

C. A monitoring and failure contingency plan for the new pipeline shall be developed in consultation with the Department of Ecology, the US Forest Service, the US Fish and Wildlife Service and the Washington Department of Fish and Wildlife.

V. Wetland Provisions

A. The applicant shall prepare a wetlands mitigation plan after consulting with the Department of Ecology. No construction shall begin until Ecology has approved this plan.

VI. Spill Prevention and Control

A. RCW 90.56 prohibits any discharge of oil, fuel or chemicals into state waters or onto land with a potential for entry into state waters.

B. An oil spill prevention, containment, and countermeasure plan shall be prepared that covers all oil filled equipment to be installed and used at the site. This equipment includes the turbine/generator set, all oil filled transformers and capacitors to be installed at the project, and all mobile maintenance and construction equipment to be used at the project.

C. In the event of a discharge of oil, fuel, chemicals or other toxic or deleterious materials into state waters, or onto land with a potential for entry into state waters, containment and clean-up efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Clean-up shall include proper disposal of any spilled material and used clean-up materials.

D. Spills into state waters, spills onto land with a potential for entry into state waters, and any other significant water quality impacts, shall be reported immediately to the Department of Ecology Eastern Regional Office at (509) 456-2926 (24- hour phone number).

VII. Additional Requirements

A. For subsequent Federal permits or licenses which may result in a discharge into navigable waters, a new water quality certification shall be required if 1) there are changes in the proposed construction or operation of the facility; 2) there are changes in the characteristics of the water into which a discharge will be made; 3) there are changes in applicable water quality criteria; or 4) there are changes in applicable effluent limitations or other requirements.