



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

January 15, 2002

CERTIFIED MAIL

Ms. Debbie Young
Tacoma Power
3628 S 35th Street
Tacoma WA 98411-0007

Dear Ms. Young:

RE: Order #11-2001 -- Water Quality Certification for a new license for the Cowlitz River Hydroelectric Project (FERC Number 2016) located on the Cowlitz River, Lewis County, Washington

The request for certification for proposed work in and adjacent to the Cowlitz River has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

The request for certification was made available for public review and comment through an Ecology public notice mailed out on December 6, 2001. The public comment period extended from December 6, 2001 to December 26, 2001. An earlier public comment period for the same project extended from November 13, 2001 to December 3, 2001.

During this public review period Ecology received comments from interested parties. They are concerned about the operation of the project and we recommend that Tacoma establish a dialogue with those parties. A list of commenters is attached.

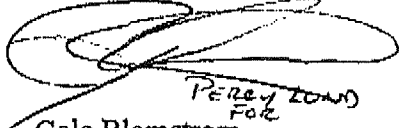
This certification is subject to the conditions contained in the enclosed Order. These conditions provide us with reasonable assurance that the Project will meet the state water quality standards.



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If you have any questions, please contact Helen Pressley at (360) 407-6926. Written comments can be sent to her at the Department of Ecology, Southwest Regional Office, PO Box 47775, Olympia WA 98504-7775 or at hpre461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Gale Blomstrom". The signature is somewhat stylized and loops around itself.

Gale Blomstrom
Section Supervisor
Shorelands and Environmental
Assistance Program

GB:HP:dn
Enclosure

cc: Lynnwood A. Watson, Acting Secretary, Federal Energy Regulatory Commission
Steve Price-Pacer
Steve Van Rensum, e-mail
Tom Fox, e-mail
Cleve Steward, Cleve Steward and Assoc
Jonathan Feil, Simberg, Ketter, Sheppard, and Purdy LLP
eff Breckel, Lower Columbia Fish Recovery Board
Edwina Hirko, Cowlitz Game and Anglers
Louis L Reeb, PE
Cowlitz Project Service List

IN THE MATTER OF GRANTING)	ORDER #01SEASR-3367
A WATER QUALITY)	licensing of the Cowlitz River
CERTIFICATION TO)	Hydroelectric Project (FERC
City of Tacoma dba Tacoma Power)	Number 2016) located on the Cowlitz
in accordance with 33 U.S.C. 1341)	River, Lewis County, Washington
FWPCA § 401, RCW 90.48.260)	
and WAC 173-201A)	

TO: Ms. Debbie Young
Tacoma Public Utilities
3628 S 35th Street
Tacoma WA 98411-0007

On December 5, 2001, a request by Tacoma Public Utilities for water quality certification from the State of Washington was submitted for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The request for certification was made available for public review and comment through an Ecology public notice mailed out on December 6, 2001. The public comment period extended from December 6, 2001 to December 26, 2001.

The proposed Project entails licensing of the Cowlitz River Hydroelectric Project (FERC Number 2016) located on the Cowlitz River, Lewis County, Washington. This licensing covers the Mayfield Dam (RM 52.0), Riffe Lake Dam (Mossyrock Dam) (RM 65.5), Riffe Lake Reservoir, Mayfield Lake Reservoir, the two powerhouses and transmission facilities associated with the dams, the Cowlitz Trout Hatchery, Cowlitz Salmon Hatchery (RM 49.5), the Barrier Dam (RM 47.0), recreational facilities at the reservoirs, and lands within the project boundary. Site-specific projects or development activities will be covered under separate individual 401 water quality certifications as appropriate.

For purposes of this Order, the term "Applicant" shall mean the City of Tacoma dba Tacoma Power and its agents, assigns, and contractors.

For purposes of this Order, the "Cowlitz River Hydroelectric Project Agreement" dated August 8, 2000 also known as the "Settlement Agreement" shall be referred to as the Agreement. The water quality provisions of the Agreement including the instream flow requirements are incorporated here by reference.

For purposes of this Order, the term "Project" refers to the relicensing of hydroelectric facilities and management of the facilities. The term "project" refers to general use of the word in context.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341 and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with all applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate

- requirements of state law; and,
3. Conformance with any and all applicable provisions of Chapter 90.48 RCW and of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

In view of the foregoing and in accordance with 33 U.S.C. 1341, Chapter 90.48 RCW and Chapter 173-201A WAC, certification is granted to the Applicant subject to the following conditions:

A. Water Quality Standard Conditions:

1. Nothing in this certification shall absolve the Applicant from liability for pollution and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.
2. The Cowlitz River waterbody segment from the mouth of the Cowlitz to the base of Mayfield Lake Dam (RM 52.0) is a Class A water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC) unless otherwise authorized by Ecology.
3. The Cowlitz River waterbody segment from the upstream end of Riffe Lake dam (RM 52.0) to the headwaters is a Class AA water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC) unless otherwise authorized by Ecology.
4. Riffe Lake Reservoir and Mayfield Lake Reservoir are Lake Class waters of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (173-204 WAC) unless otherwise authorized by Ecology.
5. The Cowlitz River, waterbody segment #WA-26-1040, has been identified on the current 303(d) list as exceeding state water quality standards for arsenic. Operation of the proposed Project shall not result in further exceedances of this standard.
6. In the event of changes in or amendments to the state water quality standards, Chapter 173-201A, or changes in or amendments to the state Water Pollution Control Act, Chapter 90.48, or changes in or amendments to the Federal Clean Water Act, such provisions, standards, criteria or requirements shall also apply to this Project and any attendant agreements, orders, or permits.
7. The Applicant shall operate this project in a manner to comply with the Agreement including but not limited to required instream flows as described in the Agreement and so as to support fisheries in the river.

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B. Notification Conditions:

1. The Applicant shall notify Ecology's SWRO Federal Permit Coordinator, PO Box 47775, Olympia WA 98504-7775, (360) 407-6926, in the event that the Agreement is reopened for any reason.
2. The Applicant shall immediately notify Ecology in the event of a spill of hazardous substances or the discharge of polluting matter. Notification shall be made to Ecology's SWRO Spill Response Team, (360) 407-6300.
3. The Applicant shall immediately notify Ecology's SWRO Federal Permit Coordinator of any and all violations of state water quality standards. The notification shall include a description of the possible cause(s) of the exceedance, measures taken to reduce or eliminate the exceedance, and actions planned or underway to prevent reoccurrence.

C. Duration of Certification:

1. The Applicant shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this Project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.

D. Further Actions Not Covered by This Notice:

1. Any future action at this Project location, emergency or otherwise, that is not defined in the public notice, has not been approved by Ecology as having reasonable assurance of compliance with water quality requirements.

E. Monitoring Conditions:

1. All monitoring shall be conducted as detailed in the Agreement and shall include monitoring for water quality of total dissolved gas, dissolved oxygen, temperature, and pH at a minimum. Additional monitoring may be required by Ecology based on the results of monitoring and for site-specific projects and fisheries issues as necessary as set out in Article 15 of the Agreement.
2. The Applicant shall submit all Water Quality Assurance Project Plans or monitoring plans to Ecology's SWRO Federal Permit Coordinator. Plans should be submitted at least thirty (30) days prior to the start of the monitoring in order to give Ecology sufficient time for review and approval. These plans shall include the following information at a minimum:
 - a) Map of sample locations (background, and distance in feet upstream and downstream of Project facilities);

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- b) parameter(s) to be monitored;
- c) sample methodology;
- d) units of measurement; and,
- e) sample frequency.

Any changes to the water quality monitoring plan requirements must be approved in writing by Ecology. The Applicant shall submit all Water Quality Assurance Project Plans to Ecology's SWRO Federal Permit Coordinator. Proposed changes should be submitted at least thirty (30) days prior to the start of the monitoring in order to give Ecology sufficient time for review and approval.

F. Reporting Conditions:

1. The Applicant shall provide to Ecology on an annual basis or as necessary, a report on all water quality monitoring, sampling and analysis conducted in association with the project. The reports shall be submitted to Ecology's SWRO Federal Permit Coordinator.

G. Construction Conditions:

While the existing Project in and of itself will not require construction, all site-specific development or mitigation projects proposed under this relicensing must meet the conditions below unless covered under a separate 401 water quality certification:

1. A Stormwater Pollution Prevention Plan (SWPPP) and Erosion and Sediment Control (ESC) Plan must be developed prior to commencement of construction activities. During construction adjustments to the plan(s) and Best Management Practices (BMPs) may be necessary to successfully control off-site movement of material.
2. All projects must apply for an NPDES permit for construction activities as required by Washington law, including RCW 90.48.
3. The development site shall be clearly marked/staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas to be protected from disturbance shall be delineated so as to be clearly visible to equipment operators. Equipment shall enter and operate only within the delineated clearing limits, corridors and stockpile areas.
4. Work in or near the waterbody shall be done using Best Management Practices so as to minimize turbidity, erosion, and other water quality impacts.
5. Erosion control devices (e.g., filter fences, hay bales, etc.) suitable to prevent exceedance of state water quality standards shall be in place before starting project construction and shall

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be maintained throughout construction.

6. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days from the start of the project to site stabilization. Additional inspections shall be conducted during and/or after rainfall events to ensure erosion control measures are working properly. Any damaged structures shall be immediately repaired. If it is determined during the inspection that additional measures are needed to control stormwater and erosion, they shall be implemented immediately.
7. A contingency plan shall be developed detailing actions to be taken in the event of adverse weather conditions or other foreseeable undesirable conditions.
8. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters. The Applicant shall set up a designated area for washing down equipment.
9. Machinery and equipment used during construction shall be serviced, fueled, and maintained on uplands in order to prevent contamination of surface waters.
10. The Applicant shall comply with all water quality-related requirements and Best Management Practices included in any other required permit or Order.
11. All excavated material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
12. Turbid water generated from construction activities, including turbid dewatering water, shall not be discharged directly to waters of the state. Turbid water shall be pumped to an upland area to allow the turbid water to settle or filter into the ground. The discharge from the upland areas shall meet state water quality criteria at the point of discharge.
13. Temporary sediment traps shall be periodically cleaned out and the settled sediments removed from the stream channel before removing any stream diversion system and returning the flow of the Cowlitz River to its natural channel. Settled sediments shall not be allowed to enter the Cowlitz River due to water or runoff flows that may occur after construction is completed.
14. The waters of the Cowlitz River and tributaries, Riffe Lake, and Mayfield Lake shall not come in contact with the concrete outlet structure while the concrete is curing. All concrete shall be poured in the dry, or within the confined waters not being dewatered. Any diversion system shall not be removed until after the concrete has cured for at least 7 days.
15. A separate area shall be set aside, which does not have any possibility of draining to surface waters, for the wash out of concrete delivery trucks, pumping equipment, and tools.
16. All earth areas adjacent to the Cowlitz River, Riffe Lake, or Mayfield Lake which have been

exposed or disturbed are to be graded to a stable grade, seeded with a suitable erosion control seed mix which includes native grasses and forbs, and protected from erosion with straw mulch or equivalent within seven (7) days of project completion. Native trees and shrubs are also recommended for slope stabilization.

17. All stormwater facilities shall be designed to the standards contained in the most recent version of the Ecology "Stormwater Management Manual for Western Washington".

H. Emergency/Contingency Measures:

All site-specific projects proposed under this relicensing must meet the conditions unless covered under a separate 401 water quality certification:

1. The Applicant shall develop spill prevention and containment plans for the projects, and shall have spill cleanup materials available on site.
2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters.
3. If at any time during work the Applicant finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the Applicant shall immediately notify the Ecology's Southwest Regional Spill Response Office at (360) 407-6300.
4. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant shall immediately take the following actions:
 - a) Cease the activity causing the pollution.
 - b) Assess the possible cause(s) of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c) In the event of finding distressed or dying fish, the Applicant shall collect fish specimens and water samples in the affected area and, within the first hour of such conditions, make every effort to have the water samples analyzed for dissolved oxygen and total sulfides.
 - d) In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.

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- e) In the event of a fish kill, immediately notify Ecology's Southwest Regional Spill Response Office at (360) 407-6300, the SWRO Federal Permit Coordinator, and Washington Department of Fish and Wildlife. Notification shall include a description of the nature and extent of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

I. General Conditions:

1. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in this Order.
2. Ecology retains continuing jurisdiction to make modifications hereto through supplemental or amended Order, if it appears necessary to further protect the public interest and as stated in Section 11.3 of the Agreement.
3. The Applicant shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
4. A full-time Pollution Control inspector shall be on-site, or on-call and readily accessible to the site, at all times while construction activities are occurring that may affect the quality of ground and surface waters of the state.
5. The Pollution Control inspector shall have adequate authority to ensure proper implementation of the SWEPP and Erosion and Sediment Control Plans, as well as immediate corrective actions necessary because of changing field conditions. If the Pollution Control Officer issues an order necessary to implement a portion of the SWPPP or to prevent pollution to the river, all personnel on site, including the construction contractor and the contractor's employees, shall immediately comply with this order.
6. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology or WDFW personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
7. Copies of this Order and all related permits, approvals, and documents shall be kept on site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the Applicant, and state agency personnel.
8. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

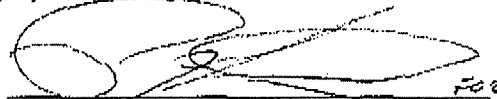
Any person aggrieved by this Order may obtain review thereof by appeal. The Applicant can appeal up to 30 days after receipt of the Order, and all others can appeal up to 30 days from the postmarked date of this Order. The appeal must be sent to the Washington Pollution Control Hearings Board, PO Box

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40903, Olympia WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, PO Box 47600, Olympia WA 98504-7600.

These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 1/15/02 at Olympia, Washington



Gale Blomstrom, Section Manager
Southwest Regional Office
Shorelands and Environmental Assistance Program

First Public Notice:

#1 Comments from:

Mr. Jeff Breckel
 Executive Director
 Lower Columbia Fish Recovery Board
 2127 - 8th Ave
 Longview WA 98632
 360.414.4186

Received via:

E-mail, December 26, 2001 5:42p
 MTereski@TDN.com

Issues Raised:

Public comment period
 Impacts on groundwater supplies&beneficial uses
 Did not sign the Settlement Agreement because of
 their concerns with the Agreement

#2 Comments from:

Tom Fox
 LCFRC Lewis Co Citizen Designee

Received via:

E-mail, December 3, 2001 5:17 p
 tmp@myhome.net

Issues Raised:

Public comment period
 Concern that the 401 cert will turn the watershed
 planning process on its head
 Flow regime as proposed doesn't replicate natural flows

#3 Comments from:

Jonathan Fiel for Friends of the Cowlitz &
 CPR-Fish
 Simburg, Ketter, Sheppard, & Purdy
 999 - 3rd Ave, Suite 2525
 Seattle WA 98104-4089
 206.382.2600

Received via:

E-mail, December 3, 2001 8:31p
 jfiel@SKSP.com followed by hard
 copy

Issues Raised:

Project will not meet WQ standards, lots of
 comments in support of this position
 Other info on instream flow concerns

#4 Comments from:

Edwina H Hirko
 Cowlitz Game and Anglers
 PO Box 1061
 Longview WA 98632

Received via:

E-mail December 4, 2001 10:51a
 Note: Commentor had incorrect
 e-mail address until today.
 edwinahirko@tdn.com

Issues Raised:

Pending litigation on flood control issues should be
 resolved before the cert is issued
 Tacoma Power and the Corps have negotiated the new
 flood control requirements outside the Settlement
 Agreement
 No notice published in local paper

#5 Comments from:

Jonathan Fiel for Friends of the Cowlitz &
CPR-Fish
Simburg, Ketter, Sheppard, & Purdy
999 - 3rd Ave, Suite 2525
Seattle WA 98104-4089
206.382.2600

Received via:

E-mail December 26, 2001 followed by Public notice, hearing and newspaper publishing request
hard copy. recreational flows, the PNCA, another agreement.

Issues Raised:

#6 Comments from:

Jeff Breckel
Lower Columbia Fish Recovery Board
2127 - 8th Ave
Longview WA 98632
360.414.4186

Received via:

E-mail December 26, 2001 4:55 pm ESA issues, lack of reasonable assurance when using the
SA requirements as a basis for action

Issues Raised: