



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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Main Office Location: Natural Resources Building, 1111 Washington Street SE, Olympia, WA

November 9, 1994

TO: David Mudd

FROM: Hal Beecher *HB*

SUBJECT: Barclay Creek Hydroelectric Project (FERC 6310)
Instream Flow Agreement

Please have the attached instream flow agreement signed by the appropriate representative of the department.

The project is licensed (but not built yet) with a year round instream flow of 20 cfs as a license condition. If FERC accepts the agreement, it would allow modification of instream flows and would require monitoring of fish response to flows, with a procedure for increasing instream flows if the fish population suffers. The monitoring plan is patterned after the Youngs Creek flow monitoring plan. The instream flow would be raised in spring and lowered during winter. I believe the proposed flows are good instream flows for fish.

The form of the agreement was approved informally by Bill Frymire. I left messages with Region 4 about this and have not heard any objections.

cc: Craig Olds
Gary Engman
Ted Muller
Bill Frymire

*Bob - OK to sign
Chris*

INSTREAM FLOW AGREEMENT

This Instream Flow Agreement, dated November 21, 1994, sets forth the terms of agreement reached between Gull Industries, Inc. ("Gull") and the Washington Department of Fish & Wildlife ("WDFW"), hereinafter referred to singly as "Party" and in the plural as "Parties".

WITNESSETH:

WHEREAS Gull is the Federal Energy Regulatory Commission ("FERC") license holder for the Barclay Creek Hydroelectric Project, FERC No. 6310 ("Project"); and

WHEREAS the FERC license for the Project prescribes a year-round 20 cfs instream flow; and

WHEREAS Gull, in light of the existence of more accurate and updated hydrology and fish preference data for the Project, initiated consultation with WDFW and other interested parties to review instream flow requirements contained in the FERC license; and

WHEREAS Gull has established biological justification for a revised instream flow schedule using a sound technical approach; and

WHEREAS WDFW and Gull jointly developed a fish monitoring plan to provide additional assurance that minimum instream flow releases will not harm aquatic resources in the Project reach;

NOW, THEREFORE, the Parties agree as follows:

1. A FERC license condition prescribing a minimum instream flow which takes into account variations of flow by month, and which has as an integral component a monitoring plan that clearly specifies existing expectations and flow increases if monitoring shows the expectations are not being met, would benefit both the project as a whole and specifically the affected fish resources.

2. The best current recommendation for an instream flow that will adequately protect the fish resources of Barclay Creek is that instream flow schedule described on page 12 of the Post-Licensing Instream Flow Report under the column heading "Proposed Flow (cfs)." The Post-Licensing Instream Flow Report (and all appendices and exhibits thereto), dated July 1994 ("Report"), and included as Attachment A hereto, is incorporated into and made a part of this Agreement.

3. The Resident Trout Monitoring Plan ("Monitoring Plan") contained in Appendix G of the Report is the monitoring plan necessary to assess impacts of the Proposed Flow instream flow

schedule and if expectations are not being met, the Monitoring Plan identifies the actions that the Parties agree shall be taken to address the problems.

4. Gull shall petition the FERC, and WDFW shall support such petition, to amend the existing license for the Project by replacing the existing minimum instream flow requirement with a requirement containing the Proposed Flows.

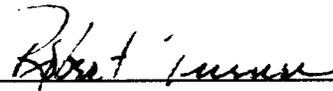
5. Gull shall petition the FERC, and WDFW shall support any such petitions, to make such future amendments to the instream flow requirement of the Project license as are required by the provisions of the Monitoring Plan.

6. This Agreement shall terminate at the earlier date of either: a) Gull's failure to file a petition for a license amendment based on the above terms by January 1, 1996; or b) the expiration of the obligations of the Monitoring Plan.

GULL INDUSTRIES, INC.

WASHINGTON DEPARTMENT OF FISH
& WILDLIFE

By: 
Name: J.T. SCOTT
Title: Vice President

By: 
Name: Robert Turner
Title: Director