

A G R E E M E N T

Lilliwaup Falls Hydroelectric Project FERC Exemption No. 3842

SUBJECT: Fish Screens on Intake and Tailrace Construction.

A. Fish Screens on Intake Structure

With regard to fish screens and the intake device, it is agreed to during the fall of 1985/winter of 1986 "rainy" season, no fish screens will be required on the existing intake, because of the high velocity of water over the falls adjacent to the intake.

In the spring of 1986, the fish screen situation will be reassessed by the Department of Game and other interested agencies, including U.S. Fish and Wildlife Service. If fish screening is deemed necessary by the lead agency (at this time, the Department of Game) after on-site inspection, and if the project owner is given notice of this determination by June 1, 1986, then the project owner agrees to install screening which will comply with the Department of Game's fish screening criteria for resident fish by September 30, 1986; provided that no fish screening will be required if the Department of Game does not give notice of its determination by June 1, 1986. If the project owner fails to so perform, it is mutually understood that the Department of game may exercise its powers under RCW 75.20.040.

B. Tailrace Construction

With regard to the tailrace, engineering plans were submitted to the Department of Game on Tuesday, November 10, 1985 for its review and approval, as well as the review and approval of other interested agencies (e.g., Washington Department of Fisheries and U.S. Fish & Wildlife Service). Assuming such approvals are received (which we anticipate based on our recent telephone conversations), the project owner will then proceed to have the tailrace installed, which should take place in approximately three weeks.

The project owner, John Craft or his successors agree to provide discharge of the outfall from the tailrace flume to the plunge pool of Lilliwaup Falls in such a manner that anadromous fish will not be injured due to false attraction of said outfall. Terminus of tailrace must be inspected and approved by Washington State Departments of Game and Fisheries before construction is completed and plant operated at maximum capacity.

Washington Department of Game

By: Brian D. Hauger
Brian D. Hauger

Dated: Nov 21 1985

Agreement accepted this the 20th day of November, 1985 for project owner, John Craft or any successor owner of the project known as Lilliwaup Falls Hydroelectric Project FERC No. 3842

John Craft
~~Brian E. Lawler-Agent for John Craft~~

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

- 2 -

Susan A. Craft and John D. Craft) Project No. 3482-001

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS

(Issued June 16, 1981)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U. S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption. Standard Article 2 included in this exemption requires compliance with any conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources.

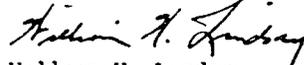
It is ordered that:

(A) Lilliwaup Falls Hydroelectric Project No. 3482 as described and designated in the exemption application filed on January 7, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in Section 4.106 of the Commission's regulations, 18 C.F.R. §4.106 Fed. Reg.

-
- 1/ Susan A. Craft and John D. Craft, Project No. 3482-001, filed on January 7, 1981.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
- 3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. §375.308 (1980), as amended by Fed. Reg. 14119 (1981).

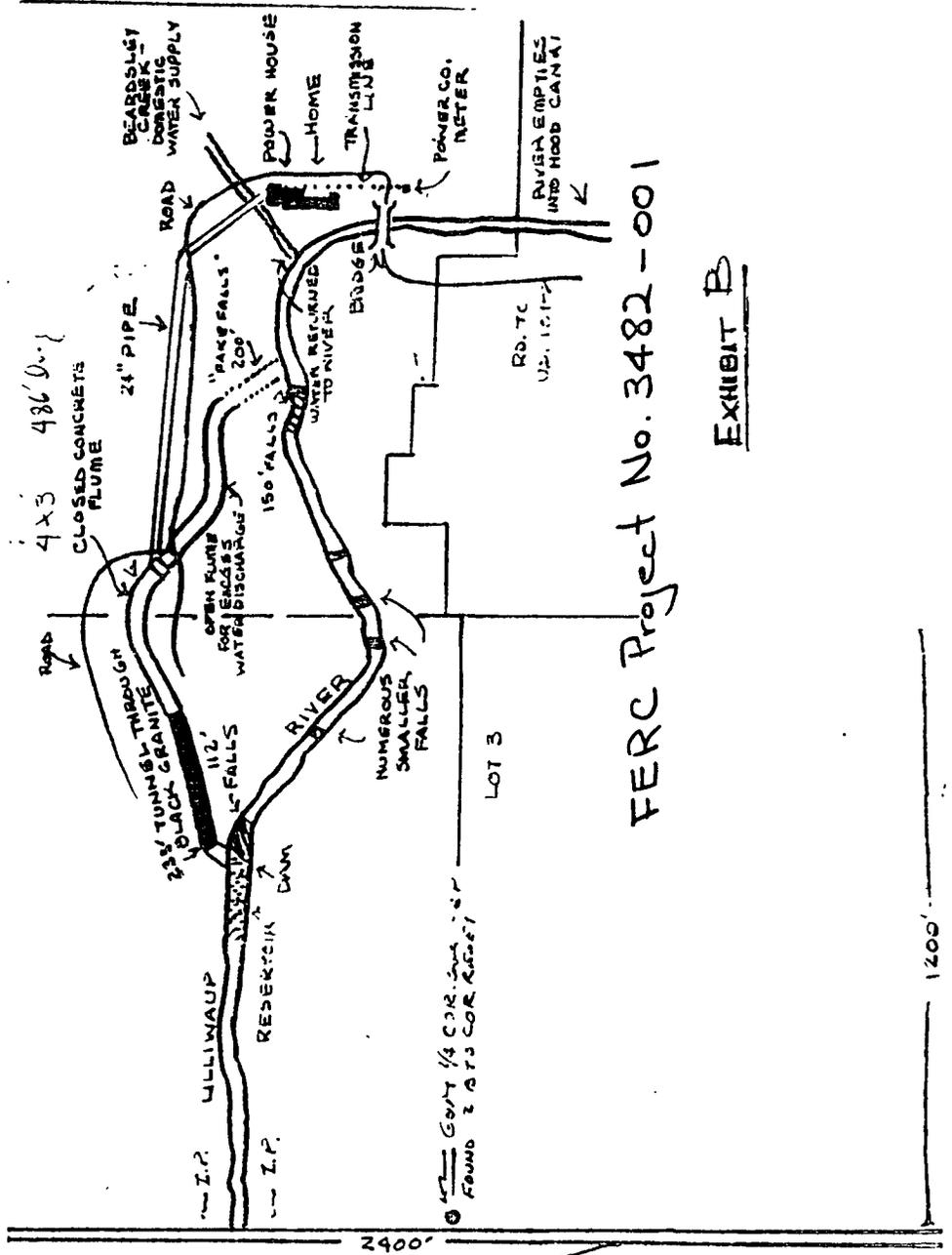
(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d) (1979), as amended, 44 Fed. Reg. 46449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this permit or of any other date specified in this order, except as specifically ordered by the Commission.

(S E A L)


William W. Lindsay
Director, Office of Electric
Power Regulation

20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N. W., Washington, D. C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb
Secretary



FERC Project No. 3482-001

EXHIBIT B

NOV 7 1985

Law Offices

SHORT & CRESSMAN

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

30TH FLOOR, FIRST INTERSTATE CENTER

999 THIRD AVENUE

SEATTLE, WASHINGTON 98104

TELEPHONE

(206) 682-3333

PAUL R. CRESSMAN, SR., P.S.
JOHN O. BURGESS
DOUGLAS R. HARTWICH
ROBERT E. HEATON
JOHN H. STRASBURGER
DONALD W. FERRELL
JAMES A. OLIVER
DAVID R. KOOPMANS
KENNETH L. MYER
ROBERT S. JAFFE
JOSEPH D. PUCKETT
ROBERT J. SHAW
CARL B. GOODWIN, JR.
KEITH GORMLEY BALDWIN
PAUL R. CRESSMAN, JR.
BRIAN E. LAWLER
ANDREW W. MARON

MABRY C. DE BUYS
STEVEN HAKE
ROBERT H. BLAIS
LYNN SKORDAL
CHRISTOPHER J. SOELLING
PAUL J. DAYTON
BRYAN P. COLUCCIO
JANET GRAY
CANDY S. MARSHALL
CHRISTOPHER R. OSBORN
MAUREEN T. LEE
PETER J. FELTRUP
THOMAS W. READ
STEPHEN P. CONNOR
CALDER M. MACKAY
KENNETH P. SHORT
OF COUNSEL

November 6, 1985

Mr. Mark Grandstaff
Mr. Brian Hauger
Habitat Management Section
Washington Department of Game
600 North Capital Way
Olympia, WA 98504

Re: Lilliwaup Falls Hydroelectric Project--
FERC Exemption No. 3842

Dear Mark and Brian:

This is to follow up on your on-site inspection of Monday, October 28, 1985.

First, John Craft is proceeding with the tailrace based on the understanding reached last week. He has retained the Weyerhaeuser Company to furnish a glu-lam beam type bridge suitable for tailrace purposes. Weyerhaeuser will have plans prepared and approved by their engineers (Washington State licensed). John Craft will retain the same engineer to furnish the plans on the remainder of the tailrace; i.e., the concrete trough.

John Craft is prepared to hand deliver these plans to you on Friday, November 8 or Monday, November 9. Upon submission, the plans will be reviewed by the appropriate agencies, including the Department of Game, within five working days. If it is necessary for the Game Department to meet with the engineer during that five-day period, arrangements can be made.

Assuming Game Department approval, John Craft will then proceed to have the tailrace installed which may take up to three weeks.

During the fall 1985/winter 1986 wet period, no fish screens will be required on the existing intake, given the

Mr. Mark Grandstaff
Mr. Brian Hauger
November 6, 1985
Page Two

existing high velocity of water over the falls adjacent to the intake. In the spring/summer season, the fish screen situation will be reassessed by the Department of Game and other interested agencies, such as U.S. Fish and Wildlife.*** *B.H.*

Mark and Brian, this letter conforms to our understanding of the agreement reached on the telephone on October 28, 1985. If this also conforms to your understanding, please acknowledge by signing on the line indicated at the end of this letter and return a copy to me. It is in the interest of both parties to reduce their understanding to writing so that we do not have any miscommunications or later disagreements.

Finally, the project engineer, Pacific Diesel, reports that Mason County PUD will have their necessary interconnection work completed by Friday, November 8, 1985. It is our intent, unless you indicate otherwise, to operate one to two turbines on an intermittent usage basis for testing purposes. This will conform to the historical use of the power house, with its two turbines, for the past forty years. The five additional its two turbines will not be turned on until the tailrace is installed.

Your prompt response will be appreciated.

Very truly yours,

Brian E. Lawler

Brian E. Lawler

BEL:sl
cc: John Craft

Washington Department of Game

By: *Brian D. Hauger*

Date: Nov. 7, 1985

JUNE 15

SEPT =

B.H. *** If fish screening is deemed necessary by the participating agencies Mr. Craft or the Project Owner will provide screening at the intake structure which will comply with Department of Game fish screening criteria for resident fish. Should such screening be required the project owner agrees that it will be totally installed by August 15, 1985. Should the project owner fail to perform it is mutually agreed that the project will immediately shut down and remain so until all work is satisfactorily completed.

Agreed to by:

John Craft

Law Offices

SHORT & CRESSMAN

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

30TH FLOOR, FIRST INTERSTATE CENTER

999 THIRD AVENUE

SEATTLE, WASHINGTON 98104

TELEPHONE

(206) 682-3333

PAUL R. CRESSMAN, SR., P.S. MABRY C. DE BUYS
JOHN O. BURGESS STEVEN HAKE
DOUGLAS R. HARTWICH ROBERT H. BLAIS
ROBERT E. HEATON LYNN SKORDAL
JOHN H. STRASBURGER CHRISTOPHER J. SOELLING
DONALD W. FERRELL PAUL J. DAYTON
JAMES A. OLIVER BRYAN P. COLUCCIO
DAVID R. KOOPMANS JANET GRAY
KENNETH L. MYER CANDY S. MARSHALL
ROBERT S. JAFFE CHRISTOPHER R. OSBORN
JOSEPH D. PUCKETT MAUREEN T. LEE
ROBERT J. SHAW PETER J. FELTRUP
CARL B. GOODWIN, JR. THOMAS W. READ
KEITH GORMLEY BALDWIN STEPHEN P. CONNOR
PAUL R. CRESSMAN, JR. CALDER M. MACKAY
BRIAN E. LAWLER KENNETH P. SHORT
ANDREW W. MARON OF COUNSEL

November 15, 1985

Mr. Mark Grandstaff
Mr. Brian Hauger
Habitat Management Section
Washington Department of Game
600 North Capitol Way
Olympia, WA 98504

Re: Lilliwaup Falls Hydroelectric Project
FERC Exemption No. 3842

Gentlemen:

Consistent with our prior discussion, this is to confirm that interconnection with Mason County PUD No. 1 was established on Thursday, November 14, 1985. Until the approved tailrace is installed, Lilliwaup Falls Hydroelectric will operate one to two turbines which conforms to the historical use of this facility for the past forty years. The other five new turbines will not be turned on until the tailrace is installed.

Very truly yours,



Brian E. Lawler

BEL:sl

cc: John Craft



JACK S. WAYLAND
Director

STATE OF WASHINGTON
DEPARTMENT OF GAME
905 East Heron, Aberdeen, WA 98520 (206) 533-9J35

October 23, 1986

John Craft
P.O. Box 86
Lilliwaup, WA. 98555

RE: Lilliwaup Falls Hydroelectric, FERC No. 3482

Dear Mr. Craft:

Pursuant to our November 20, 1985 agreement, this letter is to notification that the Washington Department of Game will not, at this time, exercise its discretionary authority under RCW 77.16.220 to close your diversion.

If you have any questions please contact me at 754-0635.

Sincerely,

THE DEPARTMENT OF GAME

Mark

Mark Grandstaff
Area Habitat Biologist

MG:wm

cc: Brian Lawler
Fenton
Gufler