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April 30, 2007

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Reference: Sauk-Suiattle Indian Tribe comments Notice of Inquiry and Interim Policy Statement (RM07-08-000)

Dear Ms. Bose:

The Sauk-Suiattle Indian Tribe reserved the right to take fish at usual and accustomed grounds and stations in Section 5 of the Treaty of Point Elliott of 1855. That right, so crucial to the Tribe's livelihood, survival, and culture may be affected by the Tidal Hydroelectric Projects for which the FERC has issued preliminary permits in Puget Sound. The Sauk-Suiattle Indian Tribe has intervened in P-12687, P-12689, P-12690, P-12692, and P-12698. The Sauk-Suiattle Indian Tribe is also by federal court order a co-manager of the fish and wildlife resources of the Skagit River Basin along with the Washington Department of Fish and Wildlife, Swinomish Indian Tribal Community, and Upper Skagit Indian Tribe.

All five of these projects are located in juvenile and adult migration routes for all five species of Pacific salmon and steelhead that return to the Skagit River. These tidal hydroelectric projects may alter migration or cause direct mortality on migrating salmon and steelhead. The project areas may also be used as rearing areas for salmon, steelhead and forage fish. The projects may reduce the productivity of rearing habitat or cause direct mortality of fish rearing within the project area. The projects may also alter current patterns and sediment drift patterns. It is essential that applicants begin consultation with Tribes early in the preliminary permit process. The FERC should make it clear to applicants that the FERC has a trust responsibility to the tribes for their fisheries resources.

In general the Sauk-Suiattle Tribe agrees with the FERC's stricter scrutiny approach to preliminary permits but there are some difficulties to this approach. The FERC is requiring applicants to file Notice of Intent (NOI) to license projects and a Pre-Application Document (PAD) within one year of Preliminary Permit issuance. Given the

new and untested technology that these projects would utilize and intensive physical and environmental studies that will be required to site these projects it is unlikely that applicants will have enough information available to file a useful PAD or be ready to file a NOI in one year. The FERC should require the PAD and NOI at the end of the three year preliminary permit period.

The preliminary permit process does not require applicants for preliminary permits to contact affected tribes nor does the FERC send notice of preliminary permit applications to affected tribes. The Sauk-Suiattle Tribe was only able to file timely request for intervention in the five projects because tribal staff read about the projects in local print media. The FERC should require preliminary permit applicants for tidal hydroelectric projects to contact affected tribes at the time they file for the preliminary permit.

The FERC has stated several times in relation to tidal hydroelectric projects that preliminary permits do not authorize any ground breaking activities including pilot projects. The Tulalip Tribes however, pointed out that the FERC has already granted a waiver for a pilot project to a preliminary permit holder. The FERC should reiterate in its policy statement on preliminary permits for tidal hydroelectric projects that no ground breaking activities including pilot projects will be authorized.

The FERC has issued eight preliminary permits for tidal hydroelectric projects in Puget Sound within a short period of time. If these projects are constructed they will utilize new technology with unknown environmental effects. Potential adverse effects of these projects may be cumulative. The FERC should at this time begin an analysis of the potential cumulative effects of these projects in consultation with state and federal resource agencies and Indian Tribes.

The Sauk-Suiattle Indian Tribe appreciates the FERC's Notice of Inquiry and the opportunity to comment on the preliminary permit process for tidal hydroelectric projects.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stan M. Walsh".

Stan M. Walsh
Hydropower Biologist
Skagit River System Cooperative

Submission Contents

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