



American Rivers
Thriving By Nature

Sent Via Email: ecyrefedpermits@ecy.wa.gov (hard copy to follow via regular mail)

September 12, 2008

Washington Department of Ecology
SEA Program
Federal Project Coordinator
P.O. Box 47600
Olympia, Washington 98504

Re: Proposed Condit Dam Removal Project, FERC No 2342
Clean Water Act Section 401 certification

To Whom It May Concern:

On August 13, 2008, the Washington Department of Ecology issued a Public Notice of Application for State of Washington Water Quality Certification for the proposed Condit Dam Removal Project, FERC No. 2342. The notice specified that PacifiCorp withdrew and resubmitted its application for water quality certification pursuant to Section 401 of the Clean Water Act for the proposed Condit Dam Removal Project. Ecology's notice is the 8th public notice issued for the project. It established a deadline of September 12, 2008 for submission of public comment and noted that the project has not changed from that originally proposed.

Upon review of the application, these comments are filed on behalf of American Rivers, American Whitewater, Trout Unlimited, Friends of the Columbia Gorge, Friends of the White Salmon, and the Mountaineers (collectively the Conservation Groups). We have been involved in the Condit dam relicensing for more than ten years and have a direct and significant interest in the outcome of this proceeding. The Conservation Groups have previously commented several times on PacifiCorp's CWA section 401 certification application for the removal of Condit Dam.¹ Because the dam removal proposal has not changed, our previously filed comments are applicable to the most recent application. Accordingly, they are incorporated by reference into these comments.

In short, the Conservation Groups believe that PacifiCorp's proposal to remove Condit dam, as outlined in the extensive documentation at WDOE and in the Federal Energy Regulatory Commission's Final Supplemental Final Environmental Impact

¹ American Rivers' comments to the Washington Department of Ecology, dated June 26, 2007, August 11, 2006, August 10, 2005, July 20, 2004, August 11, 2003, July 16, 2002.

Statement², will adequately address water quality impacts over the short and long-term. Condit Dam removal is the best alternative to improve water quality and numerous other resources in the White Salmon River. Any CWA 401 certification for the project should be consistent with the proposed action.

I. Dam Removal Will Provide Significant Benefits to the White Salmon River

As we have repeatedly stated, the Conservation Groups strongly support the Condit Dam Removal Project. For nearly a century, Condit Dam has adversely affected the ecosystem and natural ecological processes of the White Salmon River and interfered in the health of the anadromous salmon and steelhead populations that historically relied upon spawning and rearing habitat above the dam. Some impacts include blocked access to historic habitat, altered flow and temperature, and reduced or eliminated transport of spawning size gravel and LWD. The Big White Salmon Subbasin Plan found that spring chinook extirpation from the White Salmon River is likely a result of the lack of passage at Condit Dam.³ There is no question that removing Condit Dam, as proposed in the Settlement Agreement and recommended by the Federal Energy Regulatory Commission (Commission),⁴ will benefit fish, recreation, and cultural resources of the White Salmon River and in the long-term, will enhance beneficial uses of the river.

As noted on many occasions, dam removal is recognized by federal, state, and tribal fishery experts to be the best alternative for the White Salmon River salmon and steelhead resources. Both the NOAA Fisheries Biological Opinion for the removal of Condit Dam (dated October 12, 2006) and the Washington Department of Ecology Final SEPA Supplemental Environmental Impact Statement (dated March 23, 2007)(currently being updated) for dam removal both recognize the significant benefits that would result from dam removal. In its 2006 Biological Opinion, NOAA Fisheries cautions that leaving the dam in place could lead to the “long-term decline” and increased risk of extinction of listed salmon and steelhead.⁵ NOAA calls dam removal “the most fail-safe method to safely pass fish through the project area.”⁶

The expected benefits from dam removal are many. They include: (i) unimpeded fish passage to almost 20 miles of historic spawning and rearing habitat for anadromous fish species and re-established connectivity for non-anadromous resident populations, (ii) an increase in the diversity and abundance of aquatic invertebrates as a result of restoration of the natural flow regime, (iii) long-term increases to macroinvertebrate biomass that benefit fish resources, (iv) restoration of the natural physical, chemical, and biological processes of the river, (v) improved water quality temperature conditions during the summer and fall, (vi) enhanced riparian function, and (vii) enhanced whitewater recreation opportunities.

² Federal Energy Regulatory Commission, Final Supplemental Final Environmental Impact Statement, Condit Hydroelectric Project (June 2002).

³ Big White Salmon Subbasin Plan, Prepared for the Northwest Power and Conservation Council, (May 28, 2004).

⁴ Federal Energy Regulatory Commission, Final Supplemental Final Environmental Impact Statement, Condit Hydroelectric Project (June 2002).

⁵ National Marine Fisheries Service, Biological Opinion for Interim Operation, Decommissioning, and Removal of the Condit Hydroelectric Project (FERC No. 2342), NOAA Fisheries Consultation No. 2002/00977 (October 12, 2006).

⁶ Id.

Additional benefits are set forth in Appendix A. Removal of the Condit Dam would result in attainment of a new equilibrium and pose enormous potential for salmon recovery.

The removal of Condit dam will provide a unique restoration opportunity for the White Salmon River. Because PacifiCorp is proposing to undertake removal in a manner that minimizes the impacts, we believe that the short-term impacts to water quality are far outweighed by the long-term benefits of removal.

II. Dam Removal Will Further the Goals of the Clean Water Act

Dam removal and restoration of the natural function of the White Salmon River is consistent with the goals and objectives of the Clean Water Act. The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The focus on "restore" indicates that Congress intended the law to improve ecological integrity. Legislative history supports the view that Congress intended to push for restoration of the aquatic environment. According to a House Report, biological integrity as used in section 101 of the Clean Water Act is "a condition in which the natural structure and function of ecosystems is maintained."⁷ The House Report further defines "natural" as that "condition in existence before the activities of man invoked perturbations which prevented the system from returning to its original state of equilibrium."⁸ While this legislative history applies to adoption of state water quality criteria, it indicates Congress' intent to strive for ecosystem integrity that reflects natural structure and functions of a waterbody. Removing Condit Dam is a positive step toward achieving that goal.

Further, in a May 2, 2007 letter from the Environmental Protection Agency to the Washington Department of Ecology regarding the state's proposed water quality standards, EPA expressly states that the concept of habitat restoration is consistent with the goals of the Clean Water Act.⁹ Condit dam removal is undoubtedly a significant habitat restoration project.

III. Dam Removal is Consistent with Washington Water Quality Standards

The Washington Department of Ecology's water quality standards recognize that in order to meet the overarching goals of the Clean Water Act, it may be appropriate to allow for short term modifications to accommodate important restoration measures, such as dam removal, that undoubtedly serve the public interest. The standards for surface waters provide for short-term modifications of water quality in several instances, including as needed to accommodate essential activities or to protect the public interest.¹⁰ WAC 173-201A-410 specifically states that:

"The criteria and special conditions established in WAC 173-201A-200 through 173-201A-260 . . . may be modified for a specific water body on a short-term basis . . . when necessary to

⁷ IIR Rep 92-911 at 76.

⁸ *Id.*

⁹ Letter from Michael Gearheard, Director, Office of Water and Watersheds, EPA to David Pecler, Program Manager, Washington Department of Ecology (May 2, 2007).

¹⁰ WAC 173-201A-410.

accommodate essential activities, respond to emergencies or otherwise protect the public interest, even though such activities may result in a temporary reduction of water quality conditions.”¹¹

The short term modification regulations also provide that Ecology “may allow a major watershed activity that will provide greater benefits to the health of the aquatic ecosystem in the long-term (examples include dam removal . . .) that, in the short term, may cause significant impacts to existing or designated uses as a result of the activities to restore the water body and environmental conditions.”¹²

Condit Dam removal falls within both of these provisions: it both serves the public interest and will provide greater impacts to the health of the ecosystem in the long term. Based on comprehensive environmental analysis of a range of alternatives regarding Condit Dam, FERC staff found that dam removal, as proposed in the 1999 Settlement Agreement with some additional measures, best serves the public interest and recommended adoption of such by the Federal Energy Regulatory Commission. They also found that dam removal provides the only opportunity for complete ecosystem restoration. In addition, Condit Dam has been identified as one of the principal limiting factors for salmon and steelhead in the White Salmon River. Federal, state, and tribal fishery experts have identified addressing the impacts of hydroelectric projects as a key measure in the region’s quest to recover salmon and steelhead stocks. It is hard to envision a basin restoration plan that doesn’t call for elimination of one of the principal limiting factors.

Washington’s anti- degradation standard further specifies that “[b]oth temporary harm and permanent loss of existing uses may be allowed by the department where determined necessary to secure greater ecological benefits through major habitat restoration projects designed to return the natural physical structure and associated uses to a water body where the structure has been altered through human action.”¹³ PacifiCorp’s proposal to remove Condit Dam, while causing some sediment exceedances in water quality standards, will restore the natural structure of the river and remove the principal human alteration.

Mitigation of Short-Term Impacts

PacifiCorp’s proposal includes a number of measures designed to minimize any water quality degradation that will result. In addition to the measures set forth in the Settlement Agreement, PacifiCorp has developed a comprehensive “Project Description” (dated June 4, 2004) that sets forth additional detail on how the company will conduct the dam removal. PacifiCorp proposes to excavate a series of fish protective pockets in the walls of the drain tunnel. These pockets will provide resting areas for both nonanadromous and anadromous fish as they migrate upstream. PacifiCorp will also trap and salvage fall Chinook prior to dam removal to minimize any impacts to that species. The proposed measures will ensure survival of a substantial portion of the affected year class of Lower Columbia River chinook and artificial propagation will temporarily be used to ensure the

¹¹ WAC 173-201A-410. Application of this standard can be found at Washington Department of Ecology, Water Quality Certification Order # 3959 (Corps No. 200600334), Elwha River Ecosystem Project, Clallam County, WA (February 16, 2007).

¹² WAC 173-201A-410(3).

¹³ WAC 173-201A-300(3).

survival of Mid Columbia River steelhead. In combination, the measures minimize the effects of increased sediment and erosion.

The proposed removal methodology, calling for rapid reservoir dewatering, is intended to sluice as much of the reservoir sediments as possible downstream as quickly as possible. This will minimize the duration of impacts such as suspended sediments in the lower river and reduce the cumulative adverse effects. According to the RW Beck report,¹⁴ 65 percent of the sediment will erode from the lake bed and the remaining sediments can be vegetatively stabilized during the first year following dam removal. Based on conservative predictions, after one year, suspended sediment concentrations would return to normal for the river. Some sediment will continue to erode during high flow events after the first year, but at lower concentrations, comparable to normal conditions expected for a free-flowing White Salmon River.¹⁵ And, after five years, brief increases in turbidity will occur only on an extremely infrequent basis (several times in 25 years) during short-term flood events.¹⁶ Importantly, the dam removal sequence is timed to have the least impact on aquatic species, considering spawning, rearing and holding timing in the White Salmon River and migration timing of juvenile and adult salmonids in the Columbia River past the mouth of the White Salmon River.

PacifiCorp also has developed numerous site management plans to minimize the impacts of dam removal – revegetation of reservoir and other areas disturbed by construction, wetland mitigation, sediment assessment and management plan, bank stabilization plan, canyon and woody debris management plan, upland stormwater and erosion and control plan, blasting plan, dust control plan, spill prevention and attainment plan, traffic control plan, and public safety plan. All of these are intended to minimize the impacts of dam removal and maximize the long-term benefits of this restoration opportunity. Finally, the Settlement Agreement calls for PacifiCorp to provide \$1 million to the Yakama Nation for restoration in the White Salmon River. This funding is expected to be used to address sediment-related issues that may occur in the tribal in-lieu fishing site.

IV. Dam Removal Will Further Other State Goals and Is Consistent With Other Federal Laws

It is important to note the multitude of agency determinations and policies that support dam removal as the best outcome for the White Salmon River. First, as already highlighted, FERC staff recommended dam removal as described in the 1999 Settlement Agreement with some additional measures as the preferred alternative and that which best serves the public interests.¹⁷ And, the Forest Service found that dam removal is consistent with the requirements of both the Columbia River Gorge National Scenic Area Act and the Wild and Scenic Rivers Act. With regard to the later, the agency determined that dam removal would not invade the Lower White Salmon Wild and Scenic River or unreasonably diminish the scenic, recreation, and wildlife values of the Lower White Salmon Wild and Scenic River.

¹⁴ R.W. Beck, Condit Hydroelectric Project Removal, Summary Report Engineering Considerations (May 1998).

¹⁵ FERC, Final Supplemental Final Environmental Impact Statement, p. 66 (June 2002).

¹⁶ G&G Associates, Condit Dam Sediment Behavior Analysis Report (May 2004).

¹⁷ FERC, Final Supplemental Final Environmental Impact Statement (June 2002).

Second, Washington state policy calls for the state to work cooperatively with the federal government to extinguish sources of water quality degradation. Condit Dam has degraded water quality in the White Salmon River through the interruption of the natural ecological processes of the river, elimination of salmon and steelhead habitat, and adverse affects on the temperature regime of the river. Removing the dam, as proposed by PacifiCorp, provides an opportunity to promote the state's public policy.

Third, in 1993, the legislature mandated the Department of Ecology to institute a watershed approach to water quality management (the WRIA process). This process calls for the identification of limiting factors for each watershed, followed by development of a restoration plan. With regard to the White Salmon River, the state has identified the Wind River/White Salmon Watershed (Water Resource Inventory Area (WRIA) 29) as a historically important source for production of anadromous fish in the Lower Columbia River Basin. However, it recognizes that hydroelectric development in the White Salmon River has had a serious detrimental effect on the aquatic resources in the WRIA 29. The limiting factors report for the WRIA 29 specifically mentions Condit Dam removal negotiations as an indication that the State is making progress in its effort to restore habitat in the basin. As such, although a restoration plan for the portion of WRIA 29 in which Condit Dam is located has not yet been finalized, removing Condit Dam will address a significant limiting factor in the White Salmon River and is an integral part of any plan that is developed.

Finally, the Big White Salmon Subbasin Plan¹⁸ identified several biological objectives for the basin, one of which is to increase the quantity and quality of reduced and degraded fish and wildlife habitat to amounts that will sustain native fish and wildlife species. The plan made two key findings related to attainment of that goal: (1) habitat above Condit dam is capable of supporting anadromous fish, calling for protection of functioning habitat and watershed processes throughout the basin, and (2) EDT modeling predicts that the current habitat in the White Salmon River is not capable of supporting self-sustaining anadromous fish runs below the dam.¹⁹ Importantly, the plan found that the primary limiting factor for anadromous salmonids is the construction and operation of Condit Dam, which blocks upstream migration for steelhead, spring Chinook, and coho, limiting their access to only a small fraction of their historic habitat.²⁰

The above noted determinations and policies illustrate the benefits to be realized from dam removal. Dam removal will further regional salmon and steelhead recovery goals, improve water quality in the long-term, provide numerous benefits to recreational and cultural values in the White Salmon River, and restore the ecological integrity of the watershed.

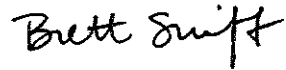
¹⁸ Big White Salmon Subbasin Plan, Prepared for the Northwest Power and Conservation Council, May 26, 2004.

¹⁹ Id. at 133.

²⁰ Id. at 84.

The Conservation Groups appreciate the opportunity to comment on the proposed project. We strongly urge WDOE to move forward with this CWA 401 certification application in an expeditious manner so that PacifiCorp can continue efforts to implement the Settlement Agreement and the Commission can then take action on the Surrender Application. Feel free to contact me if you have any questions about these comments, or would like to discuss any issues further. I can be reached at (503) 827-8648.

Sincerely,

A handwritten signature in black ink that reads "Brett Swift". The signature is written in a cursive, slightly slanted style.

Brett Swift

Appendix A
Federal Energy Regulator Commission
Final Supplemental Final Environmental Impact Statement
Condit Hydroelectric Project
(FERC/FSFEIS-0103)
June 2002

Findings

- “. . . [W]e recommend that the Commission grant project surrender under the Settlement Agreement with modifications alternative, because the one-year removal of the Condit Project would provide numerous fishery, wildlife, recreations, and aesthetics benefits expeditiously and in a cost-effective manner.” (FSFEIS, p.xxx)
- The greatest improvements to flows in the White Salmon River would come under the full dam removal alternatives. (FSFEIS, p. 160)
- The Settlement Agreement would provide the best conditions for migration of anadromous salmonids within the White Salmon River Basin. Project facilities and operations would not hinder restoration goals in the basin. (FSFEIS, p. 162)
- Over the long-term, the project removal alternatives offer the greatest potential for full utilization of anadromous fish habitat, and therefore, full restoration of anadromous salmonids within the White Salmon River basin, because removal of project facilities would eliminate any and all effects associated with the project and operations, including the inundation of anadromous fish habitat under Northwestern Lake. (FSFEIS, p. 167)
- Dam removal would provide increased whitewater recreation opportunities (FSFEIS, p. xxxi). Dam removal will add more than 5 continuous miles of whitewater to this renowned whitewater river, 7.7 miles of which are currently designated as Wild and Scenic. Commercial and non-commercial use of the river for white-water activities will benefit local businesses that are dependent upon tourism and recreational income.
- Dam removal would provide substantial long-term benefits to the scenic area and scenic river management objectives of the area. (FSFEIS, p. 171).
- Complete dam removal could provide the greatest benefits to the visual quality of the areas by linking the upstream scenic river setting to the scenic gorge area downstream through the canyon now occupied by Northwestern Lake. (FSFEIS, p. 174)
- The White Salmon River above the dam is home to a resident rainbow trout fishery, one of the outstandingly remarkable values (ORV) for which it was designated as a Wild and Scenic River. ORV resident trout would likely persist and coexist with steelhead in the designated wild and scenic river (FSFEIS, p. 165). Steelhead and trout co-existed in the White Salmon River for thousands of years before the dam was built.
- The in-lieu site would continue to provide pool habitat for anadromous salmonid thermal refuge, although reduced; other pool habitats up to river mile 2.8 would continue to provide thermal refuge; a large gravel area near river mile 0.8 would continue to provide spawning habitat for anadromous salmonids. (FSFEIS, p. B-6)