

APPENDIX C TO SULLIVAN CREEK SETTLEMENT AGREEMENT

SPECIAL USE AUTHORIZATION APPLICATION

STANDARD FORM 299 (6/99)
 Prescribed by DOI/USDA/DOT
 P.L. 96-487 and Federal
 Register Notice 5-22-95

**APPLICATION FOR TRANSPORTATION AND
 UTILITY SYSTEMS AND FACILITIES
 ON FEDERAL LANDS**

FORM APPROVED
 OMB NO. 0596-0082

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

Application Number

Date Filed

1. Name and address of applicant (*include zip code*)

**Public Utility District No.1 of
 Pend Oreille County
 130 N. Washington St
 Newport, WA 99156**

Name, title, and address of authorized agent if different from item 1 (*include zip code*)

Robert Geddes, General Manager

3. Telephone (area code)
509-447-3137

Applicant

Authorized Agent

4. As applicant are you? (*check one*)

- a. Individual
- b. Corporation*
- c. Partnership/Association*
- d. State Government/State Agency
- e. Local Government
- f. Federal Agency

* If checked, complete supplemental page

5. Specify what application is for: (*check one*)

- a. New authorization
- b. Renewing existing authorization No.
- c. Amend existing authorization No.
- d. Assign existing authorization No.
- e. Existing use for which no authorization has been received *
- f. Other*

* If checked, provide details under item 7

6. If an individual, or partnership are you a citizen(s) of the United States? Yes No

7. Project description (describe in detail): (a) Type of system or facility, (*e.g., canal, pipeline, road*); (b) related structures and facilities; (c) physical specifications (*Length, width, grading, etc.*); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (*Attach additional sheets, if additional space is needed.*)

(a) Concrete gravity dam-no generation and storage reservoir

(b) Cold water gravity water supply pipe 48 inches in diameter, with fish screens at the inlet, and using an existing low-level outlet from Sullivan Dam; Continuous water temperature gage on Sullivan Creek at least 300 feet downstream of the confluence with Outlet Creek; Continuous water temperature gage on Sullivan Creek upstream of its confluence with Outlet Creek; New Sullivan Lake level recording gage at Sullivan Lake Dam; and new stream gage on Harvey Creek

(c) Sullivan Lake Dam and reservoir - 34 ft high by 200 ft long. Reservoir-31,000 ac-ft (1,240 ac)

(d) 30 years

(e) Reservoir Operation = Elevation: 2,588.66 ft. (Jun 1-Sept.); varies from 2570 to 2588.66 (Oct.-April)

(f) None

(g) None

(h) None

8. Attach a map covering area and show location of project proposal

9. State or Local government approval: Attached Applied for Not Required

10. Nonreturnable application fee: Attached Not required

11. Does project cross international boundary or affect international waterways? Yes No (*if "yes," indicate on map*)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

Pend Oreille PUD has owned and operated the Sullivan Creek Project under a FERC license since 1958. The storage project consisted of two dams: the uncontrolled Mill Pond Dam and Sullivan Lake Dam. Mill Pond Dam is being removed and the inundated area restored as a part of the surrender of the FERC license. A cold water release facility is being constructed at Sullivan Dam, which will then be operated according to the terms of the SUA and as described in the attached License Surrender Application and Settlement Agreement.

Because the facility is a storage project, Pend Oreille PUD receives some funding from other utilities through the release of Sullivan Lake water that is used in downstream hydroelectric generation. These funds currently cover a portion of the annual operations and maintenance costs for the Sullivan Project. Remaining costs and any additional project costs, including capital additions, are assessed to Pend Oreille PUD customers through electric rate adjustments. Outside funding for additional projects related to the SUA is currently being sought by Pend Oreille PUD; however, no funds have been secured and the ability to pay for project costs beyond annual operations and maintenance expenses will be dependent on the amount of additional funding that is obtained.

13a. Describe other reasonable alternative routes and modes considered.

Not applicable, since Sullivan Dam currently exists on Forest Service lands.

b. Why were these alternatives not selected?

Not applicable

c. Give explanation as to why it is necessary to cross Federal Lands.

Sullivan Dam and reservoir currently occupy Forest Service lands under FERC license.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)

Copy of the FERC License Surrender Application is attached, with: 1) Settlement Agreement for License Surrender issuance of the SUA, and 2) copy of request for Section 401 Water quality certification. The FERC License Application for the Boundary Hydroelectric Project, (FERC No. 2144) is currently pending with FERC. That application also contains information regarding the disposition of lands and facilities in the Sullivan Creek Project, as currently licensed.

15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.

- (a) **Costs of construction, operation and maintenance are included in Exhibit D of the License Surrender Application, attached.**
- (b) **Not applicable**
- (c) **Public benefits of the plans for license surrender and continued occupation of FS lands are discussed in detail in the attached License Surrender Application and associated documents. The benefits of operation of Sullivan Dam according to the surrender Settlement Agreement include improved temperature for salmonids downstream of the Sullivan Lake Dam, increased riparian and stream habitat (together with loss of open water habitat), and provision of whitewater recreation flows and a 5 ft higher winter lake level.**

16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.

Continued existence and operation of the project is not expected to have any social or economic impacts on the area. See the License Surrender Application, attached. Lake level will be maintained as it has been, at el. 2,588.66 ft., for summer recreation.

17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.

- (a) **No impacts on air quality are expected.**
- (b) **Visual impacts are expected to be minor. The cold water release facility is not intended to be visible from the surface of the lake.**
- (c) **No changes are being made to water quantity. No water is consumed by the project. Water quality (temperature) is expected to be improved by provision of cold water releases from Sullivan Lake into Outlet Creek.**
- (d) **Flow releases from Sullivan Lake Dam into Outlet and Sullivan Creeks will be subject to the conditions in the attached Settlement Agreement, and are more fully described in the attached License Surrender Application and associated documents. Cold water releases are expected to improve conditions for salmonid habitat downstream of Sullivan Lake Dam.**
- (e) **Only a temporary increase in existing noise levels would occur during project construction.**
- (f) **Any temporary changes to the surface of the land during cold water facility construction will be remediated and revegetated, as needed.**

18. Describe the probable effects that the proposed project will have on (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

(a) No adverse effects are expected to plantlife, wildlife or marine life due to the new operational requirements for Sullivan dam. Aquatic habitat should be improved downstream of the dam due to cold water flow releases. No lasting effects on wildlife are anticipated. Some noise and additional traffic will occur during construction but these are only likely to last for one season. No effects on populations of fish, plantlife, or wildlife will occur. See the attached License Surrender Application. (b) Not Applicable.

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

None anticipated.

20. Name all the Department(s)/Agency(ies) where this application is being filed.

Federal Energy Regulatory Commission, U.S. Fish and Wildlife Service, U.S. Department of the Interior/Bureau of Indian Affairs, Advisory Council on Historic Preservation, Washington Departments of Fish and Wildlife, Ecology, and Historic Preservation.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant	Date
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Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

GENERAL INFORMATION
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest Lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved right-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture
Regional Forester, Forest Service (USFS)
Federal Office Building,
P.O. Box 21628
Juneau, Alaska 99802-1628
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior
Bureau of Indian Affairs (BIA)
Juneau Area Office
Federal Building Annex
9109 Mendenhall Mall Road, Suite 5
Juneau, Alaska 99802
Telephone: (907) 586-7177

Department of the Interior
Bureau of Land Management
222 West 7th Avenue
P.O. Box 13
Anchorage, Alaska 99513-7599
Telephone: (907) 271-5477 (or a local BLM Office)

U.S. Fish & Wildlife Service (FWS) Office of the Regional Director 1011 East Tudor Road Anchorage, Alaska 99503 Telephone: (907) 786-3440	National Park Service (NPA) Alaska Regional Office, 2225 Gambell St., Rm. 107 Anchorage, Alaska 99502-2892 Telephone: (907) 786-3440
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Note - Filings with any Interior agency may be filed with any office noted above or with the Office of the Secretary of the Interior, Regional Environmental Office, P.O. Box 120, 1675 C Street, Anchorage, Alaska 99513.

Department of Transportation
Federal Aviation Administration
Alaska Region AAL-4, 222 West 7th Ave., Box 14
Anchorage, Alaska 99513-7587
Telephone: (907) 271-5285

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual department/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

- 7 Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
- 8 Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.
- 9, 10, and 12 The responsible agency will provide additional instructions.
- 13 Providing information on alternate routes and modes in as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate routes and modes as related to current technology and economics.
- 14 The responsible agency will provide instructions.
- 15 Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
- 16 through 19 Providing this information in as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

DATA COLLECTION STATEMENT

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certification for the use of Federal lands. The Federal agencies use this information to evaluate the applicant's proposal. The public is obligated to submit this form if they wish to obtain permission to use Federal lands.

SUPPLEMENTAL

NOTE: The responsible agency(ies) will provide instructions	CHECK APPROPRIATE BLOCK	
	ATTACHED	FILED*
I - PRIVATE CORPORATIONS		
a. Articles of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Corporation Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State	<input type="checkbox"/>	<input type="checkbox"/>
c. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	<input type="checkbox"/>	<input type="checkbox"/>
f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications.	<input type="checkbox"/>	<input type="checkbox"/>
g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	<input type="checkbox"/>	<input type="checkbox"/>
II - PUBLIC CORPORATIONS		
a. Copy of law forming corporation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Proof of organization	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Copy of Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. If application is for an oil or gas pipeline, provide information required by item "I-f" and "I-g" above.	<input type="checkbox"/>	<input type="checkbox"/>
III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY		
a. Articles of association, if any	<input type="checkbox"/>	<input type="checkbox"/>
b. If one partner is authorized to sign, resolution authorizing action is	<input type="checkbox"/>	<input type="checkbox"/>
c. Name and address of each participant, partner, association, or other	<input type="checkbox"/>	<input type="checkbox"/>
d. If application is for an oil or gas pipeline, provide information required by item "I-f" and "I-g" above.	<input type="checkbox"/>	<input type="checkbox"/>

* If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.

NOTICE

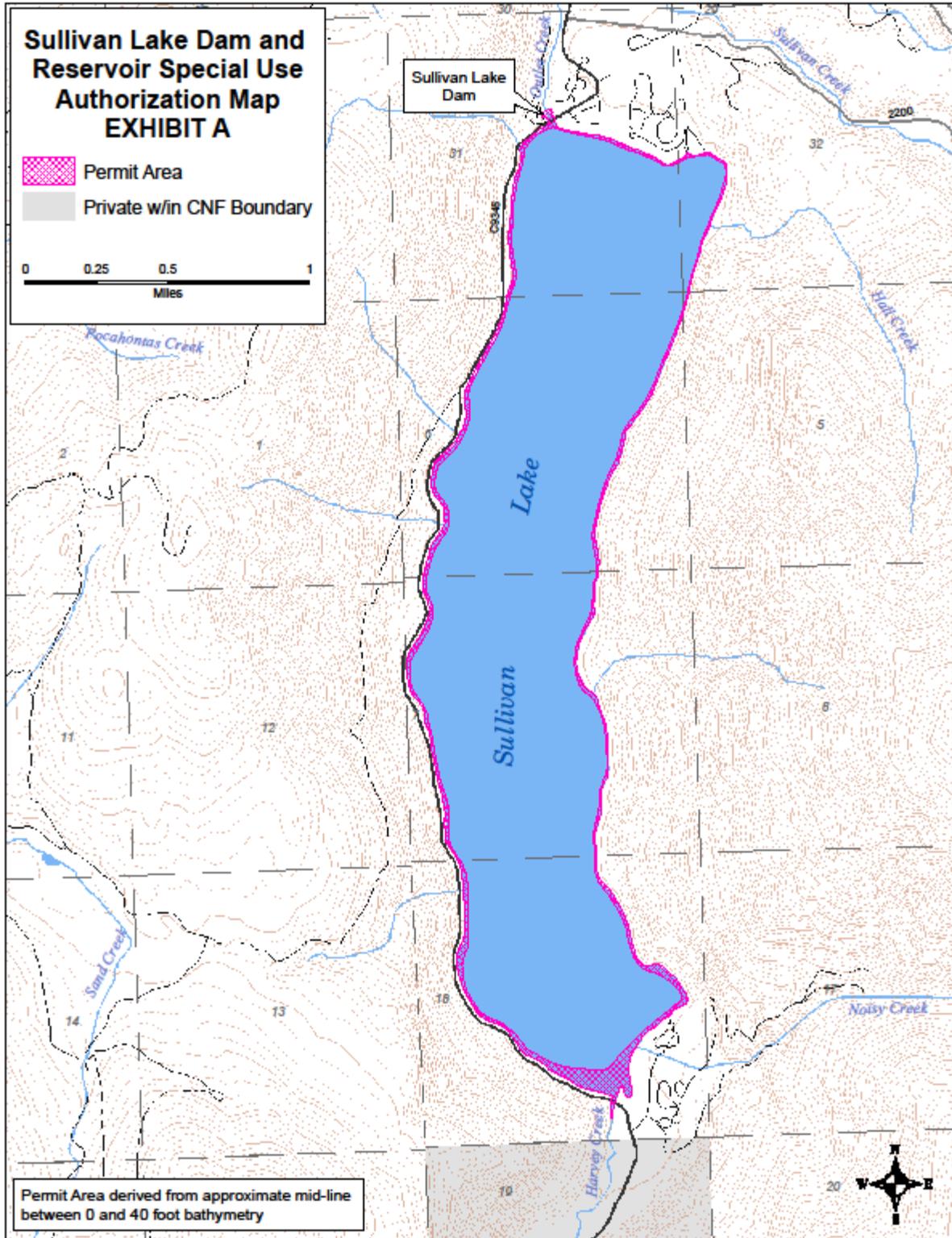
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate the requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations or the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Exhibit A – Vicinity Map of Permit Area



STATE OF WASHINGTON)
) ss,
County of Pend Oreille)

CERTIFICATE TO COPY.

I, Chas. I. Barker, Auditor of Pend Oreille County, Washington, Do Hereby Certify the foregoing and attached instrument, to be a true and correct copy of the Certificate of Canvass of the Public Utility Disyriect Election held on November 3rd, 1936, as made by the County Election Bosrd on November 16th, 1936 and as appears on record in the office of Auditor of Pend Oreille County, Washington .

Given under my hand and official seal this 26th, day of February, 1945 .

CHAS. I. BARKER

Auditor of Pend Oreille County,
Washington

PLAN AND SYSTEM RESOLUTION

At a special meeting of the Commission of Public Utility District No. 1 of Pend Oreille County, Washington, held at Newport in said County on the 7th day of June, 1945, there were

Present: John M. Frauentain

F. W. Schwab

Absent: F. R. Jordan

The following Resolution was introduced by Commissioner Jordan, seconded by Commissioner Schwab, and thereupon unanimously adopted:

RESOLUTION No. 104

WHEREAS, Public Utility District No. 1 of Pend Oreille County, Washington (hereinafter called the District), a duly established political subdivision and municipal corporation of the State of Washington, is authorized under and pursuant to Chapter 1 of the Laws of Washington, 1931, as amended, to organize and acquire by lease, purchase, condemnation, or construction, and to operate an electric public utility within and without the limits of the District for the purpose of furnishing the District and the inhabitants thereof and any other persons, including public and private corporations, with electric power and energy for all uses, and to that end to enter into leases and contracts for the acquisition of property, real and personal, for said purpose, and for the purpose of purchasing and selling power and energy; and

WHEREAS, the Commission of the District deems it advisable to acquire by lease and purchase and to construct and operate an electric public utility for the purpose of supplying electric power and energy as aforesaid; and

WHEREAS, the public utility districts in the territory served by the utility properties of the Washington Water Power Company (hereinafter referred to as the Cooperating Districts) are co-operating in the acquisition of the utility properties of said company in the State of Washington pursuant to a plan whereby a public or private corporation, acting in co-operation with the Cooperating Districts, will acquire, with the consent of the Commission of the District, the electric public utility properties of the Washington Water Power Company located within the limits of the District, and the District and such corporation propose to enter into a Lease-Purchase-Participating Power Contract, pursuant to which the District will lease and acquire certain of said properties incident to the distribution of electric power and energy within the District,

NOW, THEREFORE, be it resolved by the Commission of Public Utility District No. 1 of Pend Oreille County:

SECTION 1. The public interest, welfare, convenience and necessity require the acquisition by the District of an electric public utility for the purpose of supplying the District and the inhabitants thereof, and any other persons, including public and private corporations, within or without its limits, with electric power and energy for all uses.

SECTION 2. The District hereby specifies and adopts the system or plan for the acquisition by lease, purchase and construction of the aforesaid public utility set forth in the proposed contract to be entered into between the District and said acquiring corporation, a copy of which is hereto annexed and marked Exhibit "A."

SECTION 3. The president and secretary of the Commission be and they are hereby authorized to sign and attest a contract for the lease and acquisition of said electric public utility substantially in the form attached hereto and marked Exhibit "A," with such modifications and amendments as shall be approved by said president and secretary and counsel for the District, and to take all such actions and to sign all such documents as may be approved by counsel in order to effectuate the acquisition of said electric public utility pursuant to said contract.

SECTION 4. The District hereby approves the assumption and payment by said acquiring corporation of all fees and expenses of the District and of the Cooperating Districts in connection with the acquisition of the properties of the Washington Water Power Company and the lease and sale of portions thereof to the Cooperating Districts.

SECTION 5. All resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 6. This resolution shall take effect immediately.