



DATE: January 9, 2012

TO: Pawel Krupa
Charles Freeman
Dennis Sismaet
John Clarke
Sirphan Clayton

FROM: David Pflug 

SUBJECT: Skagit Fisheries Settlement Agreement Modifications

At your request I've prepared this summary of the four modifications to the Skagit Fisheries Settlement Agreement (FSA). Presented below is a comparison of the original and the modified flow measure for each of the four modifications. By email, I will send each of you an electronic copy of the modified FSA. I would ask that you provide a copy of the modified FSA to all staff members that utilize this document for their work. Each modification is clearly highlighted in the document as noted below.

The Skagit License was accepted by Seattle City Light (SCL) in 1995 and the FSA was implemented at this time. Over the course of the next seven years SCL, the resource agencies, and the tribes identified the need for one additional flow measure and the modification of three existing flow measures to protect the fish spawning and rearing areas downstream of Gorge Powerhouse. To meet the intent of fully protecting Skagit River fish populations, SCL voluntarily implemented these measures until the FSA could be formally and permanently modified and amended. As part of the license amendment required for the Gorge Second Tunnel Project the City elected to complete the FSA modification process. The modified FSA became effective on June 29, 2011 after being approved by the superintendent of City Light and ten other states, federal resource agencies, tribes, and a non-governmental organization. Once accepted by FERC it will replace the original FSA and be incorporated into our amended license for the Skagit Hydroelectric Project.

Until SCL receives the amended license it should be understood that these FSA modifications are not subject to FERC compliance violations and will not be reported upon in our semi-annual flow compliance reports. Until such time, SCL has a responsibility to meet all the original and modified flow measures contained in the FSA.

All four of the modifications are found in Section 6.3 (Flow Regulation) of the modified FSA. What follows is a brief summary of each modification.

1. Steelhead and Chinook Yearling Protection Period Downramp Rate – The intent of the FSA parties was to have a downramp rate restriction for each month of the year

to protect juvenile salmon and steelhead from stranding. The FSA established downramping measures for all but the period between October 16 and January 31. SCL, in agreement with the resource agencies, voluntarily limited downramp rates to <3,000 cfs/hr from October 16 to January 31 each year for more than a decade (see Section 6.3.4 [p. 26] of FSA)

2. Salmon Fry Protection Period Start Date – The start date for the Salmon Fry Protection Period now begins January 1 instead of February 1. The start date of the Salmon Fry Protection Period was defined by the original FSA as February 1 each year. Research completed subsequent to the FSA has shown that significant numbers of Chinook fry begin to occupy floodplain habitats in the upper Skagit River as early as January 1 (WDFW, 2003). To further minimize federally listed Chinook fry stranding SCL voluntarily implements all salmon fry protection period measures on January 1 each year. This action provides further protection for newly emerged Chinook salmon fry. (see Section 6.3.2.2 [p. 23] of FSA)
3. Chum Salmon Spawning Period Start Date – The start date of the Spawning Period for chum salmon is defined by the original FSA as November 16 each year. The modified start date is now November 1. Research completed subsequent to the FSA has shown that 10% of the upper Skagit chum typically spawn between November 1-15 each year (Barkdall, 2008). To provide the same level of protection to these fish as chum spawning after November 15th the City voluntarily recognized the spawning start dates as November 1st. Without this action, chum spawning during early November would not receive the same level of flow protection as those spawning after the license defined start date of November 16th. (see Section 6.3.2.1(1)(a) [p. 22] of FSA)
4. Chum Salmon Incubation Flows For November and December – The modification increases November/December chum salmon minimum incubation flows. Field monitoring activities determined that incubation flows for chum salmon during November and December are inadequate and do not provide the expected level of incubation protection. Beginning in 1996 the City began providing minimum incubation flows of at least 1,800 cfs until a more permanent solution could be put in effect. The Chum Spawning and Incubation Flow Table (Table C-3) of the Fisheries Settlement Agreement has been modified with increased incubation flows for November and December. See revised Table C-3 in the modified FSA for detailed changes. (see Appendix C – Salmon Spawning/Incubation Flow Tables, Table C-3 [page 78] of FSA)

Please let me know if you need further information from me about these modifications.

DP:sw

cc: L. Best
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File 645.30