Alpine Lakes Protection Society, American Rivers, American Whitewater, Conservation Northwest, North Cascades Conservation Council, Sierra Club – Washington State Chapter, The Mountaineers, Washington Wild, And Wild Washington Rivers

July 19, 2013

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

Electronic Filing

Re: Sunset Falls Fish Passage and Energy Project (P-14295), South Fork Skykomish River, Snohomish County, Washington. Notice of Soliciting Comments of the Pre-Application Document (PAD) and Scoping Document 1 (SD1), as well as Study Requests.

Dear Ms. Bose:

Enclosed for filing in the above referenced proceedings are comments submitted in response to the Commission's May 20, 2013 Notice of Soliciting Comments of the Pre-Application Document (PAD) and Scoping Document 1 (SD1), as well as study requests for the Sunset Falls Fish Passage and Energy Project. The Conservation Groups have reviewed the PAD and SD1 and also participated in and provided initial comments at the site tour and scoping meetings held on June 12th in Index and June 13th in Olympia.

Copies of this filing have been served on all parties of record to these proceedings. Thank you for the opportunity to provide comments on this project.

Sincerely,

Rick McGuire
Alpine Lakes Protection Society

Michael Garrity
American Rivers

Thomas O'Keefe
American Whitewater

Mitch Friedman,
Conservation Northwest

Rich Bowers,
Hydropower Reform Coalition

Karl Forsgaard
North Cascades Conservation Council

Mark Lawler,
Sierra Club, Washington State Chapter

Sarah Krueger
The Mountaineers

Tom Uniack
Washington Wild

Andrea Matzke
Wild Washington Rivers

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Snohomish	)	Project No. 14295-000
County Public Utility District No. 1	)	Sunset Fish Passage
	)	and Energy Project
	)	
	)	Comments of Conservation
	)	Groups

ALPINE LAKES PROTECTION SOCIETY, AMERICAN RIVERS, AMERICAN WHITEWATER, CONSERVATION NORTHWEST, NORTH CASCADES CONSERVATION COUNCIL, SIERRA CLUB – WASHINGTON STATE CHAPTER, THE MOUNTAINEERS, WASHINGTON WILD, AND WILD WASHINGTON RIVERS COMMENTS AND STUDY REQUESTS ON THE PRELIMINARY PERMIT APPLICATION AND SCOPING DOCUMENT 1 FOR THE SUNSET FISH PASSAGE AND ENERGY PROJECT, FERC PROJECT NUMBER 14295-000

(Submitted July 19, 2013)

I. Introduction

Alpine Lakes Protection Society, American Rivers, American Whitewater, Conservation Northwest, North Cascades Conservation Council, Sierra Club – Washington State Chapter, The Mountaineers, Washington Wild, and Washington Wild Rivers (hereafter Conservation Groups) offer the following comments and study requests in response to the Federal Energy Regulatory Commission's Notice Soliciting Comments on the Pre-Application Document (PAD) and Scoping Document 1 (SD1), as well as study requests for the proposed Sunset Fish Passage and Energy Project (Project), dated May 20th, 2013. Conservation Groups have reviewed the Snohomish County Public Utility District's (District) PAD and SD1 and also participated in and provided initial comments at the scoping meetings held on June 12th in Index, Washington and June 13th in Olympia, Washington.

As described in SD1,[1] the Project would consist of the following new facilities: (1) a 7- foot-high, 260-foot-long diversion weir with pneumatically-operated bottom-hinged crest gates; (2) a 2-acre impoundment with a normal water surface elevation of 650 feet mean sea level (msl); (3) an intake structure with three 15-foot-high, 30-foot-wide, 190-foot- long tunnels with slide gates and trashracks with 4-inch bar spacing; (4) a 75-foot-high, 120-foot-wide, 200-foot-long cavern structure with three V-shaped fish screens and trashracks with 1-inch bar spacing; (5) a 2,235-foot-long, 19.5-foot-diameter unlined, horseshoe-shaped power tunnel; (6) a 60-foot-wide, 115-foot-long powerhouse containing two 15-MW vertical Francis turbine generating units for a total installed capacity of 30 MW; (7) a 15-foot-high, 30-foot-wide, 154-foot-long tailrace tunnel; (8) a 75-foot-wide, 100-foot-long switchyard adjacent to the powerhouse; (9) an

[1] Scoping Document 1 for Sunset Fish Passage and Energy Project, P-14295, FERC eLibrary 20130520-3012.

8.2-mile-long, 115-kilovolt three-phase overhead transmission line to transmit project power to the regional grid; (10) an access road leading from an existing road to the cavern structure; and (11) appurtenant facilities. The project would have an estimated average annual generation of 123,947 MWh.

A. Interest of Conservation Groups

The Conservation Groups are national or regional environmental and recreational non-profit organizations with an interest in protecting and restoring rivers and streams and other natural resources located in the Pacific Northwest. Each organization has a direct interest in changes to flows, public river access, flow information, habitat, land management, watershed protection and other topics that will arise in the consideration of a hydropower project on the South Fork of the Skykomish River near Index, Snohomish County, Washington.

The Conservation Groups have been actively engaged in this proceeding since the applicant filed a preliminary permit for this site in September 2011, and as early as 2009 when Conservation Groups engaged with the District as it assessed potential hydropower projects in Whatcom, Skagit, Snohomish and King Counties in Washington State.

Alpine Lakes Protection Society (ALPS) works to protect lands, waters and forests, and to encourage environmentally sustainable recreational development in the Alpine Lakes region, a dramatic area of peaks, forests and over 600 lakes in the central Cascade mountains directly east of Puget Sound.

American Rivers is a national, non-profit, 501(c)(3) conservation organization with Northwest regional offices based in Seattle, Washington and Portland, Oregon. American Rivers serves more than 35,000 members nationwide and 2,250 members in the region. American Rivers is dedicated to protecting and restoring America's river systems and to fostering a river stewardship ethic. Additionally, American Rivers promotes public awareness about the importance of healthy rivers and the threats that face them. American Rivers' programs address flood control and hydropower policy reform, endangered aquatic and riparian species protection, instream flow, clean water, and urban rivers.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with over 5,500 members and 100 local-based affiliate clubs, representing whitewater enthusiasts across the nation. American Whitewater’s mission is to conserve and restore America’s whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater has a significant percentage of members residing in Washington State and thus an interest in the Skykomish River.

Conservation Northwest is a nonprofit organization that protects and connects old-growth forests and other wild areas from the Washington Coast to the BC Rockies. Conservation Northwest works to ensure that the region is wild enough to support wildlife; engages local

communities on forest restoration, creating sustainable timber jobs and wilderness protection; and helps ensure safe passage for wildlife, including those moving north and south in the Cascades and across the Canadian border, and east and west between the Cascades and Selkirks of the Rockies.

North Cascades Conservation Council (NCCC) is a 501(c)(3) not-for-profit organization formed to protect and preserve the North Cascades' scenic, scientific, recreational, educational, and wilderness values. NCCC has a 50 year history of aggressively promoting National Parks and Wilderness, protecting old growth forests and pristine watersheds, conserving endangered wildlife, preventing off-road vehicle damage to public lands, and guiding Park and Wilderness management.

Sierra Club – Washington State Chapter is a 501(c)(4) national conservation organization founded in 1892. The Washington State Chapter represents over 30,000 activists statewide who work to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

The Mountaineers was formed in 1906 to explore the wild areas and peaks surrounding the City of Seattle. The Mountaineers works to ensure that wilderness areas are preserved and protected through the actions of their Conservation, Recreation Resources and Stewardship divisions, and with a mission to enrich the community by helping people explore, conserve, learn about and enjoy the lands and waters of the Pacific Northwest.

Washington Wild is a nonprofit 501(c)(3) conservation organization founded in 1979 with more than 10,000 members and supporters statewide. Its mission is to preserve and restore wild lands and waters in Washington State through citizen empowerment, support for grassroots community groups, advocacy and public education.

Wild Washington Rivers was founded to research and educate the public about effects of, and alternatives to, hydroelectric development of the Skykomish River and its tributaries, to support measures contributing to the health of salmon runs in the Skykomish River and its tributaries, including without limitation the “trap and haul” program run by the Washington Department of Fish and Wildlife at Sunset Falls on the South Fork of the Skykomish River, and in general, to exercise the powers of a Washington nonprofit corporation that are conducive to those powers granted to an organization exempt from taxation under Internal Revenue Code Section 501(c)(3).

II. Comments

Conservation Groups are opposed to the Project due to the impacts that would result from damming and dewatering one of the region’s most treasured free-flowing rivers. The Conservation Groups recognize that hydropower is an important source of energy and have

supported projects to improve generation efficiency and new generation at sites that are appropriate for development.[2] This Project will not improve efficiency and is not an appropriate site for new development. Rather, this proposed dam would bring new and unacceptable impacts to a river of high value to the region and state, while providing unneeded and only intermittent energy generation.[3]

The key to recognizing the promise of increased hydropower generation is choosing the right sites. The South Fork Skykomish River is simply an inappropriate river to consider for new hydropower generation. The proposed Project is contrary to local, state and federal laws, policies, and comprehensive plans. The proposed Project site is on a reach of the river that has been recommended to Congress by the USDA Forest Service as a Wild and Scenic River, is identified as a Protected Area from hydropower development by the Northwest Power and Conservation Council, and recognized in state statute as a State Scenic Waterway.

A. Proposed Hydroelectric Project Represents a Large Development

While the "Sunset Falls Hydroelectric Project" has recently been renamed in the PAD as the "Sunset Fish Passage and Energy Project," it is still a proposal to build a new dam that will substantially alter flows and largely dewater two iconic waterfalls on the South Fork Skykomish River. It is a Hydroelectric Project, not a Fish Passage Project. Although the District has indicated that it may voluntarily fund improvements to the Washington Department of Fish and Wildlife fish trap and haul facility at Sunset Falls as mitigation for the impact from this dam, the District is not in the business of fish passage or management. In fact, the PAD specifically states that "the District does not anticipate that such improvements to the WDFW facility will be under FERC's jurisdiction."[4]

The District describes the Sunset Falls Project as a "small" and "low-impact" run-of-river project.[5] These are both highly subjective terms. The project is estimated to cost up to $175 million.[6] Seasonally it would remove 90% of flows from the South Fork Skykomish River,[7] and

[2] The Hydropower Reform Coalition, of which many Conservation Groups are members, has spent the past two decades working with dam owners to improve the environmental performance of working dams. Over this time, the Coalition has supported more than 16,000 MW of hydropower at dams where owners have modernized their operations to benefit fisheries, watershed lands, water quality, and recreation.

[3] The North American Electric Reliability Council's (NERC) 2010 annual forecast for electrical supply and demand nationally and regionally for a 10-year period shows that winter peak demands and annual energy requirements for the Northwest sub region are projected to grow at rates of 1.1 percent and 1.2 percent, respectively, from 2010 through 2019 (NERC, 2010). This slow growth in energy requirements is offset by the Northwest Power and Conservation Council's (NWPCC) 2010 Sixth Power Plan, which identifies energy efficiency as the most cost-effective and least risky resource and envisions that 85 percent of load growth over the next 20 years could be met cost effectively with energy efficiency. The plan also predicts that this efficiency will reduce the risk of future electricity shortages, reduce emissions from power plants to help meet regional carbon reduction goals and policies, and cost consumers less than relying solely on new power plants. (NWPCC 6th Power Plan, Council Doc. 2010-09.)

[4] Pre-Application Document at page 1, Section 1. FERC eLibrary 20130321-5054.

[5] *Id*. at Page 39, Section 5.1.

[6] *Id. a*t page 275, Section 6.9.4. .

have the ability to do so during in every season except the high flow period of May and June.[8] Based on information presented in the PAD and public presentations, Conservation Groups estimate that the 10-story underground powerhouse and intake structure would be nearly the size of Seahawks Stadium. To build it, we estimate the District would need to blast and remove approximately 222,000 tons of rock.

B. The District's Economic Justification for the Project is Questionable

The District's PAD portrays the proposed project as a valuable and economically competitive source of energy, arguing that it would be competitive with other renewable power alternatives, complement wind and solar generation, and provide reliable power for 10,275 in a manner that fits the District's load curve. A recent analysis of the District's PAD developed by Rocky Mountain Econometrics (RME) for the Hydropower Reform Coalition calls into question some of the District's justifications for the project.[9] For instance, the District assumes a power cost of $72.50/MWh. RME's analysis estimates a cost of power of $166/MWh, nearly double the District's estimate. It also calls into question the District's claim that the Project's power would be produced during times when power is most needed.[10] However, RME's analysis finds that the Project would produce most of its power in the spring, when it is least needed. RME identifies several other alternatives that will meet the District's power needs at a lower cost and with significantly fewer environmental impacts, including purchasing open market power and diversification to non-hydro renewables. We filed a copy of the RME analysis for inclusion in the decisional record as Commission staff identify and develop project alternatives, and analyze the need for power and project economics.

C. There is Substantial Public Opposition to the Project

There have been several proposals in the past to develop Sunset Falls for hydropower. A cursory review of the FERC dockets for those projects (FERC P-4786, FERC P-8574, FERC P-8644, FERC P-11195, and FERC P-11216) clearly demonstrates a long history of strong public opposition to hydropower development at this site. Nothing has changed in this regard. The Project as currently proposed is opposed by a predominant number of local ratepayers, landowners, businesses, and conservation and recreation groups. It is also opposed by a number of state and local legislators, including representatives of the 32nd Legislative District where the project would be located and the former mayors of the nearby communities of Index and Monroe, WA. More than 200 stakeholders attended the recent site visit, which was also attended by Commission staff. All but one of those stakeholders spoke in opposition to the proposed project.

---

[7] *Id. a*t page 306, Section SP 2.1.

[8] *Id. a*t page 100, Figure 5.3-1.

[9] Rocky Mountain Econometrics, Proposed Sunset Falls Hydroelectric Project (14295) Critique Of The Public Utility District No. 1 Of Snohomish County's 2010 Integrated Resource Plan & Notice of Intent/Pre-Application Document, June 18, 2013, FERC eLibrary 20130717-5106.

[10] Pre-Application Document, Appendix A, Frequently Asked Questions, Page 5. Among Project benefits, the District states that the Project "provides energy during specific months of the year when it's needed the most."

As the District's PAD notes, Conservation Groups were consulted early in the process during the assessment of potential hydropower sites by the District during 2008 and 2009.[11] In October 2009, the District provided the Conservation Groups with a white paper titled "Overview of Snohomish County PUD's Evaluation of Potential Low Impact Hydroelectric Projects." In written comments addressed to the District (attached as Appendix A), Conservation Groups indicated that we are fundamentally opposed to the categorical designation of "run-of-river" or "low-power" hydropower projects as "low impact," and that we do not support the construction of new dams that provide minimal power at high economic and environmental cost. In 2009, Conservation Groups strongly objected to hydropower development at the site of the proposed Sunset Falls project, noting that "Dewatering this scenic and popular falls just above the confluence of the South and North Forks of the Skykomish River would be a tragedy."

D. Inconsistency With Local, State, and Federal Comprehensive Plans

Section 10(a)(2)(A) of the Federal Power Act (FPA) specifically requires the Commission to consider "the extent to which [a] project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by an agency established pursuant to Federal law that has the authority to prepare such a plan; or the State in which the facility is or will be located."[12] The project proposed in the District's Pre Application Document would be plainly inconsistent with a number of relevant comprehensive plans that have previously been filed with the Commission, and are described in further detail below.[13] These plans speak to the community importance and value of this river in its free-flowing state.

The Commission has long recognized the importance of regional and coordinated planning, and has declined to issue licenses in cases where the negative impacts of a proposed project would run counter to these regional plans.[14] Wild and Scenic suitability, inclusion in the National Rivers Inventory, Protected Area status, and State Scenic Waterway designation each constitute relevant in-place plans and strategies to enhance and protect the aquatic, aesthetic, habitat, recreational and conservation resources of the South Fork Skykomish River.

---

[11] *Id.* at page 375.

[12] 16 U.S.C. § 803 (a)(2)(A); See also COMPREHENSIVE PLANS IN THE FEDERAL ENERGY REGULATORY COMMISSION'S LICENSING PROCESS http://www.ferc.gov/industries/hydropower/gen-info/licensing/complan.pdf, last visited July 15, 2013.

[13] Such plans include, but are not necessarily limited to: Mt. Baker/Snoqualmie National Forest Land and Resources Management Plan (June 1990); National Park Service Nationwide Rivers Inventory (June 1982); NWPCC Protected Areas Amendment (Sept. 14, 1988); and NWPCC Sixth Northwest Conservation and Electric Power Plan (February 2010).

[14] See City of Idaho Falls 80 FERC 61,342, Order Denying License, (1997) (Shelly Project No. 5090-005; Accession No. 19970925-3154); Intermountain Power Corp 58 FERC 62,227, Order Denying License Application (1992) (Oxbow Bend Hydroelectric Project No. 6329-001, Accession No. 19920324-0183); and City of Redding, 55 FERC 62,012 Order Denying License Application (1991) (Lake Redding Hydroelectric Project No. 2828-001, Accession No. 19910405-0338).

1. Wild and Scenic River Eligibility and Suitability

In 1990, the USDA Forest Service, as a part of its land management planning, evaluated all rivers and streams originating on National Forest Lands within the Mt. Baker-Snoqualmie National Forest to determine their eligibility and suitability for designation under the federal Wild and Scenic Rivers Act. The proposed Sunset Falls Hydroelectric Project would be located on a section of the Skykomish River that was found to be suitable and was recommended by the Forest Service for designation under the Wild and Scenic Rivers Act. Specifically, the Forest Service proposed designation from the confluence of the Foss and Tye Rivers to the town of Gold Bar, a reach that includes Sunset Falls.[15]

The District's PAD mistakenly states that the river was only found "eligible" for Wild and Scenic designation and fails to note that it was subsequently found "suitable," meaning that it was specifically recommended for designation.[16] In addition, the District's PAD fails to reference the Mt. Baker-Snoqualmie National Forest Land Resource Management Plan as a Comprehensive Plan under the summary of Comprehensive Plans in Section 7. The Forest Service recommended that this section of the Skykomish River be designated as Wild and Scenic even though it lies outside of the forest boundary. While the Forest Service has no direct authority to manage rivers off the National Forest prior to designation, the Forest Service recognized the unique and valuable character of this segment of the South Fork Skykomish by assigning the regionally and nationally significant Outstandingly Remarkable Values as scenic, recreation, fisheries, and wildlife.

2. Nationwide Rivers Inventory

The Skykomish River is also listed in the 1993 update of the Nationwide Rivers Inventory (NRI), which includes the 108-miles of the North Fork and South Fork as well as their major tributaries.[17] The NRI is a comprehensive plan as defined under section 10(a)(2)(A) of the Federal Power Act. The website for the NRI explains:

> "The Nationwide Rivers Inventory (NRI) is a listing of more than 3,400 free-flowing river segments in the United States that are believed to possess one or more 'outstandingly remarkable' natural or cultural values judged to be of more than local or regional significance. Under a 1979 Presidential directive,[18] and related Council on

[15] United States Forest Service. Mt. Baker-Snoqualmie National Forest Land Resource Management Plan. June 1990. Wild and Scenic Rivers, Appendix E, pp. E-168 to E-223.
[16] Pre-Application Document, at page 215, Section 6.6.5. FERC eLibrary 20130321-5054.
[17] Nationwide Rivers Inventory. National Park Service http://www.nps.gov/ncrc/programs/rtca/nri/states/wa2.html, last visited July 15, 2013.
[18] MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES. Presidential Directive of President Jimmy Carter. August 2, 1979. http://www.nps.gov/ncrc/programs/rtca/nri/hist.html#pd, last visited July 18, 2013. The Directive orders that: "Each federal agency shall, as part of its normal planning and environmental review process, take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory...Each federal agency with responsibility for administering public lands shall...to the extent of the agency's authority, promptly take such

> Environmental Quality procedures,[19] all federal agencies must seek to avoid or mitigate actions that would adversely affect one or more NRI segments."[20]

To be listed on the NRI, a river must be free-flowing and contain at least one outstandingly remarkable value (ORV) or a river related resource that is unique, rare, or exemplary on a regional or national scale.[21] The Skykomish River has four such exemplary river related resources that include scenery, recreation, fisheries, and wildlife.[22] The inventory specifically highlights the "clear water with rapids, cascades and falls in upper reaches" that would be directly impacted by the Project.[23]

3. Northwest Power and Conservation Council Protected Area

The proposed Project is located on a segment of the Skykomish River that is identified as a "Protected Area" from hydropower development for resident fish and wildlife by the Northwest Power and Conservation Council (Council) under their Fish and Wildlife Program.[24] The Council "develops and maintains a regional power plan and a fish and wildlife program to balance the Northwest's environment and energy needs."[25] The Council's Fish and Wildlife Program, which is a comprehensive plan as defined under section 10(a)(2)(A) of the Federal Power Act, is in place to "protect and rebuild fish and wildlife populations affected by hydropower development in the Columbia River Basin."[26] In order to meet this goal:

> "[t]he Council has adopted a set of standards for the Federal Energy Regulatory Commission, Bonneville and other federal agencies in the Columbia River Basin. As part of this effort, the Council designated certain river reaches in the basin as 'protected areas.' The Council found that new hydroelectric development in a designated protected area would have unacceptable risks of loss to fish and wildlife

---

steps as are needed to protect and manage the river and the surrounding area in a fashion comparable to rivers already included in the Wild and Scenic Rivers System."

[19] Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory. Council on Environmental Quality. http://www.nps.gov/ncrc/programs/rtca/nri/hist.html#ceq, last visited July 18, 2013.

[20] http://www.nps.gov/ncrc/programs/rtca/nri/, last visited July 18, 2013.

[21] *Id.*

[22] http://www.nps.gov/ncrc/programs/rtca/nri/states/wa2.html, last visited July 18, 2013.

[23] *Id.*

[24] See Protected Areas Mapper, available at: http://map.streamnet.org/website/protectedquery/viewer.htm, last visited July 17, 2013. Protected Areas were established as part of the Northwest Power Plan to meet the stipulations of Section 4(e)(2) of the Northwest Power Act; that is, to develop a Plan that considers the "protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat" during its development and implementation. Northwest Power Act § 4(e)(2)(C).

[25] http://www.nwcouncil.org/about/background/; last visited July 17, 2013.

[26] *Id.*

species of concern, their productive capacity, or their habitat."[27]

While the Commission is not prohibited outright from licensing a project in a Protected Area,

> "[t]he Council expects the Federal Energy Regulatory Commission, in the exercise of its licensing authority under the Federal Power Act, to take the Council's protected areas decision into account to the fullest extent practicable. *The Commission should implement the Council's decision in the Commission's licensing and exemption proceedings unless the Commission's legal responsibilities require otherwise.*"[28]

In the years since the Council first designated Protected Areas in 1988, the Commission has not approved a single new license within a Protected Area. For example, in the case of the proposed Shelly Hydroelectric Project on the Snake River in Idaho in 1997, the Commission denied a license application by the City of Idaho Falls, stating that Protected Areas "represent an attempt by the region to prevent the continued degradation of the remaining high quality fish and wildlife habitat, and the region's unwillingness to risk further fish and wildlife losses…[The Shelly Project] would…have unavoidable, long-term adverse impacts on fish and wildlife resources, which the Council has determined to be important to the region."[29]

In the Pre Application document the District notes that the Project is proposed for a Protected Area but states that it will provide "significant fish conservation benefits."[30] We note that while the Council once had a formal exception process in place in 1987 and 1994,[31] it is no longer contained in the Council's Fish and Wildlife Program.[32] When the exception process was in place, the Council itself noted "that the standard for exemption based on exceptional benefits is very demanding."[33] When the program was implemented in 1988, the Council "[did] not anticipate making exceptions to the protected areas designations routinely, and that it "intend[ed] to make exceptions from protected areas only in those infrequent cases where there is general agreement that a project promises real fish and wildlife benefits, and will

---

[27] Northwest Power and Conservation Council Columbia River Basin Fish and Wildlife Program 2009 Amendments. October 2009. Council Document 2009-09, Section II(D)(1)(e), pages 15-16. Available at: http://www.nwcouncil.org/media/115273/2009_09.pdf, last visited July 17, 2013.

[28] *Id.* Emphasis added.

[29] City of Idaho Falls 80 FERC 61,342, Order Denying License, (1997) (Shelly Project No. 5090-005; FERC eLibrary 19970925-3154).

[30] Pre-Application Document at page 291, Section 7.1. FERC eLibrary 20130321-5054.

[31] See §1300 of the 1987 and 1994 Fish and Wildlife Programs. Both available at: http://www.nwcouncil.org/fw/program/program-2009-amendments/, last visited July 18, 2013.

[32] See generally Northwest Power and Conservation Council Columbia River Basin Fish and Wildlife Program 2009 Amendments. October 2009. Council Document 2009-09. Available at: http://www.nwcouncil.org/media/115273/2009_09.pdf, last visited July 17, 2013.

[33] Northwest Power and Conservation Council's Response to Comments, 1992 Protected Areas Rulemaking, published August 13, 1992. Council Document 92-26. Available at: http://www.nwcouncil.org/media/63839/92_26.pdf, last visited July 18, 2013.

contribute to the recovery of the region's fish and wildlife populations."[34]

4. Washington State Scenic Waterway Designation

Washington's State Scenic Waterway Program was established to preserve certain rivers in their natural condition when they possess outstanding natural, scenic, historic, ecological, and recreational values.[35] Rivers included in the system are free-flowing without diversions that hinder recreational use, have water of sufficient quality and quantity to be deemed worthy of protection and other noteworthy qualities.[36] The South Fork Skykomish River is listed as a State Scenic Waterway under Washington Revised Code 79A.55.080(1) from the junction of the north and south forks to 20 miles up to the junction of the Tye and Foss Rivers. Washington State Scenic Waterways constitute a state plan that the Commission should consider.

E. Need for Power and Availability of Power with Less Impact

While the proposed Project could conceivably meet a small part of the Northwest's regional need for power, it would provide a relatively minimal amount of power at a high cost to the outstanding environmental, recreational, cultural and aesthetic values of the South Fork Skykomish River. Equally important, this power could be easily offset by other renewable generation or by energy efficiency and conservation efforts in a manner that would be substantially more cost effective than the proposed Project. The Northwest Power and Conservation Council's 6th Power Plan determined that the Pacific Northwest has 6,000 aMW available through employing cost-effective (up to $200 per MWh) conservation and efficiency measures.[37] The power produced by the proposed Project is mere noise relative to the energy that can be captured through conservation and efficiency.

F. Specific Comments on the Pre Application Document

Section 5.2.9, Page 88

As stated in the PAD, "the District will assist Washington Department of Fish and Wildlife (WDFW) with specific proposed improvements to the WDFW Sunset Falls Trap-and-Haul Facility…though the District does not anticipate that such improvements to the WDFW facility will be under the FERC's jurisdiction." It is unclear if any such improvements are to be considered mitigation for the Project. If they represent mitigation measures for the Project, to be considered by the Commission in balancing developmental and non-developmental values, then they must be evaluated as a potential license condition. Furthermore it is unclear why the District has changed the name of the project from a Hydroelectric Project to a Fish Passage Project when fish passage would not be under FERC jurisdiction.

[34] *Id.* at Summary of Comments § H(5).
[35] Washington Revised Code 79A.55.005.
[36] *Id*. at § 55.050.
[37] Northewest Power and Conservation Council, 6th Power Plan, Council Doc 2010-09, p. 4-1.

Section 6.6, Page 199

The PAD states that private property effectively eliminates public recreation at the Project site. However, Figure 6.6-3 in the PAD clearly shows that the Skykomish River, a navigable waterway, is not privately owned and represents a corridor that provides public access to the Project site. Boaters are able to launch at the Cable Drop River Access on Forest Service land and, at appropriate water levels, paddle upstream to the base of Sunset Falls. This requires portaging a small number of rapids, which can be done within the bed and banks of the river in a manner that avoids private land. Others have launched boats on Forest Service land upstream of the Project site, paddled down the river, and portaged Canyon Falls and Sunset Falls. A handful of individuals have successfully kayaked or rafted Sunset Falls.

Section 6.9, Page 255

The PAD states that the Project "could provide approximately 16% of the renewable portfolio needs to County ratepayers during times of high winter demand." This is incorrect. New hydropower development, such as the proposed Sunset Falls Project, does not qualify for the renewable energy portfolio as established by Washington State's Energy Independence Act.[38] As a result, this Project would not contribute to meeting County ratepayers' renewable portfolio obligations.

Section 6.9.3, Page 270

In an apparent justification for construction of the Project, the PAD states that "the utility is located in one of the fastest growing counties in the country." No citation is provided for this statement, which appears to be inaccurate. The most recently published data from the U.S. Census Bureau do not show Snohomish County among even the top 100 fastest growing counties in the country, which ranged from 19.2% growth to 4.3% growth for the period between April 2010 and April 2012.[39] The Snohomish County website shows a total population increase of a much more modest 0.5% since the last census, considerably less than the 1.5% increase during the time period of 2001 to 2011, and substantially lower than the nation's fastest growing counties.[40]

Section 6.9.4.6, Page 274

In describing project contributions, the PAD states that the project would provide "jobs to local individuals" and "help provide economic development and jobs" within the community. As described in more detail in the analysis completed by Rocky Mountain Economics, roughly half

[38] Revised Code of Washington 19.285.030.
[39] United States Census Bureau, Resident Population Estimates for the 100 Fastest Growing U.S. Counties with 10,000 or More Population in 2012: April 1, 2010 to July 1, 2012 (CO-EST2012-FGC).
[40] http://www1.co.snohomish.wa.us/Departments/PDS/Divisions/PlanningandTechnology/LR_Planning/Information/Demographics/faqs.htm, last visited July 18, 2013.

of the estimated $133,000,000 construction cost would go to firms out of the region that manufacture the major components. While short-term benefits represent a fraction of total project cost, ratepayers would be liable for the full cost, resulting in a net transfer of wealth out of the region. Economic benefits to the Index area associated with the ongoing operation of the plant beyond the construction phase are effectively zero because the Project would be remotely operated.

Section SP 3, Page 308

Study Plan 3 focuses on sampling and enumerating juvenile salmonids as they migrate downstream through the Project area. This study should also include an assessment of how modifications to the flow regime affect juvenile fish passage and survivability over Canyon Falls and Sunset Falls. Substantially reducing flows during the critical outmigration period could affect both travel time and mortality rates by increasing abrasion injury. These issues should be explicitly evaluated in this study.

G. Specific Comments on Scoping Document 1

In the SD1, staff anticipate preparing an Environmental Assessment. In light of the intense controversy surrounding this Project, the unique characteristics of the proposed site, and the significance of the impacts to the Skykomish River and surrounding landscape, FERC should prepare a full Environmental Impact Statement (EIS).

Specific alternatives need to be evaluated, including 1) energy conservation and efficiency opportunities within the PUD service area, regionally, and among Bonneville Power Administration customers including the PUD, and 2) alternative energy sources to the hydropower project such as wind, solar, and geothermal. We request that the Commission include these alternatives in their analysis.

IV. Conclusion

The Conservation Groups strongly object to the development of the Sunset Falls Hydroelectric Project. As outlined in our above comments on the PAD and Scoping Document 1, this Project would have significant and widespread impacts on the recreational, aesthetic, habitat and ecological values of the South Fork Skykomish River and the surrounding area. The Project would conflict with directives and policies governing the management of this river, which has been found suitable and recommended for designation under the Wild and Scenic Rivers Act, designated as a Protected Area by the Northwest Power and Conservation Council, and established as a State Scenic Waterway.

Respectfully submitted,

Rick McGuire
Alpine Lakes Protection Society

Michael Garrity
American Rivers

Thomas O'Keefe
American Whitewater

Mitch Friedman
Conservation Northwest

Rich Bowers,
Hydropower Reform Coalition

Karl Forsgaard
North Cascades Conservation Council

Mark Lawler
Sierra Club, Washington State Chapter

Sarah Krueger
The Mountaineers

Tom Uniack
Washington Wild

Andrea Matzke
Wild Washington Rivers

Study Request
Recreational Study

The applicant has proposed a major development that would transform the South Fork Skykomish River from a free-flowing river to a highly regulated river with a completely new flow regime. In light of the substantial impact of the Project and the impacts to those who enjoy the river corridor for recreation, a comprehensive recreation resources assessment is necessary.

The following study request addresses each of the seven study criteria as required in 18 C.F.R. §5.9(b):

§5.9(b)(1) —Describe the goals and objectives of each study proposal and the information to be obtained.

The goal of this study is to evaluate the effects of project construction and operation on the availability and character of river-dependent recreational opportunities on the South Fork of the Skykomish River.

The objectives of the study are to:

(1) Inventory existing recreational opportunities and facilities in the project vicinity, including those enjoyed by residents who own property along the river for the purposes of recreational use and enjoyment;

(2) Determine recreation use and demand, including past use, existing use, and potential future use;

(3) Evaluate project effects, including the impact of the inundation zone and the dam structure on navigability at flow ranges identified as optimal for river-based recreation;

(4) Conduct a future and potential recreation needs assessment;

(5) Determine carrying capacity; and

(6) Develop a Recreation Resource Management Plan (RRMP).

§5.9(b)(2) —If applicable, explain the relevant resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied.

The National Park Service represents the national interest regarding the preservation of natural resources, and to assure that hydroelectric projects subject to FERC licensing recognize the full potential for meeting present and future public outdoor recreation demands, while maintaining and enhancing a quality environmental setting for those projects. Additionally, the U.S. Forest Service nominated the South Fork Skykomish River for inclusion in the federal Wild and Scenic

Rivers System. Candidate rivers must have at least one "Outstanding Remarkable Value," and the South Fork Skykomish was found to have four–scenic, recreation**,** fish and wildlife.[41] Further, as a State Scenic Waterway, management responsibility for the Skykomish River rests with the Washington State Parks and Recreation Commission, whose mission is to care for Washington's most treasured lands, waters and historic places.[42] State parks connect all Washingtonians to their diverse natural and cultural heritage and provide memorable recreational and educational experiences that enhance their lives. Our study request is consistent with meeting the goals of these managing agencies.

§5.9(b)(3) —If the requester is not a resource agency, explain any relevant public interest considerations in regard to the proposed study.

Sections 4(e) and 10(a) of the Federal Power Act require the Commission to give equal consideration to all uses of the waterway on which a project is located. When reviewing a proposed action, the Commission must consider the environmental, recreational, fish and wildlife, and other non-developmental values of the project, as well as power and developmental values. Our members, including several who own property along the river, have a strong interest in the recreational opportunities as they currently exist on the South Fork Skykomish River and specifically the unique attributes of the spectacular setting through which this river flows. To fully evaluate the Project's effect on recreation, a study is relevant to the Commission's public interest determination.

§5.9(b)(4) — Describe existing information concerning the subject of the study proposal, and the need for additional information.

The PAD provides limited information on recreation, stating that the Project "would not affect public recreation; therefore, the PUD is not proposing a recreation study."[43] We have a number of concerns with this logic. First, the river is a navigable waterway and members of the public have traveled along the river through the Project reach. Second, the land on the north side of Sunset Falls is public land that is managed by the Washington Department of Fish and Wildlife. While access is currently restricted, it has been accessible to the public in the past and it is reasonable to assume that access policies will change over the period of the 50 year license contemplated for this Project. Third, recreational use must also consider the interests of those who own property along the river who will be directly impacted by the Project, as many of these individuals own land within the Project reach specifically for purposes of engaging in river-based recreation. The Commission has consistently considered the interests of property owners and their recreational pursuits when project operations affect their use and enjoyment of rivers and reservoirs associated with hydropower projects. Fourth, while the PAD states that "screened views of the Project Area are possible from short segments of the [Lake Serene]

[41] United States Forest Service. Mt. Baker-Snoqualmie National Forest Land Resource Management Plan. June 1990. Wild and Scenic Rivers, Appendix E, pp. E-5.
[42] http://www.parks.wa.gov/agency/, last visited July 18, 2013.
[43] Pre-Application Document at Appedix A, Frequently Asked Questions, page 16. FERC eLibrary 20130321-5054.

trail,"[44] it fails to mention that the Sunset Falls is visible as a scenic element from the valley overlook. A recreation study is necessary to further understand and quantify the importance of Sunset Falls as a visual element enjoyed by users of this Forest Service trail.

Conservation Groups believe that considerably more information is required to accurately identify recreational activities and trends as they relate to recreation in the Project area that would be directly impacted by Project operations. Additional site-specific information is necessary. Some limited information not included in the PAD is available from guidebooks and websites, and additional information can be obtained through user surveys and targeted outreach to individuals familiar with the resource. A recreational study will help identify impacts of the Project on river-dependent recreation.

§5.9(b)(5) — Explain any nexus between project operations and effects (direct, indirect, and/or cumulative) on the resource to be studied, and how the study results would inform the development of license requirements.

Project operation would impact flow-dependent recreational opportunities, including the aesthetic experience of those who engage in recreation on the South Fork Skykomish River. This study will inform associated license requirements that could result from impacts that are identified. The results will also inform the public interest determination regarding the decision of whether to license this project.

§5.8(b)(6) — Explain how any proposed study methodology (including any preferred data collection and analysis techniques, or objectively quantified information, and a schedule including appropriate field seasons(s) and the duration) is consistent with generally accepted practice in the scientific community or, as appropriate, considers relevant tribal values and knowledge.

Consistent with methodology recently proposed by the National Park Service, we recommend the following:

(1) Recreation Inventory: Conduct field surveys, review existing plans, maps and reports, and consult with area land managers and recreation providers to compile a complete inventory of recreation resources available in the project area. Developed and dispersed recreation areas should be inventoried. Recreation activity types and seasons for reach activity should be described.
(2) Recreation Use and Demand: Through user and public surveys, personal interviews, and analysis of available data, quantify and describe current and future use and participation levels in outdoor recreation activities. Include numbers and types of users, means of access, time of visit, and preferences for any new recreation opportunities that would be available through the development of this Project. This analysis should also include a regional analysis component and an understanding of the recreation and aesthetic niche of the project area. We recommend

[44] *Id.* at page 204, Section 6.6.1.

that stakeholders be consulted in the development of the survey instruments and protocol. Current and historical use of the area should be included.
(3) Evaluation of Project Effects: Evaluate the changes in the recreational experiences provided in the project vicinity during construction and operation of the project.
(4) Future and Potential Recreation Needs Assessment and Analysis. This study element involves assessing the potential and future recreation needs. This would involve looking at the WA State Comprehensive Outdoor Recreation Planning document (SCORP), other literature reviews of local recreation plans, The Skykomish River Journal, Nationwide Rivers Inventory, and site-specific information collected from the study elements outlined above. In addition, this assessment should identify and evaluate the potential for additional access or new recreation areas as part of the project. This needs analysis would compile all the information, including stakeholder input, and make recommendations on recreation mitigation measures for the project.
(5) Recreation Carrying Capacity. This component would assess the suitability or capacity for various recreation opportunities at the project area to receive visitors without degrading recreational experiences or other resources. This assessment should also integrate the results of other biophysical study results. Various methods could be used including "Limits of Acceptable Change" or "Recreation Opportunity Spectrum." These estimates can then be used in development of the RRMP.
(6) Develop a RRMP. Prepare a plan that addresses potential project effects as well as future recreation needs and opportunities, based on the results of the studies.

§5.9(b)(7) —Describe considerations of level of effort and cost, as applicable, and why any proposed alternative studies would not be sufficient to meet the stated information needs.

This study covers fieldwork, interviews/surveys, community workshops and outreach, and professional assessment. An overview of the level of effort for each component is outlined under the study methodology section. The cost will depend on what is readily available and what requires additional work, and it is roughly estimated at approximately $75,000.

Appendix A

November 9, 2009

Letter from American Rivers, American Whitewater, Conservation Northwest, Sierra Club Cascade Chapter and North Cascades Conservation Council
To Snohomish PUD No. 1

Re: Overview of Snohomish County Public Utility District's (PUD) Evaluation of Potential Low-Impact Hydroelectric Projects

Kim Moore, AGM Water Resources
Scott Spahr, Senior Engineer, Water Resources
Snohomish Public County Utility District No.1
2320 California Street
Everett, WA 98206-1107

November 9, 2009

RE: Overview of Snohomish County Public Utility District's (PUD) Evaluation of Potential Low-Impact Hydroelectric Projects

Dear Kim and Scott,

American Rivers, American Whitewater, Conservation Northwest, Sierra Club Cascade Chapter, and North Cascades Conservation Council (collectively, the Conservation Groups), all Washington members of the National Hydropower Reform Coalition, would like to thank you for meeting with us on October 20th to discuss early development of the PUD's 2008 Integrated Resource Plan.

The Conservation Groups have reviewed the October, 2009 Whitepaper, and our remarks consist of several overarching concerns as well as comments and support material regarding proposed individual projects. We look forward to providing additional, more detailed comments as the PUD incorporates comments from various stakeholders and revises its list of potential projects. At this time, the Conservation Groups do not support any of the proposed projects.

The Conservation Groups appreciate your consideration of our comments and look forward to further discussion, especially as the project list is narrowed.

Sincerely,

Thomas O'Keefe
American Whitewater

Bonnie Rice
American Rivers

Rebecca Wolfe
Cascade Chapter, Sierra Club

Seth Cool
Conservation Northwest

Rich Bowers
Hydropower Reform Coalition

Rick McGuire
North Cascades Conservation Council

Conservation Group Comments on Snohomish County Public Utility District's (PUD) Evaluation of Potential New Hydroelectric Projects in Washington State

I. Overarching Comments

The Conservation Groups appreciate the opportunity to work with the PUD to identify ways to conserve additional energy and avoid the need to build new dams. We agree with the PUD that conservation of energy is the most important goal, and we commend the PUD for its leadership in this area.

The Conservation Groups have been active in promoting additional hydropower at both the state and federal levels by promoting efficiency upgrades at existing dams and, where suitable, by adding hydropower generation to existing non-power dams.[1] Currently, the Washington Department of Ecology's 2009 Inventory of Dams lists regulation of more than 1000 dams,[2] and the 2007 State Assessment lists more than 250 existing dams in Washington that either do not have hydropower (e.g. storage and flood control dams) or that are not operating at peak efficiency.[3] While some of these existing hydropower facilities may be satisfactory candidates for efficiency improvements, others may not. The Conservation Groups are not willing to look at new dams until we are sure that we have exhausted all potential from the existing hydropower infrastructure and investment available in Washington State – and we do not support the construction of new dams that provide minimal power at high cost, both economically and environmentally.

A. Low-Impact Hydroelectric – Current Proposed Projects

The Conservation Groups fundamentally oppose the categorical designation of "run-of-river" or "low-power" hydropower projects as low impact. All dams, regardless of size, have significant adverse impacts on river ecosystems, ranging from deforestation, new road construction, new buildings, and other infrastructure. The impacts from new dams are not limited to the criteria identified by the PUD in its overview (i.e. above anadromous barriers and outside of critical listed areas) and many of the projects on the PUD's initial list would require building transmission lines, roads, or penstocks through old growth forests and/or Late-Successional Reserves, and other currently undeveloped landscapes. Additional impacts that must be considered include but are not limited to resident fish, wildlife, and recreational resources that many of these rivers provide.

B. Economics & Conservation

In addition to significant environmental impacts, the proposed new projects provide minimal economic benefit. While hydropower has the capability to meet peak power needs, it is increasingly unpredictable in the face of climate change and expected changes to streamflows. Earlier developers of these same small, low-power projects (Boulder, Wells, Heislers, Skookum Creek and others)[4] have previously sought permits and licenses from the Federal Energy Regulatory Commission (FERC), but these sites were never developed due to poor

---

[1] Examples of efficiency upgrades include Grant County Public Utility District's Wanapum Dam on the Columbia River, where new advanced-design turbines being installed at the project are increasing power output by 14 percent, and upgrades at Chelan County PUD's Rocky Reach Dam. "What we have been able to do is provide more power with the same amount of water," said Tracy Yount, Chelan County utility district's external affairs director. "We're saying, let's skip the new facilities, skip the regulatory issues associated with new dams and go to our existing facilities and get more value from them." http://articles.latimes.com/2009/jul/27/nation/na-hydro-power27?pg=3

[2] http://www.ecy.wa.gov/pubs/94016.pdf

[3] The 2007 State Resource Assessment lists 249 existing dams in Washington that do not produce power (such as flood control and storage dams) or where the total power has not yet been fully developed (efficiency upgrades). The report shows that more than 2,500 MW could be added simply by improving efficiencies or adding hydro to non-power dams. (Developing all the state's potential hydro sites would only add 762MW)

[4] American Whitewater, Salmon Restoration and Protection on the North Fork Nooksack River, http://www.americanwhitewater.org/content/Project/view/id/nooksack/

economic and power benefits. Given the modest expectations of these low-power projects (5MW by 2020), the Conservation Groups strongly encourage the PUD to make improvements to its highly successful energy conservation program (seeking to reduce demand by an additional 90 aMW by 2020) rather than propose construction of new dams in Snohomish, King, Skagit and Whatcom Counties.

The projects proposed by the PUD, and their subsequent seasonal operation and limited storage capabilities, cannot provide the energy benefits most often associated with hydropower; including the ability to immediately produce peaking power and to firm other new renewable technologies. And while the PUD evaluation references new hydropower as offsetting carbon emissions, it does not describe what specific carbon emissions would be replaced. The final evaluation must include this information, otherwise new dams, with their impacts to rivers and watersheds, may only provide competition for other, newer, and diverse renewable technologies such as wind and solar.

C. Cumulative Impacts

The Conservation Groups have serious concerns about the potential cumulative impacts on water quality and quantity, aesthetics, recreation opportunities, and fish and wildlife from multiple dams in a single watershed or on a specific river segment (i.e. Nooksack Falls, Boulder, Canyon Lake, Heislers, Skookum and Wells Creeks in the Nooksack). While we understand that the PUD cannot control the future actions of other developers and utilities, current actions do have the potential to influence additional new dams on Washington's rivers. All developers may not have the resources needed to adequately research, build and maintain potential sites, or the commitment to reach out to stakeholders in this discussion. A lack of adequate resources, combined with marginal power economics could result in a number of environmentally damaging projects, license surrenders or projects being abandoned in the future. Our concern regarding multiple new projects is heightened by efforts to modify Initiative 937, passed in 2006 to increase and diversify new renewable technologies in Washington State, including efficiency improvements at existing dams. Providing renewable tax credits for low-power hydropower inappropriately incentivizes and opens the door to any number of new dam proposals on Washington's already stressed river systems.

D. Federal and State Legislation on Renewable Energy

The PUD's 2007 Climate Change Policy identifies low-impact hydropower as a renewable resource and an "approved resource". However, this definition is not widely shared. It is inappropriate for the PUD to identify proposed new hydropower dams as a renewable resource when this is not supported by statute, nor should the PUD move forward on these projects in the hope of getting credit or benefiting from incentives from the federal or state standards.

State Law:

Washington's Renewable Portfolio Standard (RCW 19.285, also known as I-937) recognizes certain types of incremental improvements at existing hydropower dams as an "eligible renewable resource." The law was carefully constructed to ensure that incentives for hydropower production are narrowly tailored to provide some flexibility for utilities and support the law's broader goal of diversifying the state energy portfolio to include emerging technologies like wind, solar, and tidal energy. For this reason, the law does not recognize new dams or certain types of enhancements at existing dams as eligible for renewable tax credits. Preserving the intent of the state standard to move away from old technologies, like hydropower which already provide 60-70% of our region's power, is an important foundation for our comments. In an effort to keep our comments concise, we will not discuss issues relating to the state standard in this letter, but we are happy to meet with you in the future.

Federal Standard:

The Renewable Electricity Production Tax Credit, originally enacted in 1992,[5] has been renewed and expanded numerous times, most recently by H.R. 1424 (Div. B, Sec. 101 & 102)[6] in October 2008 and again by H.R. 1 (Div. B, Section 1101 & 1102)[7] in February 2009.

- The language defining eligible hydropower in the Federal Production Tax Credit for renewables does not include new dams, focusing on efficiency upgrades and retrofitting hydroelectric turbines to existing water infrastructure.
- The language does not recognize any size criteria on existing dams, nor does it provide for Low-Impact Hydropower Institute (LIHI) certification for new dams.

In addition to the work of the Conservation Groups on state and federal definitions of renewable power, we have also been working with the hydropower industry at the national level to increase hydropower technologies that produce additional energy without increasing the industry's environmental footprint. In a recent article, the National Hydropower Association[8] recognized the value of this joint-effort to install hydropower facilities at non-powered dams and discussed improving efficiency of existing resources, developing new generation technologies (Marine and Hydrokinetic projects), and integrating renewable resources. The article does not mention building new dams as a way to decrease the industry's environmental footprint.

The Conservation Groups do not support the PUD's definition of low-impact hydropower as a renewable resource and do not support consideration of such as the PUD moves forward with its evaluation of the projects.

E. Aesthetics & Recreational Use

The Conservation Groups do not support proposed projects that would dewater a scenic waterfall, especially those that are recreational destinations. This includes Sunset Falls, Boulder Falls, Wallace Falls, and the falls at Storm Ridge (often called Deer Falls). In addition to adverse impacts to aesthetic values, several projects would adversely impact rivers that provide recreational opportunities, such as Heislers, Skookum, Trout Creek, and Storm Ridge to name a few.

Recent actions by FERC in two cases demonstrate the agency's willingness to impose mitigation for impacts to outstanding aesthetic, cultural, and spiritual values that waterfalls provide. In the case of these proposed low-power projects, potential aesthetic mitigation could further reduce the cost-benefit analysis on already marginal sites. Aesthetic mitigation examples:

- Snoqualmie Falls - the recently issued Order on Rehearing (3/2005) recognizes that Snoqualmie Falls are of great religious significance to the Snoqualmie Tribe, and the level of spray and resulting mist produced by water flowing over the Falls is a critical component of their spiritual experience.[9] The license requires 1,000 cfs minimum flows (daytime and nighttime) throughout May and June in addition to requirements for aesthetic and spiritual purposes throughout the year.
- Spokane River Hydroelectric Project – the recently issued (6/19/2009) final license[10] for Avista's five development Project requires, among other mitigation, year-round minimum aesthetic flows over the Monroe Street dam and through the Upper Falls development's bypassed reach. In addition, Avista is required to develop and implement an Upper Falls aesthetics spill plan to evaluate the aesthetic flow

[5] http://www.ucsusa.org/clean_energy/solutions/big_picture_solutions/production-tax-credit-for.html
[6] H.R.1424, Emergency Economic Stabilization Act of 2008 (final version) http://thomas.loc.gov/cgi-bin/query/z?c110:H.R.1424.enr
[7] American Recovery and Reinvestment Tax Act of 2009, http://thomas.loc.gov/home/h1/Recovery_Bill_Div_B.pdf
[8] Change Brings New Opportunities for Hydro, Renewable Energy World, October 23, 2009. http://www renewableenergyworld.com/rea/news/article/2009/10/change-brings-new-opportunities-for-hydro?cmpid=WNL-Wednesday-October28-2009
[9] 110 FERC ¶ 61,200
[10] FERC Accession No. 20090618-4001, Spokane River Project No. 2545-091.

release and determine whether modifying the North Channel and South Channel at the Upper Falls development will be necessary.

F. Climate Change

While we support the PUD's efforts to address climate change by requiring all future generation to be renewable, it is imperative that we do not destroy the very environment that we are trying to save by rushing to develop low-emissions energy sources that cause serious environmental harm. Some low-emissions sources, such as new dams, result in a reduced resiliency of a river system, increased water temperature, and decreased water quality and quantity – many of the same impacts predicted to result from climate change and the primary goal for reducing greenhouse gas emissions. In addition, according to the July 2007 Washington Climate Change Impact Assessment (WACCIA),[11] climate change is predicted to lead to substantial declines in mountain snowpack and lower summer stream flows, making hydropower development increasingly unreliable. At the October 20th meeting, the Conservation Groups requested that the PUD evaluate future power needs as it relates to climate change, and that it complete an analysis of climate change and its impact on the proposed projects. We reiterate that request in these comments.

A recent review of streamflow from 43 gages in the Pacific Northwest (1948 to 2006) demonstrates that the driest 25% of years are becoming substantially drier, resulting in strong and significant declines in annual streamflow at a large majority of gauging stations and that at the upper extent of perennial flow in headwaters habitat may be entirely eliminated (a number of PUD proposed projects are planned for headwater systems, further affecting summer steelhead, and Bull Trout).[12] The study reports that this change in dryness is substantial, with most streams showing decreases exceeding 29% and some showing decreases approaching 59%. The report shows that this decrease will affect both rain and snow dominated watersheds.

A further climate-related impact is the destruction of old growth and mature forests that would be the result of some of the proposed projects, particularly in sensitive riparian habitat. Storm Ridge and Trout Creek are just a couple of examples where new transmission lines and roads would have to be carved into low-elevation mature and old growth forests, resulting in removal of forest canopy and conversion of forests to a permanent young age class. Numerous scientific studies have shown that this type of forest conversion releases large amounts of carbon dioxide and methane gas into the atmosphere.[13] The resulting young forests can never store a comparable amount of carbon as was released by the removal of the mature and old growth age classes. Some forests that would be impacted by new transmission lines have trees upwards of 700 years old and 6-8 or more feet in diameter.

G. Northwest Power and Planning Council (NWPPC)

In order to protect Washington's river resources from the cumulative effects of future hydropower development, the NWPPC[14] adopted, as part of the Columbia Basin Plan, a "Protected Areas List" (Appendix B) that designates some 44,000 miles of Northwest streams as "protected areas" because of their importance as critical fish and wildlife habitat, and where the construction and operation of hydroelectric projects would have an adverse impact on regional fish and wildlife resources. There are Protected Areas among the sites under review by the PUD.

---

[11] The Washington Climate Change Impacts Assessment. http://cses.washington.edu/cig/res/ia/waccia.shtml

[12] Luce, C.H. and Z.A. Holden. 2009. Declining annual streamflow distributions in the Pacific Northwest US, 1948-2006. Geophysical Research Letters, Vol. 36.

[13] *See* Luyssaert, S., E.D. Schulze, A. Borner, A. Knohl, D. Hessenmoller, B.E. Law, P. Ciais, and J. Grace. 2008. Old growth forests as global carbon sinks. Nature. 455:213-215.

[14] The Northwest Power Planning Council, an interstate compact agency of Idaho, Montana, Oregon and Washington, was established under the authority of the Pacific Northwest Electric Power Planning and Conservation Act of 1980. http://www nwcouncil.org/library/2000/2000-19/intro htm

Designation as a protected area does not prohibit hydropower development (that authority rests with FERC), but it represents an independent assessment of sites that have been found to be inappropriate for hydropower development because of the potential impacts on intact, important fish and wildlife habitat. NWPPC created specific programs to "protect, mitigate, and enhance fish and wildlife, and related spawning grounds and habitat that have been affected by the construction and operation of any hydroelectric project on the Columbia River or its tributaries." With respect to watersheds outside the Columbia basin, NWPPC has identified and mapped Protected Areas,[15] and it is our understanding that this program recommends (but does not mandate) that BPA avoid marketing power from projects located in those designated areas. In June 2009 the Council adopted a revision of its Columbia River Basin Fish and Wildlife Program,[16] the nation's largest regional effort to protect and enhance fish and wildlife. The Council estimates that 4,600 stream miles of Columbia River Basin salmon and steelhead spawning and rearing habitat have been lost to development, not including losses of migration routes and of resident fish and wildlife habitat. This process and additional lost habitat should be considered during the review process.

H. Old-Growth Forests, Late Successional Reserves and Roadless Areas Protection

Virgin old growth is scarce (less than 10% remains) but essential habitat for many rare and sensitive species including spotted owls and marbled murrelets. The Forest Service has implemented several programs to protect old-growth forests in certain areas and ensure that habitat is not degraded, including designating Late Successional Reserves, Inventoried Roadless Areas, and protective land allocations in the 1990 Mt. Baker-Snoqualmie National Forest land and resource management plan. Development such as roads, transmission lines, and penstocks can be devastating for a number of reasons. For example, clearing allows sunlight into interior forest habitat, linear clearings create avenues for predators to hunt rare species and their young, activities can introduce invasive species, etc. The existence of old-growth forests should be key criteria for rejecting future project sites.

I. Criteria for Evaluation of Potential Sites

Should the PUD not adopt our recommendation to abandon plans for new dams, then it must at the least expand and update its criteria against which it will evaluate the proposed projects New research, detail and documentation are needed to adequately determine the impacts of these proposed projects, with special emphasis in the following areas:

- Fish Barriers – While protecting anadromous species such as salmon and steelhead is an iconic issue in Washington, there are other critical species that are impacted by dams, especially in the many headwater streams on this initial list. This includes designated critical habitat for bull trout and other federally listed species as well as habitat for native cutthroat trout that enjoy certain protections under State Forest Practice rules.
- Limits to Critical Areas – As we stated in the October 20th meeting, it is not enough for the PUD to remove only proposed projects located within National Forest Lands, wilderness areas, and Wild and Scenic boundaries from the list of proposed projects.
    - Wild & Scenic -- We object to projects located in close proximity to these areas and that would impact rivers determined to be eligible for inclusion in the Wild and Scenic Rivers System, particularly if they have already been recommended to Congress for designation. These determinations were made after consideration of the numerous qualities of each river, and in the case of recommended rivers, after extensive public input was gathered as part of a formal NEPA process.
    - Mt. Baker-Snoqualmie National Forest -- Many hydropower (and geothermal) projects on the PUD list would create unacceptable impacts to wild rivers and forests on the Mt. Baker-Snoqualmie National Forest. We oppose projects that impinge upon designated Wilderness

[15] StreamNet, Fish Data for the Northwest, Protected Areas. http://www.streamnet.org/ProtectedAreas html

[16] Northwest Power and Conservation Council, 2009 Columbia River Basin Fish and Wildlife Program. http://www nwcouncil.org/library/2009/2009-09/Default.asp

areas. This includes projects such as Storm Ridge and Trout Creek where a wilderness exists on one bank of the river. Such projects would violate federal law protecting wilderness. Congress will have the opportunity to designate the specific boundaries of Wild and Scenic Rivers that can extend a half mile or more from the river bank; the Forest Service to date has only sketched out general proposed Wild and Scenic boundaries that are approximately 1/4 mile from the river bank.

- Unstable Areas – The PUD needs to complete additional research into geological or unstable areas. See comments on Boulder Creek and Storm Ridge below.
- Major Environmental Issues – The PUD references prior environmental studies related to some of the potential sites, however, these studies were completed approximately two decades ago and are significantly out of date in terms of listed species and other factors. For example, marbled murrelet, bull trout, and Chinook salmon were subsequently added to the federal endangered species list. These studies would need to be redone, and the PUD must also address the strong opposition raised in these early studies by regional and state agency staff to nearly all small-head hydroelectric projects due to their impacts on fish and wildlife.

II. Individual Project Level Comments

1. Sunset Falls

Dewatering this scenic and popular falls just above the confluence of the South and North Forks of the Skykomish River would be a tragedy. The impacts of power lines, roads, and a powerhouse, and other construction and generation development would be especially hard-felt in this area.
This river is recognized by the state as the only State Scenic River in Western Washington, the purpose of which is to "protect and preserve the natural character of such rivers and fulfill other conservation purposes." The river has also been recommended by the Forest Service to Congress for designation under the federal Wild and Scenic Rivers Act. The Skykomish River just below the falls is one of the premier salmon streams in the Puget Sound basin and salmon are trucked above the natural falls. A hydropower project here would alter the river's flow characteristics, would likely introduce dissolved nitrogen into the water, and could potentially impact salmon and bull trout.

2. Storm Ridge/Deer Falls

This project fails several of the PUD's own "criteria to find lowest impact sites:"

- "Outside Federal Wilderness areas" -- the proposed dam site would impinge on the Wild Sky Wilderness. The wilderness boundary is located on the south bank of the North Fork Skykomish River. There is no way to build a diversion dam on the river without building one end of it in the wilderness.
- "Outside Federal Wild and Scenic River designation" – The US Forest Service recommended the river to Congress for inclusion in the National Wild and Scenic Rivers System and is obligated to manage the river as such (i.e. protect the river's free-flowing character, water quality and outstanding values) until Congress acts on designation.
- "Location in close proximity to an existing transmission system" – the closest access to an existing power distribution system is the BPA line near Skykomish, which would require a minimum of 16 miles of new transmission line. Sixteen miles is not "in close proximity."
- "No known issue that would preclude moving project to evaluation stage" -- transmission line construction would remove hundreds of old growth trees and spotted owl habitat in a Late Successional Reserve (LSR) designated in the 1994 Northwest Forest Plan.[17] Also, this area is an active whitewater recreation site.

[17] Forest Plan for a Sustainable Economy and a Sustainable Environment, RECORD OF DECISION For Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl. April 13, 1994. http://www reo.gov/library/reports/newroda.pdf

3. Wells Creek
The U.S. Forest Service has determined that Wells Creek is eligible for Wild and Scenic River designation. Portions of the project may be in inventoried roadless area protected under the roadless area conservation rule. In addition, a substantial area of old growth forest in a Late-Successional Reserve would be impacted. Wells Creek is important habitat for native char and a spawning population of bull trout (WDFW 1998). In 2001, the Salmon Recovery Funding Board (SRFB) funded a joint Nooksack Salmon Enhancement Association/USFS project to offset logging and sedimentation impacts on these populations, as well as salmonids downstream. Based on the input of the USFS, it is our understanding that the PUD will not pursue the site during the next round of investigation.

4. Nooksack Falls
We have concerns about how increased generation would further reduce aesthetic and other public trust values at Nooksack Falls. Increased generation and the required flows to provide this would exacerbate the aesthetic impact on Nooksack Falls described by the Washington State Travel website[18] as one of the most popular falls in the North Cascades. While there are advantages to a licensed project over the existing un-licensed project (ramping rates, instream flows and fish screening), concerns remain on dissolved gas and the important fisheries habitat just downstream. The existing bypassed segment of the Nooksack River provides important connectivity for those species spawning in Wells Creek, and both above the Falls (Misto Gorge), and below (Horseshoe Bend) are active recreational areas.

5. Skookum Creek
Water temperature is the primary limiting factor affecting salmon in the South Fork of the Nooksack River, and Skookum Creek, the largest tributary, contributes a dependable, year round, high volume flow of clear, cool water to the South Fork. Temperatures in the South Fork are approximately 3.5 to 5 degrees warmer than Skookum Creek. Skookum Creek's water quality is also a vital resource for the Lummi Nation's Skookum Creek Coho Hatchery, an economic stimulus for both the Lummi and Nooksack tribes. Below the anadromous fish barrier at mile 2.3, Skookum Creek provides excellent natural spawning and refuge grounds for native spring Chinook, winter steelhead, and bull trout. Both the Mustoe Marsh corridor and the upper reaches of the creek contain resident cutthroat trout populations. Mustoe Marsh, which feeds both Skookum and Hutchinson creeks, filters logging run-off and moderates water temperature during the summer months. Skookum is an exploratory recreational whitewater run. Currently, the mouth of Skookum is targeted for a $1 million WRIA 1 restoration project to remove channel constrictions and add large woody debris (LWD) structures to provide salmonids access to thermal refugia located in Skookum Creek.

6. Cumberland Creek
The Conservation Groups have not yet been able to complete site visits to this area, and at this time do not have final comments.

7. Rocky Creek
The Conservation Groups have not yet been able to complete site visits to this area, and at this time do not have final comments.

8. Barclay Creek
Additional information is needed regarding the placement of the diversion dam. Depending on location, it could impact the popular Barclay Lake Trailhead which is a sensitive area that is recovering from past logging practices. Most of the area along the creek is in a Late-Successional Reserve designated in the 1994 Northwest Forest Plan and the dam site would be in the view shed of both Highway 2 and the nearby Wild Sky Wilderness.

[18] 2009 Washington State Tourism, Scenic By Ways, http://www.experiencewa.com/attraction.aspx?id=35

9. Hancock Creek
A King County Conservation easement is in place for a portion of the Hancock Forestry land and may preclude development of the project.

10. Calligan Creek
Like Hancock, Calligan Creek may be protected by the King County Conservation easement. The Conservation Groups have not yet been able to complete site visits to this area, and at this time do not have final comments.

11. Wallace Falls
Wallace Falls is located within a Washington State Park. The Conservation Groups have not yet been able to complete site visits to this area, and at this time do not have final comments.

12. Bear Creek
The Conservation Groups have not yet been able to complete site visits to this area, and at this time do not have final comments.

13. Canyon Lake
Canyon Lake Creek is a large tributary stream to the Middle Fork Nooksack that has no artificial barriers to fish passage within the jurisdiction of Whatcom County. Historically, this stream has been an important spawning area for Chinook, chum, coho, and pink salmon; steelhead and cutthroat trout, and native char (Whatcom County, 1994, NWIFC, 2003).

14. Heislers Creek
While we support efficiency improvements at existing structures, this does not include those projects slated for removal due to aging infrastructure or adverse environmental impacts. The PUD's plan to use the existing dam and diversion tunnel on the Middle Fork Nooksack ignores a more than eight year plan to either remove this dam or provide fish passage. The City of Bellingham, working with WA Department of Fish and Wildlife, Native Tribes and others are working to restore more than 17 miles of Middle Fork and tributary habitat. The Middle Fork diversion does not provide a complete barrier to anadromous species, as native Chinook, bull trout, steelhead and pink salmon have been observed jumping at the dam over the past decade, with anecdotal reports including former coho use (Currence 2000). Passage or removal of this dam is the number one priority for the Water Resources Inventory Assessment (WRIA1) [19]Watershed Management Project over the next ten years, and in 2002 the Salmon Recovery Funding Board (SRFB)[20] spent more than $500,000 to study passage or removal at this site. The Middle Fork Nooksack, as well as the nearby Clearwater Creek are active whitewater recreational sites.

15. Boulder Creek
The challenges of debris flooding, land sliding and the proximity of the Boulder Creek fault[21] are major issues at this proposed site in the North Fork Nooksack River valley. A 1989 technical report[22] states that "Since 1962, the Boulder Creek Bridge (SR 542) has been buried by flood debris on at least eleven occasions." The probability of a new landslide forming in future years is between 74% and 97% and the frequency of debris

[19] Water Resources Inventory Assessment #1 is the result of the 1998 Washington State Watershed Management Act, produced in 2008 Whatcom County Planning and Development. http://wria1project.whatcomcounty.org/
[20] Washington Interagency Commission for Outdoor Recreation, Salmon Program Federal Recovery Projects. http://whatcomsalmon.whatcomcounty.org/pdf/active/01-133~1.pdf
[21] Humboldt Digital Scholar, a project of the Humboldt State University Library. http://dscholar humboldt.edu:8080/dspace/handle/2148/158
[22] Washington State Department of Transportation, Boulder Creek Flood Potential Technical Report, Dec. 1989. WA-RD 207.2 http://www.wsdot.wa.gov/research/reports/fullreports/207.2.pdf

flooding in the vicinity of the Boulder Creek Bridge remains for at least the next 20 years. Boulder Creek is also an important restoration area for bull trout under the WRIA 1 Salmonids Habitat Restoration Strategy.

16. Boulder Falls

A few acres around the falls itself are privately owned; otherwise access would have to be on the USFS road system. Likewise, economical siting would require an intake location to be located upstream, possibly in what is now the Boulder River Wilderness. The Boulder River immediately below the falls is designated Critical Habitat for Bull Trout, providing spawning and rearing habitat. (US Fish & Wildlife Service, Federal Register: September 26, 2005 (Volume 70, Number 185), Page 56211-56311). The Forest Service recommended the entire Boulder River to Congress as a Wild and Scenic River in 1990 and must manage the river as such until Congress acts on designation. The conservation community has had a long-standing interest in acquisition of the private parcel adjacent to the falls which has been identified as a potential addition to the adjoining wilderness area

17. Duffey Creek

The dam site could be in old growth forest in Late-Successional Reserve on National Forest land, near Duffy Lake. National Forest lands in the upper Duffy Creek basin are among the closest real old growth forests to Puget Sound, and critical marbled murrelet habitat. Additionally, upper Duffy Creek supports rare and unusual stands of ancient Alaska cedars, some of which may be a thousand years old.

18. French Creek

This project impinges on old growth forest and Late-Successional Reserve in close proximity to the Boulder River Wilderness. Further evaluation of marbled murrelet habitat along the creek and bull trout habitat would need to occur. The output of barely 2 MW is very small relative to resource impacts at this site.

19. Trout Creek

This project is indicated as a green dot on the PUD map but is not included in the printed list of potential PUD projects distributed to NGO stakeholders. Similar to the Storm Ridge project, a hydro project on lower Trout Creek is impossible to build without impinging on the Wild Sky Wilderness. The wilderness is defined as starting on the south bank of the creek. It is conceivable that a hydro project could be built immediately downstream of the wilderness; however, a project below the lowest point of wilderness (approximately 940 feet in elevation) would lose most of the available hydraulic head. Moreover, this lower reach of Trout Creek has anadromous fish and bull trout. Trout Creek is an active whitewater recreation site.

Impacts of SnoPUD Proposals Located on National Forest Land
(note a complete list)
10/30/2009

Land Designation/Character*	LSR	IRA	W	EWS	PA	MA	CH	OG	Falls
Project Name									
Sunset Falls				x	x		x	?	x
Storm Ridge/Deer Falls	x	x	x	x	x	x	x	x	x
Wells Creek	x	x		x	x		x	x	
Barclay Creek	x								
Boulder Falls				x	x		?		x
Duffey Creek	4				2				
French Creek	5				x		?		
Trout Creek	6		x		x	3			

***Land Designation/Character:**
LSR - Late-Successional Reserve in Northwest Forest Plan (1994)
IRA - Inventoried Roadless Area in Roadless Area Conservation Rule (2001)
EWS - Eligible and/or Recommended Wild & Scenic River, in Mt. Baker-Snoqualmie NF Land and Resource Management Plan (1990)
PA - Protected Area, designated by NW Power Planning Council
W - In designated federal Wilderness Area
MA - Management Area in MBS NF Land and Resource Management Plan (1990) that prohibits roads, logging, and other development
CH- Critical Habitat for federally listed species
OG - Old Growth Forest (**Note**: almost any NF old growth within 45 mi of Puget Sound is marbled murrelet critical habitat)
Falls - scenic waterfall that is a recreational destination

Notes:
1 - Project not directly on NF land, but in close proximity, and likely to cause impacts to NF land and resources
2 - Small segment above creek mouth on Skykomish River
3 - MA-14, deer and elk winter range, as provided in Mt. Baker-Snoqualmie NF Land and Resource Management Plan (1990)
4 - LSR in NF reach of the creek
5 - LSR touches the east bank of the creek
6 - LSR in upper reach, where intake structure would be needed

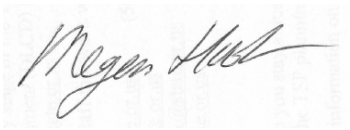
UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Snohomish County Public Utility District No. 1	Docket No. P – 14295-000

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day caused the foregoing Conservation Group **Comments on the Preliminary Application Document (PAD), Scoping Document 1 (SD1), and Study Requests for the Sunset Falls Fish Passage and Energy Project (P-14295),** to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 19th day of July 2013.



Megan Hooker
American Whitewater