

146 FERC ¶ 61,102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Public Utility District No. 2 of
Grant County, Washington

Project No. 2114-209

ORDER MODIFYING AND APPROVING RECREATION RESOURCE
MANAGEMENT PLAN UNDER ARTICLE 418

(Issued February 20, 2014)

1. On November 27, 2012, Public Utility District No. 2 of Grant County, Washington, (District) filed an application to amend the approved recreation resource management plan (recreation plan) for the Priest Rapids Hydroelectric Project No. 2114. The licensee requests Commission authorization to relocate planned recreation enhancements from the Priest Rapids tailrace area to another site farther downstream in order to avoid impacts on the Wanapum Band of Indians (Wanapum). As discussed below, we are granting the application with certain modifications.

Background

2. An original license for the project was issued in 1955,¹ and the Commission issued a new 44-year license for the project in April 2008 (relicense order).²

3. The project, which is located on the mid-Columbia River in portions of Grant, Yakima, Kittitas, Douglas, Benton, and Chelan Counties, Washington, consists of the Wanapum and the Priest Rapids developments, and has a combined authorized capacity

¹ *Public Utility District No. 2 of Grant County, Washington*, 14 F.P.C. 1067 (1955).

² *Public Utility District No. 2 of Grant County, Washington*, 123 FERC ¶ 61,049 (2008) (relicense order).

of 1,893 megawatts (MW). The project occupies about 12,909 acres of land (excluding the reservoirs).

4. The 855-MW Priest Rapids development begins immediately below the Wanapum Dam or the Wanapum development, continues 18 miles downstream to Priest Rapids Dam, and ends approximately 2 miles below Priest Rapids Dam. The development includes an 18-mile-long, 7,725-acre reservoir and a 10,103-foot-long by 179.5-foot-high dam spanning the river. The Wanapum Indian Village is located within the project boundary for this development, across the Priest Rapids Dam tailrace from the site identified for recreation development in the recreation plan.

5. As part of its relicense application, the District submitted a proposed recreation plan,³ which was approved in Article 418 of the relicense order.⁴ Article 418 requires the District to operate and maintain the existing Priest Rapids Dam tailrace recreation area, which is immediately downstream of the dam and consists of unimproved shoreline access with dirt roads and trails that are used by anglers and wildlife watchers. In addition, the article requires the District to develop ten primitive walk-in campsites, install two vault toilets, improve the access road and parking area, and provide signage at this location.

Proposed Amendment

6. The District's November 27, 2012 amendment application explains that, during the consultation process, it learned that the Priest Rapids tailrace recreation area is of cultural significance to the Wanapum and has been proposed for designation as a

³ See Relicense Application, filed October 29, 2003, Exhibit E7. eLibrary Accession No. 20031029-0223.

⁴ Relicense order, 123 FERC at 61,334-35. Subsequently, certain aspects of the recreation plan, not pertinent to the revisions requested in this proceeding, were revised. See Order Modifying and Approving in Part Amendments to Articles 418 and 419, 138 FERC ¶ 62,114 (2012), February 14, 2012 Errata Notice (unpublished), and Order on Rehearing and Amending License, 140 FERC ¶ 61,201 (2012); Order Amending Recreation Resource Management Plan, 143 FERC ¶ 62,022 (2013).

traditional cultural property (TCP).⁵ While the Wanapum do not oppose existing uses at the site, they state that any additional development would not be desirable. Thus, in consultation with the Wanapum, the licensee identified an alternative site at which to provide somewhat similar recreation enhancements.

7. As a result, the amendment application proposes to leave the Priest Rapids tailrace recreation area essentially “as is,” making only minor improvements, i.e., confining vehicular use to existing roads and providing signage regarding rules for public use. The District would slightly modify and move the new facilities and improvements required by the recreation plan to an area located approximately one mile downstream, known as the Jackson Creek Fish Camp (Fish Camp). The Fish Camp property is owned in fee title by the District and currently is used as an undeveloped fishing access site. The land is adjacent to, but not within, the current project boundary. The new project recreation area would include the following amenities: (1) ten semi-primitive vehicular access campsites (two being Americans with Disabilities Act (ADA) accessible); (2) two vault toilets; (3) a designated day use parking area; (4) pedestrian access routes to the Columbia River (eight-foot wide natural surface trails); (5) improved motorized access roads; (6) access control gates; and (7) directional and regulatory signage. The District proposes to complete the Fish Camp amenities by December 31, 2014.

8. The licensee states that its proposal addresses the Wanapum’s concerns regarding the cultural significance of the Priest Rapids tailrace area. Additionally, the proposed new development downstream will provide an additional recreational opportunity at the project.

Agency Consultation, Public Notice, Interventions, and Comments

9. Prior to filing its application with the Commission, the District consulted with the Wanapum, the Bureau of Reclamation (Reclamation), U.S. Fish and Wildlife Service, Washington Recreation and Conservation Office (Washington Recreation), Washington Department of Fish and Wildlife (Washington Wildlife), Yakama Nation, and Kittitas County. The application contains evidence of this consultation. The Wanapum,

⁵ A TCP is a property which is eligible for inclusion in the National Register of Historic Places because of its association with cultural practices or beliefs of a living community that are rooted in that community's history, and are important in maintaining the continuing cultural identity of the community. National Park Service, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, at 1 (1998), available at <http://www.nps.gov/nr/publications/bulletins/nrb38/INDEX.htm>.

Reclamation, Washington Recreation, and Washington Wildlife support the proposed amendment. The District received no other comments on its proposal.

10. The Commission issued public notice of the application on June 3, 2013, and established July 3, 2013, as the deadline for submitting comments and motions to intervene. Pat Kelleher filed a timely motion to intervene and comments in opposition to the proposal on July 1, 2013.⁶ No other interventions or comments were received.

Discussion

11. Mr. Kelleher argues that, because the Fish Camp currently is located outside the project boundary, it cannot be “part of this proceeding.”⁷ He is concerned that the public has no right to access the District’s land that is outside the project boundary for the purpose of recreational activities, and the District has no policy to provide the public such access.

12. Mr. Kelleher need not be concerned. Sites outside of a project’s boundary are commonly assessed to determine their suitability to meet project purposes. Once a site, like the Fish Camp in this case, is determined to be necessary to meet the requirements of a project license, the licensee is required to adjust the project boundary to incorporate the property in question. This order does that. In this case, the Fish Camp parcel, as well as the access road from State Route 243, will be brought into the project boundary. It is common practice to update the project boundary subsequent to the development of new recreation amenities to ensure that the boundary revision includes all of the lands needed to meet project purposes. With our approval of the Fish Camp as a project recreation facility, the District will ensure that the public will have appropriate access to the area.

13. Mr. Kelleher argues that, although the District is proposing that two of the ten campsites would be ADA accessible, the high river bank at the Fish Camp will make it impossible for ADA access either down to or along such a steep shoreline. Since the purpose of developing the site is to provide access for fishing, it is incumbent upon the licensee to provide an accessible route from the accessible campsites to the river bank. The licensee’s proposal does not specifically address this issue, and this order therefore

⁶ The motion was timely and unopposed. Therefore, it was automatically granted under Rule 214(c)(1) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214(c)(1) (2013).

⁷ July 1, 2013 motion to intervene at 10.

requires the District to provide an accessible route from the campsites to the shoreline (ordering paragraph (B)).⁸

14. The proposed amendment would be a minor change to the recreation plan. The amenities required at the Priest Rapids tailrace recreation area, with minor modifications, would be provided at the Fish Camp location. Moreover, the proposed Fish Camp would provide an additional project recreation opportunity to the public, since day use would still be allowed at the tailrace recreation site.⁹

15. The Fish Camp area has historically been used as an undeveloped fishing access site. Thus, we do not anticipate any further environmental impacts to occur due to this proposal. The area contains limited riparian and upland habitat. The District conducted surveys of the area to confirm that there are no sensitive species, wetlands, or cultural resources in the area. In the event that any unanticipated discoveries of cultural resources occur, the licensee is required to follow the project's approved Historic Properties Management Plan (HPMP) in determining how to proceed.¹⁰ For the above reasons, we are approving the amendment to the recreation plan, with the stipulation that an accessible route be developed that links the accessible campsites to the river bank for fishing. The approved recreation facilities are described in the following table.

⁸ Mr. Kelleher also presents arguments not related to this proceeding.

⁹ Mr. Kelleher alleges that the Priest Rapids tailrace recreation area is currently closed to public use because the District is using it as a construction staging area. Mr. Kelleher is mistaken. The nearby Priest Rapids Dam picnic area is temporarily closed for use as a construction staging area for upgrading power generating facilities and enhancing fish passage facilities. *See* 138 FERC ¶ 62,114 (2012) (denying request for permanent closure). This closure does not affect the Priest Rapids tailrace recreation area.

¹⁰ The District filed its HPMP April 15, 2011, and it was approved October 24, 2011. 137 FERC ¶ 62,081 (2011).

FERC Approved Recreation Facilities for Jackson Creek Fish Camp at the Priest Rapids Project (FERC No. 2114)

Recreation Site Name	Recreation Facilities
Jackson Creek Fish Camp	10 semi-primitive vehicular access campsites (2 ADA); 2 vault toilets; day use parking area; pedestrian access routes to the Columbia River (eight-foot wide natural surface paths); accessible route from the ADA campsites to the Columbia River, improved access roads; access control gates; and directional and regulatory signage

16. Ordering paragraph (E) of this order requires the District to file as-built site drawings within 90 days of completion of the recreation amenities at the Fish Camp that show the location, type, and layout of all the existing and newly constructed facilities in relation to the project boundary, as well as a report that includes the actual costs for the construction of the facilities and an evaluation of recreation signage.

The Commission orders:

(A) Public Utility District No. 2 of Grant County, Washington's amendment to the recreation plan for the Priest Rapids Hydroelectric Project No. 2114, filed November 27, 2012, as modified by ordering paragraph (B), is approved.

(B) In conjunction with the development of the other recreation facilities at the Jackson Creek Fish Camp, the licensee shall develop an accessible route linking the ADA accessible campsites to the Columbia River for fishing.

(C) Within 45 days of the date of this order, the licensee shall file revised location point data representative of the two recreation amenities listed below. The location point data must be positionally-accurate to comply, at a minimum, with National Map Accuracy Standards for maps at a 1:24,000 scale. The location point data must include latitude/longitude, in decimal degrees, based on the horizontal reference datum of the North American Datum of 1983 (NAD 83). The below attribute table shall be completed and filed with the Commission.

Project #	Development Name	Recreation Amenity Name	Recreation Amenity Type	Amenity Status	Latitude	Longitude	FERC Citation & Date*	Notes
2114	Priest Rapids	Jackson Creek Primitive Camping	Campground	Unconstructed	##.####	-##.####	###FERC##,### MM/DD/YYYY	
2114	Priest Rapids	Jackson Creek Fishing Access	Tailwater Fishing	Unconstructed	##.####	-##.####	###FERC##,### MM/DD/YYYY	

*In "FERC Citation & Date" column, give the order citation for, and date of issuance of, this order.

(D) Within 120 days of the date of this order, the licensee shall file, for Commission approval, revised Exhibit G drawings, specifically: (1) FERC drawing number 2114-1153, sheet 69, to reflect the location of the new Jackson Creek Fish Camp facilities approved in this order and to enclose the facilities, including the access road, within the project boundary; and (2) FERC drawing number 2114-1086, sheet 02, to reflect the location of the existing recreation facilities at the Priest Rapids Dam tailrace recreation area. The revised drawings shall comply with sections 4.39 and 4.41 of the Commission's regulations, 18 C.F.R. §§ 4.39 and 4.41 (2013).

(E) Within 90 days of completing construction at Jackson Creek Fish Camp, the licensee shall file, for Commission approval, as-built site plan drawings. The site plan drawings shall show the type and location of each of the completed facilities in relation to the project boundary at the Jackson Creek Fish Camp Recreation Site. Drawings shall only be filed when construction of all facilities approved for this recreation site is completed. A minimum of one drawing must be filed for this site. Each as-built site plan drawing shall include a north arrow, scale (graphic and numeric), and title block. The Title Block shall include the Project Name, Project Number, Drawing Identification, and Drawing Name. All drawings shall be legible when reduced to or printed on 11"x17" paper size. The first as-built site plan drawing shall be a cover page that includes an overall view of the project and a five column table. The overall view of the project shall show the entire project area and identify the location of all FERC approved recreation sites. The first column of the table shall identify the recreation sites on the overall site plan view. The second column shall identify the drawing associated with the recreation site. The third and fourth columns shall be the two columns from the Approved FERC Recreation Facilities Table. The fifth column shall indicate if the recreation site is constructed or unconstructed. The overall site plan shall be identified as drawing 1 and if multiple drawings are necessary the drawings shall be identified using the following format: 1a, 1b, etc. Each additional recreation site drawing must use successive identification such as 2, 3, etc. and if a recreation site has multiple drawings they shall be identified as 2a, 2b, etc.

(F) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2013). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.