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May 20, 2009

Ms. Kimberly Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Early Action by Licensees to Mitigate Project Environmental Impacts

Dear Madame Secretary:

The Commission has long encouraged licensees to work with agencies and stakeholders to reach agreement on measures to mitigate environmental impacts that can be implemented in advance of the issuance of a license or compliance order. This policy, which the National Hydropower Association (NHA) supports, has environmental benefits and reduces the number of disputed issues to be resolved by the Commission.

In light of this policy, language in the license order for the Public Utility District No. 1 of Chelan County (Chelan PUD) Rocky Reach Project issued on February 19, 2009, may need clarification.

In particular, in paragraph 150 on page 42 of the order, the Commission discussed the license term for the project and examined early actions taken by Chelan PUD under its Habitat Conservation Plan (HCP). The Commission stated, “[h]owever, the provisions of the HCP are provisions of the current license. When determining appropriate license terms, the Commission evaluates new measures to be included in the license, and does not consider requirements carried over from the prior license.”

For NHA and industry members, this language raised questions with regard to licensee early action or pre-license renewal implementation of Settlement Agreement measures and the connectivity with the intended license renewal.

NHA is concerned about the broader policy implications from the treatment of the HCP in this instance for the hydropower industry as a whole. It may have a chilling effect on licensees, who as a part of their relicensing process, would otherwise agree to, and execute, early implementation of mitigation measures under their existing license term. This result would

only serve to delay beneficial environmental improvements in order to conform to a timing issue in the relicensing process.

We therefore request that when the Commission considers Chelan PUD's request for rehearing filed on March 20, 2009, that it take into account the potential impact its order on rehearing will likely have on the entire hydropower industry and the environment.

In filing this letter, NHA's intent is to express interest in the issue of early action, and is in no way intended to advise on any specific proceeding.

Thank you for your consideration.

Sincerely,



Linda Church Ciocci
Executive Director

cc: Chairman Jon Wellinghoff
Commissioner Suedeen G. Kelly
Commissioner Philip D. Moeller
Commissioner Marc Spitzer