

FEDERAL ENERGY REGULATORY COMMISSION
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PENALTY FOR PRIVATE USE \$300

General Mine Correspondence

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Docket No.: P-2381

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DIV. OF OIL, GAS & MINING

132 FERC ¶ 62,026

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

PacifiCorp Energy

Project Nos. 2381-062

ORDER AMENDING TEMPORARILY LICENSE ARTICLES 401 AND 402

(Issued July 12, 2010)

1. On April 20, 2010, PacifiCorp Energy (PacifiCorp or licensee) filed a license compliance, consultation and permitting report in support of its proposed dam remediation project at the Ashton-St. Anthony Hydroelectric Project (FERC No. 2381). In the licensee's filing, the licensee proposes temporary operational changes to address environmental issues associated with remediation work at the Ashton Dam. The Ashton-St. Anthony Project is located on the Henry's Fork of the Snake River in Fremont County, Idaho.

BACKGROUND

2. The safety and performance of Ashton Dam has been under extensive review and analysis due to concerns over seepage and piping issues. PacifiCorp and their engineering and geotechnical consultants have developed a remedial repair plan to address the seepage and piping concerns. The repair plan includes the removal and replacement of the upstream half of the dam. In order to complete the proposed work, the licensee must construct a diversion tunnel in the right abutment and then construct a cofferdam to dewater the reservoir to provide access to the upstream half of Ashton Dam. These activities involve temporary changes in project operation and license requirements.

LICENSE REQUIREMENTS

3. License article 401¹ requires the licensee to operate the Ashton Development in an instantaneous run of river mode for the protection of fish and wildlife resources in the Henry's Fork. Further, the licensee is required to minimize the fluctuation of the reservoir surface elevation at all times so that flow in the Henry's Fork as measured immediately downstream from the powerhouse tailrace, approximates the instantaneous sum of the inflow to the project reservoir. Run of river operation may be temporarily modified for operating emergencies and for short periods of time upon mutual agreement with the Idaho Department of Fish and Game (IDFG).

¹ See Order Issuing New License. Issued August 3, 1987. 40 FERC ¶61,139.

4. License article 402 states, in part, that licensee shall implement the fishery mitigation plan for the Ashton Reservoir as defined in Section 3 of Exhibit 3 filed with the Federal Energy Regulatory Commission (Commission) on December 31, 1984. The plan includes collection of baseline data, introduction and stocking of trout, population inventories, long-term predictions, and continued fishery enhancements.

LICENSEE'S PROPOSED WORK AND OPERATION CHANGES

5. The licensee proposes to rehabilitate Ashton Dam from 2010 to 2012 to reduce current seepage and piping (i.e. internal erosion) risks associated with internal erosion of the silt core to tolerable levels. The licensee stated that the selected alternative to rehabilitate the dam consists of removing and reconstructing a portion of the upstream portion of the existing embankment with zoned granular filters and compacted earth fill. This proposal includes establishing a low-level outlet to lower the reservoir and to serve as a river diversion channel during construction. The design and construction consists of the following key components:

- Construction of a low-level diversion tunnel and control structure through the right abutment bedrock in 2010.
- Construction of an upstream cofferdam utilizing the existing rockfill within the upstream embankment.
- Excavation and removal of most of the upstream portion of the existing dam including the core in 2011.
- Construction of a zoned earth embankment upstream of the remaining rockfill, including a low permeability core, embankment and foundation filters, and upstream rockfill buttress in 2011.
- Construction of a new reinforced concrete headrace retaining wall.
- Construction of a new concrete emergency spillway crest structure.
- Placement of a concrete overlay on a currently exposed, downstream rockfill slope.
- Refurbish or modify various ancillary structures including the powerhouse buttresses, the tailrace wall, the spillway piers and gates, and the redesign and replacement of the left abutment bridge.

6. PacifiCorp proposes to temporarily modify article 401 to allow for reservoir draw downs and refilling. During the 2010 to 2012 construction window, the licensee stated that it will need to drawdown and refill the reservoir three times to facilitate construction activities; and therefore will require the suspension of the run-of-river mode of operation during these times.

7. PacifiCorp proposes the following guidelines for drawing down and refilling the reservoir. PacifiCorp will provide the consulting parties one-week notice prior to a drawdown or refill event (suspension of run-of-river mode). Downstream flow changes will be monitored using real-time data (hourly update from the U.S. Geological Survey (USGS) gage no. 13046000) and the new reservoir capacity table produced from the

Reservoir Bathymetry and Sediment Deposition Study. The licensee proposes that drawdown flow changes below the dam will be limited to a target increase of 100 cubic feet per second (cfs) or less in one hour, and a 24 hour total change target of 200 cfs or less. The licensee further proposes that the maximum differential between inflow and outflow during drawdown events not exceed 600 cfs. Additionally, the licensee proposes that refill event flow changes below the dam will be limited to a decrease in outflow of 100 cfs per hour, not to exceed 200 cfs decrease in outflow in a 24-hour period, and that the maximum differential between inflow and outflow will not exceed 200 cfs during refill events.

8. PacifiCorp proposes to provide a drawdown/refill event table to IDFG, Idaho Department of Water Resources, Idaho Department of Environmental Quality (IDEQ), U.S. Fish and Wildlife Service (FWS), U.S. Army Corps of Engineers (Corps), and the Henry's Fork Foundation within two weeks of the completion of a drawdown/refill event. The licensee stated that the table will show 72 hours of downstream flow data from the USGS gage while the project is in the run-of-river mode before commencement of a drawdown/refill event. The licensee added that hourly flows released from the project will be reported as well as flow change points will be noted on the table along with the point in time that run-of-river mode is resumed. The licensee also proposes to provide daily average computed inflow based on the reservoir capacity table, reservoir elevations and outflow as measured at the downstream USGS gage.

9. With respect to license article 402 the licensee proposes to redirect its annual fish stocking funds in 2010, 2011 and 2012 on upgrades to fish rearing facilities at the Ashton Hatchery. The licensee proposes that the funds not exceed \$30,000 per year and must be requested by written invoice from the IDFG on or before October 31 of each year. The licensee proposes that if the payment of funds for that calendar year are not requested by October 31, they would not be made available for that year or carry into future years. The licensee recommends that IDFG provide an annual summary report of improvements made to the hatchery with the funds.

RESOURCE AGENCY CONSULTATION

10. The licensee consulted with the FWS and the IDFG concerning the proposed temporary changes to license articles 401 and 402, and as part of its permitting and public information responsibilities, the licensee also consulted with U.S. Army Corps of Engineers (Corps), Idaho Department of Environmental Quality, Idaho Department of Water Resources, Fremont County Department of Recreation, Fremont County Commissioners, Henry's Fork Foundation, and local irrigators.

11. By letter dated January 28, 2010, the FWS stated that consultation under section 7 is not needed; however, fluctuations in the reservoir water levels have the potential to affect migratory birds, which are protected under the Migratory Bird Treaty Act (MBTA). The FWS recommended that the licensee identify and implement measures to assure the project complies with the MBTA.

12. In response to the FWS's recommendation, the licensee indicated that it has modified its reservoir drawdown schedule for the 36-month project. Originally, the licensee stated, it had scheduled in 2010 and 2012, early year draw down events during potential waterfowl nesting times. Subsequently, the licensee added, it has moved the start and completion date of these early year draw down events to start approximately March 15 and be completed by April 1 to assure it does not change water levels after waterfowl have nested.

13. By letter April 1, 2010, the IDFG stated that using the USGS gage to measure flow changes downstream of the Ashton Dam is acceptable; however, the IDFG recommends that PacifiCorp investigate the feasibility of using USGS gage no. 13045796, located above the project, to measure real-time inflow into the reservoir rather than computing the average daily inflow based on a reservoir capacity table to be developed from the proposed bathymetry study (back-calculating).

14. Also, the IDFG stated that it does not believe one week is adequate for notification of the public regarding drawdown and refill events. The IDFG stated that these events should be foreseeable; therefore, the IDFG recommended the notification period be increased to 30 days and modified in case of an emergency. The IDFG's comments and licensee's response are discussed further in the next section.

15. Regarding article 401 and 402, the IDEQ expressed concerns regarding sediment transport during drawdown events. PacifiCorp agreed to collect information during the summer of 2010 to characterize the sediment to the extent possible and to make the information available for planning the deeper reservoir drawdown events scheduled for late 2010 and for most of 2011. The licensee stated it would consult with IDEQ and IDFG concerning the potential sediment transport and impaired downstream water quality during drawdown events. If warranted, based on the potential for impacts, PacifiCorp stated it would work with the agencies to identify feasible measures that could be incorporated into the project plans for reduction of the potential for water quality impacts.

16. By email dated February 24, 2010, the IDWR commented on preliminary information concerning a downstream cofferdam intended to control turbidity in the Henry's Fork as a result of repair and maintenance at the Ashton Dam. The IDWR added that since the activity is outside the reservoir project boundary, the IDWR will require a Stream Channel Alteration Permit for the proposed work that may affect the bed and bank of the Henry's Fork. No comments were received concerning articles 401 or 402.

17. By letter dated February 23, 2010 the Corps stated that maintenance and repair work on the Ashton Dam facility is subject to their jurisdiction under Section 404 of the Clean Water Act and a Department of the Army permit is required for your project. The February 23 letter provided authorization under the terms and conditions of Nationwide Permit 3 and specified conditions for the licensee to implement.

18. Lastly, the Henry's Fork Foundation stated that it is concerned with the potential for a sediment release when Ashton Reservoir is drawn down for the Ashton Dam remediation project. The Henry's Fork Foundation added that the licensee should proceed with planning for the Ashton Dam remediation project in full cooperation with the Idaho Department of Fish and Game and the Henry's Fork Foundation in order to ensure that the dam repair process be fully informed and have a minimal environmental impact.

DISCUSSION AND CONCLUSION

19. The Commission's Division of Dam Safety and Inspections has determined that the Ashton Dam is in need of remedial repairs to correct seepage and piping issues occurring at the development. The work is extensive and will occur over the next three years. During this time, in order to facilitate the construction work, the project will need to occasionally operate outside the requirements of its license. Two of those parameters are license articles 401 and 402, pertaining to run of river operation and fishery mitigation activities, respectively.

20. In terms of measuring inflow during the construction period, the IDFG recommended that the licensee consider using a USGS gage located above the project to measure real-time inflow into the reservoir rather than back calculating inflow by computing the average daily inflow based on a reservoir capacity table. The licensee did not indicate its acceptance of this method. Commission staff's review of the USGS's webpage indicates that the gage is currently not available to provide data; however, if the gage becomes active, the licensee should use the upstream gage to measure inflow instead of back calculating inflow into the Ashton Reservoir.

21. The IDFG also stated that the licensee should provide more than one week notice to the agencies and public regarding drawdown and refill events. The IDFG stated that these events should be foreseeable and recommended the notification period be increased to 30 days unless an emergency arises. Indeed, the licensee's proposed reservoir elevation schedule identifies specific dates for the reservoir draw downs and refill through December 23, 2013.

22. In the course of consulting and developing the remediation project, the licensee has established an email notification list for the resource agencies and interested parties. The licensee's filing included a reservoir elevation schedule that depicted three major drawdown and refill events for 2010 through 2012. Providing the resource agencies and interested parties a 30-day notification of an impending drawdown or refill will allow the parties and their constituents opportunity to prepare for the event and perhaps request a slight adjustment for protection of fish and wildlife resources. Since the 30-day advance notice date of a drawdown or refill may change due to unforeseeable weather conditions or construction variables, the licensee should also provide the consulting parties one week notice prior to a drawdown or refill event as proposed in its April 20 filing. Any additional draw down not depicted on the March 4, 2010 graph of the licensee's April 20,

2010 filing must be reported 45 days in advance to the Commission. Any nonscheduled drawdown must be reported immediately to the Commission.

23. The licensee must undertake remedial actions to maintain the Ashton Dam. During the course of the remediation work, the licensee will need to modify project operation. The licensee has consulted with the resource agencies and interested parties and developed a plan to temporarily modify license article 401 and 402 during the three year construction period. The licensee's proposed changes should facilitate the remediation of the Ashton Dam and accordingly, the licensee's proposed temporary changes to license articles 401 and 402, as modified, should be approved.

The Director Orders:

(A) PacifiCorp Energy's (licensee) April 20, 2010 filing of proposed temporary changes to license article 401 concerning scheduled draw downs and refilling of the Ashton Reservoir, as part of the Ashton Dam remediation work at the Ashton-St. Anthony Hydroelectric Project, as modified in paragraph (C), is approved.

(B) The licensee's proposed changes to the fisheries mitigation plan approved under license article 402 for 2010, 2011 and 2012 is approved.

(C) The licensee shall provide U.S. Army Corp of Engineers, State Historic Preservation Office, U.S. Fish and Wildlife Service, Idaho Department of Fish and Game, Idaho Department of Environmental Quality, Idaho Department of Water Resources, Henry's Fork Foundation, Fremont Department of Recreation, Fremont Madison Irrigation District and other local irrigators, a 30-day notification of any impending drawdown or refill event during the three year remediation project. Further, since the 30-day advance notice date of a drawdown or refill event may change due to unforeseeable circumstances, the licensee shall also provide one week notice to the consulting parties prior to the actual drawdown or refill event. Any additional draw down event not depicted on the March 4, 2010 graph of the licensee's April 20, 2010 filing shall be reported 45 days in advance of the event to the Commission, and any nonscheduled/emergency drawdown must be reported immediately to the Commission.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days from the date of issuance of this order, pursuant to 18 CFR § 385.713.



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and Compliance