

# **Clean Water Act § 401 Certification**

## **For the Decommissioning of the Bull Run Hydroelectric Project (FERC No. 477) Sandy River Basin Clackamas County, Oregon**

Based upon the *Evaluation Report and Findings on the Application for Certification Pursuant to Section 401 of the Federal Clean Water Act for the Decommissioning of the Bull Run Hydroelectric Project in Clackamas County, Oregon, FERC No. 477*, dated October 22, 2003, the Oregon Department of Environmental Quality (DEQ) certifies that the decommissioning of the Bull Run Hydroelectric Project will comply with applicable provisions of Sections 301, 302, 303, 306, and 307 of the federal Clean Water Act, Oregon water quality standards, and other appropriate requirements of state law. This Certification is subject to and incorporates the following conditions, in accordance with 33 USC 1341(d).

### **Certification Conditions**

#### **1) Sediment**

- a) Fish passage Impairment: PGE shall implement the Fish Passage Monitoring and Contingencies Plan as specified in Section 4.6 of the *Decommissioning Plan* submitted with the *Settlement Agreement Concerning Removal of the Bull Run Hydroelectric Project, FERC Project No. 477*.
- b) Channel Complexity Measures: PGE shall monitor the affected reaches of the Sandy River to characterize the channel complexity changes in the river related to dam removal, and to identify PGE's endpoint for ESA related activities, as specified in Section 4.7 of the *Decommissioning Plan*.
- c) Erosion Control during and after Construction: No less than 120 days before submitting an application to the Corps of Engineers for a § 404 Dredge and Fill Permit for Project removal activities, PGE shall submit an Erosion Control Plan for review, public comment, and approval by DEQ. This plan must identify areas that may be disturbed during construction activities, measures that will be taken to control erosion in these areas, a plan for monitoring affected sites and stream reaches after project facilities have been removed, and measures that will be taken to control erosion and restore vegetation in these areas.

#### **2) Turbidity**

- a) Turbidity Monitoring: PGE shall conduct turbidity monitoring before, during, and after Project removal.

Before Removal: For two years beginning in August 2003, PGE shall collect turbidity data using continuous monitors at two sites in the Sandy River. One site must be located above Marmot Dam, and the other site must be located below the mouth of the Bull Run River. Data collected from August through July must be submitted to DEQ by January 1 of the following year.

During Project Removal: PGE shall monitor sites directly above and below Marmot Dam, above and below

Little Sandy Dam, and below Roslyn Lake. Sampling intervals must be no less than every four hours, encompassing the work day, and occurring at times of peak activity. Details of the sampling sites, sampling schedule, and data reporting must be set out in the Turbidity Management Plan.

After Project Removal: PGE shall use continuous recording instruments to monitor turbidity at five sites. These are: above and below Marmot Dam, above and below the Little Sandy Dam, and in the Sandy River below the mouth of the Bull Run River. Monitoring must continue until PGE is no longer responsible for fish passage as determined by the ESA Monitoring and Implementation Team established under the *Decommissioning Plan*, or until DEQ determines that monitoring is no longer necessary. At a minimum monitoring must continue for at least two years after the dams and lake have been removed. Data must be submitted to DEQ annually, including data from October through September submitted by January 1 of the following year.

- b) Turbidity Management During Project Removal: No less than 120 days prior to applying for a § 404 Dredge and Fill Permit for Project removal activities, PGE shall submit a Turbidity Management Plan for review, public comment, and DEQ approval. This plan must describe the management activities that will be implemented during removal activities at all Project sites to control turbidity originating from project lands disturbed by construction activity. Data collected on background turbidity levels prior to Project removal may be used to develop construction management action levels.

**3) Biological Criteria; Protection of Beneficial Uses of Salmonid Spawning, Salmonid Rearing, and Resident Fish & Aquatic Life; Other Appropriate Requirements of State Law**

- a) Water Elevation in Marmot Canal: Beginning in 2005, and continuing until Marmot Dam is removed, the water level in the Marmot Dam diversion canal may not exceed 4.7 feet from February 15 through March 15. From March 15, and continuing for 8 weeks, the canal must operate at 4.2 feet for 8 hours, beginning at dusk. The Canal may not be operated at levels exceeding 4.7 feet during the remaining hours during this period. The initiation of the 8 week period may be adjusted at the request of the National Marine Fisheries Service and the Oregon Department of Fish and Wildlife based on information regarding the arrival of downstream migrating juvenile salmonids at Marmot Dam. After May 31, these elevation restrictions will no longer apply.
- b) Fish Passage: PGE shall provide for the continued operation of the existing fish ladder and sorting facility at Marmot Dam, until a temporary fish ladder is in place and the coffer dam above Marmot Dam has been constructed, as specified in Section 3.1 of the *Decommissioning Plan*.

Prior to construction of the coffer dam above Marmot Dam, PGE shall construct, operate, and maintain, a temporary fish ladder and trap and haul facility as specified in Section 3.3 of the *Decommissioning Plan*.

**4) Temperature/TMDL**

- a) In the event removal of the Marmot and Little Sandy Dams is not completed by December 31, 2009, DEQ may reconsider this Certification or modify these Certification conditions, in accordance with OAR Chapter 340 Division 48, as necessary to ensure implementation of TMDLs.

**5) General**

- a) Certification Modification. Subject to OAR Chapter 340 Division 48, and, as applicable, 33 USC 1341, DEQ may reconsider this Certification, and add, delete, or modify certification conditions, as necessary to address changes in knowledge, Project conditions, or water quality standards or to address any failure of Certification conditions to protect water quality and beneficial uses. Any added or modified condition shall, so long as it is in effect, become a condition of any federal license or permit subsequently issued for the Project.
- b) Removal-Fill Permit. Before commencing dam removal activities, PGE shall obtain a removal-fill permit

from the Oregon Division of State Lands.

- c) Subsequent Federal Permits or Licenses. Upon applying for a federal permit or permits for decommissioning activities, including a § 404 dredge and fill permit from the Corps of Engineers, PGE shall provide written notice to DEQ of such application and of any proposed changes in decommissioning activities since the date of issuance of this Certification. Within 60 days of DEQ's receipt of notice from the Corps or other federal permitting agency that it is processing PGE's application, DEQ will notify the federal agency and PGE either (i) that this Certification is sufficient for purposes of the federal permit and permit conditions, or (ii) that, in light of new information related to the water quality impacts of decommissioning activities since issuance of this Certification, there is no longer reasonable assurance of compliance with state water quality standards. In the latter event, DEQ will consider the new information, solicit and consider public and agency comment as required by law, and issue a Section 401 certification determination for purposes of the federal permit and decommissioning activities. In the event DEQ determines that this Certification is sufficient for purposes of a federal permit or permits for decommissioning activities, PGE shall perform decommissioning in accordance with these Certification conditions.
- d) Project Changes. PGE shall obtain DEQ review and approval before undertaking any change to the Project or *Decommissioning Plan* that might significantly affect water quality, including changes to Project structures, operations, and flows.
- e) Project Repair or Maintenance. PGE shall obtain DEQ review and approval before undertaking Project repair or maintenance activities that might significantly affect water quality. DEQ may, at PGE's request, provide such prior approval effective prospectively for specified repair and maintenance activities.
- f) Access. PGE shall allow DEQ such access as necessary to the Project area and Project records at reasonable times as necessary to monitor compliance with these Certification conditions.
- g) Posting of Certification. PGE shall post a copy of these Certification conditions in a prominent location at the Bull Run Powerhouse Control Center.
- h) Spill Management. PGE shall maintain and implement current Spill Prevention, Control, and Countermeasure (SPCC) plans for oil and hazardous materials prepared in accordance with the Clean Water Act requirements of 40 CFR 112. These plans shall address all locations at the Project where Project operations may potentially result in a spill or release or threatened spill or release to Project reservoirs or the Sandy River, the Little Sandy River or the Bull Run River. In the event of a spill or release or threatened spill or release to Project waters or to the Sandy River, the Little Sandy River or the Bull Run River, PGE shall immediately implement the site's SPCC plans and notify the Oregon Emergency Response System (OERS) at 1-800-452-0311.