



# Oregon

Kate Brown, Governor

Department of Environmental Quality  
Agency Headquarters  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232  
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May 24, 2019

VIA EMAIL, CERTIFIED MAIL, AND U.S.FIRST CLASS MAIL

James C. Tucker  
Idaho Power Company, Lead Counsel  
1221 W. Idaho St.  
P.O. Box 70  
Boise, ID 83702

Re: Hells Canyon Complex, FERC Project No. 1971  
Certification Pursuant to Section 401 of the Federal Clean Water Act

Dear Mr. Tucker:

On June 14, 2018, Idaho Power Company (IPC) submitted a Clean Water Act Section 401 Water Quality Certification Application for the Hells Canyon Complex Hydroelectric Project.<sup>1</sup>

DEQ's evaluation was conducted pursuant to Section 401 of the Clean Water Act, 33 USC §1341, ORS 468B.035 through 468B.047, and DEQ's certification rules found in Oregon Administrative Rules 340, Division 048. To certify the Project, DEQ must have reasonable assurance that the proposed activities will be conducted in a manner that will not violate the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, and Oregon water quality standards in Oregon Administrative Rules 340, Division 041, adopted to implement these sections.

DEQ approves IPC's request for water quality certification, as conditioned in the attached certification decision, and for the reasons specified in the Evaluation and Findings Report (E&F Report) that is incorporated in its entirety by this reference.

In accordance with the Oregon Administrative Procedures Act (Oregon Revised Statute, chapter 183) and OAR 340-048-0045(2), IPC may request a contested case hearing if dissatisfied with the certification decision. Your request for a hearing must be made in writing to and received by the Department of Environmental Quality within 20 days of the date of mailing of this certification decision, and such request must comply with OAR 340-011-0530(2) and OAR 340-048-0045(2).

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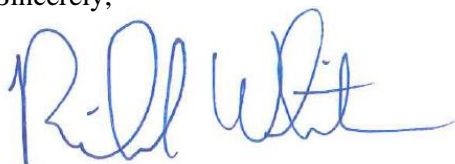
<sup>1</sup> As was the case with prior applications, this application differed substantially from the previous year's certification application, for among other reasons, inclusion of newly proposed activities, such as but not limited to the Brownlee Operational Component. In addition, this application was modified to reflect inclusion of agreed-to activities set forth in a settlement agreement, which is available at <https://www.oregon.gov/deq/wq/wqpermits/Pages/Section-401-Hydropower.aspx>. Accordingly, this certification is based upon DEQ's evaluation of IPC's proposed activities in that application and in the settlement.

A request for a hearing must be mailed to:

Oregon Department of Environmental Quality  
Attn: Marilyn Fonseca  
700 NE Multnomah Street, Suite 600  
Portland, Oregon 97232

If a written request for hearing is not received within the 20-day period, your right to a hearing shall be considered waived. If you request a hearing, you will be notified of the time and place of the hearing and provided information on the procedures by which contested cases are heard, your rights, the import and effect of such a hearing, and your rights and remedies. Contested cases will be governed by the Rules of the Office of Administrative Hearings, specifically OAR 137-003-0501 through -0700. As a corporation, you must be represented by legal counsel at this hearing, if any. In accordance with OAR 340-048-0045(3), this certification decision is effective upon issuance of this decision, notwithstanding a request for a contested case or other judicial review, if any.

Sincerely,



Richard Whitman  
Director, Oregon Department of Environmental Quality

Attachment: Clean Water Act Section 401 Conditions  
Enclosures: Evaluation and Findings Report

Ec: Linda Hayes-Gorman, DEQ  
Eric Nigg, DEQ  
Marilyn Fonseca, DEQ  
Mary Grainey, OWRD  
Ken Homolka, ODFW  
Anika Marriott, ODOJ

### **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.