

Condit Dam FAQs
Licensing of Hydropower Dams

1. When did/will PacifiCorp's license on Condit Dam expire?

PacifiCorp operates Condit Dam under a license that was issued in 1968 and expired in 1993. Hydropower dam licenses are issued and overseen by the's 25 year Federal Energy Regulatory Commission (FERC). Since the license expired in 1993, PacifiCorp has operated Condit Dam on "annual licenses," which are automatic one-year extensions of the expired license. license to operate Condit Dam expired in 1993. They've since operated on annual licenses.

2. What law requires hydropower dams to be licensed by FERC?

The 1920 Federal Power Act (FPA) governs FERC's licensing and relicensing of non-federal hydropower dams.

3. What law requires hydropower dams to include fish passage?

The Federal Power Act (FPA) requires that FERC meet fish passage requirements of federal fish agencies. Section 18 of the FPA provides that FERC "shall require the construction, maintenance, and operation by a licensee at its own expense of such ... fishways as may be prescribed by" the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS).

Congress amended the FPA in the 1986 Electric Consumer Protection Act to require FERC to provide equal consideration to power and environmental benefits when it issues a license. Congress also instructed FERC to include license conditions to "protect, mitigate damages to, and enhance, fish and wildlife" affected by a hydropower project based on recommendations from the Department of Commerce through NMFS, the Department of the Interior's United States Fish and Wildlife Service (FWS), and state fish and wildlife agencies.

4. Is Condit Dam's removal now at FERC's discretion?

The State of Washington Dept. of Ecology must issue or waive its Section 401 water quality certification before FERC can act. The Army Corps of Engineers must also provide a Section 404 dredge and fill permit for the removal. The dam removal cannot go forward until FERC issues an order to decommission Condit Dam.

5. Where are we in the licensing process?

✓ Done – National Environmental Policy Act (NEPA) Review for 'federal actions significantly affecting the human environment' produced a Final Supplemental Final Environmental Impact Statement that supports the settlement agreement and dam removal.

✓ Done – Draft State Environmental Policy Act (SEPA) Supplementary Environmental Impact Study (SEIS) from Washington Dept Ecology, 30 Sept 2005. This document stated that 'the 'long term' when benefits outweigh 'short term' damage may begin as early as 6 to 12 months after dam breaching.'

✓ Done – Approval from Preservation Officer re: protection of historical site. Since Condit Dam is eligible for listing on the National Register of Historic Places FERC must consult with the Washington State Historic Presentation Officer

5. Where are we in the licensing process? (cont'd)

✓ Done – Approval from U.S. Forest Service (USFS). Section 14(d) of the Columbia Gorge National Scenic Area Act requires that the agency responsible for administering the scenic area (USFS) determine whether a federal action within the scenic area will protect and enhance the area's natural, cultural, and recreational resources. The USFS determined separately that the dam removal proposal was consistent with the Wild and Scenic Rivers Act. The latter protects two sections of the White Salmon River.

✓ Done – FWS Final Biological Opinion (BiOp) Nov 2005. David Becker, an environmental attorney with Western Resource Advocates in Salt Lake City, wrote in his 2006: 'Given FWS's determination in the 2002 FWS BiOp that dam removal would benefit bull trout, and its original conclusion that the loss of some foraging habitat and temporary harm to the fish were not likely to be significant, it is not surprising that the 2005 FWS BiOp concluded that dam removal is not likely to destroy or adversely modify bull trout critical habitat.'

✓ Done – Final BiOp from NMFS Oct 2006 – Stated 'Impact of sediment release is temporary. . . Removal will benefit threatened salmon and steelhead in the long run and won't jeopardize their survival.' Endangered Species Act (ESA) consultation with FWS or NMFS was required due to the presence of threatened and endangered species. Section 7 of the ESA prohibits federal actions that jeopardize the continued existence of listed species or that destroy or adversely modify critical habitat.

Remaining – Final SEPA SEIS from Washington State Dept. Ecology. Expected Jan 2007.

Remaining – WA Dept of Ecology Clean Water Act Section 401 Certification. Expected May 2007. This certification determines whether Ecology has reasonable assurance that water quality standards will be met. This Department's 2005 Draft SEPA SEIS stated that the 'long term' period when benefits outweigh 'short term' damage may begin as early as 6 to 12 months after dam breaching.'

Remaining – Army Corp of Engineers Clean Water Act Section 404 Certification and Section 10 of the Rivers and Harbors Act. Expected July 2007. CWA Section 404 regulates federally approved activities which discharge dredged or fill material into waters of the U.S. Section 10 of the Rivers and Harbors Act governs work in or affecting navigable waters of the U.S.

Remaining – License Surrender order from FERC to PacifiCorp. Expected July 2006. The surrender order from FERC will spell out all remaining actions legally required to remove Condit Dam.

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