



John T. Gangemi, Conservation Director
482 Electric Avenue.
Bigfork, MT 59911
jgangemi@digisys.net

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November 5, 2002

Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Clearwater Creek Hydroelectric Project, FERC Project No. 11495 -000

Dear Secretary Salas:

Enclosed for filing in the above referenced proceeding is American Whitewater's MOTION FOR LATE INTERVENTION. Also enclosed is the Certificate of Service for the above referenced matter. Copies of this filing have been served on all parties of record to this proceeding.

Thank you for your assistance. Please contact me if you have any questions or need additional information.

Sincerely,

John T. Gangemi
Conservation Director

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Nooksack River Hydro Inc.)
Clearwater Creek Hydroelectric Project) FERC Project No. 11490 -000
Washington)

MOTION FOR LATE INTERVENTION BY
AMERICAN WHITEWATER AFFILIATION

Pursuant to Rule 214(d) of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.214(d), American Whitewater hereby moves for late intervention in the above-captioned proceeding.

INTEREST OF INTERVENORS

American Whitewater Affiliation (hereinafter known as American Whitewater) has interests which have not been adequately represented by the existing parties in this proceeding. American Whitewater is a national non-profit 501(c)(3) river conservation and recreation organization founded in 1957. We have over 8,000 members and 160 canoe club affiliates, representing approximately 180,000 whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater has a strong interest in the future of Clearwater Creek and, therefore, the potential licensing of the Clearwater Creek Hydroelectric project. A significant percentage of American Whitewater members reside in Western Washington—a short driving distance from this project for weekend recreation. Federal actions that affect flow and access to the river will adversely impact opportunities for American Whitewater members to utilize the river resource. American Whitewater's members, including members of our local affiliate The Washington Kayak Club, regularly paddle Clearwater Creek when sufficient flows are available. A number of these members live near the project. Therefore, American Whitewater has a direct interest in the licensing proceedings for this hydroelectric project on Clearwater Creek. No party to the proceeding represents whitewater recreation and thus advances our interests in this matter. In short, American Whitewater's participation in this proceeding will enable a more complete record to be developed, will lead to a better informed decision making and will be in the public interest.

CONSIDERATION SUPPORTING LATE INTERVENTION

American Whitewater acknowledges that this motion is brought after the original deadline for intervention in this proceeding. Nevertheless, pursuant to Rule 214(b)(3), good cause exists for waiving the time limitation for intervention.

Under FERC's licensing procedures, hydropower license applicants have a duty to contact groups and citizens which may be potentially affected by the proposed project. To the best of our knowledge, Nooksack River Hydro, Inc. has never notified or involved whitewater paddlers or American Whitewater throughout this lengthy license proceeding. American Whitewater only became aware of this project through our own review of FERC's project listing, and neither American Whitewater nor our local and statewide members (or Washington affiliate clubs) have ever been contacted by the license applicant.

Nearly a decade ago (1993 -94), STS Hydro consultants and the city of Bellingham contacted American Whitewater and solicited our help in reviewing recreational resources along the Middle Fork of the Nooksack River (the Middle Fork Nooksack provides water supply for the city of Bellingham). The Clearwater is a direct tributary of the Middle Fork Nooksack, and enters at the beginning of the whitewater section of the Middle Fork Nooksack River. Due to this previous review and paddler participation in the Clearwater and Middle Fork Nooksack area, and the regular presence of whitewater paddlers on the Clearwater during boating flow levels, Nooksack River Hydro was clearly aware of the whitewater resources available on the Clearwater and should have pro-actively contacted whitewater boaters. However, the whitewater community was never informed of this potential project on Clearwater Creek.

Like the applicant, the Commission has also failed to identify the recreational value of Clearwater Creek throughout this long-standing application. While the Commission has made use of American Whitewater's website to research existence of whitewater opportunities for other projects (e.g. FEIS for nearby Martin Creek Hydroelectric Project, 10942), no such research was conducted for Clearwater Creek. American Whitewater's website clearly identifies the recreational value of this Creek, and this information can be found at <http://www.americanwhitewater.org/rivers/id/3583/>.

When American Whitewater became aware of this project (recently, and again after reviewing FERC's list of projects), dissemination and public participation were further delayed when the FEIS was listed as non-public on the FERRIS website (FERC changed it to a public document after October 22, 2002 and only after American Whitewater notified FERC of this problem). Continued problems with viewer downloads using Netvue for large files have made it difficult for the paddling community to obtain and evaluate the FEIS. In fact, American Whitewater received an unofficial copy of the FEIS in just the past week, the only documentation we have seen on this project.

At this time, American Whitewater recognizes a need to intervene in this proceeding to ensure that we receive all documents filed, to preserve our right to file a petition for rehearing and to appeal the order on rehearing in court if necessary, and to represent the public interest in this matter. Our involvement at this late date may significantly affect the proceeding as we are prepared to provide additional evidence documenting use of this resource – this evidence is entirely missing throughout the record on Clearwater Creek. Our membership is uniquely qualified to provide special expertise that no other participating party possesses, and American Whitewater's interests are not adequately

represented by the existing parties.

STATEMENT OF POSITION

In their assessment of recreation and land use regarding this project presented in the FEIS, the Commission has failed to both recognize whitewater boating as an activity of this reach and evaluate alternatives to mitigate impacts. Minimum flow requirements recommended by FERC as a condition of the license would render this reach unnavigable. The proposed project will eliminate paddling opportunities on this creek with the diversion of water to the powerhouse. or

Clearwater Creek is a popular run for paddlers in Western Washington, particularly those living in and around Bellingham, WA. While relatively unknown a decade ago, the run has become increasingly popular over the past five years with advances in technique and equipment that have allowed localists to more regularly tackle this run. Along with a run on the Middle Fork of the Nooksack, the Clearwater has emerged as one of the area's most important recreational resources for whitewater paddlers during winter rain events and early spring snow melt. In addition to our concerns related to recreational impacts, our assessment of the project is that it will degrade water quality in Clearwater Creek, designated as an "extraordinary" water body by the State of Washington. The project will also be inconsistent with provisions of the Habitat Conservation Plan developed by the Washington State Department of Natural Resources which is applicable to the location of this project.

We believe that the potential environmental costs and lost recreational opportunities associated with constructing this project far exceed the extremely small societal benefits (as measured by generated power produced by this 6 MW facility) that the project would provide. As a consequence, we recommend that the FERC select the No Action alternative. Before issuing a final license for this project, FERC must address the impacts to whitewater recreation.

CONCLUSION

For all of the foregoing reasons, American Whitewater respectfully requests that the Commission issue an order granting motion for late intervention in this proceeding pursuant to Rule 214(d); and that the following entries be made in the service list:

The mailing addresses for American Whitewater are:

John T. Gangemi, Conservation Director
482 Electric Ave.
Bigfork, MT 59911
Phone/fax: 406-837-3155/3156
Email: jgangemi@digisys.net

ThomasC.O'Keefe
WashingtonRegionalCoordinator
AmericanWhitewater
3537NE87thSt.
Seattle,WA98115
Email:okeefe@ri versandcreeks.com

Dated:November5,2002

RespectfullySubmitted,

JohnT.Gangemi
ConservationDirector
AmericanWhitewater

ThomasO'Keefe
RegionalCoordinator
AmericanWhitewater

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Nooksack River Hydro Inc.) FERC Project No. 11495 -000
)
Clearwater Creek Hydroelectric Project)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 5th day of November, 2002.

Carla Miner
Conservation Assistant

SERVICELIST

FederalEnergyRegulatoryCommission
EdwinSlatter
8881stStNE
Washington,DC20426 -0001

NooksackRiverHydro Inc.
DanPfeiffer
1197WMainSt
Boise,ID83702 -5630

NorthwestEcoSystemAlliance
LisaMcShane
1421CornwallAveSte201
Bellingham,WA98225 -4547

USBureauofIndianAffairs
StanleySpeaks,RegionalDirector
U.S.DepartmentoftheInterior
911NE11th Ave
Portland,OR97232 -4128

USDepartmentoftheInterior
NolanShishido,Attorney
OfficeoftheRegionalSolicitor
500NEMultnomahStSte607
Portland,OR97232 -2036

WashingtonTrout
HughLewis
POBox5226
Bellingham,WA98227 -5226

HoweConsulting,In c.
DeborahAHowe
1515NW167thSt
Seattle,WA98177 -3852

AttorneyatLaw
FrankWFriskJr.
105431stStNWSte125
Washington,DC20007 -6047

U.S.Fish&WildlifeService
DaveFrederick,Supervisor
510DesmondDrSESte102
Lacey,WA98503 -1292

U.S.Fish&WildlifeService
RegionalDirector
Attn:FERCCoordinator
911NE11thAve
Portland,OR97232 -4169

WashingtonOfficeofAttorneyGeneral
DeborahL.Mull,AssistantAttorneyGeneral
POBox40117
Olympia,WA98504 -0117

WashingtonOfficeofAttorneyGeneral
NeilL.Wise
POBox40100
Olympia,WA98504 -0100