

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Notice of Petition for Declaratory Order Disclaiming Jurisdiction Over the Sullivan Creek Project, and Soliciting Comments, Protests, and/or Motions To Intervene**

October 20, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Petition for Declaratory Order.

b. *Docket No*: DI07-1-000 and P-2225.

c. *Date Filed*: October 5, 2006.

d. *Applicant*: Public Utility District No. 1 of Pend Oreille County, Washington (District).

e. *Name of Project*: Sullivan Creek Power Project.

f. *Location*: The Sullivan Creek Power Project is located on Sullivan Lake, Outlet Creek and Sullivan Creek, a tributary of Pend Oreille River, in the vicinity of the town of Metaline Falls, Pend Oreille County, Washington, and occupies lands of the United States within the Colville National Forest. The project is not located on Tribal lands.

g. *Filed Pursuant to*: Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact*: James B. Vasile, Davis Wright Tremaine LLP, 1500 K Street, NW., Suite 450, Washington, DC 20005. Telephone: (202) 508-6662; FAX: (202) 508-6699; e-mail: [jimvasile@dwt.com](mailto:jimvasile@dwt.com).

i. *FERC Contact*: Any questions on this notice should be addressed to Henry G. Ecton (202) 502-8768, or E-mail: [henry.ecton@ferc.gov](mailto:henry.ecton@ferc.gov).

j. *Deadline for filing comments, protests, and/or motions*: November 20, 2006.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at: <http://www.ferc.gov>

Please include the docket number (DI07-1-000) on any protests, comments or motions filed.

k. *Previous Commission Actions and Proposal of Petition*: The existing Sullivan Creek Power Project was

constructed by Inland Portland Cement Company in 1909. The District entered into an agreement with Inland to purchase the project in 1957 and filed an application for a license. The Federal Power Commission issued the license for Project No. 2225 on November 25, 1958. The District proposed to operate the project as a storage project benefiting downstream generation projects (other than the Sullivan Creek plant) on the Pend Oreille River and the Columbia Rivers. The project consists of Sullivan Lake and dam, Mill Pond and dam, Mill Pond Historic Site, a flume and canal, a forebay, a horseshoe-shaped tunnel power conduit, and a powerhouse. Sullivan Lake has 31,000 acre-feet of active storage capacity. Sullivan Lake Dam is a 58-foot-long by 29-foot-high concrete gravity dam. Mill Pond has a 1,962 acre-foot capacity. Mill Pond Dam is a 134-foot-long by 55-foot-high concrete gravity dam. Sullivan Lake stores and releases about 31,000 acre-feet of water annually, in accordance with the Pacific Northwest Coordination Agreement and its license. The District gave notice in 2003 that it did not intend to seek a new license when the current license expires on October 1, 2008.

This petition requests the Commission to confirm that the Sullivan Creek Project is not necessary or appropriate for any downstream unit of development, because it is not directly connected to and has only immaterial effects on downstream generation, and is therefore not required to be licensed pursuant to Section 23(b)(1) of the Federal Power Act. The petition also requests the Commission determine that the existing license is null and void, since the Commission lacked jurisdiction to issue a voluntary license under Section 4(e) in this circumstance. In the alternative, if it is determined that the District currently possesses a voluntary license, the petition requests the Commissions to confirm that the District is not required to file a surrender application or seek any other Commission authorization upon the expiration of its license.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a

government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the application*: Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link, select "Docket#" and follow the instructions. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, And/Or Motions to Intervene*—Anyone may submit comments, a protest, and/or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", AND/OR "MOTIONS TO INTERVENE", as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the applicant's representatives.

**Magalie R. Salas,**  
Secretary.

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**BILLING CODE 6717-01-P**