

AUTHORIZATION REQUEST TO USE THE TRADITIONAL  
LICENSING PROCESS TO LICENSE THE  
ASHTON HYDROELECTRIC PROJECT (FERC NO. 2381)

Pursuant to 18 CFR § 5.3(a)(2), PacifiCorp, with its Notice of Intent to file an application for a new Federal Energy Regulatory Commission (FERC or Commission) license for its Ashton Hydroelectric Project (Project), hereby requests authorization from the Commission to use the Traditional License Process (TLP). Justification for authorizing PacifiCorp's request considers the information required by 18 CFR § 5.3(c)(1)(ii) and is provided below. Comments on this request to use the TLP to license the Project must be filed with the Commission within 30 days of the filing date of this request.

(A) *Likelihood of timely license issuance*

PacifiCorp anticipates the Commission will be able to complete the timely issuance of a new license for the Project by approving the use of the TLP. The resource agencies, tribes and other stakeholders that will likely participate in the relicensing process have been involved in TLP relicensing proceedings of other hydroelectric projects in the state of Idaho. In preparing the Pre-Application Document (PAD), PacifiCorp has informally consulted with local stakeholders regarding issues related to the relicensing. The result of this issue scoping is that PacifiCorp and the parties consulted thus far are now aware of the potential, albeit limited number of resource issues that are likely to be raised, studied, and analyzed during the relicensing proceeding. These are briefly discussed in *Complexity of the resource issues* below. In addition, the agencies, Indian Tribes and other interested parties are familiar with the FERC TLP, its regulatory steps, requirements, and general schedule. A TLP would allow PacifiCorp to effectively consult with interested parties regarding study planning, reporting, and the preparation of the draft and final applications for a new license in a timely manner. Furthermore, pursuant to 18 CFR § 4.32(h), PacifiCorp intends to file a copy of its draft license application with the FERC for the purpose of seeking advice from Commission Staff regarding the sufficiency of its application. PacifiCorp contends this approach to licensing the Project would result in submittal of a license application that would minimize the likelihood of application deficiencies, lengthy and multiple additional information requests, and post-filing studies that potentially could affect the timely issuance of a new license. Overall, PacifiCorp's and the interested parties' familiarity with the TLP and associated informational needs should allow for the successful filing of an acceptable application and timely Commission issuance of a new license on or before expiration of the current license.

(B) *Complexity of the resource issues*

The Project is an existing hydroelectric project licensed by the FERC that has well-known and understood effects, and existing licensing articles have mitigated to a large extent those effects. The Project operates in run-of-river mode, and has a wildlife enhancement plan. The existing mode of operation is established by current license Article 401, which states the licensee shall at all times minimize the reservoir water level fluctuations such that the discharge from the Project approximates the instantaneous sum of inflow into the reservoir. PacifiCorp has been in communication with local stakeholders over the last few years about some proposed minor modification to run-of-river mode and maintenance of instream flow during plant trips to better

protect the downstream fishery and angling opportunities. Article 402 of the current license approved pages E-26 through E-37 of Exhibit E of the previous license application,<sup>1</sup> which described various studies that were performed to inform enhancement of the reservoir fishery. The result of those studies was that the Project reservoir contains suitable habitat to support a stocked trout fishery. A turbine mortality study was conducted per Article 404 and a fish stocking plan was developed to offset entrainment mortality. The fish stocking plan was approved by FERC to provide adequate mitigation for fishery related impacts of the Project.<sup>2</sup> The stocking plan requires trout to be stocked in the Project reservoir to support a catch rate of about 1 fish per hour through 2028. By Order Amending the Ashton/St. Anthony License to separate the two projects into separate licenses dated September 13, 2013,<sup>3</sup> license articles 403, 407, and 409 were deleted from the current license. Along with these changes license article 404 was modified to remove the St. Anthony Project.<sup>4</sup> License Article 404 was complied with through the implementation of the August 1990, Ashton/St. Anthony Turbine Mortality Studies mentioned above. Aside from water resource and fisheries issues discussed above, other existing license articles address issues surrounding wildlife, recreation, and cultural resources. Existing license article 405 is germane to wildlife enhancement and monitoring, whereby 5-year monitoring reports are filed with the FERC and the Wildlife Enhancement Plan (WEP), currently the 2016 version, is implemented. The WEP provides guidance for management of company lands, easements, fences, noxious weeds, avian structures and monitoring. Existing license article 406 concerns recreation enhancement and improvements, and since license issuance, PacifiCorp, along with agency partners, have made various improvements to enhance recreational access and use at the Project. Lastly, existing license article 408 dealt with turbine Unit No. 1 historical significance and whether upgrading the turbine would affect its historical significance. Consultation with Idaho State Historic Preservation Officer (ISHPO) resulted in the determination the upgrade work to Unit No. 1 would affect the turbines historical significance. By letter dated February 26, 1992, the Commission determined the requirements of Article 408 are fulfilled.<sup>5</sup> It is worthwhile to note that during the Ashton Dam Remediation project the drawdown zone was surveyed for cultural resources that concluded in 2013 with a determination of eligibility from the ISHPO for sites identified. In 2019, in consultation with the ISHPO all of the project facilities were found to be not eligible for listing.

In an effort to thoroughly identify issues in the PAD, PacifiCorp distributed to potentially interested parties a questionnaire soliciting, in part, input on potential resource issues. To-date only two entities responded, and no new issues were raised that had not been discussed in the past few years with stakeholders. A summary and copies of the questionnaire responses are provide in the Project PAD.

---

<sup>1</sup> See Application for License Ashton-St. Anthony Hydro Project FEC No. 2381-IDAHO filed December 31, 1984 (FERC Accession No. 19850107-0153)

<sup>2</sup> See Order Approving Fish Stocking Plan dated January 26, 1999 (FERC Accession No. 19990127-0344)

<sup>3</sup> See Order Amending License, Designating New Docket Number, Approving Transfer of License, and Revising Annual Charges dated September 13, 2013 (FERC Accession No. 20130913-3007).

<sup>4</sup> License Articles 403, 407, and 409 were specific to the St. Anthony Development, which was removed from the Ashton license and were germane to fish passage, fish salvage, and construction. Article 404 of the Ashton license was modified to remove the St. Anthony Project.

<sup>5</sup> See FERC Accession No. 19920304-0307.

In summary, PacifiCorp maintains that given no large-scale changes in operations are proposed along with detailed existing information in the Project record as well as the PAD, and the recent and ongoing discussions with local stakeholders, it is reasonable to expect the licensing resource issues would be similar to those that arose during the previous licensing. PacifiCorp anticipates that studies, if any, would involve documenting the existing conditions to determine whether the existing license articles if applied to continued Project operations adequately protect, mitigate, or enhance the resources or identify a need to modify operations and resource management at the Ashton Project. A list of these identified resource issues and how these will be addressed in the study planning and implementation phase of the license is included in Section 5, *Preliminary Issues and Studies List*, of the PAD. Any additional remaining resource issues not elucidated will be identified through the public Joint Agency Meeting and Site Visit, which are proposed to be held sometime between September 28th and October 28, 2022, in the vicinity of the Project, or through subsequent consultation activities as the licensing process progresses.

(C) *Level of anticipated controversy*

PacifiCorp anticipates very limited, or no controversy associated with the relicensing of the Project. PacifiCorp has initiated informal consultation and outreach with the resource agencies, Indian Tribes and stakeholders to solicit existing information, identify resource management goals and gauge potential resource issues that may arise during the licensing process. PacifiCorp is anticipating public involvement and interest in the FERC relicensing process commensurate with the known resource issues, location, and run-of-river operations of the Project.

Given the low complexity of issues already identified to date at the Project, it is not anticipated that the relicensing process will result in any significant controversy that cannot be resolved within the TLP. The TLP is a process that will enable the license applicant and interested parties to reach agreement on protection, mitigation, and enhancement measures for the Project, as may be determined to be necessary.

(D) *Relative cost of the traditional process compared to the integrated process*

PacifiCorp believes that the TLP is the most efficient FERC process to license the Project, which is characterized by its relatively small size and modest proposed improvements to the current operation. Given the limited number of anticipated issues, the modest number of potential stakeholders, and the low level of controversy, the TLP is better suited to license the Project than the Integrated Licensing Process (ILP). Experience to date at other projects nationwide demonstrates that the ILP is more costly to licensees compared to the TLP. For projects with limited geographic scope and related issues, significant process cost savings can be realized using the TLP. PacifiCorp expects the Project's licensing would proceed without much or any deviation from the *Process Plan and Schedule* provided in the PAD with the TLP, which would also reduce the relative cost. Furthermore, the timelines and more flexible nature of the TLP will provide PacifiCorp and other stakeholders flexibility to schedule meetings and develop pre-filing documentation. This flexibility will better allow all the relicensing parties to perform such activities in coordination with other ongoing proceedings and regulatory activities. The flexibility afforded by following the TLP is expected to reduce the overall cost of the relicensing effort for both PacifiCorp and engaged parties.

(E) *The amount of available information and potential for significant disputes over studies*

Preparation of the PAD and outreach/consultation with agencies, Indian Tribes and interested parties has indicated there is a reasonable amount of available information regarding resources associated with the Project, much of which comes from existing resource monitoring plans or other non-project related environmental monitoring and studies on the Henry's Fork in the vicinity of the Project.

A USGS gage is located approximately 1.0 river mile downstream of the Project, with a period of record dating to 1993, so an adequate flow record is available. Based on initial informal consultation conducted as part of the preparation of the PAD, it is anticipated that the information contained in the PAD will provide agencies, tribes and other interested parties with sufficient information necessary to clarify any Project related issues or concerns, determine others, and to identify any additional study or data needs to be addressed by PacifiCorp through the TLP.

It is PacifiCorp's intent to conduct its pre-filing consultation in a manner that addresses and resolves, to the extent possible, any differences of opinion with regard to the design and implementation of any necessary studies. Given the productive exchange of information to date and the collective understanding of the relative scope of potential impacts, PacifiCorp does not anticipate significant disputes over any necessary studies.

(F) *Other factors believed by the applicant to be pertinent*

PacifiCorp affirms that for the licensing of the run-of-river Ashton Project with known and to a large extent already mitigated resource issues, the TLP will provide the most efficient, effective, and least burdensome licensing process for the Commission and other parties. Therefore, the justification provided above is good cause for the Commission to grant this request to use the TLP.