

140158

BOOK 205 PAGE 974

When Recorded Return to:

Skamania County Assessor
P O Box 790
Stevenson, WA 98648

FILED FOR RECORD
SKAMANIA CO. WASH
BY *Skamania County*
Assessor
Jan 22 3 19 PM '01
G. Larry
AUDITOR
GARY H. OLSON

COUNTY ASSESSOR'S NOTICE OF REMOVAL FROM

☒ Classified OR ☐ Designated Forest Land

Grantor(s) SKAMANIA COUNTY
Grantee(s) COWLITZ COUNTY PUD No. 1
Legal Description THAT PORTION OF THE E $\frac{1}{4}$ & NE $\frac{1}{4}$ - NW $\frac{1}{4}$ LYING EAST OF SWIFT RESERVOIR
IN SECTION 21, TOWNSHIP 7N, RANGE 5E

Assessor's Property Tax Parcel or Account Number 07-05-21-0-0-0100-00 & 07-05-21-0-0-0101-00
Reference Numbers of documents Assigned or Released Book F Page 417

You are hereby notified that the above described property has been removed from classified or designated forest land as of 1/18/2001. The land no longer meets the definition and/or provisions of forest land as follows:

Exempt ownership: No Compensating Tax Due per RCW 84.33.120 9(b)

[A taking through the exercise of the power of eminent domain, or sale or transfer to any entity having the power of eminent domain in anticipation of the exercise of such power.]

This removal shall be effective for the assessment year beginning January 1, N/A.

STATEMENT OF COMPENSATING TAX

(RCW 84.88.120, 130,140)

The Compensating Tax has been assessed based upon the following:

True & Fair Value of Land at Time of Removal	Less	Classified or Designated Value at Time of Removal	Multiplied By	Last Levy Rate Extended Against Land	Multiplied By	Years*	Equals	Compensating Tax
\$	-	\$	X	\$	X		=	\$ None
N/A Assessment Year for N/A Tax Collection								Recording Fee N/A \$ Due
								Total Amount Due 84.33.120 9 (b)

* Number of years in classification or designation, not to exceed 10.

The compensating tax is due and payable to County Treasurer 30 days from the date of this notice. The tax shall become a lien on the land and shall be subject to foreclosure as provided in RCW 84.64.050.

You may apply for classification as either Open Space Land, Farm and Agricultural Land or Timber Land under RCW 84.34. If the application is received within 30 days of this notice, no compensating tax would be due until the application is denied, or if approved, the property is later removed from Open Space under RCW 84.34.108.

Date of Notice: _____ Date Payment Due: N/A

County Assessor: Gary H. Olson

Rev 620047-1(1/3/2000) (FORMS-2000-Notice-Remov-Class-Des)

DECLARATION OF DONALD A.
HAAGENSEN

RECEIVED

JAN 17 2001

Skamania County Assessor

STATE OF OREGON)
County of Multnomah) ss.

Introduction

1. I make the following declarations based on my own personal knowledge.
2. I am a partner with the law firm Cable Huston Benedict Haagensen & Lloyd LLP. I have practiced law since 1977 and have substantial experience with environmental and natural resource law. I have worked on numerous legal projects involving threatened and endangered species and licensing of hydroelectric projects.
3. Our firm represents Public Utility District No. 1 of Cowlitz County (Cowlitz PUD). I am in charge of our firm's work for Cowlitz PUD. I have been personally involved in Cowlitz PUD's proposed purchase of 283.7 acres of property on the north side of Swift Reservoir in Skamania County, Washington.

Background

4. Cowlitz PUD owns the Swift No. 2 hydroelectric project on the Lewis River in Cowlitz and Skamania counties. The Swift No. 2 project is licensed by the Federal Energy Regulatory Commission (FERC) and consists of a power canal, penstocks, a powerhouse containing two 35 megawatt turbines, and a transmission line. The license for Swift No. 2 expires in 2006, and the application for a new license is due in April 2004.

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1 5. PacifiCorp owns the Merwin, Yale and Swift No. 1 hydroelectric projects also on
2 the Lewis River in Skamania, Cowlitz and Clark counties. For Merwin and Swift No. 1, the
3 licenses expire in 2006, and the applications for new licenses are due in April 2004. PacifiCorp
4 submitted a new license application for Yale in 1999 and that application is on hold, pending
5 filing of PacifiCorp's Merwin and Swift No. 1 and Cowlitz PUD's Swift No. 2 applications.
6

7 6. Cowlitz PUD and PacifiCorp own/operate all four Lewis River projects as a
8 coordinated system to achieve optimum benefits for power production, to provide stewardship
9 for natural and social resources and to provide flood management.

10 FERC's Relicensing Processes

11 7. FERC allows an applicant to follow either of two processes for relicensing a
12 hydropower project. Under the "sequential" traditional process, an applicant designs and
13 conducts any necessary environmental studies and submits a license application to FERC. FERC
14 then reviews the application and initiates an evaluation of proposed alternatives under the
15 National Environmental Policy Act of 1969 (NEPA). After considerable agency and public
16 review and comment, FERC issues the new license that includes terms and conditions
17 (conservation measures). Those conservation measures generally include fish/wildlife habitat
18 protection, fish passage and recreation facilities.
19

20 8. The "parallel" Alternative Licensing Procedure (ALP) differs from the traditional
21 licensing process in several ways. The purpose of the ALP is to allow for more public
22 participation at all stages of the process. One of the goals of the ALP is to reach a settlement. In
23 other words, the parties agree on the terms and conditions (conservation measures) of the new
24 license before the application is filed and include the settlement as the preferred alternative in the
25 license application. To reach a settlement, the applicant for the license, local, state and federal
26

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1 agencies, tribes, non-governmental organizations, and public collaboratively design and conduct
 2 any necessary environmental studies, develop alternatives (including the preferred alternative),
 3 and conduct the NEPA analyses. All of these activities occur prior to filing the license
 4 application and, all are, in effect, a series of negotiations between the parties. Under the ALP-
 5 settlement concept, the applicant may offer or propose conservation measures with the
 6 expectation that those measures will be included in the license application and final license. This
 7 process allows the applicant to take advantage of opportunities that become available before and
 8 during the relicensing process but that may not be available at the time FERC issues the new
 9 license. It further allows the parties to negotiate a more cost- and biologically- effective
 10 settlement agreement.
 11

12 Lewis River Relicensing Process

13
 14 9. In 1999, FERC approved Cowlitz PUD and PacifiCorp's request to use the ALP
 15 for the coordinated and simultaneous processing of the license applications for all four Lewis
 16 River projects. Cowlitz PUD and PacifiCorp then began a collaborative relicensing process --
 17 with the goal of reaching a settlement agreement before filling the applications in 2004.
 18

19 10. Under the Lewis River ALP, the parties established a collaborative team to design
 20 and to implement environmental studies, to negotiate a licensing settlement agreement, and to
 21 conduct the NEPA analysis. The parties include Cowlitz PUD, PacifiCorp, Washington
 22 Departments of Fish and Wildlife and Ecology, U.S. Fish and Wildlife Service, National Marine
 23 Fisheries Service, U. S. Forest Service, Yakama Nation, Cowlitz Indian Tribe, Cowlitz, Clark
 24 and Skamania counties, local interest groups, non-governmental organizations, and the public.
 25 The following documents provide more information on the Lewis River relicensing process (the
 26

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1 first two documents have been previously distributed to the Skamania County Commissioners
2 and Department of Planning and the third document is available on request from Cowlitz PUD):

3 a. PacifiCorp and Cowlitz PUD. March 2000. *Initial Information Package for*
4 *the Lewis River Hydroelectric Projects* (IIP). The IIP provides detailed information
5 about the Lewis River hydroelectric projects, relicensing process, and natural resources in
6 the Lewis River basin.

8 b. PacifiCorp and Cowlitz PUD. 2000. *Study Plan Document for the Lewis River*
9 *Hydroelectric Projects* (distributed June 2000, revised December 2000). This 3-ringed
10 binder contains the most current plans for all studies supporting the relicensing process
11 and is updated periodically.

12 c. PacifiCorp and Cowlitz PUD. March 2000. *1999 Technical Study Status*
13 *Reports for the Lewis River Hydroelectric Projects*. The 1999 Status Report describes
14 the results and status of the relicensing studies through 1999. PacifiCorp and Cowlitz
15 PUD will distribute a similar report covering 2000 in the spring of 2001.

17 11. The Lewis River relicensing collaborative team has discussed fish and wildlife
18 habitat protection/ purchase in detail and designed and conducted a number of studies to evaluate
19 the quantity and quality of habitat in the Lewis River basin. During this process, the state and
20 federal agencies with regulatory authority in the relicensing process have stated that habitat
21 purchase/protection, particularly relatively low elevation (below 1,500 feet elevation) elk winter
22 range, will be an expectation for the new licenses.

24 **Endangered Species Act Consultation**

25 12. In 1998, the U.S. Fish and Wildlife Service (USFWS) listed bull trout as
26 threatened under the Endangered Species Act of 1973 (ESA). Bull trout are known to occur in

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1 Swift Reservoir and Yale Lake. Sub-adult bull trout in Swift reservoir rear in the Swift Creek
2 arm just upstream from Swift Dam on the north side of the reservoir in the area commonly
3 known as the Devil's Backbone. During the 1999 fishing opening day creel census, Washington
4 Department of Fish and Wildlife biologists discovered that bull trout were also apparently
5 harvested from the Swift No. 2 power canal.
6

7 13. Cowlitz PUD and PacifiCorp initiated consultation with the USFWS and National
8 Marine Fisheries Service under section 7 of the ESA as a designated non-federal representative
9 of FERC. One of the outcomes of the consultation will be issuance of an Incidental Take
10 Statement that will require Cowlitz PUD to protect bull trout sub-adult rearing areas in Swift
11 Reservoir by creation of a conservation easement to minimize the effects of the operation of
12 Swift No. 2 on bull trout.
13

14 14. As part of the ESA consultation process, Cowlitz PUD submitted the documents
15 listed below to FERC in August 2000. These documents are available on request from Cowlitz
16 PUD and are posted on FERC's website at:

17 <http://rimsweb1.ferc.fed.us/rims.q?rp2~getImagePages~2082127~12~179~getboPageNo~50>.

18 a. Cowlitz PUD. August 2000. *Application for Amendment of License for*
19 *Swift No. 2 Hydroelectric Project P-2213.*

20 b. PacifiCorp and Cowlitz PUD. August 2000. *Environmental Assessment*
21 *for the Lewis River Hydroelectric Projects.*

22 c. PacifiCorp and Cowlitz PUD. August 2000. *Biological Assessment of the*
23 *Listed, Proposed, and Candidate Species as Related to the PacifiCorp and Cowlitz PUD*
24 *Lewis River Projects.*
25
26

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Devil's Backbone Property

15. To continue to operate the Swift No. 2 hydro project, Cowlitz PUD must have an ESA Incidental Take Statement issued by the USFWS, and, after 2006, a new license issued by FERC.

16. The Devil's Backbone property on the north side of Swift Reservoir, just up stream from Swift Dam, is unique in that it provides the low-elevation elk winter range needed for relicensing and it provides the protection for bull trout sub-adult rearing areas in the Swift Creek arm of Swift Reservoir needed for ESA compliance.

17. Because of the ongoing regulatory processes and the unique biological attributes of the Devil's Backbone, Cowlitz PUD is acquiring the 283.7-acre property. The negotiation process was difficult, and on July 25, 2000, Cowlitz PUD's Commissioners authorized acquisition of the property through eminent domain. Following that authorization, Cowlitz PUD notified PacifiCorp of its intent to acquire the property under eminent domain if necessary. After further negotiations, Cowlitz PUD signed an agreement with PacifiCorp to acquire the entire 283.7-acre Devil's Backbone property for relicensing and ESA.

18. Consistent with the ESA consultation as described in the Biological Assessment and Application to Amend the License listed above, Cowlitz PUD will protect 87.7 acres of the 283.7-acre parcel in perpetuity under a Devil's Backbone conservation easement.

19. According to the current relicensing schedule, the majority of the studies will be completed during the 2001 field season. The collaborative team plans to begin actual relicensing settlement negotiations in early 2002. At that time, Cowlitz PUD will offer the Devil's Backbone property as a conservation measure, with the expectation that the state and federal agencies will recognize the property as supporting relicensing and include it in any final

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1 settlement agreement for relicensing of Swift No. 2. Thus, the entire Devil's Backbone property
2 will be used by Cowlitz PUD for ESA and relicensing purposes.

3 Donald A. Haagen
4 DONALD A. HAAGENSEN

5 SUBSCRIBED AND SWORN to before me this 16th day of January, 2001.

6 [Signature]
7 NOTARY PUBLIC FOR Oregon
8 My Commission Expires: 3/9/02

