



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

Reply to  
Attn of: OWW-134

AUG 15 2008

Ms. Ann F. Miles  
Office of Regulatory Projects  
Federal Energy Regulatory Commission  
888 First Street N.E.  
Washington, D.C. 20526

**Re: Avista Re-licensing - Notice of Receipt of State of Washington Section 401 Water Quality Certification, State of Idaho Section 401 Water Quality Certification, and Application for Relicensing of Spokane Hydroelectric Project No. 2545**

Dear Ms. Miles:

The purpose of this letter is to provide you with notice and a determination related to Avista's relicensing of its Spokane River Hydroelectric Project as required by the federal Clean Water Act (CWA). Specifically, I write to inform you in accordance with Section 401(a)(2) of the CWA and 40 C.F.R §121.13, that the Federal Energy Regulatory Commission (FERC) has notified the U.S. Environmental Protection Agency Region 10 that FERC received water quality certifications prepared by the State of Washington Department of Ecology and the State of Idaho Department of Environmental Quality pursuant to Section 401(a)(1) of the CWA (the Washington 401 certification and the Idaho 401 certification) in connection with an application by the Avista Corporation for relicensing of the Spokane River Project No. 2545 and the Post Falls Hydroelectric Project No. 12606. The letter from FERC transmitting the Washington 401 certification was dated July 14, 2008, and the letter was received by EPA on July 17, 2008.

Based on a limited review of information in the record for the Washington 401 certification and the Idaho 401 certification, the application for relicensing and other water quality studies in EPA's files, EPA has determined there is reason to believe that the discharge addressed by the Washington 401 certification and the Idaho 401 certification may affect the quality of waters of the Spokane Reservation. EPA has determined that the Spokane Tribe (the Tribe) qualifies for "treatment as a state" under Section 518(e) of the CWA for purposes of Section 401 of the CWA. EPA is notifying the Spokane Tribe of this determination in the same manner as EPA would a state pursuant to Section 401(a)(2) of the CWA. EPA is also enclosing a copy of the Avista license application, the Washington 401 certification and the Idaho 401 certification.

Section 401(a)(2) of the CWA authorizes the Tribe to evaluate this matter to determine whether the discharge will affect the quality of the Spokane Reservation waters so as to violate any federal or Tribal water quality requirement applicable to those waters. As authorized under Section 401(a)(2) of the CWA, if the Tribe determines that the discharge will have such an effect, the Tribe may within 60 days after receiving this letter take certain actions. Specifically, the Tribe may notify EPA and FERC in writing of the Tribe's objection to the reissuance of the license, and the Tribe may request that FERC hold a public hearing on such objection.

EPA has had preliminary discussions with staff and legal counsel to the Spokane Tribe, and we have designated Laurie Mann as EPA's lead contact for this matter who can be reached at 206-553-1583.

Sincerely,



Michael F. Gearheard, Director  
Office of Water and Watersheds

Enclosure

cc: Mr. Elvin Fitzhugh, Avista Corporation  
Mr. Gregory Abrahamson, Chairman of the Spokane Tribe of Indians  
Mr. Jay Manning, Washington Dept. of Ecology  
Mr. Curt Fransen, Idaho Dept. of Environmental Quality  
Mr. Phil Cernera, Coeur d'Alene Tribe  
Mr. Rudy Peone, Spokane Tribe  
Mr. Brian Crossley, Spokane Tribe  
Mr. Ted Knight, Spokane Tribe  
Ms. Shannon Work, Special Environmental Counsel to the Spokane Tribe