



COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION  
729 NE Oregon, Suite 200, Portland, Oregon 97232 503 238 0667

December 29, 2008

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**RE: Project No. 12569-001, Enloe Hydroelectric Project**

Dear Secretary Bose:

Enclosed for electronic filing is the Columbia River Inter-Tribal Fish Commission's **MOTION TO INTERVENE** in the above referenced matter.

Please contact the Columbia River Inter-Tribal Fish Commission if there are any problems with the transmission of this filing.

Sincerely,

/S/ Julie A. Carter

Julie A. Carter  
Policy Analyst  
Policy Development & Litigation Support Dept.  
Columbia River Inter-Tribal Fish Commission

Cc: Parties on Official Service List

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of Okanogan County	)	Project No. 12569-001
	)	
Application for Major New License	)	Enloe Hydroelectric Project
	)	

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MOTION TO INTERVENE ON APPLICATION FOR NEW LICENSE  
FOR THE ENLOE HYDROELECTRIC PROJECT

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Pursuant to Rule 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.214, the Columbia River Inter-Tribal Fish Commission ("CRITFC") hereby moves to intervene in the above-captioned docket.

1. Copies of all notices, correspondence, and pleadings related to this docket should be directed to:

Julie Carter  
Columbia River Inter-Tribal Fish Commission  
729 N.E. Oregon, Suite 200  
Portland, OR 97232  
[carj@critfc.org](mailto:carj@critfc.org)

With a copy to:

Bob Heinith  
Columbia River Inter-Tribal Fish Commission  
729 N.E. Oregon, Suite 200  
Portland, OR 97232  
[heib@critfc.org](mailto:heib@critfc.org)

2. On August 22, 2008, Public Utility District No. 1 of Okanogan County, Washington filed a Major License from the Federal Energy Regulatory Commission ("Commission") for the Enloe Hydroelectric Project. On October 29, 2008, the Commission issued a "Notice of

Application Accepted for Filing and Soliciting Comments, Motions to Intervene and Protests.” The Notice provided 60 days for the submission of filings regarding the Application.

3. The Columbia River Inter-Tribal Fish Commission files this Motion to Intervene within the time period established under the Commission’s Notice dated October 29, 2008.

#### **A. Interests of the Petitioners**

The Columbia River Inter-Tribal Fish Commission (“CRITFC”) was created in 1977 by the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakama Nation. The governing body of CRITFC is composed of the fish and wildlife committees of the member tribes. CRITFC was created, *inter alia*, to formulate a broad general fisheries program designated to promote the conservation practices of its members. The CRITFC's member tribes' treaty rights to take fish that pass their usual and accustomed fishing places have been confirmed by numerous federal court decisions. *E.g. Sohappay v. Smith*, 302 F.Supp. 899 (D.Or. 1969), *aff'd*, *United States v. Oregon*, 529 F.2d 570 (9<sup>th</sup> Cir. 1976); *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658 (1979); *United States v. Winans*, 198 U.S. 371 (1905); *Confederated Tribes of the Umatilla Indian Reservation v. Alexander*, 440 F.Supp. 553 (D.Or. 1977). CRITFCs’ tribal members rely upon the fishery resources in a manner that differs greatly from the non-tribal community. The existence and operation of the Enloe Hydroelectric Project will impact those treaty resources. Accordingly, CRITFC has substantial interest in the outcome of this proceeding.

#### **B. Grounds for Intervention**

CRITFC’s member tribes aboriginally occupied lands and watersheds in what today is the Mid-Columbia region in Washington State. The proposed Enloe Hydroelectric Project (Project) is

located in this region in the Similkameen River. The existence and operation of the Project will impact the treaty-reserved resources of all four of CRITFC's member tribes. Among other things, the Project will: 1) block passage of salmon, steelhead and Pacific lamprey, reducing access to significant areas of critical habitat and, 2) eliminate existing anadromous fish habitat below the Project. These impacts will reduce the viability and productivity of these fish populations, which are treaty trust resources. Many of these populations are in serious decline and some have been listed under the Endangered Species Act. Anadromous fish populations affected by the Project support ceremonial, subsistence and occasional commercial fisheries in the Lower Columbia River in Zone 6 by all the CRITFC member tribes. Therefore, CRITFC has a unique interest and stake in this licensing proceeding that cannot be represented by any other entity.

### **C. Conclusion**

For the above reasons, CRITFC's member tribes have significant interests that may be directly affected by the outcome of this proceeding and other parties do not adequately represent these interests. CRITFC's intervention is in the public interest as required by 18 C.F.R. § 385.214(b)(2)(iii). CRITFC respectfully request intervention status in this proceeding with full rights as an intervenor.

RESPECTFULLY SUBMITTED this 29th day of December, 2008.

S/ Julie Carter

Julie Carter  
Columbia River Inter-Tribal Fish Commission

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served by electronic mail and/or U.S. Mail the foregoing document on all parties listed on the official service list compiled on this proceeding as of December 29, 2008.

Dated this 29th day of December, 2008.

S/ Julie Carter  
Julie Carter  
Columbia River Inter-Tribal Fish Commission

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