

APPENDIX E  
CONSULTATION RECORD

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### DIVISION OF WILDLIFE CONSERVATION

Sean Parnell, GOVERNOR

P.O. BOX 667  
PETERSBURG, AK 99833-0667  
PHONE: (907) 772-5228  
FAX: (907) 772-9336

May 10, 2010

Chris Spens  
Licensing Manager for  
Cascade Creek LLC  
3633 Alderwood Avenue  
Bellingham, WA 98225

Dear Mr. Spens,

During our initial comments on Cascade Creek LLC's Scoping Document 1 (CascadeCrSD1ADF&G7-17-09), the Alaska Department of Fish and Game, Division of Wildlife Conservation (the department) identified wolverine as one of several species worthy of special emphasis with regard to information needs. As such, we indicated that in light of the proposed hydroelectric development, research was warranted to evaluate the potential impacts of project construction and operation on wolverines inhabiting the project area, and to identify possible wolverine mitigation measures to the extent possible. In 2007, irrespective of the proposed hydroelectric development at Cascade Creek, the department initiated a multi-year study of wolverines inhabiting the GMU 1B mainland. By coincidence, the department's wolverine study area was centered on the drainages of Thomas Bay, extending north to Port Houghton and south to Le Conte Bay. Spring 2010 will represent the fourth and final field season of the department's wolverine research efforts in the Thomas Bay area.

Cascade LLC has agreed to support ADF&G's wolverine research efforts in Thomas Bay by contributing \$10,000 for helicopter flight time. The supplemental funding will be used to expand the scope of ADF&G's wolverine research efforts inland to include remote high elevation sites in the vicinity of Cascade LLC's proposed hydroelectric development. In light of the extensive information the department has already obtained on the area's wolverine population during three previous field seasons of research, we consider Cascade LLC's contribution to the department's wolverine research efforts in spring 2010 sufficient to address the wolverine information needs previously identified by the department. As such, ADF&G is satisfied that information collected on wolverines to date, in conjunction with additional information being sought in spring 2010, will be sufficient to provide the Department and Cascade LLC with sufficient wolverine research information to adequately understand the current status of the population and potential impacts associated with the proposed construction and operation of hydroelectric facilities at Cascade Creek/Swan Lake.

As a result of our research findings, ADF&G may recommend and Cascade LLC may consider potential mitigation measures. We request that Cascade LLC continue plans to document any observations of wolverine or their sign that may be detected incidentally to other project related wildlife studies.

Sincerely,

Via Email

Rich Lowell  
Area Management Biologist

## Sarah Woehler Michaud

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**From:** Allison Murray  
**Sent:** Wednesday, December 01, 2010 1:20 PM  
**To:** Alison Jakupca  
**Cc:** Sarah Woehler Michaud  
**Subject:** FW: Study Plans

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Trying to clean out my inbox and make sure you guys have everything you need for the consultation record.

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**From:** Weber Greiser [mailto:wgreiser@hrassoc.com]  
**Sent:** Monday, August 30, 2010 11:32 AM  
**To:** 'Gina S Esposito'  
**Cc:** Allison Murray; 'Chris Spens'; 'John Gangemi'; shelly.burg@barnard-inc.com  
**Subject:** RE: Study Plans

Thanks Gina. I will address those items as specified. Allison - my plan is to get you the final plan before the end of the week.

Weber

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**From:** Gina S Esposito [mailto:gesposito@fs.fed.us]  
**Sent:** Monday, August 30, 2010 12:05 PM  
**To:** Weber Greiser  
**Cc:** 'Allison Murray'; 'Chris Spens'; 'John Gangemi'; shelly.burg@barnard-inc.com  
**Subject:** RE: Study Plans

At this point, Im satisfied with a more general description of the APE, as it currently includes the transmission line, etc. Details about actual location and width of actual disturbance, as well as equipment, etc, can come later, prior to your actual survey. Im sure those details will be more accurate as the field season approaches anyway, and that's ultimately what we want--the accuracy. Also, Weber, can you include any field camp locations as part the APE, if there will be any?  
Thanks!

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Gina Esposito  
Archaeologist  
Tongass National Forest  
[gesposito@fs.fed.us](mailto:gesposito@fs.fed.us)  
(907)772-5971

"Weber Greiser" <[wgreiser@hrassoc.com](mailto:wgreiser@hrassoc.com)>

08/30/2010 09:36 AM

To "Allison Murray" <[Allison.Murray@KleinschmidtUSA.com](mailto:Allison.Murray@KleinschmidtUSA.com)>, "John Gangemi" <[J.Gangemi@oasisenviro.com](mailto:J.Gangemi@oasisenviro.com)>, <[shelly.burg@barnard-inc.com](mailto:shelly.burg@barnard-inc.com)>  
cc "Gina S Esposito" <[gesposito@fs.fed.us](mailto:gesposito@fs.fed.us)>, "Chris Spens" <[cspens@thomasbayhydro.com](mailto:cspens@thomasbayhydro.com)>

Subject RE: Study Plans

# Cascade Creek LLC



September 7, 2010

Russ Beers  
Tongass National Forest  
Petersburg Ranger District  
PO Box 1328  
Petersburg, AK 99833

Re: Small mammal and deer winter range assessment approval, FERC #12495-002

Dear Mr. Beers,

Cascade Creek, LLC (CCLLC) is requesting authorization to access and perform small mammal and deer winter range assessments within the area of the Cascade Creek Hydroelectric Project on lands administered by the Tongass National Forest. The Cascade Creek Hydroelectric project is a relatively low environmental impact power generation project initiating just southwest of Petersburg at the existing Scow Bay Substation, and continuing northeast approximately 20 miles to Swan Lake. Much of the project occurs within the Tongass National Forest. Generally, the proposed project involves construction and operation of an intake siphon system, tunnel, shaft, penstock, powerhouse with turbine, and overhead and subsea portions of a 138-kV transmission line.

The purpose of these surveys is to obtain information regarding small mammal presence/absence and deer winter range assessments in the project vicinity in order to evaluate project effects. We would like to complete these surveys during the months of September and October, 2010.

Small mammal and deer winter range assessment surveys will be performed by qualified biologists employed by OASIS Environmental, Inc. (OASIS) on behalf of CCLLC. The lead biologist is Marlene Wagner and the contact person for this survey is Shelly Adams, Senior Biologist, who can be reached at (425) 891-1765. Her email address is [s.adams@oasisenviro.com](mailto:s.adams@oasisenviro.com).

For small mammal surveys, we will use Sherman Live Traps throughout the study area. Transects will originate from 3 randomly selected stations along the transmission corridor and one transect placed at the powerhouse location. Transects will consist of 10 traps placed in a line centered at the point-count station, placed 20 meters apart, and run perpendicular to the corridor trajectory. The traps will remain in place for three days in and checked at least twice daily.

For deer winter range assessments, the areas being evaluated will be referred to as stands. Randomly selected stands will be sampled within 100 feet of the proposed overland transmission lines and other areas where there is potential ground disturbance within winter range habitat such as the powerhouse site, penstock, access roads and outbuildings. A stand will include a minimum of 3 plots and then one plot every 5 or 10 acres in old-growth habitat. Additional plots

may be required to provide a representative sample of the habitat associated with the project. Location of plots to be surveyed will be determined with a Dot Grid or by using GIS. Locations of the randomly selected locations will be identified in the field by GPS.

Quality of deer winter range habitat will be quantified using a simple scoring method that assigns highest value to the most suitable winter range habitat for deer. Generally speaking, suitable winter range habitat for Sitka black-tailed deer is characterized by abundant and nutritious forage, minimal snow cover, nearby permanent unfrozen waters, flatter ground, and slope aspects that are more likely to remain free of snow (Kirchhoff and Hanley, 1992). The specific methodology, evaluation criterion, and scoring methods are outlined in the *Deer Winter Range Stand Exam Form* developed by Kirchhoff and Hanley, 1992.

Please review this letter and let us know if you have any questions. We realize this is short notice, but we hope to receive expedited authorization from you. We will be providing you a programmatic authorization request in the near future, summarizing all proposed wildlife surveys on Tongass National Forest lands, in order to minimize your efforts.

Thank you for your time. Should you have any questions or concerns, please call me at (360) 738-9999, or Shelly Adams at (425) 891-1765.

Sincerely,



Chris Spens  
Licensing Manager for  
Cascade Creek, LLC  
3633 Alderwood Avenue  
Bellingham, Wa. 98225

[cspens@thomasbayhydro.com](mailto:cspens@thomasbayhydro.com)

## Sarah Woehler Michaud

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**From:** Allison Murray  
**Sent:** Wednesday, December 01, 2010 1:15 PM  
**To:** Sarah Woehler Michaud  
**Cc:** Alison Jakupca  
**Subject:** FW: Wildlife Study Plan-Cascade Creek

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[For the consultation record](#)

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**From:** Shelly Adams [mailto:S.Adams@oasisenviro.com]  
**Sent:** Wednesday, September 08, 2010 3:06 PM  
**To:** Allison Murray; John Gangemi; Chris Spens  
**Subject:** FW: Wildlife Study Plan-Cascade Creek

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**From:** Richard\_Enriquez@fws.gov [Richard\_Enriquez@fws.gov]  
**Sent:** Wednesday, September 08, 2010 9:25 AM  
**To:** Marlene Wagner  
**Subject:** Re: Wildlife Study Plan-Cascade Creek

Hello Marlene.

As a follow-up to our telephone conversation, I recommend the following:

Based on the fact that the alternative that follows along the coastline has been dropped from consideration, I see no need in conducting owl surveys or surveys for passerine resident/migratory birds. Recommend that this work be dropped from the study plans.

Let me know if you have any questions or comments.

Richard

Marlene Wagner <[M.Wagner@oasisenviro.com](mailto:M.Wagner@oasisenviro.com)>  
08/31/2010 12:34 PM

To "[Richard\\_Enriquez@fws.gov](mailto:Richard_Enriquez@fws.gov)" <[Richard\\_Enriquez@fws.gov](mailto:Richard_Enriquez@fws.gov)>  
cc  
Subject Wildlife Study Plan-Cascade Creek

Hello Richard,

I am writing to you because I am going to be following up on agency comments for the wildlife draft study plan for the Cascade Creek Hydro Project near Petersburg, AK for OASIS Environmental. Have you been able to review it yet? When you do, would you please send it to me so that I can address any questions or comments you may have? Thanks!

Please don't hesitate to call if you have any questions for me. Thank you.

Cheers,  
Marlene Wagner  
907-209-4426

## Sarah Woehler Michaud

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**From:** Fleming, Douglas F (DFG) [doug.fleming@alaska.gov]  
**Sent:** Thursday, September 09, 2010 8:49 PM  
**To:** Allison Murray  
**Cc:** Johnson, Shawn L (DFG)  
**Subject:** RE: Revised Recreation Study Plan for agency review (8-10-10).docx Cascade Creek Project (FERC No. 12495)

Hi,

This is rather short notice. I can possibly sit in for a short while to hear what you have, preferably earlier in the morning (say 900ish Alaska time). However you need to contact Shawn Johnson who has been acting as the hydro coordinator for Southeast Alaska so he can be involved on this and all other communications. Following this phone call I will not be spending time communicating what took place, so, anything substantial you cover will need to be communicated with others by your efforts...phone calls take time, then take additional time away from working to then write-up what was covered, said, etc.

Sorry for my attitude toward this, however, this process has been bleeding way too much of my time away.

Doug Fleming  
Division of Sport Fish  
Petersburg/Wrangell Area  
907-772-5231

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**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Thursday, September 09, 2010 3:30 PM  
**To:** Christopher S Savage; rbeers@fs.fed.us; mclemens@fs.fed.us; Fleming, Douglas F (DFG); blhunter@fs.fed.us; jimsteward@fs.fed.us  
**Cc:** Chris Spens; Kelly Maloney; Sarah Woehler Michaud  
**Subject:** RE: Revised Recreation Study Plan for agency review (8-10-10).docx Cascade Creek Project (FERC No. 12495)

Good Afternoon Folks,  
I'm hoping to see you when Chris and I come to town on the 28<sup>th</sup>.

In the interim, I wanted to give you a heads up about some of the topics we discussed with FERC when we went to DC - some of which are going to affect the Rec Study Plan. Pending any further comments from you, we will be including it in the SD2 which should be out by the end of next week. I didn't, however, want to send it out to the broader group without an explanation of the changes we've made.

I'd like to do a quick call either this afternoon or tomorrow if that works for the majority of folks. I can set up a conference line as warranted. Does that work for folks?

Thanks,  
Allison

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**From:** Allison Murray  
**Sent:** Tuesday, August 10, 2010 3:50 PM  
**To:** Christopher S Savage; rbeers@fs.fed.us; mclemens@fs.fed.us; doug.fleming@alaska.gov; mark.ivy@ferc.gov  
**Cc:** Chris Spens; Kelly Maloney; Sarah Woehler Michaud  
**Subject:** Revised Recreation Study Plan for agency review (8-10-10).docx Cascade Creek Project (FERC No. 12495)

<< File: Revised Recreation Study Plan for agency review (8-10-10).docx >>

Folks,

Attached is the most current version of the recreation study plan. In order to better address your comments, we've changed the format a bit. While the intent and objectives of the plan remain the same as previous versions, you will also note that we have revised our methodology to better accommodate the remote nature and dispersed uses that occur in the project area. We look forward to discussing the plan with you on Thursday.

Regards,  
Allison



## Sarah Woehler Michaud

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**From:** Allison Murray  
**Sent:** Friday, November 19, 2010 8:39 PM  
**To:** Sarah Woehler Michaud; Alison Jakupca  
**Subject:** CCLLC

In case you don't have this correspondence already.

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**From:** Shelly Adams [mailto:S.Adams@oasisenviro.com]  
**Sent:** Friday, September 10, 2010 11:45 AM  
**To:** Allison Murray; cspens@thomasbayhydro.com; John Gangemi  
**Subject:** More good news

All,

Just received approval from Richard Enriquez, USFWS, that we may substitute a literature review, habitat assessment, and mitigation measure approach into the Wildlife Study Plan (WSP) so that we may have a complete application to FERC, so long as we enter into a Memorandum of Agreement to perform field work as described in the draft WSP in 2011.

Allison, could you please provide an example of this type of document, or something similar so that I can start drafting the technical portion of the document?

I imagine Cascade Creek's lawyers will want to provide input as to the format...?

Shelly

## Field Trip Report

**Field Study Focus:** Deer Winter Range Assessment Survey

**Field Date:** September 10 and 11, 2010

**OASIS Staff:** Marlene Wagner and Carissa Schudel

### Field Objectives:

1. **Conduct Quick-cruise Method for Assessing Deer Winter Range in Southeast Alaska surveys along transmission corridor and powerhouse site using the USFS methodology**
2. **Photograph reference points taken at Quick-cruise surveys along transmission corridor**
3. **Perform incidental observations for wildlife studies (tracks, scat, bird calls, etc)**

**Summary:** Field staff traveled by boat to the study site on September 10, 2010. Staff anchored the skiff in front of the powerhouse site in Thomas Bay and conducted 3 Quick-cruise Method for Assessing Deer Winter Range in Southeast Alaska surveys (hereafter, Quick-cruise surveys) in the vicinity. Staff then traveled to the dock adjacent to the road system.

Staff moved into the ADF&G cabin and reviewed HSE plans and conducted a tailgate safety session. Field staff traveled to the end of the road (~6 kilometers) on the Alternative B transmission corridor via bicycle and worked their way back towards Thomas Bay conducting Quick-cruise surveys at preselected grid points in productive old-growth forest stands within 500 feet of the transmission corridor.

The following day, on September 11, 2010, staff conducted a tailgate safety session, bicycled to the stopping point from September 10, 2010 and located the remaining grid points conducting Quick-cruise surveys at each point. Staff completed, in total, 27 surveys during the 2-day field stint. Data will be averaged by stand to determine relative quality of stands for wintering deer.

Staff took photographs of the habitat at all survey stations, assessed the quality of habitat for wintering deer, and documented additional wildlife encountered.

Additional wildlife documented include: solitary sandpiper, belted kingfisher, red-breasted sapsucker, barred owl, northern saw-whet owl, hairy woodpecker, red crossbill, red-breasted nuthatch, chestnut-backed chickadee, boreal toad, as well as moose, deer and bear scat.

## Sarah Woehler Michaud

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**From:** Fleming, Douglas F (DFG) [doug.fleming@alaska.gov]  
**Sent:** Wednesday, September 15, 2010 1:37 PM  
**To:** Allison Murray  
**Subject:** Followup after Rec Plan teleconference

Allison,

I am following up after requesting your help at the conclusion of the teleconference last Friday. Have you, or are you putting together information to explain potential changes in the process towards applying for licensing, etc, as you had learned of while meeting with FERC. At that time you thought you would have something to us mid-week, so that other agency staff could have a clear understanding on what's occurring at present and in the near future. I did receive information from John G, but that doesn't go into the detail you did on the telephone.

Thanks for your help-

Doug Fleming  
Division of Sport Fish  
Petersburg/Wrangell Area  
907-772-5231

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**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Friday, September 10, 2010 8:09 AM  
**To:** Brad L Hunter; Fleming, Douglas F (DFG)  
**Cc:** Johnson, Shawn L (DFG)  
**Subject:** Recreation Discussion

Good Morning Alaska!

Thanks again for agreeing to spend a few minutes talking about the recreation study plan. Hoping that 9:00 am still works for you, I've set up a conference line.

603.610.7000  
Conference ID - 8607675069

Doug, thanks for the heads up to contact Shawn. I have (belatedly) advised him of our call and am ccing him here. If you can't make it Shawn, I'd be happy to bring you up to speed at another time.

Regards,  
Allison

Allison Murray  
Senior Regulatory Coordinator

***Kleinschmidt***  
*Energy & Water Resource Consultants*

366 South Broadway, Suite 200  
P.O. Box 1709  
Estacada, OR 97023

503.345.7958 (ph)  
503.345.7959 (fax)  
207.249.9048 (cell)

## Sarah Woehler Michaud

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**From:** Allison Murray  
**Sent:** Wednesday, September 15, 2010 3:25 PM  
**To:** Fleming, Douglas F (DFG)  
**Cc:** Johnson, Shawn L (DFG); John Gangemi; Chris Spens  
**Subject:** RE: Draft Meeting Summary

Thanks Doug.

John and I are planning to talk today, but he's out in the field so he probably won't see this. I'll alert him of your comment. We'll get back to you as soon as possible.

Regards,  
Allison

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**From:** Fleming, Douglas F (DFG) [mailto:doug.fleming@alaska.gov]  
**Sent:** Wednesday, September 15, 2010 12:11 PM  
**To:** Allison Murray  
**Cc:** Johnson, Shawn L (DFG); John Gangemi  
**Subject:** RE: Draft Meeting Summary

Allison,

I am sorry that its taken until now to get into these notes, but I feel there was one significant omission. It deals with the discussion with John G regarding seasonal fish presence-absence sampling in lower Cascade Creek. Prior to the meeting in Petersburg (See my comment #DFF10 to the 7/16 draft aquatic studies plan that was sent on 7/29 to Chris Spens and John Gangemi) and again during the meeting I pointed out that opportunistic surveys during August and September would not characterize seasonal fisheries inventory or the fish periodicity chart across the year- i.e. this is too narrow a time window. This work would need to be accomplished throughout the year. There was discussion from both sides on this, however we held that documenting seasonal use would be needed in Lower Cascade Creek, and yes working in the area outside of summer isn't always easy. Like the radio telemetry project I think this was identified as needing some additional post-meeting work. I cannot say that anything has yet happened and it should probably be dealt with soon-

Again, sorry I could not get to go through this sooner.

Doug Fleming  
Division of Sport Fish  
Petersburg/Wrangell Area  
907-772-5231

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**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Friday, August 20, 2010 1:35 PM  
**To:** Fleming, Douglas F (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bohan, Carrie D (DNR); Schwarz, Terence C (DNR); susan.walker@noaa.gov; bstanley@fs.fed.us; csavage@fs.fed.us; gesposito@fs.fed.us; Islaght@fs.fed.us; rbeers@fs.fed.us; mark.ivy@ferc.gov; Eaton, Katie A (DFG); Deats, Theodore A (DNR); Bussard, Daniel P (DNR); Bishop, Gretchen H (DFG); jethompson02@fs.fed.us; hlombard@fs.fed.us; blhunter@fs.fed.us; jimsteward@fs.fed.us; cparsley@fs.fed.us; Anderson, James W (DNR); David Turner  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Stephen Ralph; 'Weber Greiser'  
**Subject:** Draft Meeting Summary

Greetings All and Happy Friday!

First off, on behalf of Chris and the rest of the CCLLC team I wanted to extend our wholehearted thanks for your participation in the meeting on August 12. It was extremely helpful to have a face to face dialog with you. We all appreciated your time and feedback.

During the meeting we covered a lot of ground, facilitated getting our studies finalized and, in some instances, our people out in the field. Oasis staff has been in the bush since then doing aquatic resource work. We have received some additional comments on the other study plans and are looking forward to receiving any other comments you have as soon as possible, particularly on the recreation and wildlife study plans. Our intent is to initiate all studies before the end of August.

Attached is a draft meeting summary. Considering the amount of information we covered, it was necessary to summarize the 20 some pages of notes we took. My intent was to capture the essence of our conversation with the expectations that your written/emailed comments on the study plans would serve to cover details. If you find I've left out something that changes the summary, please let me know.

As there were some folks at the meeting with whom we have not previously spoken, I had to do a little digging to get email addresses. If you notice I've missed anyone or am using an incorrect address, I would appreciate it if you could forward this to them or give me a heads up so I can resend.

Again, thanks for your time. I look forward to seeing you again.

Regards,  
Allison

Allison Murray  
Senior Regulatory Coordinator

***Kleinschmidt***  
*Energy & Water Resource Consultants*

366 South Broadway, Suite 200  
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207.249.9048 (*cell*)

September 17, 2010

Mike Jackson  
Kake, Alaska

(Sent by email)

Dear Mike,

Cascade Creek LLC. has contracted with Historical Research Associates to conduct a cultural resource inventory of the area of potential effects (APE) associated with the Cascade Creek Hydroelectric Project (FERC No. 12495-002) and to research and document traditional Tlingit use of the APE. This letter is following up on correspondence you may have received from the Federal Energy Regulatory Commission (FERC) in 2007 and scoping meetings held last year. As you may be aware, the area involved begins at Swan Lake (above Thomas Bay), extends down Cascade Creek and along a portion of the shore of Thomas Bay, will cross Thomas Bay and the Point Agassiz Peninsula, cross under Frederick Sound, and connect with the Scow Bay Substation south of Petersburg.

To date I have reviewed information regarding Tlingit settlements and use areas in the 1998 republication of *Haa Aani, Our Land: Tlingit and Haida Land Rights and Use* by Walter Goldschmidt and Theodore Haas, based on interviews with elders in 1946. The work of Goldschmidt and Haas indicates that this project lies within the traditional use area of the Taal weidí clan of the Wrangell (Stikine) people and may have been used in late prehistoric and early historic times by one or more clans of the Kake people. Therefore, I would like to consult with knowledgeable people you might recommend to determine if any part of the Cascade Creek Hydroelectric Project is an area of cultural sensitivity that has the potential to be adversely affected by project related construction. I understand that information regarding cultural sites may be confidential and will be treated in appropriate ways. I plan to conduct research at the Forest Service offices in Petersburg the week of September 20th and could meet with others at that time.

Thank you for your consideration, and if you have any questions or comments please contact me at (406) 721-1958 or by email ([wgreiser@hrassoc.com](mailto:wgreiser@hrassoc.com)).

Sincerely,

T. Weber Greiser  
SENIOR ASSOCIATE ARCHAEOLOGIST

cc.  
Allison Murray, Kleinschmidt USA

## Sarah Woehler Michaud

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**From:** Vincent-Lang, Douglas S (DFG) [douglas.vincent-lang@alaska.gov]  
**Sent:** Monday, September 20, 2010 2:17 PM  
**To:** Ashley Leen  
**Subject:** RE: Alaska's Endangered Species Act  
**Attachments:** state statute.doc

Ashley,

I have attached the state statute. It is significantly different from the federal ESA. We only have an endangered category. There is no threatened category. We also do not have a allowance for distinct population segments, thus only species can be considered when making a determination. In short, for a species to be considered as an endangered species in Alaska its numbers must have decreased to such an extent as to indicate that its continued existence is threatened. This is a pretty high threshold for listing in that a decline has been observed and that a species' continued existence (viability) must be demonstrated.

If you have any further questions please feel free to email or call.

### **Doug Vincent-Lang**

Special Assistant/ESA Coordinator  
Alaska Department of Fish and Game  
(907) 267-2339 or (907) 242-4006  
[douglas.vincent-lang@alaska.gov](mailto:douglas.vincent-lang@alaska.gov)

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**From:** Ashley Leen [mailto:Ashley.Leen@KleinschmidtUSA.com]  
**Sent:** Monday, September 20, 2010 9:58 AM  
**To:** Vincent-Lang, Douglas S (DFG)  
**Subject:** Alaska's Endangered Species Act

Douglas,

Good afternoon, could you please direct me to where I can find Alaska's Endangered Species Act online? Specifically, I am looking for the state definitions of a threatened and endangered species. The definition of Alaska's Species of Special Concern is available here: [http://www.adfg.state.ak.us/special/esa/species\\_concern.php](http://www.adfg.state.ak.us/special/esa/species_concern.php), although I couldn't find the other definitions listed anywhere on this Endangered Species site.

Thanks,

Ashley Leen  
Biologist  
**Kleinschmidt**  
*Energy and Water Resource Consultants*  
141 Main St.  
Pittsfield, ME 04967  
207-487-3328 Ext. 231  
[www.kleinschmidtusa.com](http://www.kleinschmidtusa.com)

## Article 03. ENDANGERED SPECIES

### Sec. 16.20.180. Declaration of purpose.

The legislature recognizes that, due to growth and development, certain species or subspecies of fish and wildlife are now and may in the future be threatened with extinction. The purpose of [AS 16.20.180](#) - 16.20.210 is to establish a program for their continued conservation, protection, restoration, and propagation.

### Sec. 16.20.185. Protection of habitat.

On land under their respective jurisdictions, the commissioner of fish and game and the commissioner of natural resources shall take measures to preserve the natural habitat of species or subspecies of fish and wildlife that are recognized as threatened with extinction.

### Sec. 16.20.190. Determining endangered species.

(a) A species or subspecies of fish or wildlife is considered endangered when the commissioner of fish and game determines that its numbers have decreased to such an extent as to indicate that its continued existence is threatened. In making this determination the commissioner of fish and game shall consider

- (1) the destruction, drastic modification, or severe curtailment of its habitat;
- (2) its overutilization for commercial or sporting purposes;
- (3) the effect on it of disease or predation;
- (4) other natural or man-made factors affecting its continued existence.

(b) After making a determination under (a) of this section, the commissioner of fish and game shall, in accordance with AS 44.62 (Administrative Procedure Act), publish a list of the species or subspecies of fish and wildlife that are endangered. The commissioner shall, at least once every two years thereafter, conduct a thorough review of the list to determine what changes have occurred concerning the species or subspecies listed. Consideration of existing species or subspecies of fish and wildlife for listing under this section shall be made on a continuing basis. The review of listed species or subspecies conducted under this section shall be submitted in writing to the governor and the legislature and shall be made available to the public.

(c) In making the determination and review under (a) and (b) of this section, the commissioner of fish and game shall seek the advice and recommendation of interested persons and organizations, including but not limited to ornithologists, ichthyologists, ecologists, and zoologists.



Sec. 16.20.195. Permit for taking endangered species.

A species or subspecies of fish or wildlife listed as endangered under [AS 16.20.190](#)(b) may not be harvested, captured, or propagated except under the terms of a special permit issued by the commissioner of fish and game for scientific or educational purposes, or for propagation in captivity for the purpose of preservation.

Sec. 16.20.200. Penalty.

A person who, without a permit issued under [AS 16.20.195](#), harvests, injures, imports, exports, or captures a species or subspecies of fish or wildlife listed under [AS 16.20.190](#), is guilty of a misdemeanor.

Sec. 16.20.210. Birds included.

In [AS 16.20.180](#) - 16.20.210 "fish or wildlife" includes birds.

*Sec. 16.20.220. [Renumbered as [AS 16.20.500](#)].*

Repealed or Renumbered

*Sec. 16.20.230. [Renumbered (a)(1) as [AS 16.20.550](#), (a)(2) as [AS 16.20.555](#), (a)(3) as [AS 16.20.560](#), (a)(4) as [AS 16.20.565](#), (a)(5) as [AS 16.20.570](#), (a)(6) as [AS 16.20.575](#), (a)(7) as [AS 16.20.580](#), (a)(8) as [AS 16.20.585](#), (a)(9) as [AS 16.20.590](#), (a)(10) as [AS 16.20.595](#), (a)(11) as [AS 16.20.600](#), (a)(12), (b), (c), and (d) as [AS 16.20.605](#)].*

Repealed or Renumbered

*Sec. 16.20.240. - 16.20.260. [Renumbered as [AS 16.20.510](#) - 16.20.530].*

Repealed or Renumbered

*Sec. 16.20.270. [Renumbered as [AS 16.20.690](#)].*

Repealed or Renumbered

## Field Trip Report

**Field Study Focus:** Initial small mammal trapping event

**Field Date:** September 16 through September 20, 2010

**OASIS Staff:** Marlene Wagner and Carissa Schudel

### Field Objectives:

1. **Set up small mammal trapping transects on the transmission corridor (3) and powerhouse site (1).**
2. **Document presence of small mammal species captured in traps.**
3. **Perform incidental observations for wildlife studies (tracks, scat, bird calls etc)**

**Summary:** Field staff traveled to the study site on September 16, 2010 at 1100 hrs via rental boat. The dock at Thomas Bay was completely occupied by recreational boats and fishing vessels. This week was the first week of moose-hunting, and the area was being utilized extensively by hunters.

Field staff disembarked and travelled via bicycle to the farthest randomly generated point and installed the first of three transects along the transmission corridor. Each of 10 traps was flagged, set and baited with a combination of rolled oats, sunflower seeds, and peanut butter. Staff traveled to a second transect and repeated the process.

Upon completion of 2 transect installations along the transmission corridor, staff traveled to the USFS Cascade Creek Cabin, anchored, and attempted to install a transect at the powerhouse site, but it had grown too dark to work efficiently. Staff returned to the Cascade Creek Cabin for the night.

The following morning, on September 17, 2010, staff completed installation of a transect in the vicinity of the powerhouse site and moved from the Cascade Creek Cabin back to the dock on the road system adjacent to the transmission corridor. The fourth and final transect was installed here.

Staff then traveled via bicycle to the traps installed the previous day, and checked them for captured mammals. Afterwards, staff traveled by boat and bicycle to perform an afternoon check on all four transects located along the transmission corridor and the powerhouse site. Staff moved into the ADF&G Cabin located uphill from the dock and resided at this location for the duration of the field trip.

The process of conducting a morning and afternoon check of transect trap lines was repeated on September 18, 2010 at both the powerhouse site and along the transmission corridor. A northern pygmy-owl was heard near the transmission corridor in the afternoon.

All traps were rechecked the morning of September 19, 2010, and transects set on September 16 were removed and all flagging was taken down. Again, afternoon checks of traps occurred for transects set on September 17. On September 20, field staff checked and removed transects set on September 17. Consequently, all traps were deployed for 3 nights and visited twice daily.

In summary, staff captured 4 species in total; including 16 *Myodes rutilus*, 3 *Peromyscus keeni*, 3 *Sorex cinerus*, and 1 *Tamiasciurus hudsonicus*. Several individuals were captured on more than one occasion. The majority of individuals captured were photographed and will be archived on the OASIS server.

Staff returned to Petersburg via boat at approximately 1100 hours on September 20, 2010.

## Sarah Woehler Michaud

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**From:** Fleming, Douglas F (DFG) [doug.fleming@alaska.gov]  
**Sent:** Wednesday, September 22, 2010 3:27 PM  
**To:** Allison Murray  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) Licensing Process Update

Hi,

On behalf of other DFG staff I am wondering if you can specify more about the meeting you plan to hold in Petersburg Sept 28. There are DFG staff other than me that may, or will be involved in-person and telephonically and as a general courtesy it would be good to know in advance.

Thanks for your help,

Doug Fleming  
Division of Sport Fish  
Petersburg/Wrangell Area  
907-772-5231

---

**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Friday, September 17, 2010 4:10 PM  
**To:** susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud  
**Subject:** Cascade Creek Project (FERC No. 12495) Licensing Process Update

Good Afternoon,

The purpose of this email is to provide a licensing process update for the Cascade Creek Project (FERC P-12495-002) to facilitate your understanding and participation. We also provide this information in preparation for our meeting with you in Petersburg on 9/28/10.

We held our last joint meeting in Petersburg on 8/12/ 10 to present and review project updates, revisions, draft study plans and proposed critical path timelines.

Subsequent to the Petersburg meeting, project representatives Chris Spens and Allison Murray travelled to Washington D.C. and met with Federal Energy Regulatory Commission (FERC) staff on 8/24/10 to review the project. FERC staff present included Jennifer Hill, Branch Chief, David Turner, Project Lead, legal, engineering, fisheries and recreation staff.

The objectives of the FERC meeting were:

- update FERC regarding the Project's current configuration,
- update staff on Cascade Creek LLC's (CCLLC) ongoing consultation with stakeholders,

- highlight the study efforts currently underway,
- discuss CCLLC's proposed licensing schedule,
- solicit expectations regarding exact information necessary for FERC's acceptance and evaluation of the Project's license application and environmental analysis,
- identify a clear path and strategies to meet FERC expectations and the license application filing deadline.

FERC staff provided very clear direction with regard to the content of the license application. Indicating *all of the information necessary to assess the project impacts and benefits will need to be completed and presented at the time of license application. Any work that may occur thereafter should be minimal, or of a non-essential nature, for cooperative agreement or simply verification of what is already known or anticipated.*

In our discussion with FERC we stressed the level of collaborative input that you have committed to the Project and CCLLC's desire to maintain this positive, professional relationship throughout the licensing process. We detailed several examples of requested studies that may extend into 2011 and subsequently would not be responsive to FERC's directive. FERC indicated that the onus is on CCLLC to determine the potential for a direct project effect (i.e. nexus) when making any decisions regarding inclusion or exclusion of studies or data in the license application.

FERC stated that mutual agreement is always preferable, and that is a goal of the Alternative Licensing Process (ALP), but agreement is not required for a licensee to submit a "complete" application. In short, they advised that in the event that there is disagreement on study methodology, content/topic, or timing, an applicant needs to present their final proposal in the license application with appropriate substantiation. During the license review process, agencies have the opportunity to rebut the applicant's position with relevant substantiation. FERC then reviews any opposing opinions and ultimately decides what level of information is adequate.

While CCLLC expected that FERC would require significant and relevant information in the license application and preliminary draft environmental assessment (PDEA) to assess project impacts, our experience has been that they have afforded broader opportunity for applicants to provide post-filing data and information in other proceedings. FERC's position on the Cascade Creek Project licensing requires us to restructure the licensing strategy that we previously detailed to you. It in no way weakens our commitment to carrying out previously proposed study efforts or the distribution of study results; however, it will affect the timing and prioritization of these efforts.

After considerable review, analysis and discussion with our research associates, CCLLC's position is that we will sort all requested studies, investigations and potential collaborative agreements into two distinct categories.

The first will include *all of the information necessary for FERC to assess the project impacts and benefits*. Essentially those resource issues we have clearly determined have a direct project nexus.

The second category will include all other requested studies to which CCLLC has agreed. Our joint collaborative efforts indicate that the information obtained from these studies will aid in the understanding of the overall functioning and management needs of the specific natural resource or geographic area; however, we conclude they are not essential to determine project effects and benefits.

The determination of what study elements will be included in the Preliminary Draft Environmental Assessment (PDEA) and Draft License Application (DLA) reflects the project design and intended operation that has evolved throughout the licensing process. The final approach will be described in the Scoping Document 2 (SD2) and associated revised study plans which we will distribute next week.

Studies, research and collaborative efforts that CCLLC has agreed to that do not fit the above criteria will be memorialized and carried out as a Memorandum of Agreement (MOA), performance contract, escrow agreement or other suitable binding instrument. These instruments are collectively referred to as “side agreements”. They are not included in the body of the license application, but may be referenced. FERC has advised us that they do not include side agreements in their license review and processing; however, we may include these agreements as an appendix to the application.

There is also an opportunity for inclusion of proposed license articles that address particular study objectives or pre-empt the need for study by imposing protection, mitigation or enhancement measures as part of the final license application. This could include license application language requiring development of post-licensing management plans (*e.g.* Historic Properties Management Programs, Recreation Monitoring Programs) or the implementation of habitat management efforts such as fish stocking or aquatic habitat enhancement measures.

We intend to present an overview of the changes to the 2010 study scope and to identify your preferred mechanism with which we can codify our intent to complete post-licensing studies during our upcoming meeting in Petersburg on 9/28/10. This is an extremely important discussion which will have a direct effect on the Project’s success. We ask that you advise other relevant staff in your respective agencies and, where possible solicit their attendance.

We have been very fortunate throughout this process to have your attention, careful study and comments. We especially appreciate your patience and professionalism throughout the project revisions and study examination process. We look forward to your presence if available for our meeting in Petersburg and your continued guidance. Please let me know if you wish to participate by phone and I will set up a conference line similar to what we used during our 8/12 meeting.

If you have any questions or comments, please feel free to contact me.

Regards,  
Allison

Allison Murray

Senior Regulatory Coordinator

***Kleinschmidt***

*Energy & Water Resource Consultants*

366 South Broadway, Suite 200

P.O. Box 1709

Estacada, OR 97023

503.345.7958 (*ph*)

503.345.7959 (*fax*)

207.249.9048 (*cell*)

## Sarah Woehler Michaud

---

**From:** Fleming, Douglas F (DFG) [doug.fleming@alaska.gov]  
**Sent:** Thursday, September 23, 2010 3:57 PM  
**To:** Allison Murray  
**Cc:** Miller, Monte D (DFG)  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) Licensing Process Update

Allison,

Could you add Monte Miller, our new Statewide Hydro Coordinator, onto all your email contacts-

Thanks,

Doug Fleming  
Division of Sport Fish  
Petersburg/Wrangell Area  
907-772-5231

---

**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Thursday, September 23, 2010 11:16 AM  
**To:** Allison Murray; susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Charles Parsley; Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) Licensing Process Update

Folks. To confirm, we are planning to meet from 9:00 am - noon (AK time) in the USFS offices in Petersburg, Tuesday September 28.

As before we have a conference line for those of you who wish to call in.

That number is 603.610.7000  
Conference ID: 2074873328

Thanks much to the USFS for hosting us again and for your continued interest and participation.

Regards,  
Allison

If you have any questions or comments, please feel free to contact me.

Regards,  
Allison

Allison Murray  
Senior Regulatory Coordinator



**CCLLC Draft Meeting Summary** as attached to the above e-mail from Allison Murray of Kleinschmidt

Cascade Creek Hydroelectric Project (FERC No. 12495)  
Cascade Creek LLC

DRAFT MEETING SUMMARY

Follow-up Agency meeting  
USFS Ranger District Offices  
Petersburg, Alaska

Tuesday, September 28, 2010  
9 a.m. – 12 noon

*Attendees*

Casey Duncan – USFS  
Mary Clemens – USFS  
Rich Lowell – ADFG-Wildlife  
Doug Fleming – ADFG – Sport Fish  
Chuck Parsley – USFS - Petersburg  
Barbara Stanley – USFS - Juneau  
Shelly Adams - Oasis  
Shawn Johnson - ADFG  
Allison Murray - Kleinschmidt  
Gina Esposito - USFS  
Weber Greiser – Historical Research Associates  
John Gangemi - Oasis  
Katie Eaton – ADFG-Habitat  
Russ Beers – USFS - Petersburg  
Chris Savage – USFS - Petersburg  
Heath Whitacre – USFS- Petersburg  
Monte Miller – ADFG – Hydropower Coordinator  
Chris Spens - Cascade Creek LLC

*MEETING PURPOSE AND AGENDA*

The goals of the meeting were to go over Project design renderings, update agency participants on the FERC meeting in DC, and begin a discussion of the implications of the FERC meeting and how to move forward with a modified timeline, including the possibility of a Memorandum of Agreement (MOA). Additional meeting goals included updates on studies and the Scoping Document 2.

## *PROJECT DESIGN REVIEW*

Chris Spens of CCLLC provided printed versions of design renderings for the site plan and access plan to aid in the determination of Project effects and aesthetics. The water view rendering of the powerhouse showed that the powerhouse will be screened by trees and located near the hill-slope for noise attenuation and aesthetic values. CCLLC noted that their intention is that the Project will not be physically apparent or visible, except for the dock and stream like tailrace, and that the site footprint will be limited.

The transmission line route discussion highlighted the fact that the majority of the proposed route occurs within previously/currently developed corridors. At present, CCLLC does not propose using the local poles, rather installing new poles within the transmission right of way. CCLLC will develop power purchase and line interconnection agreements post licensing. FERC does not require a power purchase agreement to process the license application. Should CCLLC find it needs to develop a new substation (which it does not anticipate at this time) FERC would require a license amendment application prior to construction. Currently CCLLC bases its project economics on the southeast connection and regional electric system. Should the AK/BC interconnect come to fruition, CCLLC would seek an interconnection with Canada and the lower 48.

## *WATER RESOURCES DISCUSSION*

CCLLC provided an overview of their water resources analyses to date. They noted that both flow data and visual data (photographs) are being collected and pulled together in report form. It was explained that the lowest summer flow was observed on Sept 21, 120 cfs. It was further noted that this was a lower snowpack year, and a drier summer. Discharge graphing of Cascade Creek shows that during 5 months of the year there is very low contribution from Swan Lake. At this point in time, data currently collected is consistent with USGS historical data. The lake stage fluctuation is at about 4.5 ft in this year.

During site surveys and field work, staff noted that portions of Cascade Creek were dry. Photo documentation depicts that Cascade Creek is essentially dry from about 300 feet from outlet to just above the pond. However, up to that point, Falls Lake held steady with about 60 cfs contribution; Falls Lake levels have been observed to decrease with about 20 cfs of contribution. Oasis explained that their GPS studies of Falls Lake show that it is a dynamic system, with significant increases and decreases in stage even with no contribution from Swan Lake.

## *FERC VISIT*

Allison Murray and Chris Spens met with FERC in August to provide an update of the Project. FERC indicated that CCLLC must include appropriate baseline information within the Environmental Analysis for FERC to determine environmental effects at the time of application filing. FERC will not accept additional information filings requiring 2011 studies in its determination of application completeness. CCLLC expressed that they wholly intend to carry out the studies agreed to with the agencies; however they hoped to come to agreement regarding those studies that could be preformed this season, and are necessary to analyze direct project effects in the PDEA, and those studies that could be agreed to under a Memorandum of Agreement (MOA) or other document codifying CCLLC's intent to undertake additional studies that inform broader agency management goals next season. In order to provide a level of

assurance, CCLLC and KA also suggested the possibility of drafting license articles that specify studies and phases that must be completed prior to construction and inclusion of protection, mitigation, and enhancement (PME) measures that proactively anticipate addressing concerns that agencies have previously expressed. The group discussed the fact that while CCLLC seeks collaborative agreement, if these agreements cannot be developed, FERC will be the final arbiter of unresolved issues or disagreements regarding project effects, nexus, and the appropriate level of baseline data.

CCLLC will continue to work on studies, and will have enough data for lake level fluctuation, and an examination of presence, distribution, and key habitat areas for rainbow trout populations in order to determine project operational effects on the bypass reach. ADFG and ADNR expressed concern that all studies they had previously requested were directly related to project effects and off license agreements were not a preferred method of addressing their issues. ADFG stated that they want to be sure they can look at data collected to date before they make a decision about license conditions or other agreements. Allison Murray explained that it takes time for FERC to evaluate the environmental analysis, so the request for mandatory prescriptions (4e) is likely a year or more out. It was also noted that USFWS was agreeable to the format of using a MOA to complete second year studies. Allison Murray noted their hope to utilize this method with all agencies and develop a multi-party MOA. USFS requested CCLLC develop a draft MOA including studies that it intends to undertake “off license”.

## *UPDATES ON STUDIES*

### *Recreation*

Allison Murray explained that the modified proposed study plan would remove 2011 aerial counts as part of the overall recreation studies but that CCLLC intends to include this aspect of survey as part of its “off license study agreements with agencies. Instead, efforts to provide appropriate baseline data for the PDEA will focus on surveying commercial outfitters and private recreationists. Furthermore, the desktop research will expand to encompass other activities in the region, with the overall goal of providing a regional perspective. The surveys CCLLC is distributing will include photorenderings of project facilities to garner responses and opinions of users to determine potential project effects to recreational uses and aesthetic values. CCLLC expects results to be ready by the time the FLA is filed.

### *Cultural*

Weber Greiser, from Historical Research Associates (HRA), provided the group with an update on Cultural Resources. Wrangell residents have traditionally used the Thomas Bay area, but HRA is trying to uncover additional information. Per USFS recommendations, a broader area was surveyed. Thus far, the only historic structure obvious from the walking reconnaissance is the old Agassi School structure from the 1920s – this is likely within the broader Area of Potential Effect, but outside the transmission line gap. Several sites have already been recorded in this area from previous investigations, so there is interest to see if other sites will show up. Additional field work will be completed late spring early summer 2011. CCLLC anticipates including a draft license article in the license application requiring the preparation of a Historic Properties Management Plan encompassing these efforts as well as ongoing evaluation of potential construction effects to sensitive cultural sites. Pursuant to USFS and SHPO

feedback, aspects of additional cultural resource work could also be included as part of an inter-agency MOA or as a standalone MOA in accordance with Section 106 of the Federal Historic Preservation Act.

Tribal consultation is not complete. Letters have been sent out, but so far, no responses have been received. After discussion, an agreement was reached that a Phase 1 investigation will provide enough information for analysis, with Phase 2 being complete before doing any site disturbance. It's expected that FERC will require a Cultural Resources Management Plan that would offer specifics and PME measures. Following a concern about potential public disturbance, CCLLC confirmed that reports will be CEII and not public record.

### *Habitat Assessment*

Shelly Adams from Oasis provided an update of the habitat assessment. Oasis was able to conduct the Sitka winter range assessment along the transmission line and powerhouse sites, and recently completed small mammal trapping. Results of the trapping included shrews, voles, field mice, and red squirrels. No fox were found in the area. Oasis is in the process of completing desktop amphibian studies, which will include a literature review and habitat assessment maps, and an intense look at what could occur in the area linked to hydrologic data. Shelly Adams explained that an updated draft wildlife study plan has been drafted. Currently, the new wildlife study plan includes black-tailed deer, small mammals, fox, and amphibians. Shelly also noted that several of the studies have already been removed from the previous study plan and will be included in an MOA pursuant to the direction of USFWS. Owls and migratory songbird surveys were removed after discussions with USFWS regarding CCLLC's proposal to use existing transmission corridors.

CCLLC will continue to support the ADFG through funding for wolverine and mountain goat surveys.

### *Water Quality and Fishery Studies*

John Gangemi, from Oasis, gave the group an update on the fishery study. He reviewed study events that have already occurred, including mark and recapture, fin clips, trapping, and tagging. Successful sampling occurred in Cascade Creek between Swan and Falls Lake.

He further explained that water quality data has been recorded and mapping/geomorphology work has occurred. Bathymetric mapping was also done at Swan Lake inlet to get an idea of substrate and topography. John Gangemi continued to note that macroinvertebrate sampling was performed in Cascade Creek, Falls Lake, and Lower Cascade Creek. Oasis plans to do spring monitoring and fish telemetry work next year. Agencies requested that any video data of the survey work be provided on CD.

ADFG posed questions regarding trapping and tagging methods. John Gangemi assured the group that proper measures were being taken and that backlights will be used when elastomer tags are to be re-identified. A total of 8 fish were clipped in the first sampling effort (4 in the pond and 4 in Falls Lake). Oasis noted their plans to perform sampling again in November. Chris Savage and Doug Fleming agreed that sampling every two months through January would be acceptable. There was some disagreement between ADFG and CCLLC regarding a project nexus of rainbow trout issues, which had to potential to be left up to FERC to determine.

## *PROJECT OPERATIONS*

The group continued discussion on an MOA. As a result, the group conferred over the Project in more detail and concerns were raised about the project's run-of-river designation. ADFG noted that they believe that a true run-of-river would not necessitate a 40ft-deep penstock and that it seems to leave the project open for future operational changes. CCLLC noted that penstock depth is influenced by the possible need for winter storage. While the depth of the penstock could allow for future project operation modification, there currently is no plan to propose anything different than the proposed operation within normal lake level fluctuations. Any future changes in operation would require a license amendment, which would open the process back up for agency comment.

## *CLOSING*

In closing, CCLLC indicated that draft field reports will be included in the PDEA for agency review. CCLLC further explained that comments on the PDEA will be addressed by mid-January for final submittal of the Final License Application before the end of January. Though CCLLC has been trying to schedule a public community meeting, there hasn't been any interest indicated. However, the public has a chance to comment during draft EIS and the PDEA review will be announced to the public, as well. Chris Spens also noted that a November review meeting may be appropriate.

CCLLC will also distribute the SD2 and will include study plans that reflect the studies that will be performed in 2011. An outline of the formal MOA will follow and will include items no longer in the 2010 study plans.

The group closed discussions and adjourned.

**From:** [Carrie Hall](#)  
**To:** [Carrie Hall](#)  
**Subject:** FW: Cascade Creek Project (FERC No. 12495) 9/28 Draft Meeting Summary  
**Date:** Monday, December 13, 2010 4:40:16 PM

---

**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Wednesday, October 13, 2010 2:45 PM  
**To:** susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; 'Islaght@fs.fed.us'; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'; Charles Parsley; Miller, Monte D (DFG); Klein, Joseph P (DFG)  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) 9/28 Draft Meeting Summary

Folks,

Attached is our draft meeting summary for your files/review/comment.

We are also working to get you the SD2. CCLLC's efforts to provide the most up to date design drawings pushed us back a little longer than we had expected. Given the size of some of the attachments/renderings we're going to distribute it on disks. Look for it in your mailboxes next week.

We expect to have a draft MOA outline for your review by the end of October.

Please feel free to contact me with any questions or comments.

Regards,  
Allison

Allison Murray  
Senior Regulatory Coordinator

***Kleinschmidt***  
*Energy & Water Resource Consultants*

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**WILDLIFE PROGRESS REPORT**  
**CASCADE CREEK HYDROELECTRIC PROJECT**  
**(FERC No. 12495-002)**

**October 19, 2010**

**Introduction**

The purpose of this progress report is to summarize wildlife studies and related wildlife activities associated with the Cascade Creek hydroelectric Project (FERC No. 12495-002, "Project") in order to provide periodic updates to agencies and other stakeholders.

In February 2008 Cascade Creek Limited Liability Corporation (CCLLC) received a Preliminary Permit (Permit) from the Federal Energy Regulatory Commission (FERC) for the Project. The proposed Project would be located approximately 15 miles northeast of Petersburg, Alaska, and may involve effects to resources associated with Swan Lake, Falls Lake, Cascade Creek, Thomas Bay, and Frederick Sound.

During Initial Consultation and Scoping, Project Stakeholders including Alaska State and Federal resource agencies indicated concern for Project effects on wildlife resources within the project area and close proximity. A Wildlife Study Plan was created in response to concerns and study requests made during the Scoping Process.

The Wildlife Study Plan was designed to address baseline and impact-evaluation data needs which will allow CCLLC and Stakeholders to evaluate Project-related impacts. Objectives of the 2010 wildlife studies were to provide information suitable to: 1) establish baseline wildlife resources data in areas potentially affected by the Project; and; 2) evaluate the effects of Project construction and operation of the Project in those areas. Field surveys were conducted in various areas to determine distribution, relative abundance and life history of wildlife species of concern.

CCLLC finalized an agreement with OASIS Environmental, Inc. (OASIS) in July 2010 and utilized the services of OASIS to develop the Wildlife Study Plan and conduct related field and reporting activities. In addition, OASIS staff served as a liaison for CCLLC for wildlife related tasks and associated reporting.

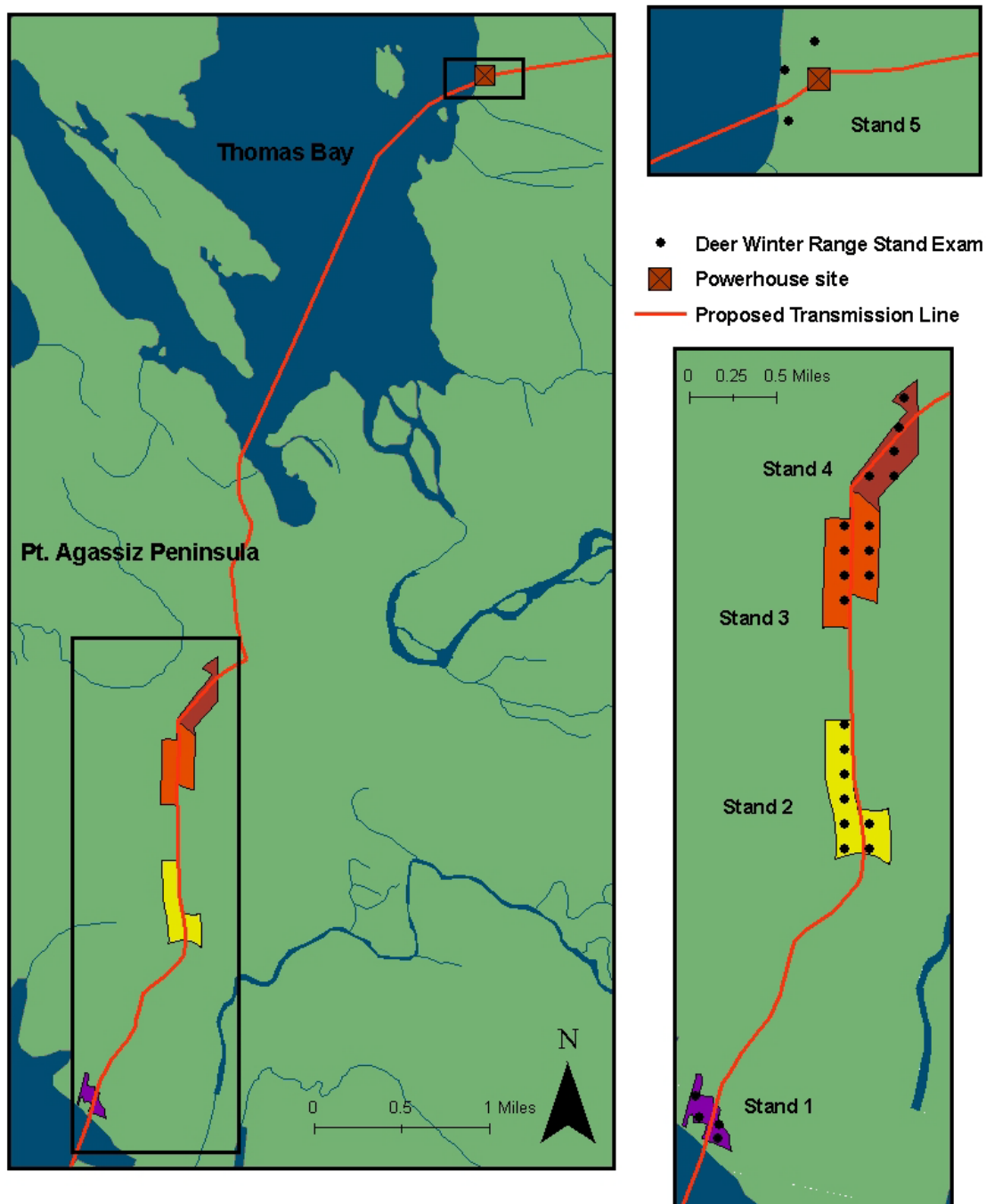
## **Sitka Black-tailed Deer Survey**

Suitable winter range habitat was evaluated using methodology developed by Kirchhoff and Hanley specifically for deer in Southeast Alaska known as the “Quick-Cruise Method”. The Quick-Cruise Method allows biologists to quantify variables affecting habitat quality such as forage composition and quality, topography, and snow cover. Quality of habitat is quantified using a simple scoring method that assigns highest value to the most suitable winter range habitat for deer.

Studies suggest that harvested areas do not provide high-quality winter forage for deer. A stratified approach, therefore, was used to identify and survey all productive old-growth (POG) stands within 500 feet of the proposed overland transmission line on Point Agassiz Peninsula. POG stands were gleaned from the Size-density Model Geographical Information System (GIS) layer developed for the Tongass National Forest. The Size-density Model uses the quadratic mean diameter of trees and average tree density to define POG into 7 stand structures. All POG stands within the 500 foot criteria were overlaid with a grid of sampling points spaced 450 feet apart utilizing GIS. Additionally, three sampling points were randomly placed in the vicinity of the powerhouse site. All completed sampling points were averaged by stand to provide a baseline of overall quality of winter range habitat.

Sitka black-tailed deer winter range surveys using the Quick Cruise Method were conducted in September of 2010. Twenty-seven Deer Winter Range Stand Exams were completed in 5 stands; 4 of which contained POG and 1 located at the Powerhouse Site (Figure 1). Winter Scores ranged from 64.3% to 78.7% (Table 1).





**Figure 1.** Locations of forest stands and Deer Winter Habitat Stand Exam survey locations on the Point Agassiz Peninsula and the Powerhouse Site adjacent to Thomas Bay near Petersburg, Alaska in September 2010.

**Table 1.** Stand number, acreage, number of surveys per stand, averaged Deer Winter Range Stand Exam scores, and Size-density Model class on the proposed transmission corridor on the Point Agassiz Peninsula and the powerhouse site located adjacent to Thomas Bay near Petersburg, Alaska in 2010.

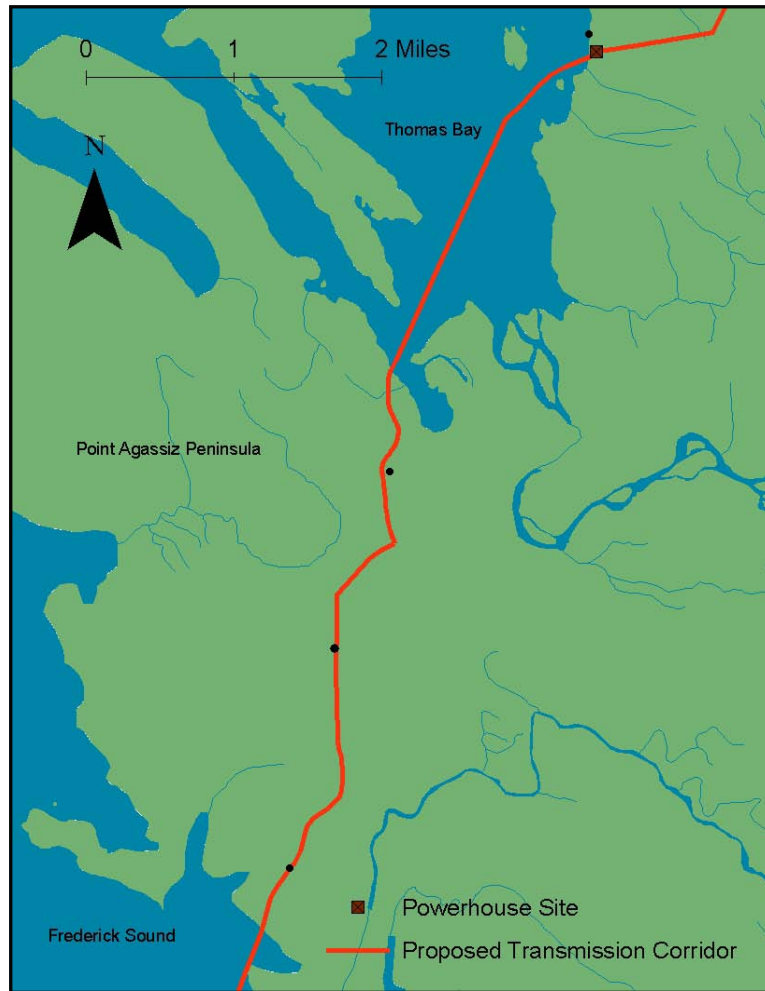
Stand	Acreage	# of surveys	Winter Score	Size-density Model class
1	11.1	4	64.3	SD67
2	38	8	66.1	SD67
3	43.3	7	78.7	SD67
4	26.5	5	67.8	SD67
5	8.8	3	65	3*

\* *Timber Type Size Class 3 is not considered Productive old-growth (Stand 5 was located at the Powerhouse Site).*

## Small Mammal Survey

Small mammal surveys were conducted using 34 extra long (XLK model, 7.6 by 9.5 by 30.5 cm) and extra large (XLF15 model, 10.2 by 11.4 by 38cm) Sherman Live Traps throughout the study area supplemented with six pitfall traps. Transects originated from three randomly selected stations along the transmission corridor and one transect placed at the powerhouse location (Figure 2). Transects consisted of ten traps placed in a line centered at the random station, spaced 20 meters apart (to accommodate average home-range size of most small mammals), and set perpendicular to the corridor trajectory.

Small mammal surveys were completed in late September of 2010. With one exception, all forty traps were deployed for three nights and visited twice daily. One trap at the powerhouse site was removed for the last night due to a particularly trap-happy squirrel (captured 3x in 2 days); therefore, this particular trap was deployed for only two nights. Four species were captured in total, including: 17 northern red-backed voles (*Myodes rutilus*), 3 northwestern deer mice (*Peromyscus keeni*), 3 Cinerus Shrew (*Sorex cinereus*), and 1 red squirrel (*Tamiasciurus hudsonicus*). Several individuals were captured on more than one occasion (Table 2).



**Figure 2.** Black points represent central locations of small mammal transects along the Proposed Transmission Corridor on Pt. Agassiz Peninsula and the Powerhouse Site adjacent to Thomas Bay near Petersburg, Alaska in 2010.

**Table 2.** Species and capture rate of small mammals during live-trapping surveys on Point Agassiz Peninsula and the Powerhouse site adjacent to Thomas Bay near Petersburg, Alaska in September 2010.

Species	Live capture	Mortality	Recapture
Cinereus shrew		3	
Red squirrel	1		2
Northwestern deer mouse	4		
Northern red-backed vole	16	1	8

## **Queen Charlotte Northern Goshawk Survey**

Queen Charlotte northern goshawk surveys were conducted along the terrestrial portion of the transmission line corridor located on the Point Agassiz Peninsula and at the powerhouse site. Survey stations were established 200 meters apart along a single transect the length of the transmission line corridor, and in four locations at the powerhouse site.

Broadcast calls were made at an angle of sixty degrees for a period of ten seconds, followed by a 30 second listening and watching period. This sequence was completed two more times at each station, approximately 120 degrees from the last broadcasts. A minimum of four minutes was spent at each station. When time permitted, one minute was spent watching and listening before broadcasting and up to five minutes was spent watching and listening after the last call had been made. While travelling between stations, surveyors listened and watched for responsive northern goshawks as well as for any nests or sign.

Queen Charlotte northern goshawk broadcast acoustical studies were conducted during May and August of 2010. The Queen Charlotte Northern Goshawk surveys to date resulted in zero detections along the Point Agassiz Overhead Transmission Line.

## **Amphibians**

As part of an agreement between the U.S. Fish and Wildlife Service (USFWS), an intensive literature review is currently being conducted to determine which species could potentially occur in the Project area and will be incorporated into a report. The assessment of potential presence/absence is based on records and anecdotal information on current and historical distribution; presence according to life cycle and phenology (i.e., breeding, migration, estivation etc.); observations during other field investigations related to the Project; and availability of suitable habitat in the Project area.

Additionally, all habitat potentially affected by the Project will be evaluated for amphibian suitability and mapped. Aerial imagery and topographic maps will be used, along with field reconnaissance to perform this evaluation. The presence/absence assessment and habitat suitability map will be used to develop appropriate recommendations for construction and/or operational mitigation measures pertaining to amphibians. If available, photographs of amphibian habitat and incidental observations will be included in the final report.

## **Habitat Map**

As part of the Wildlife Study Plan, a habitat map is being developed using a combination of aerial and ground photos, topographic and existing resource maps as a primary data source. Habitat features may include vegetation community composition, estimates of relative percent cover of dominant species (e.g. willow, alder, cottonwood, sedges, forbs, grasses) and seral stage. Significant habitat features such as slopes, springs, rock outcrops, caves, mineral licks, wetlands, snags, dens and related will be catalogued. Aerial imagery will be ground-truthed in accessible areas.

## **Wildlife Study Plan Revisions**

Several revisions have been made to the Wildlife Study Plan. The latest version is the final version, dated September 2010 and corresponds to the release of Scoping Document 2. Major revisions to this version include removal of the following items:

- Deer pellet transect surveys, with agreement from the U.S. Forest Service (Chuck Parsley) and Alaska Department of Fish and Game (Richard Lowell);
- Songbird surveys (with agreement from Richard Enriquez, USFWS since Alternative A is no longer under consideration); and
- Owl surveys (with agreement from Richard Enriquez, USFWS since Alternative A is no longer under consideration).

Additionally, several sections will be reincorporated into a draft Memorandum of Agreement (MOA). The MOA will be finalized between CCLLC and the agencies prior to the submittal of the license application. Items removed from the plan and incorporated into a draft MOA include the following:

- Two trapping sessions for small mammals in Summer 2011
- Marbled and Kittlitz's murrelet surveys
- Bald eagle surveys
- Osprey surveys
- Amphibian surveys
- Oystercatcher surveys

## **Upcoming Activities**

There are no upcoming wildlife field activities scheduled for the month of October 2010 or November. Currently, final survey report drafts are being prepared by OASIS personnel for all wildlife monitoring projects to date. Section 7 Consultation will be initiated by FERC, and a draft Biological Assessment and draft Biological Evaluation will be prepared prior to the submittal of the license application in January.

## Sarah Woehler Michaud

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**From:** Miller, Monte D (DFG) [monte.miller@alaska.gov]  
**Sent:** Monday, October 25, 2010 1:14 PM  
**To:** Allison Murray; susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; bstanley@fs.fed.us; csavage@fs.fed.us; gesposito@fs.fed.us; hwhitacre@fs.fed.us; jethompson02@fs.fed.us; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; rbeers@fs.fed.us; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); mark.ivy@ferc.gov; Charles Parsley; Klein, Joseph P (DFG)  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) 9/28 Draft Meeting Summary

Allison,

Extensive comments from ADF&G on the meeting summary will be forthcoming shortly. We are coordinating the comments of our personnel to provide greater clarity and reduce redundancy. These comments should be sent to your office before the end of this week.

Monte D. Miller  
Statewide Hydropower Coordinator  
Alaska Department of Fish and Game  
Division of Sport Fish/RTS Section  
333 Raspberry Road  
Anchorage, Alaska 99518-1565  
(907) 267-2312

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**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Wednesday, October 13, 2010 2:45 PM  
**To:** susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'; Charles Parsley; Miller, Monte D (DFG); Klein, Joseph P (DFG)  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) 9/28 Draft Meeting Summary

Folks,

Attached is our draft meeting summary for your files/review/comment.

We are also working to get you the SD2. CCLLC's efforts to provide the most up to date design drawings pushed us back a little longer than we had expected. Given the size of some of the attachments/renderings we're going to distribute it on disks. Look for it in your mailboxes next week.

We expect to have a draft MOA outline for your review by the end of October.

Please feel free to contact me with any questions or comments.

Regards,  
Allison

Allison Murray  
Senior Regulatory Coordinator

***Kleinschmidt***

*Energy & Water Resource Consultants*

366 South Broadway, Suite 200  
P.O. Box 1709  
Estacada, OR 97023

503.345.7958 (*ph*)  
503.345.7959 (*fax*)  
207.249.9048 (*cell*)



## Sarah Woehler Michaud

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**From:** Allison Murray  
**Sent:** Tuesday, November 30, 2010 2:40 PM  
**To:** Alison Jakupca; Sarah Woehler Michaud  
**Subject:** SHPO Consultation

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** Weber Greiser [mailto:wgreiser@hrassoc.com]  
**Sent:** Tuesday, November 02, 2010 2:51 PM  
**To:** John Gangemi; Allison Murray; Chris Spens  
**Subject:** Cascade Creek Hydroelectric Project - FERC No. 12495-002

John, Allison, and Chris - I just got this email from Tracie. I did respond indicating the APE is outlined in red in Figure 1 (although it overlaps some with the Petersburg City Limits reddish-orange outline) and asked her for a formal review. If we do not get that, it appears that her email below confirms that SHPO has no comment.

I apologize for combining two requests to Tracie into one email, but since I had not had any response to phone messages and earlier emails for either of my projects, I gave one more try. I was in Anchorage last week on a third project, but Tracie was out the latter part of the week when I went by the office.

Weber

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**From:** Krauthoefer, Tracie A (DNR) [mailto:tracie.krauthoefer@alaska.gov]  
**Sent:** Tuesday, November 02, 2010 1:44 PM  
**To:** Weber Greiser  
**Subject:** RE: Reports

Hi Weber,

Unfortunately with Stef's passing and her position still being vacant, its been a summer/fall of 106 triage. Since the plans were not requesting our concurrence with a finding, I had to put them on the back burner and in the end was not able to review either of the study plans in the 30 day comment period. To that effect, we missed our comment period, thus we have no comment. Feel free to print this email for your clients.

If you would still like our review and comments, I can try to squeeze something in- I do still have the Cascade Creek plan (and after a super quick glance, one comment is to include a map of the APE) but I cannot locate the Soule River plan. I may have passed it on to Dave McMahon and asked him to review it (which he probably wasn't able to do in the 30 day time period either), but if you'd like to forward an electronic version to my personal email, I'll try to take a look in the next few days.

Thank you and sorry I missed you last week!

Tracie

Tracie Krauthoefer  
Archaeologist, Review and Compliance  
Alaska State Historic Preservation Office / Office of History and Archaeology  
550 W 7th Ave, Ste 1310, Anchorage Alaska 99501-3565  
907-269-8722 Phone 907-269-8908 Fax  
[tracie.krauthoefer@alaska.gov](mailto:tracie.krauthoefer@alaska.gov)

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**From:** Weber Greiser [mailto:wgreiser@hrassoc.com]  
**Sent:** Thursday, October 21, 2010 2:00 PM  
**To:** Krauthoefer, Tracie A (DNR)  
**Subject:** Reports

Hi Tracie - I understand you are the archaeologist in the office in charge of compliance and review. I have been working on a couple of projects and my clients are wondering if you have finished your review of submitted documents and if you have any comments.

The first project is the Soule River Project - FERC No. 13528-000 and Project No. 12615-001 and a hard copy of the report was submitted in early July for review.

The other project is the Cascade Creek Hydroelectric Project - FERC No. 12495-002 and an electronic copy of the cultural resources was submitted at the end of August.

If there are not any comments, can I please get a letter for each to that effect? I understand the letters may actually need to go to FERC. In that case, can I get a copy of each?

Weber

**T. Weber Greiser | Senior Associate Archaeologist**  
Historical Research Associates, Inc.  
125 Bank Street | Suite 500 | Missoula, MT 59802  
406.721.1958 ext. 202 | fax 406.721.1964 | cell 406.546.2403  
"Since 1974 -- Researching the Past for Today's Solutions"  
[wgreiser@hrassoc.com](mailto:wgreiser@hrassoc.com) | [www.hrassoc.com](http://www.hrassoc.com)

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The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

November 14, 2010  
PO Box 1331  
Petersburg, AK 99833

Chris Spens, Project Manager  
Cascade Creek, LLC  
3633 Alderwood Ave.  
Bellingham, WA 98225

cc:  
Secretary Kimberly Bose  
Federal Energy Regulatory Commission (FERC)  
888 First Street, N.E.  
Washington, D.C. 20426

**Comments to the Scoping Document 2  
Cascade Creek Hydroelectric Project (FERC No. 12495-002)**

Thank you for the opportunity to provide planning input to the proposed Swan Lake/Cascade Creek Hydroelectric Project. Cascade Creek LLC (CC LLC current holds a preliminary permit to develop hydropower resources in the project area. Following are my comments to the Scoping Document 2 (SD2) for the project.

Statement of Interest

I am a resident of Petersburg, Alaska located near Cascade Creek and Swan Lake. My family sport and commercial fishes in the waters of the project area often recreate there including hiking the Cascade Creek trail which parallels the route of possible hydro infrastructure below Swan Lake. My family has harvested several deer and dozens of ducks from lands in the project area. The area is accessible by skiff from Petersburg, which also makes it an ideal location for subsistence use by local residents to recreate and sport fish, which they have done for generations. The quality of the recreational experience is currently unparalleled. I am also a ratepayer for electrical use in Petersburg. I have a direct interest in the proposed project.

Please note that because most of my previous comments to the first scoping document (SD1) dated November 24, 2007 and later revision dated July 20, 2009 were not addressed I incorporate them here by reference. You were previously provided them through the FERC process. I understand the proposed project has changed in certain respects since re-issuance of the preliminary permit however many of the issues raised in my previous comments to the PAD continue to apply to

SD2. It is incumbent that the project applicant address these comments rather than ignore them or pass them on to other agencies for future consideration.

Those issues include but are not limited to:

1. The continued need for a cumulative impacts analysis;
2. The need to complete a full Environmental Impact Statement;
3. Need for a credible recreation analysis;
4. Need for a credible aesthetic analysis including visual as well as noise impacts within and outside Thomas Bay proper.
5. Need for field studies spanning an entire year under all weather conditions and not just during fair weather intervals;

In particular, I remain concerned that the so-called “outlet control structure” at the outfall of Swan Lake is in reality a damn since according to your document it will:

*“provide for minimum in-stream flow contribution if required, facilitate lake level management by adding the ability to store or release water as necessary in drought or flood conditions to help maintain the desired lake level, and allow for emergency overflow discharge to the stream outlet of Swan Lake”*

Is this not a perfect description of a damn?

What is to prevent the damn/outlet control structure height from increasing once the project is licensed?

My remaining comments generally concern the recreation survey, for which the results were not even considered in the SD2.

#### 1. Flawed Process Used to Solicit Impacts to Recreation Resource.

During the last month my post office box received no less than four different large mailings and one postcard from Kleinschmidt consultants, who are subcontractors for the project applicants and are conducting various environmental analysis for the project. These mailings pertained to recreational surveys intended to assess existing recreational uses and potential project impacts on those uses, as well as a scoping document.

The first survey mailing, postmarked Oct. 12 was in error since it's cover showed it was intended for boater/pilots yet the questions inside were geared for outfitter/guides. Numerous Petersburg residents I spoke with were confused with the mailing, especially since most could only answer the first question in the mailing and were instructed to proceed no further since they were not commercial operators. This confused and put off many potential respondents as they felt their input was being ignored.

The next mailing, dated October 18, was a postcard asking the respondent to complete the Boater/Pilot survey as soon as possible. This was impossible since the Boater/Pilot Survey had in fact, not been received.

Another large mailing, postmarked October 18, included a copy of a cover letter to FERC with an attached mail list and a CD enclosed with the 463 page Scoping Document 2. Nowhere in the cover letter or document could I find a public comment deadline although some in Petersburg believe the deadline to be Nov. 15, thus these comments.

The next mailing, dated Oct. 20 included a Boater/Pilot survey with a cover letter instructing respondents to ignore the previous outfitter/guide survey if they do not provide commercial transportation/recreation services in the project area. It however asked them to complete the enclosed Boater/Pilot survey as soon as possible if they do provide such services.

The fifth and latest mailing dated November 4 contained yet another duplicate Boater/Pilot survey with a different cover letter than previously mailed asking respondents to reply since no response had been received.

Are you confused? Welcome to the club! If the overall Cascade Creek/Swan Lake project analysis is being conducted in a manner similar to the haphazard manner in which the recreation survey was, then validity of the entire analysis must be called into question.

I personally witnessed, on nearly every visit to our local post office in the last few weeks, numerous unopened and discarded Kleinschmidt envelopes in Post Office waste receptacles. Perhaps the discards represented disinterest in the content of the mailings, but it most certainly represented confusion regarding the surveys as well. If the goal was to discourage public input, I can think of no better way than to introduce confusion with multiple duplicate mailings and contradictory instructions.

Given that Cascade Creek LLC has had nearly six years in which to complete a recreation analysis (and other field studies), as well as adequate time to complete the Scoping Document 2 I find unacceptable that the public was provided such a short and confusing time span of two to three weeks in which to return completed surveys, etc. Many of the "boaters" I know are commercial fishermen, my husband included, and they are often away from Petersburg for a week or more. Their fishing season has not yet concluded. The last thing on their mind as they finish up their fishing seasons is responding to surveys whose architects have dragged their feet for years and now expect a quick turnaround. It is especially odd that the surveys were expected to be turned around so quickly when the results of the survey were not even incorporated into the SD2. What's up with that?

If Kleinschmidt had provided a less confusing and longer comment period in which to complete these surveys they may have had a greater response. While the recreation survey is flawed for a variety of reasons, it is doubtful that the quantity and quality of the recreation information you garner from your recall survey will be statistically valid.

## 2. Recreational Survey Failed to Separate Respondents by Community.

Although the CC LLC mail list enclosed with the Scoping Document 2 does not include individuals from other communities with the exception of a couple of pro-hydro development types and organizations, I understand, the recreational recall survey was indeed mailed to residents of Kake and Wrangell. Is this true?

These communities are located far from the project area and their residents seldom, if ever, recreate in the project area. Why did you include these communities in the project recreational analysis? Could their inclusion be an attempt to dilute the documented recreational use of the area? I request that your revised recreation survey separate responses by community in order to credibly assess existing uses of the area and impacts to those uses by community.

### 3. Recreational Survey Failed Sample Recreation Use Throughout the Year.

Early spring is an important recreation use time for the Cascade Creek/Falls Lake/Swan Lake area. It appears from review of FERC progress reports that recreational field studies did not begin until well after this heavy spring use period. When exactly did recreation field studies commence for 2010? If not until late in the season, will you be returning to complete gaps in this data collection not just for the early spring but also for the entire year? Were trail counters installed to quantify the use of the Cascade Creek trailhead, Cascade Creek Falls, Swan Lake and Falls Lake? If not, how can you claim to have adequately documented use of these important recreation destinations?

### 4. Recreational Survey Failed to Accurately Depict Cascade Creek “Average” Fall Flow.

The month of September, 2010 experienced unseasonably warm and dry conditions in SE Alaska. It is my understanding that the photos depicting “average” fall water flow were taken during this period. Consequently, responses to questions in your recall survey pertaining to this photo will be based on erroneous data and should be deleted.

### 5. Recreation Survey Failed to Consider Impacts to Recreation Outside Thomas Bay.

While the proposed project impacts to recreation in the Thomas Bay area are unacceptable for a variety of reasons, it is noteworthy that project recreation impacts from associated infrastructure will extend into Frederick Sound and to the shores of Mitkof and Kupreanof Island. There was no ability for respondents to address these impacts in your survey. Such impacts include but are not limited to conflicts with transmission lines and their infringement on private and City owned properties. Please include this in further analysis. Also, please include a map of the project area including Frederick Sound and beyond so respondents can orient themselves when answering survey questions. Such a map was glaringly absent from the survey.

### 6. Recreational Survey/Analysis Failed to Consider Impacts to Recreational Clients of Outfitter Guides or Users of FS Facilities.

Considering that there are potentially hundreds of users of the project area that have at some time been outfitter/guide clients your survey failed to capture their response. And considering that many of these clients return more than once to the services of the outfitter guide they may well have valuable input on the recreational experience before and after project completion.

Additionally, I know of many longtime users of USFS cabins in the area that if your mail list is accurate, did not receive a copy of the SD2 and likely the survey as well. Such a list, I would think, is easily attainable from the Forest Service. Additionally, I know of individuals who supplied comments at various stages of project planning in the past but did not appear on the list. Please review and revise your mailing list to include ALL individuals who have participated in this process and include these individuals in your revised and improved recreation survey assessment.

I also note that no questions were asked about impacts to the marine mammal haulout in Thomas Bay. How will viewing of these animals (from a distance) be affected? This haulout IS a recreation resource.

#### 7. Recreation Survey Failed to Include Adequate Queries Regarding Aesthetic Resources.

The aesthetic resources of the project area are world class. Your survey reduced those resources to three sets of narrow, constricted before-and- after photos that are of poor quality and fail to accurately depict the scenic resources of the area. Additionally, impacts from noise generate during construction and operations were not considered in your analysis. Please, as previously requested in my 2007 comments consider:

*“The scenic and aesthetic resources of the project area are spectacular and when considered together with the abundant wildlife, topography, and wildness make Thomas Bay a huge draw to tourists and locals alike. Scenery Cove as the name implies is just that. In fact the scenic resources of the area are what caused two of the three creeks to be eligible for inclusion in the Wild and Scenic River System.*

*Metal buildings, clearings, rock pads, noise from construction and operation, roads, penstocks along the Cascade trail and associated roads will all result in a complete reversal of the character of Thomas Bay from pristine and wild to resembling that of an industrial park. Transmission lines, including possible blinking lights for low flying aircraft, that alter the landscape in both the near and far distance as seen from Petersburg and other scenic value points within the project area, will dramatically reduce the visual quality of scenic resources there. The irreplaceable qualities of peace, solitude, and outstandingly remarkable resources will be permanently lost and current users will no longer chose to go there. Amazingly the PAD limited its discussion of impacts regarding scenic resources in the project area to only two sentences. Please thoroughly study and disclose the effect on scenic resources of the TBED to the commercial and non-commercial uses of the bay. Also please explain how the project complies with even the least conservative land use designations, i.e “providing for a predominantly natural setting for semi-primitive*

*types of recreation and tourism and to provide for closeness to nature...” when the area has been turned into an industrial park.”*

I understand that the project design has changed somewhat since these comments were written, however you completely failed again to adequately address the above noted impacts.

#### 8. FERC Should Apply the “Strict Scrutiny Approach” the Cascade Creek Project.

It is my belief that CC LLC has failed to meet the minimum requirements of their SECOND preliminary permit and no further time should be extended to the applicants. However, if FERC capitulates and as I requested three years ago, the “strict scrutiny” approach should be applied to this project immediately.

The “strict scrutiny” approach was developed by FERC in respect to preliminary permit applications for hydropower projects involving new technology methods such as wave, current and instream methods to develop hydropower. I formally request that this approach also be applied to the TBED project.

According to the strict scrutiny approach,

*“... to ensure that the permit holders are actively pursuing project exploration, the Commission would carefully scrutinize the reports that permit holders are required to file on a semi-annual basis, and would, **where sufficient progress was not shown consider canceling the permit.** Stricter scrutiny could entail requirements such as reports on public outreach and agency consultation, development of study plans, and deadlines for filing a notice of intent to file a license application and a preliminary application document. This approach could reduce site banking, providing a disincentive for developers to seek permits for projects they are not ready to pursue. ...This approach would encourage more thoughtful development of permit applications as well as competition.”<sup>1</sup>*

If semi-annual progress reports are currently mandatory along with supporting documentation as outlined in the approved communications protocol, then shouldn't the reports comply with existing agency requirements just like the strict scrutiny approach? Shouldn't FERC take steps to insure they are accurate and claimed “progress” is verifiable, regardless if the proposed project is new technology or otherwise? If they are not taken seriously, then why are they required? Had FERC applied this approach three years ago, perhaps CC LLC would have completed the studies necessary to meet their obligations for the preliminary permit by now.

#### 9. Cascade Creek LLC Failed to Meet the Minimum Standards as Stipulated in the Multiple-Project Draft Communications Protocol.

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<sup>1</sup>See US Federal Energy Regulatory Commission, Preliminary Permits for Wave, Current, and Instream New Technologies Hydropower Projects, Docket Number RM07-8-000, Notice of Inquiry and Interim Statement of Policy, February 15, 2007.



There is no public file available at the Petersburg Public Library! The absence of this file fails to meet the minimum requirements as set forth in the Communications Protocol.

First a little history: I received a copy of the Scoping Document 2 in the form of a CD. It is particularly difficult to navigate since it is not paginated. It is next to impossible to cross reference CC LLC responses to public comments or other important information in the absence of page numbering. Consequently, the reviewer must scroll back and forth to cross-reference and locate information contained therein. This is extremely frustrating and a huge waste of reviewers time. After nearly six hours of scrolling back and forth on my personal weekend time I finally gave up. If the intent of project applicants was to disenfranchise reviewers with the confusing SD2 they certainly succeeded. A revised SD2 should include a Table of Contents with page numbering instead of chapter references as well as a hard copy of the document to reviewers so they can effectively review and mark up their copy.

In the midst of my frustration I went to my local library to find a copy of the SD2 and supporting documentation however it was unavailable. Apparently, our small public library could not accommodate a request by CC LLC to maintain a public record. If the library could not accommodate this request then there are other public venues that may. Where there any attempts to locate a different space? Not everyone has access to a computer or the FERC online project record so access to this information is vital. This is a reasonable request and in fact such availability is not discretionary. According to the FERC approved Communications Protocol the "Project Public Reference Files" are to be located in Petersburg and Washington, DC and on the licensing website... and all materials in the reference file will be available for review and copying by request."

CC LLC failed to meet these requirements.

### Conclusion

Nowhere in the SD2 could I find a deadline for public comments, so in the absence of such information I concluded that the rumored Nov. 15 deadline was accurate. While I am unable to adequately review the entire 463 page Scoping Document 2 in this time frame, I can only conclude from review of just the recreation survey, which was not even incorporated in the SD2, that there is much analysis that has yet to be completed prior to licensing.

The failure of Cascade Creek LLC to complete these studies was likely due in large part to cash flow problems including multiple failed attempts and nearly six years of scrambling to find funders willing to back the project. The history of this venture is replete with attempts to secure such funding including solicitation of various municipal governments and native organizations, stabs at State of Alaska and

Alaska Energy Authority grants and even federal legislation (SB 851)<sup>2</sup> introduced on September 6, 2006 by Senator Lisa Murkowski. Although the legislation failed, it would have extended the time period an additional three years before the federal permit for the project would have expired. The Senator's floor statement in support expressed confidence that project applicants could meet the requirements set forth in the preliminary permit with the extension. It is noteworthy that even with the full six years CC LLC failed to meet the minimum requirements for a credible analysis. I therefore request that any further FERC extensions and/or licensing be denied to Cascade Creek LLC.

Thank you,

Rebecca Knight  
Petersburg, Alaska

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<sup>2</sup> See Senator Murkowski's US Senate Floor Statement Introducing SB 851, September 6, 2006.

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

DIVISION OF SPORT FISH

**SEAN PARNELL, GOVERNOR**

*Research & Technical Services  
333 Raspberry Road  
Anchorage, Alaska 99518-1565  
Phone: (907) 267-2179  
Fax: (907) 267-2422*

Date: November 16, 2010

### **Cascade Creek Hydroelectric Project Proposal - FERC 12495**

Attached are Alaska Department of Fish and Game (ADF&G) comments on the Draft Meeting Notes for the agency meeting held in Petersburg on 9-28-2010. The Cascade Creek LLC (CCLLC) request for comments on Draft Meeting Summary is attached along with the Draft Meeting Summary at the end of ADF&G comments.

### **GENERAL COMMENTS**

The first and most important comment on this draft meeting summary is that it does not reflect the content of the discussions which took place. At the start of the meeting, participants were asked to identify themselves for the record when speaking but there is no transcript of this meeting. The draft meeting summary contains little if any specific questions, comments or statements made by participants. All controversial issues are glossed over and referred to only as discussions.

Second, the Oasis and Historical Research Associated personnel presented their study information (to date) by telephone. There were no handouts, documents or powerpoint presentations used during their reporting. This left the participants at a disadvantage in following, understanding and being able to appropriately clarify issues. These telephone conversations were difficult to follow and no study summary information was dispersed for participants. The study data was presented as partial and not final.

Because of ADF&G's disagreement with CCLLC on several topics of discussion which were not presented in the draft meeting summary, my meeting notes are attached for your review.

CCLLC was represented by Chris Spens at this meeting who spoke as "CCLLC". Allison Murray spoke as the "Project Manager" for Kleinschmidt, under contract to CCLLC.

## **SPECIFIC COMMENTS BY SUMMARY TOPIC**

### **Project Design Review**

Chris Savage (USFS) asked about noise levels. We note that this discussion should be included in the meeting minutes.

The transmission route discussion is not referenced.

The CCLLC photo/map presentation showed the transmission lines running through currently undeveloped city land platted for residential subdivision. When questioned, CCLLC said it was only a possible routing, saying perhaps they could use an existing public utility corridor. Chris Spens was asked if CCLLC had contacted Petersburg Municipal Light and Power (PMLP) and the reply was no. I asked if CCLLC, as a private for profit company, expected or was even allowed to use public utility corridors maintained by a public utility, if a tie to the PMLP grid was anticipated and if that grid could handle the load. CCLLC said it would build a grid and switching substations if necessary. This could require completely different easements and would likely change the needed study areas and associated issues.

### **Water Resources Discussion**

The draft meeting summary states “Discharge graphing of Cascade Creek shows that during 5 months of the year there is very low contribution from Swan Lake”. We have seen no hydrologic data presented and question the ability to make this statement as well as the statement that data is consistent with USGS historical data. Additionally, it was presented by Oasis that portions of Cascade Creek were “dry” or “essentially dry”. This statement was disputed by ADF&G. We hold that water does flow between the rocks and boulders and that fish still utilize this area. The contributions of Falls Lake were talked about by Oasis, but no photographic evidence was presented. No hydrological data collections have been revealed to substantiate the draft meeting summary statement by Oasis that “Falls Lake is a dynamic system, with significant increases and decreases in stage even with no contribution from Swan Lake”. Oasis also indicated that other point sources of water downstream of Swan Lake influence flow levels in lower Cascade Creek.

### **FERC Visit**

This section of the draft meeting summary references KA. Who is KA? Is that Kleinschmidt or Kleinschmidt Associates?

The draft meeting summary failed to present any of the actual discussion on the determination by CCLLC of non nexus for the spawning studies in upper and lower

Cascade Creek and the rainbow trout telemetry studies. These core fisheries studies were to be used to identify spawning timing windows, detect areas utilized for spawning, detect intra-basin movements/migrations by rainbow trout through areas potentially affected by the project (such as between the bypassed reach and Swan Lake outlet sill structure), as well as identifying rainbow trout seasonal habitat utilization patterns for feeding and overwintering. This is a major area of disagreement between CCLLC and ADF&G and the draft meeting summary minimizes the discussion to almost nothing.

Further, CCLLC ignored a very definite statement by ADF&G about side agreements. It was made very clear to CCLLC, Kleinschmidt and all participants that ADF&G would not enter into any side agreements regarding studies which are needed to properly evaluate a project under the FERC process. CCLLC and ADF&G agreed that there was a disagreement and that FERC will be the final arbiter.

It should be noted that the Alaska Department of Natural Resources (DNR) was not at this meeting and therefore did not have the ability to respond to off license agreements.

There was no agreement from anyone at the table on use or format of an MOA. Chris Savage of USFS indicated that they would entertain looking at a draft of an MOA but did not commit to this process.

Also stated in this draft meeting summary is that USFWS was in agreement with using a MOA for second year studies. No documentation of an agreement was presented and no USFWS personnel attended this meeting or participated by telephone.

## **Updates on studies**

### **Recreation**

The recreation section fails to indicate that people, including Doug Fleming (ADF&G) asked questions and it appears that this whole section was scripted, not reflecting the meeting. It doesn't indicate any discussion about the surveys, how they would be distributed, the sample size (only 100), or how and why CCLLC is planning to include additional communities (Kake and Wrangell). There was no indication of any final review of survey instruments developed for the study. There was discussion about the timing of these surveys and about responses of the public and the ability of CCLLC to contact appropriate people for this survey.

### **Cultural**

The last half of the first paragraph, starting with "CCLLP anticipates".....is boilerplate added and was not discussed as presented. Discussions did indicate a complete lack of public and tribal participation in cultural surveys. My statements regarding tribal

unwritten policies with regard to protecting cultural resources is not part of the draft meeting summary. Neither has my statement that “tribal concerns also center on respect and dignity issues” been recorded. It was stated by CCLLC that all reports of cultural resources would be held in confidence with regard to site identification and that CCLLC and its subcontractors would open a better communication line with tribes and other potential cultural contacts.

### **Habitat Assessment**

The removed habitat studies were identified by Shelly Adams (Oasis). These studies are not identified adequately in the draft meeting summary.

Funding of surveys through ADF&G is not the real issue. What is pertinent is that the equipment and staff allocation to do a mountain goat survey was for 2010. Due to CCLLC’s lack of movement in 2010, the equipment was re-allocated for another study and is currently unavailable. ADF&G staff time must be budgeted ahead of need and now this would delay any study a minimum of 1-2 years.

The cooperative (ADF&G) moose study was discussed at the meeting but not included in this draft meeting summary. It also may suffer the same issues as the mountain goat study.

### **Water Quality and Fisheries Studies**

Studies have not been successful as indicated in this draft meeting summary. Data presented in the meeting showed minimal success at capturing and marking fish with no recaptures in subsequent sampling events. This does not constitute success at any level.

Doug Fleming (ADF&G) and John Gangemi (Oasis) discussed the need to clarify commitment to seasonal fisheries inventory sampling beyond September in lower Cascade Creek. With Chris Spens input, Oasis agreed that a November and January sampling would occur, and that March sampling could possibly be included under additional comments if it is available within 90 Days of license application.

### **Project Operations**

Discussion was raised about penstock depth and run of river. Questions were asked of CCLLC as to the need of a 40 ft deep penstock and if CCLLC were planning a license amendment to change back to a previous operational plan after a license was in hand. CCLLC stated that they had no plans to do that but that as a project developed, many changes to the design and operation were possible. Allison Murray stated that a project would face the same FERC process to amend their license. My statement was that the

license and amendment processes receive different levels of scrutiny and are not truly the same. Chris Spens stated that the run of river definition is open to debate and they choose to define this project as such.

## **Closing**

The following statement by CCLLC in the “meeting summary” was never stated in the meeting: “Though CCLLC has been trying to schedule a public community meeting, there hasn’t been any interest indicated”. Doug Fleming expressed concern that the public was not being kept in the loop since he keeps getting calls about this project. Chris Spens stated that any information could be accessed through the Thomas Bay Hydro website.

After more discussion, Chris Spens said that perhaps another public meeting could be held in Petersburg. The SD-2 and all final study plans were promised within a week and CCLLC and Kleinschmidt were asked to give agencies adequate time for review. Adequate response time is needed and multiple filings will be difficult to properly assess.

The comments presented above reflect comments from myself, Shawn Johnson, Rich Lowell and Doug Fleming.

/s/ Monte D. Miller

Monte D. Miller

Statewide Hydropower Coordinator

Alaska Department of Fish and Game

Division of Sport Fish/RTS

333 Raspberry Road, Anchorage, Alaska 99518-1565

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ATTACHMENT 1

Notes of:

Monte D. Miller

Statewide Hydropower Coordinator

Alaska Department of Fish and Game

Division of Sport Fish/RTS

333 Raspberry Road, Anchorage, Alaska 99518-1565

(907) 2672312

Meeting was held at the USFS office conference room in Petersburg on Sept 28, 2010..

Meeting was opened at about 9:05 AM with introductions of those in attendance and on the telephones. There were 8 US Forest Service personnel in attendance along with our ADFG group, Chris Spens (CCLLC) and Allison Murray of Kleinschmidt. Shawn Johnson (ADF&G SF/RTS) and Katie Eaton (ADF&G Habitat) called in as did John Gangemi and Shelly Adams (Oasis Environmental) who are conducting studies for CCLLC. Kleinschmidt also had a person on the phone to keep notes of the meeting.

Chris Spens asked those attending if they had received the link for documents which he had sent out. Most had received the link with some having trouble opening the individual documents on this web site. Chris Spens said he would send me the link on his return to his office. (done on 9-30-2010)

Several maps/drawings/photos were on the table for review. These were conceptual drawings related to placement of structures like the powerhouse and transmission lines. Discussion included questions regarding where this power was to go and it appeared that CCLLC's intention was to tie into the PMLP system. Chris Spens stated that if the PMLP system could not handle this power then they would build a new system.

### **FERC Visit**

A summary of CCLLC's trip to DC to meet with FERC was presented.

Chris Spens (CCLLC) and Allison Murray (Kleinschmidt) met with Mr. David Turner (FERC) in Washington DC in August. Apparently, CCLLC was told that all appropriate materials must be included in the FERC license application. FERC will not accept any additional filings with regard to studies to be completed in 2011 or after. CCLLC will seek side agreements with the agencies to do studies after licensing. CCLLC is looking into a MOA format as a way to seek agreement from the agencies. Questions about the two studies identified by CCLLC as non-nexus led to a disagreement. CCLLC stated that many of these delayed or removed studies may be completed in out years with a MOA agreement directly with agencies. Allison Murray also stated that these studies could be identified in the license stipulations and terms.

**Alaska Department of Fish and Game objected to the CCLLC determination of non nexus on spawning and telemetry studies and objected to removal by CCLLC. ADF&G contends that these studies are part of baseline data necessary to properly evaluate this**



**application. These studies were the core of 11 freshwater aquatic studies which were agreed upon following the March 2010 meeting in Petersburg, at which time CCLLC presented their current operating model. At that time CCLLC requested the ADF&G to reexamine all previously requested studies that were to occur under the earlier proposed storage project, and revise our request based on the current proposed operation model, called run of river. ADF&G worked at and supplied CCLLC with a matrix showing studies needed for the so-called run of river project as well as for any phased approach which would utilize a more typical storage approach. CCLLC accepted this revised listing of projects and secured biological consultants to develop these studies with additional consultations with ADF&G.**

**ADF&G stated that we believe the FERC process should be followed, which means all studies need to be completed in the application period and that ADF&G is not interested in any side agreements with the applicant to allow them to modify the FERC process to their own needs. Also stated was that ADF&G is not in the habit of requesting non-essential studies. These studies were identified early in the process and have only been contested at the “eleventh hour”. ADF&G will not set precedence by entering into side agreements or a MOA that defers needed baseline studies.**

Chris Spens stated that “we agree to disagree” and that FERC will have to decide. ADF&G stated that we definitely disagree. Chris Savage of the USFS said he would like to see a draft MOA from CCLLC to determine what they are proposing. Chris Spens stated that the SD-2 will be coming out within a week and that it will not contain the study plans for studies to be done in years past 2010 under an MOA. When asked when the next public comment period would be, it was stated (Allison) that the public would have a chance to comment on the EA after a license application is turned in. There would be plenty of time then. This felt like an attempt to keep the public in the dark until CCLLC could get paperwork filed and then CCLLC would not have to deal with more comments from the public..

John Gangemi (Oasis) was asked to provide an update of his efforts.

Flow Data to date:

Swan Lake - 9 months

Mouth of Cascade Creek -1 ½ years

Swan Lake (outlet) - 1 year

Swan Lake (inlet) - 9 months

ADF&G requested the hydrology be sent ASAP. We were told that it would be included in the SD-2 document.

**A summary of current ongoing studies was presented.**

Cultural Resources – To be completed spring/summer 2011. CCLLC is having problems getting responses to questions. I stated in meeting discussions that cultural resources and sites are held in confidence with native American groups. This is done to protect them from public looting and to respect the cultural importance of these sites. In general, inquiries from a “developer” are not well received. CCLLC agreed that cultural data should be held in confidence. CCLLC is continuing to attempt to make new tribal contacts to obtain information but have been totally unsuccessful.

Shelly Adams (Oasis) discussed progress with wildlife studies:

Sitka Blacktail Deer – Winter Assessment (Done)

Small Mammal Trapping (Done) Two more surveys in 2011.

Northern Goshawk Survey – None Found

These studies were completed in the areas of the powerhouse and transmission lines. Final wildlife study plans are due out within a week.

Other studies mentioned:

Murlett – Will be a boat study. When?

Bald Eagle – Next year

Amphibians – Visual Study When?

Osprey – Removed

Owls – Removed

Migratory Songbirds – Removed

Vegetation – Next Year

The wolverine study (ADF&G) is complete and available to meet the needs of a licensing study (Rich Lowell). Rich also expressed concern that study plans for moose and mountain goat were submitted to CCLLC months ago with no indication of receipt

or acceptance. The mountain goat study was developed with the 2010 field season in mind. Collars were identified to be sent out for reconditioning and repair but with no response from CCLLC the equipment (ADF&G owned) has been re-designated for other studies. Equipment availability as well as staff availability would be in question for at least a year or longer due to budget development and resource allocation framework.

John Gangemi (Oasis) discussed aquatic survey work being undertaken:

This prompted questions regarding the September 12, 2010 Aquatic Resources Study Plan prepared by Oasis. The group was told to disregard that plan as it was sent out in error. A revised and corrected final plan would be included with the SD-2. Questions on why this plan was released and if not being used then what was being used went unanswered. New plan due with SD-2.

Mark and Recapture – Two sampling events have occurred, one in August 2010 and one in September 2010.

In August 2010 the pond and Falls Lake were identified as being sampled with minnow traps and hoop nets. There is some confusion as to catch by location and date. My notes show a report of four (4) fish captured and marked with a fin clip and released. The September 2010 sampling also captured four (4) fish. These four were marked with a VIE (elastomer ) mark. There were no (0) recaptures. September catch numbers may have been reported as higher but only four fish were marked with elastomer. Fish varied in length from 75mm to 240mm. Additional sampling will occur in November. ADFG asked what the tag identification method was and was told “visual”. When Oasis was asked about the use of a black light to identify VIE recaptures it was indicated that they would be used. With so few fish sampled and marked in the August sampling event, greater catches in September, but with no recaptured fish, there cannot be any estimate of abundance generated. If catch rates in September did increase, as mentioned by Oasis staff, this may indicate immigration occurred between sampling events which is a major violation of the assumptions with the abundance model selected for study (Petersen model). With only a few fish in the mark/recapture study and with no recaptures, there can be no statistical validity at this time. Since ADF&G does not have study data to evaluate, we are unable determine the validity or strength of these studies.

ADF&G (Doug Fleming) brought up the seasonal fish inventory sampling and pointed out sampling should occur every two months through March. This was agreed to by John Gangemi (Oasis) and Chris Spens (CCLLC). Ideally, studies should be year round to determine stock assessments and populations but CCLLC only has through January due to end of preliminary permit and their need to file a license application. There also is no attempt to creel for tag recovery information or for use of the resource information. Perhaps a creel would not be efficient but it would be another effort to identify recreational use.

ADF&G also requested that a complete and unedited copy be provided of the helicopter habitat video. Edited clips are not acceptable. CCLLC stated that it would be supplied.

Other studies being undertaken include:

Limnology of Swan Lake to a depth of sixty-five (65) feet to include pH, Temperature, DO and conductivity.

Fish passage was looked at in August. Note: The Petersburg and Thomas Bay area has been in an extended drought and August and September levels and flows in area lakes and streams have been reported as very low. This appears to be a “flyer” year in that most protocols in a multiyear study would screen out “flyer” year data to strengthen a data set. The data would be declared abnormal and noted in a study. This can be said for all data sets involving water.

Geomorphology – Upper Cascade Creek and the inlet delta into Swan Lake.

Bathymetry of Falls Lake and the Swan Lake inlet was briefly described as successful.

Benthic Macro Invertebrate Studies – Lower Cascade Creek, Swan Lake outlet, Falls Lake area.

Temperature Probes – Upper Cascade Creek (Spring Creek), Surface water at the inlet and outlet of Swan Lake, and Falls Lake.

**Spawning Assessment and Monitoring – Has been declared not nexus by CCLLC and removed from plan.**

**Fish Telemetry study – Has been declared not nexus by CCLLC and removed from plan.**

### **Project Operations**

The SD-2 Document was discussed and it will not include 2011 study plans. It will be a policy document with milestones. Off license agreements were again brought up by Allison. Should this be an MOA? Will this be acceptable to agencies? Draft format? How do agencies want this document to be formatted? Needs of the MOA? She stated that this could be a legal binding contract between CCLLC and the agencies and perhaps could be made a condition of the license. Allison stated that she was not a biologist and that she could not determine nexus of studies. About three minutes later in discussion she stated that she had determined the spawning assessment and telemetry studies to be non nexus. Which is it?

Questions were asked about the need for a 40 foot deep penstock for a run of river designation. CCLLC indicated it was to protect boaters from a whirlpool effect if water was removed from the lake at a lesser depth and to protect the intake from avalanches and associated debris. I stated that the depth does leave it open for a modification back to a drawdown reservoir in the future. Chris Spens stated that there was no plan to do that but that they reserved the right to file for an amendment if further engineering

or economic conditions dictate a change. Allison was quick to point out that any amendment would undergo the same process and scrutiny as this process. My point back was that the process does not treat these processes equally. An amendment to an existing license does not have the same concerns within the process. Also, when there is an existing capital investment and construction occurring the intention of the process is to facilitate the best outcome for both the environment and the developer. It is not to rehash the questions which should have been answered during the preliminary permit phase. Once a license is issued it is assumed that all disagreements have been worked out and that amendments will not be necessary. At some point in this discussion Chris Spens also stated that they anticipated only operating this project based on need, perhaps five (5) month of the year. That statement raised questions regarding the economic feasibility of this project.

Doug Fleming (ADF&G Sportfish Biologist – Petersburg) brought up that as an area management biologist he has received telephone calls from residents asking what is going on with this project. There has been little or no communication to the residents of the area. Chris Spens stated that residents could find information on the company website. After some discussion Chris Spens did agree that a November public meeting should be held.

A question was again asked about what study plans would be included in the SD-2 document. The following were cited:

- Hydrology
- Cultural
- Wildlife
- Fisheries-Aquatic Resources
- Recreation

## **END OF MEETING**

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## ATTACHMENT 2

CCLLC e-mail sent to agency representatives attending this meeting. There are many people on this mailing who were not a participant in person or by telephone. Only the participants should have been sent a draft of the meeting minutes. Communication protocols would include the global contacts list for the final meeting minutes. This is how misinformation is allowed to spread. Only final agreed on minutes with participant's comments should be sent out by the applicant to the global list.

Sent: [Wed 10/13/2010 2:45 PM](#)

To: susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'; Charles Parsley; Miller, Monte D (DFG); Klein, Joseph P (DFG)

Cc: Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser

Folks,

Attached is our draft meeting summary for your files/review/comment.

We are also working to get you the SD2. CCLLC's efforts to provide the most up to date design drawings pushed us back a little longer than we had expected. Given the size of some of the attachments/renderings we're going to distribute it on disks. Look for it in your mailboxes next week.

We expect to have a draft MOA outline for your review by the end of October.

Please feel free to contact me with any questions or comments.

Regards,

Allison

Allison Murray

Senior Regulatory Coordinator

***Kleinschmidt***

*Energy & Water Resource Consultants*

366 South Broadway, Suite 200

P.O. Box 1709

Estacada, OR 97023

503.345.7958 (*ph*)

503.345.7959 (*fax*)

207.249.9048 (*cell*)

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ATTACHMENT 3



**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

November 17, 2010

Chris Spens  
Project Manager  
Cascade Creek, LLC  
3633 Alderwood Ave.  
Bellingham, WA 98225

Re: FERC P-12495 Cascade Creek Project

Dear Mr. Spens:

The National Marine Fisheries Service (NMFS) has reviewed Cascade Creek LLC's Scoping Document 2 (SD-2) for the proposed Cascade Creek hydroelectric project development (FERC P-12495). SD-2 describes the project as consisting of a lake siphon at Swan Lake, with a gatehouse and valve entry to an approximately three mile long 12 foot diameter tunnel complex of horizontal and vertical shafts. The power tunnel leads to a powerhouse at tidewater on Thomas Bay and a tailrace discharging freshwater into Thomas Bay via a constructed channel. An outlet control structure, a four to six foot high weir or dam, would be constructed to store water up to six feet above the lowest elevation of the current lake outlet. Electrical transmission lines would include a combination of overland and undersea cables to a connection at Petersburg, Alaska, approximately 15 miles to the southwest. A bypass reach would be created in Cascade Creek from the intake location at Swan Lake to tide water. Transmission lines would consist of 2.7 miles of submarine transmission line in Thomas Bay, 4.6 miles of overhead transmission, 7.6 miles of submarine transmission line across Frederick Sound, and a final 3.6 mile transmission to Scow Bay substation.

NMFS is entrusted with federal jurisdiction over marine, estuarine, and anadromous fishery resources under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Anadromous Fish Conservation Act, and the Pacific Salmon Treaty Act. Section 305(b) of the MSA requires federal agencies to consult with NMFS on all actions that may adversely affect Essential Fish Habitat (EFH). If the proposed action would adversely affect EFH, NMFS is required to make EFH Conservation Recommendations, which may include measures to avoid, minimize, mitigate or otherwise offset adverse effects. Section 10(j) of the Federal Power Act (FPA) authorizes NMFS to recommend license conditions necessary to protect, mitigate damage to, and enhance fish and wildlife habitat affected by the project. Section 18 of the FPA provides NMFS authority to issue mandatory fishway prescriptions. In addition, NMFS has responsibilities related to FERC proceedings derived from the Fish and Wildlife Coordination Act, the Clean Water Act, the Endangered Species Act and the Marine Mammal Protection Act.

During Initial Consultation and Scoping, state and federal resource agencies expressed hydrology concerns to relative to Swan Lake (primarily due to seasonal drawdown), Falls Lake (due to inflow changes and effects on lake level) and Cascade Creek (due to dewatering). Other concerns included changes in lake and stream water temperature regimes and effects of



construction on water quality. In SD-2 Cascade Creek LLC address many of these concerns by stating that, “operation will closely follow the natural discharge regime” (Section 6-3), or as described in the Proposed Project Operation section (3.1.3), *“The Project will withdraw lake water for power generation in a manner that maintains the natural pre-development lake level fluctuation based on historical discharge records correlated to lake elevation stage... On-going hydrology and lake level monitoring by Cascade Creek will document actual rise and fall throughout 2010 and beyond to accurately determine the timing and extent of lake level fluctuation... Cascade Creek anticipates developing operational protocols including lake level management, minimum stream flows, and drought and flood operation programs post licensing as compliance items.”* Unfortunately, this is insufficient for NMFS to review and assess potential effects to trust species and habitat. The operational protocols should be license terms and conditions, not determined as compliance items post-licensing.

Project construction and operation details are not currently known, including operating flow schedule, change in timing and quantity of flow in-stream and effects on habitat resources, effects on changes to in-stream flow, discharge into Thomas Bay, lake level fluctuation timing, and magnitude and rate of change. The resource management goal should be to limit the impacts on marine and anadromous fish and habitat from the operation of the Cascade Creek Project.

In the Aquatic Resources study plan Cascade Creek LLC proposes studies of Swan Lake and tributaries; Upper Cascade Creek and tributaries; Falls Lake; and lower Cascade Creek to tidewater. The purpose is to provide pre-development baseline to examine potential effects of hydropower development associated with proposed project operations on aquatic resources. These studies should be conducted over more than one season and prior to project licensing. The components of the study include stock assessment and seasonal fisheries inventory; fish habitat survey; geomorphology of Swan Lake inlet; Falls Lake bathymetry; littoral zone of Falls Lake study; limnology of Swan Lake at proposed penstock intake location; and aquatic macroinvertebrate study on Falls Lake and Lower Cascade Creek. Upon further review and consultation with ADF&G it is clear that the methods, timing, and longevity of the currently disclosed studies are insufficient. Additionally, we find the current information about spawning and habitat utilization inadequate to make effective conservation recommendations. We recommend conducting spawning and habitat utilization studies in the anadromous reach.

Analysis of the effects of this project on aquatic resources in Thomas Bay and Frederick Sound associated with the proposed transmission route are necessary to develop conservation recommendations. The planned studies should be completed prior to licensing to determine project effects on aquatic resources and to enable NMFS and other agencies to develop conservation recommendations under section 10(j) of the FPA.

Section 6.2 of SD-2 states that all gauges were installed prior to the end of December 2009, but the quality of the data, rating control, and number of rating points is unknown. During a September 28, 2010 meeting to update agencies Cascade Creek LLC stated that a minimum flow in Cascade Creek, presumably at the mouth, was 150cfs, and pointed out that portions of Cascade Creek would flow through coarse substrate interstitial spaces, not at the surface. Without current flow data and with a very short record we cannot determine whether the current



in-stream flow patterns are consistent with historic USGS flow records. The existence of low flows in September 2010 that are more than 300 cfs less than the historic mean values at this location, with recorded dry reaches in Cascade Creek, further demonstrates the need for more hydrologic information. From existing information it is unclear how project operation could contribute to passage barriers associated with dewatering in the bypass reach.

NMFS typically recommends continuous stream flow gauging in the anadromous reach for a minimum of five years to adequately characterize the stream flow and allow for extrapolation of flow records from proxy sites with long term stream gauge records or use of other methods of estimating long term stream flow. Cascade Creek LLC provided fifteen years of in-stream flow data at the mouth of Cascade Creek, from 1959 to 1972. This data is informative but insufficient to represent current conditions, and no current instream flow data is presented in SD-2. Current and relevant instream flow data and habitat information, locations of the tailrace discharge area, and ramping rates are needed to design adequate instream flow requirements for the anadromous reach.

Climate models project annual warming of three to four degrees Celsius over the 21<sup>st</sup> century for southeast Alaska and a five to eight percent increase in annual precipitation, with a significant shift from snow to rain. Increases in runoff are expected to exceed increases in precipitation in basins with glaciers as those glaciers melt, but not after they have receded entirely. Analysis of historical data show that approximately half of the observed warming in southeast Alaska since 1920 is attributable to the variability of the Pacific Decadal Oscillation, a naturally occurring mode. This pattern of climate variability drives persistence of temperature and precipitation anomalies in such a way that hydropower utilities, developers and managers should anticipate the possibility of 'non-normal' inflows for an entire decade or longer as part of natural variability. On top of this decadal persistence are the long-term trends associated with global climate change: warming and wetting (Cherry et. al., in prep.). Scoping for new projects such as Cascade Creek should analyze long-term (multi-decadal) climate and hydrology datasets and assess downscaled climate projections, while recognizing the limitations of these data and models.

In summary, the hydrologic and aquatic data in SD-2 is insufficient to examine effects of this project on NMFS trust species and the habitat they rely upon. Without a better understanding of the basin hydrology, lake level fluctuation, aquatic habitat and species in Swan Lake, Cascade Creek and associated tributaries, habitat at the mouth of Cascade Creek, and parts of Thomas Bay and Frederick Sound, as well as greater detail about the project operation, we cannot adequately determine the impacts to NMFS trust species or provide recommendations. Addressing these information needs is necessary for NMFS to make effective conservation recommendations relative to the protection, mitigation, and enhancement of fish and wildlife resources that may be impacted by the project per Section 10(j) of the FPA.

NMFS looks forward to further discussion concerning this project. Please contact Susan Walker at (907) 586-7646 ([susan.walker@noaa.gov](mailto:susan.walker@noaa.gov)) or Eric Rothwell at (907) 271-1937 ([eric.rothwell@noaa.gov](mailto:eric.rothwell@noaa.gov)) with any questions regarding this project review.

Sincerely,

*Robert O Mecum*  
*for* James W. Balsiger, Ph.D.  
Administrator, Alaska Region

Cc: Shawn Johnson, ADF&G  
Douglas Fleming, ADF&G  
Monty Miller, ADF&G  
Richard Enriquez, USFWS

**From:** [Kelly Maloney](mailto:Kelly_Maloney)  
**To:** [Carrie Hall](mailto:Carrie_Hall)  
**Subject:** FW: Section 7 Email Response: Cascade Creek Hydroelectric Project (FERC No. 12495-002)  
**Date:** Monday, December 13, 2010 2:48:37 PM

---

**From:** Richard\_Enriquez@fws.gov [mailto:Richard\_Enriquez@fws.gov]  
**Sent:** Wednesday, November 17, 2010 5:27 PM  
**To:** cspens@thomasbayhydro.com  
**Subject:** Section 7 Email Response: Cascade Creek Hydroelectric Project (FERC No. 12495-002)

Chris:

This responds to your request for information on potential impacts to threatened, endangered, and candidate species resulting from the construction and operation of the proposed Cascade Creek Hydroelectric Project.

There are no species listed under the Endangered Species Act as threatened or endangered within the jurisdiction of the Fish and Wildlife Service in Southeast Alaska.

One candidate species, the Kittlitz's murrelet, uses marine waters from Thomas Bay near Petersburg, north through coastal western Alaska. Candidate species are plants and animals for which the Service has sufficient information on their biological status and threats to propose them as endangered or threatened under the Endangered Species Act, but for which development of a listing regulation is precluded by other higher priority listing activities.

Kittlitz's murrelet is a small seabird that nests in rocky areas, frequently near receding glaciers. It is most abundant near tidewater glaciers, but has been documented along the Alaska coast in many areas that do not support tidewater glaciers. The Service believes that listing as threatened or endangered may be appropriate, due to dramatic population declines, and has designated the Kittlitz's murrelet a *candidate* for listing under the authority of the Endangered Species Act (50 CFR 17:69034-69106). The proposed project is outside the known nesting range of the species, and we do not expect impacts to the species from this project. We believe that project personnel should be aware of the species, and report any sightings to the Service.

Your log number for this consultation is 71440-2011-SL-0014.

If you have any questions, please contact me by reply email, or at (907) 780-1162.

Richard Enriquez  
Conservation Planning Assistance Biologist  
Juneau Fish and Wildlife Field Office  
Juneau, AK 99801-7100

No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 9.0.869 / Virus Database: 271.1.1/3262 - Release Date: 11/16/10 23:34:00

**From:** [Kelly Maloney](#)  
**To:** [Carrie Hall](#)  
**Subject:** FW: 9-28-2010 Draft Meeting Summary Comments  
**Date:** Monday, December 13, 2010 2:48:05 PM  
**Attachments:** [Comments on CCLLC Meeting notes of 9-28-2010.pdf](#)

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**From:** Miller, Monte D (DFG) [mailto:monte.miller@alaska.gov]

**Sent:** Thursday, November 18, 2010 12:37 PM

**To:** Allison Murray; Chris Spens

**Cc:** susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; bstanley@fs.fed.us; csavage@fs.fed.us; gesposito@fs.fed.us; hwhitacre@fs.fed.us; jettthompson02@fs.fed.us; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; rbeers@fs.fed.us; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); David.Turner@ferc.gov; mark.ivy@ferc.gov; Charles Parsley; Klein, Joseph P (DFG)

**Subject:** 9-28-2010 Draft Meeting Summary Comments

Allison,

Attached are the combined ADF&G comments on the Draft Meeting Summary for the 9-28-2010 Petersburg meeting. My apologies for the delay in sending these comments. Computer issues have been the major factor with getting these comments to you.

Monte Miller

Statewide Hydropower Coordinator  
Alaska Department of Fish and Game  
Division of Sport Fish/RTS  
333 Raspberry Road  
Anchorage, Alaska 99518-1565

(907) 267-2312

**Petersburg Municipal Power & Light****ORIGINAL****P.O. Box 329****Petersburg, Alaska 99833****Phone: 907-772-4203**

November 18, 2010

Chris Spens, Project Manager  
 Cascade Creek LLC  
 3633 Alderwood Ave.  
 Bellingham, WA 98225

FILED  
 SECRETARY OF THE  
 COMMISSION  
 2010 DEC - 1 P 2: 04  
 FEDERAL ENERGY  
 REGULATORY COMMISSION

Dear Mr. Spens:

I'm providing comments in my capacity as Power Superintendent, Petersburg Municipal Power & Light (PMP&L) as well as Chairman of the Board, Southeast Alaska Power Agency (SEAPA). These comments are in addition to those provided previously, which have only been addressed in part.

**Comments on the Scoping Document 2  
 Cascade Creek Hydroelectric Project (FERC No. 12495-002)**

**COMMENT NO. 1:**

The overhead transmission line on Mitkof Island cannot be constructed as proposed because:

- FAA will not allow overhead powerlines adjacent to or near the airport, as shown in Figure 2, Appendix E.
- PMP&L will not allow overbuild of existing 24.9 kV distribution circuits, as indicated in Figure 2, Appendix E.

The transmission line must be located/routed further southeast along the base of the mountain to a point immediately east of the existing SEAPA owned Petersburg Substation, then turn west to intercept the existing SEAPA transmission line. Consultation with the City of Petersburg, the U.S. Forest Service, and private parties will be necessary before a transmission line corridor can be established. Private land would have to be purchased for the point of interconnection switching station, since the existing land holdings by SEAPA and PMP&L are fully utilized.

**COMMENT NO. 2:**

There is presently, and into the foreseeable future, no market for the power from the proposed project. The communities of Petersburg and Wrangell have their present and future needs met for at least the next decade. The City of Petersburg is also pursuing its own solution to meet the need for stand-by power, and has had no discussions with CCLLC concerning a power sales agreement of any sort. The small amount of power needed for the Kake community (approximately 500 kW or ½ MW) when it's interconnected, can be easily met with existing resources. Ketchikan is the only community where additional hydropower is potentially needed, but they are developing their own new resource. Where is this 70 megawatts of power supposed to go, and to whom?


**COMMENT NO. 3:**

The interconnection of this project's output into the SEAPA grid is an extremely critical issue – essentially a go/no go situation. Yet, there have been no format discussions or consultation between CCLLC and SEAPA. I find this astounding. The existing SEAPA grid was not designed to transmit 70 megawatts of power, so would have to be substantially upgraded between Petersburg and the Tyee plant, a distance of approximately 73 miles. This scoping document ignores this critical, high cost issue.

Additionally, SEAPA has not been contacted regarding interconnect and system stability requirements – another major, major issue.

Thank you for the opportunity to comment. We look forward to your next public meeting in Petersburg, as well as your official notice to SEAPA that you intend to connect to, and utilize our grid system.

Joe Nelson, Supt.



Petersburg Municipal Power & Light

cc: Secretary Kimberly Bose ✓  
FERC  
888 First Street, N.E.  
Washington, D.C. 20426

## Sarah Woehler Michaud

---

**From:** Miller, Monte D (DFG) [monte.miller@alaska.gov]  
**Sent:** Friday, November 19, 2010 2:08 PM  
**To:** Allison Murray; susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; bstanley@fs.fed.us; csavage@fs.fed.us; gesposito@fs.fed.us; hwhitacre@fs.fed.us; jethompson02@fs.fed.us; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; rbeers@fs.fed.us; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); mark.ivy@ferc.gov; Charles Parsley; Klein, Joseph P (DFG); Barth Hamberg; Danielle Snyder; tribaladmin@piatribal.org  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser  
**Subject:** RE: Cascade Creek Project (FERC No. 12495) Draft Memorandum of Agreement

Allison-

We appreciate your interest to provide a thorough investigation of the fish and wildlife resources related to the Cascade Creek Hydroelectric Project (FERC 12495). We do not believe pursuing an memorandum of agreement (MOA) is needed at this time in the licensing process.

Cascade Creek LLC (CCLLC) has indicated they will be providing a preliminary draft environmental assessment (PDEA) and Federal Energy Regulatory Commission (FERC) license application before their preliminary permit expires on January 31, 2011. To meet FERC's approval, these documents will need to adequately characterize and assess environmental resources in the project affected area and provide an evaluation of potential project impacts. Since CCLLC believes they can meet these requirements, the need for an MOA is irrelevant and any additional studies that may be needed will be determined by FERC.

With Regards,

Monte D. Miller  
Statewide Hydropower Coordinator  
Alaska Department of Fish and Game  
Division of Sport Fish/RTS  
333 Raspberry Road  
Anchorage, Alaska 99518-1565

(907) 267-2312

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**From:** Allison Murray [mailto:Allison.Murray@KleinschmidtUSA.com]  
**Sent:** Wednesday, November 17, 2010 1:27 PM  
**To:** susan.walker@noaa.gov; Richard\_Enriquez@fws.gov; 'bstanley@fs.fed.us'; 'csavage@fs.fed.us'; 'gesposito@fs.fed.us'; hwhitacre@fs.fed.us; 'jethompson02@fs.fed.us'; jsmith14@fs.fed.us; lslaght@fs.fed.us; mclemens@fs.fed.us; Brad L Hunter; 'rbeers@fs.fed.us'; Hart, Deborah A (DFG); Fleming, Douglas F (DFG); Bishop, Gretchen H (DFG); Stratman, Joseph P (DFG); Eaton, Katie A (DFG); Lowell, Richard E (DFG); Johnson, Shawn L (DFG); Bussard, Daniel P (DNR); Timothy, Jackie L (DFG); Deats, Theodore A (DNR); Schwarz, Terence C (DNR); DNR, Parks OHA Review Compliance (DNR sponsored); 'mark.ivy@ferc.gov'; Charles Parsley; Miller, Monte D (DFG); Klein, Joseph P (DFG); Barth Hamberg; Danielle Snyder; tribaladmin@piatribal.org  
**Cc:** Chris Spens; John Gangemi; Shelly Adams; Dave Trudgen; Alison Jakupca; Sarah Woehler Michaud; Weber Greiser  
**Subject:** Cascade Creek Project (FERC No. 12495) Draft Memorandum of Agreement

Good Afternoon Folks,

Pursuant to our discussion at our last meeting in Petersburg on 9/28, we have developed this draft Memorandum of Agreement to capture CCLLC's intent to undertake studies outside the FERC licensing process and set up an ongoing, collaborative working group that will continue to work together to implement these studies.

I want to stress that this is only a draft that we provide as a discussion starting point. It does, however, include the proposed studies to which CCLLC has committed and will, upon successful agreement, undertake in 2011. It is my hope that we can include a more refined document as an attachment to the Preliminary Draft Environmental Assessment (PDEA) and License Application when CCLLC files the licensing documents on or before January 31, 2011. As such, we would greatly appreciate your initial feedback on the draft MOA before your review of the PDEA, which we anticipate you will receive the week of December 6.

If you have any questions or comments, as always, please feel free to contact either Chris or me.

Regards,  
Allison

Allison Murray  
Senior Regulatory Coordinator

***Kleinschmidt***  
*Energy & Water Resource Consultants*

366 South Broadway, Suite 200  
P.O. Box 1709  
Estacada, OR 97023

503.345.7958 (*ph*)  
503.345.7959 (*fax*)  
207.249.9048 (*cell*)





**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668

December 6, 2010

Chris Spens  
Project Manager, Cascade Creek LLC  
3633 Alderwood Avenue  
Bellingham, Washington 98225

RE: Species Information Request

Dear Mr. Spens:

The National Marine Fisheries Service (NMFS) has received your letter requesting information on threatened or endangered species associated with the proposed Cascade Creek Hydroelectric Project (FERC No. 12495-002). NMFS offers the following information under the Endangered Species Act (ESA) and the Marine Mammal Protection Act.

**The Endangered Species Act (ESA)**

Section 7(a)(2) of the ESA directs Federal interagency cooperation “to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species” or result in the destruction or adverse modification of critical habitat. NMFS is responsible for the administration of the ESA as it applies to listed cetaceans, pinnipeds, fish, and reptiles (sea turtles) in Alaska. Further information on NMFS ESA species can be found at [http://www.nmfs.noaa.gov/pr/species/esa\\_species.htm](http://www.nmfs.noaa.gov/pr/species/esa_species.htm)

Marine mammal species occurring in the Cascade Creek Hydroelectric Project action area currently listed under the ESA include the endangered humpback whale (*Megaptera novangliaea*) and the threatened eastern Distinct Population Segment (DPS) of Steller sea lion (*Eumetopias jubatus*). The endangered leatherback turtle is uncommon but recorded in the Gulf of Alaska. All other marine turtles are rare or “casual visitors” to Alaskan waters.

Several ESA-listed stocks of Pacific salmon may occur within Alaska’s waters. These include the following Evolutionarily Significant Units (ESU): Snake River fall Chinook (T), Snake River spring/summer Chinook (T), Puget Sound Chinook (T), Upper Columbia River spring Chinook (E), Lower Columbia River Chinook (T), Upper Columbia River steelhead (E), Upper Willamette River steelhead (T), Middle Columbia River steelhead (T), Lower Columbia River steelhead (T), and Snake River basin steelhead (T). These stocks range throughout the North Pacific, though the specific occurrence of listed salmonids within the project area is unknown.

**The Marine Mammal Protection Act (MMPA)**

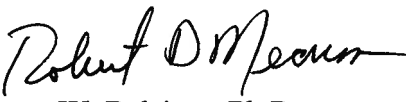
The MMPA provides protection for all marine mammals and prohibits, with few exceptions, the “take” of any marine mammals. A “take” is considered any activity which results in injury, harm or harassment. Harassment is defined as any act of pursuit, torment, or annoyance which has the potential to injure or disturb a marine mammal, causing disruption of behavioral patterns

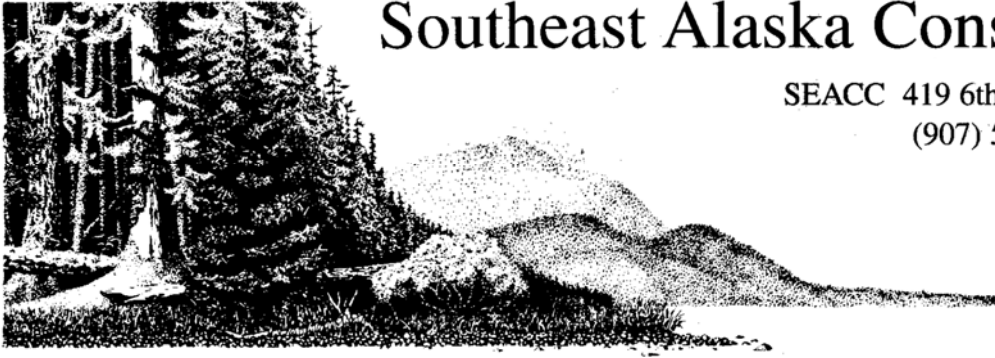


including migration, breathing, nursing, breeding, feeding, or sheltering. In Southeast and the Gulf of Alaska the most common non-listed marine mammal species protected under the MMPA include harbor seals, harbor porpoise, Dall's porpoise, minke whales, and killer whales. All of these species may swim and forage in marine waters at any time of the year on an opportunistic basis.

We hope this information is useful in fulfilling your requirements under section 7 of the ESA. Please direct any questions regarding marine mammals or endangered species to Kate Savage at (907) 586-7312 or [Kate.Savage@noaa.gov](mailto:Kate.Savage@noaa.gov).

Sincerely,

*for*   
James W. Balsiger, Ph.D.  
Administrator, Alaska Region



# Southeast Alaska Conservation Council

SEACC 419 6th Street, Suite 200, Juneau, AK 99801  
(907) 586-6942 phone • (907) 463-3312 fax  
www.seacc.org • info@seacc.org

December 6, 2010

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

Subject: **SCOPING COMMENTS ON: Cascade Creek Hydroelectric Project No. 12495-002**

Dear Secretary Bose:

Thank you for the opportunity to submit scoping comments on the proposed Cascade Creek Hydroelectric Project located near Petersburg, Alaska (*Project No. 12495-002*). Following are our comments regarding the Scoping Document 2 (SD2) for the project.

## Statement of Interest

SEACC is a coalition of 15 volunteer citizen organizations based in 12 Southeast Alaskan communities, including Petersburg. SEACC's membership includes commercial fishermen, Alaska Natives, small-scale timber operators and value-added wood product manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from many other walks of life. SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for the balanced, sustainable use of our region's resources.

Please note that most of our previous comments on the first scoping document (SD1) were not addressed. We incorporate them again by reference. The most significant of the issues raised is our concern with the purpose and need for this project. The applicant and FERC need to take a hard look at local and regional energy needs and explain how this project helps address those needs. Meeting our local energy needs with clean, affordable and reliable renewable power is more important than exporting power elsewhere.

Due to the unique landscape and climate of Southeast Alaska, there are many potential hydroelectric developments in the region that could produce power with minimal impact on the environment or community use areas. This project is not one of them. It will impact a high value community use area while providing little benefit to local communities.

ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • CHICHAGOF CONSERVATION COUNCIL, Tenakee •  
CUSTOMARY & TRADITIONAL GATHERING COUNCIL OF KAKE • FRIENDS OF BERNERS BAY, Juneau • FRIENDS OF GLACIER BAY, Gustavus •  
JUNEAU AUDUBON SOCIETY • JUNEAU ALASKA YOUTH FOR ENVIRONMENTAL ACTION • LYNN CANAL CONSERVATION, Haines •  
NARROWS CONSERVATION COALITION, Petersburg • LISIANSKI INLET RESOURCE COUNCIL, Pelican • PRINCE OF WALES CONSERVATION LEAGUE, Craig •  
SITKA CONSERVATION SOCIETY • TAKU CONSERVATION SOCIETY, Juneau • WRANGELL RESOURCE COUNCIL  
•YAKUTAT RESOURCE CONSERVATION COUNCIL

Our remaining comments relate to SD2:

**1.) Significant New Change in Project Design.**

SD2 represents a significant change to the project design. Although some of these changes could result in less damage to the environment and existing uses of the area, these changes are significantly more substantial than what is to be expected in a second scoping document. A second scoping document is usually intended for refinement of a project proposal. Here, Cascade Creek is essentially proposing a new project design. With the process this far along, we are concerned that significant changes such as this will not receive the appropriate review from the project applicant, regulatory agencies and the public.

**2.) Project is not a true Run-of-River.**

Cascade Creek LLC claims that the new project design is a “run-of-river” design, meant to mimic natural lake level fluctuations. We do not feel that they have provided the information needed to prove this design is possible.

A true run-of-the-river usually diverts water in river to a power house and back to the river. In this situation stream gauging can be done above the diversion, in the diverted stream reach, and below the outflow. This allows for appropriate control of the amount of water diverted. Cascade Creek LLC is proposing a siphon in Swan Lake that would divert water from the entire reach of Cascade Creek, so gauging of what the natural flow of Cascade Creek during operation would be is impossible. Swan Lake is fed by a large stream, numerous smaller streams, and snowmelt and rainfall in the immediate area around the lake. Cascade Creek LLC has not provided information or a plan to properly gauge all of these inflows, or otherwise determine how to mimic natural stream flows. Reliance on historic average stream flows in Cascade Creek to determine when to release water would be inadequate to address projected stream flows because of changes in timing and type of precipitation events due to climate change, as well as the importance of natural variations in stream flow, especially peak flows.

Finally, the applicant is proposing a system in which water used in power production is not returned to the stream at all. Instead, bypass water will flow into Thomas Bay one quarter mile from the current outflow of Cascade Creek. The impact of this diversion on Cascade Creek, marine life in Thomas Bay, and recreational/scenic attributes of the area is significant and should be studied further.

**3.) Impacts to Recreation and Tourism.**

The proposed project would divert water from Swan Lake and essentially bypass the entire reach of Cascade Creek. Highly used visitor amenities, including a trail and a Forest Service cabin near Cascade Creek, are popular with local residents and commercial tour operators in large part due to views of impressive cascading waterfalls. These views—as well as views from tour boats of the water fall near the mouth of the stream—would be impacted by the project and have not been adequately studied.

The entire Thomas Bay area is widely used for recreation, tourism, commercial fishing, and other existing uses. We are concerned that the infrastructure, traffic, noise, and industrial development associated with this project will have significant impacts to these existing uses. We do not believe that Cascade Creek LLC has properly evaluated what impacts this development could have on these existing uses. Even where Cascade Creek LLC has tried to study the potential

impacts it has done a poor evaluation. For example, Cascade Creeks LLC's recreation survey inappropriately lumped together responses from the most heavily impacted community, Petersburg, with responses from communities farther away from the project, such as Kake and Wrangell, which do not have immediate access to the area. This gave the impression that the use of the area was lower than it truly is.

Thank you for considering our comments.

Sincerely,

A handwritten signature in cursive script that reads "Dan Lesh". The signature is written in black ink and is positioned below the word "Sincerely,".

Dan Lesh  
Energy Coordinator

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### DIVISION OF SPORT FISH

**SEAN PARNELL, GOVERNOR**

Research and Technical Services  
333 Raspberry Road  
Anchorage, Alaska 99518-1565  
PHONE: (907) 267-2312  
FAX: (907) 267-2422

December 17, 2010

Mr. Chris Spens  
Cascade Creek, LLC  
3633 Alderwood Ave.  
Bellingham, WA 98225

Re: Cascade Creek Hydroelectric Project, FERC No. 12495, Scoping Document 2

Dear Mr. Spens:

Thank you for the opportunity to review Scoping Document 2 (SD-2) prepared by Cascade Creek LLC (CCLLC) for the proposed Cascade Creek Hydroelectric Project (FERC No. 12495). The Department of Fish and Game (ADF&G, or the Department) provides the following comments.

#### GENERAL COMMENTS

This document is a nearly complete revision of scoping document 1 (SD-1) and as such should have been presented to the public for comments much earlier in the process. Due to extensive changes in the project scope and disputed late CCLLC determinations of study relevance, as well as extensive and detected changes in the Communication Protocol (CP), this document should not be accepted by FERC without new scoping and with a new CP negotiated with previous signatories. All aspects of the Alternative Licensing Process (ALP) should be followed in appropriate order with correct timetables. CCLLC has had nearly six years to work with stakeholders to develop an application. There is a rush to deny study nexus and to subvert the ALP process by delaying appropriate identified studies simply because the applicant is running out of time. This rush also clearly subverts the CP developed and signed by agencies and interested parties in 2007. Decisions and actions by CCLLC have restricted local access to project documents and may have caused a loss of public trust in the ALP process.

Included at the end of this letter are specific scoping comments sent by the ADF&G Habitat Biologist. These comments will assist CCLLC in obtaining ADF&G Fish Habitat permits.

There will be an extensive set of comments filed upon receipt and subsequent evaluation of a Draft License Application (DLA) and Draft Environmental assessment (DEA). It is premature to comment fully on studies, results and issues prior to receipt of those documents.

In our comments, indented quotations are referenced to the document cited. In the SD-2 CCLLC has chosen to identify their responses to comments on the SD-1 document and any new information in bold, italic font. Because this includes new language and changes to protocols, we will cite the SD-2 document as it was presented.

## SPECIFIC COMMENTS

Page 1-1 of the SD-2 document states:

*“Cascade Creek prepared a Scoping Document 1 (SD1), which FERC reviewed and issued in May 2009. The Applicant initiated agency and public consultation through a series of meetings and correspondence between June 18, 2009 and September 2010. During that time, the Applicant has undertaken significant consultation effort and project design modifications to minimize and avoid potential project effects. The Applicant also developed and distributed initial draft study plans and subsequent final study plans incorporating stakeholder commentary. The Applicant is currently implementing these studies.”*

**ADF&G disagrees with CCLLC’s determination of studies needed as well as the completeness of those studies undertaken.** Much effort was made by ADF&G personnel to identify study areas with relevant need and nexus to this project. Again, much effort was made by ADF&G personnel to develop study outlines to facilitate CCLLC’s application process and timelines. These outlines were delivered to CCLLC timely. For over a year, ADF&G heard nothing on the suite of studies to be completed by the ADF&G Division of Wildlife Conservation under an RSA. This included mountain goat and moose studies. On September 28, 2010, at an agency meeting in Petersburg the agencies were told, after discussions with FERC in DC, that CCLLC now considered some studies non-nexus and CCLLC wanted to negotiate a Memorandum of Agreement (MOA) with the agencies. This MOA would allow studies to be undertaken after licensing was complete. It was made very clear by ADF&G to all at the meeting that our department would not be a party to the MOA. CCLLC indicated at the meeting that only a few non-nexus identified studies would be included in an MOA. When a draft MOA was distributed by CCLLC it contained nearly all studies identified through the agency consultation process. ADF&G replied to CCLLC that an MOA is unnecessary if they have enough information to apply for the license and that we would follow the FERC and NEPA process and requirements.

**This SD-2 document is the first opportunity for stakeholders to see final study plans however, not all were included.** At the September 28, 2010 agency meeting in Petersburg, ADF&G raised questions about the Aquatic Resources Study Plan dated September 12, 2010. The group was told to disregard that plan as it was sent out in error. If this was not a valid plan, why was it sent to the agencies? In the final weeks of the 2010 field season, several study plans were sent out and either revised quickly or rescinded. There were some study efforts undertaken by CCLLC starting in the late summer of 2010, well before any final study plans were distributed. Also, the final study plans distributed in the SD-2 document were written and dated after studies were undertaken so there was no review possible by stakeholders.

Lack of review is especially evident in the recreational and boater use surveys sent out this fall. Mail out recreational use surveys were identified early in consultations as one part of efforts to identify, examine and quantify recreational use. The surveys sent out were long and contained many errors including one survey that told the intended participants to stop the survey after a few questions. These surveys are critically flawed and will be of no use to the applicant. Repeated mailings and reminder cards were met with public distain. All results from the recreational and boater use surveys should be considered as impacted due to errors of the applicant and of no value.

Mail out surveys were identified early in consultations only as one part of efforts necessary to identify, examine and quantify recreational use. Information requested in these surveys was never discussed with agencies prior to being sent out. Agencies were told that the applicant was using several lists for contacts. Questions were never vetted by the agencies and to date the agencies have not officially seen these survey forms. Other methods of data collection including onsite personal interviews and aerial counts, as identified during consultation to determine needed recreational studies, have not been utilized.

The referenced statement of CCLLC is a misrepresentation of fact since some final study plans are included in the SD-2 and have not been distributed before this document was sent out.

The applicant further states:

***“The Applicant prepared this Scoping Document 2 (SD2) to:***

- *present efforts to date;*
- *verify proposed project design and operation;*
- *consolidate and address agency and public comments received to date;*
- *consolidate correspondence received to date;*
- *provide final study plans, and*
- *refine license submittal schedule and approach.*

*Where appropriate, the Applicant has provided additional detail or descriptions within the body of the SD2 narrative to address comments received on SD1. These responses and other new information are provided in bold italic font. End notes after each section identify comments and either reference modifications in the section or respond directly to comments. In some instances comments received either in response to SD1 or through other correspondence do not directly relate to the NEPA scoping process and are not included in SD2.”*

It could be perceived that the applicant has excluded some comments or communications which may be relevant. The applicant has determined which comments are to be addressed, and as has been noted in SD-2 comments filed with FERC by others, apparently some comments on SD-1 were not addressed. This is shown in the last sentence which indicates that comments and correspondence not directly related to the NEPA scoping process were excluded. This exclusion could be self serving and is improper at the least. While the applicant states that this document was prepared to:

- *consolidate and address agency and public comments received to date;*
- *consolidate correspondence received to date;”*



this document also opens debate on selection of comments by the applicant and further, may not identify some comments delivered directly to the applicant.

### Page 1-3 List of Activities:

This section lists ongoing, collaborative consultation with ADF&G. Since 2009 the collaboration has been minimal and in September of 2010, ADF&G was told by CCLLC that by their determination, several of our requested baseline studies were non-nexus. The issue of nexus was only brought up to the agencies after CCLLC and its agents met with FERC in Washington D.C. in August 2010. CCLLC has made a determination of nexus and chosen not to do studies identified earlier by agencies through consultation. We consider these studies to be baseline in nature and necessary to characterize resources and potential project impacts to those resources. The few studies undertaken by CCLLC's contractors appear to have not all yielded results, and little information has been shared with agencies. Early collaboration with ADF&G during this preliminary permit process led to identification of the type of studies which would be at the least, statistically valid and scientifically defensible if planned and carried out correctly. The studies that CCLLC and its consultants have attempted do not meet the definition of consultation or collaboration. The applicant has had nearly six years to complete collaboration, identification and development of studies, as well as conducting agreed upon studies prior to filing a DLA and DEA. If the changes in scope of this project impacted the agreed upon studies, then additional public and agency scoping meetings needed to be held.

The Communication Protocol (CP) states:

“Draft Meeting Summaries for all public and coordinated meetings will be circulated to all meeting Participants for review and comment within 15 days after the meeting. Comments will be incorporated into a Final Meeting Summary, with the goal of agreement among all Participants on its content. All Draft and Final Meeting Summaries will be available on the Licensing Website and in hard copy by request.”

Absent from this listing is the agency meeting held in Petersburg in September of 2010. A check of the Thomas Bay Hydro website on December 6, 2010 showed the summary prepared by CCLLC but none of the comments made by attendees of the meeting. The minutes of this meeting, with agency comments, has not been filed with FERC. Extensive comments and revisions of the meeting summary were provided to CCLLC from ADF&G. Since this SD-2 was prepared after that meeting, why is the September agency meeting not included in the listing and why has no summary with participant comments been filed with FERC?

### Section 1.3 Communication Protocols

The section on communication protocol is entirely in bold italic font and contains a complete revision of the CP. The communication protocol developed by the applicant and signed by this agency and other participants in 2007, states:

“REVISIONS of the CP”:

“Upon written approval by CCLLC and the signatories, this CP may be revised as deemed appropriate throughout the licensing period. No changes will be made to the CP without notification of all Participants. All proposed procedural changes will be distributed in writing to all Participants for review and comment. If comments represent a consensus of opinion on the proposed change (s), the Protocol will be modified, and the revised version distributed to the Participants list. In case of a dispute over proposed changes, CCLLC will convene a meeting or teleconference among affected participants.”

If this SD-2 document is the notification of CP change requests it should be clearly stated. It is also not timely since we now find changes were made by CCLLC nearly three years ago. This SD-2 document contains revisions of the CP that were never presented or discussed with the participants. Among the revisions which have come to light earlier this fall is that the “Public Reference File” to be housed at the Petersburg Public Library as hard copies, (not requiring a member of the public to have a computer or online access) has not been maintained. Apparently this file was moved to the Thomas Bay Hydro website due to difficulties with the library’s storage space in Petersburg. This action was undertaken by CCLLC without consultation with the CP signatories or notification to the public by using local media. A check of the Petersburg Public Library files revealed that not many documents have been submitted since 2007. Clearly, CCLLC made this choice without proper notice or consultation with the signatories. A check of the Cascade Creek file at the Thomas Bay Hydro website on December 6, 2010 found that file to be incomplete, not up to date, containing CCLLC selected information and is not a complete record as referenced in the 2007 CP.

CCLLC may have used these changes to place barriers to public access of information, something very necessary and guaranteed in the FERC process. This public participation and access was addressed in the CP filed with FERC in 2007. It states:

“Participating in the License Process”

“Under the ALP, the licensing process is open to the general public and their participation is encouraged. A participant List will be compiled by CCLLC and expanded as new Participants request inclusion in the ALP.”

“The ALP affords Participants the opportunity to interact with the licensing process at several distinct points, including: 1) public meetings; 2) coordinated meetings 3) document review and comment; and 4) access to general information regarding process, schedule, and status. CCLLC will use several means to assure access to licensing material, as described in the following sections.”

The first section listed is “Public Reference Files” and contains the statement:

“There will be two public reference files, one in Petersburg and the other at the Commission offices in Washington D.C.”

Clearly the actions of CCLLC violated and continue to violate the provisions of the CP and have affected public participation. Consequently, as a signatory to the CP, this department is disappointed by the lack of regard shown to the process by CCLLC. We do not concur with

CCLLC changes made in the CP and we object to the public information file not being available to the residents of Petersburg.

Meetings on proposed changes to the CP as listed in the SD-2 document need to be scheduled and held according to the signed and filed protocol in effect. Proper notification of all signatories, posting of meeting date and times need to be followed, including timing schedules.

#### 1.4 Document Review Protocol

*“The Applicant developed a Communications Protocol at the onset of licensing (July 2007) identifying a 30 day review period for all major licensing documents. Cascade Creek anticipates continuing that protocol throughout the licensing process.”*

This change in the protocol removes language which allows agencies to request extra time for document review and may affect the ability of agencies to request that additional time. Again, the entire section is a revision of the 2007 CP and needs to be properly presented and discussed as stated in previous comments.

*“Cascade Creek will subsequently provide final study reports in its draft license application and PDEA filed with agencies and FERC.”*

ADF&G and other agencies have stated to CCLLC that reports and document reviews requests should be staggered to afford proper examination and evaluation. They should not be filed at the last moment in an attempt to meet their deadlines. Each study report needs to be evaluated to determine if the correct questions were asked and answered, if correct and adequate data was gathered and/or if further studies need to be completed to make proper and correct determinations about the resource needs. By submitting final reports with the DLA and PDEA filings, CCLLC will greatly reduce the agency’s time to evaluate studies, reports and applications. This is not acceptable to ADF&G. Specifically, at the September 28, 2010 meeting in Petersburg, CCLLC was told by attendees that reports and data should be to the agencies prior to filing a PDLA and DEA to allow the agencies adequate time to assess study results.

The Comments section on page 1-7 does not specifically address comments, but instead refers to the sections of the document (*Applicant Response: See Section 1.1.*). This requires extensive back and forth thumbing through the document only to find generic statements. This method of answering selected comments does not directly address any comments or specific questions.

#### 2.0 Scoping

This document now becomes confusing due to referencing an EIS and a proposed EIS outline.

*“A draft schedule for developing the Project license application and Draft EIS is included as Appendix C.”*

The timelines are included as Appendix C but there is no schedule for a draft EIS included. This sentence could also indicate that a draft EIS is included in Appendix C. There is a reference to a DEA to be developed in October and November of 2010 with agency review in December of 2010 and early January 2011. Also, a previous referenced SD-2 statement address an expected

PDEA filing. An EIS is again identified on page 4-1 under: 4.0 ALTERNATIVES TO THE PROPOSED ACTION. This is confusing at best, and at worst leads the reader to wait for an EIS that is not part of the project. Was an EIS intended to be developed?

The SD-2 presented by CCLLC is not a typical document and is more correctly described as a re-written SD-1. There are so many changes to the project that the public is not able to follow the process. Under a typical preliminary permit, a draft SD-1 document is issued, comments are accepted, revisions and/or improvements to the SD-1 are made and a final SD-1 is issued and filed. If an SD-2 is needed, it is only to flesh out additional study needs and few or no additional comments would be expected. This is because an SD-2 is generally the result of collaboration and negotiation with the agencies.

CCLLC is challenging the ALP process by presenting a completely new scoping document as an SD-2. Wholesale changes to the project design and protocols described above warrant additional scoping meetings and additional public comments. No consensus and agreement occurs among the agencies with regard to this document. At best, this SD-2 violates the protocols established in the CP and fails to follow the ALP process itself.

This SD-2 document, at 460+ pages, is not paginated beyond page 85. It cites items included in the appendices which are in fact missing from the appendices and is confusing to reviewers. The SD-2 document is difficult to follow, cite sections or comment on due to format issues and missing pieces.

### *3.0 PROPOSED ACTION AND ALTERNATIVES*

#### *3.1.1 Proposed Project Facilities*

***“Transmission would be a combination of overland and undersea cable to a point of connection at Petersburg, Alaska, approximately 15 miles to the southwest.”***

At the September 28, 2010 agency meeting CCLLC was asked about their proposed tie to the Petersburg power grid. CCLLC had no answer for the group other than “if we have to we will build our own switch stations, and corridors.” CCLLC has been notified by PMP&L that the existing utility corridors and right of ways are fully utilized and that added Cascade Creek power would require new utility corridors as well as an upgrade of existing transfer lines and switching stations to connect to the SE Alaska power grid. The proposed project area does not reflect property issues, adjust the footprint, identify new utility corridors, or reflect the necessary addition of studies for new utility corridors.

***“The proposed project would not require construction of a dam for operational storage purposes, but would include an outlet control structure. This structure will amount to a very small, low head weir approximately 4-6’ high above the lowest elevation of the lake outlet. The structure will serve several purposes: minimize outflow leakage through the shallow substrata, provide for minimum in-stream flow contribution if required, facilitate lake level management by adding the ability to store or release water as necessary in drought or flood conditions to help maintain the desired lake level, and allow for emergency overflow discharge to the stream outlet of Swan Lake. The outlet***

*control structure will be designed to allow fish to emigrate from the lake as has occurred naturally.”*

CCLLC has proposed to build a “weir” that will block exit of all water from Swan Lake. CCLLC references “minimum in-stream flow, if required” and proposes to pump concrete or other materials into the sill to stop accretion, further reducing stream flows in Cascade Creek. That this structure is characterized as a weir is faulty since it increases and controls water storage, lake elevation and outflow (if any) to Cascade Creek. This is a dam to increase storage capacity and should be treated as such. Any structure of any height that changes, controls, and manipulates the elevation of the water body that it crosses is by a simple definition a storage structure. This dam will impound and hold water at an artificial elevation. Since there will be a change in seasonal as well as daily river flows, and flood events may be eliminated by water storage actions, this project is not run of river as presented. It is also curious how CCLLC expects fish to be able to emigrate from the lake if the project is allowed to take and use all of the water from Swan Lake. If this weir is allowed, the water level of Swan Lake could increase or decrease below the new sill described and the ability of fish to emigrate from the lake needs to be evaluated. There are no provisions described for fish passage and no plans for a fish passage structure have been presented. We question the ability of CCLLC to follow through on natural emigration. It should be noted that one of the studies CCLLC declared as non-nexus was designed to examine fish habitat utilization upstream of Falls Lake including detection of seasonal movements through the outlet area of Swan Lake by rainbow trout. This and the spawning studies were important to understanding potential impacts of this dam structure.

The de-watering proposed by CCLLC would seriously damage the integrity of this stream and the reduced flows would not allow periodic flushing. Terrestrial vegetation could begin to impede this stream resulting in habitat, scenic and aesthetic values becoming diminished.

Conclusion:

We raise the following points and questions:

- A determination is needed of the status of the SD-2 document. Does this substantially changed document (from the SD-1) need to be presented in new public scoping meetings since this project is now vastly different than what was presented in the original public scoping meetings?
- Changes to Communications Protocols (CP) by the applicant prior to this SD-2 document and without notification to the signatories, is a violation of the CP. Housing of the public record files on the Thomas Bay Hydro website would not have been acceptable by ADF&G and effectively removed public access by the citizens of Petersburg.
- The public file on the Thomas Bay Hydro website is currently not up to date and contains CCLLC selected information. Agency comments on meeting summaries are not part of the record. Additionally, the website continues to include only draft meeting notes from the initial public meeting held in Petersburg. The department feels that CCLLC has failed to address comments received on the draft meeting notes and has not issued a final draft on the FERC website. This gives the perception of no comments and “all is well” to anyone who finds this file. These meeting summaries and comments have not been filed with FERC.

- This SD-2 document is a complete rewrite of the Communication Protocol (CP). This method of forced change in the basic operating concepts of the 2007 CP, as agreed on by the signatories and filed with FERC, is improper. Since there is a disagreement, the ADF&G asks for the CP to be followed with proper notification for meetings etc. Timelines must also be followed.
- Study Plans being written after studies are started or completed is unacceptable and another manipulation of the ALP process. Filing a DLA and a DEA before the stakeholders have seen any study results/reports or even study data severely undermines the process by stakeholders to provide a thorough review of the project.
- Recreational and boater use mail survey attempts this fall are fatally flawed. These attempted surveys were also only one component defined in recreational use studies. Full studies need to be conducted.
- Studies developed through consultation are nexus to this project. The spawning and telemetry studies (habitat utilization) designed to identify rainbow trout use of habitat areas are baseline and are necessary to develop flow needs and timings in Cascade Creek.
- The proposed “weir” structure is a storage dam and this project is not a run of river project. It is a water diversion project removing water from Swan Lake and never returning that water to the watershed. The entire watershed will be impacted by this project activity.
- The project design identifies fish passage issues at the Swan Lake outflow. A statement that fish passage will be incorporated is not sufficient to evaluate passage issues. There is no fish passage design plan presented.
- There is an identified 4-6 foot weir structure to be placed over the natural lake sill to hold water at the high water mark. Studies have not been done to evaluate what effect a potential additional 6 feet of water in Swan Lake will have on spawning habitat and marshland near the inlet to the lake.
- Additionally, studies are needed to evaluate what effect a potential additional 6 feet of water in Swan Lake will have on nesting birds and migratory waterfowl.
- Proper evaluation and characterization of habitat type in lower Cascade Creek has not occurred. This area was declared “unsafe to survey” by CCLLC. Low water events through the summer and early fall of 2010 probably would have allowed safe surveys. Other methods of evaluation were identified through consultations with agencies, however, no further information has been presented by CCLLC.
- There is little stated regarding flows necessary for healthy stream maintenance. This proposal would allow instream flow “if required.” The project could reduce or eliminate flows to lower Cascade Creek and could impact Swan Lake levels, causing change in the upper Cascade Creek stream morphology. This may include channelization changes and substrate movement, affecting rainbow trout spawning areas. Information which would have been provided from spawning and telemetry surveys would have been of great value in assess these project effects.
- A correct project footprint needs to be developed due to statements filed by Mr. Joe Nelson representing PML&P and as Chairman of the Board of the Southeast Alaska Power Agency (SEAPA) in his SD-2 comments. This is in regard to transmission lines and utility corridor restrictions. This new footprint will need a new scoping round with associated studies.

Respectfully,

/s/ Monte D. Miller

Monte D. Miller  
Statewide Hydropower Coordinator  
Alaska Department of Fish and Game  
Division of Sport Fish/RTS  
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(907) 267-2312

cc: Robert Clark, ADF&G Division of Sport Fish/RTS  
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Sue Walker, NMFS  
Richard Enriques, USFWS

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME DIVISION OF HABITAT

**SEAN PARNELL, GOVERNOR**

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### MEMORANDUM

TO: Monte Miller  
Statewide Hydropower Coordinator  
Division of Sport Fish  
Alaska Department of Fish and Game  
333 Raspberry Road  
Anchorage, AK 99518-1599

DATE: November 10, 2010

THRU: Jackie Timothy  
Southeast Regional Supervisor

SUBJECT: Cascade Creek Hydro  
Project Scoping Document 2  
Comments

FROM: Katie Eaton *KE*  
Habitat Biologist

TELEPHONE NO: (907) 465-6160

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The Alaska Department of Fish and Game (ADF&G), Division of Habitat, reviewed the second scoping document for the 70-megawatt Cascade Creek hydroelectric project, proposed by Cascade Creek, LLC (CCLLC).

#### Proposed Action

The proposed project consists of a lake siphon at Swan Lake located within Sec 8, T56S, R80E, Copper River Meridian, USGS Quad Map Sumdum A-3 (Latitude 57.0303° N Longitude 132.7375° W). The proposed project includes the construction of the following structures:

- Outlet control structure approximately 4-6' high above the lowest elevation of the lake outlet;
- 46' long, 34' wide, and 25' high concrete intake control structure;
- 12' diameter approximately 16,014' long mostly unlined rock tunnel;
- 600' long, 9' diameter buried steel pipe penstock;
- Powerhouse consisting of a concrete and metal building embanked by rock fill;
- Approximately 140' by 80' metal building;
- 450' long, 40' wide low gradient open stream channel tailrace;



- Dock facility;
- Approximately 8.9 miles of undersea cable, and;
- Approximately 7.1 miles of overhead transmission line.

CCLLC does not proposed to impound Swan Lake above its natural ordinary high water elevation and will not operate outside the natural drawdown of the lake. Lake water will be drawn down in a manner that maintains the pre-development lake level fluctuations base on historical discharge records correlated to lake elevation stage. The hydraulic capacity of the powerhouse would be a minimum of 35cfs and a maximum of 670 cfs.

### Scoping Comments

The proposed project will affect Swan Lake and the Cascade Creek drainage. In both 1957 and 1958 ADF&G stocked Swan Lake with rainbow trout. Since the stocking efforts, the rainbow trout population has become self-sustaining and has spread into the adjacent waterbodies including Cascade Creek and Falls Lake. There is little information regarding the abundance and distribution of the rainbow trout population in the Cascade Creek system. All activities within or across a stream used by fish than could represent an impediment to the efficient passage of fish will require approval in the form of a Fish Habitat Permit from ADF&G-Habitat under AS 16.05.841. The following will be needed to evaluate the required Fish Habitat Permits and should be addressed in the environmental document:

- CCLLC has proposed to allow the emigration of fish out of Swan Lake through the lake outlet structure. What are the specifications of this fish pass?
- What structures will be used to exclude anadromous fish species from the tailrace?
- Have surveys been conducted to assure that anadromous fish species do not use the lower portions of Cascade Creek?
- Do any of the rainbow trout in the Cascade Creek system emigrate into Thomas Bay, contributing to steelhead populations in other systems?
- Have surveys been conducted to document the presence of resident fish species in addition to rainbow trout?
- What are the specifics related to the construction of the proposed dock facility (i.e. how many piles will be driven, how much fill will be placed)? How will this structure affect the nearshore habitats of Thomas Bay?
- What are the specific methods involved in “jetting in” sea cable and what effect will it have on benthic habitats?
- It is stated on page 3-11 that operation protocols including lake level management, minimum stream flows, and drought and flood operation programs will be developed post licensing. These documents are necessary to review the impacts of the proposed project and should be drafted prior to the completion of the environmental assessment.
- This project will operate within pre-development lake level fluctuations. Does CCLLC anticipate maintaining lake levels at ordinary low water?

- Will fish passage from Swan Lake into upper Cascade Creek to known and unknown stream spawning habitats be assured during the entirety of the spawning season?
- Will lake level drawdowns result in the dewatering of redds in either Swan Lake or its tributaries? Table 1-1 (proposed schedule for aquatic resource study components) does not show any work occurring during typical rainbow trout spawning. Spawning surveys are necessary to access the impacts of the proposed project to the rainbow trout population's reproductive success.
- The Cascade Creek system is fragmented by barriers that have not been documented at all flows. How will lake level manipulations affect fish passage seasonally across these barriers?
- The aquatic resources study plan assumes that the Cascade Creek population is fragmented by physical barriers. Have any efforts (i.e. genetic sampling) been made to confirm this assumption?
- How will the lack of multiple sampling seasons and small sample sizes be addressed in the fishery stock assessment and seasonal fisheries inventory?
- A comment is recorded on page 6-20 relating to harlequin duck habitat. Have harlequin ducks been documented in Cascade Creek?
- A more recent version of ADF&G's Anadromous Waters Catalog and Atlas should be referenced on page 11-1. These documents are updated annually.

Thank you for the opportunity to provide scoping comments. ADF&G-Habitat looks forward to reviewing the environmental document for this project. If you have any questions, please contact habitat biologist Katie Eaton at (907) 465-6160 or [katie.eaton@alaska.gov](mailto:katie.eaton@alaska.gov).

Email cc:

Al Ott, ADF&G Habitat, Fairbanks  
 Doug Fleming, ADF&G-SF, Petersburg  
 Troy Thynes, ADF&G-CF, Petersburg

**From:** [Carrie Hall](#)  
**To:** [Carrie Hall](#)  
**Subject:** FW: Power Site Classifications and withdrawals CLLC  
**Date:** Tuesday, December 21, 2010 8:11:19 AM  
**Attachments:** [PSC 9 Ref 291B.PDF](#)  
[PSC 192 Ref 369A.PDF](#)  
[Int 174 Ref 420B.PDF](#)  
[C0560S0800E000.pdf](#)  
[C0560S0790E000.pdf](#)  
[C0560S0790E001.pdf](#)  
[C0550S0790E000.pdf](#)

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**From:** Chris Spens [mailto:cspens@thomasbayhydro.com]  
**Sent:** Monday, December 20, 2010 9:34 AM  
**To:** Allison Murray  
**Subject:** FW: Power Site Classifications and withdrawals

---

**From:** Barbara Stanley [mailto:bstanley@fs.fed.us]  
**Sent:** Friday, December 17, 2010 5:41 PM  
**To:** cspens@thomasbayhydro.com  
**Cc:** Christopher S Savage  
**Subject:** Power Site Classifications and withdrawals

Hello Chris--

As with most lands issues in Alaska, Federal power withdrawals and classifications/designations are complex and the history is somewhat convoluted.

\*\*\*\*\*

This section is copied from a BLM paper:

There are two main categories of water power withdrawals in Alaska:

1. Withdrawals made to set aside and protect lands that have potential water power value, until that potential can be realized or developed. In Alaska there are two types in this category:
  - a. Power Site Classifications (PSC) -- these are administrative orders that were created under the authority of the Organic Act of March 3, 1879. *(This is the USGS Organic Act; authority for these withdrawals has since been given to BLM).*
  - b. Power site Reserves (PSR) -- these are administrative orders that were created under the authority of the Pickett Act of June 25, 1910. *(I do not think there any of these on the Tongass NF)*
2. Withdrawals made because water development is actually being planned:
  - a. Power Projects (PP) -- these are not created by an administrative order but the lands are withdrawn when an application for a hydroelectric project preliminary permit or license is filed with FERC under the Federal Power Act (FPA) of June 10, 1920, as amended.

Although these water power withdrawals are created under different authorities, they are all subject to the provisions of Section 24 of the FPA. This section provides that the lands that fall in these categories are reserved from entry, location, or other disposal under the public land laws until otherwise directed by FERC or by Congress. In some cases, they are also closed to mineral entry.

\*\*\*\*\*

Approximately 20 - 25 Power Site Classifications (PSCs) are still in effect on the Tongass NF. These were created in the 1920's- 1940's, as a result of USGS inventories of potential hydropower sites.

The three references mentioned in your note refer to PSCs. The Cascade Creek/Swan Lake area is included in both PSC 9 and PSC 192.

(re-interpretation of PSC 9 and 192)

Power Project withdrawals (PP) (subject to Section 24 of the FPA) -- There are about 45 of these on the Tongass. Some are for power projects that are constructed and operating; other withdrawals are for planned projects. On some lakes, there are both older Power Site Classification withdrawals and more recent Power Project withdrawals -- usually with different boundaries. The PPs come and go, depending upon hydro development activities. FERC notifies BLM when a Preliminary Permit or License has been issued and BLM then notes the Power Project withdrawal to the official public lands records. When the Preliminary Permit expires, the notation is removed from the lands records.... but there is often a delay in updating the records.

Examples:

Notes for plats:

PP 12619 = Ruth Lake Hydro, Cascade Creek LLC

PP 12621 = Scenery Lake Hydro, Cascade Creek LLC

PP 12495 = Cascade Creek Hydro, Cascade Creek LLC

PP 13048 = Cascade Creek Hydro, Whatcom County Government

PP 13365 = Scenery Lake Hydro, City of Angoon

\*\*\*\*\*

Land Management--

You asked how the Forest Service views or considers the various power site reserves/classifications/withdrawals.

Power Site Classifications (PSC) -- (withdrawals from the 1920s -40s). As noted above, these lands are reserved from entry, location, or other disposal under the public land lands until directed by FERC or by Congress. This means that these lands are generally not available for disposal or conveyance out of Federal ownership .... such as conveyance to the State of Alaska or to a Native Corporation.

The Forest Service cannot enter into a land exchange involving these lands until the withdrawal is revoked/relinquished. "The Forest Service has jurisdiction over the management and resources of these lands while recognizing that the withdrawn areas have power values which should be protected to the greatest extent possible, consistent with other land-use requirements." ....*all good words, but how does this really affect day-to-day management of these lands ? Actually, it has very little effect.* It is unlikely that FS activities would affect the power values. The location of these withdrawals is not widely known ....the withdrawals have been "on the books" for years with little to no activity.... They have been of interest only to FS folks who work in Lands and are frequently working with status records, processing conveyances and land exchanges, issuing special use permits, etc. We have a process whereby we can petition FERC to release the Power Site Classification if it is incompatible with multiple-use objectives.

Power Project Withdrawals (PP) -- These are the lands that are withdrawn for an existing or planned power project.

Existing projects-- After FERC licenses a project, the Forest Service and FERC have concurrent

responsibilities for management of lands within the project boundary. The FS would consult with the power project licensee and FERC before initiating activities or issuing permits (unrelated to the power project) within the project area. As a matter of policy, the FS works with FERC to ensure that only those lands needed for the power project are included in the project boundary/withdrawal. Again, the FS can petition FERC to adjust the boundary, if necessary.

Planned power projects-- As noted above, these withdrawals are made when FERC issues a Preliminary Permit. The withdrawals are then cancelled when the preliminary permit terminates at the end of 3 years. Forest Service has sole responsibility for management of these lands .... but would still likely consult with the project applicant before initiating activities or issuing other permits.

\*\*\*\*\*

#### Conclusion

The Power Site Classifications have little effect on routine management activities. The Forest Service would probably not consider landownership adjustments or major developments in these areas unless the withdrawal was revoked.

Power Project withdrawals are the site of an actual or planned project; the FS would consult with the project licensee and FERC, or probably consult with the applicant, before initiating activities within the the project boundary.

As a matter of policy, the Forest Service tries to work with the project applicant, other agencies, and FERC to develop mutually agreeable 4(e) terms and conditions for the protection of NFS resources ..... regardless of the type or status of the withdrawal.

\*\*\*\*\*

Please call if I've completely confused you ....or if I misunderstood your questions. (I'll be out of the office 12/22 through 1/4. )

I apologize for missing my response deadline .... it took a bit of time to track down the text of the power withdrawals.

Best wishes for a quiet and peaceful holiday season.

--Barb

\*\*\*\*\*

Barbara A. Stanley, Energy Coordinator  
Alaska Region, USDA Forest Service  
phone in Ketchikan, AK: (907) 228-6262  
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FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426  
December 17, 2010

OFFICE OF ENERGY PROJECTS

Project No. 12495-002 - Alaska  
Cascade Creek Hydroelectric Project  
Cascade Creek LLC

Chris Spens, Project Manager  
Cascade Creek LLC  
3633 Alderwood Avenue  
Bellingham, WA 98225

**Re: Section 106 Consultation Authorization**

Dear Mr. Spens:

In your December 7, 2010 letter, you requested that we grant permission for you to initiate section 106 consultation on our behalf. By copy of this letter, we are authorizing Cascade Creek LLC (CCLLC) to initiate consultation with the Alaska State Historic Preservation Officer, appropriate Native American tribes, and other consulting parties, pursuant to 36 CFR Part 800.2(c)(4) of the regulations implementing section 106 of the National Historic Preservation Act. This consultation pertains to the licensing effort by CCLLC involving the unconstructed Cascade Creek Hydroelectric Project located on Swan Lake, Falls Lake, and Cascade Creek in Wrangell-Petersburg Borough, Alaska.

We are granting authorization to CCLLC in order for them to conduct day-to-day section 106 consultation responsibilities in regards to the above licensing effort; however, the Commission remains ultimately responsible for all findings and determination.

If you have any questions, please contact Dr. Frank Winchell at 202-502-6104.

Sincerely,

Jennifer Hill, Chief  
Northwest Branch  
Division of Hydropower Licensing

cc: Judith E. Bittner, State Historic Preservation Officer

Alaska Office of History and Archeology  
550 West 7<sup>th</sup> Avenue, Ste. 1310  
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Jane Smith, Archeologist  
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Timothy Gillen, President  
Wrangell Cooperative Association  
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Wrangell, AK 99829

Public Files  
Service List



United States  
Department of  
Agriculture

Forest  
Service

Alaska Region

P.O. Box 21628  
Juneau, AK 99802-1628

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File Code: 2770

Date: January 18, 2011

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington , DC 20426

**Comments on Scoping Document 2  
Cascade Creek Hydroelectric Project, P-12495-002**

Dear Ms. Bose:

Thank you for the opportunity to review Scoping Document 2 and to comment on the Cascade Creek Hydroelectric Project.

This project is located within the Tongass National Forest boundary in the Alaska Region. Our comments are related to National Forest System lands and interests within the project boundary. Comments and the service list are enclosed.

We look forward to working with FERC and Cascade Creek, LLC to ensure the needs of the public are addressed. If you have any questions regarding this submittal, please contact Barbara Stanley, Alaska Region Energy Coordinator at (907) 228-6262 or [bstanley@fs.fed.us](mailto:bstanley@fs.fed.us).





Kimberly D. Bose

2

Sincerely,

*/s/ Ruth Monahan (for)*  
BETH G. PENDLETON  
Regional Forester

cc: Mr. Chris Spens  
Cascade Creek LLC

**Forest Service Comments  
On Scoping Document 2 for the  
Cascade Creek Hydroelectric Project  
FERC Project No. 12495-002**

**Aquatics Resources**

Comments on the October 1, 2010 Cascade Creek LLC Final Aquatics Resources Study Plan:

The Forest Service concurs with the need for the study components listed in items #1 through #6 on page 3.

The radio telemetry study and the spawning assessment and monitoring study were not included in the final study plan. These studies are necessary for obtaining baseline data on fish movement and utilization, as well as location of spawning in the Cascade Creek drainage. The Forest Service asks that these studies be included.

Regarding the seasonal benthic macroinvertebrate inventory, please address how aquatic and terrestrial invertebrate drift from Swan Lake to the Pond, Falls Lake and Lower Cascade Creek will be affected by the project.

**Cultural Resources**

The Cultural Resources Study Plan is difficult to find in SD2, due to the lack of consistent pagination and bookmarks. Please improve the readability of future documents.

In the Cultural Resources Study Plan, page 1, last paragraph. It states "Cultural resource data gathering and field surveys discussed in this plan will be used by the FERC and state and federal resource agencies to help evaluate and resolve impacts of the Project prior to issuance of the Project license." The Study Plan states on page 9 that field studies will commence in summer 2011 and be completed before weather limits access to Swan Lake. Recently, we heard, through informal contacts that field work will not occur prior to licensing. Please clarify your intent regarding the timing of the cultural resource data gathering and field surveys.

If field work will not occur prior to licensing, it is our understanding that a Programmatic Agreement should be developed by FERC and the State Historic Preservation Officer that requires the licensee to implement an Historic Properties Management Plan upon license issuance. According to Guidelines for the Development of Historic Properties Management Plan for FERC Hydroelectric Projects, applicants are encouraged to complete the plan early in the process.

## Recreation Resources

Comments to Recreational Resources Study Plan dated September, 2010:

On page 2, under the heading “The issues to be evaluated by the study...”, last bullet “Visual effects of reduced water flow over Cascade Creek waterfalls”, add *at outlet of Swan Lake, and at proposed turnaround destination on the trail, approximately 1.25 mile from saltwater.*

Page 2, GOALS AND OBJECTIVES, first sentence ...”allow CCLLC and Stakeholders to evaluate potential project effects on recreational resources...”, add *and the tourism industry.*

Page 3, “Specific known recreation sites to be reviewed...” add to bullets *Visual Priority Travel Routes and Use Areas*”. This was in the previous version of study plan.

Page 4, under Goal 2, first bullet. “Scenic touring via private or chartered boats...” , add *and small cruise ships.*

Page 5, “Future recreation demand analysis will utilize demographic trends to estimate...” How will study evaluate local and non-resident trends? The State of Alaska, Office of Economic Development publication “Economic Impact of Alaska Visitor Industry”, March 2010, may provide guidance with general expectations for the industry’s future.

Page 5, “Identify User Preferences and Opinions...” You may find the State of Alaska Department of Commerce, Community and Economic Development publication “*A Profile of Visitors to Rural Alaska, March 2006*”, to be of help. Both of the aforementioned documents can be found at the website: <http://www.commerce.state.ak.us/oed/toubus/research.htm>.

Page 6, under Aesthetics: add *Display impacts with visual simulations at the lower falls, 1.25 mile from saltwater up the trail at proposed turnaround (coordinates can be provided by USFS), at Falls Lake, the intermediate pond above Falls Lake, and at the Swan Lake outlet.*

Page 9, Field Monitoring. List the dates the trail cams were functioning this fall.

### General Comments:

Please improve the readability of future documents by improving the Table of Contents and by using consistent pagination. The Recreation Resources Study Plan is not bookmarked and was difficult to locate.

Several of the date references in the document need to be brought up to current status.

Some of the planned recreation study and data collection did not happen this past year as CCLLC had in the original study plan, such as the aerial flight surveys or the trail counts during the spring and summer recreation use season. The initial recreation survey that was mailed to households mistakenly had the commercial service questionnaire, resulting in confusion and a second mailing to boaters. We received reports that many surveys were thrown in the trash at the post office since it didn’t seem to apply to the public recreationist, and a report that when a confused public member

called CCLLC regarding the commercial survey form they were told to not fill out the survey since it was incorrect. How will CCLLC evaluate the project effects on recreational resources and the tourism industry in the draft environmental assessment before the preliminary permit expires on January 31, 2011, if sufficient data has not been collected? How will the success rate of the survey be reported?

As mentioned in earlier reviews, we are concerned that the shortened timeframe for collecting data has not been sufficient to provide a statistically valid representation of the fluctuations in seasonal recreation use, nor the average annual recreation use levels.

### **Wildlife Resources**

As stated in the August 2010 response to the Draft Study Plan, we recommend that you consider surveying for Black Oystercatchers in summer 2011. In addition, the second round of Goshawk surveys must be completed in the spring/summer 2011 to follow the current survey protocol.

It appears that most of the earlier comments from the Forest Service have been addressed in this document.

### **Visual Resources**

Comments on Cascade Creek Hydroelectric Project Scoping Document 2:

#### **Section 3.0 (Proposed Action and Alternatives)**

##### **Site Access**

Page 3-12: Detail was added in SD2 regarding the dock and access driveway. From these descriptions and the drawings in Appendix E, these will have scenic impacts and must be considered in the scenery analysis. What are the widths of the dock and access driveway? Is the access driveway going to be available for public access?

Page 3-13: What are the houses going to look like? Scenic analysis should include these components, to ensure they meet the requirements of the 2008 Forest Plan. Even if they are unseen from Visual Priority Routes and Use areas, there are still Scenic Integrity Objectives that must be met.

#### **Section 6.6 (Potential Resource Issues for Recreation, Land Use, Aesthetics, and Socioeconomics)**

Page 6-22: The changes to SD2 should match those in the Recreation Study Plan as follows:

Second bullet: does not adequately address all the project components. Visual effects of the project components, including any that are not yet known or developed, must be included in the Scenery Resource

Study. These components include, but are not limited to the new powerhouse, tailrace, dock and barge landing, powerhouse and tunnel access, lake inlet structure, tunnel daylight point, and transmission transition sites.

Fourth bullet: should address that the visual effects of reduced water flow are as seen from Visual Priority Routes and Use Areas. Coordinate selection of viewpoints along Visual Priority Routes and Use Areas with Forest Service personnel.

Fifth bullet: does not adequately address all Visual Priority Routes and Use Areas. The impacts to scenery must be analyzed for all project components (as discussed above) from all Visual Priority Routes and Use Areas, and should not be limited to a specific list of places. Coordinate selection of viewpoints along Visual Priority Routes and Use Areas with Forest Service personnel.

Page 6-22, last paragraph: If Cascade Creek LLC (CCLLC) intends to present scenic analysis as a stand-alone section of the PDEA, as stated in this paragraph, then a Scenery and Aesthetic Resources Study Plan should be developed and submitted for comment. **The existing Recreation Study Plan does not address the complexity of the visual analysis required for this project.**

Page 6-23, 3<sup>rd</sup> paragraph, states *“The study plan will also assess the importance of visual resources to recreational users.”* The Scenery Resource Study needs to analyze the project in terms of compliance with the Scenery Standards and Guidelines as defined in the 2008 Forest Plan. **The existing Recreation Study Plan does not sufficiently address the process that will be taken to perform this analysis.**

Page 6-23, last paragraph:

Several Goals/Objectives should be added to the list to address the following points:

- Determining of LUD, Visual Priority Routes and Use Areas. This is implied within your Study Methodology section but needs to be clearly stated. This information is relevant to all other study objectives and should be clearly presented early in the report.
- Defining existing conditions of scenery. This includes landscape and scenic character and existing scenic integrity.

Item 4) should be split into two items, one for recreational uses, and a second one relating to scenic analysis. These analyses are inherently different and should not be combined into one item, and would be dealt with in separate studies.

Page 6-24:

**Methods specified in this section do not address the needs of a Scenery Resources Study.** Regardless of whether it will be a separate study or included in the Recreation Resource Study, the methods outlined here are inadequate and inappropriate to develop professional scenic analysis results.

Page 6-26 states: *“The powerhouse will be fully screened from view from Thomas Bay.”* Until a complete Scenery Resource Study is performed, using methods well-defined in a Scenery Resource Study Plan, this statement is unsubstantiated.

Page 6-28: The Forest Service submitted a comment to SD1 stating *“the visual analysis should also include the effects of the siphon area and tunnel.”* This comment has not been addressed sufficiently in SD2.

Page 6-29: The Forest Service submitted a comment to SD1 stating *“Computer visualization software and techniques should be utilized to compare the existing visual condition with the future visual condition should be included in the Aesthetic Resources Study.”* The applicant response was *“User surveys include pre and post construction photo renderings. Cascade Creek plans to use this methodology in the PDEA as well.”*

The term “photo rendering” is vague and does not provide sufficient methodology to proceed with visual analysis. The 2008 Forest Plan states the following: *“Perform landscape/viewshed analysis, using as much of the available tools and technology as possible.”* Considering the scale and complexity of this project, scenic analysis should be performed using advanced photo rendering, 3D modeling, and GIS techniques. All visual simulations of the project should be performed by a contractor with extensive experience in such techniques. Visual simulations should illustrate the project pre-construction, post-construction, and then incremental post-construction conditions such as five and ten years out. Also, for the Semi-Remote Recreation LUD, visual simulations should adhere to the timeline in the 2008 Forest Plan, and show post-construction conditions one year after completion, in order to ensure the Scenic Integrity Objectives will be met within the required timeline.

Page 6-29: The Forest Service submitted the following comment: *“The divergence of a large amount of water for the project use will negatively impact the scenic quality of Cascade Creek.”* The applicant response was *“See Section 6.1 and 6.6”* Section 6.1 is Geology & Soils, so assuming the reference was 6.2 (Water Quantity and Quality), there is no references in that section regarding hydrology studies with regards to visual and aesthetic resources. Hydrology data will have to connect with visual studies performed on Cascade Creek at various flow levels to enable sufficient visual analysis along the Cascade Creek Trail. There should be direct correlation drawn between specific flow rates and the appearance and character of Cascade Creek. Documentation of the appearance should be with both still photographs and video. This connection should be documented in both the Hydrology Study Plan and the Scenery Resource Study Plan.

### **Section 7.7 (Proposed Protection and Enhancement Measures for Aesthetic Resources)**

Forest Service comments on this section in SD1 include the following:

Designing the powerhouse to ensure its size and architecture are consistent with recreation facilities in the area sounds like a good idea (page 15, section 4.3.7) but it seems incongruous with the description of the building on page 6 (a concrete and metal building with a plan area of 120 feet by 60 feet). This is far from the look and feel of any recreation facility in the vicinity of the proposed powerhouse. Additional methods of reducing the visibility of the facility need to be developed.

This comment was addressed in SD2 on page 3-16, which states *“The powerhouse will be constructed at the lowest feasible elevation, screened by existing trees and surrounded on three sides by direct earth embankment and setback earth berming. It will not be visible except from the air or directly onsite.”* This does not address the existing conflict between the statement bullet in section 7.7 and the existing design of the powerhouse.

In general, the proposed protection and enhancement measures are difficult to comment on until scenic analysis is performed to determine if these measures are adequate.

Comments regarding visual resources in the Recreational Resources Study Plan in Scoping Document 2:

**Existing information in the Recreation Study Plan is not sufficient to conduct appropriate scenery analysis. Unless a Scenic Resources Study Plan is developed to outline the specific methodology of the scenery analysis for this project, the analysis in the PDEA will not be adequate to ensure compliance with the Standards and Guidelines of the 2008 Forest Plan.**

In the 2<sup>nd</sup> draft of the Recreation Study Plan (pg. 5) was this statement:

**Complete a Visual Impact Analysis**

While a separate visual affect study will take place (Scenery Resource Study), the correlation between scenic beauty and the recreational experiences offered by the Thomas Bay area make visual resources an important part of the recreational opportunities available in the Project area. For example, respondents to initial questions when developing the preliminary RVU contact list occasionally reported docking in Thomas Bay overnight for the scenic beauty as their only recreational activity. The analysis will be used to determine: the perceived scenic beauty of the APE; the affect of the Project on perceived scenic beauty; what role scenic beauty plays in the recreational experience at the Project area; and; potential mitigation strategies. A photo-base of view-sheds will be compiled, and graphic renderings of proposed project facilities will be developed to present an accurate depiction of the visual setting preconstruction and post-construction for users to evaluate in a survey.

This paragraph is now missing from the Recreation Study Plan. This Scenery Resource Study is imperative, and warrants its own Study Plan. Any implication that thorough analysis of impacts to scenery could be completed without a Study Plan laying out approved methodologies was misconstrued.

FERC provided Cascade Creek LLC (CCLLC) the following comments in their response to a draft of the Recreation Resource Study Plan (pg. 108/463 of SD2). We agree with these comments. Please ensure that all future submittals include analysis from all pertinent Visual Priority Routes and Use Areas, and include analysis of all visually significant project components. FERC's comments support the need for a separate Scenery Resource Study and Study Plan:

*Visual Resources Study*

While no draft visual resources study was submitted for comment, an assessment of the aesthetic impacts is included in the scoping document as a proposed study plan. The project is likely to influence the flow of water in Cascade Creek along the Cascade Creek Trail and thus impact the experience of hikers using the trail. The viewshed from the Forest Service Cabins at Swan Lake and Thomas Bay, as well as views from Thomas Bay, Frederick Sound and Petersburg may also be impacted by the development of transmission lines, the powerhouse, the siphon structure and other project features.

A visual resources study should identify key observation points and document: 1) shoreline views looking from Thomas Bay towards the project area; 2) views from the existing cabins near the mouth of Cascade Creek and Swan Lake as well as the shelter at Falls Lake; 3) views of Swan and Falls lakes at various lake levels within the naturally occurring fluctuations; 4) views of the waterfalls along the Cascade Creek Trail within naturally occurring fluctuations; 5) views along the proposed road access route; 6) views of the proposed transmission line corridors, including for Alternative A the overhead transmission route from the powerhouse to Frederick Sound, landings on both sides of Frederick Sound, and the route to Scow Bay Substation, and for Alternative B the route from the powerhouse to Thomas Bay, landings on both sides of Thomas Bay and the overhead transmission route to the point at which it joins with the Alternative A route. Please provide a draft visual resources study for review when it is available.

Comments by the US Forest Service on an early version of the Recreation Study Plan (pg. 101/463 of SD2) also commented on the need for a separate study plan that addresses scenery:

Any changes to scenery could affect the recreation experience, so these two will be connected in many ways. We need to see the Scenery Study Plan to get a complete picture of the studies planned relating to recreation. We assume there is a separate study plan for scenery that we can review soon. If not, the scenery component needs to be added to the recreation study plan.

Reference was made in Scoping Document 2 (Pg. 6-22) that an agreement was made to combine the scenery and recreation study plans, but the agreement itself was not found in the appendices of SD2. **This combination of resource analyses has resulted in a very confusing study plan that does not adequately address the needs of scenic analysis.**

**Therefore, it is assumed that CCLLC will provide a separate Scenery Resource Study Plan for comment, before proceeding with the Scenery Resource Study.**



The main objective of the results of these studies is to determine project compliance with the USFS 2008 Tongass Forest Plan. In light of this, studies, analysis, and results all need to be presented in relation to the Forest Plan and the defined objectives, goals, desired conditions, standards and guidelines of each Land Use Designation within the project area. This should be reflected in the Study Plan.

Comments below are based on this specific Recreation Plan that includes the scenic and aesthetic study components. These comments should be referenced in developing the Scenery Resource Study.

### Background

Page 1, 3<sup>rd</sup> paragraph: This paragraph should address impacts to scenery as well as recreation. It should include reference to include any and all of the Visual Priority Routes and Use Areas that may end up being impacted by the project, and not just include a list of specific places.

Page 2, third bullet: does not adequately address all the project components. Visual effects of the project components, including any that are not yet known or developed, must be included in the Scenery Resource Study. These components include, but are not limited to the new powerhouse, tailrace, dock and barge landing, powerhouse and tunnel access, lake inlet structure, tunnel daylight point, and transmission transition sites.

Page 2, fourth bullet: does not adequately address all Visual Priority Routes and Use Areas. The impacts to scenery must be analyzed for all project components (as discussed above) from all Visual Priority Routes and Use Areas, and should not be limited to a specific list of places. Coordinate selection of viewpoints along Visual Priority Routes and Use Areas with Forest Service personnel.

Page 2, sixth bullet: should address that the visual effects of reduced water flow are as seen from Visual Priority Routes and Use Areas. Coordinate selection of viewpoints along Visual Priority Routes and Use Areas with Forest Service personnel.

### Goals and Objectives

Several Goals/Objectives should be added to the list to address the following points:

- Determining of LUD, Visual Priority Routes and Use Areas. This is implied within your Study Methodology section but needs to be clearly stated. This information is relevant to all other study objectives and should be clearly presented early in the report.
- Defining existing conditions of scenery. This includes landscape and scenic character and existing scenic integrity.

For the Scenery Resource Study, a goal similar to Goal #4 of the Recreation Study Plan should be developed specific to scenery analysis.

### Project Nexus

This section is confusing and the intent of it is not clear, and will not be necessary once the Recreation Study Plan is separate from the Scenery Resources Study Plan.

### Study Area

Provide a clear map in this section that includes the entire project area, not just Thomas Bay.

The project area is too large to be referred to as one entity. Develop a series of segments that encompass the project facilities, which will enable consistent comparisons regarding recreational and scenic impacts. Examples might be: Swan Lake to Thomas Bay powerhouse, overland segment from Thomas Bay to Frederick Sound, and overland segment on Mitkof Island. Submerged segments should be included if needed. The segments refer to the project and do not address all the affected areas, which should be described as well, and include Visual Priority Routes and Use Areas.

In further sections, reference is made to APE. It is defined in Goal 2 but would be better identified and defined in this section.

### Study Scope

As the goals here apply to the goals defined in the "Goals and Objectives" section, goals should be inserted here as commented on in that section.

One of the goals will produce a "Scenic Resources Existing Conditions Report" that should be submitted for comment before proceeding with resource analysis. Methodology for this report should be described in the study plan. A reference for developing this report is "Landscape Aesthetics: A Handbook for Scenery Management."

Page 5: Goal 3: The existing system for evaluating scenery is the "Scenery Management System" and no longer the "Visual Management System". Use "Scenic Resources" instead of Visual.

The new goal addressing scenery analysis needs to outline the plan for assessing existing resource conditions, project impacts, and compliance with the 2008 Forest Plan. This process cannot be combined into the other sections without becoming too confusing. In order to identify project effects, a baseline must be developed before any analysis can happen. The new goals that identify LUDs and Visual Priority Routes and Use Areas, and define existing conditions will supply the baseline for the analysis of this section.

The person performing the scenery analysis needs to have a working knowledge of the Scenery Management System, and experience applying that system in the Alaska Region.

The 2008 Forest Plan states the following: “Perform landscape/viewshed analysis, using as much of the available tools and technology as possible.” Considering the scale and complexity of this project, scenic analysis should be performed using technology developed to produce accurate, precise, and realistic results, which can include advanced photo rendering, 3D modeling, and GIS techniques. All visual simulations of the project should be performed by a contractor with extensive experience in such techniques. Visual simulations should illustrate the project pre-construction, post-construction, and then incremental post-construction conditions such as five and ten years out. Also, for the Semi-Remote Recreation LUD, visual simulations should adhere to the timeline in the 2008 Forest Plan, and show post-construction conditions one year after completion, in order to ensure the Scenic Integrity Objectives will be met within the required timeline.

Analysis of the effects to scenery should be conducted on a segment by segment basis rather than examining the project area as a whole.

#### Study Methodology

In the “Literature Review and Data Search” section, the Forest Plan version (2008) should be specified.

Another source that should be included in the list of sources is “Landscape Aesthetics: A Handbook for Scenery Management.”

**Methodology described in this section is not sufficient to prepare a viable scenery impact analysis. Additional methods specifically addressing scenic analysis should be included in this section.**

#### Schedule

The schedule should also address the existing conditions report and the final report.

#### Reporting

After a Scenery Resource Study Plan is submitted, a final document will develop from the analysis: the “Scenery Resource Impact Report.” The “Scenery Resource Impact Report” will include the information from the existing conditions report developed during the process of this study.

## **Botany Resources**

It was very difficult to find any discussion of botany resources in the Scoping Document 2. Plant surveys for rare, sensitive and invasive plant species need to be conducted for the project.

In Appendix B, in the Final Wildlife Study Plan, Section 7.3, Habitat Map (page 15), botanical surveys were mentioned in one sentence saying they would be coordinated with the surveys for the habitat map, but no details about methods or protocols were described.

On page 7-2 of the Comments section of SD2 in section 7.4, the fifth bullet also indicated surveys for sensitive plants will be done, but there are no details about methods or protocols.

The plant surveys should include all areas (at a minimum) where potential ground disturbance or trampling could occur in the proposed project. This should include both the construction and implementation phases.

Surveys for rare and sensitive plants need to be completed before a Biological Evaluation for Plants can be completed for the NEPA analysis. Also, the project area needs to be surveyed for invasive plants so an invasive plants risk assessment can be completed as part of the NEPA analysis. Invasive plants can be surveyed in conjunction with rare and sensitive plants surveys.

## **Hydrology I**

### **Comment #1 (General) - SD2, General**

*Scoping Document 2 was very poorly organized and cumbersome, to the point of making meaningful review difficult. The outline and bookmarks were of little help locating relevant topics, making it necessary to search key words and topics, which in turn made ascertaining context difficult. Among many examples, the section titled "Appendix D, Final Study Plans" on page 362 in the document was not bookmarked at all. The Final Hydrology Study Plan was located on page 444, separated from the other study plans (except Recreation) under the header "Appendix A, Survey Forms and Protocols". Please improve the readability of subsequent documents.*

### **Comment #2 (General) – SD2, Appendix A, pg.444**

*The Hydrology Study Plan does not contain written objectives. Some objectives may be inferred from the type of data being collected. We assume the gage sites are intended to be used in correlating the old USGS stream gage record and lake stage, to evaluate fisheries effects in the lake and the bypass reach, as well as the 'visual' effects on the two falls in the bypass reach and navigation in Falls Lake. Objectives are quantifiable, time limited, and the methods to measure them should be repeatable. Please include unambiguous written objectives in subsequent documents.*

### **Comment #3 - From SD2, Aquatic Resources Study Plan (ARSP), Section 5.2.1 Study Area:**

CCLLC (pg. 380) - "Tributary junctions from adjacent hill slopes will be noted as to location, and GPS coordinates will be recorded if GPS signal detection is attainable. Since these tributary habitats are not affected by the project, we propose no other habitat characterization in these waters. Additionally, a

survey of the spring creek adjacent to upper Cascade Creek will be completed for a length equal to ~ 2000 linear feet, as conditions permit.”

USFS Previous Comment - *“It seems that until the extent of the vertical influence of fluctuations of lake level are known (as expressed in horizontal distance up the stream/valley – to be accomplished through a benchmarked longitudinal stream profile from the inlet of Swan Lake), all tributary streams and the spring creek adjacent to upper Cascade Creek would require habitat assessments. Certainly the spring creek falls into a potential zone of inundation under some lake level scenarios, given the low gradients near the mouth. Please include streams in this zone in plans for habitat characterization.”*

USFS Current Comment - *The extent of the Tier II habitat surveys conducted is still unknown. Personal communications with Oasis Environmental personnel during their time conducting field measurements indicated a sufficient survey on Upper Cascade Creek. GPS locations of the survey extent on the spring-fed stream parallel to the mainstem as well as tributaries potentially affected by inundation were taken, but continue to be unknown / unavailable. It is impossible to determine if the habitat survey was sufficient to analyze potential effects of the project under different lake level scenarios given the lack of results. Section 5.2.3 of the July 2010 Aquatic Resources Study Plan states “Analysis will include compilation and narrative and graphic summaries of data on the standard habitat and geomorphic metrics listed below, as defined in the survey protocol. These results will be integrated with the fisheries survey study to provide a comprehensive picture of ecological conditions in the aquatic environment. Once the field survey is completed, the data will be compiled and analyzed within 2 months of the survey, and a final report will be completed by the end of November, 2010.” Please include an overview of known information including methods and current results.*

**Comment #4 – From SD2, Proposed Project Operation, Section 3.1.3**

CCLLC (pg. 3-8) – “There also appears to be some subsurface leakage near the lake outlet which the Applicant is now in the process of documenting.”

USFS – *Please explain how leakage conditions at the outlet will be quantified under the current gaging scenario. Please identify assumptions regarding flow conditions in Lower Cascade Creek to Falls Lake. Does CCLLC anticipate relying on accretion flows to meet instream flow conditions in this portion of the stream? If so, under what conditions could this reach of stream become dewatered during certain times of year? How will instream flow conditions be met?*

**Comment #5 - From SD2, Proposed Project Operation, Section 3.1.3**

CCLLC (pg. 3-9) – “Comparison of mid-winter and mid-summer aerial and shoreline photographs over several years indicates the lake fluctuates perhaps 4+ feet in elevation annually.” .....“The Project does not propose to impound Swan Lake above its natural ordinary high water elevation and will not operate outside the standard, natural drawdown of the lake.”

USFS - *Quantifying and defining the “standard, natural drawdown of the lake” is critical to meet anticipated instream flow requirements. How will this be accomplished?*

**Comment #6 - From SD2, Proposed Project Operation, Section 3.1.3, re: Lake Level Fluctuations**

CCLLC (pg. 3-9) – “The Project will withdraw lake water for power generation in a manner that maintains the natural pre-development lake level fluctuation based on historical discharge records correlated to lake elevation stage.” ..... “Power production will generally match the annual Swan Lake/Cascade Creek discharge hydrograph (Appendix E).” ..... “On-going hydrology and lake level monitoring by Cascade Creek will document actual rise and fall throughout 2010 and beyond to accurately determine the timing and extent of lake level fluctuation. As stated previously, this new data will be correlated to prior discharge records to establish the relationship between discharge and lake level stage.”

*USFS - Shoreline photo comparisons indicate the lake fluctuates “perhaps 4+ feet” (Section 3.1.3). Determining the range of lake level fluctuation relative to annual seasonality of lake inflow with much greater precision will be critical for establishing instream flow conditions in Lower Cascade Creek. Please describe proposed methods for correlating lake fluctuation levels with historic stream gage data, as well as how levels will be determined for historical data outside the range of the flow year (2010) for which CCLLC has lake level stage information. How will extreme flow events (flood / draught years) be interpreted outside the 2010 flow year regarding lake level fluctuations?*

**Comment #7 - From SD2, Proposed Project Operation, Section 3.1.3, re: Discharge / Plant Operations**

CCLLC (pg. 3-9) – ““During low flow periods water would typically be withdrawn from the lake until the minimum lake level elevation is met for that time period.” ..... “High flows that exceed the plant capacity of 670 cfs (plus any in-stream flow requirement) would be stored in-lake if storage was available (i.e. a foot or two), and/or released via the outlet structure if storage capacity was not available.” ..... “Any post development high flow that overtopped the outlet structure would be at least 670cfs less than pre-development high flow, as the plant would be running at full capacity during this time. Accordingly, high flows that previously would overtop the outlet structure would be attenuated due to plant operation.”

*USFS – Plant operation conditions assume minimum instream flow requirements are met.*

**Comment #8 - From SD2, 2010 Hydrology Study Plan, re: Availability of Data / Reports**

CCLLC (pg. 447) – “Data Reports will be made available to requesting agencies as soon as possible upon collection and processing. Data results summaries will be posted on the [www.thomasbayhydro.com](http://www.thomasbayhydro.com) public information website.”

**From SD2, August 12, 2010 Meeting synopsis, Hydrology section**

CCLLC (pg. 178) – “Preliminary field reports will be produced this month. Data will be posted on Cascade’s website.”

*USFS – Results from field studies have been unavailable to date. The lack of known results makes determining what has been completed difficult, and further, whether the activities are sufficient for determining effects of the project.*

## Hydrology II

Key information is missing from Scoping Document 2. Without this information, it is impossible to determine if the project will sufficiently evaluate effects and develop relevant mitigation.

### Use of Stream and Lake Gage Data

The Scoping Document and study plans do not include:

- a meaningful summary of the results of stream and lake gaging to date,
- descriptions of analytical methods proposed to correlate and/or extrapolate past and current gage data to address questions about Swan Lake and Falls Lake levels, leakages, and instream flows in Lower Cascade Creek.
- descriptions of how these data will be used in an Operations Model.

The EIS and supporting study results must show how these data will be analyzed and how the results will be used in an Operations Model. Analysis should follow standard methods published by the USGS. The Operations Model should show how water will be managed throughout the year, incorporating Swan Lake inflow magnitude and timing, Swan Lake levels, amount diverted, magnitude and timing of release and spill from Swan Lake into Lower Cascade Creek and Falls Lake levels. Contributions of un-affected tributaries into Lower Cascade Creek and Falls Lake should also be described.

### Instream Flow Study Methods:

The Scoping Document and study plans do not describe the methods that will be used to evaluate instream flows (and lake levels) affected by the project. Instream flow studies should specifically address Swan Lake levels (including affects of lake drawdown on inlet streams, Lower Cascade Creek, including aquatic habitats and sediment/debris transport, sight and sound of waterfalls at Falls Lake and the Cascade Creek trailhead, and small boat navigability through Falls Lake.

The EIS and supporting study results must include this information, in the context of the year-round Operations Model and relevant alternatives and affects on aquatic and recreation resources.

### Geotechnical Investigations

The Scoping Document and study plans do not explicitly address slope stability hazards related to construction methods and facilities. Although the Scoping Document alludes to a 1961(or 1962) drilling study in the vicinity of Swan Lake, there is no meaningful summary or correlation of this study to the current facilities and construction methods. The 1961 (or 1962) study has not been made available. At one point, the Scoping Document states that no roads will be constructed. However, Figure 7 (Appendix E, Scoping Document 2) shows roads connecting the ramp to the powerhouse and the tunnel portal.

The EIS and supporting study results must include the results of geotechnical investigations specific to the current proposal (including the tunnel, placement of excavated materials, and access roads). Although detailed geotechnical investigations may be best deferred to final design phase, sufficient information should be available in the EIS to determine the likely effects and mitigation measures of the proposal.

## **Other Comments**

### **Section 6.6.1 - Other Land Use**

Pages 6-31 and 6-32:

The Forest Service submitted a comment to SD1 stating: *“The effects of the proposed development on the character of the roadless area (Number 202) would need to be addressed in the environmental analysis.”*

The applicant responded on page 6-31 and 6-32: *“As Cascade Creek has withdrawn its originally proposed Alternative A, and because the currently proposed Project is within an area identified as “reserved for hydropower” in USFS documents, the Applicant believes that this issue no longer applies. Cascade Creek does, however, intend to fully analyze the project effect as it relates to other management categories associated with the Tongass National Forest management plan.”*

The effects of the proposed development on the character of Roadless Area Number 202 must still be addressed in the environmental analysis.

The Cascade Creek/Swan Lake area was identified as having potential water power value and was withdrawn by Power Site Classifications 9 and 192 on 8/20/21 and 11/14/27, respectively. In accordance with the provisions of Section 24 of the Federal Power Act of June 10, 1920, these lands are reserved from entry, location, or other disposal under the public land laws until otherwise directed by FERC or by Congress. However, the Forest Service continues to have jurisdiction over the management and resources of these lands while recognizing that the withdrawn areas have power values which should be protected to the greatest extent possible, consistent with other land-use requirements.

On May 28, 2010, Secretary Thomas J. Vilsack renewed his reservation of final decision authority over certain forest management and road construction projects in inventoried roadless areas. The Cascade Creek Hydroelectric project is within Roadless Area Number 202. Current direction is that road construction or re-construction and the cutting, removal, or sale of timber will require Secretarial approval before implementation.

### **Section 1.3 – Communication Protocols**

Page 1-6

We regret that there is no longer a public collection of printed Cascade Creek project documents in Petersburg and recommend that you make every effort to find a new site to house the documents. The approved communication protocol should be updated and then re-approved by the participants.



UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

IN THE MATTER OF COMMENTS )  
ON SCOPING DOCUMENT 2 )  
FOR THE CASCADE CREEK )  
HYDROELECTRIC PROJECT )

Project Number: P-12495-002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the U.S.D.A. Forest Service's comments on Scoping Document 2 by electronic filing, with the Federal Energy Regulatory Commission, at [www.ferc.gov](http://www.ferc.gov), and a copy of said documents by electronic mail and/or USPS mail to the following listed parties:

Party	Primary Person or Counsel of Record to be Served	Other Contact to be Served
Alaska Department of Natural Resources	John Dunker Water Resource Manager Alaska Department of Natural Resources PO Box 111020 Juneau, ALASKA 99811-1020 UNITED STATES John.dunker@alaska.gov	
Cascade Creek, LLC	Chris Spens Project Manager Cascade Creek, LLC 3633 Alderwood Ave Bellingham, WASHINGTON 98225 UNITED STATES cspens@thomasbayhydro.com	
Ketchikan Public Utilities	Jennifer Holstrom Senior Project Engineer Ketchikan Public Utilities 2930 Tongass Ave Ketchikan, ALASKA 99901 UNITED STATES jenniferh@city.ketchikan.ak.us	
Southeast Alaska Power Agency	Dave Carlson CEO Southeast Alaska Power Agency 1900 First Avenue, Suite 318 Ketchikan, ALASKA 99901 UNITED STATES dcarlson@seapahydro.org	

<p>Petersburg (Alaska) Municipal Power &amp; Light</p>	<p>Joe Nelson Superintendent Petersburg (Alaska) Municipal Power &amp; Light 11 S. Nordic Petersburg, ALASKA 99833 UNITED STATES pmpl@ci.petersburg.ak.us</p>	
<p>SE ALASKA CONSERVATION COUNCIL</p>	<p>Buck Lindekugel Staff Attorney SOUTHEAST ALASKA CONSERVATION COUNCIL 419 Sixth St. Juneau, ALASKA 99801 buck@seacc.org</p>	
<p>THOMAS BAY POWER AUTHORITY</p>		<p>Dick Olson <i>(served by USPS mail)</i> THOMAS BAY POWER AUTHORITY PO Box 1318 Wrangell, ALASKA 99929-1318 UNITED STATES</p>
<p>USDA Forest Service- Region 10</p>	<p>Roger Birk Individual PO Box 21628 Juneau, ALASKA 99802-1628 UNITED STATES rbirk@fs.fed.us</p>	

Dated this 18th day of January 2011

/s/ Barbara A. Stanley

USDA Forest Service  
Federal Building  
Ketchikan, Alaska 99901-6591

(907) 228-6262

31 January 2011

Electronic Filing

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

Subject: PROTEST COMMENTS TO:  
Cascade Creek Hydroelectric Project - Scoping Document 2  
FERC No. 12495-002

Dear Secretary Bose:

1. Cascade Creek, LLC/Alaska Hydro ("Company") has not fully informed the public as to its progress with government agency requirements or of its hydrological findings. What was the condition of its stream gauging stations during periods of low water flow? The company has not conducted a public meeting since 10 August 2009 so the public has been kept out of the process even though the Company intends to submit its application for licensing its project to FERC in January 2011 leaving the public out of the loop as far as commenting on the missing hydrological findings.
2. Because Swan Lake/Cascade Creek have low water periods, and the Company currently does not envision a dam or sill on the lake's outlet, how then does the Company plan on producing a constant 70 megawatts (MW) on a "run of the river" generation system? How is this possible without a serious drawdown of Swan Lake? Is it not probable that the reason for a 40-foot deep intake is the necessity to produce 70 MW of power during low water periods would demand a lake drawdown in excess of a "run of the river" project? Shouldn't the Company not ask to license its project at a lesser output (less than 70 MW) which would logically conform to natural flow rates associated with a "run of the river" project?
3. Has the Company completed all of its bathymetric and fish surveys which I commented on previously? While I visited, and fished in Thomas Bay this year, I did not encounter any field work where reasons for my activity could have been noted by the Company. This could have added to the Company's ability to account for visitors recreation activities for those of us who did not receive their second mailed survey.
4. There is currently enough produced and envisioned public hydroelectric energy generation within the region to satisfy current future demand. The nearest community to this project, Petersburg, is about 15 northeast miles away, yet has expressed little interest in purchasing power from the Company.
5. There is no market for the Company's hydroelectric power unless a transmission system is built capable of delivering power out of the region. The most logical market,

which has been publicly discussed, is the mineral rich area of British Columbia, Canada, where at least 25 large mines have been proposed.

6. Because of the likelihood of large mine developments made possible by power from Swan Lake at Thomas Bay, the impact to the region of mine waste and tailings runoff calls for an environmental impact study (EIS). An environmental assessment (EA) preferred by the Company is insufficient and will not fully illuminate the potential pollution to the marine life rich Stikine River and its tributaries which Swan Lake power will ensure. Furthermore, power generated by this project will have far reaching impacts which will affect citizens of the United States, Canada, and Tahlton Nation, so for FERC not to require the company to complete an EIS is a failure of oversight.

7. I had earlier been told in a telephone conversation with Kleinschmidt & Associates that I would have time to comment on this project up to the end of March 2011. Now I've been told that I have to have my comments on this project in by today, 31 January 2011. I have seen no public notices to clarify this, nor has there been the promised public meeting with CCLLC. I have to say that FERC has allowed its ALP process in this case to turn into a farce. The public has been for the most part, completely disenfranchised. As a ratepayer of Petersburg Municipal Power & Light, I feel as though I can have no confidence in FERC regulations or FERC personnel.

8. My concerns about this project evolve from both my usage of Thomas Bay and Swan Lake and the surrounding area including the Stikine River system for recreation and as a commercial salmon troller and halibut longliner, but also as a ratepayer of Petersburg Municipal Power & Light. **Cascade Creek, LLC/Alaska Hydro's project is unnecessary and should not be licensed or built.**

9. My comments here in no way should be considered complete but are being submitted at what I have been informed to be "at the last minute".

Respectfully,

Charles E. Wood  
P.O. Box 383  
Petersburg, AK 99833-0383  
907-772-3480

30 January 2011

Amended Electronic Filing

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

Subject: PROTEST COMMENTS TO:  
 Cascade Creek Hydroelectric Project - Scoping Document 2  
 FERC No. 12495-002

Dear Secretary Bose:

**My filing yesterday included Item 27. Duff Mitchell, formerly of Cascade Creek, LLC, called my residence today several times and advised I should remove this item as the "Duff Mitchell" referenced was not as he stated "him". I, therefore, am refiling my Protest Comments intact except for the removal of the contents of Item 27. Any misunderstanding on my part was unintentional. My interest is solely in the the Cascade Creek, LLC/Alaska Hydro Corporation interests in Swan Lake, FERC No. 12495-002 which Mr. Mitchell is no longer associated with.**

1. I as a ratepayer of Petersburg Municipal Power & Light protest, and contest, the Alternative Licensing Permit process by which Cascade Creek, LLC/Alaska Hydro Corporation has been allowed to pursue under FERC authority. The very apparent lack of oversight by FERC to hold Cascade Creek, LLC/Alaska Hydro Corporation to the letter of the licensing process on such a controversial plan robs me of my right to comment on such a controversial project. Despite the myriad filed comments to FERC from the Alaska Department of Fish and Game/Sport Fish Division, a government agency tasked with the oversight and protection of the Thomas Bay environment, FERC has not blinked in their continued approval of an ever-changing scoping plan, especially **when there is no local need for additional hydropower like CCLLC/Alaska Hydro Corporation is seeking to develop.**
2. Petersburg is a remote rural Southeast Alaska island community with no road access. Cascade Creek, LLC (CCLLC)/Alaska Hydro Corporation has failed to maintain a public reading file in Petersburg, as initially agreed upon in the Multiple-Project Draft Communications Protocol. CCLLC/Alaska Hydro Corporation conducted no public meeting to introduce their Scoping Document 2, a total diversion from their past plans. Thus, there was no solicitation of public comment.
3. My early September 2010 Google search of CCLLC found "Thomson Financial Mergers and Acquisitions Project Finance Corp. Acquires Cascade Creek LLC" which included the following "business transaction":

*SDC Deal Number: 2135607020;*  
*Date Announced 07 Dec 09;*  
*Date Effective: 03 Sept 10;*  
*Status: Completed;*  
*% Sought: 100.00000;*  
*% Shares Acquired: 100.00000;*  
*Cross Border?: Y [Yes]*  
*Target: Cascade Creek LLC*

***Business Description:*** *Cascade Creek, LLC, headquartered in Bellingham, Washington, is a hydroelectric utility company. It provides electric power utility services in the state of Alaska."*

Acquirer: Project Finance Corp

**Business Description:** Project Finance Corp, located in Vancouver, British Columbia, is an investment company. It is also a capital pool company that identifies and evaluates businesses and asset with a view to completing a Qualifying Transaction. The company was founded in 2006.

As of: Sep 23 2010:

US - Project Finance Corp (PFC) of Canada acquired the entire share capital of Cascade Creek LLC, a Bellingham-based hydroelectric utility company, for USD 3.024 mil. The consideration consisted of USD 0.024 mil in cash plus the issuance of 30 mil new PFC common shares valued at USD 3 mil. The shares were valued based on PFC's closing stock price of USD 0.1 on 6 December 2006, the last full trading day prior to the transaction."

2. (NOTE: Alaska Hydro Inc., formerly Project Finance Corp, formerly Cascade Creek, LLC, is now traded on the Toronto Stock exchange.)

3. A Google search for Alaska Hydro Corporation found:

**Company Description:**

Alaska Hydro Corporation owns and operates Cascade Creek hydroelectric project on Swan Lake in the Thomas Bay area of Alaska. The Cascade Creek project has a design capacity of 70 megawatts and generation potential of 205 gigawatt hours of electricity. The company was formerly known as Cascade Creek LLC and changed its name to Alaska Hydro Corporation in September 2010. The company is based in Juneau, Alaska. Alaska Hydro Corporation operates as a subsidiary of Tollhouse Energy Company.

4. I offer these Google finds and question why there is an industry review and comment phase of the CCLLC/Alaska Hydro Corporation Scoping Document 2 as it appears CCLLC/Alaska Hydro Corporation has incorrectly identified themselves in print as **“owns and operates Cascade Creek hydroelectric project on Swan Lake in the Thomas Bay area of Alaska”**. False representation? I also question whether they have successfully field-tested the “existing” Tyee utility infrastructure on Mitkof Island, or the City/Borough of Wrangell or Ketchikan to absorb the added electrical flow of “a design capacity of 70 megawatts and generation potential of 205 gigawatt hours of electricity”? Did they share their findings with the Petersburg Municipal Power & Light (PMP&L) management, or that of the City and Borough of Wrangell or Ketchikan, or the Southeast Alaska Power Agency (SEAPA)?

5. Where are the elements describing Mitkof Island landfall of the CCLLC/Alaska Hydro Corporation's project powerlines? Additionally, where is the public communication, and municipal communications looking into how they would hoop up things to the existing Petersburg Municipal Power & Light power station at Scow Bay? Where are studies to look at impacts by this part of the project-ranging from shorelines, near shore recreation, impact on landowners or potential landowners of City of Petersburg lands that may be zoned for residential development (off Frederick Point Road), issues with overhead lines adjacent to airport runway and safety buffer?

6. The 463-page “Scoping Document 2” is a curious read. CCLLC/Alaska Hydro Corporation has obviously failed to read and comprehend the wealth of technical data presented by the Alaska-based state and federal agencies, as well as the breadth of questions posed by them and the public, or to realize they (CCLLC/Alaska Hydro Corporation) should terminate their pursuit of a hydroelectric facility at Swan Lake. I can only hope that some competent administrator at FERC sits down and absorbs the comprehensive public and Alaska-based state and federal agency documentation provided in this Scoping Document 2, and mandates an immediate and comprehensive Environmental Impact Study (EIS). This process of requests for public and Alaska-based state and federal agency testimony, and public and Alaska-based state and federal agency comments to FERC has aided the applicant to “make it up as they go along” for their pie-in-the-sky hydro application and is shining a less than favorable light on the FERC review and licensing process.

7. My previous testimony and that of others to FERC noted that CCLLC failed in its two attempts to provide a record verbatim testimony from their Fall 2007 Petersburg visit. The audience in attendance included representatives of many Alaska-based federal and state agencies; commercial, sport, and subsistence fishermen; subsistence and guided hunters; and small charter operators collectively presenting a wealth of detail, questions, and scientific knowledge all garnered from real-life experiences throughout Thomas Bay.

8. Additionally, there was passionate testimony from a member of the Tlingit community about the horrific landslide that killed hundreds of his Tlingit ancestors in Thomas Bay. A Google search of “Thomas Bay” includes:

*“In 1750, a native (Tlingit) village on Thomas Bay was completely buried by a large landslide. Over 500 native people died in the natural disaster. From that day on the bay was dubbed “The Bay of Death” or “Geey Nana” in Tlingit.”*

9. I searched the Scoping Document 2 and found no CCLLC/Alaska Hydro Corporation reference to seismic evaluations, geologic transects, landslide scars, or faults. My review of the 1978 US Department of Interior Geologic Survey, “Reconnaissance Engineering Geology of the Petersburg Area, Southeastern Alaska, with Emphasis on Geologic Hazards” provides some historic data and insight on Thomas Bay. CCLLC/Alaska Hydro Corporation who projects spending \$170 million in constructing their Swan Lake, Thomas Bay facility has not identified how their plan mitigates, limits or eliminates structural liabilities in this rugged and often unforgiving environment.

10. Additionally, Page 325 of the Scoping Document 2 includes the Petersburg Indian Association Resolution 2009-10-09 which states:

*“WHEREAS: The Tribe has identified the areas of Thomas Bay and Frederick Sound scheduled for development in the proposed Cascade Creek Project, FERC No. 12495, encompass ancient village sites, sacred and traditional native grounds.”*

11. However, there appears to be no reference or acknowledgment by CCLLC/Alaska Hydro Corporation in addressing the historical use and authority in Thomas Bay by the Tlingit Indians, a recognized major contributor and partner in Petersburg. Six years into the licensing process, where is FERC oversight mandating ALP compliance for Indian tribes?

12. Review of the CCLLC/Alaska Hydro Corporation Scoping Document 2 did not include any glaciological, climatological, or hydrological studies of the ice cap as it contributes to upper and lower Cascade Creek and Swan Lake? It is obvious to an alert observer that the ice is rapidly disappearing, and while it may not be possible to accurately gauge future rainfall and snow pack, if the ice melts completely it is unlikely that CCLLC will be able to generate 70 megawatts (MW) of hydroelectric power without damming up Swan Lake at its outlet. In low temperature and freezing winters where water-flow is restricted to no flow or during minimal to no precipitation summers how will CCLLC/Alaska Hydro Corporation retain its 70 MW of hydroelectric power, especially with their latest change to a “run of the river” operation model in a non-river environment? Additionally, how will CCLLC/Alaska Hydro Corporation maintain its gauging equipment and power facility? The 2009-2010 winter left the stream gauges totally exposed and some 45-feet out of the water thus totally ineffective. Does CCLLC/Alaska Hydro Corporation intend to modify its project with a dam, or sill (both a dam and a sill have been identified in previous plans), after it is licensed thus avoiding public and Alaska-based state and federal agency review and comment? An Environmental Impact Study (EIS) is required to detail the impact on marine life in Swan Lake and the greater Thomas Bay.

13. Swan Lake and its watershed along with Thomas Bay, have been used for decades, (if not centuries by the Tlingit Indians) in its natural state. CCLLC/Alaska Hydro Corporation is a late-comer as a potential user, yet will have the biggest impact upon Cascade Creek and Swan Lake of any current or prior users, which will have negative consequences for everyone except CCLLC/Alaska Hydro Corporation.

14. A Google search of “Thom Fischer” (CCLLC/Alaska Hydro Corporation’s CEO, and President of both Tollhouse Energy Company and Whitewater Engineering Corp.) on projects throughout Alaska, includes loss of employee life on job sites in Cordova, Alaska, and Wrangell, Alaska:

*“This matter arises from a fatal industrial accident on April 15, 1999, involving an employee of [Thom Fischer’s] Whitewater Engineering Corporation, Inc. (Whitewater) at the Power Creek Hydroelectric Project near Cordova, Alaska.*

STATE OF ALASKA, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, DIVISION OF LABOR STANDARDS AND SAFETY, OCCUPATIONAL SAFETY AND HEALTH SECTION  
Docket No. 99-2131 / Inspection No. 301266516, Page 40-41 includes:

*Based on our review of the entire record in this matter, we conclude that Whitewater’s noncompliance with the cited OSHA laws and standards was willful. In our opinion, Whitewater demonstrated a reckless disregard for employee safety and the requirements of the OSHA Act. Whitewater consciously disregarded the advice of its own avalanche consultant David Hamre and substituted its own admittedly inept judgment regarding the avalanche hazards at the Power Creek site. Whitewater president Thom Fischer and superintendent Dick Potter were keenly aware of the avalanche hazards at the site and admitted they did not have any specialized training or knowledge about avalanche safety prior to the accident. David Hamre provided an avalanche hazard evaluation and made several key recommendations, including the development of a written avalanche safety plan; the training of employees in recognition and avoidance of avalanche hazards; the hiring of a trained avalanche forecaster to make daily safety determinations; and the use of techniques such as blasting to mitigate the avalanche risk. Despite having this specific guidance from its own expert, Whitewater completely failed to implement or follow through on Hamre’s recommendations.*

*It is apparent to us that Thom Fischer acted willfully in failing to implement Hamre’s advice and recommendations. Fischer, who had no avalanche training himself, candidly stated that he regarded most avalanche experts as “ski bums” and did not believe that hiring a professional avalanche forecaster would make the worksite any safer. Fischer appears to have been more interested in avalanche expertise for the purpose of constructing the powerhouse to withstand avalanches than for protecting the safety of employees. Fischer made clear that it was important to him to complete the construction of the permanent bridge in the spring of 1999 before the water level was too high and that he regarded the environmental compliance monitoring by Jeff Davis as an impediment to the construction work. In deciding to go forward with the bridge construction work in April 1999, Fischer relied primarily on the average snowfall statistics for Cordova but ignored the high rainfall average for the month of April contained in the same statistics.*

*Fischer was in regular communication with the job site and received daily weather and construction reports, yet he allowed his employees to keep working on days with bad weather and high avalanche risk. Fischer also announced plans to conduct helicopter blasting as early as January 1999, but failed to follow through with blasting or other mitigation techniques even though he knew from Hamre that “if the snow cornices were knocked down, this would mitigate 95% of the avalanche risk.”*

*In our judgment, it was indefensible for Thom Fischer and Whitewater to*



*consciously ignore the avalanche safety advice received from David Hamre. Whitewater's efforts to mitigate the avalanche risk and protect employees were cursory at best and far short of what Hamre recommended. Under these circumstances, we conclude that Whitewater's conduct demonstrated reckless disregard of employee safety. Therefore we conclude that each of the alleged violations was properly classified as willful."*

15. Another Google search included a March 14, 2001 "Kenai Peninsula Online" post:

*[Thom Fischer's Whitewater Engineering] Corporation pleads no contest in death of worker -- In addition to the suit filed by Stone's family [Power Creek hydroelectric project in Cordova, Alaska], Fischer's company is being sued by the family of a Whitewater worker in Wrangell [Alaska] who was electrocuted a few weeks after Stone's death while working on a project in Southeast Alaska.*

16. Collectively, these past incidents do not promote confidence that CCLLC/Alaska Hydro Corporation President, CEO, and Director Fischer will design, build, and operate the Swan Lake facility in a manner which will ensure environmental compliance or for the safety and welfare of fishermen, hunters, and visitors to the region.

17. Petersburg Municipal Power & Light (PMPL), a public utility, has been supplying hydroelectric power to Petersburg residents since the 1920's through its locally operated and maintained Crystal Lake Hydro Facility, and since the 1980's from the Tyee Lake Hydro Facility (jointly owned by Petersburg, a member utility, along with the communities of Wrangell and Ketchikan, and overseen by the management of the Southeast Alaska Power Agency (SEAPA) (formerly the Four Dam Pool prior to divestiture).

18. CCLLC/Alaska Hydro has left no community unsolicited in their quest for total private industry control of all hydroelectric power development at Thomas Bay. Their earliest attempts at developing Thomas Bay resulted in three expired Preliminary Permits for Swan Lake (Cascade Creek Project P-12495 and P-13048), Ruth Lake (P-12619), and Scenery Lake P-12621). Their attempt to enjoin Whatcom County, Bellingham, Washington in their Thomas Bay development scheme is detailed in the following articles found through Google:

### **"NO ONE ASKED US" SAY RESIDENTS OF SMALL ALASKA TOWN**



*Chris Spens, Environmental Manager for Cascade Creek LLC whose headquarters are in Bellingham, Washington thought the project made sense.*

*The city of Bellingham decided it wanted to purchase only green power. The Swan Lake project would offset a whale of a lot of diesel fuel every year. Sounds pretty cool.*

*Well, not to the slightly more than 3,000 residents of Petersburg, Alaska (pictured here) where the green power would originate in a to be built hydroelectric plant at a pristine lake near town. Unfortunately, no one thought to ask them what they thought about the whole idea.*

*Keep in mind, as you continue reading, there is no local need for the additional power in their area.*

*The Petersburg Pilot reports local residents are having a difficult time finding any benefits for residents of Petersburg, who often use the Thomas Bay area for recreation and sustenance activities. Several local businesses also use the scenic spot to attract tourists during summer months.*

*Writes the Pilot:*

*"Concerns have also mounted over the negative effects that could stem from developing Thomas Bay. Several members of Alaska Department of Fish and Game have stated their concerns over the detrimental effect the projects could have on the area's fish and wildlife populations."*

*"It is possible that there may be profound impacts on well-established shellfish fisheries in Thomas Bay and Fredrick Sound," Theresa Stolpe, a Fish and Wildlife Technician recently told local residents. She mentioned a study performed in the mid-80s that noted the increased amount of fresh water entering Thomas Bay from hydro facilities could impact larval and juvenile crab and shrimp. Doug Fleming, Sport Fish Area Biologist, raised concerns over the water levels being reduced in areas surrounding the projects. Reduced levels of water, according to Fleming, could mean that trout and salmon populations would dwindle due to a change in their spawning areas.*

*Some area residents have expressed fear of the use of eminent domain to seize their properties.*

*There are also concerns with the company which is developing the project. At a local meeting much time was taken up with just trying to figure out who in the hell they were. Again from the Pilot:*

*Although the company holds pre-application licensing for the Thomas Bay area, Thom Fischer, the company's director, introduced a member of Kake Tribal Corporation and mentioned that they were interested in purchasing the project. Concerns were raised over the fact that Cascade Creek is a sister company to Whitewater Engineering, a company that was pardoned by former Alaska State Governor [Frank] Murkowski after being charged with criminally negligent homicide for the death of a worker. "I guess ethics don't play any role in this process," said one audience member, "but I don't understand how your company can come back to Alaska and do business."*

*Maybe some of these issues can be worked out, maybe not. But the kicker remains that until a couple of weeks ago no one even bothered with talking to residents of the area.. Isn't that too often the case when dealing with government or big corporations. They just look out for themselves, residents be damned.*

*That kind of attitude is especially not appreciated in the state of Alaska where citizens expect to have control over their lives and their property.*

*Martha Smith addressed a recent council meeting which took up the issue. She stated that she would like the city to respond to the proposed projects. "Lots of questions and concerns were raised," she informed the council, "and we were responded to with evasion, incomplete and incorrect information, as well as disdain for our perspectives. It was, however, made clear that Cascade Creek, LLC has big plans for big profits."*

*"Big Plans for Big Profits" would make a good replacement for "In God We Trust."*

*The following is from the Bellingham Herald (Washington [State]):*

***Power project creates uproar / Council hearing from town in Alaska***  
*[by] SAM TAYLOR*

*Residents of Petersburg, Alaska, are hammering local officials' e-mail inboxes about a proposed hydroelectric power project in their mostly pristine area.*

*They're not happy, and neither are some Whatcom County Council members.*

*Petersburg locals want to stop Whatcom County and a private company from looking into the potential of harnessing the power of a high-elevation lake 15 miles north of their city.*

*County Executive Pete Kremen and his staff asked the federal government for permission to explore the project, which may have the potential to transport power south to Whatcom.*

*"This proposed project has caused uproar in our town of 3,000 individuals," Petersburg resident Becky Knight wrote to Whatcom County Council members in an email.*

*Knight, whose children attend Western Washington University, said in a phone interview there is near-consensus in the small town — referred to as "Alaska's Little Norway" on the city's Web site — that the project should be killed.*

*The Swan Lake project is one of three various projects in the proposed Thomas Bay Energy Development being sought by Cascade Creek LLC, a subsidiary of Whatcom County-based Tollhouse Energy, which is owned by Thom Fischer. Whatcom County is only involved in the Swan Lake proposal.*

*A hole would be drilled in the lake bed and water sent down a pipe into a powerhouse from the high-elevation lake. The pressure is so great, Fischer previously said, that the amount of energy produced is equivalent to one turbine on a dam like the Snake River, which generally has more like six turbines on it, but with far less water flowing through.*

*The amount of energy produced would offset about 15 million gallons of diesel fuel per year, Fischer said.*

*"I don't know if this is part of an election stunt or not, but no one here in Petersburg knew about Whatcom County's involvement," Knight said, pointing out that County Executive Kremen is seeking re-election. "We're fired up."*

*Kremen did not return a call seeking comment about the reaction from Petersburg, instead asking a Puget Sound Energy spokesman to call The Herald. PSE has nothing to do with the Swan Lake project.*

*Kremen also had his administrative assistant forward several e-mails to a reporter pointing out the benefits of the proposed project.*

*Councilwoman Barbara Brenner said she's angry that Whatcom County officials never contacted the Alaskan residents about the project, nor did they inform council members, who learned of the project from Alaskan media.*

*Cascade Creek did have a public hearing in the town recently that is required by the Federal Energy Regulatory Commission, which governs such projects.*

*"I think it's so rude that nobody who was applying even contacted — nobody from the county — even contacted them," Brenner said. "I think it's so disrespectful."*

*Other council members said they wished they knew earlier, but they will wait to hear more since the process is in a preliminary stage.*

*Petersburg residents don't think the project is green at all, said Mayor Al Dwyer, who also contacted County Council members via e-mail.*

*"There's nothing in it for Petersburg, and it's going to destroy a pristine area," he said by phone.*

*Project coordinators and county administrators caution that the applications to FERC are preliminary and do not mean anything will happen. If it does, said project manager Chris Spens, a former senior environmental planner for the city of Bellingham, it's years away.*

*Spens told County Council members during a recent information presentation on the proposed project that he believed the public's concerns would be answered before anything happens.*

*Petersburg is working on a letter to send to FERC, Dwyer said.*

*That city generates twice as much power as it needs, and a plan is already in place to send its additional power to Ketchikan, Alaska. In 40 to 50 years, if more power is needed in Petersburg, he said, there are several sources other than the Swan Lake proposal that can be looked at.*

*"I appreciate their concern," he said of County Council members. "They seem to be sympathetic to our position.*

19. [NOTE: Whatcom County board members subsequently rescinded their application and relationship with CCLLC for hydroelectric development at Thomas Bay.]

20. CCLLC's Preliminary Permit application for Ruth Lake at Thomas Bay expired so they shopped around until contracting with the City and Borough of Wrangell, Alaska, with expectations of tapping into possible state funding. Wrangell has no hands-on experience with hydroelectric facility management. They receive their hydroelectric power through the Tyee hydro facility managed by SEAPA, described earlier. Rather than producing their own original Preliminary Permit Application for Ruth Lake, Wrangell officials were provided with CCLLC's original application document along with a new title page featuring Wrangell's name, and upon submission awarded FERC's Project No. 13363-000. Wrangell and CCLLC officials jointly signed a confidential non-circumvention power agreement; Wrangell gave \$250,000 to CCLLC to secure hydroelectric power at a more favorable rate in the future if CCLLC's Thomas Bay project is developed.

21. Simultaneously and unbeknownst to Wrangell, CCLLC also produced an identical Preliminary Permit Application for Ruth Lake with Angoon, Alaska, which upon submission received FERC Project No. 13366-000.

22. Additionally, CCLLC swapped out their own cover page on their expiring Scenery Lake Preliminary Permit application, added the City of Angoon's name and upon submission Angoon received FERC Project No. 13365-00.

23. The October 28, 2010 "Wrangell Sentinel" article "Alaska Hydro (Cascade Creek, LLC) updates Assembly" states:

*Former Wrangell Mayor and the Mayor--who presided over the initial Wrangell investment of \$250,000 in Cascade Creek [Wrangell funds given to CCLLC/Alaska Hydro Corporation] in exchange for a guarantee of one percent of the project power for 25 years after it is online -- questioned why Wrangell had not been informed of the change in the company's name, its status with regards to going public, or any general updates on the progress of the projects.*

*"My question is that if we are so important to this project why were we not informed of the name change of the project, why were we not informed of the different markets and going on the stock exchange?" asked McConachie.*

24. Rylan Long's November 4, 2010 "Wrangell Sentinel" article "Wrangell Assembly discusses CCLLC ties at meeting" states:

*After Cascade Creek LLC's Licensing Manager Chris Spens' presentation on Oct. 26, man on the Wrangell Borough Assembly remained unconvinced that future ties with the organization are in Wrangell's best interest.*

*"I would like to see our attorney look into this and see if we cannot get ourselves out of this organization. That's just my personal opinion," Assembly member Bill Privett said.*

*Assembly member Mike Symons agreed with Privett, and added that if the project could be built by the public that it would better serve the public's best interests.*

*"Obviously hydropower is going to be one of our best and cheapest resources in Southeast Alaska. I also realize that if we could do this in a public way without the private entity that we could serve these communities better and cheaper," Symons said.*

*"My gut feeling is we shouldn't be doing business with this particular company. I'm with Privett on this," Symons said.*

*At the Oct. 28 meeting the Assembly approved a motion to instruct the borough attorney to review the contract and possibly getting Wrangell's \$250,000 back [from CCLLC]. It had invested the \$250,000 in exchange for the right to one percent of the generated power of the Thomas Bay Projects for 25 years. The motion was made by Privett and seconded by Jack.*

25. Keith Chaplin's September 30, 2010 "Petersburg Pilot" article, "Cascade Creek LLC bought by Canadian company" states:

*"Cascade Creek formerly had a person in their employ by the name of Duff Mitchell," Spens said. "Whom is no longer an authorized representative for Cascade Creek."*

*According to the July 22, 2010 filing records, Mitchell is still a shareholder, which Spens acknowledged. According to the filing statement, Mitchell owns 400,000 shares of the company [Alaska Hydro Corporation] with just over 200,000 of those exchangeable."*

26. A Google search for Duff Mitchell, CCLLC's former Business Development Director, and Alaska Hydro Corporation's former Vice President Business Development, included:

*Electrical Distributors, Inc. [EDI] v. SFR, Inc., QED, Inc. v. Ronald [Duff] Mitchell and B. Jon Mitchell" cited as 96-4198 -- Electrical Distributors Inc. v. SFR Inc. -- 01/28/1999;*

27. Removed at the request of Duff Mitchell on January 31, 2011.

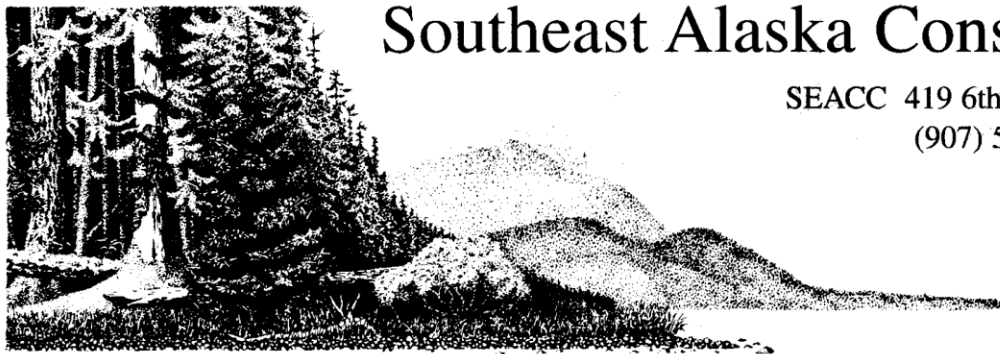
28. While my protest testimony here on the past actions of Thom Fischer, and Duff Mitchell may seem irrelevant to the CCLLC/Alaska Hydro Corporation's Scoping Document 2, I as a Petersburg Municipal Power & Light ratepayer expect my public utility management to be beyond reproach, have an impeccable résumé with relevant professional qualifications and training, possess and demonstrate superior management and communication skills, exercise sound moral and ethical judgment when developing future local projects, and to present a plan in a true and honest manner versus the CCLLC Alaska Hydro Corporation "wolf in sheep's clothing" or "Trojan Horse" manner. I should not have to worry that questionable character, corporate economic gain, stock price fluctuations, etc. may negatively impact me as a ratepayer or my community, jeopardize Petersburg Municipal Power & Light which is a City of Petersburg enterprise fund, or compromise the integrity of the Southeast Alaska Power Agency (SEAPA), or the future of Southeast Alaska's hydroelectric grid. I should feel confident that FERC, is competent and possesses a healthy curiosity to investigate, oversee and safeguard remote rural Alaska communities against unnecessary, unproven and ever-changing scoping plans **when there is no local need for additional hydropower like CCLLC is seeking to develop**. However, by FERC allowing CCLLC to proceed under its Alternative Licensing Plan (ALP) with a controversial hydro development plan, I feel as a ratepayer of Petersburg Municipal Power & Light that my concerns, and other ratepayers in my community, have been ignored. FERC has been informed over time that the ALP was not working for the public on this project. Why has FERC not mandated an Integrated Licensing Process which has far more structured communications, etc., necessary in such a controversial project?

29. I highly recommend the thorough review of the Alaska Department of Fish & Game/Division of Sport Fish's December 22, 2010 letter to FERC "Protest of changes comments in Communications Protocol"; and the US Forest Service's January 18, 2011 "Comments on Scoping Document 2 for the Cascade Creek Hydroelectric Project / FERC Project No. 12495-002". Both agencies' continued oversight and review safeguards the Thomas Bay environment.

30. Review of the CLLC/Alaska Hydro Corporation's "Cascade Creek Hydroelectric Project — Scoping Document 2 (FERC No. 12495-002), has failed to convince me, a ratepayer, of the applicant's ability, their readiness, or that they are worthy of receiving a Final Licensing Permit from FERC for developing a 70 MW hydroelectric power facility at Swan Lake in Thomas Bay. **This project should not be granted a license by FERC.**

Signed,

Suzanne West  
P.O. Box 383  
Petersburg, Alaska 99833-0383  
907-772-3480



# Southeast Alaska Conservation Council

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February 4<sup>th</sup>, 2011

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

Subject: *Cascade Creek Hydroelectric Project No. 12495*

Dear Secretary Bose:

In a letter dated August 2, 2007, the Southeast Alaska Conservation Council (SEACC) agreed to the use of the Alternative Licensing Process (ALP) by Cascade Creek LLC (CCLLC) for the development of the Cascade Creek Hydroelectric Project. In the same letter, SEACC agree to the Draft Communications Protocol (July 2007) with attached provisos.

Due to CCLLC's failure to follow the Draft Communications Protocol and other abuses of the ALP, SEACC rescinds our endorsement of this process. Further, SEACC no longer wishes to participate in either the ALP or associated Draft Communications Protocol for the Cascade Creek Hydroelectric Project. We have lost faith in the process and believe that CCLLC is neither acting in good faith nor meeting the minimum standards necessary to ensure that the public interest is properly considered and incorporated into this process.

## Statement of Interest

SEACC's membership includes commercial fishermen, Alaska Natives, small-scale timber operators and value-added wood product manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from many other walks of life. SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for the balanced, sustainable use of our region's resources. The development of Southeast Alaska's hydropower resources is an important and necessary step toward creating sustainable, thriving communities and environments in Southeast Alaska. Throughout such development, SEACC is dedicated to making sure that the public interest—including the careful stewardship of community, personal use, subsistence, and energy resources—is preserved.

### Reasons for Rescinding Participation in the ALP and Draft Communications Protocol

1. The project outlined in Scoping Document 2 (SD 2) is vastly different from previous descriptions of the Cascade Creek Project. As such, new scoping, studies, and review must be conducted. In addition, CCLLC has not effectively explained the operational changes made in SD2 and it is impossible for us to determine which studies should be conducted.
2. Lack of meaningful (or in some cases any) response from CCLLC about studies identified by agencies and others as necessary for evaluation of the project but not included in final study plans. These include a spawning assessment; a meaningful and effective study of recreational use of the project area by tourists and locals; and a study of habitats that would be affected by raising the lake level 6+ feet.
3. Final Study Plans were not completed until months before many of the final study results are being distributed as part of the draft EA/EIS. This defies logic and makes meaningful participation of the public, citizen's groups, and agencies very difficult.
4. Communications Protocol has not been followed in good faith. The lack of a paper file maintained in Petersburg is the biggest violation of the Communication Plan, however other violations occurred. SEACC was not properly invited to a scoping meeting conducted in Fall 2010 and agreed upon methods for documenting this and other meetings (minutes reviewed by all participants) was not completed. In addition, CCLLC adopted a new Communications Protocol in the SD 2 without consulting previous Communications Protocol signatories.
5. The Cascade Creek project is not needed or wanted by Southeast Alaska towns, including the nearest town Petersburg. There is talk about the development of a transmission line to Canada—and an associated market for Cascade Creek's power—however, we believe such a transmission line to be highly speculative and unlikely to be constructed due to significant associated environmental and economic impacts.
6. Our participation in the ALP might be interpreted mistakenly as SEACC's acceptance of the conduct of the ALP and CCLLC.
7. We believe very serious environmental and economic impacts will occur if the project is constructed, making meaningful review of this project especially important.
8. In general, the timeline has been very rushed with information released at the last minute after extensive departures from the timeline in the Communications Plan. Only project commenters seem to be expected to adhere to deadlines.



9. Many aspects of the conduct of CCLLC only make sense from the standpoint of a developer managing its risks and trying to spend as little money as possible to complete the ALP process. This objective is not in the public interest.
10. Public and agency confidence in FERC and the ALP has eroded significantly due to the actions of CCLLC. Various commenters have suggested that allowing these actions to continue without a response from FERC “is shining a less than favorable light on the FERC review and licensing process” (Comments of Suzanne West, 1/31/11); “FERC has allowed its ALP process in this case to turn into a farce” (Comments of Charles Wood, 1/31/11); and actions by Cascade Creek “may have caused a lack of public trust in the ALP process” (Comments of Alaska Department of Fish and Game, 12/17/10).
11. The need to preserve the integrity of the ALP and make sure that the numerous proposed hydro projects in Southeast Alaska are evaluated in a timely and effective manner.
12. Overall, the process has been confusing and disorganized, with the effect of making meaningful participation and evaluation of this project difficult.

Thank you for considering our comments.

Sincerely,



Dan Lesh  
Energy Coordinator