



THE TULALIP TRIBES

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The Tulalip Tribes are the successors in interest to the Snohomish, Snoqualmie, and Skykomish tribes and other tribes and band signatory to the Treaty of Point Elliott

Misty Napeahi- Tribal Government General Manager

September 14, 2017

Mark Flury, P.E.
Principal Engineer – Generation Division
2320 California Street
Everett, WA 98201

Dear Mr. Flury,

The Tulalip Tribes have participated in the licensing process for the Sunset Falls Hydro project, but the Tribe has several concerns about the process as it continues to move forward.

The bypass reach for this project is protected from hydro development under the NW Power Act. Although there is an exemption process for projects that provide a substantial benefit for fish and wildlife, the Tribe does not believe that this project would provide any benefit for fish and wildlife species.

There are several technical issues that the parties to the process have discussed during the meetings where the technical data is inadequate to support the District's proposals. Tulalip cannot continue to move forward relying on the consultant's best guess about the impacts to fish and wildlife without data to support its assertions. The District has proposed to conduct some studies over the next few years to attempt to answer some of the questions. But Tulalip considers it unreasonable to ask the tribes and the state agencies to negotiate a settlement agreement now when the data needed will not be collected until after the settlement agreement is agreed to and after the license application is filed. Some of the studies would not be completed until after the license is granted. Although the District has proposed a process for changing parts of the agreement based on the results of the studies, the dispute mechanisms favor the District. It would be much more difficult to challenge the District's decisions after the fact than during the settlement discussions. Further, a lack of study results prior to settlement agreement and issuance of the project will necessarily limit options for adaptive management.

As the parties have discussed the process for moving the control point for the existing instream flow rules and adopting a site-specific instream flow rule for this project, Tulalip cannot support the extremely low flows being proposed compared to the current rules. It is questionable that the process being developed to change the rules is legal under state law and would cause the Tribe to take policy and legal positions contrary to what the Tribe has taken over the last 30 years.

The Tribe fully supports the policies for habitat mitigation to be in place, in kind and in time, counter to what is being proposed. The utility is asking to mitigate the impacts to the most impacted species by developing a mitigation project that would benefit different species. Tulalip cannot support that request.

Due to the many concerns that the Tribe has with this project, it is time for the tribe to withdraw from the settlement negotiations. As of today, Tulalip will no longer have any representatives participate in settlement discussions for this project. By this letter, the Tulalip Tribes gives notice of its permanent withdrawal from the Sunset Energy Project Settlement Negotiations Work Group ("NWG"), pursuant to the Ground Rules of the NWG, and its withdrawal from the Sunset Fish Passage and Energy Project License Settlement Negotiations Confidentiality Agreement dated June 28, 2016, pursuant to Provision 12 of that Agreement.

Sincerely Yours,

Marie Zackuse,
Chairwoman



cc: Tulalip Board of Directors
Thomas O'Keefe, American Whitewater
Susan Rosebrough, NPS
Angella Dillon, Snoqualmie Tribe
Matt Baerwalde, Snoqualmie Tribe
Sonia, Wolfman, Wa, State AG
Jim Pacheco, WDOE
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Tim Romanski, USFWS