

**Exhibit 2 to FIRST AMENDMENT TO BOUNDARY HYDROELECTRIC
PROJECT
RELICENSING SETTLEMENT AGREEMENT
FERC PROJECT NO. 2144**

U.S. Forest Service Draft Section 4(e) Terms & Conditions

[] 2026

USDA FOREST SERVICE
MODIFIED FEDERAL POWER ACT SECTION 4(e) TERMS AND CONDITIONS
BOUNDARY HYDROELECTRIC PROJECT, NO. 2144

Conditions filed on [REDACTED], 2026, as part of First Amendment to Boundary Hydroelectric Project Relicensing Settlement Agreement.

General

License articles contained in the Federal Energy Regulatory Commission's (Commission) Standard Form L-5 issued by Order No. 540, dated October 31, 1975, cover those general requirements that the Secretary of Agriculture, acting by and through the USDA Forest Service, considers necessary for adequate protection and utilization of the land and related resources of the Colville National Forest. Under authority of section 4(e) of the Federal Power Act (16 U.S.C. § 797(e)), the following terms and conditions are deemed necessary for adequate protection and utilization of National Forest System lands and resources. These terms and conditions are based on those resources enumerated in the Organic Administration Act of 1897 (30 Stat. 11), the Multiple-Use Sustained Yield Act of 1960 (74 Stat. 215), the National Forest Management Act of 1976 (90 Stat. 2949), and any other law specifically establishing a unit of the National Forest System or prescribing the management thereof (such as the Wilderness Act or Wild and Scenic Rivers Act), as such laws may be amended from time to time, and as implemented by regulations and approved Land and Resources Management Plans prepared in accordance with the National Forest Management Act. Therefore, pursuant to section 4(e) of the Federal Power Act, the following conditions covering specific requirements for protection and utilization of the National Forest System lands shall also be included in any license issued for the Boundary Hydroelectric Project (Project) and any license amendment issued.

Condition No. 1 – Compliance with the Settlement Agreement¹

The Licensee shall completely and fully comply with all provisions of the Boundary Hydroelectric Project Relicensing Settlement Agreement as amended by the 2026 First Amendment to Settlement Agreement (collectively, "Settlement Agreement") relating to:

¹ Note for Conditions 1 and 2. Implementation requirements do not extend to off license agreements or other information provided to FERC along with the Settlement Agreement for information purposes only.

1. All protection, mitigation and enhancement measures and other obligations identified in the Settlement Agreement and Exhibits which are on or affect National Forest System (NFS) lands and resources; and
2. All commitments in each and every plan referenced in the Settlement Agreement, and Exhibits which implement activities which are on or affect NFS lands and resources; provided, however, that this Condition No. 1 excludes those measures and other obligations, and those provisions of the Settlement Agreement and Exhibits, relating to decommissioning of the Mill Pond Dam and implementation of the cold water release from Sullivan Lake (including, the Settlement Agreement §§ 7.14 and 7.15, and Settlement Agreement Exhibit 9, (Temperature Attainment Plan) §§ 4.1.2.1.1 and 4.1.2.2.). In addition this Condition No. 1 also excludes Appendices 1-3 and Attachments 1 and 2 of the Settlement Agreement.

Condition No. 2 – Reservation of Authority in the Event the Settlement Agreement is Materially Modified or Not Accepted by the Commission

USDA Forest Service preliminary terms and conditions are premised on two considerations:

1. The Commission's acceptance and incorporation of the Settlement Agreement, Appendices, and Exhibits as they relate to activities that are on or affect National Forest System lands, without material modification into the new Project license; provided, however, that such acceptance and incorporation shall not extend to those provisions of the Settlement Agreement, Appendices and Exhibits relating to decommissioning of the Mill Pond Dam and implementation of the cold water release from Sullivan Lake as defined in Condition No. 1.
2. The Licensee's immediate and complete implementation of its obligations in accordance with the Settlement Agreement as it may be modified or conformed by the Parties following issuance of the license by the Commission.

In the event either of these requirements are not met, the USDA Forest Service reserves its authority to supplement or modify its terms and conditions at a later time.

Condition No. 3 – Implementation of Settlement Agreement License Articles

The Licensee shall implement Settlement Agreement License Articles 1-10, as amended by the 2026 First Amendment, as they relate to activities that are on or affect National Forest System lands.

1. Operations

2. Boundary Resource Coordinating Committee and Work Groups
3. Terrestrial Resources
4. Land Acquisition
5. Recreation Resources
6. Well Decommissioning
7. Programmatic Agreement
8. Water Quality Plans
9. Fish and Aquatic Resources
 - 9 (A) Mainstem Fish Community and Aquatic Habitat Measures as amended by the 2026 First Amendment
 - 9 (B) Upstream Fish Passage
 - 9 (C) Reduction of Project Related Entrainment Mortality as amended by the 2026 First Amendment
 - 9 (D) Tributary Non-native Trout Suppression and Eradication
 - 9 (E) Tributary Fish Community and Aquatic Habitat Measures as amended by the 2026 First Amendment
 - 9 (F) Mill Pond Dam Site Monitoring and Maintenance
 - 9 (G) Native Salmonid Conservation Program as amended by the 2026 First Amendment
 - 9 (H) Recreational Fish Stocking Program
 - 9 (I) Fund for Habitat Improvements in Tributaries to Sullivan Lake
10. Escalation

Condition No. 4 - Implementation of the License on National Forest System Lands

The Licensee shall not commence implementation of habitat or ground-disturbing activities on National Forest System (NFS) lands until the USDA Forest Service has approved site-specific project designs and issued a notice to proceed.

Additional NFS Lands. If long term occupancy of NFS lands is required for Project related purposes and such occupancy is not authorized by including such lands within the FERC Project boundary, the Licensee shall obtain a special-use authorization for occupancy and use of such NFS lands from the USDA Forest Service. Within three months of License issuance and before conducting any habitat or ground-disturbing activities on such NFS lands, the Licensee shall apply to the USDA Forest Service for a special-use authorization for occupancy and use of NFS lands, and shall file the special-use authorization with the Commission once obtained.

Additional lands authorized for use by the Licensee in a new special-use authorization shall be subject to laws, rules, and regulations applicable to the NFS. The terms and conditions of the USDA Forest Service special-use authorization are enforceable by the USDA Forest Service under the laws, rules, and regulations applicable to the NFS.

Should additional NFS lands be needed for this Project over the License term and such lands are not included within the FERC Project Boundary, the special-use authorization shall be amended to include any additional NFS lands.

Approval of Changes on NFS Lands after License Issuance. Notwithstanding any License authorization to make changes to the Project, the Licensee shall receive written approval from the USDA Forest Service prior to making changes in the location of any constructed Project features or facilities on NFS lands, or in Project uses of NFS lands, or any departure from the requirements of any approved exhibits for Project facilities located on NFS lands filed by the Licensee with the Commission. Following receipt of such approval from the USDA Forest Service, and at least 60 days prior to initiating any such changes or departure, the Licensee shall file a report with the Commission describing the changes, the reasons for the changes, and showing the approval of the USDA Forest Service for such changes. The Licensee shall file an exact copy of the report with the USDA Forest Service at the time it is filed with the Commission.

Coordination with Other Authorized Uses on NFS Lands. In the event that portions of the Project area are under federal authorization for other activities and permitted uses, the Licensee shall consult with the USDA Forest Service to coordinate such activity with authorized uses before starting any activity on NFS land that the USDA Forest Service determines may affect another authorized activity.

Site-Specific Plans. The Licensee shall prepare site-specific plans subject to review and approval by the USDA Forest Service for habitat and ground-disturbing activities on NFS lands affected by the Project required by the License, including such activities contained within resource management plans required by the License to be prepared subsequent to License issuance. The Licensee shall prepare site-specific plans for planned activities one year in advance of implementation dates required by the License, or as otherwise agreed to by USDA Forest Service. For activities planned in the first year after License issuance, the Licensee shall provide the site-specific plans to the USDA Forest Service sufficiently in advance of implementation to allow USDA Forest Service review and approval of the site-specific plans prior to implementation. For emergency situations, where corrective or mitigation actions must be implemented immediately, the Licensee will coordinate with the USDA Forest Service to expedite approvals and/or permits.

Site-specific plans shall include:

1. A map depicting the location of the proposed activity and GPS coordinates.
2. A description of the USDA Forest Service land management area designation for the location of the proposed activity and applicable standards and guidelines.
3. Where required by regulatory procedures, a description of alternative locations, designs and mitigation measures considered including erosion control and

implementation and effectiveness monitoring designed to meet applicable standards and guidelines.

4. Draft biological evaluations or assessments including survey data as required by regulations applicable to habitat or ground-disturbing activities on NFS lands in existence at the time the plan is prepared.

5. An environmental analysis of the proposed action consistent with the USDA Forest Service policy and regulations for implementation of the National Environmental Policy Act (NEPA) in existence at the time the plan is prepared for Commission Licensed projects on NFS lands. Environmental Analysis completed by the Commission or others may be relied upon as appropriate on a project specific basis as agreed to by USDA Forest Service.

6. A Spill Prevention and Control, and Hazardous Materials Plan for hazardous materials storage, spill prevention and cleanup on NFS lands, as needed, will be provided to USDA Forest Service for review and approval before work commences.

Surveys and Land Corners. The Licensee shall avoid disturbance to all public land survey monuments, private property corners, and forest boundary markers. In the event that any such land markers or monuments are destroyed by an act or omission of the Licensee, in connection with the use and/or occupancy authorized by the License, depending on the type of monument destroyed, the Licensee shall reestablish or reference same in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of the County Surveyor, or (3) the specifications of the USDA Forest Service. Further, the Licensee shall ensure that any such official survey records affected are amended as provided for by law.

Condition No. 5 - Surrender of License or Transfer of Ownership

At least 1 year in advance of filing an application for license surrender, the Licensee shall prepare a restoration plan for National Forest Service lands approved by the USDA Forest Service. The restoration plan shall identify improvements to be removed, restoration measures, and time frames for implementation and shall be filed with the Commission as part of the surrender application.

Condition No. 6 – Indemnification

The Licensee shall indemnify, defend, and hold the United States harmless for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the Licensee in connection with the Licensee's use and/or occupancy of National Forest System lands authorized by this License. This indemnification and hold harmless provision applies to any acts and omissions of the Licensee or the Licensee's assigns, agents, employees, affiliates, subsidiaries, fiduciaries, contractors, or lessees in

connection with the Licensee's use and/or occupancy of National Forest System lands authorized by this license which result in: (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to environmental laws such as the Comprehensive Environmental Response Compensation and Liability Act, Resource Conservation and Recovery Act, Oil Pollution Act, Clean Water Act, Clean Air Act; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States (other than as contemplated by the License); or (4) the release or threatened release of any solid waste, hazardous substances, pollutant, contaminant, or oil in any form in the environment.

Condition No. 7 - Reservation of Authority

The Licensee shall implement, upon order of the Commission, such additional conditions as may be identified by the Secretary of Agriculture, pursuant to the authority provided in Section 4(e) of the Federal Power Act, as necessary for the adequate protection and utilization of the public land reservations under the authority of the USDA Forest Service, provided that such additional conditions are necessary, based on compelling evidence, to address changed circumstances.

Condition No. 8 – National Forest System Roads

The Licensee shall be authorized to construct, reconstruct, use and maintain those roads across National Forest System lands that are necessary for the operation, maintenance, and recreational use of the Project as identified and described in Table 1. The Licensee shall have authorization to use the roads described in Table 1 if the roads are included in the Project boundary, or by a special use authorization (SUA) issued by the USDA Forest Service for those roads not included within the Project boundary, or as is otherwise provided in Table 1. The Licensee shall apply for a SUA within three months of License issuance for those roads not included within the Project boundary. Construction and reconstruction of roads listed in Table 1 shall conform to plans, specifications and written stipulations approved by the USDA Forest Service prior to beginning construction and reconstruction work. Roads listed in Table 1 shall be maintained to the level and standards listed in Table 1 and described in Appendix A, as may be amended during the License term.

Table 1: Authorization and Responsibility for Roads needed for Boundary Project operation and maintenance

Road Name/Number	Access Points	Authorization Across NFS Land	SCL Maintenance/Reconstruction Responsibility
West Side Access Road	Main access road from Pend Oreille Co. Rd. 2975 to Boundary Dam	Use of this road segment shall be authorized by including the segment within the Project boundary or by issuance of an SUA by USDA Forest Service for segments not included within the Project boundary.	SCL to maintain for Project and public access. To be maintained to Maintenance Level 5.
FS 6200348	Access to main transmission line towers between Boundary Dam and BPA yard.	Use of this road segment shall be authorized by including the segment within the Project boundary or by issuance of an SUA by USDA Forest Service for segments not included within the Project boundary.	Share by first use. ¹ To be maintained to Maintenance Level 2.
FS 3165000/ Pend Oreille Co. Rd. 3990	Main access route between State Route 31 and the east side of Boundary Dam and the Vista House	SCL shall be authorized to use, maintain and reconstruct this road across National Forest System lands by issuance of an SUA by USDA Forest Service or through a grant of a Public Road Easement to Pend Oreille County.	To be maintained to Maintenance Level 5.
FS 3165350	Road across dam, connecting Pend Oreille Co. Rd. 3990 with the West Side Access Road	Use of this road segment shall be authorized by including the segment within the Project boundary or by issuance of an SUA by USDA Forest Service for segments not included within the Project boundary.	SCL to maintain for project operation and maintenance use. To be maintained to Maintenance Level 2.
FS 3100172	Access to Riverside Mine reservoir overlook from SR 31 to junction with FS 3100178 and trailhead	Use of this road segment shall be authorized by including the segment within the Project boundary or by issuance of an SUA by USDA Forest Service for segments not included within the Project boundary.	SCL to reconstruct and maintain for public access. To be maintained to Maintenance Level 3.
FS 3165325	Access to Pee Wee Falls overlook from POC 3990/FS 3165000 to junction with FS 3165315	Use of this road segment shall be authorized by including the segment within the Project boundary or by issuance of an SUA by USDA Forest Service for segments not included within the Project boundary.	SCL to reconstruct and maintain for public access. To be maintained to Maintenance Level 3.
FS 3165315	Access to Pee Wee Falls overlook from FS 3165325 to trailhead	Use of this road segment shall be authorized by including the segment within the Project boundary or by issuance of an SUA by USDA Forest Service for segments not included	SCL to reconstruct the existing segment of road and construct an extension of this road (if needed) to a proposed trailhead and maintain for public access. To be maintained to Maintenance

FS 3165340	Road accessing up stream dam deflection monitoring point off of Pend Oreille Co. Rd. 3990/FS 3165000	within the Project boundary. Access shall be approved by USDA Forest as described in USDA Forest Service Condition 4 (Implementation of the License on National Forest System Lands).	Level 3. SCL to close with an earthen-berm after the unauthorized road segment is decommissioned.
Unauthorized Road off FS 3165340	Road accessing up stream dam deflection monitoring point off of the 3165340 Road	Access shall be approved by USDA Forest as described in USDA Forest Service Condition 4 (Implementation of the License on National Forest System Lands).	SCL to decommission road and stabilize the 2 mass wasting sites.

¹Share the road maintenance and reconstruction based on who needs the road first. When the road is needed, the organization that needs the road first will perform the maintenance and reconstruction needed to accommodate their use. If the road is currently closed, once the road is no longer needed, it will be reclosed and maintained to a USDA Forest Service maintenance level 1 configuration.

Condition No. 9 – National Forest System Land Boundary Survey

Within three years of License issuance, the Licensee shall re-establish the Public Land Survey System Corners, or establish witness corners governing National Forest System property boundaries within and adjacent to the Project area. The corners, which need to be re-established, are identified in Table 1. The Licensee shall also survey, mark and post to USDA Forest Service standards and specifications those National Forest System lands adjacent to the Project, as identified in Table 1. The Licensee shall be responsible for all USDA Forest Service administrative costs associated with surveying, marking and posting of National Forest System lands identified in Table 1.

In addition, the Licensee shall post Project Boundary signs at all public access points at the Project boundary, informing the public of the location of the boundary. These locations include, but are not limited to, Metaline Waterfront Park, Boundary Forebay Recreation Area, BLM recreation site across from Everett Island, and at any new overlooks and trail access points. The Licensee and USDA Forest Service shall discuss additional locations where there may be public access that requires posting of signs. The Licensee shall post signs at such additional locations as agreed to with the USDA Forest Service.

Table 1 – Boundary Survey

Legal Description Willamette Meridian	Corners	Survey and Post
T39N, R43E Section 10	Witness corner to Corner 3 of Cromwell Lode	1. North line of the Cromwell Lode 2. West line of the Shale No. 11 Lode North of Corner 4 of the Cromwell Lode
T39N, R43E Section 28	1. Witness corner to Corner 1 MS 984. 2. West Meander Corner on the North Section line (Section 28)	Government Lots 5 and 11