

**Exhibit 3 to FIRST AMENDMENT TO BOUNDARY HYDROELECTRIC PROJECT
RELICENSING SETTLEMENT AGREEMENT
FERC PROJECT NO. 2144**

**UNITED STATES DEPARTMENT OF THE INTERIOR
REVISED AMENDED PRELIMINARY CONDITIONS AND RECOMMENDATIONS
PURSUANT TO SECTIONS 10(a) AND 10(j) OF THE FEDERAL POWER ACT
FOR THE
BOUNDARY HYDROELECTRIC PROJECT
FERC PROJECT NO. 2144**

AND

**REVISED AMENDED PRELIMINARY PRESCRIPTIONS FOR FISHWAYS
PURSUANT TO SECTION 18 OF THE FEDERAL POWER ACT
FOR THE
BOUNDARY HYDROELECTRIC PROJECT
FERC PROJECT NO. 2114**

[] 2026

UNITED STATES DEPARTMENT OF THE INTERIOR
REVISED AMENDED PRELIMINARY CONDITIONS AND RECOMMENDATIONS
PURSUANT TO SECTIONS 10(a) AND 10(j) OF THE FEDERAL POWER ACT
FOR THE
BOUNDARY HYDROELECTRIC PROJECT
FERC PROJECT NO. 2144

10(j) Recommendation No. 5: Mainstem Fish Community and Aquatic Habitat Measures (Settlement Agreement – Proposed License Article 9 (A) (REVISED))

The Department of the Interior is deleting section (a) of Recommendation No. 5 and is entirely replacing section (c). Section (b) remains unchanged but is included here for consistency.¹ Section (d)(iv) is slightly modified.

The licensee shall implement the Fish and Aquatics Management Plan (FAMP), Section 5.1, to: (1) modify trapping pools in the area known as the Cobble Sisters to reduce the risk of fish being trapped in the pools during periods of declining flow and reservoir water surface elevations, (2) enhance Sullivan Creek tributary delta habitat by providing additional cover, in the form of large woody debris (LWD) jams, for salmonids occupying coldwater refugia, and (3) conduct fish community surveys and evaluate predation on outmigrating native salmonids at select tributary deltas.

- (a) *This section has been deleted from Recommendation No. 5*
- (b) Channel Modifications of Mainstem Trapping Pools at Project RM 30.3
 - (i) The licensee shall implement site modifications at the Cobble Sisters within five years of license issuance.
 - (ii) The licensee shall excavate a channel to connect mainstem flow to three isolated pools at a large cobble bar near PRM 30.3 to reduce the risk of fish becoming trapped during declining water surface elevations. Spoils from excavation will be used to fill a fourth pool near the channel margin.
 - (iii) The licensee shall conduct compliance monitoring at the Cobble Sisters within one year following implementation of the measure. Compliance monitoring will

¹ The definitions and acronyms in this Revised Amended Preliminary Conditions and Recommendations Pursuant to Sections 10(a) and 10(j) of the Federal Power Act for the Boundary Hydroelectric Project FERC Project No. 2144 shall have the same definitions as in the 2010 Boundary Hydroelectric Project Relicensing Settlement Agreement.

include documentation collected during implementation, such as survey data and photographs of the site before and after excavation.

- (iv) Licensee shall repeat physical measurements to evaluate whether the site modifications continue to function as designed every ten years following construction and following one in 25 year high flow events. During the year following each physical monitoring effort, the FAWG will determine if remediation measures are needed to ensure that site modifications continue to satisfy design specifications. The licensee will implement the required measures to satisfy design objectives.
- (v) The reporting and implementation schedule for channel excavation at the Cobble Sisters is summarized below.

PM&E Measure Activity

Schedule

Implementation Planning
Implementation
Compliance Report
Physical Monitoring

Within three years of license issuance
Within five years of license issuance
Within six years of license issuance
Every ten years following construction, and
following flows exceeding a 25-year
recurrence interval

Monitoring Report

Within one year of physical monitoring

(c) Mainstem Large Woody Debris at Tributary Deltas

- (i) The licensee shall place two LWD jams at the Sullivan Creek delta.
- (ii) The licensee shall place and maintain LWD jams in the thalweg in the upper delta regions of the Sullivan Creek delta to minimize use by non-salmonids. The specific location and design of the LWD jams will be determined during implementation planning by the licensee in consultation with and subject to approval by the FAWG.
- (iii) The licensee shall conduct implementation planning with final design specifications to be approved by the FAWG. Implementation planning will identify:
 - 1. Specific locations for LWD jams at the Sullivan Creek delta
 - 2. LWD jam design specifications for each location
 - 3. Specific monitoring protocols
- (iv) Licensee shall complete construction of the LWD jams within ten years following license issuance. The schedule for initial construction of the Sullivan Creek delta log jams may depend on upstream Mill Pond Dam removal activities.

- (v) If permitting, landowner permission or other issues prevent implementation within ten years following license issuance, the licensee will determine, with approval from the FAWG, alternate locations for installing LWD jams, or will identify and implement alternative measures to provide additional cover in the Sullivan Creek delta with a commensurate schedule and level of effort.
- (vi) Licensee will implement compliance and effectiveness monitoring for each LWD jam. The licensee shall conduct compliance monitoring and will provide documentation to the FAWG and the Commission that the measure has been implemented as specified. Effectiveness monitoring will evaluate the need for LWD jam repair or replenishment.
- (vii) Licensee will issue a compliance report, including documentation collected during construction, repair, or replenishment within one year following implementation or repair of a LWD jam.
- (viii) Licensee will conduct physical effectiveness monitoring during the ninth year following the construction of a structure and at ten-year intervals thereafter. In addition, licensee will conduct physical effectiveness monitoring to determine continued compliance with design specifications following major flood events (25-year event). The results of the effectiveness monitoring will be used to support adaptive management and adjustments to the PM&E measure during repair or log replenishment of a structure.
- (ix) Licensee will repair or replenish the LWD jams within one year following physical effectiveness monitoring.
- (x) Licensee will conduct three consecutive years of biological effectiveness monitoring within the first ten years following construction. Biological effectiveness monitoring will also be conducted concurrent with physical effectiveness monitoring through the term of the license.

The reporting and implementation schedule for mainstem LWD at the Sullivan Creek delta is summarized below.

PM&E Measure Activity	Schedule
Implementation	At the direction of the FAWG, may be completed after the tenth year following license issuance depending on the influence of Mill Pond Dam removal
Compliance Reporting	Within one year following construction, repair or replenishment of LWD structures
Physical Effectiveness Monitoring	In the ninth year following implementation, and every tenth year thereafter; and after flows exceeding a 25-year recurrence interval

Biological Effectiveness Monitoring	Three consecutive years between initial construction and first scheduled repair/replenishment, and then concurrent with physical effectiveness monitoring
Monitoring Report	Within one year following physical or biological effectiveness monitoring

(d) Boundary Reservoir Fish Community Monitoring and Evaluation of Salmonid Predation at Select Tributary Deltas

- (i) The licensee shall conduct fish community surveys to monitor changes in fish population abundance and size structure of focal species over time. Focal species will be westslope cutthroat trout, bull trout, mountain whitefish, smallmouth bass, northern pikeminnow and northern pike and may include other species as identified by the FAWG. The study design and final implementation schedule will be developed in consultation with and subject to approval by the FAWG.
- (ii) The licensee shall conduct a fish community monitoring study in the fifth year following license issuance and at five-year intervals thereafter, unless otherwise directed by the FAWG. Planning for the fish community monitoring study component shall be completed during the calendar year prior to study implementation, and a summary report of field activities will be completed within one year of the completion of field surveys. The reporting and implementation schedule for fish community monitoring is summarized below.

PM&E Measure Activity	Schedule
Fish Community Study Plan	Within four years of license issuance and every fifth year thereafter
Conduct Fisheries Survey	In the fifth year following license issuance and every fifth year thereafter
Survey Completion Report	In the sixth year following license issuance and every fifth year thereafter

- (iii) The licensee shall conduct the predation study to quantify the proportion of outmigrating native salmonids from select tributaries that are being consumed by predatory fish within the selected tributary deltas and determine consumption rates of select predators. The licensee shall develop the study design and final implementation schedule in consultation with and subject to approval by the FAWG.
- (iv) If the results of the predation investigation identify that a significant proportion of native salmonids are consumed by predators at tributary deltas, the licensee could implement potential non-operational measures including predator control to improve native salmonid survival. An adaptive approach to the tributary delta

predation investigations will continue under the direction of the FAWG (FAMP Mainstem Measures section 5.1.4).

- (v) The licensee shall conduct a tributary delta predation study in the fourth year and 15th year following license issuance, unless otherwise directed by the FAWG. A study plan will be completed during the calendar year prior to study implementation, and a summary report of field activities will be completed within one year of the completion of field surveys. The reporting and implementation schedule for the predation study is summarized below.

PM&E Measure Activity	Schedule
Tributary Delta Predation Planning	By end of calendar year prior to conducting delta predation study
Conduct Tributary Delta Predation Study	In the fourth and 15 th years following license issuance
Tributary Delta Predation Study Report	Within one year following tributary delta predation field surveys

10(j) Recommendation No. 7: Tributary Fish Community and Aquatic Habitat Measures (Settlement Agreement – Proposed License Article 9 (E))

The following shall replace Recommendation No. 7 in its entirety.

- (a) The licensee shall implement the following aquatic habitat measures, pursuant to the general provisions identified below and the detailed provisions included in the Fish and Aquatics Management Plan (FAMP), Sections 5.4.3 through 5.4.10.
- (b) Specific aquatic habitat measures include the following:
- (i) Within ten years of license issuance, the licensee shall complete riparian improvements and stream channel enhancement in Sullivan Creek from river mile (RM) 0.30 to RM 0.54. In consultation with the Fish and Aquatics Work Group (FAWG), the schedule for implementation of this measure may be modified dependent upon the Mill Pond Dam decommissioning schedule.
 - (ii) Within ten years of license issuance, the licensee shall complete stream and riparian improvements in Sullivan Creek from RM 2.3 to RM 3.0.
 - (iii) Within ten years of license issuance, the licensee shall complete Large Woody Debris (LWD) placement and road improvements in Sullivan Creek and selected tributaries upstream of the confluence with Outlet Creek; provided that licensee shall not be required to remove the culvert from the North Fork of Sullivan Creek.
 - (iv) Within 20 years of license issuance, the licensee shall complete culvert replacements (except on the North Fork of Sullivan Creek) in tributaries to Boundary Reservoir.

- (v) Within 20 years of license issuance, the licensee shall complete riparian planting, culvert replacement, and channel reconstruction measures in Linton Creek from RM 0.00 to RM 0.24.
- (vi) Within 20 years of license issuance, the licensee shall complete riparian and channel improvements in Sweet Creek from RM 0.0 to RM 0.6.
- (vii) Within 25 years of license issuance, the licensee shall complete habitat enhancement in Tier-2 tributaries to the Boundary Reservoir.
- (viii) The licensee shall complete restoration of dispersed recreation sites located in Sullivan Creek riparian areas consistent with the schedule detailed in the FAMP.

The specific scope of each measure is detailed in the FAMP.

- (c) By the end of the first year following license issuance, the licensee shall submit to the Commission an integrated schedule that has been approved by the FAWG for the implementation of these measures. The licensee shall coordinate the schedule with tributary non-native salmonid suppression and eradication activities and native salmonid conservation activities required by the FAMP. The integrated schedule shall prioritize activities and include milestones for completing design, consultation, regulatory review, permitting and implementation. The timelines included in the FAMP will guide the development of the integrated schedule to be filed with the Commission.
 - (i) The licensee shall develop specific plans for each measure according to the integrated schedule in paragraph (c). Each plan shall include specific goals, objectives, cost estimates, anticipated restoration techniques, maintenance requirements and monitoring plans and methods. Specific, measurable success criteria shall also be developed by the licensee in consultation with the FAWG and included for each measure. For each measure that includes a construction component, the plan will include final construction drawings. Where applicable, measures should be addressed on a programmatic basis.
- (d) The licensee shall develop all plans pursuant to Article 2 and the FAMP. As part of the integrated schedule in paragraph (c), licensee shall, in consultation with and approval by the FAWG, develop a Tributary Management Plan (TMP) including a subsection for each tributary that will receive treatments. The TMP shall provide a coordinated approach for implementing tributary habitat restoration measures. The TMP will identify appropriate target fish population sizes and species to be achieved through implementation of measures in the FAMP. The licensee shall include a schedule and scope of treatments for each tributary to ensure that treatments are complementary to the population and habitat goals.
- (e) Once a restoration measure has been completed, the licensee shall evaluate the measure every eight years for the license term to ensure continued compliance with success criteria specific to measures and developed in consultation with and approved by the

FAWG. If a restoration measure falls below success levels as determined through eight-year effectiveness monitoring, the licensee shall, within 60-days, develop a plan for repairs to correct the deficiencies, including a schedule for proposed work and further monitoring, in consultation with the FAWG. A summary of repairs will be included in the annual report.

In addition to the eight-year effectiveness monitoring, the licensee shall annually, and following major (25 year) flood events, inspect measures as described in the FAMP.

The licensee shall include the results of all monitoring and summary of repairs in the annual reports filed with the Commission.

- (f) In the event that any of the above measures cannot be implemented, alternative measures will be implemented as provided in the FAMP.

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3.0 Reduction of Project Related Entrainment Mortality
(2013 License Order Appendix E – Proposed License Article 9 (C) (REVISED))

The Reduction of Project Related Entrainment Mortality program set forth in the March 20, 2013 Order Issuing New License, Appendix E (“2013 License Order”), Proposed Article 9 (C) and section 5.3 of the Fisheries and Aquatic Management Plan (FAMP), and incorporated into the Federal Energy Regulatory Commission’s (FERC) license for the Boundary Hydroelectric Project (Project) by Ordering Paragraph (F) of the 2013 License Order, and required by the Department of the Interior’s (Interior) Prescription 3, is modified and the following shall replace Interior’s Prescription 3 in its entirety.

- (a) Within five years after execution of the 2026 First Amendment to the 2010 Boundary Hydroelectric Project Relicensing Settlement Agreement (“First Amendment to Settlement Agreement” or “First Amendment”), in consultation with the Fish and Aquatic Work Group (FAWG) established pursuant to Section 8.2.1 of the 2010 Boundary Hydroelectric Project Relicensing Settlement Agreement (“2010 Settlement Agreement” or “SA”), the licensee shall develop a Baseline Condition Report.
 - (i) The Baseline Condition Report will, at minimum, describe the genetic structure and distribution of individuals from populations of bull trout, cutthroat trout, and mountain whitefish (collectively “Target Fish Species”) within Boundary Reservoir and the watersheds that flow into it.
 - (ii) The Baseline Condition Report will draw on information collected from the Boundary Reservoir fish community monitoring required by the 2013 License Order, 2010 Settlement Agreement, and 2010 Fish and Aquatic Management Plan (FAMP).² Specifically, FAMP Section 5.1.4.1.1 requires the licensee to conduct fish community surveys in Boundary Reservoir beginning in year 5 after license issuance and at five-year intervals thereafter, and FAMP Section 5.1.4.3 sets forth a requirement to complete a fish community monitoring study plan prior to conducting such surveys.

² See Ordering Paragraph E of the 2013 License Order, Exhibit 1 of the 2010 Settlement Agreement at Proposed License Article 9 (A), and Section 5.1.4.1.1. of the FAMP.

- (iii) The Baseline Condition Report will also draw on information collected from the licensee's periodic mainstem sampling of the Boundary Reservoir Fish Community,³ implementation of upstream fish passage measures (2013 License Order Appendix E, Proposed Article 9 (B)), activities associated with the tributary non-native suppression and eradication program (2013 License Order Appendix E, Proposed Article 9 (D)), and the native salmonid conservation program (2013 License Order Appendix E, Proposed Article 9 (G)), as well as ongoing efforts by others in the watershed.
 - (iv) In developing the Baseline Condition Report, the licensee shall document and assess fish movement and demographics based on PIT tagged individuals of Target Fish Species within select Boundary Reservoir tributaries and Boundary Reservoir. The FAWG shall determine which Boundary Reservoir tributaries to study.
 - (v) Every 5 years after the finalization of the Baseline Condition Report, the licensee shall, in consultation with the FAWG, develop an Updated Baseline Condition Report to identify trends within the assemblage of Target Fish Species and discrete populations.
- (b) At a time to be determined by the licensee, but no later than 2045, the licensee shall coordinate with the FAWG to determine whether entrainment is a causative factor in the continued depression of Target Fish Species, based on whether one of the following conditions exist:
- (i) A single self-sustaining population of bull trout (defined for purposes of the First Amendment as 100 breeding adults or greater) has established within a tributary to the lower Pend Oreille River downstream of Albeni Falls Dam, or
 - (ii) Five percent or more of a Target Fish Species population greater than 6 inches are entrained below Boundary Dam. This percentage will not include entrained fish that were translocated, reintroduced, or planted into Boundary or Box Canyon tributaries within the same year or subsequent entrainment of an individual fish within the same year.
- (c) If, at the time the licensee coordinates with the FAWG consistent with subsection (b) above, existing information is not sufficient to determine if entrainment could be a causative factor in the continued depression of Target Fish Species populations, the licensee shall develop and implement studies to determine if entrainment of Target Fish Species is occurring. Such studies, if needed, shall be performed over a period of at least two years, but no more than three years (to increase the potential of evaluating different water years and different entrainment scenarios), and shall be undertaken consistent with

³ Periodic sampling was an annual activity defined by electrofishing an established list of 400-m index reaches of Boundary Reservoir during spring and fall. This periodic sampling has been a voluntary activity by the licensee since 2018 (i.e., not required by the 2013 License Order, 2010 Settlement Agreement, or the 2010 FAMP).

Section 5.3.3 of the FAMP or the latest acceptable scientific techniques and methodologies, as determined by the FAWG.

- (d) By no later than 2048, if the FAWG or the Secretary of the Interior (Secretary) conclude that the conditions in subsections b and c have been established, the licensee shall initiate the development of a study to evaluate direct downstream survivability through the project and the relationship to population status as set forth in subsection b. The licensee's methodologies for this survivability study shall be developed within six months of the FAWG or Secretary concluding that the conditions in subsections b and c have been established.
- (e) The licensee's methodologies for this survivability study shall be reviewed by the FAWG and approved by the Secretary, and the study shall be completed within two years of approval of the study methodology and shall include evaluation of entrainment under the operational scenarios that are most common at the facility. These common scenarios will consider combinations of powerhouse, spillway and/or sluiceway operation that reflect operations that occur over the majority of the year. If the survivability study indicates that the combined average injury and mortality rates for a Target Fish Species through downstream passage routes (turbine and/or spillways and sluiceways) are greater than 15%, and therefore a causative factor in the continued depression of target species, the licensee shall, in consultation with the FAWG and subject to the approval of the Secretary, develop a Downstream Passage Mitigation Plan.
- (f) The Downstream Passage Mitigation Plan shall identify mitigation measures to be designed, implemented, and evaluated in any subsequent FERC license, including a timeline for implementing mitigation measures within the first five years of the subsequent license. In the case of data gaps or missing information needed to inform the final design of mitigation measures, the Downstream Passage Mitigation Plan will identify the gaps and information needs and the approaches needed to fill such gaps and needs within the first five years of the subsequent license. Licensee shall develop the Downstream Passage Mitigation Plan in consultation with the FAWG and shall submit the Downstream Passage Mitigation Plan to the Secretary for approval no later than six months prior to the licensee's submission of the Pre-Application Document. The Downstream Passage Mitigation Plan will be included in any Pre-Application Document the licensee files with FERC as part of an application for a subsequent license.
- (g) The Downstream Passage Mitigation Plan, which shall identify a timeline for implementation, may include, but shall not be limited to, a plan for the final design and implementation of downstream fish passage facilities. Licensee agrees not to challenge the inclusion of the Plan, or its implementation, in the next FERC license.⁴
- (h) Nothing in the First Amendment shall affect or limit the authorities or rights of the Department of the Interior and U.S. Forest Service, including the reservation of rights and authorities included in Section 6 of the 2010 Settlement Agreement and Article 406 of the 2013 License Order.

⁴ If Interior exercises its Federal Power Act Section 18 authority to require a new license to include the measures contained in the Downstream Passage Mitigation Plan, the licensee agrees to not seek a trial-type hearing or submit alternative prescriptions pursuant to section 241 of the Energy Policy Act of 2005, 16 U.S.C. § 811. If a new license includes the measures contained in the Downstream Passage Mitigation Plan, the licensee further agrees to not seek rehearing and/or appeal of those license provisions.

DRAFT