

possible damage from project-related ground-disturbing activities.

The Yale hydroelectric facilities were evaluated for National Register eligibility and were found to be not eligible for listing. However, the Yale Project may be eligible for listing in the National Register as a contributing element to a multi-property nomination for the entire Lewis River hydroelectric system.

A Cultural Resource Management Plan (CRMP) for resources potentially affected by the Yale Project is included as a proposed enhancement measure in the Yale license application submitted to the Commission in April 1999. A subsequent agreement was developed in consultation with Commission staff, the Advisory Council on Historic Preservation (ACHP), and the Lewis River Cultural Resource Work Group on January 20, 2000. Terms of this agreement include delaying development of the formal CRMP until the conclusion of relicensing studies for all four projects. Protection measures, as described in the Yale application, will be implemented. These include management guidelines for National Register-eligible sites (5 known currently) within the 2,500-acre Yale Area of Potential Effects (APE), which will include: Monitoring of known sites, options for site avoidance, site protection measures, or mitigation through data recovery. The final CRMP also will include a protocol for the discovery of previously unknown sites and a training program for project personnel.

Cultural Resources in the Swift No. 1 and No. 2 Project Areas

The Swift No. 1 and Swift No. 2 projects operate under separate licenses issued in 1956, with project completion in December 1958. The current licenses for the Swift projects do not contain any specific cultural resource enhancement measures, nor are there any sites officially determined eligible for the National Register. A May 1957 archaeological survey of the areas to be inundated by the Swift No. 1 dam and Swift No. 2 power canal did not find any cultural resources present (undated letter from Clayton Denman to Dr. Douglas Osborne, Washington State Museum). However, the study was conducted under the standards of the day, and it remains a possibility that undiscovered cultural resources may be present. A 1998 archaeological survey of the Swift Reservoir drawdown area recorded two archaeological sites and nine isolated finds; one of the sites was considered not to be National Register eligible, and testing is needed to

determine the eligibility of the other site (Goetz 1998). Additional surveys performed in October 1999 revealed a single prehistoric isolate. In addition, the project buildings and structures need to be inventoried and evaluated for National Register eligibility because they will meet the 50-year age criterion when the existing license expires.

Environmental Impacts

None of the proposed measures contained in the Proposed Action involve ground disturbing activities with potential to affect cultural resources. The Proposed Action should result in reduced adverse impacts to cultural resources with a conservation easement for riparian habitat on Cougar Creek and the habitat protection on Eagle Island versus the No Action alternative.

8.0 Issues and Recommendations

Fish and Wildlife Coordination Act

Measures contained in the Proposed Action were arrived at through extensive pre-filing discussions with the USFWS and NMFS. Both agencies support the proposed measures and have issued a BO (Attachment C), and its associated incidental take statement, which is consistent with and supports the proposed amendments to the license. Comments and recommendations have likewise been incorporated from both agencies in this document and the associated BA (Attachment A).

Environmental Justice—Executive Order 12898

On February 11, 1994, President Clinton issued Executive Order 12898 ("E.O. 12898"), Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. E.O. 12898 requires federal executive agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations which may be affected by agency actions. Environmental justice issues encompass a broad range of issues already covered by the NEPA, including impacts on the natural or physical environment and interrelated social, and economic effects. Environmental justice analysis focused NEPA review on whether the environmental effects of a proposed federal action has disproportionately high and adverse effects on minority and low-income populations, including Indian tribes. Although independent agencies such as the Commission are

not subject to E.O. 12898, President Clinton requested independent agencies to comply with the provisions of E.O. Order 12898. In the exercise of the Commission's discretion, and recognizing the E.O. Order 12898 is not by its terms applicable to the Commission, but that potential environmental justice issues are already within the scope of NEPA issues that the Commission must evaluate in connection with proposals for Commission action, this EA analyzes the effects of the Proposed Action with respect to potential environmental justice issues.

The Proposed Action is expected to have a positive effect on fish populations in the project vicinity, compared to existing conditions. Therefore, the Proposed Action is reasonably expected to have a beneficial effect on any population which relies on fishery resources for food or other purposes. Commission staff have not identified any disproportionate, adverse effect of the Proposed Action on any minority or low-income population or Indian tribe. Commission staff conclude therefore that the Proposed Action does not have adverse environmental justice effects.

Magnuson-Stevens Act

Section 305(b) of the Magnuson-Stevens Act and associated implementing regulations provide that Federal agencies must consult with NMFS concerning all actions that may adversely affect designated essential fish habitat (EFH). NMFS EFH guidance documents provide that EFH consultations should be combined with ESA consultations to accommodate the substantive requirements of both Acts. As discussed in the above referenced biological assessment, the Proposed Action will result in habitat improvements, and will not result in any adverse effects to EFH. Therefore, EFH consultation is not required at this time.

9.0 Finding of No Significant Impact

The recommended alternative is approving the amendment of PacifiCorp's and PUD's licenses to adopt and implement the proposed conservation measures pursuant to the terms and conditions of the BO, as appropriate. Incorporating the conservation measures into PacifiCorp's and PUD's licenses will reduce incidental take of listed species resulting from operation of the Lewis River Projects. Such conservation measures likewise represent important near-term conservation opportunities that may be lost if not secured while the