

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY  
LAND USE POLICY

JULY 15, 1993

(REVISED DECEMBER 17, 2007)

(UPDATED FEBRUARY 1, 2010)

Public Utility District No. 1 of Douglas County (Douglas PUD) owns and operates the Wells Hydroelectric Project (Wells Project) which is authorized under the Federal Power Act by the Federal Energy Regulatory Commission's (FERC) License #2149, as amended. All lands within the Wells Project Boundary are governed by the FERC License. Douglas PUD is organized and operates under Title 54 of the Revised Code of Washington. Douglas PUD also owns land and land rights for its electric, communication and water transmission and distribution systems.

The following are general land use policies which address all of Douglas PUD lands and land rights. The purpose of this policy is to provide guidance for land use management decisions and to:

1. Maintain compliance with FERC License obligations for the Wells Project;
2. Meet applicable federal and state requirements for non-Wells Project lands;
3. Provide for good stewardship of both project and non-Wells Project lands;
4. Provide for consideration of wildlife and/or riparian habitat;
5. Provide for the continued operation of the transmission and distribution system;
6. Provide for consideration of significant historical, cultural and natural features;
7. Evaluate all existing uses of Wells Project and non-Wells Project land and land rights;
8. Comply with existing agreements;
9. Develop a process by which a policy violation can be resolved.

GENERAL POLICIES

- A. The use of Wells Project lands shall be governed by the Wells Project FERC License #2149. Douglas PUD shall use its best efforts to comply with all applicable State and federal laws and regulations.
- B. A goal of Douglas PUD is to comply with federal and state laws for protection of cultural resources located on Wells Project or Douglas PUD lands in coordination with appropriate agencies.
- C. A goal of Douglas PUD is to develop only those recreational facilities that will not interfere with the preservation of natural ecosystems associated with the Wells Project.
- D. A goal of Douglas PUD is to sustain the existing natural systems associated with the Wells Project or other Douglas PUD lands.

- E. The public shall be allowed access, where practicable, to the waters of Wells Reservoir and adjacent Wells Project lands owned by Douglas PUD. Access shall be without regard to race, color, sex, religion or national origin and shall be in accordance with Policy goals 3, 4 and 6. 5.
- F. When making land use or related permit decisions on Wells Project lands that affect reservoir habitat for anadromous salmonids, Douglas PUD shall consider the cumulative impact effects in order to meet the conservation objectives of the Habitat Conservation Plan, the requirements of the FERC License and other applicable laws and regulations. Douglas PUD will notify and consider comments from the signatories to the Wells Project HCP regarding land use permit applications on Wells Project lands.
- G. Douglas PUD shall notify all applicants for Douglas PUD permits to use or occupy Wells Project lands or water that such use or occupancy may result in an incidental take of species listed or proposed for listing as endangered or threatened under the Endangered Species Act, requiring advanced authorization from National Marine Fisheries Service or U.S. Fish and Wildlife Service.

#### Rules Governing Public Use

1. No refuse or litter shall be placed on Douglas PUD lands. The individual responsible for placing any refuse or litter on Douglas PUD lands shall be responsible for its removal. Douglas PUD, after requesting the responsible individual to remove the refuse or litter, shall have the option of removing same at the expense of the responsible individual.
  2. Construction activities on Douglas PUD lands are prohibited, except by special permit issued by Douglas PUD. Construction activities include, but are not limited to, removal or destruction of vegetation or grading of the earth.
  3. Destruction, defacement or removal of any vegetation or soil (includes sand, rock, minerals, etc.) on or from Douglas PUD property is prohibited.
  4. Destruction, excavation, defacement, removal or disturbance of archaeological or historical sites, monuments, graves or boundary markers, material or artifacts is prohibited.
- H. Use of Douglas PUD lands or waters within the Wells Project Boundary other than public use shall require a permit.

## Rules Governing Permits

1. Application for permits shall be submitted to the Public Utility District No. 1 of Douglas County, 1151 Valley Mall Parkway, East Wenatchee, WA 98802-4497. Permit applications will be reviewed by Douglas PUD to ensure compliance with the FERC License provisions for the Wells Project or applicable federal or state statutes for the electrical or water distribution systems. Decisions may be appealed to Douglas PUD's Commission. All Permits will be in writing and must be approved by Douglas PUD's Commission.
2. Permits on Wells Project lands will be issued only if the proposed use and occupancy meets the requirements of the FERC license and considers protection of the environmental, scenic, historic, cultural or recreational values of the land. Permits are non-transferable and expire upon the sale or transfer of title or subdivision of subject or adjacent land. All permits will expire upon expiration of the Wells Project FERC License. Upon sale or transfer of adjacent lands or termination of a permit, Douglas PUD will re-evaluate the use of the associated Wells Project land to determine the best use of said lands for the future. A permit fee schedule, which may be amended from time to time, will be established by Douglas PUD's Commission.
3. The lands on which agricultural use and occupancy permits are issued must be maintained in accordance with good agricultural practices by Permittee and must comply with all applicable federal and state laws, including the Federal Power Act and specifically FERC License 2149. The use of the lands permitted shall not endanger health, create a public nuisance or otherwise be incompatible with overall Wells Project purpose.
4. Failure to adhere to conditions of the permit may result in cancellation of the permit and/or legal action. Non-permitted use of Douglas PUD lands or waters other than public use, as outlined in Section E hereof, may result in legal action or refusal of a request for permit.
5. Douglas PUD will monitor the uses and occupancies granted by the permit and shall take remedial action when non-compliance is discovered. Douglas PUD reserves the right to cancel the permit and to require removal of any structure, facility, landscaping or agricultural crop located on Wells Project lands, at Permittee expense, IF:
  - a. Permittee fails to comply with the terms and conditions of the permit.
  - b. Permittee interferes with Douglas PUD's operation of any hydroelectric or electric, communication or water distribution facility.
  - c. Continued use or occupancy is incompatible with any new conditions or terms imposed by FERC.
  - d. Continued use or occupancy is incompatible with changes in use of surrounding and/or adjacent lands.

6. Permits will be approved and issued by the Douglas PUD's Commission. Before granting a permit the Property Supervisor, after consulting the Chief Engineer for the Wells Project, or the Distribution Engineering Supervisor (depending upon the particular lands involved), must certify that the permit is in the best interest of Douglas PUD and will not adversely affect any current or future Douglas PUD operations. The Property Supervisor will maintain files containing documents and correspondence related to permits, leases, easements and sales of Douglas PUD lands.
  7. Douglas PUD shall retain fee simple ownership and possession of all Douglas PUD lands that are subject to franchise, easements, water rights, permits and rights of occupancy and use.
  8. If land conveyances occur, an annual report to FERC will be prepared by the Property Supervisor showing all easements, leases, sales and purchases of Wells Project land. Annually, the Property Supervisor will review Wells Project lands to determine if any lands are surplus to Douglas PUD. Following FERC guidelines for sales of surplus lands, these lands will be sold at public sale in order to return them to the tax rolls.
- I. The Property Supervisor will be responsible for the acquisition of all Douglas PUD property. The Property Supervisor will provide a written recommendation for purchase, to the Douglas PUD General Manager for approval and submittal to the Douglas PUD Commission. The Property Supervisor's recommendation will require the approval of the Chief Engineer for the Wells Project or the Distribution Engineering Supervisor (dependent upon lands involved) and the Natural Resources Supervisor.

A condemnation proceeding will only be initiated after an attempt at reasonable negotiations or in the event clear title cannot be secured.

- J. Douglas PUD may choose to meet land management objectives through construction of fences or other approved barriers on Douglas PUD lands. Fencing or barriers may be used to assure protection of shoreline riparian and wetland habitat, control public access to sensitive wildlife, cultural or historic areas or to limit access to Douglas PUD facilities that may represent a danger to the public. Private individuals may NOT construct fences on Douglas PUD Property unless authorized by a Douglas PUD-issued permit.

### Permitting Process

1. The use of Wells Project lands shall be consistent with and in accordance with the Wells Project FERC License No. 2149. Most Wells Project lands are open for public recreation. All permits for use of Wells Project lands, including fences and docks, will allow for public access. Private docks and fences will not be allowed on Douglas PUD lands without a Land Use Permit.

2. All applications for Land Use Permits will be subject to the General Policies and Rules of Douglas PUD's Land Use Policy as adopted or subsequently amended.
3. The proposed permit will be subject to review and comment as required by various agreements between Douglas PUD and other agencies.
4. Following the submittal of all necessary regulatory permits, Douglas PUD will review the application for compliance with the Land Use Policy, consider regulatory agency and tribal comments and develop a recommendation. The permit and a recommendation for action or denial will be submitted to the PUD Commission for action.
5. The required regulatory permits may include any of the following: Endangered Species Act permits, City/County – shoreline, flood plain, conditional use, substantial development, variance, Army Corps of Engineers – sections 10, 404 & 401, Washington Department of Fish and Wildlife – hydraulic project approval (HPA), Department of Ecology (DOE) –water quality certification, and Colville Confederated Tribes HPA.
6. Applications for permits requiring approval by the FERC will not be forwarded for FERC consideration until all the necessary documentation is submitted to Douglas PUD, Douglas PUD staff has reviewed the application for compliance with Douglas PUD policies and a recommendation has been presented to, and approved by the Douglas PUD Commission.
7. All Land Use Permits shall be approved by the Douglas PUD Commission prior to implementation of proposed activities.

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY  
LAND USE POLICY  
SUPPLEMENT NO. 1, ADMINISTRATIVE RULES  
GOVERNING DOCKS AND PIERS  
REVISED DECEMBER 17, 2007  
UPDATED FEBRUARY 1, 2010

1. ALLOWABLE DOCKS

A. Docks and piers are defined as:

Any structure, fixture, improvement, barge, substantial development, vessel or other platform, whether powered or not powered, whether licensed or not licensed; that is temporary, semi-permanent or permanently moored, affixed or attached to the shoreline; which is customarily or typically used for moorage of vessels, watercraft or floating craft, for recreational uses which include but are not limited to swimming, diving and jumping into the water and/or as a staging location for water associated activities such as waterskiing, fishing, personal watercraft or simple flotation devices; which may interfere or obstruct the use of surface waters or which may extend over surface waters within the Wells Project.

B. Single Party Docks.

1. A permit for a single party dock may be requested by the owner of land adjacent to Wells Project lands. Permits for single party docks are not transferable and must be renewed if the property is sold or transferred.
2. Single party docks may be allowed within the city limits of the Cities of Brewster, Bridgeport and Pateros, as those boundaries exist on or before October 15, 2007.
3. In accordance with FERC's standard land use license article, single party docks may be permitted by Douglas PUD for "noncommercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time where said facility is intended to serve a single-family dwelling."
4. Single party docks are prohibited outside the city limits of Brewster, Bridgeport and Pateros as those boundaries exist on or before October 15<sup>th</sup>, 2007.

C. Joint Use Docks (docks serving two properties)

1. A permit for a joint use dock may be requested if there is a recorded agreement between the parties applying for the permit. Permits for joint use docks are not transferable and must be renewed if either property changes ownership. Two single party docks may be converted to a joint use dock permit.

2. Joint use docks may be allowed within the city limits of the Cities of Brewster, Bridgeport and Pateros.

3. Joint use docks are prohibited outside the city limits of Brewster, Bridgeport and Pateros as those boundaries exist on or before October 15<sup>th</sup>, 2007.

D. Community Docks (docks serving three or more properties)

1. A permit for a community dock may be requested by a land developer platting or subdividing property or a home owner's association for land adjacent to Wells Project lands. All applicants for community docks must provide a common area within the plat or subdivision for access to the shoreline and the dock.

2. Permits for community docks will be issued to the developer in the name of the homeowner's association or directly to the homeowner's association. The developer or the homeowner's association will be responsible for obtaining the insurance required by the permit.

3. Community docks will be encouraged where necessary for protection of life, health or property or where Douglas PUD determines that it is necessary or desirable for the proper operation of the Wells Project.

4. Community docks are prohibited outside the city limits of Brewster, Bridgeport and Pateros as those boundaries exist on or before October 15<sup>th</sup>, 2007.

1. INSURANCE

A. Dock and pier permits being requested by the owner and/or homeowner's association of land adjacent to Wells Project lands, must furnish proof of liability insurance at the time of permit request. The proof of liability insurance shall be furnished in the following amounts:

1. Single party docks/piers: \$1,000,000.00 (One Million Dollars).

2. Joint use docks/piers: \$1,000,000.00 (One Million Dollars), for each adjacent land owner or; \$2,000,000.00 (Two Million Dollars), for a joint policy.

3. Community docks/piers: \$4,000,000.00 (Four Million Dollars).

B. The applicant also agrees that during the term of this permit a liability insurance policy will be provided covering all operations on the land in an amount not less than prescribed above for the specified permit request. The Permittee will provide Douglas PUD a certificate of insurance evidencing such coverage annually.

### 3. RESTRICTED AREAS

#### A. Wetlands, Woody Riparian and Native Vegetation

1. Private docks and piers will not be allowed in shoreline cattail/wetland areas unless the following conditions are met:

- a. A mitigation plan is developed and approved by Douglas PUD that addresses the replacement of an area at least equal to the area to be disturbed.
- b. The mitigation plan must address the conditions of Douglas PUD, and must consider the comments, if any, of the Washington State Department of Fish and Wildlife, signatories to the Wells Project Habitat Conservation Plan (HCP), Washington State Department of Ecology, the Corps of Engineers, and all local, state and federal agencies with shoreline jurisdiction
- c. The approved mitigation plan must be implemented at the Permittee's expense prior to any construction activities related to the dock or pier installation.

#### C. Cultural Resources

1. No boat docks or piers will be allowed in areas of significant cultural resource value. Federal regulations mandate that these areas are not to be disclosed to the general public.

2. All applications, for dock and pier installations that will result in ground-disturbing activities, will be subject to a site review by a qualified archaeologist prior to construction. Construction activities are subject to the results of the site review. Costs for archaeological review shall be the responsibility of the Permittee.

#### D. Parks and Trail Areas

1. No additional private docks or piers will be permitted in areas designated as parks or in areas through which improved public access trails pass. Permits for existing facilities are not transferable upon a change of ownership. Areas considered as parks and trails are:

- a. Memorial Park, Pateros;
- b. Peninsula Park, Pateros;
- c. Columbia Cove Park, Brewster;
- d. Waterfront Trail, Brewster;
- e. Marina Park, Bridgeport;
- f. Any new recreation facilities constructed by Douglas PUD in association with the Wells Project.

#### 4. DOCK AND PIER INSTALLATION AND CONSTRUCTION

A. Landscaping on Douglas PUD's Wells Project lands shall be requested by the applicant at the same time and on the same form as when requesting dock or pier approval.

B. The point of attachment to the shoreline shall adequately address erosion control.

C. Dock configuration and installation shall conform to the terms and conditions set forth in all regulatory permits as issued by the overseeing governmental agencies.

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY  
LAND USE POLICY  
SUPPLEMENT NO. 2, ADMINISTRATIVE RULES  
GOVERNING FENCES  
UPDATED FEBRUARY 1, 2010

POLICY GOAL

The goal of this policy is to maintain open public access to Wells Project lands and compliance with the articles of FERC License No. 2149.

1. FENCES

A. Fences will be allowed only by permit issued by Douglas PUD. Fences will be permitted to the abutting upland owner by Douglas PUD in the following areas; within the cities of Pateros, Brewster, and Bridgeport.

B. Permits for fences are not transferable and new owners must submit an application requesting continuation of the use.

C. Outside the city limits of Brewster, Bridgeport, and Pateros, new fences will not be allowed after April 8, 2003.

D. Private fences installed outside of the city limits of Brewster, Bridgeport, or Pateros prior to April 8, 2003 will be allowed to remain until the ownership of the Permittee changes or Douglas PUD determines cancellation of the permit is in the best interest of Douglas PUD. At Douglas PUD's discretion, the property owner(s) or Douglas PUD shall remove fencing when either of the above actions occur.

E. Douglas PUD reserves the right to place, erect, and install fencing on any and all Douglas PUD owned property at any given time.

2. INSURANCE

A. Persons seeking a fence permit must furnish proof of liability insurance at the time of permit request. Each owner benefiting from a single party fence permit shall furnish proof of liability insurance, in the amount of \$500,000.00. A homeowners' association shall furnish proof of liability insurance in the amount of \$1,000,000.00, for a community fence permit.

B. The applicant must agree to maintain the liability insurance policy covering all operations on the land called for in 3A for the entire term of the Permit. The Permittee will annually provide Douglas PUD a certificate of insurance evidencing such coverage.

### 3. FENCE INSTALLATION AND CONSTRUCTION

- A. Reasonable public access to Wells Project lands must be accommodated to the satisfaction of Douglas PUD.
- B. All construction materials must be approved by Douglas PUD in advance.
- C. Fence configuration and installation must be approved by Douglas PUD in advance.
- D. All fences must allow for a minimum of 10 feet of width for access between the top of the bank or the ordinary high water mark (whichever is greatest) and the end of the fence. If the Wells Project Boundary is less than 10 feet from the top of the bank or the ordinary high water mark, then a fence will not be allowed on Douglas PUD lands.