

Appendix C

Water-Related Permits

The following information is an overview of the major federal, state, and local regulatory programs governing water planning and management in the Project Area. The National Environmental Policy Act (NEPA) and the Clean Water Act (CWA) serve as the prime legislation that require addressing sensitive water features. Water resources and water quality in the Project Area are regulated directly by the following authorities:

- Oregon Department of Environmental Quality (ODEQ)
- Oregon Division of State Lands (ODSL)
- U.S. Army Corps of Engineers (USACE)

Applicable federal, state, and local water quality requirements are described in the following paragraphs.

Storm Water Permits

The Environmental Protection Agency (EPA) has delegated authority to the ODEQ to implement the National Pollutant Discharge Elimination System (NPDES) program authorized by the CWA (33U.S.C. 1342). The NPDES program regulates discharges into waters of the U.S. including lakes, streams, dry washes and storm drains. Idaho Power Company (IPC) would be required to submit a permit application to the ODEQ in order to be covered by Oregon's NPDES Storm Water Discharge General Permit #1200-C for discharges of storm water runoff associated with construction activity. Coverage under this permit requires the development of an Erosion and Sediment Control Plan that must be approved by the ODEQ prior to the commencement of any construction activities.

Oregon Dredge and Fill Permits

Oregon's Removal-Fill Law (ORS 196.795-990) administered by the ODSL requires the issuance of a removal-fill permit to conserve, restore and maintain the health of Oregon's "waters of the state". "Waters of the state" are defined as "natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable, including that portion of the Pacific Ocean which is in the boundaries of this state." The ODSL's jurisdiction extends to the ordinary high water mark or to the line of non-aquatic vegetation- whichever is higher. Activities requiring a removal-fill permit include the following:

- Projects requiring the removal or fill of 50 cubic yards or more of material within ODSL jurisdiction
- The removal or fill of any material regardless of the number of cubic yards affected in a stream designated as essential salmon habitat
- The removal or fill of any material from the bed and banks of scenic waterways regardless of the number of cubic yards affected. No dam, reservoir or other water impoundment facility may be constructed on waters within scenic waterways

Federal Dredge and Fill Permits

Waters of the U.S. (including wetlands) are subject to USACE jurisdiction under section 404 of the CWA (33 U.S.C. 1344). Section 404 regulates the filling and dredging of U.S. waters. A section 404 permit would be required for Project construction activities involving excavation or placement of fill material into waters of the U.S. Such activities resulting in the loss of ½ acre or less of waters of the U.S. would be covered under Nationwide Permit 12 (NWP 12) regulating utility line activities. Any activities resulting in the loss of more than ½ acre of waters of the U.S. or which do not otherwise meet the regional or general conditions of NWP 12 would require an individual 404 permit.

Water Quality Certification

Section 401 of the CWA (33 U.S.C. 1341) requires that every applicant for a federal permit or license for any activity which may result in discharge into a water body must request state certification that the proposed activity would not violate state or federal water quality standards. This certification process is referred to as 401 Certification. This certification must be provided to the USACE by the ODEQ prior to CWA Section 404 permit authorization.

Navigable Waters

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) requires approval prior to the commencement of any work in or over "navigable waters" of the U.S., or which affects the course, location, condition or capacity of such waters. Typical activities requiring Section 10 permits are:

- Construction of piers, wharves, bulkheads, marinas, ramps, floats intake structures, and cable or pipeline crossings.
- Dredging and excavation

The Snake River along the Idaho/Oregon border including Oxbow Reservoir is considered to be navigable water. A Section 10 Permit is required for power transmission lines crossing navigable waters of the U.S. unless those lines are part of a waterpower project subject to the regulatory authorities of the Department of Energy under the Federal Power Act of 1920. The Project would cross over the Snake River from Oregon to Idaho at the Brownlee Dam to terminate at the Brownlee Substation.