



# Clean water. Healthy rivers.

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To Whom It May Concern:

Columbia Riverkeeper submits this letter to the Washington Energy Facility Site Evaluation Council, Oregon Energy Facility Siting Council, Oregon Department of Environmental Quality, United States Environmental Protection Agency (“EPA”), and Washington State Department of Ecology (collectively, “the Agencies”), who are responsible for reviewing Cascade Renewable LLC’s (“the Applicant”) proposal for a 78.9-mile long electric transmission line running from The Dalles, OR, to Portland, OR, primarily through the bed of the Columbia River (“the Power Line”). This letter outlines why we believe the Power Line’s heat pollution requires a National Pollutant Discharge Elimination System (“NPDES”) permit under the Clean Water Act (“CWA”) and requests that your Agencies thoroughly evaluate this issue.

Columbia Riverkeeper is a nonprofit organization whose mission is to protect and restore the Columbia River and all life associated with it, from its headwaters to the Pacific Ocean. We are committed to clean water, strong salmon runs, and healthy communities. Columbia Riverkeeper represents roughly 25,000 members in Oregon and Washington and regularly engages in decisions and policies impacting the water quality of the Columbia River Basin.

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## I. Background

Heat pollution is a long-standing issue for the Columbia River. Salmon and other culturally important Columbia River fish species need cold, clean water to survive. The Columbia's dams and reservoirs create significant heat pollution. Instead of a free-flowing river, the Columbia consists of a series of shallow lakes that absorb the sun's heat, making life cycles for heat-sensitive species like salmon increasingly tenuous. These issues are only exacerbated by climate change, which increases summer air temperature and decreases summer flows, leading to higher water temperatures in the Columbia.

In 2021, the EPA established the Columbia River and Lower Snake Temperature Total Maximum Daily Load ("Temperature TMDL")<sup>1</sup> to address the basin's ongoing temperature impairments. This came after nearly twenty years of failure to adequately address the Columbia's heat issues and the river's inability to meet water quality standards necessary to support healthy salmon runs. Even with this recently established Temperature TMDL, the devastating impact of hot water pollution on the Columbia River persists. Any additional heat source is concerning and should be carefully evaluated.

As discussed below, the Power Line requires an NPDES permit because it will discharge heat into the Columbia. The skin temperature of the cable will reach 158°F and continually discharge heat into the Columbia River over the project's 78.9-mile footprint. The Agencies, accordingly, must seriously consider the potential thermal impacts of the Power Line prior to issuing an NPDES permit, including how the Power Line's heat load will factor into the existing Temperature TMDL's waste load allocations for the river and whether technology-based standards require a different approach to the Power Line.

Section 301(a) of the Clean Water Act ("CWA") forbids the "discharge of any pollutant" without an NPDES permit.<sup>2</sup> A discharge of a pollutant occurs wherever there is "addition" of any pollutant to a navigable water from a point source.<sup>3</sup> The Power Line will add heat—which the CWA explicitly defines as a pollutant<sup>4</sup>—to the Columbia River, which is undisputedly a navigable water. And, as discussed below, the Power Line meets the CWA's definition of a "point source." Accordingly, because the Power Line would result in the addition of a pollutant to a navigable water from a point source, the Applicant must apply for and receive an NPDES permit before proceeding.

Columbia Riverkeeper and others, including the Columbia River Inter-Tribal Fish Commission, have repeatedly raised issues regarding the inadequacy of the Applicant's thermal impacts

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<sup>1</sup> See generally United States Environmental Protection Agency, Columbia and Lower Snake Rivers Temperature Total Maximum Daily Load (August 13, 2021), <https://www.epa.gov/system/files/documents/2022-06/tmdl-columbia-snake-temperature-errata-update-05102022.pdf> (hereinafter, Temperature TMDL).

<sup>2</sup> 33 U.S.C. § 1311(a).

<sup>3</sup> 33 U.S.C. § 1362 (12).

<sup>4</sup> 33 U.S.C. § 1362(6).

analysis.<sup>5</sup> Regardless, the information the Applicant submitted, including in the materials submitted by the Applicant to the Washington Energy Facility Site Evaluation Council (“WA EFSEC”) and Oregon Energy Facility Siting Council (“OR EFSC”), leave no dispute that the Power Line will result in an addition of heat to the river from a point source.

The Applicant effectively proposes to add a miles-long heating element to the river. As the Applicant explains in its WA EFSEC Draft Application, “when electric energy is transported, a certain amount gets lost as heat, leading to an increased temperature of the cable service.”<sup>6</sup> By the explicit direction of the statute, addition of heat alone, even if no other pollutants are added to the water, constitutes the addition of a pollutant.<sup>7</sup>

## II. The Power Line is a point source of heat.

Because the Power Line will add heat to the river, which is clearly a navigable water, the only remaining question for whether an NPDES permit is required is if the Power Line is a point source—which, it is. The CWA defines a “point source” as any “discernible, confined[,] and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.”<sup>8</sup> Courts have recognized that what constitutes a “point source” under this definition is “extremely broad.”<sup>9</sup>

While a pipe that pours a pollutant directly into a navigable water is the prototypical example, point sources can take an array of shapes and forms. Courts have held that everything from a firing range whose patrons fire lead shot over navigable waters to astroturf that breaks down into navigable waters are point sources.<sup>10</sup> And, as the previous examples demonstrate, it is not necessary that a point source discharge effluent, so long as the point source is adding a pollutant

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<sup>5</sup> See, e.g., Columbia Riverkeeper, Comment RE: Cascade Renewable Transmission EFSEC Docket No. 23002, Draft Application for Site Certification (Dec. 5, 2025), available at [https://efsec.wa.gov/sites/default/files/2026-02/CRT\\_0013.pdf](https://efsec.wa.gov/sites/default/files/2026-02/CRT_0013.pdf); Columbia River Inter-Tribal Fish Commission, Comment RE: Review of the Cascade Renewable Transmission Draft Application EFSEC Docket No. 23002 (Dec. 18, 2025), available at [https://efsec.wa.gov/sites/default/files/2026-02/CRT\\_0015.pdf](https://efsec.wa.gov/sites/default/files/2026-02/CRT_0015.pdf).

<sup>6</sup> WA EFSEC Draft Application at 3-59.

<sup>7</sup> 33 U.S.C. § 1362(6) (“The term ‘pollutant’ means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.”). For example, discharge of non-contact cooling water—meaning water that is used strictly for the purpose of cooling equipment without contacting that equipment—requires an NPDES permit. See, e.g., *Alaska Eskimo Whaling Comm’n v. United States EPA*, 791 F.3d 1088, 1091 (9th Cir. 2015) (discussing NPDES permit for discharge of non-contact cooling water from oil and gas exploration facilities in the Beaufort Sea).

<sup>8</sup> 33 U.S.C. § 1362(14).

<sup>9</sup> *Coastal Env’t Rts. Found. v. Naples Rest. Grp.*, 641 F. Supp. 3d 880, 887 (C.D. Cal. 2022) (quoting *Borden Ranch P’ship v. U.S. Army Corps of Eng’rs*, 261 F.3d 810, 815 (9th Cir. 2001)).

<sup>10</sup> See *Stone v. Naperville Park Dist.*, 38 F. Supp. 2d 651, 655-56 (N.D. Ill. 1999) (“We believe that the trap shooting range, as well as each firing station, constitutes a ‘point source’ as defined by the [CWA].”); *United States v. Electron Hydro, LLC*, No. C20-1746-JCC, 2023 U.S. Dist. LEXIS 154758, at \*13–14 (W.D. Wash. Aug. 31, 2023) (holding “field turf breakup, which sent it and its constituent crumb rubber downstream” was a separate violation of 33 U.S.C. § 1311(a)).

to the water. If a source of pollution is a “discernible, confined, and discrete conveyance” of a pollutant, it is a “point source.”

The Power Line clearly meets this definition. If the Power Line were built, it would be possible to point to exactly where the heat is coming from—the line itself—and measure the temperature coming off of it. That is all that is required for it to be a point source.<sup>11</sup> The fact that it is nearly 100 miles long has no impact on the analysis; entire facilities and pieces of infrastructure, no matter the size, can be a point source.<sup>12</sup>

Because the Power Line is a “discernible, confined and discrete conveyance” of heat into the Columbia, it is a point source discharge and requires an NPDES permit before moving forward.

### III. The Agencies must carefully consider the thermal impacts of the Power Line prior to issuing an NPDES permit and before issuing a final decision on the project.

Because the Power Line would be a point source discharge of heat into the river, the Agencies must carefully review its thermal impacts prior to issuing an NPDES permit. In particular, we urge the Agencies to 1) conduct an independent review of the Thermal Impacts of the Power Line, 2) weigh how those thermal impacts fit within the governing Temperature TMDL, and 3) consider alternative approaches to the Power Line based on applicable Technology Based Effluent Limitations (“TBELs”) and all known, available, and reasonable methods of pollution prevention, control, and treatment (“AKART”).

The Applicant’s thermal impacts analyses included in its various permit applications to date are inadequate, especially for meeting the requirements of an NPDES permit. The Power Line would vary in burial depth from 10 feet in the river sediment to directly on the river bottom.<sup>13</sup> The Applicant has failed to provide clear information on where the Power Line will be buried at what depths. For the sections of the Power Line that would be buried at 10 feet, the Applicant claims—based on an analysis that the Applicant has not included as a part of its applications—that the Power Line’s heat would dissipate before it reaches the riverbed.<sup>14</sup> For less deeply buried sections of the Power Line, the Applicant admits there will be some heat impact to the river, but never attempts to quantify the cumulative effect of this impact along the Power

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<sup>11</sup> When analyzing whether a source of pollution is “discernible, confined[,] and discrete[,]” courts generally distinguish between measurable, traceable sources of pollution, like a pipe (or a firing range), and diffuse untraceable sources, like unchanneled stormwater runoff. *See, e.g., League of Wilderness Defs. v. Forsgren*, 309 F.3d 1181, 1184 (9th Cir. 2002) (“Although nonpoint source pollution is not statutorily defined, it is widely understood to be the type of pollution that arises from many dispersed activities over large areas, and is not traceable to any single discrete source.”); *Trs. for Alaska v. Env’tl. Prot. Agency*, 749 F.2d 549, 558 (9th Cir. 1984) (recognizing that Congress intended nonpoint source pollution to consist primarily of “runoff caused primarily by rainfall.”).

<sup>12</sup> This is clear from the very definition of “point source,” which includes large sources such as “concentrated animal feeding operations” as examples. 33 U.S.C. § 1362(14); *see also Ass’n to Protect Hammersley v. Taylor Res.*, 299 F.3d 1007, 1018 (9th Cir. 2002) (discussing how an entire fish farm can be a point source).

<sup>13</sup> WA EFSEC Draft Application at 2-43.

<sup>14</sup> *Id.* at 3-59–3-61.

Line's 78.9-mile stretch.<sup>15</sup> Instead, the Applicant flatly claims without evidence or analysis that the Power Line will not have a significant thermal impact.<sup>16</sup>

The Agencies should not take this analysis at face value and should direct the Applicant to conduct its own, thorough review of the thermal impacts of the Power Line. The impacts must be considered cumulatively— i.e., how much heat the 78.9-mile-long Power Line adds to the Columbia as a whole. And impacts must be considered locally— i.e., would the Power Line have any localized thermal impacts, especially in the places it is unburied or shallowly buried, that could harm aquatic habitats. To do this, the Agencies will need significantly more information from the Applicant regarding the project's siting, including detailed maps of the Power Line's location and proposed depths at those locations. The Agencies will also need site-specific analyses of aquatic habitat along the Power Line's length, something which the Applicant has so far failed to provide.

Once the Agencies have an adequate understanding of the Power Line's heat pollution, the Agencies must consider whether the Power Line can be permitted at all given the existing Temperature TMDL. The Temperature TMDL reserves only a small amount of additional thermal load in each designated reach for new point sources like the Power Line.<sup>17</sup> The Power Line thus needs to be assessed in light of remaining reserves in each of the reaches it crosses.<sup>18</sup> If the Power Line does not exceed reserve capacity in any of these reaches, the Agencies must still consider whether the Power Line, which could easily be sited outside of the river, justifies the usage of this limited remaining reserve capacity.

The Agencies must also consider whether the Power Line can comply with TBELs and AKART for reducing heat impacts to the river. Because the Power Line is not subject to any national effluent limitation, the Agencies must use their Best Professional Judgment in setting a TBEL for the Power Line.<sup>19</sup> We believe that the best available technology for a transmission line like the Power Line to avoid heat impacts to the river is not siting it in the Columbia. Indeed, siting the Power Line outside of the river would not only avoid all thermal impacts, it would likely be significantly cheaper than the Power Line as proposed.<sup>20</sup> But even if the Agencies accept the flawed premise that the Power Line needs to be in the river, the Agencies must apply a TBEL on the Power Line's thermal pollution that considers other available technologies for reducing heat, like deeper burial and increased insulation of the cable bundle.

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Temperature TMDL at 69–72.

<sup>18</sup> Review of load allocation for the Power Line must follow the procedures described by the EPA in its memo on assessing reserve capacity under the TMDL. U.S. EPA, *Assessing and Tracking Reserve Capacity and WLAs in the Columbia and Lower Snake River TMDL for Temperature* (Aug. 1, 2025), <https://www.epa.gov/system/files/documents/2025-09/tmdl-columbia-snake-temperature-accessing-reserve-capacity-memo-08-01-2025.pdf>.

<sup>19</sup> 40 C.F.R. § 125.3(a).

<sup>20</sup> Portland General Electric's (PGE) most recent Integrated Resource Plan shows that the Cable is handily the most expensive per kw/h proposed regional transmission project of similar stature. Portland General Electric, 2023 Clean Energy Plan and Integrated Resource Plan Update at 91 (updated Aug. 2025), <https://portlandgeneral.com/about/who-we-are/resource-planning/combined-cep-and-irp>.

If the Agencies determine that the Power Line is not a point source, its continual addition of heat will violate water quality standards in both Oregon and Washington. The Columbia River is a 303(d) listed waterbody for temperature, and the Power Line's additional heat pollution will contribute to that impairment and further harm beneficial and designated uses, including salmon migration. Because the Temperature TMDL allocated the entire 0.3°C human use allowance for heat pollution among the dams, tributaries, and point sources, failure to designate the Power Line as a point source would mean that *any* addition of heat from the Power Line would necessarily violate state water quality standards. However, as explained above, this Power Line fits under the definition of a point source, and an NPDES permit must be seriously considered for its heat discharges.

### Conclusion

Warm temperatures in the Columbia River, driven by climate change and the dams, are an existential threat to the river ecosystem and the communities that depend on it. The Power Line—essentially a heating coil beneath nearly 100 miles of the river—should be addressed as a point source under the NPDES program and evaluated in light of the Columbia's existing temperature issues and the applicable Temperature TMDL.

We appreciate your consideration of these issues and welcome any follow-up questions or discussion.

Sincerely,

Teryn Yazdani

Staff Attorney

CC:

United States Army Corps of Engineers  
Washington Department of Fish and Wildlife  
Oregon Department of Fish and Wildlife