

# COWLITZ COUNTY PUD

November 12, 2008

## FOR IMMEDIATE RELEASE

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## Cowlitz PUD Prevails in Swift 2 Hydro Project Insurance Lawsuit

The United States Court of Appeals for the Ninth Circuit has denied the final appeal by TIG Insurance, thus upholding a lower court decision that TIG must make an insurance policy payment of \$29.8 million for repair costs incurred at Cowlitz PUD's Swift No. 2 Hydroelectric Project.

Cowlitz PUD owns the hydro project on the North Fork of the Lewis River, east of Cougar, WA. It was heavily damaged April 21, 2002, when its canal embankment failed, and water, soil and rock inundated Highway 503-Spur and destroyed the adjacent powerhouse.

"This is great news for Cowlitz PUD and its customers and we're thrilled to finally prevail," PUD General Manager Brian Skeahan said. "We've been in court with TIG over four years, fighting for the coverage that we knew existed under our insurance policy."

The PUD and Lloyd's of London will share the TIG proceeds under a 2004 agreement made when the London-based insurance company paid \$70 million in coverage for Swift No. 2 damages. The shared distribution agreement gave Cowlitz PUD 60 percent and Lloyd's 40 percent of the future insurance receipts pursued in litigation against TIG and Federated, who were denying coverage at the time.

After legal costs, the PUD's share of the TIG award is \$14.4 million.

Cleanup and reconstruction work at Swift No. 2 was completed at the end of 2005 at a cost of about \$135 million, which included the cost to purchase replacement power while the project was down for nearly four years. The net insurance proceeds are now about \$100 million, with the balance of the costs paid for with proceeds raised from 30-year bonds issued in 2004.

"The TIG payment will be used to benefit our customers. We sold the bonds in 2004 to raise the funds needed to proceed with reconstruction. One option our Board will consider is using the TIG payment to pay off a big chunk of that long-term debt, thereby reducing the cost of Swift power," Skeahan said.

The PUD will now pursue a bad faith claim against TIG. A new Washington law allows insured entities to seek damages against insurance companies who they believe acted in bad faith in responding to their claims.

"TIG's behavior throughout this affair, combined with the potential additional benefits to our customers, compels us to pursue a bad faith claim. This is a new law that allows for enhanced damages and there have been few court rulings since its enactment, making it difficult to predict how a court might view it. But we think it's a battle worth fighting on our customers' behalf," Skeahan said.

Insurance litigation began in February 2004 when Federated and TIG sued the PUD in U.S. District Court (Tacoma), asking that the court declare there was no coverage under their policies. Cowlitz PUD filed a counterclaim in U.S. District Court in May 2004 seeking coverage for its loss.

In March 2006 an Order of Summary Judgment by the U.S. District Court sided with Cowlitz PUD's counterclaim. In June 2006 a \$25 million out-of-court settlement was reached with Federated.

END

*Swift No. 2 was built by Cowlitz PUD in the late 1950s. The output of the 70 megawatt hydroelectric project meets about 25 percent of the PUD's residential electric needs. This past summer the PUD received a new 50-year license from the Federal Energy Regulatory Commission to operate Swift No. 2 through 2058.*