

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D.C. 20426
December 9, 2021

OFFICE OF ENERGY PROJECTS

Project No. 14227-003 – California
Lake Elsinore Advanced Pumped
Storage Project
The Nevada Hydro Company, Inc.

VIA FERC Service

Rexford Wait
Nevada Hydro Company, Inc.
2416 Cades Way
Vista, CA 92083

Reference: License Application Dismissal

Dear Mr. Wait:

On October 2, 2017, Nevada Hydro Company, Inc. (Nevada Hydro) filed an application for an original license for the proposed Lake Elsinore Pumped Storage (LEAPS) Project No. 14227.¹ The project would be located on Lake Elsinore and San Juan Creek near the city of Lake Elsinore in Riverside and San Diego Counties, California. The project would occupy approximately 845 acres of federal land administered by the U.S. Department of Agriculture, Forest Service (Forest Service). As discussed below, we are dismissing Nevada Hydro's license application without prejudice.

Background

In a letter filed October 9, 2019, the Forest Service identified additional

¹ The LEAPS Project was approved to be covered under the Fixing America's Surface Transportation Act, Title 41 (FAST-41), which was enacted on December 4, 2015, due to it involving the construction of a non-federal hydropower facility that is likely to require a total investment of more than \$200,000. FAST-41 is intended to improve consultation and coordination among government agencies, increase transparency through the publication of project-specific timetables with completion dates for all federal environmental reviews and authorizations, and increase accountability through consultation and reporting on delayed projects.

information that it requires to assess the effects of the project proposal on National Forest System Land and Resources, which included the need for Nevada Hydro to conduct recreation, groundwater, and seismic and geotechnical studies, and provide a roadless area construction plan (construction plan) and documentation of the State Historic Preservation Office's concurrence with, or approval of Nevada Hydro's draft Historic Properties Management Plan. On November 22, 2019, Commission staff issued a letter requiring Nevada Hydro to develop a plan and schedule for providing the Forest Service's requested information. The staff letter also required monthly progress reports on the development of the requested information.

On March 25, 2020, Nevada Hydro filed a letter stating that it would conduct the Forest Service's requested recreation and groundwater studies and provide documentation of SHPO concurrence, within 30 days of Commission staff issuing a Notice of Intent to Prepare an Environmental Impact Statement (NOI). Nevada Hydro also stated that it would file the requested construction plan "during scoping and sufficiently early for incorporation into [the] Draft [Environmental Impact Statement]." Nevada Hydro did not address the remaining information requests.

On April 10, 2020, Commission staff issued a letter to Nevada Hydro requesting additional detail regarding Nevada Hydro's March 25, 2020 filing, including detailed study plans that describe the goals and level of effort (e.g., estimated amount of fieldwork) for each study and the month/year that each study would be completed and study reports filed with the Commission. On May 28, 2020, Nevada Hydro filed a letter stating that it would file all of the requested information prior to the Commission's issuance of its Ready for Environmental Analysis (REA) notice. Commission staff subsequently issued the NOI on June 18, 2020.

On December 29, 2020, February 2, 2021, and March 9, 2021, Nevada Hydro filed progress reports indicating, among other things, that Nevada Hydro questioned the need for the information to which it previously committed to filing and was in discussions with the Forest Service to reach resolution on the matter. On April 29, 2021, Commission staff issued a letter to Nevada Hydro and the Forest Service requesting an update and noting concern with the lack of progress in developing the requested information.

On May 3, 2021, Nevada Hydro filed a recreation study plan and noted it had sent a draft construction plan to the Forest Service for review. Nevada Hydro also stated its intention to file information related to its discussions with the SHPO regarding an HPMP for the project. Nevada Hydro filed additional progress reports on May 14, 2021 (jointly with the Forest Service), July 1, 2021, and August 19, 2021, stating it was working with the Forest Service to resolve the remaining issues regarding the need for the requested information.

On November 15, 2021, the Forest Service filed a letter reiterating its need for the information it requested in its October 9, 2019 filing, and stating that the information is needed for it to analyze the proposed LEAPS Project's effects on National Forest System Lands. The Forest Service states that while it has held multiple meetings with Nevada Hydro to seek resolution and completion of the required studies, Nevada Hydro has informed the Forest Service that it does not intend to perform the studies and provide the remaining information prior to the Commission's issuance of any license for the project. The Forest Service further stated that without this information, it is unable to consider issuing a special use authorization for the project or amend the 2005 Cleveland National Forest Land Management Plan (LMP).

Discussion

In accordance with section 4.32(g) of the Commission's regulations, an applicant may be required to submit any additional information that Commission staff considers relevant for an informed decision on the application. If an applicant fails to provide timely additional information, the application may be dismissed.

Nevada Hydro has informed the Forest Service that it does not intend to perform the studies to develop the requested information prior to the Commission's decision on Nevada Hydro's license application. Therefore, this requested information remains outstanding.

The Forest Service has stated that it cannot consider issuing a special use authorization for the project or amending the 2005 Cleveland National Forest LMP without this information. Considering that nearly the entire project would be located on Forest Service land, the Forest Service's inability to further consider authorizing the proposed project's use of Forest Service land without the requested information significantly hinders an efficient review of the license application. For this reason, Nevada Hydro's license application is dismissed without prejudice. Nevada Hydro may refile the application with all requested information.

This dismissal is issued under authority delegated to the Director and constitutes final agency action. Requests for rehearing may be filed within 30 days of the date of issuance of this letter, pursuant to 18 C.F.R. § 385.713.

Sincerely,

Vince Yearick
Director
Division of Hydropower Licensing