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May 27, 2020

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

RE: **Lake Elsinore Advanced Pumped Storage Project**, FERC Project No. 14227
Further Clarification on timing for completion of data requests from the US Forest Service

Dear Secretary Bose,

The Nevada Hydro Company ("**Nevada Hydro**" or the "**Company**") filed an application with the Federal Energy Regulatory Commission (the "**Commission**") for an original license for the Lake Elsinore Advanced Pumped Storage facility, FERC Project No. 14227 (the "**Project**") on October 2, 2017. The Commission accepted the Application for filing on July 26, 2019.

On May 14, 2020, the Company filed a letter with the Commission (Accession Number 20200514-5101) that was filed in error. This letter supersedes that filing.

1.0. Background

On October 8, 2019, the US Forest Service ("**Forest Service**") filed comments with the Commission on some of the studies that Nevada Hydro had undertaken at the direction of the Commission, noting a range of information needs. On November 22, 2019, the Commission published a letter to the Company describing the One Federal Decision process, and information needs of the Forest Service as a cooperating agency, referencing the October 8th comments. The Commission's letter requested that the Company and Forest Service develop a plan and schedule for providing the requested information and file monthly reports with the Commission on the status of the consultation and development of the additional information. The Commission indicated that when Forest Service had the plan and schedule information it needed to move forward as cooperating agency in the authorization and environmental review process, it would issue the notice of intent ("**NOI**") to publish an environmental impact statement under the National Environmental Policy Act ("**NEPA**").

On March 23, 2020, Nevada Hydro provided the Commission with a copy of a letter sent to the Forest Service, documenting a schedule agreed to among the parties for Nevada Hydro to complete the requested studies. The Forest Service indicated to the Company that the

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schedule set forth in the March 23 letter was sufficient for its review within the environmental review process.

Despite the Commission's commitment to issue the NOI upon satisfaction of Forest Service information needs as stated in the Commission's November 22, 2019 letter, the Commission on April 8, 2020 communicated a new set of conditions. In some cases, the conditions required the Company to provide information it will not have until the environmental review process is underway. In a subsequent conference call among Commission staff and the Company, the new conditions were discussed. The Company understands that subsequent communication between Forest Service staff and Commission staff, the conditions were discussed and further clarified.

Forest Service staff subsequently communicated to the Company that, the March 23rd letter to the Forest Service had established acceptable deadlines. The Company was advised that each of the studies would need to be completed before the Commission would publish a notice of acceptance and ready for environmental analysis ("**REA**").

This letter provides the requested information to the Commission.

In our March 23, 2020 letter to the Commission, Nevada Hydro identified the following issues requiring more information from Nevada Hydro for Forest Service authorizations inclusion into the environmental review process as a cooperating agency under the One Federal Decision policy.

- A Recreation Study to assess project effects on national Forest recreational resources. Nevada Hydro was to provide a facilitator for developing with the Forest Service the methodology, schedule, and analysis framework – after issuance of the NOI and upon agreement/acceptance of the FS on the study scope and methods, the study would be implemented and submitted before the REA.
- A Forest Service approved Groundwater Study to characterize project effects and baseline groundwater information within the proposed project area on NFS lands. Nevada Hydro was to provide a facilitator for developing the methodology, schedule, and analysis framework– After issuance of the NOI, and upon agreement/acceptance of the FS o the study scope of the FS on the study scope and methods, the study would be implemented and submitted before the REA.
- A Decker Canyon Reservoir Inventoried Roadless Area Construction Plan
- Implementation of the Seismic and Geotechnical Studies already approved by the Commission and the Forest Service.

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- Nevada Hydro is to provide Forest Service with documentation of State Historic Preservation Office (SHPO) concurrence or approval of Project Historic Properties Management Plan.

Each of these information needs will be addressed in the following sections of this letter.

2.0. Recreation Study

The Forest Service has requested a study to assess project effects on National Forest recreational resources. Based on the Final Recreational Study Work Plan submitted to the Commission in June 2019, the following provides additional information on the major tasks described in the work plan. The overall objective of the Recreational Study is to assess the potential impacts to recreational use associated with the upper reservoir of the proposed LEAPS Project. Specifically, the Recreational Study will identify the type of existing recreational uses, where they are generally located, and how often they are utilized. This plan will identify the methods used to collect the recreational use data, which will be used to understand the extent of recreational use impacts that could be impacted by the upper reservoir portion of the LEAPS Project. This will give FERC and the USFS the opportunity to assess the upper reservoir and provide sufficient information necessary to recommend design changes and/or mitigation measures to minimize recreational use impacts associated with the upper reservoir. At the direction of the Commission, the Recreational Study Work Plan is limited to the impacts of the upper reservoir area.

2.1. Background and History of Study Request

The Commission provided its initial comments on the need for, and scope of a recreation study June 15, 2018, determining that the previous analysis for P-11858 was sufficient to assess the effects of the proposed project on recreation since the present project is largely the same. The Recreational Use Study Plan was required because an alternate reservoir location was selected by Commission staff in the FEIS published for P-11858, which would remove land from public use. In Schedule A of its January 22, 2019 letter, FERC noted that the Recreational Use Study Plan provided in Nevada Hydro's September 13, 2018 filing lacked a number of important details needed to ensure that the data collected is sufficient for its analysis, including an observation sampling schedule and data collection methods.

2.2. Methodology of Study

This plan filed with the Commission is a set of methods that will be utilized to complete a Recreational Use Study. All the potential recreational uses, locations, and subsequent impact analysis have not been identified because the Recreational Use Study Plan is a programmatic-level document that will be used to prepare a project specific assessment. Therefore, it is appropriate that the recreational uses, locations, and subsequent impact analysis are described in general in the Recreational Use Study but will be described in detail once the plan has been

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approved. Nevada Hydro has proposed, and the Forest Service has agreed to negotiating the scope of the final study.

The Recreational Use Study will contain all of the recreational opportunities that may be affected by the proposed project. Nevada Hydro will work with the Forest Service to prepare a list of recreational resources, their locations, and a complete evaluation of the potential impacts associated with the project footprint.

Each of the Recreational Resources mentioned above as well as those associated with Elsinore Peak Communication Site and Los Pinos Conservation Camp will all be included in the Recreational Use Study Report.

Nevada Hydro will work closely with the Forest Service to identify all recreational uses in the area. The Forest Service has requested that Nevada Hydro ask local residences to identify additional uses that may not be covered under existing documentation.

2.3. Timing for the Study

Upon consultation with the Forest Service Nevada Hydro understands that the assessment needed in advance of the REA can be completed in a few months pending agreement on the methodologies and scope of the assessment. The parties plan on meeting within 30 days following NOI issuance to agree on this scope and timing.

There may be elements of the study that could extend past the REA; however, Nevada Hydro cannot determine now what exactly those elements may be until after the methods are agreed upon and implemented. For example, elements of a study that may extend past the REA may involve public surveys and monitoring over all seasons of use.

3.0. Groundwater/Aquifer study

The scope of this study was defined by the Commission as Study 8 in their June 2018 letter, as follows:

“Therefore, we recommend that Nevada Hydro develop a study plan, in consultation with the California DFW, Forest Service, and FWS, to locate, map, and quantify the artesian springs and associated riparian areas within the proposed Decker Canyon Reservoir site. The study, at a minimum, should include provisions to collect water quality data, flora and fauna present, and the extent of each riparian vegetation type.”

Thus, the overall objective of the aquifer study plan is to provide guidelines to assess the potential presence of springs and associated riparian areas within the Decker Canyon site. This includes collecting information on the location, habitat (i.e., flora and fauna present and extent of riparian vegetation type), habitat usage, and water quality data associated with any spring sites to evaluate the potential effects of reservoir construction on these sites.

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The Aquifer Study Plan was prepared in response to the Commission's request in a letter dated June 15, 2018 (Study 8). Therefore, the Aquifer study was specifically requested by FERC to identify the presence/ absence of artesian springs within the Proposed Decker Canyon Reservoir Location. The Commission's letter specifically requested that Nevada Hydro develop an Aquifer Study Plan, in consultation with CDFW, USFS, and USFWS, to locate, map, and quantify the artesian springs and associated riparian habitat within the proposed Decker Canyon Reservoir footprint. The Commission requested the study to include provisions to collect water quality data, flora and fauna present, and the extent of each riparian vegetation type.

4.0. A Construction Plan for the Decker Canyon Reservoir

The Forest Service has requested a "Construction plan" prior to environmental analysis under NEPA and OFD that would describe the construction of the reservoir sitting partly within the Inventoried Roadless Area. Nevada Hydro has reached out to its contractor and will supply this plan well before the REA will be issued.

5.0. Implementation of the Seismic and Geotechnical Studies - as already approved by FERC and the Forest Service.

Prior to the issuance of the REA by FERC, Nevada Hydro will implement and complete the geotechnical study plans (September 7, 2018 versions). Nevada Hydro will work with Forest Service to ensure the Forest Service has sufficient time to review study results and resolve any concerns prior to submitting final reports to FERC. If Nevada Hydro cannot complete certain aspects of the study plans due to COVID-19 work restrictions, Nevada Hydro will identify these issues and determine alternative timeframes for completing the work in consultation with FERC and the Forest Service. Nevada Hydro understands that the Forest Service may issue SUPs for ground disturbing activities in connection with this work where required.

6.0. Historic Properties Management Plan status report

6.1. Background and History

In this letter, the Commission noted:

We agree with Nevada Hydro's proposal and methodologies to carry out the three additional cultural resources studies within an updated APE (including a detailed map). We also agree with Nevada Hydro conducting the field work components of these studies post-licensing, prior to project construction, to allow for an accurate assessment of the final licensed facilities.

However, all non-field work components of the proposed studies should be conducted now to inform our analysis of potential adverse effects to historic

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properties and allow us to complete our obligations under section 106 of the National Historic Preservation Act. These non-field components include redefining and updating the APE; updating the records and archival research; and providing an updated prehistoric, ethnographic, and historic context that Nevada Hydro would use in conducting the field work components.

The non-field components also need to be incorporated into the updated HPMP. The updated HPMP would also include a detailed description of all remaining field work to be carried out along with measures to resolve any potential project-related adverse effects to any cultural resource determined eligible for the National Register of Historic Places (i.e., historic properties) and include measures for the treatment of human remains and unanticipated discoveries. Prior to incorporating the updated APE into the HPMP, Nevada Hydro needs to seek the concurrence from the California State Historic Preservation Office (SHPO) on the updated APE.

6.2. Present Status

The Company (and its consultant, "GANDA") have been coordinating with SHPO and consulting tribes/parties on this current project since 2017 with regards to cultural resources. The SHPO agreed with the APE in September 2018. Their recent comments did request that the Commission conduct all field work prior to finalizing the HPMP or that they consider a phased PA approach. The current revised HPMP has addressed SHPO's comments, but their reference to the Commission that they consider a phased PA approach or that the Company complete field work now (prior to finalizing HPMP) will require the Commission to address.

GANDA is currently addressing the Commission's January 2019 comments regarding the draft HPMP; which includes addressing comments received to date from Soboba and Pechanga Tribes as well as from SHPO. The purpose of the current draft HPMP is to provide the framework for future inventory studies and identification of historic properties within the APE. For this reason, the Company and its consultant are working directly with the Pechanga and Soboba Tribes on the draft HPMP and APE, so that the future identification efforts factor in areas of concerns. The revised draft HPMP includes the most recent round of review and addresses the comments (to the extent feasible) of the Soboba and Pechanga Tribes as well as SHPO's. The final PA and associated documents (ex. HPTP/HPMP) will include the inventory results of historic properties within the APE.

We do not have concurrence from SHPO or consulting tribes (Soboba and Pechanga) on this project. Consultation is ongoing as is the draft HPMP. We have received comments from these parties (public information). Several meetings (calls and in person) have occurred with Pechanga, Soboba, and Nevada Hydro (NH) regarding the revised HPMP for the project. Also note that the tribal comment letters were accompanied by comments in the draft HPMP, which

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were addressed in the last draft submitted to FERC In October 2019. Where NH did not concur or was unable to make the requested edits, we noted this in the comment matrix attached as an appendix to the draft HPMP. SHPO has only stated that they approve the APE and that is “sufficient at this time” as described in the September 2018 response letter. The latest submittal in October 2019 sought to address all sets of comments from all parties, as feasible and which is still in review. Nevada Hydro is still trying to confirm with Pechanga what can be shared, since we now have a confidentiality agreement with them, and the recent submittal was filed with FERC as privileged/confidential. Nevada Hydro is presently waiting for the Commission’s guidance on next steps and will keep the Forest Service apprised of progress.

Please let me know if the Commission has additional questions.

Sincerely,

/s/ David Kates

David Kates

Document Content(s)

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