

138 FERC ¶ 62,163
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Mona North Pumped Storage, LLC

Project No. 14239-000

ORDER ISSUING PRELIMINARY PERMIT
AND GRANTING PRIORITY TO FILE LICENSE APPLICATION

(February 24, 2012)

1. On August 1, 2011, Mona North Pumped Storage, LLC, (Mona North) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA),¹ to study the feasibility of the proposed Mona North Pumped Storage Project No. 14239 (Mona North Project) to be located on Old Canyon Stream, near the town of Mona, in Juab County, Utah.

I. Project Proposal

2. The proposed project would consist of the following: (1) an underground powerhouse containing the pump-turbines and motor-generators; (2) a waterway between 7,600 and 15,800 feet long (depending on alternative configuration), including inlet/outlet structures at each reservoir, headrace tunnel, pressure shaft, buried penstock, and tailrace features connecting the upper reservoir, the underground powerhouse, and the lower reservoir; and (3) a transmission line connecting the underground powerhouse to the existing Mona substation.

The applicant is studying the following reservoir alternatives:

3. **Alternative 1:** (1) a single 340-foot-high by 1,800-foot-long, concrete-faced dam across Old Canyon (upper reservoir) having a total storage capacity of 18,000 acre-feet and a water surface area of 203 acres at full pool elevation of 5,874 feet above mean sea level (msl); (2) an approximately 7,600-foot-long water way connecting the upper reservoir to a lower reservoir located about 2,300 feet south of the existing Mona substation; (3) a 100-foot-high and 13,000-foot-long earthfill ring dike (lower reservoir) located just south of Mona, with a water surface area of 262 acres at full pool elevation of 5,222 feet msl.

¹ 16 U.S.C. § 797(f) (2006).

4. **Alternative 2:** (1) a two dam construction (upper reservoir) located upstream of Right Fork and Old Canyon having a storage capacity of about 8,350 acre-feet and a water surface area of 152 acres at full pond elevation of 6,527 feet msl--one dam would be 285 feet high and 1,900 feet long and the other dam would be 35 feet high and 800 feet long; (2) an approximate 15,800-foot-long waterway connecting the upper reservoir to a lower reservoir about 2,000 feet north of the existing Mona substation; and (3) a 60-foot-high and 13,000-foot-long, earthfill ring dike (lower reservoir) located north of the existing Mona substation, with a water surface area of 265 acres at full pool elevation of 5,153 feet msl.

5. **Alternative 3:** (1) a two dam construction (upper reservoir) located upstream of Right Fork and Old Canyon having a storage capacity of about 24,100 acre-ft and a water surface area of 238 acres at full pond elevation of 6,580 feet msl--one dam would be 400 feet high by 2,900 feet long and the other dam would be a 100 feet high by 3,600 feet long; (2) an approximate 7,700-foot-long waterway connecting the upper reservoir to a lower reservoir north of the existing Mona substation; and (3) 250-foot-high and 1,200-foot-long, earthfill ring dike (lower reservoir) located north of the existing Mona substation, with a water surface area of 182 acres at full pool elevation of about 5,996 feet msl.

6. The different configurations would depend on the best suited conditions, ranging from a 4 unit, 500 megawatts (MW) (4 units x 125 MW unit) configuration to a 4 unit, 1,000 MW (4 units x 250 MW unit) configuration allowing for 8 to 10 hours of continuous output. Interconnection would exist at the PacifiCorp/Rocky Mountain Power Mona substation: Alternative 1 would require roughly 6,000 feet; Alternative 2 would require 10,000 feet; and Alternative 3 would require 14,000 feet of new transmission line. Interconnection voltage may be 230 or 500 kilovolts; and annual generation would be within 1,800 to 4,500 gigawatthours, depending on constructed option.

II. Background

7. On September 23, 2011, the Commission issued a public notice of the application. The notice set November 22, 2011 as the deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications. Comments were filed by the U.S. Department of the Interior (Interior), on behalf of the U.S. Fish and Wildlife Service (FWS) and the Bureau of Land Management (BLM), the State of Utah's Public Lands Policy Coordination Office (Utah), Pacificorp d/b/a Rocky Mountain Power, and Doug Sakaguchi.

III. Discussion

A. Issues Related to Project Construction and Operation

8. FWS expressed concern that fish and wildlife resources including some federally threatened and endangered species could be adversely affected by the project construction and operation. Specifically, FWS noted that: (1) construction could possibly impact greater sage-grouse populations; (2) the removal of water from the local water systems could affect federally listed June sucker and least chub populations; and (3) construction and operation of new transmission lines could have an impact on raptor populations, particularly bald and golden eagles.

9. BLM stated that the proposed project could potentially cause significant impacts to four distinctive prehistoric cultures; Utah sage grouse habitat; visual resources; recreation use; and grazing allotments. Other concerns regard the source of water that would fill the proposed reservoirs and establishment of coordination with the State of Utah with consideration to water usage and depletion factors. BLM also noted potential conflicts with other land usage, and including Element Power's right-of-way for their wind energy site testing and monitoring, PacifiCorp's Mona to Oquirrh transmission line (currently under construction), a BLM utility corridor, and areas that are managed under two Resource Management Plans. BLM also commented on the importance of the coordination of federal agencies in the national Environmental Policy Act process.

10. Rocky Mountain Power States that Mona North's proposed project conflicts with rights-of-way that Rocky Mountain Power has obtained from BLM. Utah requested Mona North apply for a Utah Water Quality Certification (state certification) at least one year prior to any license filing deadlines required by the Commission.

11. A preliminary permit does not authorize a permittee to undertake a construction of the proposed project. The purpose of a preliminary permit is to study the feasibility of the project, including studying potential impacts. The concerns raised in the comments are premature at the preliminary permit, in that they address the potential effects of constructing and operating the proposed project. Should the permittee file a license application, these issues will be addressed in the licensing process.

B. Notice and Access to Information

12. Mr. Sakaguchi is concerned that local governments were not notified about the proposed project and that limited information was provided in the notice to provide comments on the project. Section 4.32(a) of the Commission's regulations requires permit applicants to include the names and addresses of every county in which any part of the proposed project is located, and every city or town in which any part of the project

is located or that has a population of 5,000 or more people and is located within 15 miles of the project dam.² Mona North identified Juab and Utah counties, and the cities of Santaquin and Nephi. These entities were notified of the filing of the permit application and how to access copies of the application in the commission's efilings system. A preliminary permit only grants Mona North priority to file the first development application during the permit term. As noted, should the permittee file a development application, there will be numerous opportunities for all stakeholders to comment on the project's proposed plans.

IV. Permit Information

13. Section 4(f) of the FPA authorizes the Commission to issue preliminary permits for the purpose of enabling prospective applicants for a hydropower license to secure the data and perform the acts required by section 9 of the FPA,³ which in turn sets forth the material that must accompany an application for license. The purpose of a preliminary permit is to preserve the right of the permit holder to have the first priority in applying for a license for the project that is being studied.⁴ Because a permit is issued only to allow the permit holder to investigate the feasibility of a project while the permittee conducts investigations and secures necessary data to determine the feasibility of the proposed project and to prepare a license application, it grants no land-disturbing or other property rights.⁵

14. During the course of the permit, the Commission expects that the permittee will carry out pre-filing consultation and study development leading to the possible development of a license application. The pre-filing process begins with preparation of a

² 18 C.F.R. § 4.32(a)(2) (2011).

³ 16 U.S.C. § 802 (2006).

⁴ See, e.g., *Mt. Hope Waterpower Project LLP*, 116 FERC ¶ 61,232 at P 4 (2006) (“The purpose of a preliminary permit is to encourage hydroelectric development by affording its holder priority of application (i.e., guaranteed first-to-file status) with respect to the filing of development applications for the affected site.”).

⁵ Issuance of this preliminary permit is thus not a major federal action significantly affecting the quality of the human environment. A permit holder can only enter lands it does not own with the permission of the landholder, and is required to obtain whatever environmental permits federal, state, and local authorities may require before conducting any studies. See, e.g., *Three Mile Falls Hydro, LLC*, 102 FERC ¶ 61,301 at P 6 (2003); see also *Town of Summersville, W.Va. v. FERC*, 780 F.2d 1034 (D.C. Cir. 1986) (discussing the nature of preliminary permits).

Notice of Intent (NOI) and Pre-Application Document (PAD) pursuant to sections 5.5 and 5.6 of the Commission's regulations.⁶ The permittee must use the Integrated Licensing Process unless the Commission grants a request to use an alternative process (Alternative or Traditional Licensing Process). Such a request must accompany the NOI and PAD and set forth specific information justifying the request.⁷ Should the permittee file a development application, notice of the application will be published, and interested persons and agencies will have an opportunity to intervene and to present their views concerning the project and the effects of its construction and operation.

15. Article 4 of this permit requires the permittee to submit a progress report no later than the last day of each six-month period from the effective date of this permit. A progress report must describe the nature and timing of what the permittee has done under the pre-filing requirements of section 4.38 and Part 5 of the Commission's regulations for the specific reporting period. A permit may be cancelled if a permittee fails to file a timely progress report or if the report does not demonstrate that progress is being made by the permittee. The late filing of a report or the supplementation of an earlier report in response to a notice of probable cancellation will not necessarily excuse the failure to comply with the requirements of this article.

16. A preliminary permit is not transferable. The named permittee is the only party entitled to the priority of the application for license afforded by this preliminary permit. In order to invoke permit-based priority in any subsequent licensing competition, the named permittee must file an application for license as the sole applicant, thereby evidencing its intent to be the sole licensee and to hold all proprietary rights necessary to construct, operate, and maintain the proposed project. Should any other parties intend to hold during the term of any license issued any of these proprietary rights necessary for project purposes, they must be included as joint applicants in any application for license filed. In such an instance, where parties other than the permittee are added as joint applicants for license, the joint application will not be eligible for any permit-based priority.⁸

The Director orders:

(A) A preliminary permit is issued for the Mona North Pumped Storage Project No. 14239-000 to Mona North Pumped Storage, LLC, for a period effective the first day of the month in which this permit is issued, and ending either 36 months from the

⁶ 18 C.F.R. §§ 5.5 and 5.6 (2011).

⁷ See 18 C.F.R. § 5.3 (2011).

⁸ See *City of Fayetteville*, 16 FERC ¶ 61,209 (1981).

Project No. 14239-000

- 6 -

effective date or on the date that a development application submitted by the permittee has been accepted for filing, whichever occurs first.

(B) This preliminary permit is subject to the terms and conditions of Part I of the Federal Power Act and related regulations. The permit is also subject to Articles 1 through 4, set forth in the attached standard form P-1.

(C) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days of the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2006), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2011).

Timothy J. Welch, Chief
West Branch
Division of Hydropower Licensing

Form P-1 (Revised April 2011)**FEDERAL ENERGY REGULATORY COMMISSION****TERMS AND CONDITIONS OF
PRELIMINARY PERMIT**

Article 1. The purpose of the permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary to determine the feasibility of the proposed project and, if the project is found to be feasible, prepares an acceptable application for license. In the course of whatever field studies the permittee undertakes, the permittee shall at all times exercise appropriate measures to prevent irreparable damage to the environment of the proposed project. This permit does not authorize the permittee to conduct any ground-disturbing activities or grant a right of entry onto any lands. The permittee must obtain any necessary authorizations and comply with any applicable laws and regulations to conduct any field studies.

Article 2. The permit is not transferable and may, after notice and opportunity for hearing, be canceled by order of the Commission upon failure of the permittee to prosecute diligently the activities for which a permit is issued, or for any other good cause shown.

Article 3. The priority granted under the permit shall be lost if the permit is canceled pursuant to Article 2 of this permit, or if the permittee fails, on or before the expiration date of the permit, to file with the Commission an application for license for the proposed project in conformity with the Commission's rules and regulations then in effect.

Article 4. No later than the last day of each six-month period from the effective date of this permit, the permittee shall file a progress report. Each progress report must describe, for that reporting period, the nature and timing of what the permittee has done under the pre-filing requirements of 18 C.F.R. sections 4.38 and 5.1-5.31 and other applicable regulations; and, where studies require access to and use of land not owned by the permittee, the status of the permittee's efforts to obtain permission to access and use the land. Progress reports may be filed electronically via the Internet, and the Commission strongly encourages e-filing. Instructions for e-filing are on the Commission's website at <http://www.ferc.gov/docs-filing/efiling.asp>. To paper-file instead, mail four copies of the progress report to the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Document Content(s)

P-14239-000Order.DOC.....1-7