

147 FERC ¶ 62,225
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

San Diego County Water Authority

Project No. 12747-002

ORDER DENYING THIRD PRELIMINARY PERMIT

(June 24, 2014)

1. On July 1, 2013, the San Diego County Water Authority (Authority) filed an application for a third preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA),¹ to study the feasibility of the proposed San Vicente Pumped Storage Project No. 12747 to be located at the existing San Vicente dam and reservoir on San Vicente Creek in San Diego County, California.

I. Project Proposal

2. The proposed project would consist of: (1) the existing 337-foot-high San Vicente dam and 8,070 acre-foot reservoir, which would serve as the lower reservoir for the pumped storage project; and (2) one of three alternative sites for the upper reservoir. Depending on the alternative selected, the potential power from the project would range between 240 and 500 megawatts (MW).

3. Alternative site A would be located near Iron Mountain, approximately three miles northwest of the San Vicente reservoir and would include: (1) a 235-foot-high, 1,250-foot-long upper dam; (2) an upper reservoir with a surface area of 93 acres and a normal maximum water surface elevation of 2,100 feet msl; (3) a 12,300-foot-long, 20-foot-diameter concrete power tunnel; (4) two 500-foot-long steel-lined penstocks; (5) a powerhouse containing two generating units having a total installed capacity of 500 MW; (6) a 3,300-foot-long, 24-foot-diameter concrete tailrace; (7) a 14,000-foot-long, 230-kilovolt transmission line; and (8) appurtenant facilities.

4. Alternative site B would be located near Foster Canyon, approximately 0.5 mile northwest of the San Vicente reservoir and would include: (1) a 215-foot-high, 4,500-foot-long upper dam; (2) an upper reservoir with a surface area of 100 acres having a storage capacity of 12,200 acre-feet and a normal maximum water surface elevation of 1,490 feet msl; (3) a 3,000-foot-long, 20-foot-diameter concrete power tunnel; (4) two

¹ 16 U.S.C. § 797(f) (2012).

300-foot-long, steel-lined penstocks; (5) a powerhouse containing two generating units having a total installed capacity between 240 and 500 MW; (6) a 2,700-foot-long, 24-foot-diameter concrete tailrace; and (7) appurtenant facilities.

Alternative site C would be located approximately 1.8 miles southeast of the San Vicente reservoir and would include: (1) a 200-foot-high, 2,200-foot-long upper dam; (2) an upper reservoir with a surface area of 60 acres having a storage capacity of 6,800 acre-feet and a normal maximum water surface elevation of 1,600 feet msl; (3) a 6,000-foot-long, 20-foot-diameter concrete power tunnel; (4) two proposed 300-foot-long, steel-lined penstocks; (5) a powerhouse containing two generating units having a total installed capacity between 240 and 500 MW; (6) a 2,600-foot-long, 24-foot-diameter concrete tailrace; and (7) appurtenant facilities.

II. Background

5. On March 8, 2007, Commission staff issued the Authority a three-year preliminary permit that expired on February 28, 2010.² On March 1, 2010 the Authority applied for a successive preliminary permit. On July 2, 2010, Commission staff issued the Authority a three-year successive preliminary permit that expired on June 30, 2013.³

6. On July 1, 2013, the Authority filed an application for a third preliminary permit for the same project at the same location. The Commission issued public notice of the Authority's July 2013 permit application on December 19, 2013. The U. S. Department of the Interior filed a letter stating it had no comments on the application.

III. Discussion

7. Sections 4(f) of the FPA authorize the Commission to issue preliminary permits to potential development applicants for a period of up to three years.⁴ The FPA does not address the issue of how many preliminary permits an applicant may receive for the same site. However, it is Commission policy to grant a successive preliminary permit only if it concludes that the applicant has pursued the requirements of its prior preliminary permit in good faith and with due diligence.⁵ The Commission rarely issues a third preliminary

² *San Diego Cnty. Water Auth.*, 118 FERC ¶ 62,179 (2007).

³ *San Diego Cnty. Water Auth.*, 132 FERC ¶ 62,007 (2010).

⁴ 16 U.S.C. §§ 797(f) and 798 (2012).

⁵ *See Mokelumne River Water and Power Authority*, 89 FERC ¶ 61,001 (1999); *Burke Dam Hydro Associates*, 47 FERC ¶ 61,449 (1989); *City of Redding, California*, 33 FERC ¶ 61,019 (1985).

permit to the same applicant, for the same site, unless some extraordinary circumstance or factor outside the control of the permittee is present.⁶

8. The Commission has held that, in most cases, three years should be enough time to consult with resource agencies and conduct any studies necessary to prepare a development application, and six years should be more than enough time. Allowing a site to be reserved for nine years or more would allow site banking.⁷

9. The Authority's July 1, 2013 permit application did not include any information to demonstrate an extraordinary circumstance or factor outside the Authority's control. To the contrary, a review of the record indicates that each of the Authority's progress reports under its successive preliminary permit are general in nature and are often related to the Authority's actions to raise the existing San Vicente dam for water supply purposes. With the exception of cultural resources and endangered species surveys required by the Corps of Engineers' Section 404 permit authorizing the San Vicente dam raise, there is no evidence of studies performed or agency consultation aimed at advancing the project's development. Therefore, its application for a third preliminary permit is denied.

The Director orders:

(A) San Diego County Water Authority's successive preliminary permit application for the San Vicente Pumped Storage Project No. 12747-002 is denied.

⁶ See *Greybull Valley Irrigation District*, 143 FERC ¶ 61,131, at PP 14-15 (2013); *Mokelumne River Water and Power Authority*, 89 FERC ¶ 61,001 (1999) (issuing a third permit because the applicant had demonstrated that its delay in performing water flow studies necessary to prepare a license application was dependent on resolution of a pending licensing proceeding at the Commission and pending water rights litigation that could impact available flows).

⁷ The essence of the Commission's policy against site banking is that an entity that is unwilling or unable to develop a site should not be permitted to maintain the exclusive right to develop it. See *Cascade Creek, LLC*, 140 FERC ¶ 61,221, at P 27 (2012) (citations omitted).

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(B) 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. § 825*l* (2012), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2013).

Vince Yearick
Director
Division of Hydropower Licensing

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