

155 FERC ¶ 62,112
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

K. R. Broome & Associates

Project No. 14779-000

ORDER DISMISSING PRELIMINARY PERMIT APPLICATION
WITHOUT PREJUDICE

(Issued May 13, 2016)

1. On April 25, 2016, K. R. Broome & Associates filed an application for a preliminary permit to study the feasibility of developing the proposed 2.0-megawatt Thermalito Afterbay Discharge Weir Project No. 14779-000. The proposed project would develop the head at the existing discharge weir below the Thermalito Afterbay, which is part of the California Department of Water Resource's (California DWR) Oroville Facilities Project No. 2100 (Oroville Project). California DWR operates the 762-megawatt Oroville Project as an integrated power, flood control, water supply, and irrigation system. During Oroville Project operations, California DWR uses the discharge weir to release flows from Thermalito Afterbay to the Feather River.
2. On July 2, 2010, on May 23, 2011, and on September 11, 2014, Commission staff dismissed three applications for preliminary permits to study the hydroelectric potential at the same location (Thermalito Afterbay dam) because the Commission was in the process of relicensing the Oroville Project.¹ At this time, the Commission is waiting for the National Marine Fisheries Service to issue its biological opinion for the project before the Commission acts on the relicense application.
3. Because the Commission has not yet made a determination on the relicensing of the Oroville Project and the plan for development under any potential new license is provisional at this time, it is not possible to determine with certainty whether the project proposed by the permit application would use the same water resource as the Oroville Project. Therefore, preliminary permit applications for incremental capacity at the

¹ *Thermalito Afterbay Hydro, LLC*, 132 FERC ¶ 62,008 (2010), *Davis Hydro, LLC*, 135 FERC ¶ 62,161 (2011), and *K. R. Broome & Associates* 148 FERC ¶ 62,195 (2014).

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Oroville Project will not be accepted until the Commission has made a licensing determination.²

4. Therefore, I am dismissing the permit application without prejudice. It may be refiled after the conclusion of the Oroville Project relicensing proceeding.

The Director orders:

(A) The preliminary permit application filed by K. R. Broome & Associates on April 25, 2016, for proposed Project No. 14779-000, is dismissed without prejudice.

(B) This order is issued under authority delegated to the Director and 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 (2012), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2015).

Vince Yearick
Director
Division of Hydropower Licensing

² *Marseilles Land and Water Co.*, 129 FERC ¶ 61,140, P 30-32 (2009) (“[A]s a matter of policy, we will not issue preliminary permits for proposed projects that would develop, conserve, and use the same water resources and are located in close proximity to projects that are in the licensing or development phase.”).

Document Content(s)

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