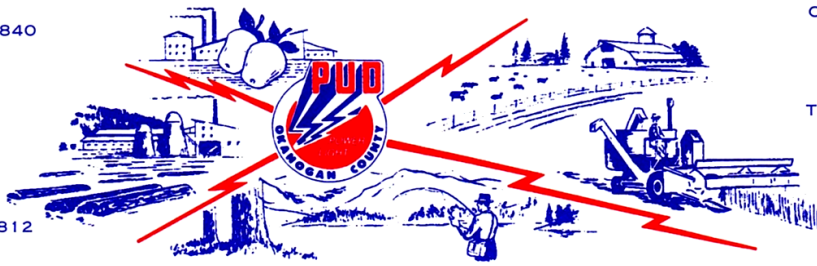


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PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN COUNTY

May 3, 2017

Chairman Fred Upton
Ranking Member Bobby Rush
Subcommittee on Energy
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

Chairman Upton and Representative Rush:

In 2013, the Federal Energy Regulatory Commission (“FERC”) granted the Public Utility District No. 1 of Okanogan County (“the District”) an original license for the Enloe Dam Hydroelectric Project (FERC Project No. 12569) (“Enloe Project”) to be located at the existing Enloe Dam, situated in a narrow constriction of the Similkameen River Valley, about 3.5 miles northwest of the City of Oroville. Section 13 of the Federal Power Act requires licensees to commence construction of hydroelectric projects within four years of license issuance, and therefore the District faces a July 9, 2017 deadline to commence construction on the Enloe Project. Development of the Enloe Project has experienced setbacks, discussed below, that have complicated the District’s ability to meet this deadline. For this reason, consistent with prior Congressional actions in similar circumstances, the District is requesting support from Congress to extend the commencement of construction deadline and to ensure that the benefits of the Enloe Project may be realized.

Summary of the Enloe Project

The Enloe Dam was constructed in 1920 on Bureau of Land Management (“BLM”) lands for power generation and was initially licensed by the Federal Power Commission, predecessor of FERC. The District acquired the Enloe Project in 1945, but the Enloe Project ceased operation in 1958 when the extension of Bonneville Power Administration’s high voltage transmission line into the Okanogan Valley provided a less expensive source of power. Under the current FERC license, the District will relocate the site for hydropower development to the opposite bank, which offers both environmental and construction advantages. The proposed 9 MW facility has a footprint that is about half the size of the existing facilities, while providing nearly three times the generating capacity of the existing decommissioned plant. The Enloe Project will utilize the existing dam and construct the remaining project features.

Project Development Efforts

Since issuance of the license, the District has worked diligently toward developing, and taken the necessary steps toward commencing construction of, the Enloe Project. To date, the District has submitted twelve project-specific drawings and management plans required by the FERC license. These management plans encompass a variety of subject matters, including, among others, (1) dam and public safety, (2) historic preservation, (3) recreation, (4) wildlife protection, and (5) protection of a threatened form of vegetation. All have been approved by FERC. In addition, pursuant to a license requirement, the District removed a deteriorated building located within the project boundary, and the Commission issued a letter confirming the District's compliance with this requirement. Therefore, the District has been diligently fulfilling pre-construction requirements imposed by the FERC license.

Despite the District's diligent efforts to develop the Enloe Project, it has not been able to commence construction within the statutory deadline. Concurrent with the District's diligent preparation of the requisite plans, it faced legal challenges to its water rights. Resolving the issue of the District's water rights proved particularly time- and resource-intensive. This challenge worked its way through the administrative process before both the Washington State Department of Ecology and the Washington Pollution Control Hearing Board, as well as the state Superior Court and the Court of Appeals. The District is pleased to report that the litigation has terminated with a favorable ruling in the court of appeals in October 2016. Despite this legal victory, the litigation demands and a variety of conflicting internal and budgetary constraints required the District to defer proceeding with construction-related license requirements.

With the water rights litigation concluded in October 2016, the District immediately proceeded with the identification of a design and construction firm to take on the work of constructing the Enloe Project. Okanogan commenced this work by applying to the state agency charged with reviewing alternative public works contracting procedures to obtain approval to employ a design-build contracting model. The District determined that the design-build contracting model would be the most efficient and cost-effective contracting method because, among other benefits, it offers greater innovation and efficiencies through value engineering executed by the design engineer, generating equipment supplier and construction contractor working as a team. Having obtained approval for use of the design-build model, the District issued a request for proposals ("RFP") and is currently evaluating responses.

As demonstrated above, the District has proceeded with diligence in pursuing the Enloe Project and looks forward to selecting a firm through the RFP process to advance the District's project development efforts to date.

Request for Congressional Action

Following the protracted litigation over the District's water rights, the District now seeks a statutory solution that would authorize FERC to extend the commencement of construction deadline for the Enloe Project in order to accommodate the District's development constraints. The relief the District is seeking is fairly common among FERC licensees. Our research indicates that, since the 104th Congress, 33 similar bills extending the commencement of construction deadline for specific projects have been signed into law. The language has become nearly *pro forma* over the many years that such project-specific commencement of construction

deadline extensions have been introduced into and passed by Congress. This *pro forma* legislation has two clauses. The first clause authorizes FERC to extend a commencement of construction deadline for an additional six years, in three two-year increments. The second clause directs that, if the period for commencing construction has expired prior to the bill's enactment, FERC is to reinstate the license.

In reviewing the current legislation before the Subcommittee at its May 3rd, 2017 hearing, the District notes that the discussion draft entitled "Hydropower Policy Modernization Act" would amend Section 13 of the Federal Power Act to provide FERC the authority to grant a licensee up to a total of ten, rather than a mere four, years to commence construction. As the District understands, this discussion draft would still require that FERC grant such extensions only when in the public interest, consistent with the existing provisions of Section 13. In short, the discussion draft would closely follow the intent of the first clause in the *pro forma* project-specific legislation.

The District supports this discussion draft because it will reduce the burden on a FERC licensee that is incapable of commencing construction within four years, such as the District, of seeking project-specific legislation that will allow it to continue its pursuit of its FERC-licensed hydropower project. The District, however, understands that many bills introduced in the prior 115th Congress were unable to clear the procedural hurdles required for enactment despite being appended to the comprehensive energy package that emerged from both Houses of Congress—specifically S.2012 and the House Amendment to S.2012. For that reason, the District believes that, in recognition of those licensees as well as other licensees whose commencement of construction deadlines are set to expire within the coming months, the discussion draft of the "Hydropower Policy Modernization Act" should be amended to include a reinstatement provision similar to the following:

If the period required for commencement of construction of any Commission-licensed project has expired within the past five years of the date of the enactment of this Act, the Commission may reinstate the license effective as of the date of its expiration and extend the time limit for commencement of construction in two-year increments, as described above, so long as the time period for commencement of construction does not exceed 10 years.

The discussion draft would, therefore, more closely mirror the *pro forma* project-specific legislation by including a second reinstatement provision.

The District enjoys the strong support of Congressman Newhouse, with whom the District is working to develop a project-specific bill applicable to the Enloe Project. Nevertheless, providing FERC with the authority to reinstate the license of any licensee that was unable to satisfy the existing four-year commencement of construction deadline within some definite period of time—five years in the proposed language above—will afford a level of certainty to those existing licensees whose project-specific bills were not enacted in the prior Congress due to the failure to pass a consensus energy policy bill.

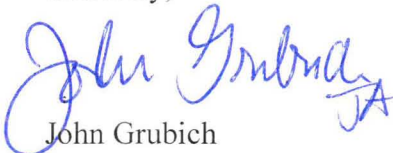
Conclusion

The District's request for Congressional action, which would afford it additional time to pursue the Enloe Project, is consistent with recent Congressional action evidencing an intent to spur hydropower development at existing non-powered dams. In unanimously passing the Hydropower Regulatory Efficiency Act of 2013 ("HREA"), Congress found that "only 3 percent of the 80,000 dams in the United States generate electricity, so there is substantial potential for adding hydropower generation to nonpowered dams" (Pub. L. No. 113-23, 127 Stat. 493, 493). Congress also found that, "by utilizing currently untapped resources, the United States could add approximately 60,000 megawatts of new hydropower capacity by 2025, which could create 700,000 new jobs over the next 13 years." The Enloe Project would electrify an existing BLM dam and thus is precisely the type of low-hanging fruit that Congress intended to incentivize with passage of the HREA.

Pursuit of the Enloe Project makes economic and environmental sense. In addition to the fact that construction of the Project will provide much-needed employment opportunities to an area with an unemployment rate that far exceeds the national average, completion of the Enloe Project will provide Washingtonians and their neighbors in the region a clean, renewable energy resource, generating about 45,000 MWh per year of renewable, carbon-free power, an equivalent to 14 wind turbines. Further, because the Enloe Project will be located at the site of an existing dam, it will convert the currently untapped energy in existing flow releases into clean renewable electricity.

The District appreciates the Subcommittee's efforts to reduce regulatory burdens that FERC applicants face in obtaining a Federal Power Act license to construct, operate, and maintain a hydroelectric facility. The District looks forward to any opportunity it has to discuss the benefits of the Enloe Dam Hydroelectric Project. Please do not hesitate to contact me if you have any questions about the Enloe Project.

Sincerely,



John Grubich
General Manager
Okanogan Public Utility District #1