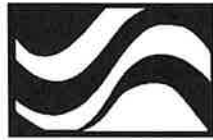


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April 26, 2023

VIA US MAIL & ELECTRONIC SUBMISSION VIA:
<https://www.ferconline.ferc.gov/FERCOOnline.aspx>

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Room 1A
Washington, DC 20426

RE: White Pine Pumped Storage Project (P-14851-003)
Final License Application—Comment and Protest

Dear Ms. Bose:

Our Office represents the McGill Ruth Consolidated Sewer and Water District (“District” or “GID”), a General Improvement District created under Nevada Revised Statutes, Chapter 318, operating and providing water and sewer services in McGill, White Pine County, Nevada. The District previously submitted comments dated May 18, 2022 regarding the draft license application submitted for the project identified above. The District supplies the following additional comments following submission of the *Final License Application* submitted by White Pine Waterpower, LLC in February 2023.

I. Water Quality

As outlined in its prior comment, the District would like to ensure that any effects to the water resources, including to water quality, be carefully considered in this project. The District has a vested interest in maintaining safe drinking water in the basin and for its constituents. Specifically, the District wishes for the applicant, and environmental analysis for this project, to ensure there is no potential degradation to the water quality of ground and surface water sources related to project construction, water pumping, electrical generation facilities, and any discharge of water.

The District wishes to emphasize the necessity for the applicant and environmental analysis to make such assurances given the Nevada Department of Environmental Protection’s (“NDEP”) waiver of certification under Section 401 of the Clean Water Act (“CWA”). Absent CWA certification and NDEP oversight in this regard, it is critical that the licensing process analyze potential impacts to ground and surface water quality, and the applicant ensure future operation of the facility will not jeopardize water quality in the region.

Further, the project identifies a permanent, approximately 1,005,000 cubic yard spoil disposal area. However, no analysis or information was provided as to how the applicant will

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protect surface water sources and paths from spoils and soil erosion. Such information should be provided for public review during the environmental analysis of this project.

II. Water Quantity and Effects to Aquifer

The District continues to harbor concerns related to groundwater resources and effects to the hydrographic basin resulting from this project. As outlined in the application, this project includes construction of facilities and two reservoirs, initial fill of the reservoirs, and annual pumping to maintain reservoir water volumes.

Construction of the proposed project is extensive. However, while the application identifies that construction water will come from four new groundwater wells in the Steptoe Valley, the rate and quantity of water intended to be pumped for construction is not quantified. The District is concerned about the potential for drawn down of the water table and/or a cone of depression forming around the four wells in the Steptoe Valley during ongoing construction. As outlined, pumping for construction will be coupled with the applicant pumping 5,000 acre-feet to fill the lower reservoir in the 12-18 month period following construction. While the two distinct activities will likely span over multiple years, constant pumping at a high rate may not allow the aquifer the ability to recharge and stabilize for multiple years.

The District is further concerned with the volume of water proposed for initial fill and maintenance of the reservoirs. The current quantified perennial yield of the Steptoe Hydrographic Basin (Basin 179) is 70,000 acre-feet annually (“AFA”). Thus, 70,000 AFA may be pumped annually without negative effect to the aquifer. However, there are currently 120,638.57 AFA of underground water rights issued and 25,317.22 AFA of other ground water rights issued in the basin.¹ As a result, the Steptoe Hydrographic basin is already over appropriated by 75,955.79 AFA. This does not include pumping in the basin for exempt domestic uses pursuant to NRS 534.180(1). Use of transitional storage in an already over appropriated basin will likely have detrimental effects on the groundwater basin as a whole. These impacts and effects must be considered.

As noted above, the applicant estimates the need for 5,000 acre-feet to fill the lower reservoir. While the license materials outline that water will be largely reused between the lower and upper reservoir, the volume of water initially needed for the upper reservoir is unclear. Additionally, the applicant identifies the need for 560 AFA for maintaining the reservoir. While the application materials identify water pumped will be pursuant to water rights leased from White Pine County, per the applicant’s own admission, such water rights are not being put to beneficial use at this time. In other words, the water proposed for use in the project are “paper water rights”, issued in the past, but not in current use. Thus, increased pumping pursuant to paper water rights may have negative effects on the aquifer and existing users as the effects of pumping such rights is not currently realized in the system. Given the egregious over-

¹ Steptoe Basin (179) Hydrographic Area Summary, <http://water.nv.gov/DisplayHydrographicGeneralReport.aspx?basin=179> (last visited April 26, 2023).

Kimberly D. Bose, FERC

April 26, 2023

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appropriation of the basin and the potential utilization of paper water rights, including the 20,000 AFA held by White Pine County, permitting of this project would set precedent to increase groundwater pumping by over a third of the basin's safe perennial yield. Potential negative effects from increased pumping at the proposed and potential volumes may extend to the municipal water rights held by the District for supplying drinking water to McGill, Nevada.

Furthermore, the proposed surface area of the reservoirs are 46.8 acres and 62.8 acres respectively. Thus, groundwater previously stored in the aquifer for future use will now be subject to evaporation across 109.6 acres of surface area. While the application states that 560 AFA are required for maintenance including seepage, leakage, and evaporation, the quantification for such losses is not included in the application materials. The analysis to quantify such losses should be provided for public review and included in the environmental analysis for this project to ensure the annual consumptive use of water in the reservoirs resulting from these losses is accurately calculated prior to project approval.

III. Lack of Communication with Local Agencies

Lastly, the District is concerned with the general lack of communication with local water agencies such as itself. While the District has no jurisdiction over the water rights in the Steptoe Basin, nor the project, it does manage substantial amounts of water for public consumption in the region. Thus, effects to the groundwater aquifer would not only affect the District, but all of its constituents in McGill, Nevada. Despite these clear effects, the District was unaware of the proposed project and projected groundwater pumping until days before the deadline to comment on the Draft License Application. Further, details regarding water pumping, construction, and project development have been limited thus far except as specifically requested by District Managers and Board Members.

Thank you for your consideration of the above comments. If you have any questions, please contact our office at (775) 786-8800.

Very truly yours,
SCHROEDER LAW OFFICES, P.C.



Caitlin R. Skulan
Therese A. Ure Stix

TAU:crs

cc: Client—*via email*
Evan Williams—*via email*