

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 28, 2009

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OFFICE OF ENERGY PROJECTS

Project No. 12478-003-Montana  
Gibson Dam Hydroelectric Project  
Gibson Dam Hydroelectric Company, LLC

Steven C. Marmon, Project Manager  
Gibson Dam Hydroelectric Company, LLC  
3633 Alderwood Ave.  
Bellingham, WA 98225

**Reference: Deficiency of License Application and Request for Additional Information**

Dear Mr. Marmon:

Your application filed on August 28, 2009, fails to conform to the requirements of the Commission's regulations. A list of deficiencies is enclosed as Schedule A. Under section 4.32(e)(1) of the regulations, you have 90 days from the date of this letter to correct the deficiencies in your application.

Further, we need additional information before we can complete our evaluation of your license application. Pursuant to section 4.32(g) of the Commission's regulations, please provide within 90 days from the date of this letter the additional information requested in the enclosed Schedule B, and within 120 days from the date of this letter the additional information requested in the enclosed Schedule C.

If correction of any deficiency or the requested information causes other parts of the application to be inaccurate, that part must also be revised and refiled with Commission. All filings should contain an original and eight copies and should be addressed to the Secretary of the Commission.

Some of the requested information asks you to provide both agency comments and your response to those comments. Within 5 days of receipt, you should provide a copy of this letter to all agencies and Indian tribes that we ask you to consult.

You may file your responses electronically, via the internet. See 18 CFR § 385.2001(a)(1)(iii) and the instructions on the Commission's website, [www.ferc.gov](http://www.ferc.gov), under the "e-Filings" link. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676.

Although the Commission strongly encourages electronic filing, documents may also be paper filed. To paper file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please put the docket number P-12478-003, on the first page of your response.

When you file the response to deficiencies and the requested information with us, you must at the same time serve copies of the filings on each agency consulted under 18 CFR § 4.38 of the Commission's regulations.

If you have any questions concerning this letter, please contact Matt Cutlip at (503) 552-2762, or by e-mail at [matt.cutlip@ferc.gov](mailto:matt.cutlip@ferc.gov).

Sincerely,



Jennifer Hill  
Branch Chief  
Hydro West Branch 1

Enclosures: Schedule A  
Schedule B  
Schedule C

Mailing List  
Public files

## DEFICIENCIES

Your application does not conform to the Commission's regulations as set forth below. Please correct these deficiencies and file a response within 90 days of the date of this letter.

### Section 4.32(a)

Your application currently does not meet the standards and specifications set forth in section 4.32(a) of the Commission's regulations. Please provide the following information:

- (1) Identify every person, citizen, association of citizens, domestic corporation, municipality, or state that has or intends to obtain and will maintain any proprietary rights necessary to construct, operate, or maintain the project.
- (2) Names and addresses for:
  - (a) Every county, local political subdivision, and special purpose political subdivision in which the project, or Federal facilities used by the project, would be located.
  - (b) Every local political subdivision (city, etc.) with a population of 5,000 or more people that is located within 15 miles of the project dam.
  - (c) Every special purpose political subdivision (irrigation district, etc.) that owns, maintains, or uses any facilities that the project would use.
  - (d) Other interested or affected political entities.
  - (e) Affected Indian tribes.
- (3) Proof of notification by certified mail of the filing of the application to the following:
  - (a) Every property owner of record of any interest in the property within bounds of the proposed project or that would underlie or be adjacent to any project works; and

- (b) Entities identified in (a) and any government agencies that would likely be interested in or affected by the application. Such notification must contain the name, business address, and telephone number of the applicant and a copy of the Exhibit G contained in the application, and must state that the license application has been filed with the Commission.

**Section 4.41(f)(3)(i)**

Your application does not conform to section 4.41(f)(3)(i) of the Commission's regulations. Specifically, please provide a map of the vegetative communities within and adjacent to the project.

Because of construction related activities having the potential to disturb wildlife species outside of the proposed project boundary, the mapped area should include an area of at least ½ mile radius around the powerhouse development and at least 300 feet outside of the project boundary along the transmission line right-of-way.

**Section 4.51(c)(2)(i)**

Your Exhibit B does not include monthly flow duration curves. Please provide monthly flow duration curves.

**Section 4.51(e)**

In Exhibit D of your application, you state that cost items common to all alternatives include taxes and insurance. However you do not provide the amount of taxes you included in your developmental analysis. Section 4.51(e)(4)(ii) requires you to provide estimated local, state, and federal taxes. Please provide an estimate of project related local, state, and federal taxes required for the project.

**Sections 4.51(h) and 4.41(h)**

Your Exhibit G maps do not conform to the specifications of section 4.51(h). You did not provide the project boundary data in a geo-referenced electronic format such as ArcView shape files, GeoMedia files, MapInfo files, or any similar format. The electronic boundary data must be positionally accurate to ±40 feet, in order to comply with the National Map Accuracy Standards for maps at a 1:24,000 scale (the scale of USGS quadrangle maps). The electronic exhibit G data must include a text file describing the map projection used (*i.e.*, UTM,

State Plane, Decimal Degrees, etc.), the map datum ( *i.e.*, feet, meters, miles, etc.). Three sets of the maps must be submitted on compact disk or other appropriate electronic media. If more than one sheet is used for the paper maps, the sheets must be numbered consecutively, and each sheet must bear a small insert sketch showing the entire project and indicate that portion of the project depicted on that sheet. Each sheet must contain a minimum of three known reference points. The latitude and longitude coordinates, or state plane coordinates, of each reference point must be shown.

Please provide three sets of Exhibit G maps on compact disk or other appropriate electronic media and provide the project boundary in a geo-referenced electronic format.

### ADDITIONAL INFORMATION

Please file the requested additional information within 90 days from the date of this letter. When you file this additional information with the Commission, you should at the same time serve exact copies of the filings on the agencies that you have consulted during the preparation of the Applicant Prepared Environmental Assessment (APEA) and license application.

1. The description of your proposed transmission line system in Exhibit A and Table 2 is unclear and contains discrepancies. For example: the 34.5-kV Canyon Segment in the paragraph following Table 2 is described as being 4.56 miles long; however, in another paragraph describing the 34.5-kV Canyon Segment you say, "... 3.73 miles of new 34.5 kV OH with 7.2 kV under-build and 1.03 miles of 34.5 kV underground..." for a total of 4.76 miles total length of the segment.

Please describe your proposed transmission system clearly by identifying the lengths, locations, and voltages of each underground and overhead length of transmission lines. Please begin at mile point 0.0 and end with 25.8, and clearly indicate the start, end, and total of each length of transmission lines and your proposed treatment, overhead or underground, of each length.

2. Your Exhibit G maps include segments of a 7.2-kV distribution line in the project boundary. You are proposing to remove these segments as project features because they are not necessary for project construction, operation, and maintenance; therefore, please correct your Exhibit G maps by removing these segments from the project boundary.

3. The land ownership acreages in Exhibit A, page 9, Table 4, and on Exhibit G-7 do not match. Please correct these inconsistencies and clearly indicate "Reclamation Administered Lands", "National Forest System Lands", and "National Forest System Lands withdrawn for Bureau of Reclamation purposes".

4. Please provide copies of the following references:

- (a) Hardin, T., 2001, Comparison of fish mortality at Tieton Dam: jet valves vs. turbines. Prepared for Sorenson Engineering by Hardin-Davis, Inc. Corvallis, OR; and
- (b) Montana Department of Environmental Quality (Montana DEQ), 2008, January 16, 2008 e-mail from Mike Suplee to N.E. Josten.

5. Volume 2 of your final license application (page 189) includes a letter from the U.S. Fish and Wildlife Service (FWS), dated July 10, 2008, which indicates that the preferred transmission line route would bisect two FWS conservation easements that could preclude the construction of the transmission line. Your application does not provide the location of the conservation easements or provide evidence of how the transmission line may affect these easements.

Therefore, please provide a map showing the location of the conservation easements and evidence of how the proposed transmission line route may affect these easements. Also, include any construction staging and laydown areas for the transmission line on the map, in relation to the conservation easements.

Provide FWS, U.S. Forest Service, U.S. Bureau of Reclamation, and Montana Fish, Wildlife, and Parks with your proposed response to this item, and allow the agencies 30 days in which to review and comment on the information. Your filing with the Commission should include copies of all responses received from the agencies and an explanation of how you addressed any comments and recommendations. If you do not adopt a recommendation, please explain why using project-specific information. If the agencies do not reply, provide dated copies of your letters requesting review.

6. The Special Status Plant and Noxious Weed Survey Report and Construction Plan Recommendations prepared by Ecosystem Sciences describe the survey methods. The initial step of the methods was to conduct research on suitable habitats for each species. Once suitable habitats for plants were identified, the field survey was conducted to determine the presence/absence of threatened, endangered, and sensitive plants. Please provide a map showing the suitable habitats and areas surveyed for threatened, endangered, and sensitive plants within and adjacent to the project, include the powerhouse development, transmission line right-of-way, and all construction laydown and staging areas.

7. In the APEA, you provide figures showing elk winter and calving ranges in the project vicinity (Figure 25), bighorn sheep winter and lambing ranges (Figure 26), grizzly bear denning and spring foraging habitat (Figure 27), and lynx habitat (Figure 28); however, from the scale of these figures it is not possible to tell where the project is located in relation to these ranges. Please provide a map showing these ranges at a scale sufficient to determine the proximity of the project to the ranges being described.

8. The socioeconomic resources section of Scoping Document 2 filed on February 8, 2007, identified the potential effects of the project on the local transmission system efficiencies, voltage stability, and reliability, as an issue that

should be analyzed in the APEA and the Commission's EA. However, this issue does not appear to be included in the APEA, and we have insufficient information in the license application to conduct the required analysis. Therefore, please provide an assessment of the proposed project's effects on the local transmission system efficiencies, voltage stability, and reliability.

### ADDITIONAL INFORMATION

Please file the requested additional information within 120 days from the date of this letter. When you file this additional information with the Commission, you should at the same time serve exact copies of the filings on the agencies that you have consulted during the preparation of the Applicant Prepared Environmental Assessment (APEA).

1. In our July 10, 2008, letter providing comments on your draft license application and draft APEA, we requested that you prepare and file a Class III cultural resources inventory report with your final license application. In its December 2, 2008, comments on the Class III cultural resources inventory report, the Blackfeet Tribe requested that you complete a traditional land use assessment within the project's Area of Potential Effect (APE). In your final license application you provided the Class III cultural resources inventory report (dated October 2008), but did not provide a traditional land use assessment, or explain why you did not conduct the study requested by the Blackfeet Tribe

We will need a traditional land use assessment in order to conduct the required analysis of the project's potential effects on historic and tribal properties, and to satisfy the Commission's requirements pursuant to section 106 of the National Historic Preservation Act. Therefore, please conduct a traditional land use assessment after consultation with the Blackfeet Tribe.

The traditional land use assessment must consist of a review of the traditional cultural properties that could occur in the APE. The traditional land use assessment must also include measures to resolve any potential project-related adverse effects on properties of traditional or cultural importance to the Blackfeet Tribe. You must include documentation of consultation with the tribe before conducting the traditional land use assessment, copies of the tribe's comments or recommendations on the completed assessment after it has been prepared and distributed to the tribe, and specific descriptions of how all the tribe's comments were accommodated by the assessment. If you do not adopt a recommendation, you must explain why using project-specific information. You must allow the tribe a minimum of 30 days to comment and to make recommendations on the completed evaluation before attaching it and filing it with your final Historic Properties Management Plan (HPMP).

2. In our July 10, 2008, letter providing comments on your draft license application and draft APEA, we requested that you prepare and file a final HPMP

with your final license application. However, you did not include a final HPMP in your application. We will need a final HPMP to provide us with the information necessary to conduct the required analysis of the project's potential effects on historic properties, and to satisfy the Commission's requirements pursuant to section 106 of the National Historic Preservation Act. Prior to filing the final HPMP, you must revise your existing draft HPMP by integrating your Class III cultural resources inventory report and addressing all of the comments received on the Class III cultural resources inventory report. Please provide an appendix in the back of the revised HPMP detailing each comment made on the Class III cultural resources inventory report and your responses to them. Among other comments provided on the Class III cultural resources inventory report, the Montana State Historic Preservation Office (Montana SHPO), U.S. Bureau of Land Management (BLM), U.S. Bureau of Reclamation (Reclamation), and U.S. Forest Service (Forest Service) wanted you to address and clarify:

(a) the National Register eligibility status of sites 24LC2144 and 24LC2146 and their surrounding space, in terms of the overall setting, feeling, and association with the overall series of rock alignments and associated camp site (site 24LC189) in the vicinity, and what effects (including visual effects) could occur to them as a result of the proposed transmission line, and whether alternative transmission line routes could be proposed to avoid these and other sites;

(b) visual impacts that could occur to other sites, features, and pictographs in the vicinity of the proposed transmission line corridor;

(c) the potential effects of the proposed transmission line on the expanded boundaries of sites 24LC0806 and 24LC0807;

(d) update National Register eligibility status of previous unevaluated sites (along with summaries of site descriptions) within and near the APE; and

(e) a plan to monitor ground-disturbing activities during the construction phase of the proposed project, in order effectively avoid any potential adverse effects to sites in the APE.

In addition to comment responses on the Class III cultural resources inventory report, the final HPMP must also include a copy of the traditional land use assessment discussed in item (1) above, and the following additional elements:

(a) a map clearly identifying the APE in relation to the proposed project area, including areas of the APE that may go beyond the project boundary due to visual and other non-ground disturbing effects that may adversely affect historic properties;

(b) identification on the map of the areas in the APE that were covered in the 1986 and 2008 inventories;

(c) a description of measures to avoid, reduce, or mitigate any potential adverse effects to properties on a site-specific level, and incorporate any additional measures to resolve such potential effects based on the comments made on the Class III cultural resources inventory report;

(d) a description and schedule for completing and reporting on any potential remaining inventorying, National Register evaluations, or resolution of adverse effects<sup>1</sup>;

You must distribute your revised draft HPMP to the Blackfeet Tribe, the Montana SHPO, BLM, Reclamation, and Forest Service. When you distribute your revised draft HPMP to the agencies and tribe, you must also seek concurrence from the Montana SHPO on the APE and all National Register eligibility determinations (and any additional modifications to site boundaries, or designations of historic districts) associated with sites located within the APE.

You must allow the agencies and tribe 30 days to provide you with comments and recommendations on the revised draft HPMP. You must also include copies of agency comments or recommendations on the revised draft HPMP after it has been prepared and provided to the agencies, and specific descriptions of how all agency comments were accommodated by the final HPMP. If you do not adopt a recommendation, you must explain why using project-specific information. If the agencies do not reply, provide dated copies of your letters requesting review.

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<sup>1</sup> Any potential outstanding work and reporting must be completed prior to commencement of any project-related construction activities.