

Federal Energy Regulatory Commission
Attn: Khatoon Melick
888 1st Street, NE
Washington, DC 20426

May 24, 2019

RE: Request for Waiver of Notice of Intent to File a Subsequent License Application

Dear Ms. Melick:

I am writing in response to your letter dated March 13, 2019, entitled, “Notice of Existing Licensee’s Failure to File a Notice of Intent to File a Subsequent License Application, and Soliciting Notices of Intent to File a License Application and Pre-Application Documents” (the “Notice”) regarding Springer Hydro No. 1 Project P-10102 (the “Project”). While I did not receive the letter by mail, it was brought to my attention by yourself, after which I downloaded it from the FERC e-library.

First, Watershed Ranch, LLC did not intend for the Project license to lapse. Rather, it is our intent to file either an application for a subsequent license of the Project prior to the license expiration date of August 31, 2023. For the reasons described below, I respectfully ask that you accept this letter as a request to extend or waive the deadline to file a Notice of Intent to File a Subsequent License Application (“NOI”) (18 C.F.R. §§ 5.3(d)(3), 5.5(d), 16.9(b)).

Additionally, to the extent that the requirements for filing the Pre Application Document (PAD) (§§ 5.2(a)(1), 5.6(a)(1)), for requesting to use the Traditional Licensing Process (TLP) (§ 5.3(b)), and those for filing a subsequent license (§16.24) follow from the NOI requirement, I also respectfully request an extension or waiver of such requirements.

Further, I ask that you accept this letter as Watershed Ranch, LLC’s Notice of Intent to license Project P-10102, the principal use of which is a 28 kwh capacity hydroelectricity plant located in Buena Vista, Chaffee County, Colorado, served by Morrison Creek. Please see addresses for notification in the enclosed Appendix A.

The Notice reads, in part, “Because the existing license expires on August 31, 2023, the NOI was due to be filed no later than the close of business on August 31, 2018. Watershed Ranch, LLC, the existing licensee for the Springer Hydro No. 1 Project, failed to file an NOI for the Project by this date.” The reason Watershed Ranch, LLC did not file an NOI for the Project by this date is that Watershed Ranch, LLC was either not the licensee (or not made aware of its licensure) at that time. Rather, Watershed Ranch, LLC became (or became aware of its status as) the licensee

on or about November 16, 2018, per the enclosed letter from FERC, subject heading “Signed Acceptance of License Transfer” dated as of the same date. Please note that, according to the FERC “List of Active Licensees,” as published on May 21, 2019 (and attached hereto), the current listed licensee is still Franklin Springer, meaning that Watershed Ranch LLC may not, even now, be the current licensee responsible for filling the NOI.

I understand from our March 21, 2019 conversation that it is FERC’s position that it was the responsibility of the prior licensee, Mr. Franklin Springer, to notify me of the NOI deadline. However, during and around that time (August 2018), Mr. Springer was no longer involved in the administration or operation of the Project. Further, Mr. Springer is and was very advanced in age with declining physical and cognitive health. He no longer lived or received mail at the address where the Project operates, and, to my knowledge, neither he nor we received any form of notice of the NOI requirement.

Moreover, in 2017 and 2018, I was in regular contact with multiple representatives of FERC—including Michael Vail, Patricia Gillis, James Fargo, and Shana Wiseman—regarding the transfer and status of the Project license. At no time did any representative notify me of the requirement to submit an NOI. In fact, as noted above, FERC transmitted official communications that the license was successfully transferred on November 16, 2018—after the notice period had expired—which lead us to believe that the license was in full compliance with FERC regulations.

In closing, Watershed Ranch, LLC operates a very small hydro plant for the primary purpose of powering pivot irrigation sprinklers to grow hay on fewer than 100 irrigated acres. It is our sincere desire to continue operating the Project for this purpose, and we had no intent of allowing our license to lapse. Respectfully, I request either a waiver or extension of the notice period to allow for continuation of the license.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn Welter".

Watershed Ranch, LLC

By: Kathryn Welter, Member and Manager

APPENDIX A

In fulfillment of 18 C.F.R. SS 5.5(b)(8), the following are the names and addresses of every political subdivision in the general area of the project that there is reason to believe would likely be interested in, or affected by, the notification of intent to apply for a subsequent license:

Town of Buena Vista
PO Box 2002
Buena Vista, CO 81211

Chaffee County
P.O. Box 699
Salida, CO 81201

Colorado Division of Water Resources
Division 2
310 E. Abriendo Ave, Suite B
Pueblo, CO 81004

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 10102-010--Colorado
Springer Hydro No. 1 Project
Watershed Ranch LLC

November 16, 2018

Ms. Kathryn L. Welter
Watershed Ranch LLC
18840 Mountain View Drive
Buena Vista, CO 81211

Subject: Signed Acceptance of License Transfer

Dear Ms. Welter:

Thank you for the signed acceptance sheets filed on October 9, 2018, for the Springer Hydro No.1 Project No. 10102. These filings satisfy the requirements of ordering paragraph (C) of the Order Approving Transfer of License issued August 15, 2018.¹

The Office of Energy Projects, Division of Hydropower Administration and Compliance (DHAC) has the primary responsibility for reviewing your compliance with the terms and conditions of the your recently transferred license. The following guidelines are a reminder that will assist you in maintaining compliance with your license requirements.

¹ Order Approving Transfer of License. *Franklin Springer and Watershed Ranch LLC*, 164 FERC ¶ 62,086 (2018).

Contact Information

To ensure that we have the most up-to-date contact information for non-dam safety issues on file for your project, please complete and return the enclosed contact form within **15 days** from the date of this letter. You must provide a Primary Contact who will be added to the project service list as the Primary Person of Record. This contact will be served Commission issuances and third-party filings as required by the service rules and regulations under 18 C.F.R. § 385.2010. You should also provide a Secondary Contact which will also be added to the project's service list and, if provided, will be used by the Commission as a point of contact for day-to-day operations and non-dam safety compliance. If a Secondary Contact is not provided, the Commission will use the Primary Contact for this purpose as well as to fulfill service obligations.

Any contact(s) and email address(es) you provide on the enclosed form must be eRegistered (see Instructions below). The email address(es) will be used to automatically enroll the point of contact for eService. If at any point during the term of your license, this information changes, you are responsible for notifying the Commission immediately.

Commission's Website

You are encouraged to use the Commission's online system as a gateway for access to project information and filings via the Internet. eRegistration provides an easy-to-use entry point to do business with the Commission. eService ensures that entities on the Service List receive electronic notification of Commission issuances and is the Commission's primary method of service of Commission issuances. eSubscription allows you to subscribe to a specific docket, and receive notification via email about all future submittals and issuances. The docket is the Project Number (P-10102). Refer to <http://www.ferc.gov/docs-filing/elec-info-guide.pdf> and the links below to help you to register and subscribe.

eRegister: <http://www.ferc.gov/docs-filing/eregistration.asp>

eSubscription: <http://www.ferc.gov/docs-filing/esubscription.asp>

eService: <http://www.ferc.gov/docs-filing/eservice.asp>

Filing Instructions

The Commission strongly encourages electronic filings. Unless indicated otherwise in your license, please file your submittals electronically via the Internet (eFiling). Please refer to the instructions for using the Commission's eFiling system at

<http://www.ferc.gov/docs-filing/efiling.asp> and filing instructions in the Commission's Regulations at 18 C.F.R. § 385.2001(a)(1)(iii)(2015).² To assist you with eFilings you should refer to the submission guidelines document at <http://www.ferc.gov/help/submission-guide/user-guide.pdf>. In addition, certain filing has statutory or regulatory formatting requirements and other instructions. You should refer to a list of these "qualified documents" at <http://www.ferc.gov/docs-filing/efiling/filing.pdf>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ-12, 888 First Street, N.E., Washington, D.C. 20426.

With each submittal, it is very important for you to include a cover letter that identifies the project number (P-10102) and the reason for the submittal. If you are making a filing to address an article or other license requirement, please state so in the letter, and identify the article number or license requirement.

License Compliance

The license contains articles and other requirements (ordering paragraphs, approved plans, etc.) that require the preparation of plans, studies, or reports according to the schedule established for each requirement. You should review the license and become familiar with its requirements. You must deliver each item to the Commission on or before the specified due date.

If a license article or other requirement calls for you to file a periodic report and if the filing does not require Commission approval or follow up action, we may not respond to the filing. However, you should check the Commission's eLibrary Internet site at www.ferc.gov/docs.filing/elibrary.asp to make sure the report has been received by FERC. If we have any questions regarding the periodic report, Commission staff will contact you. Please call DHAC staff if you have any questions or issues regarding this policy.

Extension of Time

If you are unable to complete a requirement according to the schedule established in the license, you must request an extension of time, as directed by § 385.2008 of the Commission's regulations.³ You must file your request before the established due date

² <http://www.ferc.gov/legal/fed-sta.asp>. Select the link for Code of Federal Regulations and navigate to § 385.2001.

³ 18 C.F.R. § 385.2008.

and state why the requirement cannot be completed on time. You must propose a reasonable date when the requirement will be completed and filed with the Commission. If an extension request is approved, an order granting an extension of time will be issued, revising the schedule in the license for submittal.

Amendments

If you desire to change the design, location, method of construction or operation of your project, you must notify the appropriate federal and state fish and wildlife agencies and inform them in writing of the changes you intend to implement. If these agencies determine that the changes would not cause the project to violate the terms and conditions imposed by the agencies, and if the changes would not materially alter the design, location, method of construction or operation of the project, you may implement the changes. If any of these agencies determine that the changes would cause the project to violate the terms and conditions imposed by that agency, or if the changes would materially alter the design, location, method of construction or the operation of the project works, you may not implement the changes without first acquiring authorization from the Commission to amend your license or, if appropriate, acquiring a license for the project works as changed.⁴ If you are unsure whether the proposed modification requires an amendment, you may seek guidance from Commission staff.

Recreation

Pursuant to 18 C.F.R. § 8.11 (for all non-exempted projects which are operational as of January 1, 2020), you are reminded of your obligation to gather recreation use data at your project, for a 12-month period beginning no later than March 14, 2020, to be filed on the Licensed Hydropower Development Recreation Report, FERC Form No. 80 (Form 80) by April 1, 2021. Thereafter, the Form 80 is due on April 1 of every sixth year for data compiled during the previous calendar year.

Assistance

The goal of our assistance program is to help you stay in compliance with the terms and conditions of your license. We try to promote responsible stewardship of the nation's water resources through open communication and interaction between licensees and DHAC staff. Should you need assistance, please contact Patricia W. Gillis at (202) 502-8735. We can discuss your questions over the telephone or in person. In addition, we can provide informational publications to assist you with your project.

The small business and agriculture regulatory enforcement ombudsman and ten regional fairness boards were established to receive comments from small businesses about federal agency enforcement actions. The ombudsman will annually evaluate each

⁴ 18 C.F.R. § 4.200.

agency's enforcement activities against small business and rate each agency's responsiveness. If you are a small business entity, you may call (888) 734-3247 to comment on the enforcement actions of this agency.

Thank you for your cooperation. If you have questions regarding this matter, please contact Patricia W. Gillis at (202) 502-8735, email: patricia.gillis@ferc.gov.

Sincerely,

A handwritten signature in black ink that reads "CarLisa Linton". The signature is written in a cursive, flowing style.

CarLisa Linton
Acting Director
Division of Hydropower Administration
and Compliance

Enclosure: Contact Form