

FEDERAL ENERGY REGULATORY COMMISSION

Washington, DC 20426

September 25, 2014

OFFICE OF ENERGY PROJECTS

Project No. 2512-069 –West Virginia
Hawks Nest Hydroelectric Project

Project No. 14439-000 –West Virginia
Glen Ferris Hydroelectric Project

Hawks Nest Hydro, LLC

Mr. Steven Murphy
Eastern Region – Atlantic Operations
Brookfield Renewable Energy Group
33 West 1st Street South
Fulton, NY 13069

Reference: Determination on Requests for Study Modifications for the Hawks Nest and Glen Ferris Hydroelectric Projects

Dear Mr. Murphy:

Pursuant to 18 C.F.R. § 5.15 of the Commission's regulations, this letter contains the determination on requests for modifications to the study plan for Hawks Nest Hydro, LLC's (Hawks Nest Hydro's) Hawks Nest and Glen Ferris hydroelectric projects. The determination is based on the study criteria set forth in sections 5.9(b), 5.15(d) and (e) of the Commission's regulations, applicable law, Commission policy and practice, and staff's review of the record of information.

Background

The study plan determination for the Hawks Nest and Glen Ferris hydroelectric projects was issued on May 31, 2013. Hawks Nest Hydro filed an Initial Study Report on May 30, 2014. As required in section 5.15(c) of our regulations, the Initial Study Report describes Hawks Nest Hydro's progress made in implementing the study plan, and includes an explanation of variances from the study plan and schedule. Hawks Nest Hydro held its Initial Study Report Meeting on June 12, 2014, and filed its Initial Study Report Meeting Summary on June 27, 2014. Comments on the Initial Study Report and

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meeting summary were filed by the New River Conservancy (NRC) and the West Virginia Professional River Outfitters (WVPRO) on July 28, 2014.

On August 25, 2014, Hawks Nest Hydro filed reply comments responding to the issues raised at the meeting and in the comment letters. Several disagreements regarding the ongoing studies remain and are discussed in this letter.

General Comments

A number of the comments received do not propose modifications to the approved studies, and are therefore not addressed herein. This determination only addresses comments and requests that would require study modifications or additional studies.

Study Plan Determination

Pursuant to section 5.15(d) of the Commission's regulations, any proposal to modify a required study must be accompanied by a showing of good cause, and must include a demonstration that: (1) approved studies were not conducted as provided for in the approved study plan; or (2) the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way. As specified in section 5.15(e), requests for new information gathering or studies must include a statement explaining: (1) any material change in law or regulations applicable to the information request; (2) why the goals and objectives of the approved study could not be met with the approved study methodology; (3) why the request was not made earlier; (4) significant changes in the project proposal or that significant new information material to the study objectives has become available; and (5) why the new study request satisfies the study criteria in section 5.9(b).

As indicated in Appendix A, no modifications to the study plan are required. The bases for not modifying the study plan are explained in Appendix B. Commission staff considered all study plan criteria in section 5.9 of the Commission's regulations.

Please note that nothing in this determination is intended, in any way, to limit any agency's proper exercise of its independent statutory authority to require additional studies.

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If you have any questions, please contact Monir Chowdhury at (202) 502-6736, or via e-mail at monir.chowdhury@ferc.gov.

Sincerely,

Jeff C. Wright
Director
Office of Energy Projects

Enclosures: Appendix A – Summary of Determinations on Requested Study
Modifications
Appendix B – Staff’s Recommendations on Requested Study Modifications

cc: Mailing List, Public Files

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APPENDIX A**SUMMARY OF DETERMINATIONS ON REQUESTED STUDY
MODIFICATIONS**

Study	Recommending Entity	Approved	Approved with Modifications	Not Required
Water Quality Study	New River Conservancy			X
Recreation Flow Assessment Study	West Virginia Professional River Outfitters			X
Recreation Use and Needs Assessment Study	West Virginia Professional River Outfitters			X

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APPENDIX B

STAFF'S RECOMMENDATIONS ON REQUESTED STUDY MODIFICATIONS

Water Quality Study

New River Conservancy's Requested Study Modification

New River Conservancy (NRC) requests that Hawks Nest Hydro, LLC (Hawks Nest Hydro) collect an additional year of water quality data at the Hawks Nest Hydroelectric Project. NRC states that the additional sampling is needed because high flows during 2013 did not allow an adequate assessment of water quality in the bypassed reach under the existing and proposed minimum flow of 100 cubic feet per second (cfs). NRC also points out that the high flow conditions also precluded the continuous water quality monitoring planned for 2013. NRC states that since much of the monitoring in 2013 was not able to be performed as planned, additional monitoring should be completed in 2014-2015 to fill in the missed data from 2013. In addition, NRC also requests that Hawks Nest Hydro supply water quality data collected during the previous licensing proceeding for the project.

In addition to its comments on the 2013 sampling, NRC states that the study report shows that water quality sampling conducted by Hawks Nest Hydro at the 100-cfs minimum flow in the bypassed reach during 2012 exceeded the West Virginia water quality standards for water temperature and pH.

Comments on the Study Modification

Hawks Nest Hydro responded to the NRC's request in a letter filed August 25, 2014. Hawks Nest Hydro states that it collected two full seasons of water quality data, capturing both a hot, dry year (2012) and a cool, wet year (2013) to develop a robust, representative data set to meet the goals and objectives of this study. Hawks Nest Hydro further states that NRC failed to explain how an additional year of water quality data collection at the same locations and following the same methods would yield substantial new or beneficial incremental knowledge to fulfill the study goals and inform decision making.

With respect to the exceedances of water quality standards observed in the bypassed reach during 2012, Hawks Nest Hydro states that water temperature did exceed the state water quality temperature standard of 87 degrees Fahrenheit (°F) by up to 1.4 °F for 3 to 8.5 hours during the late afternoons of 5 out of 7 consecutive days. With respect to pH, Hawks Nest Hydro states that the standards allow pH values above 9.0 if they are due to natural photosynthetic activity. Hawks Nest Hydro also points out that neither the

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Clean Water Act section 401 water quality certifying agency (the West Virginia Department of Environmental Protection) nor the West Virginia Division of Natural Resources filed similar requests or made comments suggesting the water quality data were insufficient.

In response to the NRC's request that it provide water quality data from the previous licensing of the project, Hawks Nest Hydro stated that, to its knowledge, water quality data are limited to the data collected by the previous licensee in 1985 and data summarized in Commission staff's 1987 Environmental Assessment. Hawks Nest Hydro provided copies of this data in its filing.

Discussion and Staff Recommendation

As noted above, Hawks Nest Hydro collected water quality data in the project vicinity in both 2012 and 2013. The 2 years were climatologically different and are representative of the types of temperature and flow conditions that may be expected to occur over the term of a new license.

Absent the 2012 data collection, an additional season of sampling may have been justified as a result of the high flow conditions during 2013. However, data were collected during 2012, documenting water quality conditions in the bypassed reach under the existing and proposed 100-cfs minimum flow.

Finally, whether or not project operation results in exceedances of West Virginia's water quality standards is immaterial to whether or not the water quality study should be extended an additional year. That issue will be addressed following the filing of the license application. Therefore, we do not recommend NRC's requested modification to the approved Water Quality Study Plan.

Recreation Flow Assessment Study

West Virginia Professional River Outfitters (WVPRO) Requested Study Modification

In its comments on the Initial Study Report for the Hawks Nest Hydroelectric Project, WVPRO formally requests that Hawks Nest Hydro mail a hard copy of the Comparative Flow Survey¹ to each participant of the Recreation Flow Assessment Study.

¹ A number of individuals participated in six controlled whitewater flow releases conducted by Hawks Nest Hydro. Participants completed a pre-run survey and a post-run survey recording their experience at each of the six controlled flow releases. A

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At the conclusion of the May 2014 scheduled whitewater test releases, participants were sent an email with the Comparative Flow Survey Form attached and asked to return the finished survey by June 30, 2014. WVPRO states that many of the emails “ended up in junk mail folders” and the survey reminder sent to WVPRO was found in the “junk file” after the due date of June 30, 2014.

Comments on the Study Modification

Hawks Nest Hydro states that the Comparative Flow Survey was sent out to all participants via an email on May 27, 2014 (and a reminder email was sent on June 23, 2014), with a response deadline of June 30, 2014. On July 22, 2014, Hawks Nest Hydro redistributed the survey via email and extended the response deadline to August 15, 2014 to afford participants more time to reply.

Discussion and Staff Recommendation

The revised Recreation Flow Assessment Study Plan approved on May 31, 2013, states that pre, post, and comparative survey forms will be provided to controlled release participants for their completion. The method of delivery of the survey form was decided upon through consultation with the Study Working Group. We find that Hawks Nest Hydro provided the survey to participants in an acceptable format. As such, we do not recommend that Hawks Nest Hydro be required to resend the Comparative Flow Survey forms to participants of the whitewater test releases.

Recreation Use and Needs Assessment Study

WVPRO’s Requested Study Modification

WVPRO states that it asked Hawks Nest Hydro to distribute a new Whitewater Survey at the Gauley Fest in September 2014, a whitewater area event. The new survey would be similar to a bouldering survey conducted by Hawks Nest Hydro at the New River Rendezvous climbing festival in May 2013, an area event that attracted the bouldering community. WVPRO states that it would be fair for the Whitewater Survey to be distributed at the Gauley Fest because it would provide a similar opportunity to the whitewater community to provide input related to project recreation.

comparative flow survey was designed to allow participants to provide input relative to all controlled releases that they had participated in, after completion of all the flow releases.

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Comments on the Study Modification

Hawks Nest Hydro states that the whitewater community has been given several opportunities to provide input including the Recreation Flow Assessment Study, the Extended Whitewater Evaluation Survey, the Recreational Use Survey and County Resident Survey, and the Recreation Activities and Facilities Survey.

Discussion and Staff Recommendation

Although the Gauley Fest has already occurred (September 19-20) making a determination for an additional survey too late, we do agree with Hawks Nest Hydro that the whitewater community has been afforded ample opportunity to provide input regarding recreation use in the New River Dries area. We acknowledge that Hawks Nest Hydro also extended the deadline for the Extended Whitewater Evaluation Survey and directed WVPRO and American Whitewater to inform participants of this extension at Gauley Fest. Therefore, we do not recommend an additional survey.

Document Content(s)

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