

M.13

JUL 12 2022



Los Angeles
Department of
Water & Power

BOARD LETTER APPROVAL

RESOLUTION NO. _____

023 009

<input checked="" type="checkbox"/> POWER SYSTEM	<input type="checkbox"/> WATER SYSTEM
<input type="checkbox"/> CAO	<input type="checkbox"/> CFO
<input type="checkbox"/> LEGAL	<input type="checkbox"/> COO
<input type="checkbox"/> SUSTAINABILITY	<input type="checkbox"/>

RELEASE DATE: AUG 04 2022

REIKO A. KERR

Senior Assistant General Manager-Power System
Engineering, Planning, and Technical Services

MARTIN L. ADAMS

General Manager and Chief Engineer

DATE: June 1, 2022

SUBJECT: South SWP Hydropower Federal Energy Regulatory Commission Project No. P-2426 – Cost Sharing Agreement by and between the City of Los Angeles, acting by and through the Department of Water and Power, and the California Department of Water Resources as Co-licensees of the South State Water Project Hydropower Project, DWP Agreement No. BP 21-001

SUMMARY

Transmitted for approval is the South SWP Hydropower Federal Energy Regulatory Commission (FERC) Project No. P-2426 – Cost Sharing Agreement by and between the City of Los Angeles, acting by and through the Department of Water and Power (LADWP), and the California Department of Water Resources (DWR) as Co-licensees of the South State Water Project Hydropower Project (Cost Sharing Agreement), DWP Agreement No. BP 21-001.

Pursuant to the Federal Power Act (FPA), 16 USC, Ch. 12 §791-828c, hydroelectric projects are regulated by FERC and are issued a license to operate and manage multiple resources associated with the project. On March 22, 1978, FERC issued a license P-2426 to the LADWP and the DWR as Co-licensees to operate the South State Water Project Hydropower Project, West Branch (SSWP). The SSWP includes the Castaic Power Plant (CPP).

Located in northern Los Angeles County and operated and maintained by LADWP, the CPP is the largest pumped storage hydroelectric plant in western United States. With a capacity of 1,275 MW (megawatt), the CPP uses excess renewable energy during the day to pump water from the lower reservoir to the upper reservoir and release the stored water in the reverse direction to generate peak load power during the evening hours when the demand for electricity is high. As a clean energy and carbon-free resource, the CPP serves as LADWP's critical reserve capacity and prime energy storage facility for storing excess renewable energy.

The current SSWP FERC license P-2426 expires on January 31, 2022. Pursuant to FERC's relicensing process, the Co-licensees have submitted an application to FERC to renew the current license and continue to operate the CPP and other parts of the hydropower project for a maximum term of 50 years.

LADWP and DWR started preparing for the SSWP FERC relicensing process in 2010. The FERC relicensing process requires years of extensive planning and collaboration, including environmental studies, federal and state agency consultation, and a stakeholder process with representatives of the public, tribal organizations, environmental advocacy groups, and other non-governmental organizations examining every aspect and impact of the hydropower project. In addition, the new SSWP FERC license (New FERC License P-2426) provides accommodations to a number of federal and state agencies that have "conditioning authorities". In accordance with Sections 4(e), 10(a), 10(j), and 18 of the FPA and Section 401 of the Clean Water Act, the Co-licensees are required to engage with and enter into agreements with "conditioning authorities" since the FPA grants such federal and state agencies the right to review and assure that the New FERC License P-2426 meets specific requirements under their regulatory authority (hereinafter referred to individually as Conditioning Agency or collectively as Conditioning Agencies).

If and when FERC issues the New FERC License P-2426, it will include a series of protection, mitigation, and enhancement (PM&E) measures to offset the impacts of operating the hydropower project. The implementation of such PM&E measures includes the protection of fish habitats, water quality, land restoration, protection of wildlife, preservation of cultural, historical, and archaeological resources, and provision of recreational facilities that directly affect the quality of life and the environment of communities during the term of the New FERC License P-2426.

City Council approval by ordinance is required under Charter Section 674.

RECOMMENDATION

It is recommended that the Board of Water and Power Commissioners (Board) adopt the attached Resolution requesting the Los Angeles City Council's approval, by ordinance, of the following:

- Execution of the Cost Sharing Agreement which outlines and includes authorization to fund CPP's annual FERC license charges and terms for sharing costs and responsibilities to implement PM&E and Conditioning Agency requirements related to the operation of the CPP, including the Co-Licensees' continuing obligation to pay annual FERC license charges for their respective power plant, if and when the New FERC License P-2426 is issued; and
- Delegation of limited authority to the Board to act on and approve all future amendments to the Cost Sharing Agreement, provided that such amendment does not increase the cost of the agreement.

ALTERNATIVES CONSIDERED

In order to continue the operation of the CPP beyond January 31, 2022, a New FERC License P-2426 is required for the SSWP. As Co-licensees, it is necessary for LADWP and DWR to establish an agreement for an equitable cost sharing of newly imposed potential new expenses associated with PM&E measures that may be required by FERC and Conditioning Agency agreements throughout the term of the New FERC License P-2426, if and when the license is issued. There are no other alternatives.

FINANCIAL INFORMATION

The Cost Sharing Agreement includes authorization to fund annual FERC license charges for the CPP. FERC will continue to assess LADWP for annual charges related to the operation of the CPP for the duration of the New License P-2426. FERC bases its annual charges under the license on a formula which includes both fixed and variable charges and the 1,275 MW installed megawatt capacity of the power plant. The 2020 FERC annual charge for operating the CPP was \$1,674,521.29.

In addition, the Cost Sharing Agreement includes newly imposed expenses associated with the implementation of PM&E measures that will be required by FERC and Conditioning Agency agreements, if and when the New FERC License P-2426 is issued. The Cost Sharing Agreement between LADWP and DWR is anticipated for a maximum term of 50 years and will be in effect when the New FERC License P-2426 is issued and continue until its expiration on or about January 31, 2072.

The following table outlines the PM&E and associated Conditioning Agency agreement costs estimated at this time including a 20 percent contingency amount (20 percent of the Total Cost) to accommodate and capture PM&E and Conditioning Agency cost elements that are unforeseen at this time or can be imposed in the future by FERC or other entities.

Cost Sharing of Newly Imposed Expenses under the New FERC License P-2426 (Implementation of PM&Es and Conditioning Agency Agreement, if and when the New FERC License P-2426 is issued)					
List of Required Expenses		Cost Share		Estimated Total Amount over 50 Years (\$)	LADWP's 50% Estimated Cost Share Amount over 50 Years (\$)
Designation	Description	LADWP's Share	DWR's Share		
PM&E Measures	Implement an Erosion and Sediment Control Plan (GS1)	50%	50%	\$300,000	\$150,000
	Implement Pyramid Lake Water Surface Elevation Restrictions (WR1)	50%	50%	\$50,000	\$25,000
	Implement a Hazardous Materials Management Plan (WR2)	50%	50%	\$50,000	\$25,000
	Implement Pyramid Lake Fish Stocking Measure (AR2)	50%	50%	\$23,622,000	\$11,811,000
	Implement an Integrated Vegetation Management Plan (TR1)	50%	50%	\$1,528,000	\$764,000
	Sensitive Aquatic and Terrestrial Wildlife Management Plan (TR2)	50%	50%	\$2,472,000	\$1,236,000
	Implement a Fire Prevention and Response Plan (LU1)	50%	50%	\$750,000	\$375,000
	Implement a Project Safety Plan (LU2)	50%	50%	\$50,000	\$25,000
	Implement a Visual Resources Management Plan (VR1)	50%	50%	\$3,761,000	\$1,880,500
	Implement a Historic Properties Management Plan (CR1)	50%	50%	\$6,313,000	\$3,156,500
	Implement a Recreation Management Plan (RR1)	50%	50%	\$25,210,000	\$12,605,000
Conditioning Agency Agreement	New 401 Certification Water Quality Conditions (CA State Water Resources Control Board)	50%	50%	\$1,792,000	\$896,000
	Recreation Agreement (United States Forest Service)	50%	50%	\$6,000,000	\$3,000,000
		Total Cost		\$71,898,000	\$35,949,000
		Contingency Amount (20% of Total Cost)		\$14,379,600	\$7,189,800
		Not-to-Exceed Expenditure Amount (50-year)		\$86,277,600	\$43,138,800

The estimated total 50-year not-to-exceed expenditure amount for the implementation of new PM&E and associated Conditioning Agency agreement costs with contingency is \$86,277,600, if and when the new license is issued.

LADWP's 50 percent cost share of the not-to-exceed expenditure amount for the implementation of new PM&E and associated Conditioning Agency agreement costs with contingency over a 50-year term of the New FERC License P-2426 is estimated at \$43,138,800, if and when the new license is issued.

As an internal control and oversight measure, any release of funds from the estimated contingency amount will require review and joint approval of LADWP's Director of Environmental Affairs and Director of Power Supply Operations Divisions.

FERC has discretion to issue license terms ranging from 30 to 50 years. LADWP's estimated total not-to-exceed expenditure amount specified above is to cover the implementation of new PM&E measures and associated Condition Agency agreement costs under the New FERC License P-2426, if and when the new license is issued. Actual expenditures may vary year to year.

The cost for the new PM&Es and Conditioning Agency agreements are based on what the Co-licensees estimated at this time. However, changing conditions and/or environmental requirements may require new conditions in the future. The Cost Sharing Agreement may be amended if actual implementation costs exceed the currently estimated costs identified in the Table shown above. Any amendment to the Cost Sharing Agreement which increases the cost beyond the total not-to-exceed expenditure amount shall be presented to the Board for consideration and approval.

LADWP and DWR propose to relicense the SSWP and the Co-licensees do not intend to change its current operation. As part of the relicensing process, FERC requires the Co-licensees to continue paying for the annual FERC license charges, in addition to new PM&E measures, and any other requirements that may be imposed by the Conditioning Agencies, if and when the new license is issued. The Cost Sharing Agreement demonstrates LADWP's and DWR's commitment to share costs for implementing new PM&E and Conditioning Agency requirements related to the operation of the SSWP if and when the New FERC License P-2426 is issued, including the Co-Licensees' continuing obligation to pay for their respective power plant's annual FERC license charges without committing the Co-Licensees to any specific future project.

BACKGROUND

The New FERC License P-2426 application consists of two major hydropower developments – the Warne Power Development and the Castaic Power Development, which includes the CPP.

The Warne Power Development is exclusively managed, operated, and maintained by the DWR.

The Castaic Power Development includes the Pyramid Lake and Dam, Angeles Tunnel, Pyramid Lake Recreation Facilities, Primary Project Roads and Trails, Castaic Transmission Line, and CCP. The Castaic Power Development is managed by LADWP and DWR, under the Contract for Cooperative Development West Branch, California

Aqueduct, LADWP Contract No. 10099 (Cooperative Agreement), dated September 1, 1966.

LADWP manages the operation and maintenance of CPP, located within the Castaic Power Development.

Pursuant to the City of Los Angeles Ordinance No. 183142, dated August 14, 2014, LADWP and DWR as Co-licensees entered an agreement to equally share all costs incurred during the FERC relicensing application process for the SSWP.

The Integrated Licensing Process (ILP) is the default FERC process that was chosen due to its design to streamline the relicensing process by providing a predictable, efficient, and timely licensing process that continues to ensure adequate resource protections. The ILP also establishes defined time frames to complete the stakeholder outreach, including the steps for the FERC process.

An "Overview" document is attached to this Board Letter to provide additional information and description of the SSWP, PM&E measures, and FERC's ILP relicensing process.

The following are major milestones and activities conducted as part of the FERC relicensing process for the SSWP:

- In 2010, LADWP and DWR began coordination efforts and preparations for the relicensing of FERC Project No. P-2426. Such efforts included discussions related to DWR's previous relicensing experiences and the formation of a joint relicensing team.
- In 2011, LADWP began researching project information, operations data, environmental studies, and other pertinent information that will be essential for the relicensing process. During the same period, LADWP and DWR began negotiating their respective roles and responsibilities in the relicensing process.
- On October 30, 2014, MWH Global Inc. (now known as Stantec Inc.), a professional services firm, was selected as the principal consultant to assist the joint relicensing team.
- Beginning in September 2015, the Co-licensees started to meet with FERC, federal and California State agencies, Native American tribes, local governments, nongovernmental organizations, businesses, members of the public, and others interested in the relicensing of the SSWP (collectively referred to as the Stakeholders). The Co-licensees used the meetings to familiarize Stakeholders with the project, to identify potential issues, to discuss the relicensing process, and to collaboratively develop resource study proposals.

- On August 1, 2016, the Co-licensees filed with FERC the Notification of Intent (NOI) and Pre-Application Document (PAD). The NOI officially declared the intention of the Co-licensees to file an application for a New FERC License P-2426. The PAD provided the relicensing plans and relevant information about the project's effects on environmental resources. In September 2016, FERC issued a public notice and Scoping Document No. 1 to seek comments on the PAD. FERC also conducted a site visit of the project vicinity and held public scoping meetings in October 2016.
- In early January 2017, FERC issued Scoping Document No. 2 to solicit any final issues that should be addressed during FERC's resource assessment of the project. As part of the scoping activities, the Stakeholders and FERC, as well as the Co-licensees, developed a list of resource studies to be conducted by the Co-licensees for the license application.
- On January 13, 2017, the Co-licensees filed with FERC a Proposed Study Plan (PSP). The PSP addressed the issues raised and information gaps identified by the Stakeholders during the scoping process. In February and March 2017, the Co-licensees held meetings with the Stakeholders and FERC to resolve any outstanding issues related to the PSP. Based on additional comments received from the Stakeholders, the Co-licensees updated the PSP and filed a Revised Study Plan (RSP) with FERC on May 15, 2017.
- In June 2017, FERC issued the Study Plan Determination to implement the RSP and to initiate 22 resource studies, including effects on fish and wildlife, cultural, recreational, and tribal resources. The goal of the studies was to update available records so that the Co-licensees, FERC, and Stakeholders have adequate information to assess project effects and to make an informed decision on the license application.
- On May 15, 2018, the Co-licensees filed with FERC an Initial Study Report (ISR). The ISR was a progress report that covered the various resource studies. In addition, the ISR described any variances to ongoing resource studies. On May 23, 2018, the Co-licensees held an ISR meeting with the Stakeholders to discuss the initial results of the resource studies and any new studies proposed by the Stakeholders.
- On May 15, 2019, the Co-licensees filed with FERC an Updated Study Report (USR), which provided a description of the progress on resource studies, data collection, and explanation of any variances to the FERC-approved RSP. On May 29, 2019, the Co-licensees met with the Stakeholders and FERC to discuss the USR results. Subsequently, the Co-licensees began the development of the Draft License Application (DLA), based on all available information gathered starting from the initiation of the relicensing process.

- On August 30, 2019, the Co-licensees filed the DLA with FERC as a preliminary step prior to developing the Final License Application (FLA) package. The DLA described the existing and proposed project operation, environmental measures identified by FERC, and effects of the project on environmental resources.
- On January 31, 2020, the Co-licensees filed the FLA with FERC based on comments and requests received in response to the DLA from various Stakeholders and FERC. The FLA included the final project description and proposed measures and plans to protect, mitigate, and enhance environmental resources identified by FERC.
- On June 24, 2021, DWR, as the Lead Agency, approved the Final Initial Study Report/Mitigated Negative Declaration (Final IS/MND) and the Notice of Determination (NOD), pursuant to the provisions of the California Environmental Quality Act (CEQA).
- On June 30, 2021, DWR filed with the State Clearinghouse, Office of Planning and Research, the Final IS/MND and NOD, in compliance with Section 21108 of the Public Resources Code.
- As part of the relicensing process, both the Stakeholders and FERC were collaboratively involved in providing input and comments to the FLA, resulting in updated New FERC License P-2426 operating conditions. Proposed New FERC License P-2426 conditions include maintaining and improving recreation resources afforded by the project. Recreation resources include continued fish stocking, developing camp sites, upgrading picnic sites, and other recreational opportunities.

In accordance with the Mayor's Executive Directive No. 4, the City Administrative Officer's (CAO) Report was approved on May 27, 2022.

ENVIRONMENTAL DETERMINATION

Determine item, the Cost Sharing Agreement itself, is exempt pursuant to California Environmental Quality Act (CEQA) Guidelines 15060(c)(3). In accordance with this section, an activity is not subject to CEQA if it does not meet the definition of a project. Section 15378(b)(4) states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment do not meet the definition of a "project" under the CEQA Guidelines.

The Cost Sharing Agreement does not constitute approval of a project pursuant to CEQA because LADWP and DWR have not and will not commit to the implementation, continued operation, and permitting of the project including the CPP under New License

P-2426 (Project) or any PM&E measures that may be required by FERC and any other requirements that may be imposed by the Conditioning Agencies under the New FERC License P-2426 until after (i) such PM&Es or other requirements are reviewed in accordance with the requirements of CEQA, (ii) any additional conditions, changes, or

alternatives have been identified and, where applicable, imposed pursuant to CEQA, and (iii) all required permits and approvals have been obtained in accordance with applicable laws and regulations.

Notwithstanding the above, the Project, itself, is subject to CEQA. The Project is currently going through environmental analysis in accordance with CEQA Guidelines. As a responsible agency under CEQA, the Board will review and consider the environmental analysis and at a later date exercise its discretion to approve or disapprove the Project. The continued operation and permitting of the Project, including the CPP under the New License P-2426 shall not be implemented prior to full compliance with applicable CEQA requirements.

CITY ATTORNEY

The Office of the City Attorney has reviewed and approved the attached agreement and Resolution as to form and legality.

ATTACHMENTS

- Resolution
- Agreement
- Draft Ordinance
- Overview
- CAO Report