

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426
February 27, 2025

OFFICE OF ENERGY PROJECTS

Project No. 1869-066 – Montana
Thompson Falls Hydroelectric Project
NorthWestern Energy

VIA FERC Service

Andrew Welch
Manager, Hydro License Compliance
NorthWestern Energy
208 N Montana Ave, STE 200
Helena, Montana 59601

Subject: Extension of Time to File Additional Information

Dear Mr. Welch:

On February 26, 2024, Commission staff requested additional information on NorthWestern Energy's (NorthWestern) relicense application for the Thompson Falls Hydroelectric Project. The additional information included a total of 14 items to be addressed by May 26, 2024. On May 23, 2024, NorthWestern filed responses to 12 of the 14 items and requested an extension of time to November 19, 2024, to respond to item 4 requesting additional details on NorthWestern's proposed attraction flows when operating the upstream fish passage facility and item 5 requesting that NorthWestern elaborate on the conceptual measures being considered to improve upstream and downstream fish passage at the project. In its request, NorthWestern stated that the details of its proposed fish passage measures were part of active settlement negotiations between NorthWestern; U.S. Fish and Wildlife Service; U.S. Forest Service; Montana Fish, Wildlife and Parks; and the Confederated Salish and Kootenai Tribes (collectively, Settlement Parties or parties) and the additional time would allow the parties to reach settlement on fish passage measures. Commission staff granted the requested extension on May 31, 2024.

On November 19, 2024, NorthWestern provided an update on its efforts to reach settlement on fish passage issues and requested another extension of time to May 18, 2025, to respond to items 4 and 5 to allow it to continue the negotiations with the Settlement Parties. On November 21, 2024, we granted NorthWestern's request but required NorthWestern to file monthly progress reports on the settlement negotiations to

ensure that substantial progress was being made toward resolving outstanding issues without significantly delaying the relicensing process. The letter approving the second extension also noted that we expect that no further extensions of time would be necessary given the substantial amount of time that the licensing stakeholders have been afforded to consult on fish passage issues during both the pre-filing and now the post-filing periods.

NorthWestern filed progress reports on December 18, 2024; January 17, 2025; and February 18, 2025. In its February 18 report, NorthWestern notes that while settlement talks on fish passage and other aquatic resource protection issues at the project have been productive, the talks have raised several issues that have in its view proven to be more complex than originally anticipated. The issues include developing standards for identifying project-related effects to federally listed bull trout, addressing fish passage issues in light of the presence of other FERC-licensed projects immediately downstream of the project and the presence of a relatively new fish passage facility already built at the project, accommodating the priorities of federal and state regulators for the management of aquatic resources in the Clark Fork River watershed, establishing the level of specificity needed in measures for Commission staff to complete its review and to be consistent with Commission's settlement policy, and identifying strategies for fostering consensus-based decision making while simultaneously respecting certain agencies' mandatory conditioning authorities. NorthWestern states that the Settlement Parties are in the process of preparing a *Fisheries and Aquatic Resources Protection, Mitigation, and Enhancement Plan (PM&E Plan)*, which they anticipate will establish an adaptive management framework over the new license term and will serve as the foundation for the relicensing settlement agreement. NorthWestern explains that the Settlement Parties have drafted the scientific and technical information sections of the *PM&E Plan*, necessary to guide adaptive management decisions over the license term and have nearly completed their work in establishing the governance of the Technical Advisory Committee (TAC), which will develop adaptive management priorities on a quinquennial basis throughout the new license term through revolving 5-Year Plans.

NorthWestern states that in light of these challenging issues and the progress made thus far, NorthWestern requests that Commission staff: (1) designate separated staff from the Commission's Office of General Counsel to be a resource during the remaining settlement talks and to aid parties that are less experienced working through the Commission's hydrolicensing process and Commission policies; and (2) grant a third extension of time to December 31, 2025, for NorthWestern to respond to items 4 and 5 of the Commission's February 26, 2024, letter. NorthWestern states that while this would further delay issuance of the Ready for Environmental Analysis Notice, it believes granting the additional time would reduce the risk of further delays later and burdens of administrative and/or appellate litigation which NorthWestern believes are highly likely to occur in the absence of a settlement.

The other Settlement Parties filed letters supporting NorthWestern's requests for

an extension of time and for separated staff from the Commission to aid in further settlement talks.¹

Because of the complex issues noted by NorthWestern, the progress made by the Settlement Parties in reaching a settlement agreement on fish passage, and the support and commitment of the Settlement Parties in finalizing a settlement agreement, NorthWestern's request for an extension of time to file a response to items 4 and 5 of Commission staff's February 26, 2024, letter is granted. The responses are now due by December 31, 2025. Granting the extension of time in this instance is more likely to result in the relicensing process moving forward in an efficient manner, allowing Commission staff to complete its environmental review and Endangered Species Act consultation expeditiously. To ensure that substantial progress continues toward resolving outstanding issues without significantly delaying the relicensing process, NorthWestern must continue to file monthly updates on the settlement negotiations. The next progress report is due by March 18, 2025.


Additionally, we have assigned separated staff as requested by NorthWestern and the other Settlement Parties. We will issue a notice to that effect, and staff will be in contact soon.

If you have questions, please contact Mike Tust at (202) 502-6522 or via e-mail at michael.tust@ferc.gov.

Sincerely,

**NICHOLAS
JAYJACK**

Nicholas Jayjack
Director
Division of Hydropower Licensing

 Digitally signed by
NICHOLAS JAYJACK
Date: 2025.02.27 13:37:32
-05'00'

¹ Support letters were filed by Montana Fish, Wildlife, and Parks on February 19, 2025; U.S. Fish and Wildlife Service on February 20, 2025; and the U.S. Forest Service and the Confederated Salish and Kootenai Tribes on February 21, 2025.

P-1869-066

cc: VIA FERC Service

John Tabaracci
Senior Corporate Counsel
NorthWestern Energy
208 N. Montana Avenue, Suite 200
Helena, Montana 59601