



Eugene Water & Electric Board

500 East 4th Avenue/Post Office Box 10148
Eugene, Oregon 97440-2148
541-685-7000
www.eweb.org

September 24, 2021

Filed Electronically

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Attention: OEP/DHAC
888 First Street, NE
Washington, D.C. 20426

**RE: P-2242 – Carmen-Smith Hydroelectric Project
License Article 3 – Instream Flows Design Plans and Schedules
Subject: Response to July 22, 2021 letter regarding Request for Extension of Time to
file Revised Plan & Schedule and 100% design package for Carmen Diversion Flow
Release Structure.**

Dear Secretary Bose:

On July 22, 2021, the Federal Energy Regulatory Commission (FERC) transmitted a letter to the Eugene Water & Electric Board (EWEB) regarding the 30 percent and 60 percent design plans and schedules for Carmen Diversion Dam Flow Release Structure and Carmen Power Plant Bypass at the Carmen-Smith Hydroelectric Project (Project No. 2242). Settlement Agreement Article 3 requires Eugene Water & Electric Board (EWEB) to implement the instream flows required under Section 4.2 of the Aquatics Management Plan (AMP). Section 4.2.1.2 of the AMP requires EWEB to include a description of the flow release system, including at least a 60 cfs capacity for the flow release system, and any compliance monitoring equipment and its operation. On May 17, 2021, EWEB filed a 60% design plan and schedule with the Commission for the Carmen Diversion Dam Flow Release System. In its May 17 filing, EWEB included a record of consultation with the Fish Working Group (FWG), including responses to comments from Oregon Department of Fish & Wildlife and Oregon Department of Environmental Quality.

The Commission's July 22 letter directs EWEB to (1) submit a plan and schedule for Carmen Diversion Dam Flow Release Structure concurrently with a 100% design package by October 14, 2021, and (2) submit a request for extension of time for filing a plan and schedule for Carmen-Smith Load Bank along with a 100% design package within 14 days from the date of the letter (August 5, 2021). EWEB submitted a response to requirement (2) above, a request for extension of time to file a plan and schedule for Carmen-Smith Load Bank along with a 100% design package, on August 5, 2021.

This letter addresses requirement (1) above and submits a request for extension of time for filing a revised plan and schedule and 100% design package for Carmen Diversion Flow Release Structure.

Current Progress

Since October 2020, EWEB has communicated with the FWG the anticipated need for an extension of time request to build the Carmen Diversion Flow release structure. EWEB has also assured the fish agencies that, except for stopping flow for brook trout management, EWEB will continue meeting the Carmen-Smith Settlement Agreement interim measure of 30 cubic feet per second (cfs) block flows to Upper Carmen Bypass Reach until the flow release structure is built. EWEB and its engineering contractors have progressed the flow release structure design through the 60% design phase and completed consultation on that design with the FWG in March 2021. On May 17, 2021, following a 30-day consultation with the FWG, EWEB submitted to FERC a plan and schedule based on these 60% designs.

Considering the requests for more information in FERC's July 22 letter, EWEB offers the following details about the flow release structure in this extension of time request, which will be addressed more thoroughly in its revised plan and schedule.

Description of the Carmen Diversion Dam flow release system and how the proposed system will provide the requisite bypass flows

The Carmen Diversion Dam flow release system will consist of the following major features:

- Installation of two flow-release gates mounted to roller gates within each sluiceway. The roller gates provide a means to control the maximum water surface elevation (WSE) within Carmen Reservoir. The flow-release gates provide a means to maintain a minimum flow of 30 cfs into Upper Carmen Bypass Reach. This design was selected to better control WSE, which is a risk reduction measure associated with the sinkholes within and geology of Carmen Reservoir, and to meet the requirements of the Settlement Agreement.
- Replacement of the existing debris boom to provide a more effective means of trapping debris.
- Installation of a flume to direct flow downstream of the flow-release gate near the location of a potential future fish ladder and below the tailwater elevation.
- Repair of spillway concrete.

A walkway bridge, standby generator, sluiceway repairs, and site improvements will also be provided.

Flow-release gate design criteria require that the means of release of the 30 cfs minimum flow from Carmen Diversion Reservoir will be via an upward-acting, submerged slide gate to be located within each sluiceway roller slide gate. The gate will be manually modulated to maintain the setpoint flow release via a submerged orifice created by the upward-acting gate,

based on the reservoir elevation. Additional criteria that will be considered in design of the flow-release gate include:

- Gate opening of no less than 6 inches.
- Flume in the eastern-most sluiceway channel to be used for attraction water for future fish ladder.
- Water depth in the flume should be a minimum of 4 inches with a maximum velocity of 25 feet per second (fps).

Description of compliance monitoring equipment and its operation

A level element will be installed to determine the water surface elevation in Carmen Diversion Reservoir. This data will be used in combination with the gate opening position to determine the flow release from Carmen Diversion Reservoir. EWEB is still developing a system to record this data and the frequency of recording.

Current Design Status and Request for Extension of Time

In response to FERC's correspondence on July 22, 2021, EWEB respectfully requests a 14-month extension to submit the revised plan and schedule and 100% designs for the flow release structure from October 14, 2021, to December 14, 2022. This proposed extension allows time for FERC approval of a Dewatering plan for Carmen Diversion Dam spillway stilling basin (expected in February 2022), FERC dam safety inspection (expected in June 2022), and completion of the 100% design package (expected in winter 2022). This timeline is subject to change if the spillway stilling basin dewatering and inspection by FERC dam safety reveals needed repairs.

Consultation Record

EWEB conducts consultation with other Carmen License Settlement Parties according to section 4.2 of the Settlement Agreement, which requires a minimum of 30 days for Settlement Parties to review consultation materials. In addition, FERC has communicated to EWEB that they expect to receive a request for extension of time no later than six weeks before the deadline, and earlier if the requirement involved is a substantial project. Under normal circumstances, this means that EWEB must initiate consultation with Settlement Parties on an extension request no later than about 10 weeks before the current deadline.

On July 22, 2021, EWEB received a letter from FERC directing EWEB to submit a revised plan and schedule and 100% design package for the Carmen Diversion Flow Release Structure by October 14, 2021. EWEB initiated consultation on this extension request with all Fish Working Group members as soon as practically possible on August 23, 2021. The consultation period was 30 days long, closing on September 22. The Fish Working Group members also had an opportunity to comment at a meeting on August 24, 2021.

During the consultation period, EWEB received written comments from U.S. Fish and Wildlife Service (FWS), the Forest Service (FS), Oregon Department of Fish and Wildlife (ODFW), and National Marine Fisheries Service (NMFS). Generally, these comments reflected a shared opinion that this extension request will have limited negative impacts to fish and wildlife resources, provided EWEB continues as planned to provide all required flows to Upper Carmen Bypass Reach until the flow release structure is constructed. The agencies expressed general concern with the delays to EWEB's Settlement Agreement obligations and recommended that the flow release structure be constructed within one year of EWEB filing the final 100% designs.

Sincerely,



Patricia A. Boyle
Generation Contracts Supervisor

Enclosures

- Comments by U.S. Fish and Wildlife Service.
- Comments by the Forest Service.
- Comments by Oregon Department of Fish and Wildlife.
- Comments by National Marine Fisheries Service.
- Carmen-Smith Work Group Membership as of 9/24/2021.

cc: Carmen-Smith Fish Work Group, Lisa Krentz, EWEB Records Retention Center

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.