

Kenai Hydro, LLC

3977 Lake Street
Homer, AK 99603

July 6, 2010

Secretary Kimberly D. Bose
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

- FILED ELECTRONICALLY -

**RE: Comments on Scoping Document 1 for the Grant Lake Hydroelectric Project
Grant Lake/Falls Creek Hydroelectric Project Nos. 13212-001 and 13211-001**

Dear Secretary Bose:

Kenai Hydro, LLC (KHL) appreciates FERC's efforts to conduct early scoping for the Grant Lake Project. The following information is being provided in response to FERC's notice of NEPA scoping. Extensive comments were received by FERC at the June 2-3, 2010 public scoping meetings, and KHL continues to consult with agencies and the public regarding its draft study plans. KHL would like to update FERC on progress on several of the issues raised at the June scoping meetings, provide specific comment on Scoping Document 1 (SD1), as well as provide additional detail on the proposed Project facilities and operations as the Project concepts continue to evolve as input is received and engineering work progresses.

Iditarod Trail

Many comments were made regarding the Project facilities potential overlap or proximity to the Iditarod Trail. The original Iditarod Historic Trail parallels the railroad and the Seward highway in the vicinity of Moose Pass. As a result, there is a *proposed* commemorative trail route and spur (current Vagt Lake Trail) in the Project vicinity that is further off the highway and more conducive to recreational use. The Iditarod Historic Trail was identified in the Pre-Application Document (PAD) as a historic and recreation resource in the area, and both the proposed cultural resources study and the proposed recreation/visual study will examine potential Project impacts on the Iditarod historic and commemorative trails. Because neither the trail, nor the Project facilities exist on the ground yet, there was some confusion expressed at the meeting, and many statements made by the public at the scoping meeting were inconsistent with relevant plans and direction regarding the Iditarod Trail. Close coordination between KHL and relevant resource agencies is ongoing and will continue to occur. The lands for the trail are owned by ADNR, but would ultimately be managed by the USFS under an easement for the trail. Guidelines exist in the Kenai Area Plan for the portions of the Iditarod Trail on the Kenai Peninsula. KHL has made the following relevant documents available in its online document library (www.kenaihydro.com):

- Kenai River Comprehensive Management Plan. 1997. (Alaska Department of Natural Resources)

- State of Alaska Department of Natural Resources Temporary Easement Authorization (Public Access Easement ADL No. 228890) to the United States Forest Service for construction and maintenance of the proposed Iditarod National Historic Trail from Seward to Girdwood, Alaska.
- State of Alaska Department of Natural Resources Final Finding and Decision ADL 228890 Grant of Public Easement Iditarod National Historic Trail Seward to Girdwood.
- Environmental Assessment Seward to Girdwood Iditarod National Historic Trail and Decision Notice (United States Forest Service)

On June 25, KHL met with representatives of ANDR and the USFS to confirm facts regarding the current situation surrounding the proposed trail segment in the vicinity of the Project and to explore potential measures for reducing or mitigating any potential adverse effects of the Project on the trail. KHL plans to continue consultation with the USFS and ADNR, along with other interested parties on trail related issues as well as studies in the area. Because neither the trail nor the road has been constructed, KHL believes there are opportunities to reduce and mitigate any potential conflicts between the proposed Grant Lake Project and the commemorative trail, as well as to explore opportunities where the trail experience may be enhanced.

Kenai Peninsula Borough Resolution

The Kenai Peninsula Borough Assembly (KPB) reviewed information provided by the applicant regarding draft study plans and the FERC scoping documents at a public meeting on June 22. The KPB voted 6-2 to not adopt a proposed resolution that would have instructed the Borough mayor to file a letter in opposition to the Project with FERC. From comments made at the June 22 meeting, it was clear that the large majority of the Borough Assembly members believed it was premature for the Assembly to take any official position on the project and that the FERC licensing process should be allowed to continue so that adequate information could be developed regarding the benefits and impacts of the Project. KHL's letter to the KPB regarding the proposed resolution is included as Attachment 1.

Consistency with the Kenai River Comprehensive Management Plan

Many comments were made at the public scoping meeting regarding consistency of the proposed Project with the Kenai River Comprehensive Management Plan (KRCMP). There are no prohibitions on hydropower development within the KRCMP. The often quoted provision of the KRCMP regarding new impoundments is:

4.5.5.2. Impoundment Structures. (Implementing Agency: DNR)

Recommendation 4.5.5.2: The construction of new dams or diversions on the Kenai River or its fish bearing tributaries, which block fish movements, or reduce essential stream flows for spawning, rearing, or migration, will be prohibited. This recommendation is to be included in KAP.

Problem Statement: Additional impoundment structures are not considered appropriate because of their fundamental, usually irreversible affect upon the river's hydrology.

Background: There are very few existing impoundment structures along the Kenai River, the exception being the Cooper Landing Hydroelectric Facility.

As can be seen, the recommended prohibition of new impoundments is very specifically qualified with regard to blocking of fish movements or reducing essential stream flows.

As stated in the KRCMP, the recommendations in the Plan are to be implemented through ADNR's Kenai Area Plan (KAP). We would also note that there are no outright prohibitions to new hydroelectric projects in the KAP. These documents are referenced in the PAD and provided in the KHL online document library. KHL has been clear and consistent in its information and public statements that it intends to develop the Grant Lake Project to be consistent with the Kenai Area Plan and KRCMP recommendations.

Continued Consultation Regarding Study Program

At the request of participating agencies, KHL extended the comment deadline on draft study plans to July 6, 2010. In addition, KHL held a study plan discussion session on June 3, 2010 in Moose Pass, Alaska to review all draft study plans with agencies and the public. Resource specific meetings were held on June 22 (aquatic and water resources, including a review of the instream flow study components), and June 24 (initiation of Section 106 consultation re: cultural resources). In addition to feedback received during these meetings, KHL has received written comment letters on the draft study plans. KHL will provide a summary of comments on the draft study plans with responses and revised study plans following the close of the comment period.

Cumulative Effects Assessment

KHL understands that FERC will conduct a cumulative effects assessment as a part of its NEPA analysis for the Project. KHL's study plans provide for collection of information on fisheries, water, terrestrial, cultural and recreation/visual resources for the Project vicinity that may be affected by the proposed Project. The Project area is in the headwaters of the Kenai River watershed, and as many public comments noted, there is significant regional interest in and information available on the Kenai River watershed. KHL will present information on specific identified effects of the Project, as well as other existing information on the Project area in its draft and final license applications to support FERC's assessment of cumulative effects of licensing the Project. KHL has identified in the PAD and study plans lists of potentially relevant management plans and other environmental analyses for the area that FERC may find useful for its cumulative effects assessment.

Resource Use Designations and Past Use of the Area

The Kenai Peninsula in the Project vicinity has a rich history of mining and timber extraction, as well as serving as a commercial and railroad corridor. Historically, the Solars Sawmill, featured on the cover of the Moose Pass Comprehensive Plan, utilized

hydropower in the Project vicinity. The original Iditarod Trail was developed and used for commercial purposes. Many of the existing roads and trails in the area were originally developed to support mining activity and indeed active mining continues today in the area. Logging has also occurred in the area. Many public comments were made at the scoping meetings regarding the pristine character of the area. KHL recognizes the importance of the existing environmental values of the area and appreciates input received regarding the current resource use and enjoyment opportunities in the area and is committed to evaluating potential resource impacts of the proposed Project on current uses and opportunities. However, past use of the area, including long and varied human uses are not indicative of the conditions typically associated with the terms “wilderness” or “pristine”.

Project Facilities Proposal

As this is a proposed new Project, KHL will necessarily need to continue to refine the project operations and facilities proposal as field information collection, engineering and design efforts, and consultation with agencies continues. An updated project facilities and operations figure will be provided to FERC for use in Scoping Document 2. KHL is aware of the need to insure that the final facilities proposal and potential impacts are adequately studied, and thus, will describe a maximum range of potential operations and facility footprint in order to ensure adequate information is collected during the study program.

Current Scope of Issues

KHL believes that the current scope of issues identified in SD1 will provide sufficient information in support of a complete NEPA analysis by FERC.

Please feel free to contact me with any questions regarding this filing.

Sincerely,

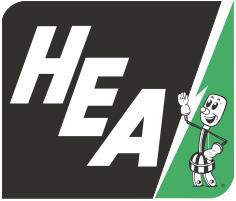
/s/ Brad Zubeck

Brad Zubeck
Project Engineer
Kenai Hydro, LLC

cc: Service List and Mailing List for Project Nos. 13211 and 13212
Mark Ivy, FERC
Kim Nguyen, FERC
Kenai Hydro, LLC Project email contact list

Attachment 1

KHL Letter to the Kenai Peninsula Borough Assembly



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June 17, 2010

Pete Sprague, Assembly President
Kenai Peninsula Borough Assembly
144 N. Binkley St.
Soldotna, Alaska, 99669

Dear Assembly President Sprague,

Homer Electric Association (HEA) understands that the Kenai Peninsula Borough Assembly (Assembly) will be asked at its June 22, 2010 meeting to adopt a resolution (2010-057) to authorize the Borough Mayor to send a letter to the Federal Energy Regulatory Commission (FERC) in opposition to the proposed Grant Lake/Grant Creek hydroelectric project (FERC Nos. 13211 and 13212). HEA urges the Assembly to refrain from adopting this resolution until further information regarding the proposed project is available.

There are several critical errors in the current resolution that HEA believes must be pointed out. First, the resolution states that Kenai Hydro, LLC (KHL), of which HEA is the sole shareholder, has applied for a license for this project (lines 5-7, page 121). This is not true. KHL was granted a preliminary permit for the project site by the FERC in 2008 to study and evaluate the site for its potential as a hydroelectric project. KHL is currently continuing its study efforts initiated in 2009 to develop the necessary information to support a license application. KHL has established a target date of September 29, 2011 for filing a license application. At that time, the FERC will conduct its evaluation of the license application and will provide opportunities for agencies, the public and other interested organizations to provide comments directly to the FERC regarding the content of KHL's application and its adequacy as the basis for FERC's analysis under the National Environmental Policy Act (NEPA), the Federal Power Act and other applicable laws and regulations.

The second key error in the resolution is the statement that KHL requested a "shortened Environmental Assessment" for the project (lines 20-21, page 122). Nothing could be further from the truth. An option available under the traditional licensing process is to request that FERC conduct its NEPA scoping during the pre-filing period instead of waiting until after the license application has been filed. KHL made a request to FERC to consider conducting early scoping because of its belief that early engagement of FERC staff in the project would improve the opportunities for all interested parties to identify questions or concerns regarding the project and to identify needed information to support the license application. In its approval of the Traditional Licensing Process on September 15, 2009, FERC committed to conducting early NEPA scoping, which involved issuance of Scoping Document 1 on May 11, 2010, and holding scoping meetings on June 2 and 3, 2010. Once the license application is filed, FERC will conduct the balance of its NEPA analysis, including a determination as to whether to prepare an Environmental Assessment or an Environmental Impact Statement. This is an independent decision that FERC makes over which KHL has no influence. As a federal agency responsible for environmental analysis of hydropower projects throughout the country, FERC staff are well versed in NEPA requirements, and very familiar with potential impacts and necessary analyses for hydropower projects. The Assembly should have confidence that a full analysis under NEPA will occur. For the resolution to

infer that early scoping has somehow “shortened the Environmental Assessment” is simply incorrect. In fact, FERC staff stated that they would be issuing a Scoping Document 2 based on the feedback received at the scoping meetings. The NEPA process is working.

The third key misstatement in the resolution is that minimal baseline data exist and that a “proper study could not be conducted” (lines 23-24, page 122). KHL has been actively pursuing existing information and developing new information since the issuance of the preliminary permit in late 2008. In 2009, KHL consulted with agencies and other stakeholders and initiated a variety of baseline data collection efforts related to fish and aquatic resources in Grant Lake and Grant Creek. Study planning continued this spring, and KHL has initiated an additional full field season of data collection to support the license application. At the same time, KHL is continuing a dialogue with agencies and other stakeholders to ensure that the data ultimately collected and presented in the license application will be sufficient to support FERC’s NEPA analysis. Any presumption that the results of these study efforts “will not fully inform the required NEPA analysis and/or document and that consequently the final NEPA document will or may fail to adequately disclose serious environmental, social and economic impacts of the project, including to fisheries” (lines 37-40, pages 122-123) is premature at best given that the study program is still underway.

HEA/KHL believes that it is important for the Assembly to understand that we are committed to developing the project in compliance with all applicable laws and regulations, including the KRSMA Comprehensive Management Plan. The project will not block fish movements (there are no salmon in Grant Lake) and an in-stream flow study is being conducted to ensure that essential stream flows in Grant Creek that support aquatic life are not reduced. As some agency representatives have publically recognized, the project actually holds the potential to improve the Grant Creek fishery by increasing winter flows.

It is our belief that the most prudent action for the Assembly to take is to postpone any decision on the Grant Lake/Grant Creek project until the pre-filing study program has been completed. A draft license application will be prepared for public and agency review and comments next spring (2011). At that time, there will be quantifiable information that can be used to make a fully informed decision on the potential impacts of the project and any appropriate protection, mitigation and enhancement measures to address those impacts. In addition, after the filing of the license application with the FERC next fall, there will be opportunities for agency and public comment directly to FERC regarding the information that has been included in the application and that is available for the NEPA analysis. FERC’s NEPA analysis will be initiated with issuance of the “ready for environmental analysis” notice for the license application when FERC solicits comments, recommendations, terms and conditions, and prescriptions for the project. FERC also will accept input on the adequacy of the Commission’s NEPA analysis after issuance of the draft environmental document (FERC Scoping Notice, page 156-157).

We will be happy to keep the Assembly apprised of continuing activities regarding the Grant Lake/Grant Creek hydroelectric project. I look forward to continuing to work with you on this important renewable energy project.

Sincerely,



Bradley P. Janorschke
General Manager