United States Department of the Interior
FISH AND WILDLIFE SERVICE
Ecological Services Program

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July 30, 2024

Debbie-Anne A. Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First St., NE
Washington, DC 20426

Dear Acting Secretary Reese:

The U.S. Fish and Wildlife Service (Service) received the Notice of Intent (NOI) to File License Application, Filing of Pre-Application Document (PAD), Commencement of ILP Pre-Filing Process, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests for the Pushmataha County Pumped Storage Hydroelectric Project, Federal Energy Regulatory Commission (FERC) No. Pushmataha Project (P-14890-005) (Project). The Southeast Oklahoma Power Corporation (SEOPC) is the Preliminary Permit holder and FERC's non-federal representative for the purposes of informal consultation under Section 7 of the Endangered Species Act (ESA), as amended. The following comments are based largely on information contained in the NOI and PAD; section references in the paragraphs that follow pertain to sections of the PAD. The Service appreciates the opportunity to provide comments on the NOI and PAD.

The proposed Project and associated transmission line would be located within Pushmataha and McCurtain counties, Oklahoma, and Red River and Lamar counties, Texas. The Service believes the proposed action has the potential to adversely affect several federally-listed, proposed or candidate species. These species have been identified in the PAD and include the endangered Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ouachita rock pocketbook (*Arcidens wheeleri*), scaleshell mussel (*Leptodea [Potamilus] leptodon*) and winged mapleleaf (*Quadrula fragosa*) and the threatened American burying beetle (*Nicrophorus americanus*) and rabbitsfoot mussel (*Quadrula [Theliderma] cylindrica*). South of the Kiamichi River, the proposed Project's associated transmission line overlaps with designated critical habitat for leopard darter (*Percina pantherina*) where the proposed Project boundary intersects with the Little River. The Little River intersection also is likely inhabited by the Louisiana pigtoe (*Pleurobema riddellii*), a proposed threatened species. Earth fruit (*Geocarpon minimum*), a federally-listed plant included in a table of Texas plant species (Table 4-20), also has been found in Oklahoma (though not within the project area) and should be added to section 4.7.2.1. Proposed species within the action area include the proposed endangered tricolored bat (*Perimyotis subflavus*) and the proposed threatened alligator snapping turtle (*Macrochelys*

temminckii). The monarch butterfly (*Danaus plexippus*) is currently a candidate for listing under the ESA. Candidate species are those taxa for which the Service has sufficient information to support issuance of a proposal to federally list as threatened or endangered, but is currently precluded by higher priority listing actions. While candidate species are not legally protected under the ESA, the Service provides this information for consideration during your environmental review process. We encourage efforts to avoid or minimize adverse impacts to rare or imperiled species. Conservation of these species now may preclude the need for federal-listing in the future.

The clearing of trees and other vegetation on thousands of acres to facilitate the proposed construction and maintenance of dams and for placement of over 76 miles of transmission lines has potential to adversely impact species like the American burying beetle, federally-listed and proposed bats, the monarch butterfly and birds protected under the Migratory Bird Treaty Act. These species utilize soil and vegetation in the action area as habitat. Additional construction-related effects to wildlife species would occur through ground excavation and clearing of vegetation for the reservoirs, conveyance tunnels, powerhouse, transmission line and general grading of facility sites, staging areas, and road improvements. The extent and magnitude of impacts could vary greatly depending on steps taken to manage alteration of water, sediment, and organic debris.

The potential construction-related impacts to aquatic resources could be substantial. Such impacts would include direct modifications of riverine habitat due to installation of project components like the in-river intake structure and the tunnel linking the lower reservoir to the Kiamichi River. Similarly, risks to aquatic species would include impacts resulting from indirect effects such as altered sediment movement, surface runoff modifications, and decomposition of deposited organic material. These effects have not been described in the PAD, *e.g.*, in sections 4.3.5, 4.4.6, 4.5.4, or 4.7.4. Prior to permit application, the SEOPC should describe these potential effects and all planned measures to avoid or reduce such effects.

Other potential impacts to aquatic species are related to the impoundment, extraction and pumping of water. The volume of water required to initially fill the reservoir components of the Project has been estimated as 68,269 acre-feet (AF). The Kiamichi River has been proposed as the source for this initial fill and would be completed over a 24 to 36 month period. Water from the Kiamichi River, via the regulating reservoir, also would also be used as a source to replace approximately 20,000 AF of leakage and evaporative losses (estimates taken from the PAD). The pumping of water directly from the river has potential for significant impacts to federally-listed mussels. Glochidia (mussel larvae) or small fish with glochidia attached could be pumped/entrained with the water used to fill these reservoirs. Entrainment of small alligator snapping turtles also is possible. Entrained animals likely would be killed in the pumps and turbines or would not survive in the environment provided by the proposed project reservoirs; any small numbers of these organisms initially surviving entrainment would be isolated and no longer contribute to wild populations. With the high capacity of a 260-cubic feet per second (cfs) pump structure, the risk of entrainment is increased. In addition to federally-listed species, the impacts of pumping and entrainment would directly affect all aquatic species in the Kiamichi River including rare and imperiled species like the peppered shiner (*Notropis perpallidus*) which is currently undergoing review for possible listing under the ESA. Additional adverse effects

would occur with reduced flows downstream of the pumps. Even with the proposed pumping limitation of no more than 10-15 percent of existing flows, the expected decreased flows below the pumps could reduce the quantity and quality of aquatic habitat downstream. We also have concerns about how the remaining stream flows and pumping operations would be monitored. Lowered water levels increase the risk of desiccation of, and predation to, freshwater mussels occupying the Kiamichi River. Flows in this reach of the river often may be very low naturally during certain times of the year in the absence of any artificial pumping efforts. The estimated average flow in the Kiamichi River at the proposed extraction point (approximately 12 miles upstream from the confluence with Jackfork Creek) in August is only 50 cfs and minimum flows can be zero cfs for any time of year (Table 4-6 of the PAD). Impoundment of Long Creek for the upper reservoir also would reduce flows in portions of the Little River watershed that support many federally-listed species. Project effects related to flow modifications have not been described in the PAD, *e.g.*, in sections 4.3.5, 4.4.6, 4.7.4., or 4.8.5. Prior to permit application, the SEOPC should describe potential effects of streamflow alteration and planned measures to avoid or reduce such effects.

As anticipated during construction, long-term runoff characteristics of the action area have a potential to affect species and habitats present there or in adjacent areas. The Project would change extensive areas of terrain and their relationship to the Kiamichi River and Little River watersheds in terms of ground permeability, surface runoff, biological habitat, and other characteristics. Details of project development, such as the amount of impervious cover installed, vegetative reestablishment, and surface runoff controls, would have an ability to influence the extent and magnitude of effects produced. Such details should be described by SEOPC prior to permit application.

Emergency overflows of the project are to be controlled by use of the spillway of the lower reservoir. This spillway would transition to a gated tunnel linking with the Kiamichi River. Multiple related details, such as design of the outfall, the pattern of overflows anticipated, planned operation of the gate, local characteristics of the receiving channel, and proposed design flood of the entire Project, have a potential to produce effects on species of federal interest. The SEOPC should describe such details prior to application.

Additionally, Project construction and operation will impact wetlands and other aquatic resources, including ones protected under sections 401 and 404 of the Clean Water Act. As stated in section 4.8 of the PAD, no delineations have been conducted of regulatory wetlands or other Waters of the United States (WOTUS) potentially affected by the Project. Full development of the Project would require such delineation as well as other coordination with the Tulsa District, U. S. Army Corps of Engineers, in order to obtain authorization for impacts to WOTUS. Authorization likely would include preparation of a mitigation plan describing how impacts to WOTUS would be avoided, minimized, and compensated. At present, section 4.8.5 of the PAD discusses only further delineation and evaluation of wetland composition/distribution. Prior to permit application, SEOPC should clarify its obligations for assessment of impacts on WOTUS and mitigation of those impacts as a part of Project implementation.

In conclusion, the Service believes the potential impacts of the Project and related adverse effects to federally-listed species would require formal consultation on this Project through Section 7 of the Endangered Species Act. Please contact us for more information regarding this process.

Thank you for considering our comments and we look forward to working with the SEOPC, FERC, Oklahoma Department of Wildlife Conservation, and other partners in evaluating this proposed pumped storage hydroelectric project. If you have questions or want more information, please contact Kevin Stubbs at 918-695-6769 or Kevin_Stubbs@fws.gov.

Sincerely,

KENNETH COLLINS Digitally signed by KENNETH COLLINS Date: 2024.07.30 16:57:19 -05'00'

Ken Collins
Field Supervisor

cc:
FERC, Washington, D.C., attn. Stephen Bowler
USFWS, Texas Coastal and Central Plains Ecological Services Field Office, Arlington TX attn. Sean Edwards
Director, Oklahoma Department of Wildlife Conservation, Oklahoma City, OK

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