



NWE-THF-4471

***Electronically filed***

November 19, 2024

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

**Re: Thompson Falls Hydroelectric Project, FERC Project No. 1869-066;  
Request for Further Extension of Time to Accommodate Ongoing  
Settlement Negotiations**

Dear Secretary Reese,

On December 29, 2023, NorthWestern Energy (NorthWestern) filed its Final License Application (Application) with the Federal Energy Regulatory Commission (Commission or FERC) for the relicensing of the Thompson Falls Hydroelectric Project, FERC Project No. 1869 (Project), located on the Clark Fork River, in Sanders County, Montana.<sup>1</sup> On February 26, 2024, Commission staff, in accordance with section 5.21 of the Commission's regulations,<sup>2</sup> requested NorthWestern to file additional information to assist in the evaluation of NorthWestern's relicensing proposal.<sup>3</sup> By letter dated May 23, 2024, NorthWestern filed its response to most of the additional information requested by Commission staff, but sought additional time to respond to Questions 4 and 5 of the Commission's request, which concern NorthWestern's proposed new license measures related to fish and aquatic resources.<sup>4</sup>

In its May 23 letter, NorthWestern explained that its relicensing proposal for fish and aquatic resources for the new license term was under negotiation among NorthWestern, U.S. Fish and Wildlife Service (USFWS), U.S. Forest Service, Montana Fish, Wildlife and Parks, and the Confederated Salish and Kootenai Tribes.<sup>5</sup> NorthWestern sought a 180-day extension of time (i.e., until November 19, 2024) to conclude settlement negotiations and prepare a response to

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<sup>1</sup> Final License Application, Project No. 1869-066, Accession No. [20231229-5139](#) (filed Dec. 29, 2023).

<sup>2</sup> 18 C.F.R. § 5.21.

<sup>3</sup> Request for Additional Information, Project No. 1869-066, Accession No. [20240226-3033](#) (issued Feb. 26, 2024).

<sup>4</sup> Submission of Response to Additional Information Request and Request for Extension of Time Due to Ongoing Settlement Negotiations, Project No. 1869-066, Accession No. [20240523-5145](#) (filed May 23, 2024).

<sup>5</sup> *Id.* at 2.

Commission staff's Questions 4 and 5.<sup>6</sup> The Commission granted this request by letter dated May 31, 2024.<sup>7</sup>

Over the past 180 days, NorthWestern has made some progress towards settlement with the other parties, particularly USFWS. During settlement discussions, USFWS raised significant concerns related to regulatory certainty, approval authority, and the definitiveness of NorthWestern's initial adaptive management proposal. For this reason, NorthWestern focused its discussions with USFWS in an effort to develop a common understanding of these parameters between USFWS and NorthWestern, and then to bring other participants back to the settlement negotiations. In early November 2024, USFWS and NorthWestern concluded this bilateral engagement and are ready to engage the other parties on these and other issues in a good-faith effort to achieve settlement in this relicensing proceeding.

Going forward, NorthWestern plans on meeting on a scheduled, regular basis with all settlement participants in an effort to develop a mutually agreeable plan for adaptively managing fish and aquatic resources associated with the Project over the new license term. Given NorthWestern's history of working collaboratively and cooperatively with resource agencies, and even reaching mutually agreeable agreements—both at this Project as well as at its Missouri-Madison Hydroelectric Project (FERC No. 2188)—NorthWestern is optimistic that the ongoing settlement negotiations will succeed.

However, additional time is needed to facilitate settlement. Rather than filing its unilateral responses to Commission staff's Questions 4 and 5, followed by the submittal of other relicensing participants' mandatory and recommended license measures once the Commission issues public notice that the Application is ready for environmental analysis,<sup>8</sup> NorthWestern seeks another 180-day period (i.e., until May 18, 2025) to continue and conclude settlement negotiations in this relicensing proceeding.

Accordingly, in accordance with Rule 2008(a) of the Commission's Rules of Practice and Procedure,<sup>9</sup> NorthWestern requests a 180-day extension of time to file its response to Commission staff's Questions 4 and 5 from its February 26, 2024, request for additional information. Good cause exists for this extension. NorthWestern, USFWS, and other settlement parties have already devoted significant resources into exploring settlement. NorthWestern and USFWS recently came to an understanding on foundational settlement principles and are ready to move forward with in-depth settlement discussions with the other participants. Granting the requested extension of time will eliminate the need for settlement

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<sup>6</sup> *Id.*

<sup>7</sup> Extension of Time to File Additional Information, Project No. 1869-066, Accession No. [20240531-3013](#) (issued May 31, 2024).

<sup>8</sup> 18 C.F.R. §§ 5.22-5.23.

<sup>9</sup> *Id.* § 385.2008(a).

parties to divert their attention to preparing and defending preliminary terms and conditions and recommendations, when the parties could spend their time and resources collaborating on agreed-upon fish and aquatic measures. Moreover, the requested extension of time will reduce the Commission's administrative burden by reducing the number of contested issues in this relicensing proceeding and potentially avoid the need for Commission staff to evaluate competing relicensing proposals that would be superseded by a successful settlement.

NorthWestern appreciates the Commission's consideration of this request. Should you have any questions, please contact me at 406-444-8115, or by email at [Andrew.Welch@NorthWestern.com](mailto:Andrew.Welch@NorthWestern.com).

Sincerely,



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**Andy Welch**

*Manager, Hydropower License Compliance*

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