



**GENTNER DRUMMOND  
ATTORNEY GENERAL**

August 28, 2024

**Via U.S. Mail**

Debbie-Anne Reese, Acting Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

**RE: Oklahoma Attorney General Filed Comment Project No. 14890-005  
Oklahoma and Texas Pushmataha County Pumped Storage Project Southeast  
Oklahoma Power Corporation, LLC**

Dear Acting Secretary Reese:

The State of Oklahoma ("State") is aware of an application pending before the Federal Regulatory Commission ("FERC") for Project No. 14890-005 ("Project") on behalf of the Southeast Oklahoma Power Corporation ("SEOPC"). This letter is to notify FERC that meaningful participation by the State in the license application process for this Project is vital and has so far been lacking. The Project is located within the State as well as the Choctaw Nation reservation and within the area subject to the Choctaw Nation's and Chickasaw Nation's water settlement, which has been approved by Congress and has the effect of federal law. After reviewing and evaluating what limited information the Southeast Oklahoma Power Corporation (SEOPC) has so far disclosed about its hydropower project as well as the FERC pre-application document (PAD) and notice of intent (NOI), we oppose this project.

The State, through the Oklahoma Water Resources Board ("OWRB"), has state statutory responsibility to review and grant or deny applications to approve plans and specifications for construction of new dams and modifications of existing dams<sup>1</sup>. OWRB also has the duty and power by state law to permit the use of water<sup>2</sup>. I have discussed the proposed Project with OWRB and SEOPC has not submitted any information or requested any licenses or permits that are required by the State. The pending application before FERC may not have the correct data on water use since SEOPC has not discussed this Project with OWRB. I am very skeptical that there is adequate water to be able to permit the use of water for the proposed Project.

Further, State has entered into a historic Water Settlement Agreement ("WSA") with the Choctaw Nation of Oklahoma and the Chickasaw Nation, as per Pub. L. No. 114-322, 1303 Stat. 1796, (2016). In addition to prescribing specific and substantive inquiries relating to water uses

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<sup>1</sup> 82 O.S. § 110.1 et seq.

<sup>2</sup> 82 O.S. § 105.1 et seq.

such as what SEOPC appears to be planning, the proposed Project would appear to be inconsistent with numerous WSA mechanisms intended to preserve the flow of the Kiamichi River as well as the fish, wildlife, recreation, historical, and cultural values in the region, which the WSA is designed and intended to protect. FERC must understand the WSA needs to be considered to ensure unintended ramifications of violating the WSA. SEOPC has not sufficiently considered the implications of the WSA on its project, nor is it clear it has adequately begun to consider implications under other federal law—such as the Endangered Species Act, the National Historic Preservation Act, the Clean Water Act, and others, as well as State laws, as indicated above.

Finally, while SEOPC gives an indication it intends a liberal reliance on powers of condemnation to acquire private property from Oklahomans to build its project, it remains utterly opaque as to who might be affected. Most of the proud Oklahomans who call the Kiamichi region home have lived there for generations. And I intend, as Oklahoma's Attorney General, to ensure that their private property rights are safeguarded to the full extent of the law.

As the Chief Law Officer of the State of Oklahoma, I will not tolerate violation of Oklahoma law or flagrant disregard for the sovereignty or federal law, protected rights of a tribal nation, and similarly situated property owners. Accordingly, I request that this letter serve as my formal opposition to this proposed Project.

Please contact this office if you have any questions or want to discuss this matter.

Respectfully,



GENTNER DRUMMOND  
*Attorney General*