



United States Department of the Interior



BUREAU OF RECLAMATION
1150 North Curtis Road
Boise, ID 83706-1234

IN REPLY REFER TO:

CPN-1030
2.2.4.23

VIA ELECTRONIC MAIL ONLY

David Turner
Chief, Northwest Branch Division of Hydropower Licensing
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426
David.Turner@ferc.gov

Subject: Revised Response to Jurisdiction Determination Related to the Proposed Banks Lake Pumped Storage Project No. 14329

Dear Mr. Turner:

This letter provides an updated response by the Bureau of Reclamation to the jurisdictional determination letter from the Federal Energy Regulatory Commission (FERC) dated April 10, 2013, regarding the project identified above.

On November 15, 2021, the President signed the *Infrastructure Investment and Jobs Act*, also known as the *Bipartisan Infrastructure Law*¹. Section 40335 of this law amends Section 9(c) of the Reclamation Project Act of 1939 to “reserve to the Secretary [of Interior] the exclusive authority to develop...pumped storage hydropower exclusively using Bureau of Reclamation reservoirs.”

Presumption 2 of the 1992 Memorandum of Understanding (MOU)² between FERC and Reclamation states:

“If the authorizing statute, as amended or any documents incorporated by reference in the statute, appear to specifically reserve hydropower development exclusively to the United States or to specifically withdraw the Commission’s jurisdiction, then Reclamation is presumed to have jurisdiction.”

Columbia Basin Hydropower (CBHP) is pursuing development of pumped storage hydropower

¹ Pub. L. No. 117-58

² 58 Fed Reg. 3269 (January 8, 1993)

Alternative No. 1 described in the aforementioned letter, which would use Reclamation's Banks Lake as the upper reservoir and Franklin D. Roosevelt Lake as the lower reservoir.

Under Presumption 2, Reclamation views the enactment of the *Bipartisan Infrastructure Law* to bring the proposed CBHP pumped storage hydropower project under the sole jurisdiction of Reclamation.

If you have any questions or concerns, please contact Ben Miller at (208) 378-5196 or bjmiller@usbr.gov. For the hearing impaired please call the Federal Relay System at (800) 877-8339 (TTY).

Sincerely,

ROBERT
SKORDAS

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Robert Skordas
Deputy Regional Director

cc: 86-61000 (MSpiker), 86-61100 (MPulskamp), 86-61100 (CBishop), CPN-1600 (JSummers), CPN-6426 (BMiller), jeremiah.williamson@sol.doi.gov