

CLARK HILL

Daniel R. Simon
T 202.572.8669
F 202.772.0925
Email: dsimon@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

July 28, 2020

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

**RE: Four Lakes Task Force Response to Boyce Hydro Power, LLC;
Docket Nos. P-2785, P-10809 and P-10810**

Dear Secretary Bose:

The Four Lakes Task Force (“FLTF”) submits this letter in response to the two letters dated July 23, 2020 (and filed July 24, 2020) by Mr. Lee W. Mueller, Member Manager of Boyce Hydro Power, LLC (“Boyce Hydro”).

Boyce Hydro takes issue with FLTF’s decision to file with the Federal Energy Regulatory Commission (“Commission”) on July 20, 2020 two separate reports: (i) the Probable Maximum Flood Determination study, dated May 15, 2020 and prepared by Ayers (“PMF Determination”) and (ii) the Post Failure – Reconstruction Cost Analysis, dated July 13, 2020 and prepared by GEI Consultants (“Reconstruction Cost Analysis”).

In its letters, Boyce Hydro asserts that “FLTF is not the ‘Agent’ for Boyce Hydro Power, LLC.” We agree. FLTF never claimed that it submitted either July 20, 2020 electronic filing on behalf of Boyce Hydro. Although Commission staff initially coded the PMF Determination as being submitted on behalf of Boyce Hydro, that classification was incorrect, and the Commission quickly corrected the information.

Boyce Hydro, however, goes further by asking the Commission to reject *any* future FLTF filings or, in the alternative, to require that FLTF first submit them privately to Boyce Hydro before filing them. The Commission should reject this request as an unreasonable and overly broad attempt to prevent FLTF from sharing information that will assist the Commission in its decision-making process. FLTF was fully justified in submitting both reports. In anticipation of acquiring the Boyce Hydro properties, FLTF commissioned the PMF Determination report as

July 28, 2020

Page 2 of 2

input to the future design on spillway capacity to meet FERC or Michigan State requirements. FLTF commissioned the Reconstruction Cost Analysis report to understand post-failure dam repair and reconstruction costs necessary to return, and eventually sustain, the lakes to their prior regulated levels. Information from both reports is important to the communities of Gladwin and Midland Counties.

Boyce Hydro also asks the Commission to remove the “imposter” filings from eLibrary. This request should not be taken seriously. The PMF Determination and the Reconstruction Cost Analysis are not disguised, and they do not purport to be something they are not. The first page of each report indicates that it was prepared for FLTF, and neither report claims to be prepared for or filed by Boyce Hydro. To decrease the likelihood of creating confusion regarding its source in the future, FLTF will include a cover letter or clear marking at the top of the first page to the Commission.

In short, FLTF has every right to submit information into the record it believes is in the public interest and will assist the Commission in its decision-making process.

Respectfully submitted,

/s/ Daniel R. Simon

Daniel R. Simon

Clark Hill PLC

1001 Pennsylvania Ave, NW

Suite 1300 South

Washington, DC 20004

Tel: 202.572.8669

dsimon@clarkhill.com

Counsel for the Four Lakes Task Force