



Oregon

John A. Kitzhaber, MD, Governor

Department of State Lands

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June 13, 2013

State Land Board

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

John A. Kitzhaber, MD
Governor

Kate Brown
Secretary of State

Ted Wheeler
State Treasurer

SUBJECT: Reedsport OPT Wave Park (P-12713)

Dear Secretary Bose:

Attached is correspondence from the State of Oregon regarding the above-referenced project, submitted for the record.

If you have any questions or need additional information, please contact me:

mary.m.abrams@state.or.us
503-986-5224

Thank you.

Sincerely,

Mary M. Abrams, Ph.D.
Director



Oregon

John A. Kitzhaber, MD, Governor

Department of State Lands

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June 10, 2013

State Land Board

BRIAN POSNER
REEDSPORT OPT WAVE PARK LLC
1590 REED ROAD
PENNINGTON NJ 08534

John A. Kitzhaber, MD
Governor

Kate Brown
Secretary of State

RE: Ocean Power Technologies (OPT) extension request for FERC
project P-12713

Ted Wheeler
State Treasurer

Dear Mr. Posner:

On March 19, 2013, OPT met with the Coordinating Committee (plenary settlement parties) and asked them to review a comprehensive extension to the existing Reedsport deployment schedule. On May 9, 2013 OPT filed a motion with the Federal Energy Regulatory Commission (FERC) formally requesting an Extensions of Time (EOT) to comply with their license requirements. OPT has communicated to the Coordinating Committee members that this limited request will be followed by further discussion and development of a comprehensive revised schedule, which would then supercede the preliminary extension, if granted by FERC. OPT is looking for support from the Coordinating Committee for their requested EOT. This letter is written on behalf of the state agencies on the Coordinating Committee (state agencies) in consultation with the Governor's office. Please note that the state agencies are expecting further stakeholder review of the schedule, and have not agreed to delay action items itemized in OPT's letter to FERC.

Several key members of the Coordinating Committee are currently reviewing OPT's EOT request, and plan to provide their recommendations to the full Coordinating Committee and OPT in the near future. These recommendations will likely require changes to the schedule before the state agencies will provide their support as requested by OPT. We acknowledge that implementation of the first buoy will not occur until 2016, as proposed by OPT to the Coordinating Committee, or for several years as stated by OPT in their motion to FERC. Because we are expecting a delay of several years, the state agencies are concerned about the status of the recently placed anchor, auxiliary subsurface buoy (ASB), and tendon line that are currently not necessary and may be a hazard to fish and wildlife. The state agencies have discussed the requested EOT and are willing to support the process to revise OPT's schedule in consultation with, and upon agreement by the settlement parties, if OPT meets the following conditions:

1. OPT removes the anchor, auxiliary subsurface buoy (ASB), and tendon line that were placed in September of 2012. It appears that OPT is a little over 3 years away from deploying a buoy. The state agencies require the equipment to be removed by the end of August, 2013.

2. OPT provides a report to the Coordinating Committee and to FERC detailing the analysis of the ASB failure. This report may be provided on a confidential basis, to the extent allowed by the public records law. The state agencies require that this analysis be completed prior to redeploying equipment at the site.
3. OPT meets the financial assurance requirement by attaining a bond or letter of credit. The Oregon Department of State Lands (DSL) is willing to discuss deferring the establishment of a bond or letter of credit until redeployment if OPT successfully removes all equipment from state-owned land by the end of August, 2013.

If these conditions are met, the state agencies will work with OPT to develop and approve a revised schedule for submission to FERC. In addition, DSL will consider amending OPT's Temporary Use Authorization (43010-OE) for a longer term. 43010-OE expires on April 30, 2017. OPT will likely need an extension of this authorization in order to complete required tests and studies. DSL may choose to revisit other terms and conditions at the time of amendment.

The state agencies will not support the requested EOT if OPT is unwilling to meet these conditions. In this scenario, it is the expectation of the state agencies that OPT will come into compliance with all of the current requirements of their FERC License, Settlement Agreement for Reedsport OPT Wave Park, FERC No. 12713, 43010-OE, and all applicable local, state and federal laws. Failure to comply with applicable rules, the terms and conditions of 43010-OE, or any other violations of laws covering the use of the authorized area will result in a default of 43010-OE. If this occurs, DSL will notify OPT of the default in writing and correction(s) will need to occur within a timeframe specified by DSL. If OPT fails to correct the default within the timeframe, DSL may modify or terminate 43010-OE and/or take other legal steps to address the default.

Please note that these are the required conditions of the state agencies. We suggest that OPT consult directly with other members of the Coordinating Committee (USFWS, NMFS, USFS, Oregon Shores, Surfrider, and SOORC) to understand their concerns.

Sincerely,



Mary M. Abrams, Ph.D.
Director

cc: FERC-Project 12713
Gabriela Goldfarb, Governor's Office
Mark Schumock, Oregon Department of Justice
Tim Wood, OPRD
Roy Elicker, ODFW
Jim Rue, DLCD
Lisa Schwartz, ODOE
Scott Brewen, OSMB
Phil Ward, OWRD
Dick Pederson, ODEQ