

the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

These deadlines may be extended by the Commission, but only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must; (1) Bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant, and the project number of the application, to which the filing pertains; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filings must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

**Magalie R. Salas,**  
Secretary.

[FR Doc. 02-7748 Filed 3-29-02; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 8361-037]

#### Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

March 26, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 8361-037.

c. *Date Filed:* March 8, 2002.

d. *Applicant:* Olsen Power Partners.

e. *Name of Project:* Belleville Hydroelectric Project.

f. *Location:* The project is located on Old Cow Creek in Shasta County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825"

Section 4.201 of the Commission's regulations.

h. *Applicant Contact:* Arthur Hagood; Synergics Energy Services, LLC, 191 Main Street, Annapolis, MD 21401; (410) 268-8820.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Thomas LoVullo at (202) 219-1168, or e-mail address: [thomas.lovullo@ferc.gov](mailto:thomas.lovullo@ferc.gov).

j. *Deadline for filing comments, motions to intervene and protests:* April 26, 2002.

All documents (an original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P-8361-037) on any comments or motions filed.

k. *Description of Request:* Olsen Power Partners (licensee) proposes to study, over a five-year period, the minimum flow released into the project's bypass reach and its effect on fishery resources. The current license requirement states that the licensee shall discharge from the project diversion, a continuous minimum flow of 30 cubic feet per second (cfs), or inflow to the project, whichever is less, for the protection of fish and wildlife resources in Old Cow Creek. The licensee stated that it believes the required minimum flow is set too high exceeding any necessary protection for the fishery and needlessly constraining generation. The licensee would like to reduce the minimum flow from 16 cfs during the first year of the study to 10 cfs for the next two years, followed by 5 cfs for the last two years of the study. The licensee indicated that at any time during the five year study, if and when impacts are detected, the continuation of the testing would be re-evaluated and a long term release flow recommendation developed.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208-1371. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene—* Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents—* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments—* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. *Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.gov> under the "e-Filing" link.*

**Magalie R. Salas,**  
Secretary.

[FR Doc. 02-7749 Filed 3-29-02; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 11541-000, Idaho]

#### Atlanta Power Station; Notice of Meeting

March 26, 2002.

A telephone conference will be convened by staff of the Office of Energy Projects on April 2, 2002, at 1 p.m. eastern standard time. It's a follow up meeting was necessary to further clarify our position on the relicensing process

for the Atlanta Power Station Hydroelectric Project.

Any person wishing to be included in the telephone conference should contact Gaylord W. Hoisington at (202) 219-2756 or e-mail at [gaylord.hoisington@ferc.fed.us](mailto:gaylord.hoisington@ferc.fed.us). Please notify Mr. Hoisington if you want to be included in the telephone conference.

**Magalie R. Salas,**

Secretary.

[FR Doc. 02-7747 Filed 3-29-02; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[HI02-01; FRL -7166-1]

### Notice of Deficiency for Clean Air Operating Permits Program; State of Hawaii

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of deficiency.

**SUMMARY:** Pursuant to its authority under section 502(i) of the Clean Air Act and the implementing regulations at 40 CFR 70.10(b)(1), EPA is publishing this notice of deficiency for the State of Hawaii's (Hawaii or State) Clean Air Act title V operating permits program, which is administered by the Hawaii Department of Health. The notice of deficiency is based upon EPA's finding that Hawaii's provisions for insignificant emissions units do not meet minimum Federal requirements for program approval. Publication of this notice is a prerequisite for withdrawal of Hawaii's title V program approval, but does not effect such withdrawal.

**EFFECTIVE DATE:** March 22, 2002.

Because this Notice of Deficiency is an adjudication and not a final rule, the Administrative Procedure Act's 30-day deferral of the effective date of a rule does not apply.

#### FOR FURTHER INFORMATION CONTACT:

Robert Baker, EPA, Region 9, Air Division (AIR-3), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3979.

#### SUPPLEMENTARY INFORMATION:

##### I. Description of Action

EPA is publishing a notice of deficiency for the Clean Air Act (CAA or Act) title V operating permits program for the State of Hawaii. This document is being published to satisfy 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a title V permitting authority is not

adequately administering or enforcing its title V operating permits program. The deficiency that is the subject of this notice relates to Hawaii's requirements for insignificant emissions units (IEUs) and applies to the State permitting authority that implements Hawaii's title V program.

##### A. Approval of Hawaii's Title V Program

The CAA requires all State and local permitting authorities to develop operating permits programs that meet the requirements of title V of the Act, 42 U.S.C. 7661-7661f, and its implementing regulations, 40 CFR part 70. Hawaii's operating permits program was submitted in response to this directive. EPA granted interim approval to Hawaii's air operating permits program on December 1, 1994 (59 FR 61549).

After Hawaii revised its program to address the conditions of the interim approval, EPA promulgated final full approval of Hawaii's title V operating permits program on November 26, 2001 (66 FR 62945).

##### B. Exemption of IEUs From Permit Content Requirements

Part 70 authorizes EPA to approve as part of a state program a list of insignificant activities and emission levels (IEUs) which need not be included in the permit application, provided that an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the EPA-approved schedule. *See* 40 CFR 70.5(c). Nothing in part 70, however, authorizes a state to exempt IEUs from the testing, monitoring, recordkeeping, reporting, or compliance certification requirements of 40 CFR 70.6.

Hawaii's regulations contain criteria for identifying IEUs. *See* HAR § 11-60.1-82(f) thru (g). Hawaii's regulations also require that the permit application include identification and description of all points of emissions and all applicable requirements. *See* HAR § 11-60.1-83. The Hawaii program, however, exempts IEUs from all permitting requirements including testing, monitoring, recordkeeping, reporting, and compliance certification requirements. *See* HAR § 11-60.1-82(e). Because part 70 does not exempt IEUs from the testing, monitoring, recordkeeping, reporting, and compliance certification requirements of 40 CFR 70.6, EPA has determined that Hawaii must revise its IEU regulations. The deficiency involving the provisions in the State's program that exempt insignificant activities from part

70 permitting requirements, came to light as a result of the court decision in *Western States Petroleum Association (WSPA) v. Environmental Protection Agency*, 87 F.3d 280 (9th Cir. 1996).

The court found in the WSPA case that EPA had acted inconsistently in its approval of the insignificant activities provisions in several part 70 programs, including the State of Hawaii's program. In order to address the inconsistencies identified by the Ninth Circuit, EPA is now notifying Hawaii that it must bring its IEU provisions into alignment with the requirements of part 70 and other State and Local title V programs or face withdrawal of its title V operating permits program.

##### C. Effect of Notice of Deficiency

Part 70 provides that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1). This section goes on to list a number of potential bases for program withdrawal, including the case where the permitting authority's legal authority no longer meets the requirements of part 70. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the notice be published in the **Federal Register**.

Today's notice satisfies this requirement and constitutes a finding of program deficiency. If the permitting authority has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after publication of a notice of deficiency, EPA may withdraw the State program, apply either of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a Federal title V program. 40 CFR 70.10(b)(2). Section 70.10(b)(3) provides that if a State has not corrected the deficiency within 18 months of the finding of deficiency, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. Upon EPA action, the sanctions will go into effect unless the State has corrected the deficiencies identified in this notice within 18 months after signature of this notice. In addition, section 70.10(b)(4) provides that, if the State has not corrected the deficiency within 18 months after the date of notice of deficiency, EPA must promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.