



[www.americanwhitewater.org](http://www.americanwhitewater.org)

Megan Hooker  
Associate Stewardship Director  
Bend, OR 97701

541-728-0849  
[megan@americanwhitewater.org](mailto:megan@americanwhitewater.org)

December 8, 2014

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

Electronic Filing

Re: Talkeetna River Dam Hydroelectric Project (P-14636), Talkeetna River,  
Matanuska-Susitna Borough, Alaska – Motion to Intervene and Comment

Dear Ms. Bose:

Enclosed for filing in the above referenced proceeding is **American Whitewater's Motion to Intervene** in Glacial Energy, LLC's application for a preliminary permit for the Talkeetna River Dam Hydroelectric Project on the Talkeetna River, Alaska (P-14636). This letter is in response to FERC's October 7, 2014 *Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications*.

Copies of this filing have been served on all parties of record to this proceeding. Thank you for the opportunity to provide comments on this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Megan Hooker', with a long, sweeping horizontal line extending to the right.

Megan Hooker  
Associate Stewardship Director

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>Talkeetna River Dam Hydroelectric Project</b>  <b>Glacial Energy, LLC</b>	<b>FERC Project No. 14636</b>
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**MOTION TO INTEREVE NE AND COMMENT OF AMERICAN WHITEWATER  
IN GLACIAL ENERGY, LLC’S TALKEETNA RIVER DAM  
HYDROELECTRIC PROJECT (P-14636)**

(Submitted December 8, 2014)

**I. INTRODUCTION**

Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212 and § 385.214, and in response to FERC’s October 7, 2014 *Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications*,<sup>1</sup> American Whitewater hereby requests leave to intervene as a party in the proceeding for Glacial Energy, LLC’s (“Glacial Energy” or “applicant”) proposal to construct and operate the Talkeetna River Dam Hydroelectric Project (FERC No. 14636), located on the Talkeetna River near Talkeetna in the Matanuska-Susitna Borough, Alaska.

**II. IDENTITY OF INTERVENORS**

American Whitewater is a 501(c)(3) non-profit organization with a mission to conserve and protect America’s whitewater resources and enhance opportunities to enjoy them safely. Founded in 1954, American Whitewater has over 5,600 members and 100 locally-based affiliate clubs, representing the conservation interests of whitewater

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<sup>1</sup> FERC eLibrary Accession No. 20141007-3031.

enthusiasts across the nation. American Whitewater's members live in and travel to Alaska to enjoy the state's wilderness whitewater runs, including the Talkeetna River.

Service of process and other communications should be made via electronic service only to:

Thomas O'Keefe  
American Whitewater  
Pacific Northwest Stewardship Director  
3537 NE 87th St.  
Seattle, WA 98115-3639  
Phone: 425-417-9012  
Email: okeefe@americanwhitewater.org

### **III. GROUNDS FOR INTERVENTION**

Intervention by American Whitewater is in the public interest as required by 18 C.F.R. §385.214(b)(2)(iii). American Whitewater has significant undeniable interests in the preservation of the natural and recreational resources of the Talkeetna River. No other party to the proceeding will be able to adequately represent those interests, and therefore, American Whitewater has a direct and substantial interest in the outcome of this proceeding.

### **IV. BACKGROUND**

The Talkeetna River in Alaska is a major tributary of the Susitna River, flowing in the shadow of Denali National Park. The Talkeetna River is well known for sportfishing and whitewater recreation,<sup>2</sup> and is a treasured resource for local residents and popular with visitors from around the world. The community of Talkeetna is a short driving distance from the international airport in Anchorage, and is the entry point for the vast wilderness of the Talkeetna River watershed and spectacular opportunities for backcountry recreation.

On September 19, 2014, Glacial Energy filed a preliminary permit application for a proposed hydropower project on the Talkeetna River. On September 30 2014, in response to a request for more information from FERC, Glacial Energy submitted an

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<sup>2</sup> For more information about whitewater recreation on the Talkeetna River, visit American Whitewater's river database: <http://www.americanwhitewater.org/content/River/detail/id/47/>.

amended application. On October 7, 2014, the Commission submitted public notice of the application and solicited comments, motions to intervene and competing applications.

Glacial Energy proposes to build a hydropower project consisting of a dam, spillway, penstock, and a powerhouse at river mile 23 on the Talkeetna River. The applicant proposes to construct a dam that, if approved, will be approximately 2,300 feet long and 370 feet high. The elevation at the top of the dam will be at approximately 970 feet elevation, with a top flood control pool of approximately 960 feet and normal pool operation ranging between 800 feet and 920 feet. The dam is proposed to be located approximately 1,350 feet northwest of the proposed powerhouse. The penstock is proposed to be constructed of steel and is anticipated to be 12 feet in diameter and 2,700 feet long.

## **V. STATEMENT OF POSITION AND COMMENTS**

American Whitewater seeks to participate in these proceedings to ensure that the non-power values of the Talkeetna River are protected, with particular interest in whitewater recreation values. The Talkeetna River has been described as “one of the premier stretches of whitewater in North America,”<sup>3</sup> offering a stunning backcountry wilderness experience on a pristine river system.

### **A. Whitewater Recreation and the Talkeetna River**

The Sustina Basin Recreation Rivers Management Plan (“Management Plan”) recognizes the value of the Talkeetna River Canyon for whitewater recreation. The management intent for the Talkeetna River Canyon, as outlined by the Management Plan, is for “high quality” whitewater recreation opportunities.<sup>4</sup> These recreational opportunities are well known to paddlers from around the world. They visit the Talkeetna River specifically to experience a multi-day river trip on some of the most continuous sections of intermediate to advanced whitewater in the United States. The applicant proposes to construct the dam in the scenic canyon just downstream of the confluence of

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<sup>3</sup> Sustina Basin Recreation Rivers Management Plan, Alaska Department of Natural Resources, Division of Land & Resources Section, and Alaska Department of Fish and Game, 1991, page 3-46. Available at: <http://dnr.alaska.gov/mlw/planning/mgtplans/susitna/>, last visited December 3, 2014.

<sup>4</sup> *Id.* at page 3-47.

Disappointment Creek. The proposed reservoir would flood 4,454 acres and extend upstream above the confluence of Iron Creek. The project would destroy the last section of whitewater on the run and a fun play spot and camping area that many groups use for their last night on the river at the mouth of Disappointment Creek. The 120-foot operating range of the reservoir would destroy riparian habitat and create a moonscape where the shoreline would be subjected to massive fluctuations in reservoir elevation. Additionally, the project will have a negative impact on the downstream run, which consists of a mellower, Class I-II river experience. Incredibly, the developer describes the reservoir as a "recreation benefit to the public" in the permit application and fails to mention the major impacts to existing recreational uses, which include backcountry whitewater boating and salmon fishing.

## **B. Deficiencies in the Preliminary Permit Application**

As outlined below, Glacial Energy's Preliminary Permit application is deficient and not in the public interest. FERC should therefore deny the Preliminary Permit.

### **1. Study Plans**

Under 18 C.F.R. §4.81(c)(1)(i), Glacial Energy is required to provide a study plan with a description of studies conducted or to be conducted that help to determine the "technical, economical, and financial feasibility of the proposed project, taking into consideration its environmental impacts, and of preparing an application for a license for the project." The application fails to list studies that will determine the economic and financial feasibility of the proposed project, as well as those that will assess the hydrology, geomorphology, recreational, aesthetic, subsistence, socioeconomic, transportation and public safety values.

Further, 18 C.F.R. §4.81(c)(4)(i) requires the applicant to provide a statement of costs and financing related to carrying out or preparing the studies, investigations, tests, surveys, maps, plans or specifications. The applicant has failed to provide a realistic cost estimate of the studies, claiming that they will only cost \$3-\$5 million. Studies for new hydropower projects in remote areas, as are currently being completed on the proposed Susitna-Watana Hydroelectric Project (FERC Project No. 14241), are closer to \$100

million. This is a more likely figure for studying the feasibility of constructing the Talkeetna Project.

Additionally, 18 C.F.R. §4.81(c)(1)(i) requires that the applicant describe the approximate locations and nature of any new roads that would be built for the purpose of conducting studies. The applicant asserts that no new roads will need to be built to conduct the studies. There are currently no roads to the proposed dam site, nor are there trails. The nearest trail is the Talkeetna River Recreation Trail, which ends at Sheep Creek, approximately 8.5 miles downstream of the proposed dam site. The applicant describes the need for engineering studies that will include soils, test pits and core holes to determine the feasibility of the site. Conducting these studies and other required studies without road access, within the estimated budget for studies, is unrealistic.

## **2. Construction Work Plan and Schedule**

The applicant is required under 18 C.F.R. §4.81(c)(2) to include a work plan and schedule for new dam construction in Exhibit 2. This description is to include:

- (i) *A description, including the approximate location, of any field study, test, or other activity that may alter or disturb lands or waters in the vicinity of the proposed project, including floodplains and wetlands; measures that would be taken to minimize any such disturbance; and measures that would be taken to restore the altered or disturbed areas; and*
- (ii) *A proposed schedule (a chart or graph may be used), the total duration of which does not exceed the proposed term of the permit, showing the intervals at which the studies, investigations, tests, and surveys, identified under this paragraph are proposed to be completed.*
- (iii) *For purposes of this paragraph, new dam construction means any dam construction the studies for which would require test pits, borings, or other foundation exploration in the field.*

The applicant fails to provide a work plan and schedule in the application. Instead, they state that they do not anticipate studies or tests that will disturb or alter the environment, which is unrealistic given the nature of the engineering studies described by the applicant. Additionally, the applicant only provides a description of the project works, capacity and reservoir, and states that it will provide a work plan and schedule at a later date.

Under 18 C.F.R. § 4.32(e), the applicant's preliminary permit application fails to conform adequately to the requirements of § 4.32(a), (b) and (c) because information has been omitted. Accordingly, we request that FERC deny the preliminary permit application.

### **C. The Talkeetna River is a State Recreation River**

In 1988, the Alaska State Legislature passed the Recreation Rivers Act,<sup>5</sup> designating the Talkeetna River and Clear (Chunilna) Creek as Recreation Rivers.<sup>6</sup> The Talkeetna River Management Unit extends 44.5 miles from the confluence with the Susitna River to the Upper Talkeetna River Canyon, and includes 9.5 miles of Chunilna Creek, and the mouths of Sheep River, Iron Creek, Disappointment Creek and Larson Creek.

Under AS 41.22.440, the Alaska Department of Natural Resources developed a management plan for the Susitna Basin Recreation Rivers Management Plan. The plan outlines area-wide land and water management policies for shoreline development. Section 41.23.440(2) directs the plan to “develop long-range guidelines and management priorities to ‘protect, maintain, or enhance the free flowing nature of the river.’” Accordingly, the plan prohibits dams on the main stem of the Talkeetna and its major tributaries.<sup>7</sup>

### **D. The Proposed Project Is Inconsistent with a §10(a)(2)(A) Comprehensive Plan**

Section 10(a)(2)(A) of the Federal Power Act (FPA) (16 U.S.C. § 803 (a)(2)(A)) specifically requires the Commission to consider:

*“the extent to which [a] project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected the project that is prepared by (i) an agency established pursuant to Federal law that has the authority to prepare such a plan; or (ii) the State in which the facility is or will be located.”*

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<sup>5</sup> AS 41.23.400–41.23.510.

<sup>6</sup> AS 41.23.500. The Act also designated the Little Susitna River, Deshka River, Lake Creek, Talachulitna River and Alexander Creek as Recreation Rivers.

<sup>7</sup> Susitna Basin Recreation Rivers Management Plan, p. 2-14.

FERC states on its website that under Order No. 481-A, it “will accord FPA section 10(a)(2)(A) comprehensive plan status to any Federal or state plan that: (1) is a comprehensive study of one or more of the beneficial uses of a waterway or waterways; (2) specifies the standards, the data, and the methodology used; and (3) is filed with the Secretary of the Commission.”<sup>8</sup>

The Susitna Basin Recreation Rivers Management Plan is a plan that meets these criteria, and is listed in FERC’s June 2014 list of Comprehensive Plans.<sup>9</sup> The proposed project in Glacial Energy’s Preliminary Permit is plainly inconsistent with the Susitna Basin Recreation Rivers Management Plan, which, as outlined above, prohibits dams and prioritizes protecting, maintaining and enhancing the free flowing nature of the river.

American Whitewater understands that Section 10(a)(2)(A) of the Federal Power Act deals with the Commission’s authority to issue licenses for hydroelectric projects and does not similarly constrain its authority to issue preliminary permits. We also understand that the Commission typically considers it premature to address environmental and resource issues at the preliminary permit application stage, instead deferring those issues to be dealt with during the licensing. However, the Commission itself has acknowledged its considerable discretion in choosing whether or not to grant a preliminary permit, noting that “nothing in the Federal Power Act requires the Commission to issue a preliminary permit; whether to do so is a matter solely within the Commission’s discretion.”<sup>10</sup> The Commission has declined to issue preliminary permits on a number of occasions based on a determination on the merits of the individual case that issuance of a permit would not be in the public interest.<sup>11</sup>

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<sup>8</sup> <http://www.ferc.gov/industries/hydropower/gen-info/comp-plans.asp>, last visited December 3, 2014.

<sup>9</sup> Available at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/complan.pdf>, last visited November 26, 2014.

<sup>10</sup> See Preliminary Permits for Wave, Current, and Instream New Technology Hydropower Projects (Docket No. RM07-8-000). Notice of Inquiry and Interim Statement of Policy (Accession No. 20070215-3073).

<sup>11</sup> See *Appalachian Rivers Resource Enhancement*, 113 FERC ¶ 61,043, where FERC determined that the issuance of a preliminary permit would be contrary to the public interest because based on its determination that the applicant was unfit to be awarded a license: “Our general policy is to issue a preliminary permit unless there is a permanent legal bar to granting a license application. We may, however, make exceptions to established policies if we articulate a rational basis for doing so.” See also *Symbiotics, L.L.C. v. FERC*, 110 Fed. Appx. 76; 2004 U.S. App. LEXIS 19596 (9th Cir. 2004), which affirmed the Commission’s authority to deny a preliminary permit in a case where the Commission had previously issued an environmental document which found unmitigatable adverse environmental impacts and no evidence of



## VI. CONCLUSION

WHEREFORE, American Whitewater has a substantial interest in these proceedings, and no other party would adequately represent our interests, American Whitewater respectfully, through this Motion to Intervene, requests intervention in the above referenced proceeding. Further, due to the deficiencies in the application, and the fact that the proposal is inconsistent with a comprehensive plan, we request that FERC make a public interest determination and deny the preliminary permit application.

Respectfully Submitted,



Thomas O'Keefe  
American Whitewater  
Pacific Northwest Stewardship Director



Megan Hooker  
American Whitewater  
Associate Stewardship Director

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changed circumstances.

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>Talkeetna River Dam Hydroelectric Project Glacial Energy, LLC</b>	<b>FERC Project No. 14636</b>
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**CERTIFICATE OF SERVICE**

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day caused the foregoing **American Whitewater's Motion to Intervene in the Talkeetna River Dam Hydroelectric Project (P-14636)** to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 8th day of December 2014.



Megan Hooker  
American Whitewater

Document Content(s)

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