



# Choctaw Nation of Oklahoma

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Gary Batton  
*Chief*

Jack Austin, Jr.  
*Assistant Chief*

July 3, 2024

Via electronic filing  
Via FedEx Overnight

Debbie-Anne Reese, Acting Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A,  
Washington, DC 20426

RE: Tribal Consultation for Project No. 14890-005 Oklahoma and Texas Pushmataha County Pumped Storage Project Southeast Oklahoma Power Corporation, LLC

Dear Acting Secretary Reese:

The Choctaw Nation of Oklahoma (“Choctaw Nation”) received a letter from the Federal Energy Regulatory Commission (“FERC”) dated June 6, 2024. This response is to notify FERC that meaningful participation by the Choctaw Nation in the license application process for this project is vital. The project is located within the Choctaw Nation reservation. The Choctaw Nation is a federally recognized sovereign nation with rights and obligations to protect our homeland, including cultural and ecological resources, and community. The United States also has trust responsibilities to ensure our sovereign treaty rights are respected and protected. The Choctaw Nation is committed to the sustainable use and protection of our natural resources within the reservation. After reviewing and evaluating all aspects of the Southeast Oklahoma Power Corporation’s (SEOPC) Hydropower project and subsequent FERC pre-application document (PAD) and notice of intent (NOI), we oppose this project.

The Choctaw Nation of Oklahoma has entered into a historic Water Settlement Agreement (“WSA”) with the State of Oklahoma, as per Pub. L. No. 114-322, 1303 Stat. 1796, (2016). The SEOPC project contradicts the WSA, and FERC must understand the ramifications this project would have on the WSA if it were to be approved. It is essential as the applicant has failed to consider the impact the project would have on the WSA. As a result, the representatives of the Choctaw Nation request consultation with FERC staff before the agency takes any further action towards the licensure of the project.

The WSA includes provisions directly related to the Kiamichi River and this project. The WSA resulted from years of negotiation recognizing the Choctaw Nation’s treaties, addressing ecological concerns, and establishing management principles related to the release and reserves of water in the Kiamichi Basin. The WSA also addressed concerns regarding endangered mussels,


which are culturally significant to the Choctaw Nation and are federally protected. These provisions are now enforceable under federal law. For additional details, refer to the Notice issued by the United States Department of the Interior in the Statement of Findings: *Choctaw Nation of Oklahoma and the Chickasaw Nation Water Rights Settlement*, 89 Fed. Reg. 14,669 (Feb. 28, 2024). Numerous historical sites within the project area will require additional information and necessitate a review of the impact of this project.

This project will be subject to numerous regulations and laws, including protections under the WSA, the Endangered Species Act, the National Historic Preservation Act, and others. Due to these complexities, we request that FERC assign staff to work directly with the Choctaw Nation throughout this process. The complexities involved will require sharing information with the Choctaw Nation as multiple internal departments study the project's impact, followed by extensive studies, and meetings with numerous state and federal agencies to understand the project's impact, and having assigned FERC staff will help ensure that the Choctaw Nation's concerns and rights are addressed timely and efficiently. Additionally, the assigned staff will facilitate sharing information between the Choctaw Nation and SEOPC, which has been inconsistent and insufficient thus far.

The Choctaw Nation is encouraged by FERC's new policy of not issuing preliminary permits for projects on Tribal land if opposed by the Tribe. Consequently, out of respect for the Choctaw Nation, in deference to the Choctaw Nation, we request FERC revoke the preliminary permit issued on April 10, 2019, and an extension granted on April 7, 2023.

In conclusion, the Choctaw Nation is committed to participating in the license application review process. Our top priority is to protect our environment, culture, and community. We request that all communications be directed to Ahndria Ablett, Water Resources Director for the Choctaw Nation of Oklahoma, at [aablett@choctawnation.com](mailto:aablett@choctawnation.com). Yakoke (thank you) for your attention to this important matter and we look forward to meeting with FERC representatives soon.

Sincerely,

DocuSigned by:  
  
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Gary Batton, Chief  
Choctaw Nation of Oklahoma

Cc: Catherine Roberts