

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

Elsinore Valley Municipal Water District)
and the Nevada Hydro Company, Inc.)
)
Lake Elsinore Advance Pump Storage)
Project – Application of License of)
Major Unconstructed Project)
)

Docket No. P-11858-002

**MOTION TO INTERVENE BY FRIESIAN FOCUS, LLC,
THE FERNANDEZ TRUST, AND JOSEPH AND JOAN FERNANDEZ**

Pursuant to Rules 212 and 214, 18 C.F.R. §§ 385.212, 385.214, of the Federal Energy Regulatory Commission’s (“FERC”) Rules of Practice and Procedure, as well as 18 C.F.R. § 380.10(a), Friesian Focus, LLC, the Fernandez Trust, and Joseph and Joan Fernandez (collectively “Fernandez Parties”) submit this motion to intervene on the basis of the Draft Environmental Impact Statement (“DEIS”) concerning the License Application submitted in the above-captioned proceeding by the Elsinore Valley Municipal Water District and the Nevada Hydro Company, Inc. for the Lake Elsinore Advanced Pumped Storage Project (the “LEAPS project”). For the reasons discussed below, the Fernandez Parties seek to intervene in order to comment on the LEAPS project DEIS and protect the affected environment as well as their direct and substantial interests in certain private real property and related business interests located in Riverside County that are likely to be adversely affected by the LEAPS project. In support thereof, the Fernandez Parties state as follows:

I. COMMUNICATIONS

Please address all communications concerning this proceeding to the following persons:

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II. BACKGROUND

On February 2, 2004, the Elsinore Valley Municipal Water District and the Nevada Hydro Company, Inc. filed an application for an original hydropower license with FERC to construct and operate the LEAPS project. The LEAPS project, which is proposed to be located on Lake Elsinore and adjacent public and private lands in and around the city of Lake Elsinore in Riverside County, California, consists of: an upper dam and reservoir in the mountains to the west of Lake Elsinore capable of storing 5,750 acre-feet of water; two parallel high-pressure water conduits running from the upper reservoir straight down into the earth in a concrete-lined power shaft leading to a tunnel which transitions to a 12-foot diameter steel penstock; an underground powerhouse containing two reversible pump-turbine units capable of generating 500 megawatts of electricity; two 20-foot-wide and 20-foot-high concrete-lined tailrace tunnels extending from the underground powerhouse 2000 feet to the submerged bed of Lake Elsinore; a 25 to 50 acre surface switchyard/substation; approximately 30 miles of 500-kV transmission lines connecting the project to existing transmission lines to the north and south of the powerhouse; as well as other appurtenant facilities.

On January 25, 2005, FERC issued a document entitled "Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests" ("Notice"), providing basic project and contact information, including information regarding how and when protests and motions to intervene could be filed.

In March 2005, Friesian Focus, LLC purchased an approximately 40 acre parcel (APN 932-030-018) located at 43975 Tenaja Road, Riverside, CA 92562, for \$2.2 million, which Joseph and Joan Fernandez are currently in the process of developing as a residence and business with a primary house, guest house and pool, various corrals and a twelve-stall barn and office complex needed to import, keep and breed rare Friesian horses in connection with their successful business (Friesian Focus, LLC). The property is managed by the Fernandez Trust, which is the managing member of Friesian Focus, LLC.

In February 2006, FERC released the DEIS for the LEAPS project, inviting state and federal agencies as well as the general public to review and comment on the adequacy of that document's review of the LEAPS project's environmental impacts by April 25, 2006.

Thereafter, FERC must evaluate all comments received and prepare a Final Environmental Impact Statement in compliance with the National Environmental Policy Act ("NEPA") before taking any action on the license application.

When the Fernandez Parties were in the process of purchasing the 40-acre parcel at 43975 Tenaja Road, neither the previous owner nor their realtor or escrow agent informed them of the existence of the LEAPS project, let alone the fact that it proposed nearly 30 miles of new 500-kV transmission lines, some of which are proposed to run directly along the entirety of the property's southern boundary under one of the LEAPS project's proposed alternatives. In fact, none of the Fernandez Parties became aware of the LEAPS project or its proposed placement of high voltage transmission lines directly adjacent to the property until approximately February 20, 2006, when neighbors informed Joseph and Joan Fernandez about the LEAPS project and gave them a copy of FERC's Draft Environmental Impact Statement.

Due to this complete lack of earlier notice, the Fernandez Parties were unaware of the LEAPS project and the January 2005 Notice which, *inter alia*, invited parties to file motions to intervene by March 26, 2005. As soon as they became aware of the project last month, the Fernandez Parties moved quickly to investigate the project and hire legal counsel in order to seek party status in this proceeding, effectively comment on the LEAPS project and its environmental and other impacts and protect their personal and property interests that are potentially impacted by the project.

III. STATEMENT OF INTEREST AND MOTION TO INTERVENE

Pursuant to Rule 214, "any person" who "has or represents an interest which may be directly affected by the outcome of the proceeding" has the right to file a motion to intervene. 18 C.F.R. § 385.214(b)(2)(ii). While the initial intervention period noted in the Notice has expired, this motion is timely pursuant to FERC's regulations regarding participation in FERC proceedings involving NEPA-related documents like the DEIS at issue herein because it is being

submitted on the basis of the DEIS and during the public comment period thereon which runs through April 25, 2006. Specifically, this motion is timely pursuant to 18 C.F.R. § 380.10(a), which states:

(a) *Intervention proceedings involving a party or parties – (1) Motion to intervene.* (i) In addition to submitting comments on the NEPA process and NEPA related documents, any person may file a motion to intervene in a Commission proceeding dealing with environmental issues under the terms of § 385.214 of this chapter. Any person who files a motion to intervene on the basis of a draft environmental impact statement will be deemed to have filed a timely motion, in accordance with § 385.214, as long as the motion is filed within the comment period for the draft environmental impact statement.

As noted above, the Fernandez Parties have both property and business interests in the 40-acre parcel located at 43975 Tenaja Road, Riverside, CA 92562. Joseph and Joan Fernandez intend to make this property their permanent home, and are currently in the process of remodeling and developing houses, barns and other structures on the property to expand their business of importing, breeding and selling rare Friesian horses from Holland. The Fernandez Parties are committed to reintroducing the Friesian breed back into the United States, after a 30 year absence, and to that end specialize in developing and providing Friesians for driving and saddle seat riding in competitive horse shows across the country.

Given their considerable investment in and personal and business plans for the property, and the fact that it is located in a pristine area of Riverside County adjacent to the Cleveland National Forest, the Fernandez Parties are concerned that the placement of towers and high voltage transmission lines directly adjacent to their property will negatively impact the surrounding environment and natural resources, adversely affect their personal health, safety and wellbeing along with that of their rare horses, business clients and other guests, and adversely physically affect and diminish the value of their investment and business. Indeed, under one LEAPS project alternative, high voltage transmission lines are proposed to run along the approximately half-mile length of their southern property boundary, raising concerns regarding fire safety, aesthetic, and electromagnetic field (“EMFs”) impacts to the property’s occupants, including rare Friesian horses and humans. For these reasons, *inter alia*, the Fernandez Parties

have a direct and substantial interest in this proceeding that is not, and cannot be, adequately represented by any other party.

The Fernandez Parties have made a substantial investment in their subject property, purchasing it for \$2.2 million in 2005; and presently have pending development applications with the County of Riverside in furtherance of their personal and business plans for the property. Because the LEAPS project is still in its initial stage of environmental review under the NEPA, granting the Fernandez Parties' instant timely motion to intervene will not only serve to protect their substantial interests, but would cause no disruption to either the environmental review process or the FERC licensing proceeding, nor would it prejudice or burden any other party to this proceeding. Indeed, the Fernandez Parties intend to continue their review of the DEIS and provide detailed comments thereon within the comment period.

IV. CONCLUSION

For the forgoing reasons, Friesian Focus, LLC, the Fernandez Trust and Joseph and Joan Fernandez respectfully move the Federal Energy Regulatory Commission to intervene in this proceeding and request that each be accorded all rights and privileges of full parties thereto.

Dated: March 29, 2006

Respectfully submitted,

MILLER, STARR & REGALIA

By: /s/ Arthur F. Coon

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FRIESIAN FOCUS LLC, THE
FERNANDEZ TRUST AND JOSEPH
AND JOAN FERNANDEZ

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Walnut Creek, California this 29th day of March, 2006.

/s/Josephine Velazquez
Josephine Velazquez

Submission Contents

Motion To Intervene By Friesian Focus, LLC, The Fernandez Trust, And Joseph And Joan Fernandez
MotiontoIntervene.pdf..... 1-6