

2/11/2015

Wallowa Valley Improvement District
63119 Marks Rd.
Joseph, OR 97846

Re: Letter of Intent – Sheep Creek Hydro Project

Dear Executive Board

Sheep Creek Hydro, LLC (“SCH”) and Wallowa Valley Improvement District (“WVID”) have discussed SCH’s possible leasing of the old power house (the “Land”) and use of the WVID water flow through a hydro-electric generator for development of a small- scale hydroelectric plant (“Project”). It is the intent of both parties to capture the renewable energy potential, and resulting financial benefits existing on the WVID ditch, and generate those benefits back to the WVID and SCH as well as create jobs in the community and additional tax revenue to the County. SCH and Landowner understand that pursuit of third-party agreements and approvals, additional negotiations and due diligence, as well as evaluations are required. Neither party will be bound to proceed with a lease transaction until a definitive lease agreement (“**Definitive Agreement**”) is negotiated and executed.

However, execution of this agreement signifies the clear intent of both parties to enter into a long-term lease agreement, and execution of that Definitive Agreement will not be unreasonably withheld. To facilitate the pursuit of those third-party agreements and approvals and the additional negotiations, due diligence, and evaluations, the parties wish to enter into this letter of intent.

- **Negotiations.** SCH and Landowner shall proceed in good faith to negotiate, prepare and execute the Definitive Agreement not later than that date (the “**Expiration Date**”) which is 360 days after the date of this letter. SCH currently envisions being able to offer the Landowner the following terms, in a 20 year Agreement:
 - 3% of Gross Revenue for the first 10 years of operation, or until the underlying debt assumed by SCH is paid off- whichever is sooner.
 - 10% of Gross Revenue thereafter.
 - An attractive lease rate for the powerhouse property if the Landowner owns it.
 - An additional \$3,000/year payment for services provided by WVID in cooperation with SHP to maintain flows through the hydro plant, with a 2% annual escalation.
 - All project financing, including equity, debt and grant financing will be born in their entirety by Sheep Creek Hydro, LLC and its members. No liens will be placed on WVID property or members.

SCH confirms that the project will not impact water management by WVID, and will not impede or interrupt flows through the ditch to downstream irrigators.

- **SHP Activities.** During the Term (defined below) of this letter of intent, SCH will commence and continue in good faith the pursuit of certain third-party applications, negotiations, agreements and approvals that SCH deems necessary or desirable for development of the Project (collectively, “**Entitlements**”) and its due diligence, studies and evaluations (collectively, “**Review**”) of the Land, the Project and any entitlements

that SCH may obtain.

- **Cooperation and Access.** During the Term of this letter of intent, upon request of SCH, WVID shall use commercially reasonable efforts to cooperate with and assist SHP in SCH's pursuit of Entitlements and in the conduct of SCH's Review. Among other things, during the Term, WVID shall give SCH and its agents and contractors full access to the Land upon reasonable prior notice. Entitlements may include, without limitation, power purchase agreements, interconnection agreements, financing commitments and land use approvals. Review may include, without limitation, preliminary system design, preliminary transmission capacity review, preliminary development cost estimates, financial feasibility analysis, environmental assessments and title examinations. Before and after the Expiration Date, to the fullest extent permitted by applicable law, and except as may otherwise be agreed in the Definitive Agreement, SCH shall retain all rights to (a) any Review materials created or obtained by SCH and (b) any Entitlements obtained by SCH including, without limitation, any pricing arrangements with power purchasers and the priority of any applications for interconnection.
- **Exclusivity.** During the Term, WVID shall not negotiate with any party other than SCH to do any of the following (collectively, "**Prohibited Acts**"): (a) sell or lease or otherwise transfer any portion of the Land or any interest therein; or (b) allow development on any portion of the Land of a Project or any other improvements that could interfere with a Project. During the Term, Landowner shall also not (x) do any Prohibited Acts, (y) offer to anyone other than SCH to do any Prohibited Acts, or (z) solicit or accept any offers, from anyone other than SCH, requiring WVID to do any Prohibited Acts.
- **Expenses.** SCH shall be responsible for all expenses that SCH may incur in pursuit of Entitlements and in the conduct of its Review. Absent a material breach by WVID under this Letter of Intent, SCH shall have no claim to reimbursement from Landowner for any such expenses.
- **Termination.** The term of this letter agreement (the "**Term**") shall commence upon the full execution of this letter agreement and continue until terminated as follows:
 - By SCH, for convenience and without cause, at any time, if it determines in good faith that it will not proceed with a Project on any portion of the Land, effective upon written notice to WVID;
 - By either party if the Definitive Agreement has not been executed on or before the Expiration Date, effective immediately upon delivery of written notice to the other party.
- **General.**
 - Except for the provisions of Section 4 (Exclusivity), Section 5 (Expenses), Section 6 (Termination) and this Section 7 (General), which are binding on the parties, the parties understand that this letter is a letter of intent only and does not constitute a binding agreement, shall not form the basis for an agreement by estoppel or otherwise and is conditioned upon the negotiation and execution of a mutually satisfactory Definitive Agreement. Each party shall be responsible for its own expenses in negotiating the Definitive Agreement. Any actions taken by a party in reliance on the non-binding terms expressed in this letter or on any statements made during the negotiations under this letter shall be at that party's own risk. Until the Definitive Agreement is executed, no party shall have any other legal

obligations, expressed or implied, or arising in any other manner under this letter or in the course of negotiations, except as expressly stated in Sections 4, 5, 6, and 7 of this letter of intent

- This letter of intent shall be construed in accordance with the internal laws of the State of Oregon, without regard to conflicts of laws principles.
- This letter of intent is not intended to confer any benefit on any third parties, except that SCH's agents and contractors shall have the benefit of WVID's agreement to provide access to the Land.
- This letter of intent may be executed in counterparts each of which shall be considered an original of this letter of intent and copies of any executed counterpart delivered by electronic transmission (e.g., email or fax) shall have the same effect as physical delivery of an original counterpart.

If the provisions of this letter of intent are acceptable to you, please so indicate by the signing of this letter and returning it to me.

Very truly yours,

Sheep Creek Hvdro. LLC

By _____
Louis Perrv. Managing Member

AGREED, this ____ day of _____, 20__.

Wallowa Valley Improvement District

By: _____

Name: _____ Title: _____

By: _____

Name: _____ Title: _____

By: _____

Name: _____ Title: _____