

CRESCENT PROJECT

LIHI APPLICATION

ATTACHMENT #6

ORDER GRANTING EXEMPTION FROM LICENSE

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

- 2 -

Texon, Inc.)

Project No. 2986-001

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS

(Issued May 11, 1982)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U. S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2 included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

The Crescent Mills Dam is classified as a significant hazard dam. A failure of the dam could result in property damage and loss of life downstream. Article 6, included in this exemption, requires that an Emergency Action Plan be filed.

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- 1/ Texon, Inc., Project No. 2986, filed on November 27, 1981.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
- 3/ Authority to act on this matter is delegated to the Deputy Director, Office of Electric Power Regulation under §375.308 of the Commission's regulations 45 Fed. Reg. 21216 (1980), as amended by Order No. 112 in Docket No. RM81-5, issued November 21, 1980, (45 Fed. Reg. 79024).

DC-A-17

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

It is ordered that:

(A) Texon Hydro Project No. 2986 as described and designated in Texon, Inc.'s application filed on November 27, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations attached hereto as Form E-2, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980), and the following Special Article.

Article 6. This exemption is subject to the following provisions of 18 C.F.R., Part 12:

(1) Subpart C - Emergency Action Plans

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d)(1981), as amended, 44 Fed. Reg. 46449 (1981). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission.


Robert E. Cackowski
Deputy Director, Office of
Electric Power Regulation

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Project No. 2986-001

- 2 -

Texon, Inc.

Project No. 2986-001

NOTICE OF APPLICATION FOR EXEMPTION FOR SMALL
HYDROELECTRIC POWER PROJECT UNDER 5 MW CAPACITY
(January 25, 1982)

Take notice that on November 27, 1981, Texon, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. This application was filed during the term of the Applicant's preliminary permit for Project No. 2986. The proposed small hydroelectric project, Project No. 2986, would be located on the Westfield River in the County of Hampden, Massachusetts. Correspondence with the Applicant should be directed to: Texon, Inc., Canal Street, South Hadley, Massachusetts 01075. Attention: Mr. Irving Quimby, Senior Vice President.

Project Description - The proposed project would be run-of-the-river and would consist of: (1) an existing gravity dam, 250 feet long and 12 feet high, constructed of stone blocks and concrete with a spillway at the right abutment and provision for 3-foot high flashboards; (2) a reservoir having minimal pondage; (3) an existing gated intake structure, forebay and channel leading to (4) a powerhouse to be renovated and equipped with two new turbine-generator units having a total rated capacity of 1,650 kW; (5) a restored tailrace; (6) existing transmission lines and a substation; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,500,000 kWh. Project energy would be sold to the Western Massachusetts Electric Company.

Purpose of Exemption - An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments - The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Massachusetts Division of Fisheries and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific

terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications - Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before **MAR 10 1982**, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. §4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. §4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene - Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §1.8 or §1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before **MAR 10 1982**.

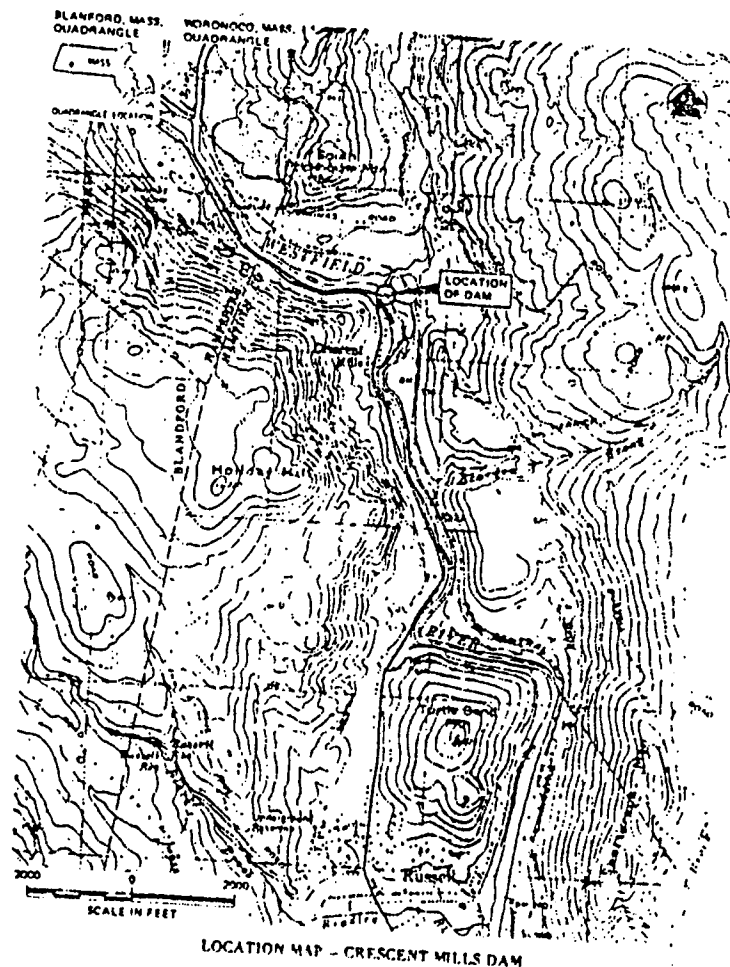
Filing and Service of Responsive Documents - Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street,

Project No. 2986-001

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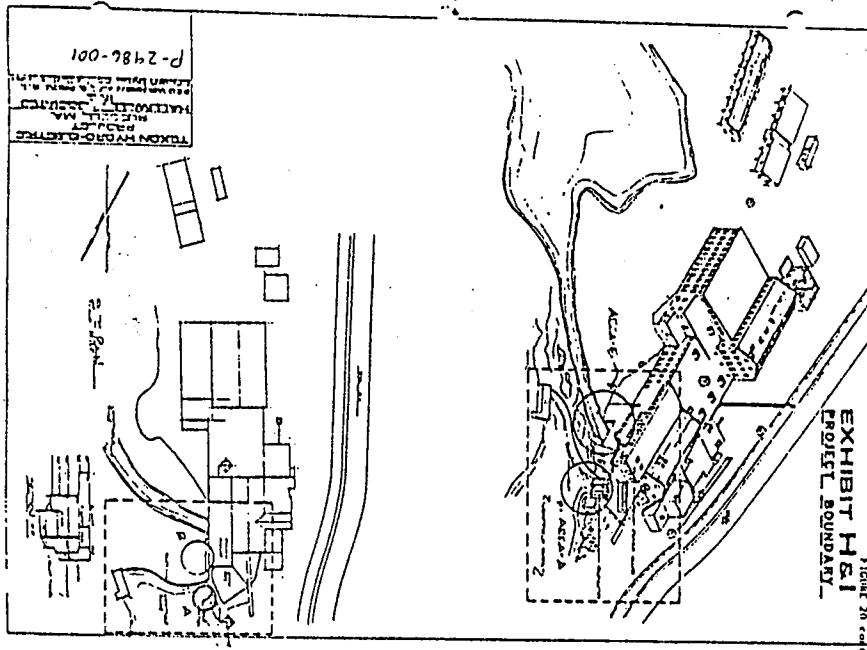
NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb
Secretary



LOCATION MAP - CRESCENT MILLS DAM

P-2986-001



§ 4.106 Standard terms and conditions of exemption from licensing.

Any exemption from licensing granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that any Federal or state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may accept a license application by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the date on which this exemption was granted. If an exemption is revoked, the Commission will not accept a subsequent application for exemption within two years of the revocation.

(d) Article 4. This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) Article 5. This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering Federal land agencies. The Commission may accept a license application by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.

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Type	Last Name	FI	MI	Affiliation
AUTHOR	PATTERSON	W	P	INTERIOR, DEPARTMENT OF
RECIPIENT	PLUMB	K	F	SECRETARY OF THE COMMISSION & STAFF

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Comments on notice of exemption appl for Texon Hydro Proj, Hampden County, MA. No objections to proposed exemption.

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Correspondent:

Type	Last Name	FI	MI	Affiliation
AUTHOR	STICKNEY	W	E	ENVIRONMENTAL PROTECTION AGENCY
RECIPIENT	PLUMB	K	F	SECRETARY OF THE COMMISSION & STAFF

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Reply comments of Texon, Inc to 820318 ltr to FERC from US Dept of Interior re fish-passage, inflow & anglers' access.

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Correspondent:

Type	Last Name	FI	MI	Affiliation
AUTHOR	QUIMBY	I	A	TEXON INC
RECIPIENT	PLUMB	K	F	SECRETARY OF THE COMMISSION & STAFF

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UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES
P.O. Box 1518
Concord, New Hampshire 03301

OCT 03 1980

Mr. Todd Cormier
Halliwell Associates, Inc.
589 Warren Avenue
East Providence, Rhode Island 02914

Dear Mr. Cormier:

This responds to your request for our recommendation concerning stream-flow regulation at the Texon hydroelectric project (FERC No. 2986). Our streamflow policy for New England recommends that on regulated rivers such as the Westfield, the Aquatic Base Flow (ABF) be 0.5 cubic feet per second per square mile of drainage area above the dam (cfsm). When inflows to the project area fall below 0.5 cfsm, the greater of inflow or 0.2 cfsm should be released. Drainage area at the Texon dam is roughly 329 square miles, which provides a value of 165 cfs for 0.5 cfsm.

While it is our recommendation that the licensee maintain an adequate maintenance streamflow (0.5 cfsm) at the project, it should not be necessary to spill water over the Texon dam to do so. Because the powerhouse is located adjacent to the dam, outflows from the tailrace will adequately cover the substrate below the dam, provided that operation is run-of-the-river. Lack of streamflow over the dam will expose a stretch of riverbed no more than 50 feet long. There would be a negligible loss of habitat in this area, however, as it consists largely of a vertical bedrock outcrop.

The Aquatic Base Flow (0.5 cfsm) should, therefore, be maintained at the tailrace for the Texon project. This should not affect the power production by the project, as proposed operation is run-of-the-river.

We hope this will clarify our recommendation regarding streamflow regulation at the Texon project.

Sincerely yours,

Gordon E. Beckett
Supervisor



ANTHONY D. CORTESE, Sc. D.
Commissioner

The Commonwealth of Massachusetts

Executive Office of Environmental Affairs

Department of Environmental Quality Engineering

Division of Water Pollution Control

One *Winter Street, Boston* 02108

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AUG 20 1981
Energy Facilities
Energy Facilities
State Council

August 11, 1981

Halliwell Associates, Inc.
865 Waterman Avenue
East Providence, Rhode Island 02914

Re: Water Quality Certification
Texon Hydroelectric
Westfield River
Russell

Dear Mr. Ryder:

In response to your request dated July 28, 1981 submitted on behalf of Texon, Inc., this Division has reviewed your application for a license for the operation and maintenance of a hydropower facility located on the Westfield River, Russell. This certification of water quality is directed solely at the operation of the facility and not any work such as dredging or cofferdam construction which is anticipated prior to operation.

In accordance with the provisions of Section 401 of the Federal Water Pollution Control Act as amended (Public Law 95-217), this Division hereby certifies that, based on information and investigations, there is reasonable assurance that the proposed activity will be conducted in a manner which will not violate applicable water quality standards adopted by this Division under authority of Section 27(5) of Chapter 21 of the Massachusetts General Laws, said water quality standards having been filed with the Secretary of State of the Commonwealth on September 15, 1978.

The proposed activity is a run-of-the-river facility with water being returned to the river through a tailrace, no further than fifty feet downstream of the hydroelectric dam. In order to maintain water quality in the vicinity of the facility, a continuous minimum low flow of 22 cubic feet per second must be maintained. This minimum low flow can be passed either through the tailrace or over the dam.

Should any violation of the water quality standards or the terms of this certification occur as a result of the proposed activity, the Division will direct that the condition be corrected. Non-compliance on the part of the permittee will be cause for this Division to recommend the revocation of the permit(s) issued therefor or to take such other action as is authorized by the General Laws of the Commonwealth. This certification does not relieve the applicant of the duty to comply with any other statutes or regulations.

Very truly yours,



Thomas C. McMahon
Director

TCM/RT/wp

cc: Anthony D. Cortese, Sc.D., Commissioner, Department of Environmental Quality Engineering, One Winter Street, Boston 02108
Morgan Rees, Chief, Permits Branch, Corps of Engineers, 424 Trapelo Road, Waltham 02154
John J. Hannon, Director, Division of Land & Water Use, Department of Environmental Quality Engineering, One Winter Street, Boston 02108
Richard Cronin, Director, Division of Fisheries & Wildlife, 100 Cambridge Street, Boston 02202
Kimball Simpson, Division of Water Pollution Control, Westboro 01581
Robert Smart, Energy Facilities Siting Council, 73 Tremont Street, Boston 02108