

### **TAB 3**

#### **Federal Energy Regulatory Commission (FERC) Exemption and Amendment**

- 1. FERC Order Granting Exemption from Licensing 1984**
- 2. FERC Order Amending Exemption 1998**

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

C. T. I. P., Inc.

) Project No. 6757-003.

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

( Issued November 29, 1984 )

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act (Act) pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (ESA) 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 ESA 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 motions 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.

- 1/ C. T. I. P. Inc., Project No. 6757-003, filed on May 7, 1984.
- 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 Director, Office of Hydropower Licensing, under §375.314 of the Commission's regulations, 49 Fed. Reg. 29,369 (1984) (Errata issued July 27, 1984), (to be codified at 18 C.F.R. §375.314). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, (1983). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

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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.

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment.

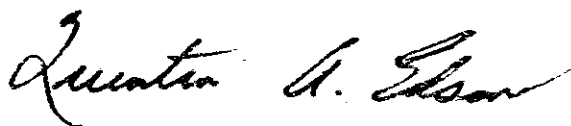
It is ordered that:

(A) The Dog River Project No. 6757 as described and designated in C.T.I.P., Inc.'s application filed on May 7, 1984, 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. §1.106 45 Fed. Reg. 76115 (November 18, 1980), and the following Special Article.

Article 6. Any exempted small hydroelectric power project that utilizes a dam which is more than 33 feet in height above streambed, as defined in 18 CFR 12.31(c) of this chapter, impounds more than 2,000 acre-feet of water, or has a significant high hazard potential, as defined in 33 CFR Part 222, is subject to the following provisions of 18 CFR Part 12;

- (i) Section 12.4(b)(1)(i) and (ii), (2)(i), (iii)(A) and (B), (iv), and (v);
- (ii) Section 12.4(c);
- (iii) Section 12.5;
- (iv) Subpart C; and
- (v) Subpart D.

For the purposes of applying these provisions of 18 CFR Part 12, the exempted project is deemed to be a licensed project development and the owner of the exempted project is deemed to be a licensee.



Quentin A. Edson  
Director, Office of  
Hydropower Licensing

SEP 14 1984

- a. Type of Application: Exemption (5MW or Less)
- b. Project No: 6757-003
- c. Date Filed: May 7, 1984
- d. Applicant: C.T.I.P., Inc.
- e. Name of Project: Dog River Project
- f. Location: On the Dog River in the Village of Northfield, Washington County, Vermont
- g. Filed Pursuant to: Section 408 of the Energy Security of Act of 1980, 16 U.S.C. §§2705 and 2708 as amended
- h. Contact Person: Robert P. Lord, Sr., C.T.I.P., Inc., 7 Belknap Avenue, Northfield, Vermont 05663
- i. Comment Date: **OCT 25 1984**
- j. Description of Project: The proposed project would consist of: (1) an existing 22-foot-high, 90-foot-long concrete dam; (2) a reservoir with a surface area of 1.6 acres, a storage capacity of 8 acre-feet, and a normal water surface elevation of 689 feet m.s.l.; (3) an existing intake structure; (4) an existing 7-foot-diameter, 40-foot-long steel penstock; (5) an existing powerhouse containing two generating units (one proposed, one existing) with a total installed capacity of 228 kW; (6) an existing tailrace; (7) an existing transmission line; and (8) appurtenant facilities. The Applicant estimates the annual generation would be 200,000 kWh.
- k. Purpose of Project: All project energy generated would be sold to a local utility.
- l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3A
- m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity -- Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A9. Notice of intent -- A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

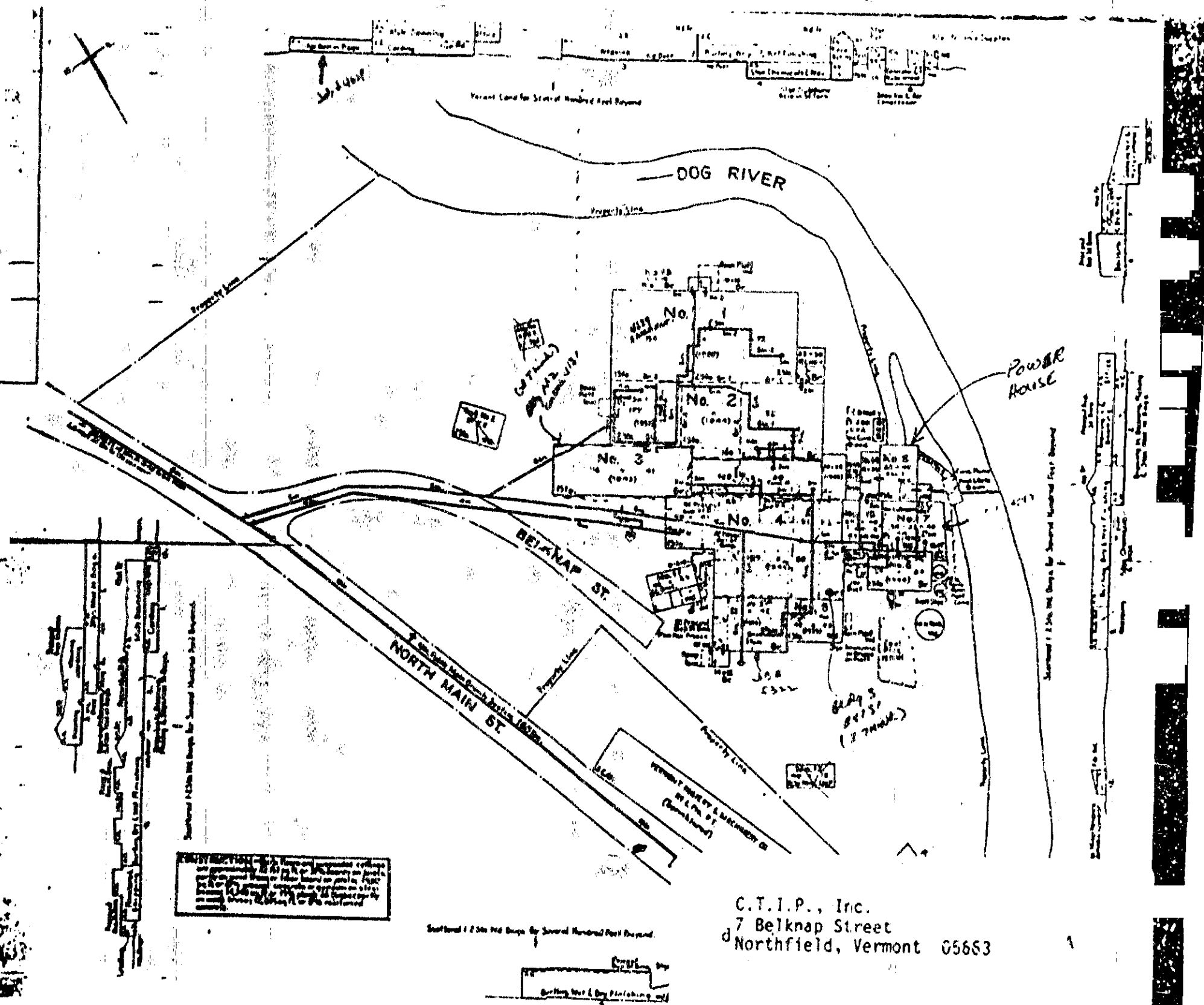
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B. Comments, Protests, or Motions to Intervene - Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.



C. 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 "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. 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, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management Branch, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D3a. Agency Comments - The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file 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.

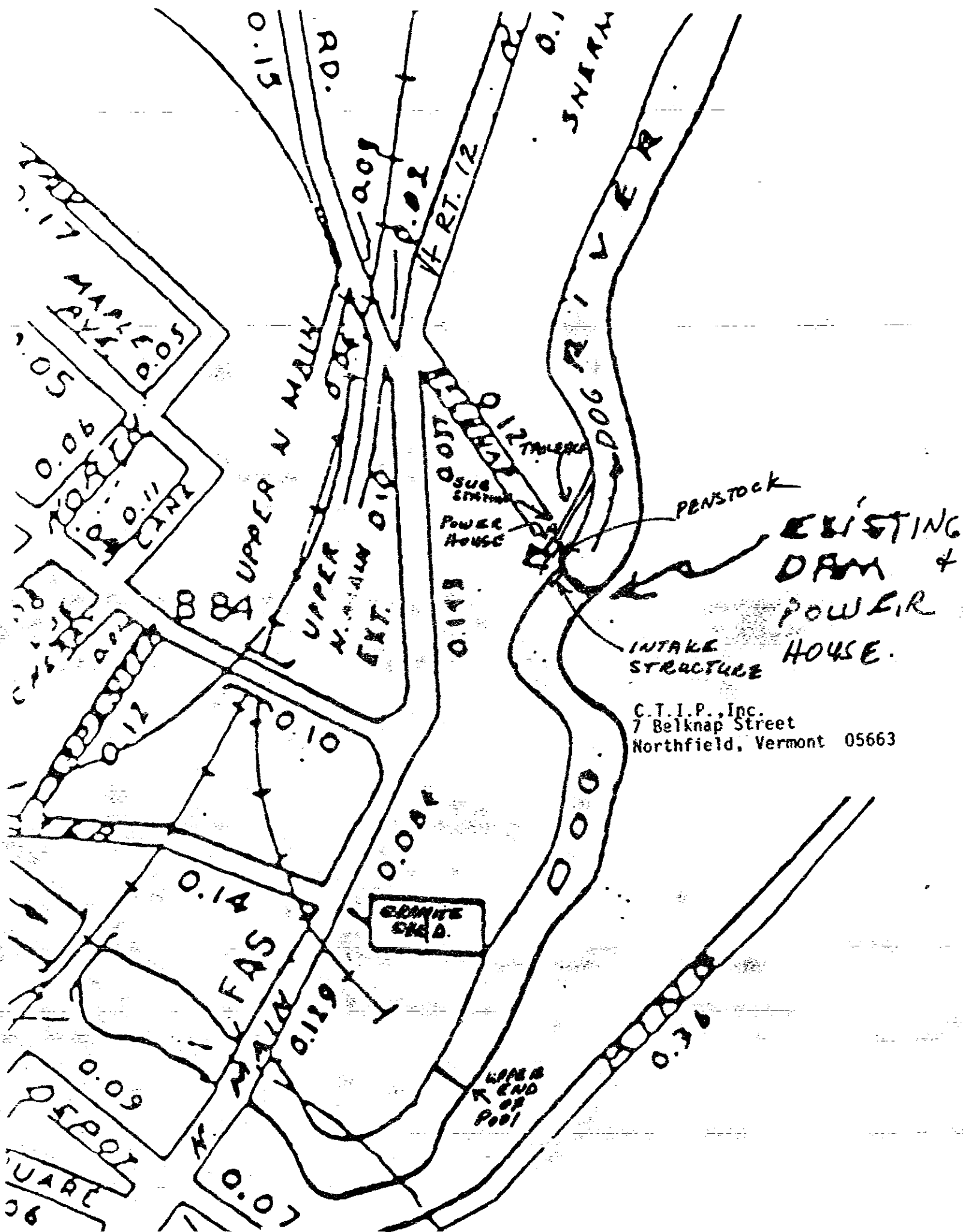


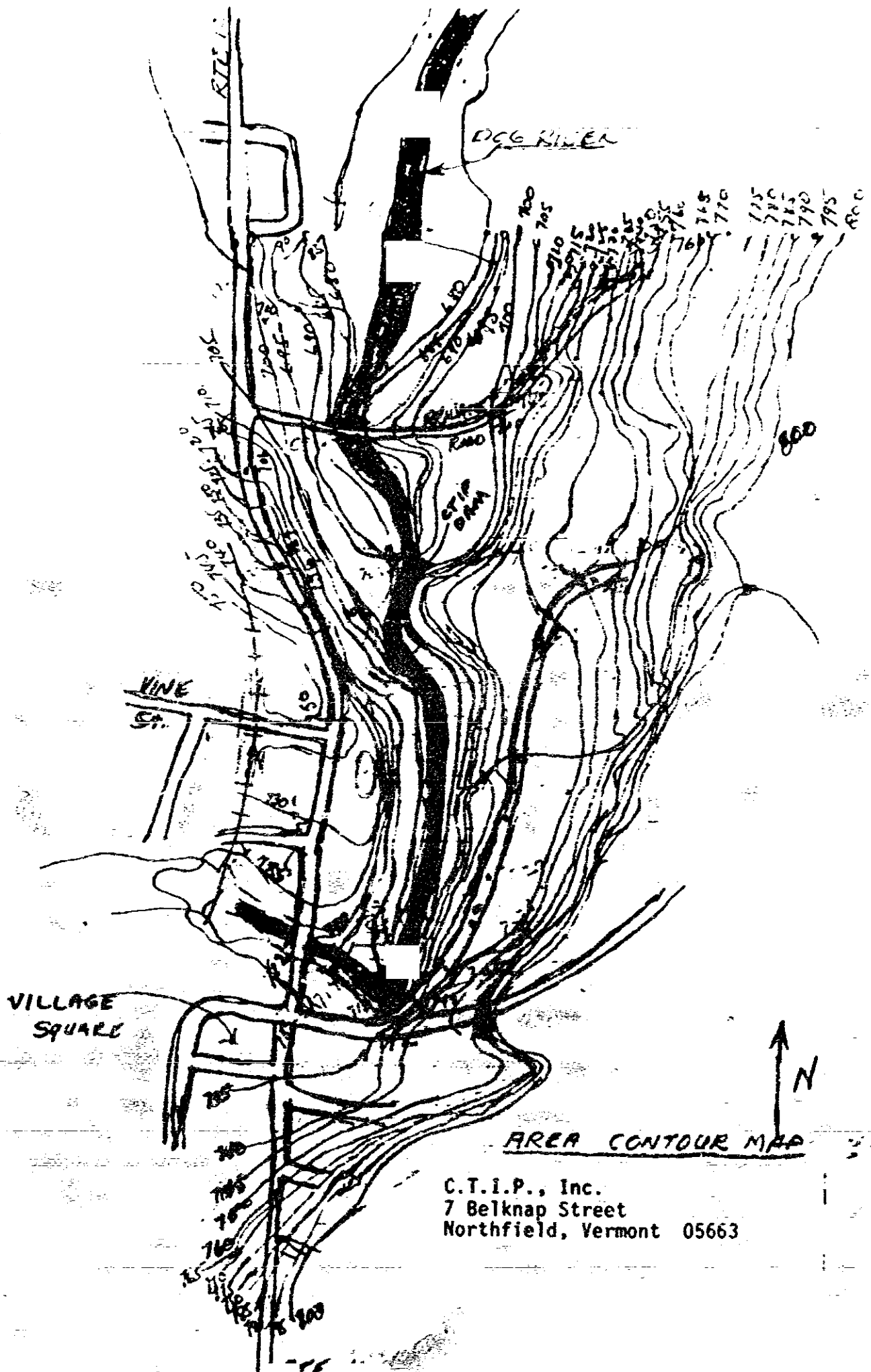
NOTES: This plan shows the location of the buildings and the location of the power house. The plan also shows the location of the power house and the location of the buildings. The plan also shows the location of the power house and the location of the buildings.

C.T.I.P., Inc.  
7 Belknap Street  
Northfield, Vermont 05663

Scattered 1/2 Acre and More by Several Hundred Feet Beyond

Scattered 1/2 Acre and More by Several Hundred Feet Beyond





AREA CONTOUR MAP

C.T.I.P., Inc.  
7 Belknap Street  
Northfield, Vermont 05663

**§ 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:

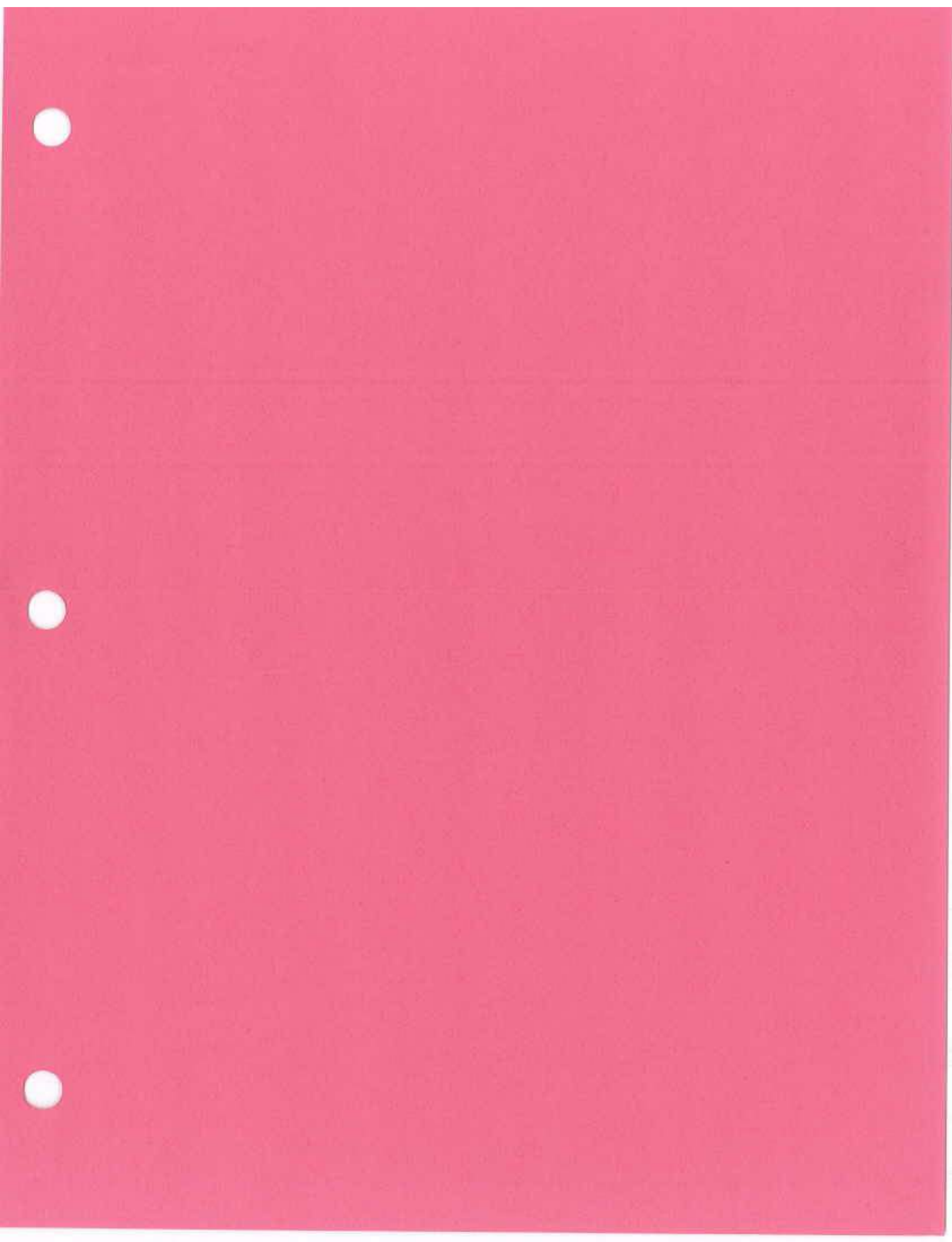
(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. 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.





83 FERC ¶ 62,261

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Stuwe Davenport Partnership

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Project No. 6757-007

ORDER AMENDING EXEMPTION

JUN 25 1998

The Commission's New York Regional Office (NYRO) noted a discrepancy between the authorized and installed capacity of the Dog River Project, FERC No. 6757. The Dog River Project is located in the Village of Northfield, Washington County, Vermont.

The exemption from licensing 1/ for the Dog River Project authorizes two generating units with a total installed capacity of 228 kilowatts (kW). In a letter dated March 1, 1993, the exemptee informed the Commission it intended to replace the two existing generating units with one primary generating unit of 231 kW and a back-up generating unit. NYRO reported an installed capacity of 222 kW during their 1996 inspection. We requested, in a letter dated May 19, 1997, that the exemptee provide the nameplate ratings of the currently installed generating units. The exemptee's representative did not provide a written response to our letter, believing a letter previously filed addressed the change in capacity.

In a telephone conversation with Commission staff on June 8, 1998, the exemptee's current liaison stated that the planned 231-kW unit was not feasible at the project site. Instead, two generating units, each with a nameplate rating of 111 kW, were installed and operate simultaneously. Installation of these units results in a total installed capacity of 222 kW for the Dog River Project. The exemptee stated there is no change to the project's hydraulic capacity of 170 cfs or to any other project features or operation.

The minor decrease in installed capacity will not result in impacts to the environmental resources other than those identified during the original project review. This order amends the project description of the exemption to reflect an installed capacity of 222 kW.

The Director orders:

(A) The exemption for the Dog River Project, FERC No. 6757, is amended as provided by this order.

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1/ 29 FERC ¶62,209, Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less, November 29, 1984.

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JUN 25 1998

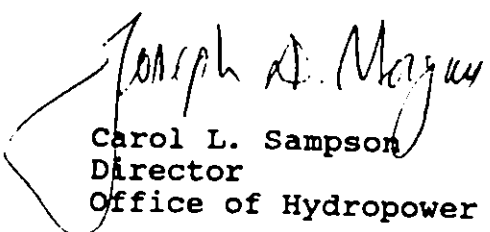
Project No. 6757-007

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(B) The project description of the exemption is revised, in part, to read:

...(5) an existing powerhouse containing two 111-kW generating units, for a total installed capacity of 222 kW;...

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.



Carol L. Sampson  
Director  
Office of Hydropower Licensing