

## **APPENDIX C**

### **1982 EXEMPTION AND WATER QUALITY CERTIFICATION**

[¶ 62,302]

Swift River Company, Project No. 5647-000

**Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less**

(Issued February 23, 1982)

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

The Applicant<sup>1</sup> 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.<sup>2 3</sup>

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.

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) Milo Project No. 5647 as described and designated in Swift River Company's application filed on November 13, 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, 18 C.F.R. § 4.106, 45 Fed. Reg. 76115 (November 18, 1980).

(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

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operate as a stay of the effective date of this order, except as specifically ordered by the Commission.

— Footnotes —

<sup>1</sup> Swift River Company, Project No. 5647, filed on November 13, 1981.

<sup>2</sup> 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).

<sup>3</sup> 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 [*FERC Statutes and Regulations* ¶ 30,211], issued November 21, 1980, (45 Fed. Reg. 79024).

**Appendix A**

**Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 mW Capacity**

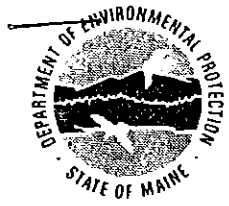
(Issued December 10, 1981)

Take notice that on November 13, 1981, Swift River Company (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. The proposed small hydroelectric project (Project No. 5647) would be located on the Sebec River in the town of Milo, Piscataquis County, Maine. Correspondence with the Applicant should be directed to: Christian A. Herter, III, Vice-President, Swift River Company, 44 Exchange Street, Portland, Maine 04101

*Project Description*—The proposed project would consist of: (1) an existing 9-foot high, 250-foot long timber crib dam; (2) a 50 acre reservoir with a net storage capacity of 50 acre-feet at elevation 280.54 feet M.S.L.; (3) a new powerhouse containing two turbine-generators with a total rated capacity of 600 kW which would discharge into the easterly river channel; (4) a new 750-foot long, 70-foot wide tailrace channel excavated out of the easterly river channel; (5) a 50-foot long, 7.6-kV transmission line and (6) appurtenant facilities. The project would generate up to 2,500,000 kWh annually.

[Note: Remainder of Notice omitted in printing.]



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
STATE HOUSE STATION 17                      AUGUSTA, MAINE 04333

STAFF ORDER

IN THE MATTER OF

SWIFT RIVER CO.	)	SMALL HYDROELECTRIC GENERATING
Milo, Maine, Piscataquis County	)	FACILITIES PERMIT AND WATER
MILO DAM REDEVELOPMENT	)	QUALITY CERTIFICATION
#02-7580-21140 <del>(Revised)</del>	)	FINDINGS OF FACT AND ORDER

After reviewing the project file which includes the application with its supportive data, agency review comments, staff summary and other related materials on file with regard to the above noted project, under provisions of Title 38, M.R.S.A., Section 626 and the Federal Water Pollution Control Act, the Department finds the following facts:

1. PROJECT DESCRIPTION

The applicant proposes the redevelopment of the Milo Dam on the Sebec River in Milo, Maine, for the purpose of generating hydroelectric power.

EXISTING:

The existing Milo Dam is located adjacent to the Main Street Bridge in the town of Milo. The timber crib and concrete dam is approximately 250' in length, 9' in height, and creates an impoundment with a surface area of approximately 50 acres at an elevation of 278' m.s.l. The dam is constructed in two sections utilizing an existing island as a central abutment. The main river channel runs along the west side of the island. An abandoned tailrace and overflow canal runs the length of the island on the east side. No hydroelectric generating equipment is currently in place at the site.

PROPOSED (INITIAL):

The applicant proposes to utilize the hydroelectric potential of the existing dam by constructing a new 36' x 48' wood and concrete powerhouse immediately downstream of the existing gates located in the east section of the dam and installing three turbine-generator units. A new intake gate and trash rack structure is to be constructed. Structural repairs to the concrete spillways and timber crib sections of the dam are to be made as necessary. 12" wooden flashboards are to be installed on the spillway sections of the dam. Headpond elevations are to vary from the crest of the dam (elevation 278') to the top of the flashboards (elevation 279').

The applicant further proposes to install two gravel-filled cofferdams, one in the headpond upstream from the east section of the dam and one at the downstream end of the existing tailrace canal, to allow construction activities to occur in the dry. Dredging of accumulated debris will occur between the coffer dams to increase hydraulic head. A gravel berm located in the river immediately downstream of the southerly end of the island will also be removed to increase hydraulic head. Side slopes of the tailrace channel and the southern end of the island will be created using the dredged spoils and will be contoured and stabilized by the installation of riprap and vegetation.

RIVER CO.  
Maine, Piscataquis County  
MILO DAM REDEVELOPMENT  
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PROPOSED (REVISED):

The applicant proposes to revise the initial project proposal by removing the existing outlet structure located in the tailrace channel immediately downstream from the east section of the dam. The new intake structure and powerhouse will be located approximately 80' downstream from the dam in the tailrace channel. Concrete wingwalls will channel the water to the intake gates and the intake area will be riprapped to prevent scouring.

Construction activities are scheduled to begin in July of 1982 and to be completed by the end of the year.

The Board of Environmental Protection has previously approved the initial project proposal by permit #02-7580-21140 issued October 14, 1981 and revised April 28, 1982.

2. JURISDICTION

The proposed redevelopment qualifies as a "small hydroelectric power project" under the terms of Title 38, M.R.S.A., Section 622. The project is thereby exempted from the terms of the Great Ponds Alteration Act, Title 38, M.R.S.A., Sections 386-396 and the Stream Alteration Act, Title 12, M.R.S.A., Sections 7776-7780.

The project is subject to the jurisdiction of the Federal Energy Regulatory Commission, pursuant to the Federal Power Act. The applicant holds a valid Exemption from Licensing to redevelop and operate the hydropower facility (Milo Project, FERC No. 5647). The proposed construction activities are subject in part to the jurisdiction of the Army Corps of Engineers, pursuant to Section 404 of the Federal Water Pollution Control Act, Water Quality Certification is, therefore, considered, pursuant to Section 401 of the Federal Water Pollution Control Act.

The applicant currently possesses a lease from the Town of Milo to utilize all land and water rights necessary for the project.

3. ENERGY PRODUCTION

The proposed run-of-the-river hydroelectric generating facility will have a capacity of 660 KW at a gross head of 13'. The facility will utilize river flows between 69 cfs and 775 cfs. The estimated annual power output of 2,900,000 KWH has the potential of displacing approximately 4,833 barrels of fossil fuel annually.

4. FLOW REGULATION

A dam currently exists upstream of the Milo Dam at the outlet of Sebec Lake. Normal headpond elevation will be increased by 12" with the installation of flashboards. The dredged tailrace channel may provide some additional measure of flood control.

5. FISH AND WILDLIFE

No fish passage facilities exist at the project site at the present time. While no fish passage facilities are recommended by state fisheries management agencies at this time, the potential reestablishment of historic anadromous fish runs may require a reexamination of fish passage requirements in the future.

6. PUBLIC USES

There are no existing recreational facilities in the project area. Poor water quality has resulted in limited recreational uses of the river, though some boating, fishing, and swimming does occur in the area.

7. WATER QUALITY

The Sebec River is classified C from the outlet of Sebec Lake to the Milo Dam, and B-1 from the Milo Dam to the confluence of the Sebec and Piscataquis Rivers. The water in the impoundment is thus judged unsuitable for water contact recreation.

There are several untreated sewer discharges that currently enter both channels of the river in the area downstream of the dam. Some of these discharge pipes are located in the construction area.

8. OTHER ENVIRONMENTAL CONSIDERATIONS

The environment will be affected during the construction phase of the project by the installation and removal of cofferdams, the construction of intake structure and powerhouse, the dredging of debris, and the contouring of the shore of the island. Significant potential for erosion exists due to these activities.

BASED on the above findings of fact, the Board makes the following conclusions:

1. The facility will have no significant impact on maintaining minimum flows and water levels.

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2. No significant fish and wildlife habitat will be created by the facility. The facility will not have a significant impact on fish and wildlife habitat provided that the need for fish passage facilities is reexamined at an appropriate time.
3. The facility will not have a significant impact on navigational or recreational uses of the impoundment and river in the project area.
4. The facility will not lower the water quality of the Sebec River and will not violate applicable Water Quality Standards provided that the existing sewer discharges are maintained during and following construction and provided that adequate flows are maintained in each channel to assimilate these discharged wastes.
5. The facility will not significantly harm the natural environs of the Sebec River or cause unreasonable soil erosion provided that adequate provisions are made for the control of erosion during and following construction.

THEREFORE, the Board of Environmental Protection APPROVES the revised application of SWIFT RIVER CO. to redevelop the hydroelectric potential of the Milo Dam on the Sebec River in Milo, Maine, as described in paragraph number one above, and GRANTS certification that there is a reasonable assurance that the activity will not violate applicable Water Quality Standards, subject to the following terms and conditions:

1. An instantaneous minimum flow of 25 cfs shall be maintained in the east (tailrace) channel at all times following the commencement of project operation and an instantaneous minimum flow of 50 cfs shall be maintained in the west channel at all times, except that when inflow to the dam is less than 75 cfs the difference between the 25 cfs flow in the east channel and the inflow shall be released in the west channel.
2. The applicant shall submit the specific details of the following plans: (a) a plan to manage the continued discharge of the existing sewer outfalls within the construction area; and (b) a plan to monitor and control flows during construction and operation to assure compliance with the flow regime outlined in condition #1. These plans must be submitted prior to construction or within 90 days of the issuance of this permit, whichever comes first. These plans shall be reviewed and must receive approval of the Commissioner prior to construction.
3. Within a five year period from the commencement of project operation, the Commissioner shall review the status of anadromous fish restoration in the Sebec River and shall impose such additional conditions as are deemed necessary to provide adequate facilities for the upstream and downstream passage of fish at the Milo Dam.

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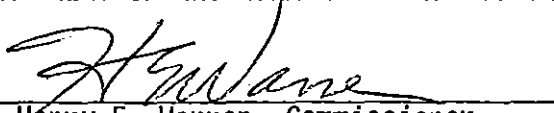
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4. The upstream face of the headpond cofferdam shall be stabilized by the placement of a filter fabric to control erosion of the cofferdam constituents.
5. This approval is limited to and includes the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. All variances from the plans and proposals contained in said documents are subject to the review and approval of the Department prior to implementation.
6. The applicant shall secure and appropriately comply with all applicable Federal, State and local licenses, permit, authorizations, conditions, agreements, and Order, prior to or during construction and operation.
7. The applicant shall take all necessary measures to ensure that his activities of those of his agents do not result in measureable erosion of soils on the site during the construction and operation of the project covered by this approval.
8. A copy of this permit must be included in or attached to contract bid specifications for the project.

DONE AND DATED AT AUGUSTA, MAINE, THIS 30TH DAY OF JUNE, 1982.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:

  
Henry E. Warren, Commissioner

PLEASE NOTE ATTACHED SHEET FOR APPEAL PROCEDURES....