

in the Environmental Assessment, takes protective measures.

Commission staff also determined that excavation for the construction of the minimum flow powerhouse could increase the potential for erosion and sedimentation and result in short-term turbidity for the duration of the construction. For these reasons, Article 14 is included to ensure that the exemptee, before engaging in any ground disturbance take protective measures to minimize erosion and sedimentation associated with

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the construction of the minimum flow unit powerhouse.

After considering the mandatory terms and conditions designed to protect fish and wildlife resources, the environmental information in the exemption application, the staff's independent assessment 1, and other public comments, the Director finds that issuance of this order is not a major federal action significantly affecting the quality of the human environment.

The Director orders:

(A) The Indian Orchard Project is exempted from the licensing requirements of Part I of the Act, subject to the attached standard articles (See section 4.106 of the Commission's regulations) and the following additional articles:

Article 10. The exempted small hydroelectric power project is subject to the provisions of 18 CFR Part 12, as it may be amended. For the purposes of applying the 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.

Article 11. In addition to the notification of the Commission required by standard article 9, and within 30 days of transferring any property interests, the exemption holder must inform the Commission's New York Regional Director of the identity and address of the transferee.

Article 12. The Exemptee shall, before undertaking any construction activities at the project that would result in any modification of the existing historic facilities: (1) consult with the State Historic Preservation Officer (SHPO) concerning preliminary design of the new facilities to be constructed at the project to establish specific design criteria consistent with the

Secretary of the Interior's "Standards for Rehabilitation"; (2) afford the SHPO the opportunity to review preliminary and final design drawings of the new facilities; and (3) file the final design drawings, along with the SHPO's comments on the final design drawings, for Commission approval. The Exemptee shall undertake no construction activities at the project that would result in any modification of the existing historic facilities until informed by the Commission that the final design drawings have been approved.

1 Environmental Assessment, Indian Orchard Project, FERC No. 10678-001, Federal Energy Regulatory Commission, August 31, 1992. This document is available in the Commission's public file associated with this proceeding.

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Article 13. The Exemptee, before starting any land-clearing or land-disturbing activities within the project boundaries, including recreation developments at the project and any construction activities or alterations at or within the historic Indian Orchard Generating Station -- other than those land-clearing and land-disturbing activities, recreational developments, and construction activities and alterations at and within the historic Indian Orchard Generating Station that are specifically authorized in this license -- shall consult with the State Historic Preservation Officer (SHPO).

If the Exemptee discovers previously unidentified archeological or historic properties during the course of constructing or developing project works or other facilities at the project, the Exemptee shall stop all land-clearing and land-disturbing activities in the vicinity of the properties and consult with the SHPO.

In either instance, the Exemptee shall file for Commission approval a cultural resource management plan (plan) prepared by a qualified cultural resource specialist after having consulted with the SHPO. The plan shall include the following items: (1) a description of each discovered property indicating whether it is listed on or eligible to be listed on the National Register of Historic Places; (2) a description of the potential effect on each discovered property; (3) proposed measures for avoiding or mitigating effects; (4) documentation of the nature, extent, and results of consultation; and (5) a schedule for mitigating effects and conducting additional studies. The Commission may

require changes to the plan.

The Exemptee shall not begin land-clearing or land-disturbing activities within the project boundaries, including recreation developments at the project and any construction activities or alterations at or within the historic Indian Orchard Generating Station complex -- other than those land-clearing and land-disturbing activities, recreational developments, and construction activities and alterations at and within the historic Indian Orchard Generating Station complex that are specifically authorized in this license -- or resume such activities in the vicinity of a property, discovered during construction, until informed by the Commission that the requirements of this article have been fulfilled.

Article 14. At least 90 days before the start of any land-disturbing, land-clearing, or spoil-producing activities, the Exemptee shall file with the Commission for approval, and with the New York Regional Office, a plan to control erosion, to control slope instability, and to minimize the quantity of sediment resulting from project construction and operation.

The plan shall be based on actual site geological, soil,

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slope, drainage, and groundwater conditions and on project design, and shall include, at a minimum, the following four items:

- (1) a description of the actual site conditions;
- (2) measures to control erosion, to prevent slope instability, and to minimize the quantity of sediment resulting from project construction and operation;
- (3) detailed descriptions, functional design drawings, and topographic map locations of all control measures; and
- (4) a specific implementation schedule and details of monitoring and maintenance programs for the project construction period and for project operation.

The Exemptee, shall prepare the plan after consultation with the Soil Conservation Service and the Massachusetts Division of Fisheries and Wildlife. The Exemptee shall include with the plan documentation of consultation with the agencies and copies of agency comments and recommendations on the completed plan after

it has been prepared and provided to the agencies, and specific descriptions of how the plan accommodates all of the agency comments and recommendations. The Exemptee shall allow a minimum of 30 days for the agencies to comment and make recommendations prior to filing the plan with the Commission. If the Exemptee does not adopt a recommendation, the filing shall include the Exemptee's reasons, based on geological, soil, and groundwater conditions at the site.

The Commission reserves the right to require changes to the plan. No land-disturbing or land-clearing activities shall begin until the Exemptee is notified by the Commission that the plan is approved. Upon Commission approval, the Exemptee shall implement the plan, including any changes required by the Commission.

(B) Article 2 of this exemption is amended to include the National Marine Fisheries Service as a fish and wildlife agency that can provide terms and conditions.

(C) The Exemptee shall serve copies of any Commission filing required by this order on any entity specified in this order to be consulted on matters related to that filing. Proof of service on these entities must accompany the filing with the Commission.

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(D) 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.

Dean L. Shumway
Director, Division of
Project Review

- a. Type of Application: Exemption from Licensing
- b. Project No.: 10678-001

- c. Date Filed: December 6, 1989
- d. Applicant: Western Massachusetts Electric Company
- e. Name of Project: Indian Orchard Project
- f. Location: On the Chicopee River, Hampden County,
Massachusetts
- g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791 (a) -
825(r)
- h. Applicant Contact: Mr. Richard W. Thomas
Northeast Utilities Service Company
P.O. Box 270
Hartford, CT 06141-0270
(203) 665-3719
- i. FERC Contact: Mary Golato (tag) (202) 219-2804
- j. Deadline Date:
- k. Status of Environmental Analysis: This application is ready
for environmental analysis at this time - see attached
paragraph D4.
- l. Description of Project: The proposed project would consist
of the following facilities: (1) an existing concrete
gravity overflow dam about 402 feet long and 20 feet high;
(2) an existing reservoir with a surface area of about 74
acres, a storage capacity of about 70 acre-feet, and a
normal maximum surface elevation of 161.0 feet mean sea
level; (3) an existing power canal; (4) an existing steel
penstock 190 feet long and 11 feet in diameter, and another
160 feet long and 16 feet in diameter; (5) an existing
powerhouse containing two existing turbine-generator units
totalling 3,700 kilowatts (kW); (6) an existing 14.25-
kilovolt transmission line; and (7) appurtenant facilities.
In addition to the existing works, the applicant also
proposes to install a minimum flow unit with a rated
capacity of 430 kW, bringing the total station capacity to
4,130 kW. The applicant estimates that the average annual
generation is 12,821 megawatthours. The project was found
jurisdictional under UL 88-35-000.
- m. Purpose of Project: All project energy generated would be
utilized by the applicant for sale to its customers.

- n. This notice also consists of the following standard paragraphs: A2, A9, B1, and D4.

- o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C. 20426, or by calling (202) 219-1371. A copy is also available for inspection and reproduction at Mr. Richard W. Thomas, Northeast Service Company, P.O. Box 270, Hartford, CT 06141-0270 (203) 665-3719.