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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Hydroelectric Development, Inc.

Project No. 8235-001

ORDER GRANTING EXEMPTION FROM LICENSING  
(5 MW OR LESS)

(Issued July 31, 1986)

On January 30, 1985, Hydroelectric Development, Inc. filed an application to exempt the Lower Robertson Dam Project from the licensing requirements set forth in Part I of the Federal Power Act. The proposed small hydropower project is described in the attached public notice. The comments of interested agencies and individuals, including the U.S. Fish and Wildlife Service and the state fish and wildlife agency, have been fully considered in determining whether to issue this exemption from licensing.

Article 2 of this exemption requires compliance with the terms and conditions prepared by federal or state fish and wildlife agencies to protect fish and wildlife resources. These mandatory terms and conditions are contained in the attached letters commenting on the exemption application. If contested, the Commission will determine whether any mandatory term or condition is outside the scope of article 2.

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 <sup>1/</sup>, 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 Lower Robertson Dam Project is exempted from the licensing requirements of Part I of the Federal Power Act, subject to the attached standard articles and the special articles included below. See section 4.106 of the Commission's regulations.

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<sup>1/</sup> Environmental Assessment, Lower Robertson Dam, FERC Project No. 8235-001, Federal Energy Regulatory Commission, February 27, 1986. This document is available in the Commission's public file associated with this proceeding.

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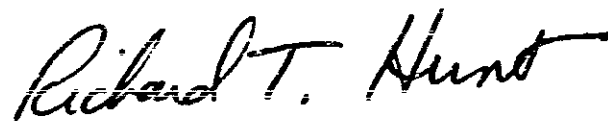
FILED - REGISTERED

Article 9. Before commencing any ground-disturbing or spoil-producing activities, the exemptee, in consultation and cooperation with the appropriate Federal, state, and local agencies (including the Soil Conservation Service and any Federal agency with managerial authority over any part of the project lands), shall prepare a plan to control erosion and dust, stabilize slopes, and minimize the quantity of sediment or other potential water pollutants resulting from construction and operation of the project. The plan shall identify critical areas, include functional design drawings and map locations of control measures, and establish schedules for implementation, monitoring, maintenance, and periodic review.

The exemptee may commence ground-disturbing or spoil-producing activities 30 days after submitting the final plan to the consulted agencies, or sooner if the plan is approved by the Soil Conservation Service and any Federal agency with managerial authority over any part of project lands. Any consulted agency that objects to the exemptee's final plan should notify the Commission, specify the objection, and recommend alternative measures. The Commission reserves the right to modify the final plan.

Article 10. The exemptee, after consultation with the New Hampshire State Historic Preservation Officer (SHPO), shall implement a cultural resources management plan to: (1) construct project facilities in accordance with the Secretary of the Interior's Standards for Historic Preservation Projects so as to be consistent with the historical character of Ashuelot Village, and (2) photo-document the historical features of Lower Robertson Dam that will be affected by project construction. Documentation shall be filed with the SHPO to indicate that the plan has been implemented in a manner satisfactory to the SHPO. The photo-documentation of Lower Robertson Dam shall be determined acceptable by the SHPO prior to any construction that will affect recorded features. The exemptee shall make available funds in a reasonable amount for any required work. If any previously unrecorded archeological or historic sites are discovered during the course of the construction or development of any project works or associated facilities, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the exemptee shall consult with the SHPO to develop a mitigative plan for the protection of significant archeological or historic resources.

(B) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order.



Richard T. Hunt  
Director, Office of  
Hydropower Licensing

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Filed with the Commission

(May 30, 1985)

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

- a. Type of Application: Exemptor (5 MW or Less)
- b. Project No: 8214-001
- c. Date Filed: January 10, 1985
- d. Applicant: Hydroelectric Development, Inc.
- e. Name of Project: Lower Robertson Dam
- f. Location: On the Ashuelot River in Cheshire County, New Hampshire
- g. Filed Pursuant to: Energy Security Act of 1980, Section 408, 16 U.S.C. §§ 705 and 2708 as amended.
- h. Contact Person: James C. Katsakos, River Engineering Corporation, 217 Rockingham Road, Londonderry, New Hampshire 03053
- i. Comment Date: JUL 10, 1985
- j. Description of Project: The proposed run-of-river project would consist of: (1) the existing 18-foot-high and 125-foot-long Lower Robertson Dam with a spillway crest elevation of 383.6 feet mean sea level (msl) which would be raised 1 foot to elevation 384.6 feet msl; (2) new 1.5-foot-high flashboards to raise the normal maximum pool elevation to its historical elevation of 386.1 feet msl; (3) an impoundment with a surface area of 8.7 acres; (4) a new intake structure and powerhouse at the north end of the dam with 3 turbine-generator units with a total installed capacity of 140 kW; (5) a short tailrace; and (6) other appurtenances. Interconnection facilities are available at the site. Flashboards were last used in 1950 to create a maximum pool elevation of 386.1 feet msl. Applicant owns all existing facilities. Applicant estimates an average annual generation of 3,300,000 kWh. The Applicant filed this application within its preliminary permit term for Project No. 8235.
- k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.
- l. This notice also consists of the following standard paragraphs: A1, A9, 1, 3, & 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 the 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 licensee 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 licensee 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 licensee, 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.

A2. 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 licensee, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

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. §§85.210, .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.

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, 415 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 206 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.

Kenneth F. Plumb  
Secretary



SITE

LOWER ROBERTSON DAM

LOCATION MAP

OBTAINED FROM USGS KEENE  
QUADRANGLE

SCALE

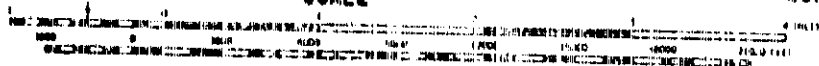


EXHIBIT B SUPPLEMENT

§ 4.100 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(a), 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 the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or to otherwise 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 revoke this exemption if actual construction or any proposed generating facilities has not begun within two years, or has not been completed within four years from the date on which this exemption was granted. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project 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.



(f) Article 6. In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation, or may revoke this exemption.

(g) Article 7. The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(h) Article 8. Any exempted small hydroelectric power project that utilizes a dam that 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 or high hazard potential, as defined in 33 CFR Part 222, is subject to the following provisions of 18 CFR Part 12, as it may be amended:

- (1) Section 12.4(b)(1)(i) and (ii), (b)(2)(i) and (iii), (b)(iv), and (b)(v);
- (2) Section 12.4(c);
- (3) Section 12.5;
- (4) Subpart C; and
- (5) 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.

(i) Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.