

JUN 20 1985
Ladd's Mill
(8)

31 FERC 162, 329

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Worcester Hydro Company) Project No. 8242-001

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

(Issued June 11, 1985)

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

- 1/ Applicant: Worcester Hydro Company, Project No. 8242-001, and filed December 4, 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.

DC-A-4

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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. 4/

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. 5/

It is ordered that:

(A) The Ladd's Mill Project No. 8242-001 as described and designated in Worcester Hydro Company's application filed on December 4, 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. §4.106 45 Fed. Reg. 76115 (November 18, 1980), and the following Special Article(s).

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;

- 4/ An exemption from licensing granted by this Commission does not serve as any basis for restricting hunting and fishing access to the waterway involved except to the extent required for public safety purposes.
- 5/ Environmental Assessment, Ladd's Mill Project, FERC Project No. 8242-001--Vermont, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, May 28, 1985. This document is available in the Division of Public Information and in the Commission's public file associated with this proceeding.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Filed with the Commission
(March 13, 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: Exemption (5MW or less)
- b. Project No: 8242-001
- c. Date Filed: December 4, 1984
- d. Applicant: Worcester Hydro Company
- e. Name of Project: Ladd's Mill
- f. Location: On the North Branch of the Winooski River in Washington County, Vermont
- g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. §§ 2705 and 2708
- h. Contact Person: Mr. John H. Stuart, P.O. Box 367, Essex Center, Vermont 05451
- i. Comment Date: April 26, 1985
- j. Description of Project: The proposed project would consist of: (1) the existing 21-foot-high, 80-foot-long, concrete gravity dam; (2) the proposed re-installation of twelve-inch-high flashboards; (3) an existing 7.7-acre reservoir which would be increased to 8.5 acres with the installation of the twelve-inch-high flashboards, thereby increasing the storage capacity from the existing 56.9 acre-feet to 67.6 acre-feet; (4) the proposed installation of two 85.5-kW generating units for a total installed capacity of 171-kW; (5) the proposed reconditioning of the existing 70-foot-long tailrace channel; (6) the proposed construction of a small control building to house the turbine controls; and (7) appurtenant facilities.

The Applicant estimates the average annual energy production to be 735,000 kWh. The Applicant intends to sell the electricity produced to a Vermont utility.
- k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a
- l. 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.

CC-A-15

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- (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.

(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 385.1902 of the Commission's regulations, 18 CFR 385.1902 (1983).

Quentin A. Edson
 Quentin A. Edson
 Director, Office of
 Hydropower Licensing

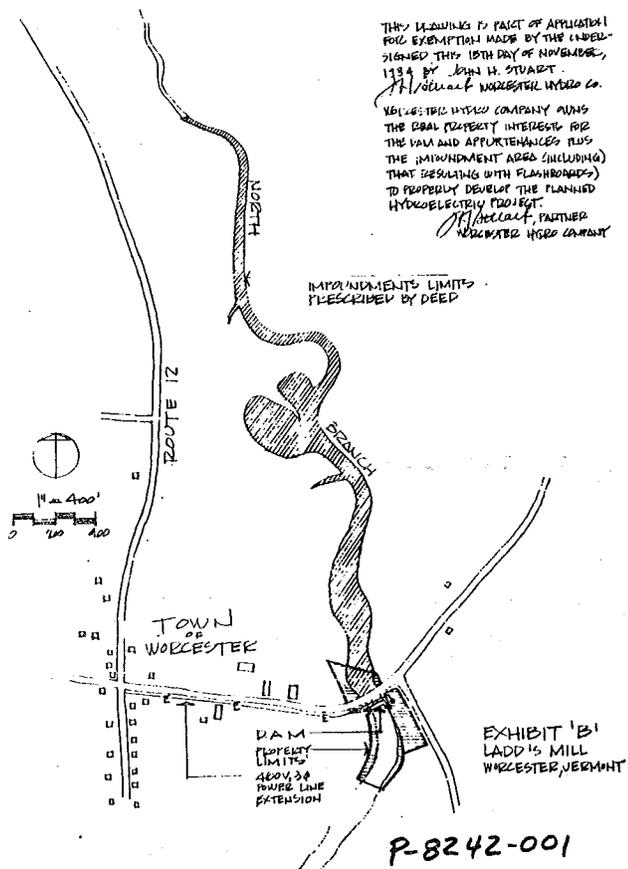
§ 4.106 Standard terms and conditions of exemption from licensing

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.

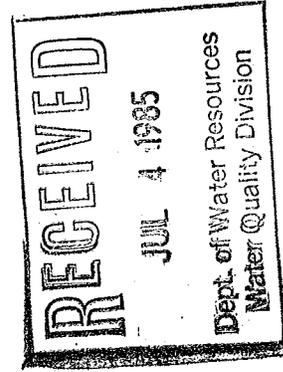
(c) Article 3. The Commission may accept a license application by any qualified license applicant and revoke this exemption if actual construction or development of any proposed generating facilities has not begun within 18 months, or been completed within four years, from the date on which this exemption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

Stephen B. Sease P-8242
Director of Planning
Agency of Environmental Conservation
Montpelier, Vermont 05602



FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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Office of Environmental Project Review
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165 State Street
Boston Massachusetts 02109

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FD
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AD
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FG: Hxdw

IN REPLY REFER TO:

ER 85/436
FERC No. 8242

May 11, 1985

Mr. Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Tom - should we do anything w/ this, FWS needs 16 cfs downstream; we use 22 cfs. I see no need. ch. Exemption most restrictive applies.

Dear Mr. Plumb:

This responds to your public notice, dated March 13, 1985, concerning the application for exemption for the Ladd's Mill Project, located on the North Branch of the Winooski River in Washington County, Vermont.

Fish and Wildlife Resources

The Applicant has consulted with the Fish and Wildlife Service (FWS) regarding this project. In a letter to the Applicant dated September 17, 1982, the FWS prescribed terms and conditions to prevent loss of, or damage to, fish and wildlife resources at this project, should it be exempted from licensing by the Commission. Since then, the FWS has determined that additional terms and conditions are necessary. To avoid confusion, all terms and conditions are listed below. Based on the requirements of Section 30(c) of the Federal Power Act and Section 408 of the Energy Security Act, these terms and conditions will be part of the exemption and should adequately protect fish and wildlife resources.

1. The Exemptee shall provide fish-passage facilities or share in the cost of trapping and transporting anadromous fish above this project when prescribed by the Fish and Wildlife Service and/or the Vermont Department of Fisheries and Wildlife. Design, construction, and operation of fish-passage facilities will be the responsibility of the Exemptee; however, approval of the design by the FWS will be necessary. Any additional instantaneous flows for operation of these facilities will also be provided by the Exemptee, as prescribed by the Fish and Wildlife Service.
2. The Exemptee shall provide an instantaneous minimum discharge below the project of at least 16 cfs (historical August flow), or inflow to the project, whichever is less, to protect downstream aquatic habitat.
3. The Exemptee shall provide an instantaneous minimum release at the dam of 10 cfs or inflow to the project, whichever is less, to conserve aquatic habitat in the bypassed reach.

O.K.

Based on 37 cfs/m we used 5 cfs/m which equals 22 cfs. The applicant had proposed 22 cfs as well.

4. The Exemptee shall notify the Fish and Wildlife Service in writing when the project commences operation. Such notice shall be sent within 30 days of start-up to Supervisor, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1518, Concord, New Hampshire 03301. A set of as-built plans shall be furnished with the notification.
5. The Exemptee shall allow public access to the project area for utilization of public resources, subject to reasonable safety and liability limitations.
6. The Exemptee shall, within six months of the date of issuance of an exemption from licensing, present to the Fish and Wildlife Service for approval a plan for monitoring instantaneous flow releases at this project. Following approval of the monitoring plan, the Exemptee shall then measure instantaneous flows and provide records of discharge at the project on a regular basis as per specifications of the Fish and Wildlife Service. Upon receiving a written request from the Exemptee, the U.S. Fish and Wildlife Service may waive the requirement for flow monitoring at this project provided the Exemptee satisfactorily demonstrates that the required flow(s) will be discharged at all times.
7. The Exemptee shall allow the Fish and Wildlife Service to inspect the project area at any time while the project operates under an exemption from licensing to monitor compliance with their terms and conditions.
8. The Fish and Wildlife Service is reserved the right to add and alter terms and conditions as appropriate to carry out its responsibilities during the life of the project with respect to fish and wildlife resources. The Exemptee shall, within thirty (30) days of receipt, file with the Commission any additional terms and conditions imposed by the above agency.
9. The Exemptee shall incorporate the aforementioned fish and wildlife conditions in any conveyance--by lease, sale, or otherwise--of his interests so as to legally assure compliance with said conditions for as long as the project operates under an exemption from licensing.

National Park Service

The National Park Service's review of the information contained in the Exemption Notice did not reveal any items of concern that may impact its programs. However, the National Park Service does request that the following condition be made a part of the Exemption:

The Exemptee shall allow public access to the project area for utilization of the resources for recreation purposes, subject to reasonable safety and liability limitations. Such access should be permanently and prominently posted so that its availability is made known to the public.

We appreciate the opportunity to comment on this application.

Sincerely yours,

A handwritten signature in cursive script that reads "William Patterson". The signature is written in dark ink and is positioned above the typed name.

William Patterson
Regional Environmental Officer



State of Vermont

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5/13

AGENCY OF ENVIRONMENTAL CONSERVATION

Montpelier, Vermont 05602

OFFICE OF THE SECRETARY

Department of Fish and Game
Department of Forests, Parks, and Recreation
Department of Water Resources and Environmental Engineering
State Geologist
Natural Resources Conservation Council

April 17, 1985

APND
DLER
F. G. : H. Ladd
Ladd 8

Mr. Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

RE: Application for Exemption (5MW or Less)
Worcester Hydroelectric Company, FERC Project No. 8242-001

COMMENTS

Dear Mr. Plumb:

Site Analysis by the Agency of Environmental Conservation:

Water Quality. The North Branch of the Winooski River, at the project site is classified as Class B by the State of Vermont Water Resources Board. The river is designated Water Management Type I or II for the protection and management of aquatic life. Dissolved oxygen content of these waters, by Vermont Water Quality Standards cannot be less than 6 mg/l or 70% of saturation, and 7 mg/l or greater may be required at and near spawning areas. While the Agency has no recent water quality data, historical data indicate that the stream has excellent water quality characteristics.

Fisheries. Future restoration of migratory salmonids to the upper Winooski River basin may require the applicant to participate in an appropriate method to carry out this restoration. This may include participation in a trap and truck operation to be located in the lower Winooski River to move upstream migrants around impassable dams. The applicant may be required to install a suitable structure or device at the dam that will prevent downstream migrating salmonids from passing through the turbines.

10 cfs or instantaneous natural inflow whenever it is less, must be released over the dam to protect habitat quality in the river between the base of the dam and the tailrace. In addition, conditions of the Water Quality Certificate will further protect the fisheries resource.

Recreation. The major recreational activity that occurs at this site is fishing. Access to the area for fishing should be provided and maintained.

Aesthetics. Construction, operation and maintenance of the facility should be accomplished in an aesthetically pleasing manner. The 10 cfs flow should be passed over, rather than through the dam, to further satisfy aesthetic concerns.

Conditions of Exemption. The Agency of Environmental Conservation concludes that the following conditions are necessary to prevent loss or damage to the fish and wildlife resources:

1. The project shall be operated as a run-of-the-river facility with instantaneous flows below the tailrace maintained equivalent to instantaneous inflows to the impoundment. The impoundment level shall not be cycled.

Following a drawdown of the impoundment necessitated by a maintenance procedure or an emergency generation period outside the control of the operator, the project shall release an instantaneous flow of 22 cfs during the refilling of the impoundment.

When the project is not operating, all flows shall be passed over the dam.

2. A continuous instantaneous flow of 10 cfs or instantaneous inflow, if less, shall be released over the dam at all times. The applicant shall furnish the Department of Water Resources with a plan and hydraulic calculations for the device to be used to maintain this minimum flow.
3. The impoundment shall not be drawn down below the dam crest for maintenance purposes without prior written approval by the Department of Water Resources.

The Agency of Environmental Conservation concludes that the following conditions are necessary to further protect water quality, to avoid or mitigate adverse environmental impacts and to better conserve and develop the water resources of the region to serve the public good:

1. During the final engineering phase or earlier, the applicant shall file a comprehensive erosion and sediment control plan with the Department of Water Resources for review and approval. The plan shall specify temporary and permanent erosion control measures to be utilized during and following construction and shall detail the techniques to be used to pass flows during construction.
2. The applicant shall not discharge petro chemicals, wet concrete, or debris to state waters during construction or operation of the facility. Any debris removed from the trashracks shall be disposed of properly.
3. Any significant changes to the project must be submitted to the Department of Water Resources for review and approval.

4. No construction may commence until the Department has issued written approval for the measures to be taken to pass minimum flows and has approved the erosion control and water management plans. Operational changes made after project completion must be submitted to the Department of Water Resources for review and written approval prior to effecting the change.
5. Any future desilting of the impoundment shall be done in accordance with the Agency of Environmental Conservation Desilting Policy. The Agency shall be notified prior to any desilting activity.
6. The applicant shall provide the Department of Water Resources and Environmental Engineering with an as-built set of plans for the record.
7. The applicant shall continue to provide recreational access for the public at the site.
8. The applicant shall retain an architect, landscape architect or professional designer to prepare elevations of the powerhouse and a landscaping and access plan for the site. No construction shall commence until these plans have been reviewed and approved by the Vermont Agency of Environmental Conservation.

Yours very truly,



Stephen B. Sease
Director of Planning

SBS/mc
Original and 14 Copies

cc: John H. Stuart
Fred E. Springer
Elizabeth Higgins
William P. Patterson
Gordon E. Beckett
Andrew Raddant
Town of Worcester
Central Vermont Regional
Planning Commission

bcc: Willard
Gerardi
Barber
Claussen
Wright
Paul