

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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Montpelier Hydroelectric Company

Project No. 5124-001

Order Issuing License (Minor)

(Issued November 23, 1982)

The Montpelier Hydroelectric Company has filed an application for a license under Part I of the Federal Power (Act) to construct, operate and maintain the North Branch No. 3 Project No. 5124. ^{1/} The project would be located on the North Branch of the Winooski River in the Township of Montpelier in Washington County, Vermont. The project would affect the interests of interstate or foreign commerce and would use surplus water from a Government dam. ^{2/}

Notice of the application has been published and comments have been received from interested Federal, State, and local agencies. None of the agencies objected to issuance of the license, and no significant concerns were raised by the commenting agencies. The Town of Middlesex, Vermont filed a petition to intervene, seeking assurance that the proposed project would not adversely affect any public improvements, such as Town bridges and highways, within its jurisdiction. The petition includes a letter stating that the Town voted that it be relieved of, and the Applicant be responsible for, all liabilities incurred by raising the elevation of the reservoir, as proposed for Project No. 5124-001. Pursuant to Section 10(c) of the Act, Licensee is liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works necessary or appurtenant thereto, constructed under the license.

^{1/} Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation under 18 C.F.R. §375.308 (1981). 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, 47 Fed. Reg. 19047 (1982). 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.

^{2/} See note 3 *infra*.

The Proposal

The North Branch No. 3 Project would involve the use of the existing Wrightsville Flood Control Dam and Reservoir, the unused existing power penstock within the dam, an additional 350 feet of penstock and construction of a powerhouse downstream of the dam. The Applicant would install 100 kW and 900 kW turbine/generator units and construct a 600-foot long 12.47-kV transmission line. The Wrightsville Dam was constructed by the Corps, who currently owns the dam, but it is maintained and operated by the State of Vermont. ^{3/} The project energy would be sold to the Washington Electric Cooperative. A more detailed description is contained in Ordering Paragraph (B).

Project Operation and Feasibility

The Applicant would modify the project by raising the normal pool elevation from Elevation 620 feet (520 acre-feet) to Elevation 635 feet (2530 acre-feet); opening a closed 8.5-foot square conduit, constructing a headgate control structure and installing approximately 350 feet of 6-foot diameter steel conduit downstream to the powerhouse.

The Corps' dam is of zoned earth construction and has a hydraulic height of 115 feet. At spillway elevation 685 feet the reservoir has a storage capacity of 20,300 acre-feet, equivalent to 5.6 inches of runoff (approximately the 100 year flood). The Applicant's proposal would reduce the flood control storage to 17,770 acre-feet (4.89 inches). This has not been accepted by the Corps. Articles 25 and 28 require the Applicant to develop a final design in consultation with and to the satisfaction of the Corps.

The North Branch No. 3 Project will be operated essentially as a run-of-river facility with an average daily drawdown of two feet. The proposed minimum flow is 25 cfs, the design hydraulic capacity of the 100 kW hydroelectric unit. When inflows are less than 25 cfs the minimum stream flow of 7Q10 or 3.4 cfs would be released. The project would generate an average 3,000,000 kWh annually at a plant factor of 34 percent.

^{3/} The Wrightsville Dam is a Government dam within the meaning of Section 3(10) of the Federal Power Act, 16 U.S.C. §796(10) (1976). See Green Mountain Power Corp., Project No. 2090, 13 FPC 1211 (July 20, 1954), wherein the Commission found that the Waterbury Dam, constructed by the United States but operated and maintained by the State of Vermont was a Government dam.

The Act requires the Commission to assess a Licensee a reasonable annual charge for use of a government dam. The Commission is considering a rulemaking for determining these annual charges. Until the Commission decides on this proposed rulemaking, this annual charge will be deferred.

The project will make good use of the flow and fall of the North Branch of the Winooski River and is not in conflict with any planned or potential development. 4/ A staff analysis indicates that the project is economically feasible.

It is concluded that the project, under the present circumstances and under the conditions of this license, will be adequate, economically feasible, and is best adapted to a comprehensive plan for development of the North Branch of the Winooski River for beneficial public use.

Environmental Considerations

The impact of development would be minor with no critical or unique habitat being adversely affected. No Federally-listed threatened or endangered plant or animal species have been reported in the affected reach of the North Branch of the Winooski River, nor are there any sites listed on the National Register of Historic Places within or near the project area. The development would result in minor, short-term increases in noise, dust and exhaust emissions from construction activities, and minor increases in erosion, sedimentation and turbidity from disturbance of land surfaces.

The Applicant has adopted the recommendations of the Vermont Department of Fish and Game to: (1) locate the powerhouse 300 feet upstream from the original site to minimize stream diversion; (2) raise the normal reservoir operating level to enhance the reservoir's recreational potential; (3) provide for a 3.4 cfs minimum 7Q10 flow through the 350-foot long bypassed reach of the North Branch of the Winooski River immediately below the dam; and (4) provide for a 25 cfs minimum flow in the river below the powerhouse. 5/ The minimum flows to be provided by the Applicant

4/ The proposed project, with its average annual generation of three million kWh, will utilize a renewable resource that will save the equivalent of approximately 4,920 barrels of oil or 1390 tons of coal per year.

5/ The Vermont Agency of Environmental Conservation has issued a water quality certificate for the project, in accordance with Section 401 of the Clean Water Act.

would protect the aquatic resources of the North Branch of the Winooski River. Article 30, therefore, requires the release of minimum flows at the dam and the powerhouse.

In accordance with standard Commission practice, 6/ Article 19 of this license requires cultural resources protection measures.

On the basis of the record, including agency comments and our staff's independent analysis, it is found that issuance of a license for this project, as conditioned, is not a major Federal action significantly affecting the quality of the human environment.

License Term

The proposed reconstruction of this project using an existing dam is similar to relicensing an existing licensed project at which a moderate amount of new development is proposed; therefore, consistent with the Commission's policy, a 40-year license term is reasonable in this instance. 7/

It is ordered that:

(A) This license is issued to the Montpelier Hydroelectric Company (Licensee) of East Montpelier, Vermont, under Part I of the Federal Power Act (Act), for a period of 40 years, effective the first day of the month in which this order is issued, for the construction, operation, and maintenance of the North Branch No.3 Project No. 5124, located in Washington County, Vermont, on the North Branch of the Winooski River, and affecting the interests of interstate or foreign commerce. This license is subject to the terms and conditions of the Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the Act.

(B) The North Branch No. 3 Project No. 5124 consists of:
(1) All lands, to the extent of the Licensee's interests in those lands, constituting the project area and enclosed by the project boundary. The project area and boundary are shown and described by certain exhibits that form part of the application for license and that are designated and described as:

6/ See S.D. Warren, Project No. 2897, 10 FERC ¶ 61,153 (February 19, 1980).

7/ Montana Power Company, Order Issuing New License (Major) Project No. 2301 (issued October 5, 1976).

<u>Exhibit</u>	<u>FERC No. 5124</u>	<u>Showing</u>
G, Sheet 1	11	Project Map
G, Sheet 2	12	Project Map

(2) Project works consisting of: (1) a 6-foot diameter steel penstock 350 feet long; (2) a 600-square foot powerhouse containing 100-kw and 900-kw turbine/generator units operating under a head of 62 feet; (3) the 4.16-kV generator leads, the 4.16/12.47-kV, 1.0-MVA transformer, and the 12.47-kV, 600-foot long transmission line; and (4) appurtenant facilities. The location, nature, and character of these project works are generally shown and described by the exhibits cited above and more specifically shown and described by certain other exhibits that also form a part of the application for license and that are designated and described as:

Exhibit A - Page 4 - Description of project statistics and physical properties, filed as part of the application on December 16, 1981.

<u>Exhibit F</u>	<u>FERC No. 5124-</u>	<u>Showing</u>
1	1	Project Structures and Equipment
2	2	Project Structures and Equipment
3	3	Project Structures and Equipment
3A	4	Project Structures and Equipment
4	5	Project Structures and Equipment
5	6	Project Structures and Equipment
6	7	Project Structures and Equipment
7	8	Project Structures and Equipment
8	9	Project Structures and Equipment
9	10	Project Structures and Equipment

(3) All of the structures, fixtures, equipment, or facilities used or useful in the operation or maintenance of the project and located within the project boundary, all portable property that may be employed in connection with the project, located within or outside the project boundary, as approved by the Commission, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) Exhibits F and G, designated in Ordering Paragraph (B) above, and Page 4 of Exhibit A are approved and made a part of the license.

(D) Pursuant to Section 10(i) of the Act, it is in the public interest to waive the following Sections of Part I of the Act, and they are excluded from the license:

Section 4(b), except the second sentence; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act that are waived here; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 14, except insofar as the power of condemnation is reserved; 15; 16; 19; 20; and 22.

(E) This license is also subject to Articles 1 through 18 set forth in Form L-15 (revised October, 1975), entitled "Terms and Conditions of License for Unconstructed Minor Project Affecting the Interests of Interstate or Foreign Commerce," attached to and made a part of this license. The license is also subject to the following additional articles:

Article 19. Prior to commencement of any construction or development of any project works or other facilities at the project, the Licensee shall consult and cooperate with the State Historic Preservation Officer (SHPO) to determine the need for, and extent of, any archeological or historic resource surveys and any mitigative measures that may be necessary. The Licensee shall provide funds in a reasonable amount for such activity. If any previously unrecorded archeological or historic sites are discovered during the course of construction, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historic resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historic work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

Article 20. The Licensee shall commence construction of the project within one year from the effective date of this license and, in good faith and with due diligence, shall prosecute and complete construction of the project works within three years from the effective date of this license.

Article 21. The Licensee shall file with the Commission's Regional Engineer and the Director, Office of Electric Power Regulation, one copy each of the contract drawings and specifications for pertinent features of the project such as water retention structures, powerhouse and water conveyance structures, at least 60 days prior to start of construction. The Director, Office of Electric Power Regulation, may require changes in the plans and specifications to ensure a safe and adequate project.

Article 22. (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with, the covenants of the instrument of conveyance for any interests that it has conveyed under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee

shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable State and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and

State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Electric Power Regulation, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or State agency official consulted, and any Federal or State approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the Licensee shall consult with Federal and State fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

Article 23. The Licensee shall, within 90 days of completion of construction, file in accordance with the Commission's Rules and Regulations, revised Exhibits A and F to describe and show the project "as-built".

Article 24. The Licensee shall review and approve the design and construction procedures for all contractor-designed cofferdams and deep excavations prior to the start of construction. The Licensee shall file with the Commission's Regional Engineer in New York and the Director, Office of Electric Power Regulation, one copy of the approved construction drawings and specifications, and a copy of the letter of approval at least 30 days prior to the start of construction.

Article 25. The Licensee shall enter into an agreement to coordinate its plans with the U.S. Department of the Army, Corps of Engineers and the State of Vermont (CE-VT) for access to and site activities on lands and property administered by them so that the authorized purposes, including operation of the Federal facilities, are protected. In general, the agreement shall not be redundant with the Commission's requirements contained in this license and shall identify the facility, and the study and construction activities, as applicable, and terms and conditions under which studies and construction will be conducted. The agreement shall be mainly composed of the following items: (1) reasonable arrangements for access to the site to conduct studies and construction activities, such access rights to be conditioned as may be necessary to protect the State and Federally authorized project purposes and operations; (2) charges to be paid by the Licensee to the Corps: (a) for technical studies by the Corps that relate solely to the structural integrity of the Corps' facility associated with power plant development; and (b) for review of designs including plans and specifications, and for construction inspections based on personnel costs, where such review and inspections are directly related to the structural integrity of the Wrightsville Dam; and (3) charges to be paid by the Licensee to the Corps for copies of reports, drawings and similar data based on printing and mailing costs, provided that charges shall not be assessed for information, services, or relationships that would normally be provided to the public. Should Licensee, the State, and the Corps fail to reach an agreement, the Licensee shall refer the matter to the Commission for resolution.

Article 26. The Licensee shall pay the United States the following annual charges, effective the first day of the month in which this license is issued:

- (a) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 1,330 horsepower.
- (b) For the purpose of recompensing the United States for utilization of surplus water or water power from the government dam, an amount to be hereafter determined by the Commission.

Article 27. Subsequent to entering into the agreement required by Article 29, the Licensee shall have no claim against the United States arising from the effect of any changes made in the operating pool levels at Wrightsville Dam.

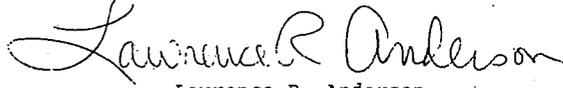
Article 28. The construction, operation and maintenance of the project works that, in the judgment of the District Engineer, U.S. Corps of Engineers, New York, New York or the State of Vermont may affect the structural integrity or operation of the project shall be subject to periodic or continuous inspections by the Corps. Any construction, operation or maintenance deficiencies or difficulties detected by the Corps inspection will be immediately reported to the Regional Engineer. Upon review, the Regional Engineer will refer the matter to the Licensee for appropriate action. The Corps inspector will report to the Regional Engineer the need to stop construction, operation or maintenance while awaiting resolution of construction, operation or maintenance deficiencies or difficulties if such deficiency or difficulty would affect the structural integrity of the Wrightsville Project. In cases when construction, operation or maintenance practice or deficiency may result in an emergency situation causing imminent danger to the structural integrity and safety of the Wrightsville Project, the Corps' inspector has the authority to stop construction, operation or maintenance while awaiting the resolution of the problem.

Article 29. Licensee shall, prior to commencement of operation of the project, enter into a memorandum of agreement with the District Engineer, U.S. Army Corps of Engineers, New York, New York and the State of Vermont (CE-VT) describing the mode of hydropower operation acceptable to the CE-VT. ~~The Regional Engineer shall be invited to attend meetings regarding the agreement.~~ The memorandum of agreement shall be subject to revision by mutual consent of the CE-VT and the Licensee as experience is gained by actual project operation. Should the CE-VT fail to reach an agreement with the Licensee, the matter will be referred to the Director, Office of Electric Power Regulation, for resolution. Copies of the signed memorandum between the CE-VT and the Licensee and any revision thereof shall be furnished to the Director, Office of Electric Power Regulation, and the Regional Engineer.

Article 30. Licensee shall provide for a continuous minimum flow from the North Branch No. 3 Project of 3.4 cubic feet per second (cfs) as measured immediately below the Wrightsville Flood Control Dam and, as measured immediately below the North Branch No. 3 Project powerhouse, 25 cfs, or the inflow to the reservoir, whichever is less, for the purpose of protecting and enhancing aquatic resources in the North Branch of the Winooski River. These flows may be temporarily modified if required by operating emergencies beyond the control of Licensee, and for short periods for fishery management purposes upon mutual agreement between the

Licensee and the Vermont Fish and Game Department.

(F) The Licensee's failure to file a petition appealing this order to the Commission shall constitute acceptance of this license. In acknowledgment of acceptance of this license and its terms and conditions, it shall be signed by the Licensee and returned to the Commission within 60 days from the date this order is issued.



Lawrence R. Anderson
Director, Office of
Electric Power Regulation

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this Order, Montpelier Hydroelectric Company, this _____ day of _____, 19____, has caused its name to be signed hereto by _____, its Chairman, and its seal to be affixed hereto and attested by _____, its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____, 19____, a certified copy of the record of which is attached hereto.

By _____
Chairman

Attest:

Secretary

(Executed in quadruplicate)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED
MINOR PROJECT AFFECTING THE INTERESTS OF
INTERSTATE OR FOREIGN COMMERCE

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes

made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which, in the opinion of the Licensee necessitated or justified variation in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 4. The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any feature or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow said representative and other

officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative.

The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 7. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 8. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 9. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 10. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 11. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate; or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 12. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall

permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 13. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 14. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 15. The Licensee shall consult with the appropriate State and Federal agencies and, within one year of the date of issuance of this license, shall submit for Commission approval a plan for clearing the reservoir area. Further, the Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition,

all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. Upon approval of the clearing plan all clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 16. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 17. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 18. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

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Dept. of Water Resources
Water Quality Division