

UNITED STATES OF AMERICA 143 FERC ¶ 62,113
FEDERAL ENERGY REGULATORY COMMISSION

FirstLight Hydro Generating Company

Project Nos. 2485-050
1889-069

ORDER APPROVING REPORT ON EXISTING USES AND
OCCUPANCIES OF PROJECT LANDS AND WATERS

(Issued May 13, 2013)

1. On December 29, 2010, FirstLight Hydro Generating Company (licensee or FirstLight) filed a report on existing residential and private structures on lands within the boundaries of the Northfield Mountain and Turners Falls Hydroelectric Projects (FERC Nos. 2485 and 1889). The Northfield Project is located in Franklin County, Massachusetts, while the Turners Falls Project is located in Franklin County, Massachusetts; Windham County, Vermont; and Cheshire County, New Hampshire. Both projects are located on the Connecticut River.
2. The Northfield and Turner Falls Projects include 24 sites with private structures, including 22 with rustic seasonal residential structures and associated docks, one with only a storage shed, and one occupied by a private sportsman's club.¹ The existing structures are a historic use that began in the 1920's and the previous licensees for these projects issued permits to manage their use. The previous licensee did not seek Commission approval of these uses of project property. To correct this oversight, FirstLight filed an application on October 10, 2008 seeking Commission approval to issue permits to the occupants of the existing sites, and oversee such uses of project lands to ensure project resources are protected in a manner that is consistent with each project license. The licensee's filing included, among other things, a proposal to conduct evaluations of each site to assess the potential for erosion or excessive runoff and reasonable opportunities to reduce such impacts (e.g., planting of native vegetation) and the need for specific mitigation measures, within one-year of Commission approval of the application.
3. By Order Modifying and Approving Non-Project Use of Project Lands and Waters issued October 28, 2009, the Commission approved the licensee's application with

¹ Ten sites are located in Gill, Massachusetts, and the remaining 14 are located in Montague, Massachusetts.

modification.² Ordering paragraph B requires the licensee to file a report on the proposed site evaluations for Commission approval and to include in the report: (1) site-specific baseline data, including the permittee name, site location, and existing condition and structures; (2) a description of the erosion and excessive runoff evaluation methodology; (3) the results of the evaluation, including a description of affected areas and any impacts found at the sites; (4) a detailed description of any proposed mitigation measures, including an explanation of how these measures would be effective and sufficient to properly mitigate any impacts; and (5) a plan and schedule for completion of any proposed mitigation measures. The report is to be prepared in consultation with the U.S. Fish and Wildlife Service, Massachusetts Department of Environmental Protection, Massachusetts Department of Fisheries and Wildlife, Massachusetts Department of Conservation and Recreation, and Massachusetts State Historic Preservation Office.

4. The licensee's December 29 report includes the items required under ordering paragraph B for each of the 24 existing sites, and focuses on three major areas: (1) evaluation of opportunities for reducing erosion at the sites; (2) assessment of the feasibility of removing nonessential structures, improvements, and personal property; and (3) proposed mitigation measures for allowing the structures to remain within the project boundary. Based on these site-specific evaluations, the licensee requires 11 of the sites to have mitigation plans to reduce erosion, including five sites with shoreline mitigation, and found that the 13 remaining sites did not have significant erosion. These sites are to be monitored annually and any future erosion issues addressed in a timely manner. The licensee also found that six of the 24 sites have existing structures that do not meet its standards and it requires the removal of specific outbuildings from each of the six sites. Depending upon the specific mitigation required the licensee requires these measures be completed by December 2011 or December 2012.

5. In addition, to increase public awareness of existing public recreation opportunities at the project, the licensee states it is creating a website page with an interactive map showing publicly-available recreation sites/facilities operated by the licensee and others. Further, to minimize the aesthetic impact of existing structures and improvements, the licensee states it will require neutral earth tone colors to be used for future painting of such structures, and it encourages permittees to keep portable personal property inside structures or off-site. The licensee also states it will formalize a ten-foot-wide buffer at the river's edge, except for pathway to a dock, where no mowing would be allowed and only selective pruning of vegetation species would be allowed. The buffer is also expected to increase habitat suitability for wildlife. Finally, the licensee provided a draft copy of the report to the required resource agencies for review and comment. No comments were received.

² 129 FERC ¶ 62,075.

6. The licensee's report meets the requirements of ordering paragraph B and includes specific measures to properly mitigate for the continued use of project property by the 24 existing sites. The proposed measures would reduce erosion at the sites, provide for increased public access and enhance fish and wildlife resources, as well as minimize aesthetic impacts. Given the above information, the report should be approved.

7. In order to ensure the proposed measures are appropriately implemented, the licensee should file a report on the completion status of each mitigation measure it identified in the report that has a specific completion date, as well as the implementation status of the proposed buffer and website page. For any of the proposed measures that have not yet been completed, the licensee should also include in its filing, the site-specific reasons for the delay and an estimated completion date for the measure.

The Director orders:

(A) FirstLight Hydro Generating Company's report on existing residential and private structures on lands within the boundaries of the Northfield and Turners Falls Projects, filed on December 29, 2010 pursuant to ordering paragraph B of the October 28, 2009 order, is approved.

(B) Within 90 days from the issuance date of this order, the licensee shall file a report on the completion status of each mitigation measure in the approved report that has an identified completion date, as well as the implementation status of the proposed buffer and website page. For any of proposed measures have not yet been completed, the licensee shall also include in its filing, the site-specific reasons for the delay and an estimated completion date for the measure. The Commission reserves the right to require changes to the approved report, based on the status report filing.

(C) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2012). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Robert J. Fletcher
Chief, Land Resources Branch
Division of Hydropower
Administration and Compliance

Document Content(s)

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