

24 FERC P 62278 (F.E.R.C.), 1983 WL 39093

\*\*1 Office Director Orders

Oakdale and South San Joaquin Irrigation Districts

Project No. **2975**-001

Order Issuing **License** (Major)

(Issued September 8, 1983)

\***63470** Lawrence R. Anderson, Director, Office of Electric Power Regulation.

The Oakdale and South San Joaquin Irrigation Districts (Applicant) filed an application for **license** under Part I of the Federal Power Act (Act) to construct, operate, and maintain the Sand Bar Water Power Project No. **2975**.<sup>1</sup> The project would be located on the Middle Fork Stanislaus River, near Strawberry, in Tuolumne County, California, and would occupy approximately 104.6 acres of United States lands within the Stanislaus National Forest.

Notice of the application has been published and comments have been received from interested Federal, State, and local agencies. Pacific Gas and Electric Company (PG&E) and the California Department of Fish and Game (CDFG) were granted intervention. Significant concerns of the intervenors and commenting agencies are discussed below. No other protests or motions to intervene were filed.

#### *Project Description*

The proposed project would develop the hydroelectric potential between the Applicant's existing Beardsley Afterbay Dam of Project No. 2005 and PG&E's existing Sand Bar Flat Diversion Reservoir of Project No. 2130. PG&E supports the issuance of the **license** for Project No. **2975**. Although Beardsley Afterbay Dam is an existing feature of Project No. 2005, it is also an integral part of Project No. **2975** and is included in this **license**. Project No. **2975** would consist of: (1) an existing 58-foot-high, 385-foot-long Beardsley Afterbay Dam and Reservoir and a proposed intake structure near the north abutment of the dam; (2) a 12-foot-diameter, \***63471** 18,250-foot-long unlined tunnel; (3) a surge shaft; (4) an 8-foot-diameter, 400-foot-long penstock; (5) a powerhouse containing a single generating unit with a rated capacity of 15,600 kW; (6) a 300-foot-long tailrace channel; and (7) a 2.5-mile-long, 115-kV transmission line. The project is more fully described in Ordering Paragraph (B) of this **license**. It would be controlled and monitored from the Applicant's existing Beardsley Powerhouse and would be operated in a run-of-the-river mode. This order **licenses** Project No. **2975** and also requires the filing of an application for amendment of the **license** for Project No. 2005 to provide for the use of the Beardsly Afterbay Dam and Reservoir and related facilities by Project No. **2975**.

#### *Safety and Adequacy*

Preliminary design evaluation indicates that the project structures would be safe and adequate. This **license** includes Article 33 which requires the Licensee to file the equipment description part of Exhibit A. The final design would be based upon a detailed subsurface geological investigation. Article 34 of this **license** requires the Licensee to retain a board of consultants to review the project structures for safety and adequacy. The **license** also includes Article 35 which requires the filing of contract drawings and specifications prior to the start of construction. It is concluded that the project, under the conditions of this **license**, would be safe and adequate if constructed in accordance with sound engineering practices.

#### *Economic Feasibility*

**\*\*2** The proposed project would generate an estimated average 84 million kWh of energy annually which would be sold to PG&E.<sup>2</sup> The project is economically feasible based on the sale of project power at the avoided cost in the state of California adjusted for escalation.

### *Environmental Considerations*

#### *A. Fish and Wildlife Resources*

The 4.2-mile-long reach of the Middle Fork Stanislaus River between Beardsley Afterbay and Sand Bar Flat Dam supports a very high quality cold-water fishery comprised of rainbow, brown, and brook trout.

The CDFG, U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service (USFS) indicated that diversions for the proposed project would result in inadequate stream flows to support the valuable and productive rainbow and brown trout fishery that currently exists in this reach of the river. The CDFG and USFS also noted that, unless adequate flows are maintained, increased angler pressure on the reduced stream would result in a smaller average size of trout in the project area. CDFG in its petition to intervene stated that any **license** granted to the Applicant should include conditions of operation designed to protect the fish and wildlife resources of Middle Fork Stanislaus River.

The Applicant has negotiated separate agreements with CDFG and USFS that would require a continuous minimum flow of 135 cfs from the Beardsley Afterbay Dam. It is concluded that a continuous minimum flow of 135 cfs (50 cfs in dry years) released from the Beardsley Afterbay Dam would protect the aquatic resources in the project area. This **license** includes Article 38 which requires the Licensee to release the above minimum flows.

The project area is situated in a migration corridor for mule deer. During the summer, a limited number of deer occur in the project vicinity. Bald eagles occur in the project vicinity during the winter, but they would not be affected by the project. No eagles have been sighted during the summer, but there is possibility of a nest site located near the Sand Bar Flat Dam. Consequently, the Applicant has agreed to survey the project area to determine the extent of bald eagle nesting activity there.

The USFS and CDFG recommended that the Applicant mitigate for the loss of wildlife habitat that would result from the construction of project facilities. The Applicant indicated that, because of the project area's steep topography, land area for suitable on-site mitigation is unavailable. If suitable on-site areas are not available, consideration should be given to wildlife mitigation outside the project boundary. The agencies are also concerned that the proposed penstock and tailrace may hinder or block deer migration through the project area. The Applicant indicated that project design changes are being evaluated to minimize this impact.

Article 39 of this **license** requires the Licensee to file a revised report on Fish, Wildlife, and Botanical Resources, prepared after consultation with the appropriate agencies, that presents: (1) a plan to mitigate for wildlife habitat loss; and (2) any revisions to penstock or tailrace design necessary to minimize impacts to mule deer that migrate through the project area; and (3) the results of the bald eagle survey that the Applicant has agreed to conduct, and a plan to avoid adverse impacts to eagles or eagle nests affected by the project's construction, operation, or maintenance.

#### **\*\*3 \*63472** *B. Water Quality*

Water quality of the Middle Fork Stanislaus River below Beardsley Afterbay Dam indicates that the water has a low nutrient concentration and a dissolved oxygen concentration near air-saturation level. Data on the sediment load of the river in the project area are unavailable. However, the stable landforms of the upper drainage, in combination with the sediment trapping capabilities of the two upstream dams, appear to limit the suspended sediment load of the river below Beardsley Afterbay.

The Resources Agency of California (Agency) expressed concern that the Applicant's proposed sedimentation basins would not be adequate to contain spoils from tunnel boring in the event that large quantities of groundwater are encountered. The Agency indicated that, in order to prevent oil residues and sediment from reaching the Middle Fork Stanislaus River, provisions to control this water must be made. Article 40 of this **license** requires the Licensee to develop a plan to control erosion and ensure that sediments and other pollutants would not enter the river. The plan is to be developed in consultation with Federal and State agencies.

The Applicant sent a letter to the Central Valley Regional Water Control Board (Board) on August 18, 1981, requesting water quality certification for the construction and operation of the proposed project. On June 6, 1983, the Board waived the requirement for water quality certification for the project.

#### *C. Cultural Resources*

Archeological surveys conducted for the USFS have recorded numerous prehistoric resources in the vicinity of the proposed project. These prehistoric resources include bedrock mortars, lithic scatters, and midden locations. None of these sites, however, would be impacted by the proposed project.

The California State Historic Preservation Officer reviewed the Applicant's cultural resources assessment and did not have any comments on that document.

In accordance with Commission practice, this **license** includes Article 41 which requires cultural resource protection measures in the event any cultural resources are discovered during project construction.

#### *D. Recreational Facilities*

Two USFS recreational sites and a hiking trail are situated in the project area. The Applicant's proposed recreation plan, which was filed as a supplement to the original Report on Recreation Resources, indicates that Applicant would finance the costs of: (1) designing, constructing, operating, and maintaining new facilities at two USFS recreation sites (10 improved campsites, two vault toilets, parking area for day users, potable water supply system, and an interior/loop road at the existing Sand Bar Flat Campground and a parking area and single vault toilet at a new day-use site in the Beardsley Afterbay Dam area); and (2) upgrading the existing USFS hiking trail between Beardsley Dam and Sand Bar Flat Campground. A subsequent agreement between the Applicant and the USFS indicates that the USFS will be responsible for the design, construction, operation and maintenance connected with the recreational facilities, while the Applicant would finance the costs of these facilities. The recreation plan for the project is being approved herein.

#### **\*\*4** *E. Other Environmental Impacts*

Approval of the subject application would not result in any significant adverse long-term environmental impacts. Construction activities could produce some temporary adverse impacts, such as dust and noise from vehicles and machinery, a small amount of turbidity and sedimentation in the Middle Fork Stanislaus river and the disturbance of a relatively small amount of vegetation at the powerhouse site and in the pipeline corridor. The Applicant's proposed mitigation should ensure that these impacts are relatively minor in scope and temporary in duration.

On the basis of the record, and Staff's independent analysis, it is concluded that issuance of a **license** for the project, as conditioned, will not constitute a major Federal action significantly affecting the quality of the human environment.

#### *Other Aspects of Comprehensive Development*

The proposed project would develop the water power potential of the Middle Fork Stanislaus River, and would not be in conflict with any planned development in that reach of the river.

It is concluded that, subject to terms and conditions of this **license**, the project is best adapted to a plan for the comprehensive development of the San Joaquin River Basin for beneficial purposes.

**License Term**

The proposed scale of development is less than that which would warrant a full 50-year term since the project's dam and reservoir currently exist. Therefore pursuant to the Commission's policy for **licensing** projects involving moderate development,<sup>3</sup> this **license** term will be for a period of 40 years.

**\*63473** *It is ordered that:*

(A) This **license** is issued to the Oakdale and South San Joaquin Irrigation Districts (Licensee), 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 Sand Bar Power Project No. **2975**, located in Tuolumne County, California on the Middle Fork Stanislaus River and occupying lands within the Stanislaus National Forest. 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 Sand Bar Power Project No. **2975** 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 Exhibit G that forms part of the application for **license** and that is designated and described as:

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(2) Project works consist of: (a) an existing 58-foot-high, 385-foot-long Beardsley Afterbay Dam and Reservoir and a proposed intake structure near the north abutment of the dam; (b) a 12-foot-diameter, 18,250-foot-long unlined tunnel; (c) a surge shaft; (d) an 8-foot-diameter, 400-foot-long penstock; (e) a powerhouse containing a single generating unit with a rated capacity of 15,600 kW; (f) a 300-foot-long tailrace channel; (g) a 2.5-mile-long, 115-kV transmission line connecting t PG&E transmission line, (h) a 0.5-mile-long new road and an 8.5-mile-long existing road to be upgraded, (i) a 13.<sup>8</sup>/<sub>115</sub>-kV substation; and (j) appurtenant facilities.

**\*\*5** 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:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

The Report on Recreational Resources, titled "Recreation Plan", filed as a supplement to Exhibit E on July 15, 1982, consisting of 7 unnumbered pages of text and two drawings FERC Nos. **2975**-16 and -17.

(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, 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) Exhibit drawings G-2 and F-1 through F-10, designated in Ordering Paragraph (B) above, are approved and made a part of the **license** only to the extent that they show the general location, description, and layout of the project works.

(D) The Recreation Plan and Exhibit E drawings, designated in Ordering Paragraph (B) above are approved and made a part of the **license**.

(E) This **license** is also subject to the terms and conditions set forth in Form L-2 (revised October 1975) entitled "Terms and Conditions of **License** for Unconstructed Major Project Affecting Lands of the United States" attached to (reported at 54 FPC 1808) and made a part of this **license**. The **license** is also subject to the following additional articles:

*Article 33.* The Licensee shall file for approval of the Director, Office of Electric Power Regulation, Exhibits F and G drawings and the equipment description part of Exhibit A within 90 days of completion of construction describing the project as-built and showing Beardsley Afterbay Dam and Reservoir as part of the project. The Exhibit G drawings should indicate which project facilities are also **licensed** as part of Project No. 2005.

*Article 34.* The Licensee shall retain a Board of two or more qualified, independent, engineering consultants experienced in engineering geology and civil engineering to review the design, specifications, and construction of the project for safety and adequacy. The names and qualifications of the Board members shall be submitted to the Director, OEPR, for approval. Among other things, the Board shall assess the geology; the design, specifications, and construction of the power tunnel, power tunnel intake, and powerhouse; instrumentation; the construction inspection program; and construction procedures and progress. The Licensee shall submit to the Commission copies of the Board's Report on each meeting. Reports reviewing \*63474 each portion of the project shall be submitted prior to or simultaneously with the submission of the corresponding Exhibit F final design drawings.

*Article 35.* The Licensee shall file with the Commission's Regional Engineer in San Francisco, California, and the Director, Office of Electric Power Regulation, one copy each of the contract drawings and specifications for pertinent features of the project additions, such as water retention structures, powerhouse and water conveyance structures, 60 days prior to the start of construction. The Director, Office of Electric Power Regulation, may require changes in the plans and specifications to assure a safe and adequate project.

**\*\*6** *Article 36.* The Licensee shall review and approve the design and construction procedures for contractor-designed cofferdams and deep excavations prior to start of construction. The Licensee shall file with the Commission's Regional Engineer and Director, Office of Electric Power Regulation, one copy of the approved construction drawings and specifications, and a copy of the letter of approval.

*Article 37.* The Licensee shall commence construction of the project within two years from the effective date of the **license** and shall thereafter in good faith and with due diligence prosecute such construction and shall complete construction of such project works within five years from the effective date of the **license**.

*Article 38.* Licensee shall discharge from the Beardsley Afterbay Dam a continuous minimum flow of 135 cubic feet per second (cfs), or inflow, whichever is less, in all years except those defined as dry years by the California Department of Water Resources (CDWR), for the purpose of protecting and enhancing aquatic resources in the Middle Fork Stanislaus River. During a dry water year, licensee shall discharge from the Beardsley Afterbay Dam a continuous minimum flow of 50 cfs. If, during a designated dry year, the February 1 or later water predictions of the CDWR indicates that dry year conditions no longer prevail, a flow release of 135 cfs will resume immediately. These flows may be temporarily modified if required by operating emergencies beyond the control of the Licensee, for maintenance work, and for short periods for fishery management purposes upon mutual agreement between the Licensee and the California Department of Fish and Game (CDFG). During the periods of routine maintenance that will affect flow releases, the Licensee shall consult and comply with measures recommended by CDFG to protect the aquatic environment, prior to scheduling of work.

*Article 39.* Licensee shall, after consultation with the U.S. Fish and Wildlife Service, U.S. Forest Service, and the California Department of Fish and Game, file for Commission approval within 1 year from the date of issuance of this **license**, a revised Report on Fish, Wildlife, and Botanical Resources, which shall include: (1) a plan to mitigate the loss of wildlife habitat attributed to the project's construction; (2) any revisions to the design of the penstock and tailrace facilities necessary to minimize the project's adverse impacts on mule deer that migrate through the project area; and (3) the results of the bald eagle survey, and a plan to avoid any adverse impacts to any eagles or eagle nests affected by the project's construction, operation, or maintenance.

*Article 40.* The Licensee shall consult with the Resources Agency of California and the U.S. Fish and Wildlife Service and prepare a detailed plan: (1) to control erosion, and (2) to minimize the quantity of inorganic sediment, oil residues, and other potential water pollutants resulting from construction, operation, and maintenance of project facilities. This plan shall include an implementation schedule, monitoring and maintenance programs for project construction and operation, and evidence of agency consultation. This plan shall be filed with the Commission's Regional Engineer in San Francisco, California, and the Director, Office of Electric Power Regulation, at least 60 days prior to any ground-disturbing activity or spoil disposal. The Director, Office of Electric Power Regulation, may require changes in the plan.

**\*\*7 Article 41.** The Licensee shall, prior to the commencement of any future construction at the project, consult with the California State Historic Preservation Officer (SHPO) about the need for any cultural resource survey and salvage work. The Licensee shall make available funds in a reasonable amount for any such work as required. If any previously unrecorded archeological or historical sites are discovered during the course of construction or development of any project works or other facilities at the project, 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 historical resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historical 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.

**\*63475 Article 42.** The Licensee shall pay the United States the following annual charges:

(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 20,800 horsepower.

(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 86 acres of its lands, other than for transmission line right-of-way a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time.

(c) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of 18.6 acres of its lands for transmission line right-of-way, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time.

*Article 43.* (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.

**\*\*8** (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) noncommercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 water craft at a time and where said facility is intended to serve single-family type dwellings; 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 **\*63476** 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.

**\*\*9** (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 paragraph (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.

**\*\*10** (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.

(F) The Licensee within 60 days from the date of this order shall file with the Commission for approval an application, in accordance with the Commission's regulations, to amend its **license** for Project No. 2005 to provide for the use of the Beardsley Afterbay Dam and Reservoir and related facilities by Project No. **2975**.

(G) 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 for the Licensee and returned to the **\*63477** Commission within 60 days from the date this order is issued.

#### Federal Energy Regulatory Commission

#### Footnotes

<sup>1</sup> Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 (1983), *FERC Statutes and Regulations* P 30,238. 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. §375.1902 (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.

<sup>2</sup> The proposed project would utilize a renewable resource that will save the equivalent of approximately 190,000 barrels of oil or 30,000 tons of coal per year.

<sup>3</sup> *e Village of Lyndonville Electric Department*, 7 FERC P 61,324 (June 29, 1979).

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