

APPENDIX 3-1
Notice of Exemption of Small Hydroelectric Power Project From Licensing
dated December 15, 1982

Franklin Falls Hydro Electric Corporation

Station Telephone
603-984-8000

P.O. Box 216,
Franklin, New Hampshire 03235

Business Telephone
603-455-5479

R6950-000

BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

THIS DOCUMENT CONTAINS
POOR QUALITY PAGES

NOTICE OF EXEMPTION OF
SMALL HYDROELECTRIC POWER PROJECT
FROM LICENSING

1982 DEC 20 PM 3:52
FEDERAL ENERGY REGULATORY COMMISSION

FRANKLIN FALLS DAM HYDRO PROJECT
FRANKLIN, NEW HAMPSHIRE

15 DECEMBER 1982

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Vol
FERC - DOCUMENT
DEC 20 1982

New Hampshire's Finest Independent producer of pure kilowatt hours from fresh lake water.
"John Pillsbury"

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION
NOTICE OF EXEMPTION OF
SMALL HYDROELECTRIC POWER PROJECT
FROM LICENSING

1) Franklin Falls Hydro Electric Corporation notifies the Federal Energy Regulatory Commission that the Franklin Falls Hydro Electric Station, a small hydroelectric power project as defined in 18 CFR, Section 4.102, is exempt from licensing under terms of 18 CFR, Section 4.109 through Section 4.111.

2) The location of the project is:

State	<u>New Hampshire</u>
County	<u>Merrimack</u>
City	<u>Franklin</u>
River	<u>Winnepesaukee</u>
River Basin	<u>Merrimack</u>

DEC 20 11 3 52
FEDERAL ENERGY REGULATORY COMMISSION

3) The exact name, business address, and telephone number of the filing party is:

Franklin Falls Hydro Electric Corporation
Box 216
Franklin, New Hampshire 03235
603-934-3660

4) The project includes the following features:

1) Dam: This dam is identified as No. 87.09 in the New Hampshire Water Resources Board Files and was built during the 1930's. Franklin Falls Hydro Electric Corporation repaired the dam in 1979. The dam is located in downtown Franklin, New Hampshire, on Central Street.

The dam is constructed of reinforced concrete on top of rocks and ledge. The dam is 84 feet long with a permanent crest 11 feet above the streambed, downriver. Gross storage capacity is approximately 45 acre-feet. The dam is in excellent condition.

18 feet. ii) Powerplants: The hydraulic head is about

Existing Powerplants:

S. Morgan Smith	180 KW
Rodney Hunt	300 KW

Proposed Powerplant:

Essex	189 KW
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Current Annual Production:

2,700,000 KWH

Estimated Annual Production with New Powerplant:

3,760,000 KWH

iii) Average Stream Flow: The average annual stream flow is 700 cubic feet per second.

5) It is certified that the small hydroelectric power project conforms to the specifications set forth in Section 4.109(a) of the Commission's regulations and that Franklin Falls Hydro Electric Corporation has complied with Section 4.112(b) of the Commission's regulations, including the following:

1) The New Hampshire Water Resources Board and the New Hampshire Water Supply and Pollution Control Commission have certified that the construction, operation, and maintenance of the project will not cause a violation of any applicable water quality standards.

ii) The New Hampshire Fish and Game Department and the U.S. Fish and Wildlife Service, Concord, N.H. office, have certified that there is not a significant population of migratory fish existing at any project dam. However, Franklin Falls Hydro Electric Corporation agrees to the following two conditions:

a) The Exemptee shall provide fish-passage facilities at this project when so prescribed by State and Federal fishery agencies.

b) The Exemptee shall discharge from the project an instantaneous flow of at least 237 cfs or inflow to the project area, whichever is less.

iii) The State Historic Preservation Officer has certified that the proposed small hydroelectric power project does not entail any construction that would adversely affect any site included in or eligible for inclusion in the National Register of Historic Places.

iv) The U.S. Fish and Wildlife Service, Concord, N.H. office, has certified that the proposed small hydroelectric power project does not entail construction or operations that would adversely affect any threatened or endangered species or critical habitat listed or designated in the regulations of the U.S. Fish and Wildlife Service of the Department of the Interior or the National Marine Fisheries Service of the Department of Commerce.

v) The U.S. Fish and Wildlife Service, Concord, N.H. office, and the New Hampshire Fish and Game Department have not prescribed migratory fish restoration measures as a condition of the exemption. However, they reserve the right to prescribe such measures in the future.

6) Franklin Falls Hydro Electric Corporation is an association of citizens of the United States, incorporated under the laws of the State of New Hampshire, and is the project owner.

SUBSCRIPTION

John S. Clement

John S. Clement
President
Franklin Falls Hydro
Electric Corporation

VERIFICATION

STATE OF NEW HAMPSHIRE
FRANKLIN, SS.

Personally appeared John S. Clement, President, Franklin Falls Hydro Electric Corporation, being first duly sworn, deposed, and stated that he is the President of Franklin Falls Hydro Electric Corporation, that the foregoing Notice of Exemption from Licensing be his free act and deed in his said capacity and the free act and deed of Franklin Falls Hydro Electric Corporation, that he has read the foregoing Notice of Exemption from Licensing and knows the contents therein; that the same be true to the best of his knowledge and belief; that he is a citizen of the United States; and that Franklin Falls Hydro Electric Corporation is a corporation organized and in good standing under the Laws of the State of New Hampshire.

Subscribed and sworn to before me,

Kathleen T. Bateson

KATHLEEN T. BATESON, Notary Public
My Commission Expires June 30, 1987

16 December 1982


CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by certified U.S. Mail, the foregoing document upon the following:

- 1.) U.S. Fish and Wildlife Service, P.O. Box 1518, Concord, New Hampshire 03301;
- 2.) New Hampshire Fish and Game Department, P.O. Box 2003, 34 Bridge St., Concord, New Hampshire 03301;
- 3.) New Hampshire Historical Preservation Officer, Department of Resources and Economic Development, Historic Preservation Office, P.O. Box 856, Concord, New Hampshire 03301;
- 4.) New Hampshire Water Supply and Pollution Control Commission, Hazen Drive, P.O. Box 95, Concord, New Hampshire 03301;
- 5.) New Hampshire Water Resources Board, 37 Pleasant St., Concord, New Hampshire 03301;
- 6.) New Hampshire Wetlands Board, 37 Pleasant St., Concord, New Hampshire 03301;

in accordance with the requirements of section 1.17 of the Rules of Practice and Procedure.

Dated at Franklin Falls Hydro Electric Corporation, Franklin, New Hampshire, this 16th day of December 1982



John S. Clement
President
Franklin Falls Hydro Electric
Corporation



State of New Hampshire

WATER RESOURCES BOARD

37 Pleasant Street
Concord, N.H. 03301

TELEPHONE 271-3400

November 3, 1982

John S. Clement, President
Franklin Falls Hydro Electric Corporation
P.O. Box 216
Franklin, NH 03235

Re: Winnepesaukee River Dam #87.09H

Dear Mr. Clement:

This correspondence is in response to and acknowledges yours regarding the referenced dam. The project files do not indicate that the Board will require the issuance of any further permits as long as you continue to conform to the present project description. The Board also reserves the right to future inspections and reviews of your project.

Sincerely,


Delbert F. Downing
Chairman

DFD/GLK/mdw

The State of New Hampshire

COMMISSIONERS

J. WILLIAM BROWN, Esq.
WILLIAM A. HESLET, P.E.
FRANKLIN BARRING
WILLIAM A. HESLET, P.E.
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FRANKLIN BARRING
WILLIAM A. HESLET, P.E.
FRANKLIN BARRING



STAFF

WILLIAM A. HESLET, P.E.
FRANKLIN BARRING
WILLIAM A. HESLET, P.E.
FRANKLIN BARRING
WILLIAM A. HESLET, P.E.
FRANKLIN BARRING
WILLIAM A. HESLET, P.E.
FRANKLIN BARRING
WILLIAM A. HESLET, P.E.
FRANKLIN BARRING

Water Supply and Pollution Control Commission

Highway Drive - P.O. Box 85

Concord, N.H. 03301

December 13, 1982

Mr. Morgan R. Rees
Chief, Regulatory Branch
Operations Division
Department of the Army
New England Division
Corps of Engineers
424 Trapelo Road
Waltham, Massachusetts 02154

SUBJECT: APPLICATION BY FRANKLIN FALLS HYDROELECTRIC CORPORATION FOR F.E.R.C.
CATEGORICAL EXEMPTION FROM LICENSING FOR THE FRANKLIN FALLS HYDRO-
ELECTRIC STATION

Dear Mr. Rees:

This will certify that this agency has no objection to the granting of
the petitioner's exemption; and that, on review of the subject request, the
Commission has determined that the project described in the request will be
in conformance with applicable New Hampshire laws and that, to the best of
its knowledge, no federal limitation applicable to the proposed project has
been established under sections 301(b), 302, 303, 306, or 307 of the Federal
Water Pollution Control Act (P.L. 92-500), as amended to date. This certi-
fication is furnished pursuant to sections 401(a)(1) and 401(d) of the Act,
and included herewith and made a part hereof are state permits issued pur-
suant to NHRSA 149:8-a (supp) and NHRSA 483-A (supp).

Very truly yours,

Ronald E. Towne

Ronald E. Towne
Chief Aquatic Biologist

RET/csc
Enclosures

cc: Mr. W.J. Naulty, USCG
Mr. Russell A. Nylander, P.E., WS&PCC
Mr. Stephen H. Roberts, P.E., WS&PCC
Mr. Paul Ambrosino, Council on Energy
E. Tupper Kindler, Esquire, Assistant Attorney General
Franklin Falls Hydroelectric Corporation, Franklin, NH



United States Department of the Interior

FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES
P.O. BOX 1514
CONCORD, NEW HAMPSHIRE 03301

Mr. John S. Clement, President
Franklin Falls Hydro Electric Corp.
P.O. Box 216
Franklin, New Hampshire 03235

NOV 30 1982

Dear Mr. Clement:

This is being sent as a follow-up to your conversation with Mr. Gordon Russell of my staff on November 17, 1982, regarding the Franklin Falls hydroelectric project on the Winnepesaukee River in Franklin, New Hampshire. You had called because of our November 16, 1982, letter to you, in which we stated that we could not give you the necessary certifications for your application for categorical exemption for the project. We did this because your October 21, 1982, request did not indicate that the generating capacity at the project would be increased, which is a prerequisite for any exemption from PERC.

You have now indicated that you propose to add a new 200 kW unit at the station, which will bring the total capacity up to 680 kW. Therefore, it appears that you will be eligible for an exemption from PERC.

PERC Order No. 202 covering categorical exemptions requires that you obtain two certifications from us. These relate to the presence of significant populations of migratory fish at the project and to impacts on Federally designated endangered and threatened species and their critical habitat. Order 202 also requires that you include in the exemption any measures which we prescribe for the restoration of migratory fish through the project area.

Based on our knowledge of the project area, we can provide you with the necessary certifications for your application for categorical exemption. The Winnepesaukee River does not now contain significant populations of migratory fish at your dam, nor will the project adversely affect Federally designated endangered and threatened species or their critical habitat.

It is necessary, however, to include certain measures in the exemption which will facilitate restoration of migratory fish through the project area. The decision to restore migratory fish to the Winnepesaukee River has been deferred until the year 2005. Unless current plans change, State and Federal fishery agencies will wait until then to decide if fish-passage facilities are needed on the river. To ensure the eventual provision of these facilities by the Exemptee when they are needed, the exemption will need to be conditioned now.

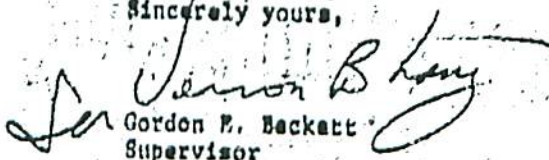
The eventual restoration of migratory fish through your project area will require adequate instream flow releases. In order to maintain aquatic habitat conditions in the Winnetoesaukie River as being suitable for fish restoration, instream flow releases from the project should be at least 237 cfs or inflow to the project area, whichever is less. This flow is an approximation of the historical (unregulated) median August flow, a discharge which we feel will adequately maintain downstream aquatic habitat.

Summarizing, certifications pursuant to Sections 4.112(b)(2) and (4) of FERC Order No. 202 are provided. The following measures are to be included in their entirety in the exemption in accordance with Section 4.112(b)(3):

1. The Exemptee shall provide fish-passage facilities at this project when so prescribed by State and Federal fishery agencies.
2. The Exemptee shall discharge from the project an instantaneous flow of at least 237 cfs or inflow to the project area, whichever is less.

Please let us know if you have any questions.

Sincerely yours,


Gordon P. Beckett
Supervisor

STATE OF NEW HAMPSHIRE

FISH AND GAME DEPARTMENT

CHARLES E. BARRY
EXECUTIVE DIRECTOR



NEW HAMPSHIRE
FISH AND GAME DEPARTMENT
FRANKLIN, NEW HAMPSHIRE
603-271-1121

December 8, 1982

John S. Clement, President
Franklin Falls Hydroelectric Corp.
P.O. Box 216
Franklin, NH 03235

Dear Mr. Clement:

The recent site evaluation for your proposed categorical exemption from licensing your Franklin Falls hydroelectric facility on the Winnepesaukee River, located in Franklin, New Hampshire (NHWRB87.09) appears to qualify for such an exemption.

The New Hampshire Fish and Game Department certifies that there are no significant runs of migratory fish located at the site.

There is the future possibility however, that the Fish and Game Department may expand the present Anadromous Fish Restoration program to include your area. In the event that this were to become a reality, the exemptee would be required to provide suitable fish passage facilities at the site.

Sincerely,

Charles E. Barry
Charles E. Barry
Executive Director

CEB/cj1



NEW HAMPSHIRE DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT

GEORGE GILMAN
COMMISSIONER

FD-160 (REV. 10-17-79)

October 28, 1982

John B. Clement, President
Franklin Falls Hydro Electric Corporation
PO Box 216
Franklin, New Hampshire 03235

DEAR MR. CLEMENT:

The New Hampshire Department of Resources and Economic Development has no objection to the granting of an exemption from licensing for the Franklin Falls Hydroelectric Station (NHWR87.09) located at Central Street in Franklin, New Hampshire on the Winnepesaukee River.

Based upon your letter dated October 20, 1982, it has been determined that the information has adequately addressed those areas of interest to this Department, as follows:

The proposed project will have no effect upon state park, state forest, or other properties that are the responsibility of the Department of Resources and Economic Development.

The proposed project will have no effect upon state or local parks or outdoor recreation projects or sites funded in part by the federal Land and Water Conservation Fund program.

The Historic Preservation Office has determined that the project will have no effect upon known architectural, historical, archaeological or other cultural resources. Should such resources be discovered as a result of project planning or implementation, appropriate measures should be undertaken according to 36 CFR 800 and other appropriate federal laws and regulations that apply to historic and cultural resources.

Your incorporation of these comments into the exemption application will be appreciated.

Sincerely,

Joseph P. Quinn, Chief
Recreation Services
for
George Gilman, Commissioner
Department of Resources and Economic Development
State Historic Preservation Officer

JFQ:GCH:g
cc: J. Heath, Div. of Forest & Lands
G. Howe, Historic Preservation Office

