

125 FERC ¶ 62,191
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Crisp County Power Commission

Project No. 659-014

ORDER ISSUING NEW LICENSE
(November 28, 2008)

INTRODUCTION

1. On August 3, 2006, Crisp County Power Commission (Crisp Power) filed an application for a new license pursuant to sections 4(e) and 15 of the Federal Power Act (FPA),¹ to continue operation and maintenance of the Lake Blackshear Hydroelectric Project No. 659. The project's authorized capacity is 15.2 megawatts (MW). The project is located on the Flint River, a navigable waterway, in southwest Georgia in Worth, Lee, Sumter, Dooly, and Crisp Counties.² The project does not occupy any federal lands. As discussed below, I am issuing a new license for the project.

BACKGROUND

2. The Commission issued an original license for the project on August 10, 1928,³ and then issued a new license for the project on August 14, 1980,⁴ which expired on August 9, 2008. Crisp Power is currently operating the project under an annual license, pending the disposition of its new license application.

3. Notice of the application for new license, accepting the license application, soliciting motions to intervene and protests, and soliciting comments, final recommendations, terms and conditions, and prescriptions was

¹ 16 U.S.C. §§ 797(e) and 808 (2006).

² The project is required to be licensed under section 23(b)(1) of the FPA, 16 U.S.C. S 817(1)(2006), because the project is located on a navigable waterway of the United States. 2 Annual Report 101 (1922).

³ 9 Annual Report 170 (1928).

⁴ 12 FERC ¶ 62,101 (1980).

issued on March 22, 2007.⁵ The U.S. Department of the Interior (Interior) filed a motion to intervene, not in opposition,⁶ and comments on the application. The National Marine Fisheries Service (NMFS) and the Georgia Department of Natural Resources (Georgia DNR) filed comments on the application.

4. On April 2, 2008, Commission staff issued an environmental assessment (EA) for the project. Comments were filed by the United States Geological Survey (USGS), Crisp Power, and the U.S. Fish and Wildlife Service (FWS).⁷ Comments received from USGS provided flow information. Substantive comments are discussed in the Recommendations Pursuant to Section 10(a)(1) of the FPA and Other Issues section of this order.

5. The motions to intervene, comments, and recommendations have been fully considered in determining whether, and under what conditions, to issue this license.

PROJECT DESCRIPTION

6. The project consists of (a) the 4,612-foot-long, 46-foot-high Warwick Dam, (b) a 15-mile-long, 8,700-acre reservoir with a normal maximum water surface elevation of 237.0 feet mean sea level (msl), (c) a 77-foot-wide, 49-foot-high combined powerhouse and intake integral with the dam, containing four turbine-generators having a capacity of 15.2 MW, and (d) a 1,400-foot-long, 46-kilovolt (kV) transmission line connecting the powerhouse with the Plant Crisp switchyard. A more detailed project description is contained in Ordering Paragraph (B)(2).

7. The project is operated by maintaining Lake Blackshear between 235.0 and 237.0 feet msl. Storage between 235.0 and 237.0 feet msl is used for daily generation. Based on daily upstream inflow, Crisp Power determines operations necessary to meet license minimum flow requirements. Crisp Power is obligated to release from Warwick Dam, an average daily flow of 760 cubic feet per second (cfs), or a flow equivalent to the average daily inflow to Lake

⁵ The notice was published in the Federal Register on March 29, 2007.

⁶ Because the motion to intervene was timely and unopposed, it was granted pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(c)(1) (2008).

⁷ The comment letters were filed on April 24, 2008, May 2, 2008, and May 2, 2008, respectively.

Blackshear. In meeting this flow requirement, the flow released by the licensee shall not go below a minimum flow of 600 cfs, or inflow, whichever is less. The project has a maximum generation discharge of approximately 8,000 cfs.

8. The normal maximum water surface elevation in Lake Blackshear is 237.0 feet msl. Lower lake levels typically vary by less than 2 feet, except when a drawdown of 3 to 4 feet is needed to achieve dock repair and shoreline maintenance. These drawdowns are usually conducted on a 2-year cycle from November 1 to December 15.

9. Crisp Power proposes to continue operating the project as it has throughout the current license with one change. The project would operate in a strict run-of-river mode from March 15 to May 15 to enhance fish spawning by minimizing reservoir fluctuations during the critical spawning season. The licensee is also proposing to include additional recreation facilities in the project.

10. The existing project boundary is for the most part at elevation contour 237.0 feet msl, which represents the normal maximum water surface elevation in the lake. Project facilities within the project boundary under the 1980 license include the Lake Blackshear reservoir; Warwick Dam; powerhouse; the 1,400 foot, 46-kV transmission line; Plant Crisp Boat Ramp; and Killebrew Park.⁸ Crisp Power proposes to (a) expand the Plant Crisp Boat Ramp to two lanes, and (b) upgrade the primitive campsites at Killebrew Park to include recreational vehicle (RV) space and potable water. In addition, this order requires certain other recreation facilities to be included in the new license within the project boundary. This is discussed further in the Recreation Facilities and Project Boundary section.

WATER QUALITY CERTIFICATION

11. Under section 401(a)(1) of the Clean Water Act (CWA),⁹ the Commission may not issue a license authorizing the construction or operation of a hydroelectric project unless the state water quality certifying agency either has issued water quality certification for the project or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA provides that the certification

⁸ Plant Crisp Boat Ramp and Killebrew Park are the only recreation facilities required in the current license.

⁹ 33 U.S.C. § 1341(a)(1) (2006).

shall become a condition of any federal license that authorizes construction or operation of the project.¹⁰

12. On December 19, 2005, Crisp Power requested water quality certification from the Georgia Environmental Protection Division (Georgia EPD) for the Lake Blackshear Project. Georgia EPD received the request on December 21, 2005, and did not act on the request within one year. Therefore, the certification is deemed waived.

COASTAL ZONE MANAGEMENT ACT

13. Under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA),¹¹ the Commission cannot issue a license for a project within or affecting a state's coastal zone unless the state CZMA agency concurs with the license applicant's certification of consistency with the state's CZMA program, or the agency's concurrence is conclusively presumed by its failure to act within 180 days of its receipt of the applicant's certification.

14. According to Georgia's Coastal Zone Management Program, 11 counties border the tidally-influenced waters of the Atlantic Ocean. Chatham, Effingham, Bryan, Liberty, McIntosh, Long, Glynn, Wayne, Brantley, Camden, and Charlton counties make up the Coastal Management Zone. The Lake Blackshear project is over 240 miles inland, well outside of Georgia's coastal zone. Moreover, flows from the Lake Blackshear Project do not flow through Georgia's coastal zone, but instead flow via the Flint River to the Apalachicola River, then through Florida on to the Gulf of Mexico. Thus, the project is not subject to Georgia coastal zone program review and CZMA consistency certification is not required.

SECTION 18 FISHWAY PRESCRIPTION

15. Section 18 of the FPA¹² provides that the Commission shall require the construction, maintenance, and operation by a licensee of such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate.

¹⁰ 33 U.S.C. § 1341(d) (2006).

¹¹ 16 U.S.C. § 1456(c)(3)(A) (2006).

¹² 16 U.S.C. § 811 (2006).

16. By letters filed May 22, 2007, Interior and NMFS each requested that the Commission reserve its authority to prescribe fishways at the project in the future. Consistent with Commission policy, Article 401 of this license reserves the Commission's authority to require such fishways as may be prescribed by Interior or NMFS for the Lake Blackshear Project.

THREATENED AND ENDANGERED SPECIES

17. Section 7(a)(2) of the Endangered Species Act of 1973 (ESA),¹³ requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species, or result in the destruction or adverse modification of their designated critical habitat.

18. Federally listed species with the potential to occur in the Lake Blackshear Project vicinity include the flatwoods salamander (*Ambystoma cingulatum*) and the purple bankclimber mussel (*Elliptioideus sloatianus*). There is one historical record of the flatwoods salamander within the project study area adjacent to the Flint River downstream from the project. The purple bankclimber was the only listed species found in the project area during Crisp Power's 2003 surveys. In addition, critical habitat has been designated for seven mussel species, including the purple bankclimber.¹⁴

19. Crisp Power proposes to continue operating the aerating turbine runner, which benefits mussels by increasing DO levels downstream from the project. The EA notes that Crisp Power's 2003 mussel survey results showed that the median length of purple bankclimbers decreased with distance from the project for unknown reasons.¹⁵

20. The EA concluded that mussel monitoring is needed to determine any temporal or spatial trends in the mussel community (including the purple bankclimber) downstream from the Lake Blackshear Project, as well as what, if any, project-related factors may affect mussels in the downstream project area.¹⁶

¹³ 16 U.S.C. § 1536(a) (2006).

¹⁴ 72 Fed. Reg. 64285-62340 (2007).

¹⁵ EA at 77.

¹⁶ EA at 108.

21. In the EA, staff determined that the Lake Blackshear Project, as proposed by Crisp Power with staff's additional recommended measures, is not likely to adversely affect any federally listed species or their habitat.¹⁷

22. On April 10, 2008, staff requested FWS' concurrence with staff's determinations for the flatwoods salamander and the purple bankclimber. In a letter filed May 1, 2008, FWS concurred with staff's determinations for the flatwoods salamander and the purple bankclimber. However, FWS notified staff that critical habitat had been designated collectively for seven federally listed freshwater mussels,¹⁸ including the purple bankclimber. The critical habitat designation became effective on December 17, 2007.

23. Subsequent to receiving FWS' December 17, 2007 letter, staff prepared a supplemental critical habitat analysis. As part of its analysis, staff determined that the Lake Blackshear Project, as proposed by Crisp Power with staff's additional recommended measures, is not likely to adversely affect the seven freshwater mussels' critical habitat. Staff requested FWS' concurrence with its determination. In a letter filed August 15, 2008, FWS concurred with staff's determination for the seven mussels' critical habitat.

24. Ordering Paragraph (D) of this license requires that Crisp Power implement the Freshwater Mussel Monitoring Plan, as recommended by FWS. I concur with staff that issuance of the license, as conditioned herein, will not likely adversely affect threatened and endangered species, including designated critical habitat. Therefore, I conclude that the Commission has satisfied its obligations under the Endangered Species Act.

NATIONAL HISTORIC PRESERVATION ACT

25. Under section 106 of the National Historic Preservation Act (NHPA),¹⁹ and its implementing regulations,²⁰ federal agencies must take into account the effect of any proposed undertaking on properties listed or eligible for listing in

¹⁷ EA at 81-82.

¹⁸ The seven mussels include fat threeridge, shinyrayed pocketbook, Gulf moccasinshell, Ochlockonee moccasinshell, oval pigtoe, chipola slabshell, and purple bankclimber.

¹⁹ 16 U.S.C. § 470 *et seq* (2006).

²⁰ 36 C.F.R. Part 800 (2008).

the National Register (defined as historic properties) and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking. This generally requires the Commission to consult with the State Historic Preservation Officer (SHPO) to determine whether and how a proposed action may affect historic properties, and to seek ways to avoid or minimize any adverse effects.

26. To satisfy these responsibilities, on April 23, 2008, the Commission executed a Programmatic Agreement (PA) with the Georgia SHPO, and invited Crisp Power, the Seminole Tribe of Florida, and the Alabama-Quassarte Tribal Town to concur with the stipulations of the PA. Crisp Power concurred. The tribes did not respond to the invitation to concur with the PA.

27. The PA requires Crisp Power to implement the final *Historic Properties Management Plan for the Lake Blackshear Hydroelectric Project (FERC #659) Crisp, Dooly, Lee, Sumter, and Worth Counties, Georgia* (HPMP), dated August 2007. Execution and subsequent implementation of the PA demonstrates the Commission's compliance with section 106 of the NHPA. Article 411 requires Crisp Power to implement the PA and HPMP.

RECOMMENDATIONS OF FEDERAL AND STATE FISH AND WILDLIFE AGENCIES UNDER SECTION 10(j)

28. Section 10(j)(1) of the FPA,²¹ requires the Commission, when issuing a license, to include conditions based on recommendations by federal and state fish and wildlife agencies submitted pursuant to the Fish and Wildlife Coordination Act,²² to "adequately and equitably protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" affected by the project.

29. In response to the March 22, 2007 public notice of the application, Interior and Georgia WRD each filed, on May 22, 2007, four recommendations within the scope of section 10(j). This license includes conditions consistent with the four recommendations. These recommendations include : (1) release minimum daily average flows of 760 cfs, but in doing so, never go below a minimum flow release of 600 cfs or inflow, whichever is less, to protect and enhance fish, aquatic resources, and water quality in the Flint River downstream from Warwick Dam (Article 402); (2) operate in a run-of-river mode from

²¹ 16 U.S.C. § 803(j)(1) (2006).

²² 16 U.S.C. § 661 (2006) *et seq.*

March 15 to May 15 to enhance flows in the Flint River for shoal bass and other spring spawning fish and for the survival of their hatched offspring (Article 403); (3) maintain downstream dissolved oxygen (DO) levels by operating the air vented unit #1 between May 1 and September 30 to protect aquatic resources and meet state water quality standards (Article 404) and (4) implement a freshwater mussel monitoring plan [Ordering Paragraph (D)]. NMFS filed two recommendations within the scope of section 10(j) which are identical to the minimum flow recommendation and the seasonal run-of-river operating mode recommended by Interior and Georgia WRD.²³

RECOMMENDATIONS PURSUANT TO SECTION 10(a)(1) OF THE FPA

30. Section 10(a)(1) requires that any project for which the Commission issues a license shall be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce; for the improvement and utilization of waterpower development; for the adequate protection, mitigation, and enhancement of fish and wildlife; and for other beneficial public uses, including irrigation, flood control, water supply, recreation, and other purposes.

American eels

31. In its comments on the EA, filed May 2, 2008, FWS recommended that Crisp Power study the presence, distribution, relative abundance, and upstream movements of American eels in the Flint River drainage. Although proposed by Crisp Power in its license application, staff concluded that there was no nexus between American eel presence, distribution, abundance, and movement in the Flint River and the operation and maintenance of the Lake Blackshear Project. American eels have historically been found in the Flint River drainage, however recent reports indicate that no American eels occur in the 12-mile-long reach of the Flint River downstream of Warwick Dam.²⁴ Therefore, I concur with staff's conclusion in the EA²⁵ and will not require such a study.

²³ 16 U.S.C. § 803(j)(1) (2006).

²⁴ EA at 45.

²⁵ EA at 114.

Project Operations

32. Crisp Power currently maintains water levels in Lake Blackshear no lower than two feet below the normal maximum water surface elevation, except during the biennial lake drawdowns that occur from November 1 to December 15. Article 403 requires the licensee to maintain stable water levels between elevation 235.0-237.0 feet msl with the exception of (1) during the biennial drawdowns, and (2) when operating in a run-of-river mode from March 15 to May 15 to enhance fish spawning activities downstream from Warwick Dam. During run-of-river operations, Crisp Power proposes to maintain the reservoir at the normal maximum water surface elevation of 237.0 feet msl.

33. Because Crisp Power will now operate the project in a run-of-river mode from March 15 to May 15, Article 405 requires that Crisp Power provide an Annual Project Operations Report. This report will provide information to confirm that the Lake Blackshear Project is operating as directed and is complying with the state water quality standards for dissolved oxygen (DO), which require an instantaneous minimum concentration of no less than 4.0 mg/L and a daily average of 5.0 mg/L.

Nuisance Aquatic Species

34. Crisp Power proposes to continue to coordinate with Georgia DNR to control blue-green algae, Lyngbya, alligator weed, water hyacinth, naiad, chara, and water primrose, as well as other nuisance aquatic species. Recreational activities could spread the nuisance species to other waterways or introduce additional nuisance species to the project area. To address this concern, staff concluded in the EA that installing “Stop the Aquatic Hitchhikers!” educational signage at all project boat ramps would help educate project visitors on preventing the transport of aquatic nuisance species to and from the Lake Blackshear Project area.²⁶ Therefore Article 407 requires the posting of educational signage at Plant Crisp Boat Ramp, Killebrew Park, Cedar Creek Boat Ramp, Wolfe Thick Boat Ramp, Loron Williams Park, Smoak Bridge Boat Ramp, and Rocky Point Park.

Recreation Facilities and Project Boundary

35. Lake Blackshear is the largest water-body in the project vicinity and provides fishing, paddling, and other recreation opportunities. Crisp County

²⁶ EA at 111.

owns seven recreation sites at Lake Blackshear: Plant Crisp Boat Ramp, Killebrew Park, Cedar Creek Boat Ramp, Wolfe Thick Boat Ramp, Loron Williams Park, Smoak Bridge Boat Ramp, and Rocky Point Park. Crisp Power operates and maintains five of the seven facilities, excluding Loron Williams Park and Rocky Point Park. Loron Williams Park and Rocky Point Park are operated and maintained by the Crisp County Recreation Department; however, Crisp Power assists with maintenance costs.

36. Several of the smaller access areas, including Plant Crisp Boat Ramp and Smoak Bridge Boat Ramp, often reach capacity on the weekends and holidays. Increased access to the reservoir would alleviate these situations. Crisp Power proposes to: (a) expand the Plant Crisp Boat Ramp to two lanes, (b) upgrade the primitive campsites at Killebrew Park to include RV space and potable water, (c) replace or enhance the fishing pier at Wolfe Thick Boat Ramp, (d) widen the boat ramp to two lanes and build a fishing pier at Loron Williams Park, and (e) install signage at Smoak Bridge Boat Ramp to alert recreation users of nearby boat ramps when Smoak Bridge is at capacity.

37. In its license application, Crisp Power does not provide: (1) final design drawings; (2) measures to control soil erosion; (3) provisions for operation and maintenance of the recreation facilities; and (4) a discussion of how the needs of the disabled were considered. Provisions for operation and maintenance of Cedar Creek Boat Ramp and Rocky Point Park should also be included. Therefore, Article 409 requires these measures, but requires Crisp Power to file the additional details listed above prior to any ground-breaking or land-disturbing activities associated with construction of these facilities.

38. Current project recreation facilities include Plant Crisp Boat Ramp and Killebrew Park.²⁷ Both are located within the project boundary.

39. Project boundaries are used to designate the geographic extent of the lands, waters, works, and facilities that the license identifies as comprising the licensed project and for which the licensee must hold the rights necessary to carry out the project purposes.²⁸ Cedar Creek Boat Ramp, Wolfe Thick Boat

²⁷ Plant Crisp Boat Ramp includes a fishing pier, boat ramp, parking area, and a picnic area. Killebrew Park includes a fishing pier, boat ramp, RV campsites, primitive campsites, and a parking area.

²⁸ See, e.g., 18 C.F.R. § 4.41(h)(2) (2008); and *Wisconsin Public Service Corporation*, 104 FERC ¶ 61,295 at P 16 (2003). A project boundary does not change property rights. Rather, title to lands within the boundary can be owned by

Ramp, Loron Williams Park, Smoak Bridge Boat Ramp, and Rocky Point Park fulfill project recreation purposes by providing recreational access to Lake Blackshear for the public.²⁹ These facilities provide convenient sites for the public to access the middle and northern sections of Lake Blackshear. Crisp Power will be responsible for the operation and maintenance of these facilities throughout the term of the license.³⁰ Thus, they must be included in the project boundary, and Article 203 requires that the project boundary be expanded to include (1) the entire facility at (a) Cedar Creek Boat Ramp, (b) Wolfe Thick Boat Ramp, (c) Smoak Bridge Boat Ramp, (2) the boat ramp, dock, and adjacent parking facilities at Loron Williams Park, and (3) the boat ramp, dock, and adjacent parking facilities at Rocky Point Park.³¹ Finally, Article 203 requires Crisp Power to file revised Exhibit G drawings that shows these facilities within the project boundary.

OTHER ISSUES

Transmission Line

40. Crisp Power proposed to remove the 1,400-foot-long, 46-kV transmission line from the new license (page A-1, Volume 1 of the application). This line connects the Lake Blackshear powerhouse to the Plant Crisp Steam Plant (Plant Crisp) 46-kV system via the Plant Crisp switchyard and carries all of the power output of the project. Plant Crisp's system is part of Crisp County's local

someone other than the licensee, so long as the licensee holds the necessary property interests and permits to carry out project purposes.

²⁹ Plant Crisp Ramp and Killebrew Park are located at the southern end of Lake Blackshear.

³⁰ Although there was not a recommendation in the EA to bring the boat ramp, dock, and adjacent parking facilities at Loron Williams Park into the project boundary, staff concludes, and I agree, that the site does serve a project purpose. The site provides public access on the east side of the reservoir in an area where the nearest site (Smoak Bridge Boat Ramp) is at 90 percent capacity on weekends. In addition, Crisp Power does assist with maintenance funding and has proposed recreation improvements at Loron Williams Park.

³¹ These parks include other amenities such as picnic facilities, a covered pavilion, and restrooms, which are not needed for project purposes. These amenities are not being included in the project boundary.

transmission system which in turn is connected to the Georgia Integrated Transmission System.

41. Section 3(11) of the Federal Power Act defines project transmission line as “. . . a line or lines transmitting power there from to the point of junction with the distribution system or with the interconnected primary transmission system. . .” I conclude that, as the only line that carries project power and that is not part of the distribution or the interconnected system, the 1,400-foot-long, 46-kV line meets the definition of a project transmission line and should therefore continue to be a licensed project facility.

Incident Report

42. The applicant is required to meet several operational measures under the terms of this license to protect and enhance downstream conditions for fish, aquatic resources, and water quality. These measures include operating the project to provide minimum flows (Article 402), operating the project from March 15 to May 15 to provide stable water levels in Lake Blackshear and to provide run-of-river flows in the Flint River downstream from the project (Article 403), and ensuring project discharge enhances dissolved oxygen concentrations in the Flint River downstream of Warwick Dam (Article 404). An incident report (Article 406) would assist the Commission in timely detecting any operational mishaps that would prevent the project from complying with Articles 402, 403, and 404, and would facilitate the identification of measures to prevent any future occurrences. The requirements of Article 406 would ensure that the continued operation of the project would help protect water quality and aquatic resources (e.g., shoal bass and the federally listed purple bankclimber) in project-affected waters of the Flint River.

Shoreline Management Plan

43. Crisp Power has implemented a Shoreline Management Plan with a Pier and Dock Permit Program to ensure that the scenic, environmental, and recreational aspects of Lake Blackshear are maintained and preserved for use by the general public. Crisp Power proposes to continue implementing the Shoreline Management Plan and Pier and Dock Permit Program, which was amended and approved by the Commission on July 30, 1996. No changes to either the Plan or the Permit Program were proposed. Article 410 requires Crisp Power to continue to implement the current Shoreline Management Plan and Pier and Dock Permit Program.

Administrative Conditions

Annual Charges

44. The Commission collects annual charges from licensees for administration of the FPA. Article 201 provides for the collection of funds for administration of the FPA.

Exhibit F Drawings

45. The Commission requires licensees to file sets of approved project drawings on microfilm and in electronic file format. Article 202 requires the filing of these drawings.

Exhibit G Drawings

46. The exhibit G drawings filed on August 3, 2006, do not meet Commission standards because they do not contain within the project boundary all project works necessary for project operation. Article 203 requires the licensee to file for Commission approval revised Exhibit G drawings that comply with the Commission's regulations and enclose within the project boundary all principal project works, including the primary transmission line, necessary for project operation and maintenance, including: (1) the entire facility at (a) Cedar Creek Boat Ramp, (b) Wolfe Thick Boat Ramp, and (c) Smoak Bridge Boat Ramp; (2) the boat ramp, dock, and adjacent parking facilities at Rocky Point Park; and (3) the boat ramp, dock, and adjacent parking facilities at Loron Williams Park.

Headwater Benefits

47. Some projects directly benefit from headwater improvements that were constructed by other licensees, the United States, or permittees. Article 204 requires the licensee to reimburse such entities for these benefits if they were not previously assessed and reimbursed.

Use and Occupancy of Project Lands and Waters

48. Requiring a licensee to obtain prior Commission approval for every use or occupancy of project land would be unduly burdensome. Therefore, Article 412 allows the licensee to grant permission, without prior Commission approval, for the use and occupancy of project lands for such minor activities as landscape planting. Such uses must be consistent with the purposes of protecting and enhancing the scenic, recreational, and environmental values of the project.

Review of Final Plans and Specifications

49. Article 301 requires the licensee to provide the Commission with revised drawings of project features as-built.

STATE AND FEDERAL COMPREHENSIVE PLANS

50. Section 10(a)(2)(A) of the FPA,³² requires the Commission to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project.³³ Under section 10(a)(2)(A), federal and state agencies filed 20 comprehensive plans that address various resources in Georgia. Of these, staff identified and reviewed 9 plans that are relevant to this project.³⁴ No conflicts were found.

APPLICANT'S PLANS AND CAPABILITIES

51. In accordance with sections 10(a)(2)(C) and 15(a) of the FPA, Commission staff evaluated Crisp Power's record in these areas: (1) conservation efforts; (2) compliance history; (3) safe management, operation, and maintenance of the project; (4) ability to provide efficient and reliable electric service; (5) need for power; (6) transmission services; (7) cost effectiveness of plans; and (8) actions affecting the public. I accept the staff's findings in each of the following areas.

Conservation Efforts

52. Section 10(a)(2)(C) of the FPA requires the Commission to consider the extent of electricity consumption efficiency improvement programs in the case of license applicants primarily engaged in the generation or sale of electric power, like Crisp Power. Crisp Power conducts numerous programs and initiatives to promote demand reduction and energy conservation like residential, commercial/industrial energy audits, time of use pricing to encourage customers to save energy during peak demand periods, participating in area integrated resource plan for assessing and implementing conservation measures, and other

³² 16 U.S.C. § 803(a)(2)(A) (2006).

³³ Comprehensive plans for this purpose are defined at 18 C.F.R. § 2.19 (2008).

³⁴ The list of applicable plans can be found in section 5.4 of the EA.

programs and initiatives. These programs show that Crisp Power is making satisfactory good faith efforts to comply with section 10(a)(2)(C) of the FPA.

Compliance History and Ability to Comply with the New License

53. Commission staff reviewed Crisp Power's compliance with the terms and conditions of the existing license and found that Crisp Power's overall record of making timely filings and compliance with its license is satisfactory. Therefore, staff concludes that Crisp Power can satisfy the conditions of a new license.

Safe Management, Operation, and Maintenance of the Project

54. Commission staff reviewed Crisp Power's management, operation, and maintenance of the Lake Blackshear Project pursuant to the requirements of 18 C.F.R. Part 12 and the Commission's Engineering Guidelines and periodic Independent Consultant's Safety Inspection Reports. Staff concludes that the dam and other project works are safe, and that Crisp Power can continue to safely manage, operate, and maintain these facilities under a new license.

Ability to Provide Efficient and Reliable Electric Service

55. Commission staff reviewed Crisp Power's plans and its ability to operate and maintain the project in a manner most likely to provide efficient and reliable electric service. Its review indicates that Crisp Power maintains, repairs, and upgrades project facilities as necessary to insure reliable and efficient operation. Staff concludes that Crisp Power is capable of operating the project to provide efficient and reliable electric service in the future.

Need for Power

56. The Lake Blackshear Project generated an annual average of 47,413,592 kilowatt-hours from 1957 to 2005. Crisp Power provides electric power services to approximately 23,000 people in Crisp County, servicing an area of 330 square miles in southwest Georgia. About 17 percent of Crisp Power's power is derived from the Lake Blackshear Project.

57. To satisfy its service area energy needs, Crisp Power regularly purchases about one third of its power needs on the wholesale market to compliment its own production of about 324,000 MWh. Crisp Power forecasts that an additional 15 MW of capacity will have to be added to its current 105 MW before 2016 to help meet increasing demand and a 15 percent reserve margin that the state of Georgia requires of all in-state utilities.

58. To further assess the need for power, staff reviewed the operating region where the project is located. The Lake Blackshear Project is located within the Southeastern Electric Reliability Council (SERC) region of the North American Electric Reliability Council (NERC). NERC annually publishes information relative to projected increases in energy usage and capacity demand for a 10-year period. According to NERC's latest report (October, 2007), annual growth rate in energy usage for the region over the 2007 – 2016 period is 1.7 percent and the annual growth rate in capacity demand for the same period is 1.9 percent.

59. Based on the aforementioned, staff concludes that the present and future use of the project's power and reliability, its low cost, its potential to displace non-renewable fossil-fueled generation, and its contribution to a diversified generation mix support a finding that power from the project will help meet the short- and long-term need for power in both the Crisp Power service territory and the SERC region.

Transmission Services

60. The project includes a 1,400-foot-long, 46-kV transmission line connecting the Lake Blackshear powerhouse to the Plant Crisp Steam Plant 46-kV system via the Plant Crisp switchyard. Crisp Power is proposing no changes that would affect its own or other transmission services in the region. The project and its transmission line are important in providing power and voltage control to the local transmission system.

Cost Effectiveness of Plans

61. Crisp Power is not proposing to expand capacity at the project. The average annual flow of the Flint River exceeds the installed maximum hydraulic capacity of the project about 15 percent of the time. Based on this available flow, staff concludes that the project, as presently configured, fully develops the economical hydropower potential of this site. Crisp Power does not propose to modify the existing project facilities.

Actions Affecting the Public

62. Crisp Power provided extensive opportunity for public involvement in the development of its application for a new license for the Lake Blackshear Project. During the previous license period, Crisp Power provided numerous services to enhance the public use of project lands, facilities, and reservoir. The project provides public access to the reservoir and recreation opportunities for fishing and boating. Crisp Power has implemented several measures to protect

environmental resources and enhance the recreational opportunities at Lake Blackshear. Crisp Power maintains a Pier and Dock Permit Program, public information program, and works in cooperation with state and local entities to conserve wildlife resources, and control nuisance aquatic weeds and mosquitoes. Crisp Power's project also helps meet local power needs.

PROJECT ECONOMICS

63. In determining whether to issue a new license for an existing hydroelectric project, the Commission considers a number of public interest factors, including the economic benefits of project power. Under the Commission's approach to evaluating the economics of hydropower projects, as articulated in *Mead Corp.*,³⁵ the Commission uses current costs to compare the costs of the project and likely alternative power with no forecasts concerning potential future inflation, escalation, or deflation beyond the license issuance date. The basic purpose of the Commission's economic analysis is to provide a general estimate of the potential power benefits and the costs of a project, and of reasonable alternatives to project power. The estimate helps to support an informed decision concerning what is in the public interest with respect to a proposed license.

64. In applying this analysis to the Lake Blackshear Project, staff considered two options: Crisp Power's proposal and the project as licensed herein. As proposed by Crisp Power, the levelized annual cost of operating the Lake Blackshear Hydro Project is \$988,832, or \$20.86/MWh. The proposed project would generate an estimated average of 47,414 MWh of energy annually. When we multiply our estimate of average generation by the alternative power cost of \$74.19/MWh,³⁶ we get a total value of the project's power of \$3,388,940 in 2005 dollars. To determine whether the proposed project is currently economically beneficial, staff subtracts the project's cost from the value of the project's power. Therefore, in the first year of operation, the project would cost \$2,400,108 or \$50.62/MWh, less than the likely alternative cost of power.

³⁵ *Mead Corporation, Publishing Paper Division*, 72 FERC ¶ 61,027 (1995).

³⁶ Crisp Power bases the value of alternative power on the market value of power over the five year period leading to their filing for a new license.

65. As licensed herein with the staff measures, the levelized annual cost of operating the project would be about \$969,534, or \$20.45/MWh.³⁷ Based on an estimated average generation of 47,414 MWh and an alternative power cost of \$74.19/MWh, the project would produce power valued at \$3,388,940 annually. Therefore, in the first year of operation, project power would cost \$2,419,406, or \$51.03/MWh, less than the likely cost of alternative power.

66. In considering public interest factors, the Commission takes into account that hydroelectric projects offer unique operational benefits to the electric system (ancillary service benefits). These benefits include their capability to provide an almost instantaneous load-following response to dampen voltage and frequency instability on the transmission system, system-power-factor-correction through condensing operations, and a source of power available to help in quickly putting fossil-fuel based generating stations back on line following a major system blackout.

COMPREHENSIVE DEVELOPMENT

67. Sections 4(e) and 10(a)(1) of the FPA³⁸ require the Commission to give equal consideration to the power development purposes and to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife, the protection of recreational opportunities, and the preservation of other aspects of environmental quality. Any license issued shall be such as in the Commission's judgment will be best adapted to a comprehensive plan for improving or developing waterway or waterways for all beneficial public uses. The decision to license this project, and the terms and conditions included herein, reflect such consideration.

68. The EA for the project contains background information, analysis of effects, and support for related license articles. I conclude, based on the record for this proceeding, including the EA and the comments thereon, that licensing the Lake Blackshear Project as described in this order would not constitute a major federal action significantly affecting the quality of the human environment. The project will be safe if constructed, operated, and maintained in accordance with the requirements of this license.

³⁷ Although proposed by Crisp Power, staff, as previously discussed, did not recommend the study of American eels.

³⁸ 16 U.S.C. §§ 797(e) and 803(a)(1) (2006).

69. Based on my independent review and evaluation of the project, recommendations from resource agencies and other stakeholders, and the no-action alternative, as documented in the EA, I have selected the proposed Lake Blackshear Project, with staff-recommended measures, and find that it is best adapted to a comprehensive plan for improving or developing the Flint River.

70. I selected this alternative because: (1) issuance of a new license will serve to maintain a beneficial, dependable, and an inexpensive source of electric energy; (2) the required environmental measures will protect and enhance fish and wildlife resources, water quality, recreational resources and historic properties; and (3) the 15.2-MW of capacity from renewable resources may offset the use of fossil-fueled steam-electric generating plants, thereby conserving nonrenewable resources and reducing atmospheric pollution.

LICENSE TERM

71. Section 15(e) of the FPA,³⁹ provides that any new license issued shall be for a term that the Commission determines to be in the public interest, but not less than 30 years or more than 50 years. The Commission's general policy is to establish 30-year terms for projects with little or no redevelopment, new construction, new capacity, or environmental mitigation and enhancement measures; 40-year terms for projects with a moderate amount of such activities; and 50-year terms for projects with extensive measures.⁴⁰ This license authorizes no new construction or new capacity, and only a minor amount of new environmental enhancement measures. Consequently, a 30-year license term for the Lake Blackshear Project is appropriate.

The Director orders:

(A) This license is issued to Crisp Power (licensee), for a period of 30 years, effective the first day of the month in which this order is issued to operate and maintain the Lake Blackshear Project. This license is subject to the terms and conditions of the FPA, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA.

(B) The project consists of:

³⁹ 16 U.S.C. § 808(e) (2006).

⁴⁰ See *Consumers Power Company*, 68 FERC ¶ 61,077 at 61,383-84 (1994).

(1) All lands, to the extent of the licensee's interests in those lands, described in the project description and the project boundary discussion of this order.

(2) Project works consisting of: (1) a 4,612-foot-long dam consisting of (a) a 3,410-foot-long, 30-foot-maximum height north embankment with the crest at elevation 247.0 feet msl, and containing a 630-foot-long concrete auxiliary spillway section with a crest at elevation 238.0 feet msl; (b) a 402-foot-long, 46-foot-maximum height gated spillway with fourteen 25-foot-wide by 17-foot-high Taintor gates; (c) a 150-foot-long, 77-foot-wide, 49-foot-high combined powerhouse and intake section integral with the dam, containing one fixed-propeller Francis turbine (2.4 MW), two vertical shaft propeller turbines (4 and 4.8 MW), and one vertical shaft Kaplan turbine (4 MW) each coupled to generating units, with a total generating capacity of 15.2 MW; and (d) a 650-foot-long, 30-foot-high south embankment with the crest at elevation 247.5 feet msl; (2) an 8,700-acre reservoir at a normal maximum water surface elevation of 237.0 feet msl, with maximum usable storage capacity of 34,800 acre-feet; and (3) a 1,400-foot-long, 46-kV transmission line connecting the powerhouse with Plant Crisp switchyard; and (4) appurtenant facilities.

The project works generally described above are more specifically shown and described by those portions of exhibits A and F shown below:

Exhibit A: Pages 1-6 of Exhibit A, Volume I, filed on August 3, 2006.

Exhibit F: The following sections of exhibit F, Volume II, filed on August 3, 2006:

<u>Exhibit F Drawing</u>	<u>FERC No. 659-</u>	<u>Description</u>
Sheet F-1	1001	Warwick Dam Plan, Elevation and Spillway Section
Sheet F-2	1002	Typical Powerhouse Section
Sheet F-3	1003	Powerhouse General Floor Plan Unit Numbers 1, 2, and 3
Sheet F-4	1004	Powerhouse General Floor Plan Unit Number 4
Sheet F-5	1005	Sectional Elevations Hydro

		Units 1, 2, and 3
Sheet F-6	1006	Sectional Elevations Unit Number 4
Sheet F-7	1007	Warwick Dam General Site Plan
Sheet F-8	1008	Warwick Dam Final Site Plan
Sheet F-9	1009	Profiles
Sheet F-10	1010	Embankment Sections
Sheet F-11	1011	Embankment Sections
Sheet F-12	1012	Warwick Dam Embankment Sections
Sheet F-13	1013	Spillway Taintor Gate Arrangement
Sheet F-14	1014	Taintor Gate Details
Sheet F-15	1015	Core Wall Details

(3) All of the structures, fixtures, equipment or facilities used to operate or maintain the project, all portable property that may be employed in connection with the project, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) The exhibits A and F described above are approved and made part of this license. The exhibit G drawings filed as part of the application for license do not conform to Commission regulations and are not approved.

(D) The Freshwater Mussel Monitoring Plan contained in Volume IV, Appendix A, Attachment B of the license application filed on August 3, 2006 is approved, as modified by Article 408.

(E) This license is also subject to the articles set forth in Form L-3 (Oct. 1975) entitled "Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters of the United States," (*see* 54 FPC 1817 *et seq.*) and the following additional articles:

Article 201. Administrative Annual Charges. The licensee shall pay the United States annual charges, effective the first day of the month in which the

license is issued, and as determined in accordance with provisions of the Commission's regulations in effect from time to time, for the purposes of reimbursing the United States for the cost of administration of Part I of the Federal Power Act. The authorized installed capacity for that purpose is 15,200 kW.

Article 202. Exhibit F Drawings. Within 45 days of the date of issuance of this license, the licensee shall file the approved exhibit drawings in aperture card and electronic file formats.

(a) Three sets of the approved exhibit drawings shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Project-Drawing Number (i.e., P-659-1001 through P-659-1015) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., F-1, etc.), Drawing Title, and date of this license shall be typed on the upper left corner of each aperture card.

Two of the sets of aperture cards shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections Atlanta Regional Office.

(b) The licensee shall file two separate sets of exhibit drawings in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections Atlanta Regional Office. Exhibit F drawings must be identified as (CEII) material under 18 CFR § 388.113(c). Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this license, and file extension in the following format [P-659-1001, F-1, Warwick Dam, Elevation & Spillway Section, MM-DD-YYYY.TIF]. Electronic drawings shall meet the following format specification:

IMAGERY – black & white raster file

FILE TYPE – Tagged Image File Format (TIFF) CCITT Group 4

RESOLUTION – 300 dpi desired, (200 dpi min)

DRAWING SIZE FORMAT – 24" X 36" (min), 28" X 40" (max)

FILE SIZE – less than 1 MB desired

Article 203. Exhibit G Drawings. Within 90 days of the issuance date of the license, the licensee shall file, for Commission approval, revised Exhibit G drawings that enclose within the project boundary all principal project works

necessary for operation and maintenance of the project, including the transmission line, the five county-owned recreation facilities not already in the project boundary (the entire facility at Cedar Creek Boat Ramp, Wolfe Thick Boat Ramp, and Smoak Bridge Boat Ramp; the boat ramp, dock, and adjacent parking facilities Loron Williams Park; and the boat ramp, dock, and adjacent parking facilities at Rocky Point Park), the directional signage at the Smoak Bridge Boat Ramp, and the “Stop the Aquatic Hitchhikers!” signage authorized in this license. The Exhibit G drawings must comply with 18 C.F.R. §§ 4.39 and 4.41 of the Commission’s regulations.

Article 204. *Headwater Benefits.* If the licensee’s project was directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement during the term of the original license (including extensions of that term by annual licenses), and if those headwater benefits were not previously assessed and reimbursed to the owner of the headwater improvement, the licensee shall reimburse the owner of the headwater improvement for those benefits, at such time as they are assessed, in the same manner as for benefits received during the term of this new license. The benefits will be assessed in accordance with Part 11, Subpart B, of the Commission’s regulations.

Article 301. *As-built Drawings.* Within 90 days after completing construction of the facilities authorized by this license, the licensee shall file, for Commission approval, revised Exhibits A, F, and G, as applicable, to describe and show those project facilities as-built. The exhibits shall have sufficient detail to adequately delineate the location of project features relative to the project boundary. A courtesy copy shall be filed with the Commission’s Division of Dam Safety and Inspections (D2SI) - Atlanta Regional Engineer; the Director, D2SI; and the Director, Division of Hydropower Administration and Compliance

Article 401. *Reservation of Authority—Fishways.* Authority is reserved to the Commission to require the licensee to construct, operate, and maintain, or to provide for the construction, operation, and maintenance of such fishways as may be prescribed by the Secretaries of the Interior and Commerce pursuant to section 18 of the Federal Power Act.

Article 402. *Minimum flows.* Upon license issuance, the licensee shall release from the Warwick Dam into the Flint River an average daily flow of 760 cubic feet per second (cfs), or a flow equivalent to the average daily inflow to Lake Blackshear. In meeting this flow requirement, the flow released by the licensee shall not go below a minimum flow of 600 cfs, or inflow, whichever is less. The purpose of these flows is to protect and enhance fish, aquatic resources, and water quality in the Flint River downstream of Warwick Dam. The average

daily flow is to be based on inflows to Lake Blackshear and reflect daily changes in these inflows.

These flow conditions may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon agreement among the licensee, the Georgia Department of Natural Resources—Wildlife Resources Division, and the U.S. Fish and Wildlife Service. If any flow is so modified, the licensee shall (a) notify the Commission as soon as possible, but no later than 10 days after each such incident, and (b) include an incident report as described in Article 406.

Article 403. Reservoir Elevations. Upon issuance of this license, the licensee shall operate the Lake Blackshear Project such that the elevation of Lake Blackshear shall be maintained within 2 feet of the normal maximum water surface elevation of 237.0 feet mean sea level (msl) (i.e. 235.0 to 237.0 feet msl) except (1) during the biennial lake drawdowns conducted from November 1 to December 15, and (2) from March 15 to May 15, when the project shall be operated in an instantaneous run-of-river mode, where flows measured immediately downstream of the Warwick Dam approximate the sum of inflows to Lake Blackshear. From March 15 to May 15, the licensee shall maintain a stable water level in the lake that is within ± 3 inches from the normal maximum water surface elevation of 237.0 feet msl to enhance spawning conditions for shoal bass and other spring spawning fish and to improve the survival of their hatched offspring. The purpose of the biennial drawdown, which shall be conducted in consultation with the Georgia Department of Natural Resources-Wildlife Resources Division, is to support and benefit the nuisance aquatic plant control program in the lake and to facilitate dock repair and shoreline maintenance activities.

Project operation may be temporarily modified, if required by operating emergencies beyond the control of the licensee, and for short periods, upon agreement among the licensee, Georgia Department of Natural Resources—Wildlife Resources Division, and the U.S. Fish and Wildlife Service. If the operation is so modified, the licensee shall (a) notify the Commission as soon as possible, but no later than 10 days after each such incident, and (b) include an incident report as described in Article 406.

Article 404. Dissolved oxygen. The licensee shall operate turbine generating Unit No. 1 (installed in May 2005), using its enhanced air venting capabilities, from May 1 to September 30, when releasing minimum flows required in Article 402, to ensure DO standards are maintained and to protect aquatic resources in the Flint River. The purpose of Unit No. 1 is to (a) increase dissolved oxygen (DO) concentrations in the tailwaters of the Flint River

immediately downstream of Warwick Dam, and (b) to maintain a daily minimum DO concentration of 4.0 mg/L and a daily average concentration of 5.0 mg/L.

The operation of Unit No. 1 may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon mutual agreement between the Georgia Department of Natural Resources—Wildlife Resources Division and the U.S. Fish and Wildlife Service. If project operations are so modified, the licensee shall (a) notify the Commission as soon as possible, but not later than 10 days after each such incident, (b) shall provide a reason for the change in operation and proof of consultation with the resource agencies, and (c) include an incident report as described in Article 406.

Article 405. Annual Project Operations Report. The licensee shall file with the Commission, by January 31st each year, a Project Operations Report that provides the information necessary to verify that the Lake Blackshear Project has operated in compliance with the requirements of this license. The report shall include: (1) daily inflow and outflow records for the reporting period, and (2) incident reports that contain hourly and daily records, as appropriate, to document compliance with Articles 402, 403, and 404, as needed. If the data provided in the report indicates the project did not meet the requirements of Articles 402, 403, and 404, the licensee shall provide an explanation of the event(s) with the report and measures taken to correct the problem.

Article 406. Incident Report. The licensee shall file with the Commission, the Georgia Department of Natural Resources—Wildlife Resources Division, and the U.S. Fish and Wildlife Service an incident report if project operations required by Articles 402, 403, and 404 are not met. The incident report, to the extent possible, shall identify the cause, severity, and duration of the incident, and any observed or reported adverse environmental effects resulting from the incident. The report shall include: (1) operational data necessary to determine compliance with this article; and (2) a description of any corrective measures implemented at the time of the occurrence and the measures implemented or proposed to ensure that similar incidents do not occur. If the project operation is modified as a result of an incident, the licensee shall notify the Commission, the Georgia Department of Natural Resources—Wildlife Resources Division, and the U.S. Fish and Wildlife Service as soon as possible, but no later than 10 days after each such incident. Based on the report and the Commission's evaluation of any incidents, the Commission reserves the right to require modifications to project facilities and operations to ensure future compliance with the license.

Article 407. Invasive Aquatic Species Educational Signage. Within 90 days of the issuance of the license, the licensee shall install the “*Stop the Aquatic Hitchhikers!*” signage to educate project visitors on preventing the transport of

nuisance aquatic vegetation and other nuisance species at the following boat ramps: Plant Crisp Boat Ramp, Killebrew Park, Cedar Creek Boat Ramp, Wolfe Thick Boat Ramp, Loron Williams Park, Smoak Bridge Boat Ramp, and Rocky Point Park. The signage shall be installed after consultation with the Georgia Department of Natural Resources and the U.S. Fish and Wildlife Service. The signs shall (a) measure 2 x 3 ft, (b) display the trademarked logo of the “*Stop Aquatic Hitchhikers!*” campaign, and (c) specify the procedures to be used in cleaning all recreational equipment before and after boat launching.

Article 408. *Freshwater Mussel Monitoring Plan.* The licensee shall implement the plan approved in Ordering Paragraph (D). The licensee shall include with the final survey reports documentation of consultation, copies of comments and recommendations on the draft survey reports after they have been prepared and provided to the agencies, and specific descriptions of how the agencies’ comments are accommodated in the reports and follow up surveys. The final report also shall include any recommendations for modifying the survey methods or other aspects of the plan, as well as any recommended mussel protection measures, that may be identified in response to the survey results. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the final survey reports with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee’s reasons for not doing so, based on site-specific information.

Any modification to the approved plan shall be approved by the Commission prior to its implementation. If at any time during the term of license, the U.S. Fish and Wildlife Service and/or the Georgia Department of Natural Resources deem it necessary to implement mussel protection measures to avoid or minimize any adverse project-related effects, the licensee shall file for Commission approval an application to amend this license.

Article 409. *Recreation Facilities.* Within one year of the issuance date of the license, Crisp Power shall (a) expand the Plant Crisp Boat Ramp to two lanes, (b) upgrade the primitive campsites at Killebrew Park to include recreational vehicle space and potable water, (c) replace or enhance the fishing pier at Wolfe Thick Boat Ramp, (d) widen the boat ramp to two lanes and build a fishing pier at Loron Williams Park, and (e) install signage at Smoak Bridge Boat access to alert recreation users of nearby boat ramps when Smoak Bridge is at capacity. Prior to ground- or land-disturbing activities associated with these recreation facilities, the licensee shall file, for Commission approval, the following:

- (1) the final design drawings of the recreation enhancements at Plant Crisp Boat Ramp, Killebrew Park, Wolfe Thick Boat Ramp, Loron Williams Park, and Smoak Bridge Boat Ramp;

- (2) measures for soil erosion and sedimentation control during the construction of these facilities;
- (3) provisions to operate and maintain new and existing facilities at (a) Plant Crisp Boat Ramp, (b) Killebrew Park (c) Cedar Creek Boat Ramp, (d) Wolfe Thick Boat Ramp, (e) Loron Williams Park, (f) Smoak Bridge Boat Ramp, and (g) Rocky Point Park over the term of the license; and
- (4) a discussion of how the needs of the disabled were considered in the planning and design of these facilities.

The licensee shall prepare the final design drawings after consultation with the Georgia Department of Natural Resources. The licensee shall include with the design drawings documentation of consultation, copies of comments, recommendations from the entities on the design, and specific descriptions of how the entities' comments are accommodated. The licensee shall allow a minimum of 30 days for the consulted entities to comment and make recommendations prior to filing the final design drawings with the Commission for approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the filing. No ground-disturbing or land-clearing activities for the construction of the facilities shall begin until the licensee is notified by the Commission that the filing is approved. Upon approval, the licensee shall begin construction, and incorporate any changes required by the Commission.

Article 410. Shoreline Management Plan. The licensee shall continue to implement the Shoreline Management Plan and Pier and Dock Permit Program as approved by the Commission on July 30, 1996.

Article 411. Programmatic Agreement and Historic Properties Management Plan. Upon the issuance date of the license, the licensee shall implement the "Final Programmatic Agreement Between the Federal Energy Regulatory Commission and the Georgia State Historic Preservation Officer for Managing Historic Properties that May be Affected by a New License Issuing to Crisp County Power Commission for the Continued Operation of the Lake Blackshear Hydroelectric Project in Worth, Lee, Sumter, Dooly, and Crisp Counties, Georgia," executed on April 23, 2008, and including but not limited to the *Historic Properties Management Plan for the Lake Blackshear Hydroelectric Project (FERC #659) Crisp, Dooly, Lee, Sumter, and Worth Counties, Georgia*

(HPMP) for the project. In the event that the Programmatic Agreement is terminated, the licensee shall continue to implement the provisions of its approved HPMP. The Commission reserves the authority to require changes to the HPMP at any time during the term of the license. If the Programmatic Agreement is terminated, the licensee shall obtain approvals from the Commission and the Georgia State Historic Preservation Office where the HPMP calls upon the licensee to do so.

Article 412. Use and Occupancy. (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 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 use 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, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type 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 that can accommodate no more than 10 water craft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement. 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 use 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 impoundment 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 or roads where 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 impoundment. 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. If no conveyance was made during the prior calendar year, the licensee shall so inform the Commission in writing no later than January 31 of each year.

(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 certification 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 water craft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an 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 project waters at normal 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 60 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Energy Projects, 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 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 report on recreational resources of an Exhibit E; or, if the project does not have an approved report on recreational resources, that the lands to be conveyed do not have recreational value.
- (3) The instrument of conveyance must include the following covenants running with the land: (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 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 drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(F) The licensee shall serve copies of any Commission filing required by this order on any entity specified in the order to be consulted on matters relating to that filing. Proof of service on these entities must accompany the filing with the Commission.

(G) This order is final unless a request for rehearing is filed within 30 days from the date of its issuance, as provided in section 313(a) of the FPA. The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

J. Mark Robinson
Director
Office of Energy Projects

Form L-3
(October,
1975)

FEDERAL ENERGY REGULATORY COMMISSION

**TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED
MAJOR PROJECT AFFECTING NAVIGABLE
WATERS OF THE UNITED STATES**

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 area and project works shall be 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.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Energy Regulatory 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 such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration 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 submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. 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 or 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. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a nonpower licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. 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 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 9. 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 10. 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 any 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 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and 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 Secretary of the Army may prescribe in the interest of navigation, and 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

Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 13. 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 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. 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 16. 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 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. 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 19. 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 20. 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. 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 21. Material may be dredged or excavated from, or placed as fill in, project lands and/or waters only in the prosecution of work specifically authorized under the license; in the maintenance of the project; or after obtaining Commission approval, as appropriate. Any such material shall be removed and/or deposited in such manner as to reasonably preserve the environmental values of the project and so as not to interfere with traffic on land or water. Dredging and filling in a navigable water of the United States shall also be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 22. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and rights-of-way and such rights of passage through its dams or other structures, and shall permit such control of its pools, as may be required to complete and maintain such navigation facilities.

Article 23. The operation of any navigation facilities which may be constructed as a part of, or in connection with, any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

Article 24. The Licensee shall furnish power free of cost to the United States for the operation and maintenance of navigation facilities in the vicinity of the project at the voltage and frequency required by such facilities and at a point adjacent thereto, whether said facilities are constructed by the Licensee or by the United States.

Article 25. The Licensee shall construct, maintain, and operate at its own expense such lights and other signals for the protection of navigation as may be

directed by the Secretary of the Department in which the Coast Guard is operating.

Article 26. 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 27. 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 28. 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.

Document Content(s)

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