

INITIAL STATEMENT

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

Application for License for a Major Project—Existing Dam

INITIAL STATEMENT

Pursuant to 18 CFR §4.51

1. APPLICANT'S INTENT

Loup River Public Power District (Loup Power District or the District) applies to the Federal Energy Regulatory Commission (FERC) for a new license, with a term of 30 years, for the Loup River Hydroelectric Project (Project), FERC Project No. 1256, as described in the attached exhibits. The requested license term of 30 years is based on the minimal operational changes proposed relative to the current license.

2. PROJECT LOCATION

The location of the Project is:

State or Territory:	Nebraska
County:	Nance and Platte counties
Township or Nearby Town:	Genoa, Monroe, and Columbus
Stream or Other Body of Water:	Loup and lower Platte rivers

3. APPLICANT AND AUTHORIZED AGENT

The exact name and business address of Applicant are:

Loup River Public Power District (aka Loup Power District)
2404 15th Street
P.O. Box 988
Columbus, Nebraska 68602-0988
Telephone: 402-564-3171

The following person is authorized to act as agent for the Applicant:

Neal Suess, President/CEO
Loup Power District
P.O. Box 988
2404 15th Street
Columbus, Nebraska 68602-0988
Telephone: 402-564-3171

4. APPLICANT'S ORGANIZATIONAL STATUS

The Applicant is a public power utility and political subdivision of the state of Nebraska, as authorized under the Nebraska Revised Statutes, Section 70-602. The certificate of approval for the creation of the Loup River Public Power District is provided in Appendix IS-1.

5. PERTINENT NEBRASKA STATUTORY AND REGULATORY REQUIREMENTS

The statutory or regulatory requirements of Nebraska that affect the Project as proposed, with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are summarized in Tables IS-1 and IS-2. In addition, the steps that the Applicant has taken or plans to take to comply with each of the cited requirements are included in these tables.

Table IS-1. State Regulatory Requirements

Agency	Statute or Regulation	Permit/Approval	Status
Nebraska Department of Environmental Quality	State Title 117 – Nebraska Surface Water Quality Standards	Water Quality Certification for FERC Relicensing	The District will request Water Quality Certification from the Nebraska Department of Environmental Quality (NDEQ) within 60 days of FERC's issuance of the Ready for Environmental Analysis (REA) Notice
Nebraska Department of Environmental Quality	State Title 117 – Nebraska Surface Water Quality Standards	Water Quality Certification of Clean Water Act (CWA) Section 404 Nationwide Permit No. 16	On April 17, 2007, NDEQ certified CWA Section 401 Water Quality Certification for Nationwide Permit No. 16, as written in the Federal Register on March 12, 2007. The District operates in compliance with Nationwide Permit No. 16, and all associated conditions, specific to its CWA Section 404 Permit (Permit No. 2007-3190-KEA) for return flows from South Sand Management Area dredge discharge.

Agency	Statute or Regulation	Permit/Approval	Status
Nebraska Game and Parks Commission	163 Nebraska Administrative Code 2-006.01, Areas Open to Public Fishing	Not Applicable	Except where operations make access potentially dangerous, all Project-related waters are open to public fishing.
Nebraska Game and Parks Commission	Nebraska Nongame and Endangered Species Conservation Act (NESCA)	Not Applicable	The District operates in compliance with NESCA.

Subject to the superior right of FERC to issue license for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, powerhouses, and other project works necessary or convenient for the development, transmission, and utilization of power from waters of the U.S. over which Congress has jurisdiction, the steps that the Applicant has taken or plans to take to comply with each of the laws cited in Table IS-2 are described in that table.

Table IS-2. State Constitution Articles and Revised Statutes

Origin	Reference	Content/Description	Status
Nebraska State Constitution	Article XV-6	“The right to divert unappropriated waters of every natural stream for beneficial use shall never be denied except when such denial is demanded by the public interest. Priority of appropriation shall give the better right as between those using the water for the same purpose, but when the waters of any natural stream are not sufficient for the use of all those desiring to use the same, those using the water for domestic purposes shall have preference over those claiming it for any other purpose, and those using the water for agricultural purposes shall have the preference over those using the same for manufacturing purposes. Provided, no inferior right to the use of the waters of this state shall be acquired by a superior right without just compensation therefor to the inferior user.”	See action associated with the implementing regulation in Nebraska Revised Statutes Chapter 46.

Origin	Reference	Content/Description	Status
Nebraska State Constitution	Article XV-7	“The use of the waters of the state for power purposes shall be deemed a public use and shall never be alienated, but may be leased or otherwise developed as by law prescribed.”	See action associated with the implementing regulation in Nebraska Revised Statutes Chapter 46.
Nebraska Revised Statutes	Chapter 46: Irrigation and Regulation of Water	Provides for granting of a water appropriation and the granting of a lease by the State for the use of water to generate electricity.	<p>The District acquired surface water rights from the Nebraska Department of Natural Resources (NDNR) in Appropriation Nos. A-2287 and A-2573 in 1932 and 1936, respectively.^a</p> <p>Appropriation No. 2287 grants the District the right to divert 3,500 cubic feet per second of Loup River flow for the generation of electricity. Appropriation No. 2573 increased the allowable head by 18 feet. The applications for and approval of these water rights are provided in Appendix IS-1.</p> <p>Water power leases from NDNR are granted in accordance with Section 46-236 of the Nebraska Revised Statutes. The District’s water power leases for Appropriation Nos. 2287 and 2573 are valid until March 13, 2030. Copies of the approved renewed leases are provided in Appendix IS-1.</p>

Origin	Reference	Content/Description	Status
Nebraska Revised Statutes	Chapter 70: Power Districts and Corporations	Provides for the creation of public power districts by petition and the approval of the Nebraska Power Review Board; provides for the use of water by public power districts for the generation of electricity.	The District was required to petition for its original creation in 1933. This petition for creation was approved in 1933, and the certificate of approval is provided in Appendix IS-1. The approval of the latest amendment to the District's charter is also provided in Appendix IS-1.

Note:

- ^a The District's water rights are based on the dates of application. An initial application was submitted on September 15, 1932, and a corrected application was submitted on June 12, 1933.

6. BRIEF DESCRIPTION OF THE PROJECT

The Project is an existing major project under FERC's regulations and has an installed nameplate capacity of 53.4 megawatts (MW). The Project is located in Nance and Platte counties, Nebraska, where water is diverted from the Loup River and routed through the 35-mile-long Loup Power Canal, which empties into the Platte River near Columbus. The Project includes various hydraulic structures, two powerhouses, and two interconnected regulating reservoirs.

The Project begins at the Headworks, where at the point of diversion, a low weir across the Loup River creates sufficient head to divert a variable portion of river flow (not to exceed 3,500 cubic feet per second [cfs]) through an Intake Gate Structure into the Settling Basin. The diverted water is routed through the Upper Power Canal, which carries the water to the Monroe Powerhouse. Then the Lower Power Canal carries the water from the Monroe Powerhouse into two connected regulating reservoirs, Lake Babcock (in-channel) and Lake North (off-channel), which supply water to the Columbus Powerhouse via the Intake Canal. From the Columbus Powerhouse, water discharges to the Tailrace Canal, which in turn discharges Loup River water into the Platte River approximately 2 miles downstream of the confluence of the Loup and Platte rivers.

The portion of Loup River flow that is not diverted into the Loup Power Canal passes over the Diversion Weir or through the adjacent Sluice Gate Structure and continues downstream. The portion of the Loup River below the point of diversion is referred to as the Loup River bypass reach. The Project differs somewhat from a typical hydroelectric project in that it has no significant dam, in-river reservoir, project spillway, or overhead transmission lines.

Nebraska is the only state in the nation where all electric customers are served by public power utilities. The concept behind public power is that electricity is a public good and should be available to all consumers at the lowest possible price. This philosophy drives the overall business model for public power utilities to maintain revenues over the long term that just equal the costs of generating and distributing electricity for their customers. Public power districts set electric rates at levels appropriate to cover costs and provide appropriate cash reserves to maintain uninterrupted operations without any profit margin.

The Nebraska Legislature established the statutes that govern public power in 1933, the same year that the District was formed. As a public power state, all utilities that generate, transmit, or distribute electric power for use in Nebraska must be publicly owned and operated. The District is governed by a publicly elected board of directors consisting of ten individuals elected from established subdivisions within the District's operating territory.

All power generated by the Project is sold to Nebraska Public Power District (NPPD) at the two powerhouse substations, and NPPD dispatches the power in accordance with established operating agreements between the District and NPPD.

In connection with the Project, the District provides a variety of public benefits to residents in Nance and Platte counties, visitors from Nebraska and elsewhere, and electric ratepayers across Nebraska, including the following:

- Clean, renewable energy – The Project, which generates hydroelectric power, provides clean, renewable energy to electric ratepayers across Nebraska.
- Low energy rates – Revenue from the Project reduces electric rates for District customers.
- Recreation – The District maintains and operates five developed recreation areas and three multi-use trails, which provide opportunities for activities such as camping, hiking, biking, aquatic recreation, and Off-highway Vehicle (OHV) riding.
- Threatened and endangered species habitat – The Project's North Sand Management Area (SMA) provides habitat used by the threatened piping plover and the endangered interior least tern within the Project Boundary, contributing to the existence of these species.
- Historic resource preservation – The District has maintained the Project in excellent condition, resulting in preservation of a key resource related to the early history of public power in Nebraska as well as the Public Works Administration, which funded Project construction.

- Agriculture – The Loup Power Canal facilitates irrigation of crops adjacent to the Project. There are 71 irrigation water withdrawal points along the length of the Loup Power Canal.
- Economic development – The District plays a key role in economic development in Nance and Platte counties, as described below:
 - Low-cost electric power rates – The attractive electric power rates that the District offers are a major factor in attracting a variety of industries and their many associated jobs to the area.
 - Strategic land development – The District has purchased land for industrial development and worked with the City of Columbus and the Chamber of Commerce to attract approximately 70 manufacturing companies and 6,000 jobs to the Columbus area.
 - Increased tax base and improved quality of life – District economic development activities have resulted in an increased tax base and an improved quality of life for Columbus and Platte County.
 - Tourism – Headworks OHV Park near Genoa attracts approximately 20,000 visitors per year. OHV and dirt bike riders spend an estimated \$4.8 million per year in Nebraska on day trips to Headworks OHV Park (Nebraska Off-Highway Vehicle Association [NOHVA], June 29, 2008).¹
 - Direct employment – The District employs 118 full-time employees and 6 regular part-time employees.

7. OWNER OF EXISTING PROJECT FACILITIES

The name and address of the owner of existing Project facilities are:

Loup River Public Power District (aka Loup Power District)
P.O. Box 988
2404 15th Street
Columbus, Nebraska 68602-0988

8. UNITED-STATES-OWNED LANDS AFFECTED BY THE PROJECT

The Project does not occupy any lands of the United States.

¹ NOHVA. June 29, 2008. Personal communication from Dan Nitzel, Business Manager, NOHVA, to Jim Frear, Loup Power District.

9. PROPOSED NEW PROJECT FACILITIES

The Project is an existing constructed major project, and no new or modified Project facilities are proposed in association with this relicensing except enhancements to recreation facilities associated with the Project, as described in Exhibit C, Section C.2. The District does propose in this Application to modify the Project Boundary to remove small parcels of land in order to more appropriately reflect Project operations and license requirements.

10. EXHIBITS AND APPENDICES

In accordance with 18 Code of Federal Regulations (CFR) §5.18, the following exhibits are attached to and made part of this Application, and supporting materials are included as appendices to each exhibit.

Volume 1 includes the following information and exhibits:

- Executive Summary
- General Information
- Initial Statement
 - Appendix IS-1 – Applications and Approvals
- Exhibit A – Project Description
- Exhibit B – Project Operation and Resource Utilization
 - Appendix B-1 – Monthly Flow Duration Curves, Loup River at Point of Diversion
 - Appendix B-2 – Monthly Flow Duration Curves, Loup River Power Canal at Genoa
- Exhibit C – Construction History and Proposed Construction Schedule
- Exhibit D – Statement of Costs and Financing
- Exhibit F – Design Drawings and Supporting Design Report
- Exhibit G – Project Maps
 - Appendix G-1 – Project Boundary Maps
 - Appendix G-2 – Project Boundary Modifications
- Exhibit H – Plans and Ability of Applicant to Operate Project Efficiently

Volume 2 includes the environmental report and associated appendices, as follows:

- Exhibit E – Environmental Report
 - Appendix E-1 – Exhibit E Figures
 - Appendix E-2 – Draft Biological Assessment

- Appendix E-3 – Monthly Flow Duration Curves
- Appendix E-4 – Water Quality Data
- Appendix E-5 – Recreation Management Plan
- Appendix E-6 – Consultation

Volume 3 contains the final study reports for all studies conducted for the Project, as follows:

- Appendix A – Sedimentation Study Report
- Appendix B – Hydrocycling Study Report
- Appendix C – Water Temperature in the Project Bypass Reach Study Report
- Appendix D – Flow Depletion and Flow Diversion Study Report
- Appendix E – Fish Passage Study Report
- Appendix F – Recreation Use Study Report
- Appendix G – Land Use Inventory Study Report
- Appendix H – Section 106 Compliance Study Report
- Appendix I – Ice Jam Flooding on the Loup River Study Report
- Appendix J – Alternative Project Operations and Sediment Management Study Report
- Appendix K – Summary of Study Results Related to the Interior Least Tern and Piping Plover

Volume 4 contains the following privileged information from other volumes of this Final License Application:

- Exhibit E, Table E-84, Archaeological Sensitivity Areas Subject to Further Consideration
- Exhibit E, Appendix E-6, Consultation, Contact Information of Relicensing Participants
- Appendix H-1, Phase IA Archaeological Overview
- Appendix H-2, Phase I/II Archaeological Inventory and Evaluation
- Appendix H-4, Phase I/II Archaeological Inventory and Evaluation Addendum
- Historic Properties Management Plan

Volume 5 contains the following Critical Energy Infrastructure Information (CEII) from other volumes of this Final License Application:

- Exhibit F, Appendix F-1, Design Drawings

APPENDIX IS-1

APPLICATIONS AND APPROVALS

CERTIFICATE OF APPROVAL FOR CREATION OF THE
LOUP RIVER PUBLIC POWER DISTRICT

C E R T I F I C A T E

STATE OF NEBRASKA)
DEPARTMENT OF ROADS AND IRRIGATION) SS.

I, R. L. Cochran, State Engineer of the State of Nebraska, do hereby certify that the copy hereto attached is a true and verified copy of the Certificate of Approval of the petition for the creation of the Loup River Public Power District, the original of which is now on file in the office of the Department of Roads and Irrigation of Nebraska, successor to the Department of Public Works.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Department this 21 day of October, 1933.

DEPARTMENT OF ROADS AND IRRIGATION



State Engineer

STATE OF NEBRASKA
DEPARTMENT OF ROADS AND IRRIGATION, SUCCESSOR
TO DEPARTMENT OF PUBLIC WORKS.

In the Matter of petition for the
Creation of Loup River Public Power
District, pursuant to Senate File
No. 310, Session Laws of 1933. }

CERTIFICATE OF APPROVAL

This is to certify that:

(1) On the 12th day of May, 1933, there was filed for approval with the Department of Roads and Irrigation, State of Nebraska, successor to Department of Public Works, a petition of Walter Ewert of the first ward voting precinct of the city of Columbus, Platte County, Nebraska, and 1772 others for the creation of Loup River Public Power District, a true copy of said petition being hereto attached, marked "Exhibit A" and made a part hereof.

(2) Said petition is duly signed by fifteen per cent of the qualified electors of each of the municipalities constituting said proposed district.

(3) Said petition conforms to the laws in such cases made and provided.

(4) Upon the filing of said petition said department caused an immediate investigation to ^{be} made of the proposed district and of its proposed plants, systems, and works.

(5) Said proposed district, plants, systems, and works were found and are deemed by said department to be

feasible and conforming to public convenience and welfare.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that said petition be, and the same hereby is, approved subject to the following limitations and conditions:

First: That no expenditures be made by the directors of this district for promotion fees, and that no attorneys' fees be paid in connection with the proposed project other than those actually required in the performance of necessary legal services such as preparing contracts or documents of any character, or the furnishing of legal advice to the Board of Directors.

Second: That no contract be awarded for construction work without the written approval of the Department of Roads and Irrigation,

And that this certificate issue in duplicate in evidence thereof, one copy hereof to be filed in the office of the Secretary of State and the other copy in the office of the County Clerk of Platte County, Nebraska, as provided by law.

IN TESTIMONY WHEREOF, I, R. L. Cochran, State Engineer and head of the Department of Roads and Irrigation have hereunto set my hand and affixed the seal of said department this 29th day of May, 1933.

DEPARTMENT OF ROADS AND IRRIGATION

By R. L. Cochran (Signed)
State Engineer

SEAL

CERTIFICATE OF APPROVAL FOR AMENDMENTS TO
LOUP RIVER PUBLIC POWER DISTRICT'S PETITION FOR CREATION

STATE OF NEBRASKA - DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE PETITION)
OF LOUP RIVER PUBLIC POWER)
DISTRICT FOR THE APPROVAL OF) CERTIFICATE OF APPROVAL
PROPOSED AMENDMENTS TO SEC-)
TIONS (b) and (f) OF ITS)
PETITION FOR CREATION.)

Now on this 28th day of July, 1977, the Petition for the Approval of Proposed Amendments to Sections (b) and (f) of the Petition for Creation of the Loup River Public Power District comes on for consideration by the Department of Water Resources of the State of Nebraska, and having taken into consideration the testimony and evidence, and being fully advised in the premises, the Department of Water Resources, State of Nebraska, by and through its Director, makes the following findings:

FINDINGS OF FACT

1. In accordance with the applicable statutes, the Board of Directors of the Loup River Public Power District, at a regular meeting of said Board held on May 25, 1977, authorized and approved, by the affirmative vote of more than three-fifths of all of the Directors of said District, a Resolution No. 9782 to amend Sections (b) and (f) of the approved Petition for Creation of said District so that in their amended form said Sections will read as follows:

Section (b) The District shall be composed of the following municipalities: the County of Platte, Nebraska; the County of Colfax, Nebraska; the County of Boone, Nebraska; the County of Nance, Nebraska; the Shell Creek voting precinct in the County of Madison, Nebraska; Township Twenty-One (21) North, Range Nine (9) West of the 6th P.M. and Township Twenty-One (21) North, Range Ten (10) West of the 6th P.M., all in Wheeler County, Nebraska, being a portion of the Bartlett

Voting Precinct in the County of Wheeler, Nebraska; and Township Twenty (20) North, Range Nine (9) West of the 6th P.M. and Township Twenty (20) North, Range Ten (10) West of the 6th P.M. in Greeley County, Nebraska, being a portion of Spalding Voting Precinct No. 2 in the County of Greeley, Nebraska.

The incorporated cities and villages included within the municipalities constituting the District, number 23, are as follows: The City of Albion and the Villages of Cedar Rapids, Petersburg, Primrose and St. Edward in Boone County, Nebraska; the Cities of Fullerton and Genoa in Nance County, Nebraska; the City of Columbus and the Villages of Creston, Cornlea, Duncan, Humphrey, Lindsay, Platte Center, Monroe and Tarnov in Platte County, Nebraska; the City of Schuyler, and the Villages of Howells, Clarkson, Leigh, Richland and Rogers in Colfax County, Nebraska; and the City of Newman Grove, Madison County, Nebraska.

Section (f) is amended in part as follows:

The geographical territory of election subdivision No. 1 shall be as follows:

1. North Boone Subdivision shall be composed and consist of Oakland, North Branch, Shellcreek, Midland, Manchester, Ashland, Bonanza precincts in the County of Boone; the Shell Creek voting precinct in the County of Madison, Nebraska; and Township Twenty-One (21) North, Range Nine (9) West of the 6th P.M. and Township Twenty-One (21) North, Range Ten (10) West of the 6th P.M., all in Wheeler County, Nebraska, being a portion of the Bartlett Voting Precinct in the County of Wheeler, Nebraska.

The geographical territory of election subdivision No. 2 shall be as follows:

2. South Boone Subdivision shall be composed and consist of Weitzel, Boone, Beaver, Plum Creek, Cedar, Roselma, Dublin Precincts in the County of Boone, Nebraska; and Township Twenty (20) North, Range Nine (9) West of the 6th P.M. and

Township Twenty (20) North, Range Ten (10)
West of the 6th P.M. in Greeley County,
Nebraska, being a portion of Spalding
Voting Precinct No. 2 in the County of
Greeley, Nebraska.

The remaining provisions contained in Section (f) shall remain in effect.

2. On June 3, 1977, a certified copy of said Resolution 9782, together with a Petition for Approval of said amendments setting forth the reasons for the proposed amendments and praying for their approval, was filed by the Loup River Public Power District in the office of the Department of Water Resources of the State of Nebraska.

3. As provided by Section 70-663, R.R.S. Nebraska 1943, the Department of Water Resources set the petition for hearing on June 28, 1977 at 2:00 o'clock P.M., in the Department of Water Resources - 4th Floor, 301 Centennial Mall South, Lincoln, Nebraska, and notice of said hearing, setting forth in full the proposed amendments, was given by publication for three consecutive weeks in the following legal newspapers of general circulation within the Loup River Public Power District area: the Columbus Daily Telegram, Columbus, Nebraska, the Albion News, Albion, Nebraska, and the Newman Grove Reporter, Newman Grove, Nebraska.

4. On June 28, 1977, commencing at 2:00 P.M. hearing was had on the Petition for Amendment of the Loup River Public Power District petition for creation, before the Department of Water Resources of the State of Nebraska, with the Honorable Marion E. Ball presiding. At the hearing, appearances were made and testimony and evidence adduced by the petitioner, Loup River Public Power District.

5. The amendments of Sections (b) and (f) of the Petition for Creation of the Loup River Power District have been made for

the following reasons:

(a) To carry out an Agreement dated May 25, 1977 with the Nebraska Public Power District (NPPD), under which the Loup River Public Power District acquired all of the electrical properties, facilities and customers of NPPD located in and around the City of Newman Grove, Madison County, Nebraska, and

(b) To remove from the chartered territory of the District, the Village of Spalding in the County of Greeley, Nebraska, as it is not a part of the Loup River Public Power District's operating area as defined in Section 70-604.02 Revised Statutes of Nebraska, and to redefine the chartered areas in Wheeler and Greeley Counties to properly reflect changes in the areas and the names of voting precincts therein.

CONCLUSIONS OF LAW

1. The enlargement of the chartered territory of Loup River Public Power District, as set forth above in paragraph 1 hereof and Section (b) of said proposed amendments, complies with the provisions of Section 70-604.01 through 70-604.08, R.R.S. Nebraska.

2. The proposed amendments to Sections (b) and (f) of the Petition for Creation of Loup River Public Power District, the plants, systems and works, the operation of the same, the exercise of powers, and the assumption of duties and responsibilities of or on the part of the Loup River Public Power District will not nullify, conflict with or materially affect those of, or on the part of, any other district.

3. It does not appear affirmatively that the adoption of the proposed amendments will be contrary to the best interests of the Loup River Public Power District, or that the adoption of said amendments will jeopardize and impair the rights of the creditors of such district, or of other districts and persons.

4. Under all of the facts and circumstances as disclosed by the pleadings and evidence, the Loup River Public Power District is entitled to have the said amendments to Sections (b) and (f) of its Petition for Creation approved by the Department of Water Resources.

IT IS THEREFORE CERTIFIED, ORDERED AND ADJUDGED by the Department of Water Resources of the State of Nebraska that:

1. The amendments of Sections (b) and (f) of the Petition for Creation of the Loup River Public Power District as fully set forth in paragraph 1 of this Order, be and the same are approved and said Sections are amended to read as stated in paragraph 1 above.

2. This Certificate of Approval be issued in duplicate and one copy shall be filed in the office of the Secretary of State of the State of Nebraska, and the other copy shall be filed in the office of the County Clerk of Platte County, Nebraska, that being the county in which the principal place of business of the Loup River Public Power District is located.

IN WITNESS WHEREOF, I, Marion E. Ball, Director of Water Resources, have set my hand and have caused the seal of the Department of Water Resources to be affixed hereto, this 28th day of July, 1977.

DEPARTMENT OF WATER RESOURCES



Director of Water Resources

Dated July 28, 1977

APPLICATIONS AND APPROVALS FOR WATER RIGHTS

Application No. 2287

Water Division No. 2-A

District No. _____

C O R R E C T E D
APPLICATION FOR A PERMIT TO APPROPRIATE THE WATERS OF THE
STATE OF NEBRASKA FOR POWER

I, F. C. Albert of Columbus
(Name of person signing application) (Postoffice address)

County of Platte State of Nebraska being duly sworn
upon my oath say:

1st. That the name of the applicant is Phil R. Hockenberger
(Name of person or company for whom application is made)
Postoffice address No. _____ Street,
Columbus County of Platte State of Nebraska
(City or village)

2nd. That the water is to be used for the purpose of operating a Hydro Electric Power Plant

3rd. If the applicant is a corporation give
(a) Date and place of incorporation Columbus, Nebraska, May 29, 1933.
(b) The amount of capital stock Municipality-Organized under Senate File 310,
(c) The amount paid in Session Laws of Nebraska, 1933.
(d) The names and addresses of directors Chas. B. Fricke; August Ewert; Ed Kelley;
D. A. Becher; Ed Lusienki; Phil Hockenberger; E. E. Koebbe; A. H. Backus; J. E. Meyer;
C. C. Sheldon and A. R. Miller, Columbus, Nebraska.

4th. The financial resources of the applicant are
(a) Cash on hand Funds to be made available by sale of revenue bonds through
(b) Treasury stock the Public Works Administration of the United States
(c) Bonds to be issued \$7,300,000.00
(d) Other resources Submitted upon request

5th. That the name adopted for the proposed plant is Loup River Public Power District

6th. That the source of the proposed appropriation is Loup River
(Stream)

7th. The amount of the appropriation desired is 3500 cubic
feet per second of time.

8th. That the ^{diversion} dam will be located in NW 1 of section 33
Township 17N Range 4 W, of the Sixth P. M.

9th. That the said ^{supply} canal will be 3 1/2 miles in length
and pass through the following quarter sections of land as shown on the accompanying township plats, viz:
Secs. 33, 28, 27, 22, 23, 14, 13 T. 17N., R. 4 W., Secs. 18, 7, 8, 5, 4, 3, 2 T. 17N R. 3 W., Secs.
Secs. 35 and 36, T. 18 N. R. 3 W., Secs. 31, 32, 33, 28, 27, 26, 25 and 36 T. 18N R. 2 W.
Secs. 31, 30, 29, 28, 27, 26, 35 and 36 T. 18N R. 1 W., Secs. 31, T. 18N R. 1 E., Sec. 6, 7, 18, 17,
16, 21, 27, 26, 35 and 36 T. 17N., R. 1 E., Sec. 1 T. 16N., R. 1 E.

10th. That the plant will be located on the north bank of the
canal in the SW 1 of section 6 Township 17N
Range 1 E of the Sixth P. M. (See Application 23-25)

11th. That the power to be obtained is from 3 turbine wheels
(Kind of wheel)

12th. That the capacity of the plant will be 49,500 H.P.

13th. That the net power required from the shaft of the wheel to operate the plant when in good repair
and proper running order will be 49,500 horse power.

14th. That the maximum head or fall that it is practical to maintain at average low water stage of stream
is 126 feet, ^{as shown on plans #4195c 10} which will require a dam 10 feet high.
(Head means the difference in height between the level of the water in the forebay and tail race.)

15th. That the above amount of water necessary to operate said plant will be 3500
cubic feet per second. 50,113

16th. That the above amount of water under the head given will develop 36,360 Theoretical
horse power.

17th. That the stream furnishes:
cubic feet per second.

(a) At low water stage 2000 cubic feet per second.

(b) At medium stage 3500 cubic feet per second.

(c) At high water stage 6000 cubic feet per second.

18th. That the plant will be completed on or before the 30th day of
June 1935

19th. That the plant will be put in operation on or before the 30th day of
June 1935

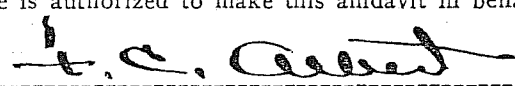
20th. That the plant will be operated Continuously
(Continuously or otherwise)

21st. That the proposed cost of said plant is as follows:

Dam, \$ 225,000; Race or canal, \$ 1500,000; Machinery, \$ 1500,000;
Buildings, \$ 1,500,000; Total, \$ 7,000,000, which includes cost of transmission lines.

22nd. That the relation which the subscriber to this affidavit bears to said applicant is that of
Engineer
(State if applicant himself or give official position)

and that he is authorized to make this affidavit in behalf of
the interests affected.



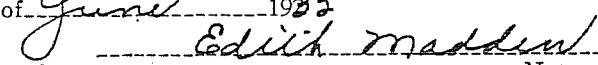
Signature.

State of Nebraska

County of Lancaster

} SS.

I hereby certify that this application was signed in my presence and sworn
to before me this 12th day of June 1933



Notary Public.

(SEAL)

APPLICATION FOR A PERMIT TO APPROPRIATE THE WATERS OF THE STATE OF NEBRASKA FOR POWER

*Deft's Ex 3
June
21, 8/46*

I, F. C. Albert of Columbus
(Name of person signing application) (Postoffice address)

County of Platte State of Nebraska being duly sworn upon my oath say:

1st. That the name of the applicant is Loup River Public Power District
(Name of person or company for whom application is made)

Columbus Postoffice address No. _____ Street,
Columbus County of Platte State of Nebraska
(City or village)

2nd. That the water is to be used for the purpose of operating Hydro-electric power plants

3rd. If the applicant is a corporation give

- (a) Date and place of incorporation Columbus, Nebraska, May 29, 1933.
- (b) The amount of capital stock (Municipality. Organized under Senate File 310,
- (c) The amount paid in (Session Laws of Nebraska, 1933.
- (d) The names and addresses of directors Chas. B. Ericke, August Ewert, Edd Kelly,
D. A. Becher, Phil R. Hockenberger, A. H. Backus, C. C. Sheldon, A. R. Miller, W. A.
Boettcher, J. A. Borg

4th. The financial resources of the applicant are

- (a) Cash on hand (Funds are made available by sale of revenue bonds
- (b) Treasury stock (through the Public Works Administration of the
- (c) Bonds to be issued (United States. \$8,700,000 authorized.
- (d) Other resources Submitted upon request.

5th. That the name adopted for the proposed plant is Monroe Power Plant and Columbus Power Plant.

6th. That the source of the proposed appropriation is Loup River

(Stream)

Use of same water granted under

7th. The amount of the appropriation desired is Application 2287: 3500 cubic feet per second of diversion

8th. That the dam will be located in NW 1/4 of section 33

Township 17 N. Range 4 W. of the Sixth P. M.

9th. That the said supply ~~race~~ or canal will be approximately 26 miles in length and pass through the following quarter sections of land as shown on the accompanying township plats, viz:

See attached description

10th. That the plants will be located: ~~on the~~ Monroe Plant ~~bank of the~~
~~stream~~ in the SE 1/4 of section 36 Township 18N
Range 3 W. of the Sixth P. M. and Columbus Plant in the NW 1/4 of Sec. 9, Tp. 17N.,

11th. That the power to be obtained is from a Francis type turbines R. 1E of the 6th P. M. wheel.
(Kind of wheel)

12th. That the capacity of the plants will be 50,250 KVA or 750 KV-a in addition to App. 2287

13th. That the net power required from the shaft of the wheel to operate the plant when in good repair and proper running order will be 63,600 or 14,100 HP ~~horse power~~ in addition to App. 2287

14th. That the maximum head or fall that it is practical to maintain at average low water stage of stream is 18 feet, in addition to 126 feet head granted under Application 2287.
~~which will require a dam~~ feet high.
(Head means the difference in height between the level of the water in the forebay and tail race.)

15th. That the ~~above~~ amount of water necessary to operate said plant will be 3,500 cubic feet per second. granted under Application 2287

16th. That the above amount of water under the head given will develop 7159 Theoretical horse power. in addition to Application 2287

17th. That the stream furnishes:
cubic feet per second.

- (a) At low water stage 2000 cubic feet per second.
- (b) At medium stage 3500 cubic feet per second.
- (c) At high water stage 6000 cubic feet per second.

18th. That the plant will be completed on or before the 30th day of June 1937

19th. That the plant will be put in operation on or before the 30th day of June 1937

20th. That the plants will be operated Monroe Plant continuously, Columbus Plant intermittently.
(Continuously or otherwise)

21st. That the proposed cost of said plant is as follows:

Dam, \$ 1,500,000; Race or canal, \$ 2,500,000; Machinery, \$ 2,000,000; Buildings, \$ 1,000,000; Total, \$ 7,000,000 not including transmission lines.

22nd. That the relation which the subscriber to this affidavit bears to said applicant is that of Supervising Engineer and that he is authorized to make this affidavit in behalf of (State if applicant himself or give official position) the interests affected.

H. C. Bennett

Signature.

State of Nebraska

County of Platte } SS.

I hereby certify that this application was signed in my presence and sworn to before me this 3d day of April, 1936

Edward F. Otteford

Notary Public.

(SEAL)

STATE OF NEBRASKA

DEPARTMENT OF ROADS AND IRRIGATION } ss

This is to certify that the foregoing application has been examined

.....
Governor of Nebraska

DEPARTMENT OF ROADS AND IRRIGATION

.....
State Engineer

This is to certify that the foregoing application has been examined and is hereby granted subject to the following limitations and conditions:

1st. The water appropriated shall be used for the purpose of developing power.

2nd. The work of excavation or construction shall begin on or before. . . . ~~October 21~~ , 1936

3rd. The time for completing the work of construction shall extend to. . . . ~~August 24~~ , 1937

4th. The time for completing the application of water to the beneficial use indicated shall extend to ~~August 24~~ , 1937

5th. The appropriation of water is the use of 3500 cubic feet per second of time granted under Application Number 2287; and the maximum power head shall not exceed 18 feet in addition to the power head granted under Application Number 2287.

6th. The rights of all persons who by compliance with the laws of the State of Nebraska governing in the appropriation of water, or who by continuous beneficial use have acquired the right to use of the waters of ~~Loup River~~ or any tributary stream, or any stream to which ~~Loup River~~ is tributary, prior to the date of this filing, shall not be interfered with by this appropriation.

7th. This grant is made subject to the provisions of the Nebraska Irrigation Laws, which gives preference to appropriators using the water for domestic and agricultural uses, over those using it for manufacturing and power purposes.

8th. The applicant shall file in the Department of Roads and Irrigation on or before. . . . ~~October 21~~ 1936 , a map or plat, which map or plat shall be made to conform with the rules and regulations of the department. He shall also file detailed plans of the dam which plans must be approved by the State Engineer before the construction work is begun. Failure to comply with this section shall work a forfeiture of the appropriation and all rights thereunder.

9th. The applicant shall file in the Department of Roads and Irrigation on or before. . . . ~~October 21~~ 1936 , a contract or lease, duly executed, which contract or lease shall be on forms prepared by this department.

10th. The time of such lease or contract expires. . . . ~~February 24~~ , 1934

11th. The applicant shall pay into the State Treasury on or before the first day of January each year ten (\$10.00) dollars for each one hundred horse power for all water so appropriated, or \$715.90 Failure to pay any of the fees herein specified shall cause the Department of Roads and Irrigation to cancel such lease and appropriation.

.....
R. L. COCHRAN

Governor of Nebraska

DEPARTMENT OF ROADS AND IRRIGATION

A.C. Lacey

.....
(5) ii) 2a State Engineer
Sheet 6

Approved. * . . . ~~April 21~~ , 1936

Application No. 2573.....

Division No. 2-A District No.....

APPLICATION FOR A PERMIT TO
APPROPRIATE THE WATERS OF THE STATE
OF NEBRASKA FOR POWER

STATE OF NEBRASKA }
DEPARTMENT OF ROADS AND IRRIGATION } ss

This instrument was filed for record at
...9.15...o'clock...A...M., on the...4th.....
day of April....., 1936., and duly reorded
in Book....20.....of the Record of Applications
for Appropriations on Page...359.....

.....A. C. Tilley.....
KIW State Engineer

NOTE—Construction shall begin on or before
October 21-, 1936., and shall be
completed on or before August 24-, 1937..
Detailed plans and maps must be filed on or before
October 21-, 1936. . .

Loup River Public Power District

Columbus, Nebraska.

STATE OF NEBRASKA, :
: SS.
DEPARTMENT OF ROADS AND IRRIGATION :

March 22, 1934, this matter came on upon the motion of the Loup River Public Power District for modification of the findings and order entered herein on February 24, 1934, and was submitted to the Department, and the Department having carefully considered the same, doth sustain said motion to the extent and in the manner hereinafter set forth:

It is, therefore, ORDERED that the findings and water grant entered herein on February 24, 1934 be and hereby are modified to read as follows:

This matter having been heretofore submitted upon the application, objections and the evidence, and the Department being fully advised in the premises, finds that the granting of the foregoing application by the Department of Roads and Irrigation will permit the applicant to put to beneficial use the water appropriated, and will promote the public welfare and convenience, and said application is hereby granted, subject to the following conditions and limitations:

1. In accordance with the provisions of the Statutes of the State of Nebraska, it is hereby required that the water appropriated shall be used for the purpose of developing power, and unless unforeseen accident or delay beyond applicant's control shall intervene,

(a) The work of excavation or construction shall begin on or before August 24, 1934:

(b) The applicant shall proceed with diligence and prosecute its work of construction continuously to completion, and the period for such completion shall expire August 24, 1937; and

(c) The time for completing the application of water to the beneficial use indicated shall extend to August 24, 1937.

2. The amount of the appropriation shall not exceed thirty-five hundred (3500) cubic feet per second of time, and shall not;

(a) Prevent, curtail or limit the diversion of water from the Middle Loup River by the Middle Loup Public Power and Irrigation District for irrigation purposes to the extent of 45,000 acre feet per year at a maximum rate of 300 second feet, when and if its said project is approved by the Federal Emergency Administration of Public Works of the United States, or other Governmental authority, and when and if its pending application for water for irrigation is granted.

(b) Prevent, curtail or limit the diversion of water from the North Loup River by said North Loup River Public Power and Irrigation District for irrigation purposes to the extent of 38,000 acre feet per year at a maximum rate of 260 second feet, when and if its said project is approved by the Federal Emergency Administration of Public Works of the United States, or other Governmental authority, and when and if its said pending application for water for irrigation is granted.

Provided further each of the above named three projects must permit and allow the minimum amount of water fixed by the United States authorities to pass their headgates.

3. The rights of all persons, who by compliance with the laws of the State of Nebraska, governing the appropriation of water, or who by continuous beneficial use have acquired the right to use of the waters of the Loup River or any tributary stream, or any stream to which the Loup River is tributary, prior to the date of this filing, shall not be interfered with by this appropriation.

4. This grant is made subject to the provisions of the Nebraska laws, which gives preference to appropriators using water for domestic and agricultural uses, over those using it for manufacturing purposes.

5. The applicant shall file in the office of the Department of Roads and Irrigation on or before August 24, 1934, a map or plat of its system and plans of its proposed dam construction which shall conform to the rules and regulations of the Department.

6. The applicant shall file in the Department of Roads and Irrigation on or before August 24, 1934, a contract or lease, duly executed, which contract or lease shall be on forms prepared by this Department.

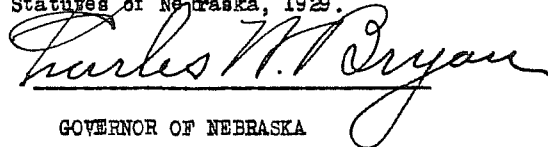
7. The time for such lease or contract expires February 24, 1984.

8. The applicant shall pay into the State Treasury on or before the first day of January each year ten (\$10.00) dollars for each hundred horse power for all water so appropriated, or \$5011.30. Failure to pay any of the fees herein specified shall cause the Department of Roads and Irrigation to cancel such lease and appropriation. The first annual payment shall be due January first, following the use of any water under this appropriation for power purposes.

9. Electrical power generated by the means of water power developed under this appropriation shall not be transmitted or sold beyond the confines of this State unless all persons, firms, and corporations (including municipal corporations) located in the State of Nebraska desiring to use such electrical power and offering to pay a reasonable price for the same shall first have been supplied with such electrical power in accordance with their needs.

10. To prevent unfair competition between private and municipal corporations where the same are selling to the same area, the rates for such area for electric power shall be the same to both at the same point of delivery, and all such rates shall be satisfactory to the Federal Government.

11. The breach of any of the conditions herein recited shall be ground for cancellation and revocation of this water right in the manner and upon the terms and conditions provided by law, and in the absence of such law, then such cancellation or revocation shall be declared and become effective following the procedural requirements of Section 81-6309 of the Compiled Statutes of Nebraska, 1929.


GOVERNOR OF NEBRASKA

DEPARTMENT OF ROADS AND IRRIGATION



STATE ENGINEER

APPROVED March 23, 1934.

WATER POWER LEASES

LEASE TO BE EXECUTED BY APPLICANT FOR RENEWAL OF WATER POWER LEASE
AS PROVIDED IN SECTION 46-236, REVISED STATUTES SUPPLEMENT, 1972

APPLICATION 2287

Whereas the Loup River Public Power District of Columbus, Nebraska, in accordance with the provisions of Section 46-236, Revised Statutes Supplement, 1972, has applied to the Department of Water Resources of the State of Nebraska for the renewal of lease from March 13, 1980, to March 13, 2030, for the water appropriated under Application 2287 from the Loup River at Columbus, Nebraska. The amount of the appropriation under Application 2287 is not to exceed 3,500 cubic feet per second, developing 50,113 horsepower. Now this agreement in consideration of granting the renewal of said lease witnesseth:

1. Said Loup River Public Power District, its heirs, executors, administrators, successors or assigns hereby agrees to pay to the Treasurer of the State of Nebraska at Lincoln, Nebraska, on or before the first day of January each year this lease is in force the sum of \$7,516.95, the same being the statutory annual payment of \$15.00 for each one hundred horsepower for all water so appropriated; and the date of expiration of this lease is March 13, 2030.

2. Failure to make this payment in the prescribed time and manner will occasion a forfeiture of the appropriation under Application 2287.

3. Upon the expiration or cancellation of this lease the Department of Water Resources shall cause all buildings, machinery, and improvements placed and remaining upon the said project by the Loup River Public Power District or its successors for the utilization and development of water power to be appraised as of the date of expiration or cancellation of said lease.

4. Should the water power covered by this appropriation be subsequently leased to any other person than the applicant, upon the cancellation or expiration of said lease,

LEASE TO BE EXECUTED BY APPLICANT FOR RENEWAL OF WATER POWER LEASE
AS PROVIDED IN SECTION 46-236, REVISED STATUTES SUPPLEMENT, 1972

APPLICATION 2573

Whereas the Loup River Public Power District of Columbus, Nebraska, in accordance with the provisions of Section 46-236, Revised Statutes Supplement, 1972, has applied to the Department of Water Resources of the State of Nebraska for the renewal of lease from March 13, 1980, to March 13, 2030, for the water appropriated under Application 2573 from the Loup River at Columbus, Nebraska. The amount of the appropriation under Application 2573 is not to exceed 18 feet additional head, developing 7,159 additional horsepower. Now this agreement in consideration of granting the renewal of said lease witnesseth:

1. Said Loup River Public Power District, its heirs, executors, administrators, successors or assigns hereby agrees to pay to the Treasurer of the State of Nebraska at Lincoln, Nebraska, on or before the first day of January each year this lease is in force the sum of \$1,073.85, the same being the statutory annual payment of \$15.00 for each one hundred horsepower for all water so appropriated; and the date of expiration of this lease is March 13, 2030.

2. Failure to make this payment in the prescribed time and manner will occasion a forfeiture of the appropriation under Application 2573.

3. Upon the expiration or cancellation of this lease the Department of Water Resources shall cause all buildings, machinery, and improvements placed and remaining upon the said project by the Loup River Public Power District or its successors for the utilization and development of water power to be appraised as of the date of expiration or cancellation of said lease.

4. Should the water power covered by this appropriation be subsequently leased to any other person than the applicant, upon the cancellation or expiration of said lease,

the value of said improvements as finally determined by appraisal or upon appeal therefrom shall be included in the initial payment made by the subsequent lessee and paid over to the said Loup River Public Power District or its successors.

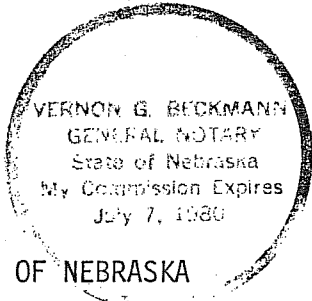
LOUP RIVER PUBLIC POWER DISTRICT

BY Max E. Kiburz

ATTEST:

STATE OF NEBRASKA)
COUNTY OF Platte) SS

On this 7 day of March, 1980, personally appeared before me, Max E. Kiburz known to be the identical person who signed the foregoing lease as General Manager of the Loup River Public Power District, and acknowledged that the same was the voluntary act and deed of this district.



Vernon G. Beckmann
Notary Public

STATE OF NEBRASKA)
DEPARTMENT OF WATER RESOURCES) SS

This is to certify that I have examined the above and foregoing lease entered into between the Department of Water Resources of the State of Nebraska and the Loup River Public Power District of Columbus, Nebraska, and said lease filed under Application 2573 is hereby approved.

IN WITNESS WHEREOF I have hereunto set my hand and have caused to be affixed the seal of the Department of Water Resources this 18th day of March, 1980.

DEPARTMENT OF WATER RESOURCES

John W. Neuberger
Director