

APPENDIX B

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CURRENT LICENSE

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

21 FERC ¶62,535

Loup River Public Power District ) Project No. 1256-000

ORDER ISSUING NEW LICENSE (MAJOR)

( Issued December 29, 1982 )

Loup River Public Power District (LPD) has filed an application for a new license under Part I of the Federal Power Act (Act) for the continued operation and maintenance of the Loup River Hydroelectric Project No. 1256. 1/ Located on the Loup Canal, near the towns of Genoa, Monroe, and Columbus in Platte and Nance Counties, Nebraska, the project utilizes the waters of the Loup River, a navigable waterway of the United States.

Notice of the application has been published and comments have been received from interested Federal, State, and local agencies. All protests that have been submitted, petitions to intervene that have been granted, together with all comments filed by Federal, State, and local agencies have been fully considered in determining whether to issue this license. No party or agency commenting on the application objected to the issuance of the license.

Project History and Description

On April 17, 1934, the Federal Power Commission issued a 50-year license to LPD to construct, operate, and maintain a powerplant. LPD began construction in 1934 and completed construction of the project

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1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations 18 C.F.R. §375.308 (1982). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, FERC Statutes and Regulations ¶ 29,052, 47 Fed. Reg. 19014 (1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

in 1937. Hydroelectric power has been produced since that time, with the secondary function of providing irrigation water evolving in recent years.

The original license for the Loup River Hydroelectric Project expires on April 16, 1984. LPD filed an application for a new license for the project on April 7, 1981, and supplemented the application on October 5, 1981.

The constructed project consists of a diversion dam and canal headworks; the Loup Canal approximately 35 miles long; a regulating reservoir; a waterway or tailrace canal approximately 5.5 miles long; two powerhouses, one located at the Monroe Powerhouse which has an installed capacity of 7,200 kW and the other at the Columbus Powerhouse with an installed capacity of 40,500 kW; transmission lines; and appurtenant facilities. A more detailed project description is contained in ordering paragraph (B). The project has a total installed capacity of 47,700 kW and an average annual generation of 137,500 MWh. 2/

#### Safety and Adequacy

All project structures, machinery, and appurtenant facilities were analyzed and inspected by the Commission's staff for safety and adequacy. Staff finds the project works to be safe against sliding and overturning under various normal and extreme loading conditions. The project spillway capacity is adequate and sufficient to pass the probable maximum flood. It is concluded that the project, under the conditions of this license, is safe and adequate.

#### Environmental Considerations

The Nebraska Department of Environmental Control has waived the water quality certification for the project under Section 401 of the Federal Water Pollution Control Act. No Federally listed threatened or endangered plant or animal species are known to occur within the immediate project area. Issuance of this license will permit continued project operation which began over 45 years ago. No new construction or change in project operation is proposed. LPD has cooperated with state agencies to protect wildlife habitat, develop fishery resources

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2/ Continued operation of this project utilizing a renewable resource would save the equivalent of approximately 225,775 barrels of oil or 63,665 tons of coal per year.

and provide outdoor recreational facilities. The Applicant's Report on Fish, Wildlife, and Botanical Resources, and Report on Recreational Resources generally conform to the Commission's regulations and provide guidance for the management of these resources, and are approved herein.

In accordance with standard Commission practice 3/ Article 29 of this license requires cultural resources protection measures in the event of any future construction or development at the project, other than the original project development considered and authorized herein.

On the basis of the record including staff's independent analysis, it is concluded that issuance of the license for Project No. 1256, as conditioned, is not a major Federal action significantly affecting the quality of the human environment.

#### Exhibit G

The submitted Exhibit G shows that there are two employee residences on project lands and five privately owned year-round dwellings or summer cottages located on land leased from the LPD. The five privately owned structures are unnecessary for project purposes. Special Article 30 requires LPD to refile within 1 year after the issuance of this order, an acceptable revised Exhibit G showing the five privately owned dwellings outside the project boundary, with the retention of a shoreline control strip.

#### Other Aspects of Comprehensive Development

The Loup River Hydroelectric Project effectively utilizes the flow diverted from the Loup River to generate power for the Loup Power District. Approximately 75 percent of the flow of the Loup River is diverted into the Loup Canal for power generation purposes. The operation of the Monroe Powerhouse is a run-of-river mode whereas the Columbus Powerhouse is used to meet peaking demands. There are no current plans for expansion or redevelopment of the Loup River Project.

It is concluded that issuance of this license is in the public interest. Project No. 1256, subject to the terms and conditions of this license, is best adapted to a comprehensive plan for development of the Platte River Basin for beneficial public uses.

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3/ See S. D. Warren, 10 FERC ¶ 61,151 (February 19, 1980).

License Term

The Commission's usual policy on relicensing is to limit the license term to 30 years from the end of the prior license, if no substantial new construction or redevelopment is proposed. <sup>4/</sup> Accordingly, this license is issued for a period effective the first day of the month in which the license is issued and expiring April 15, 2014, 30 years from the expiration date of the original license.

It is ordered that:

(A) This license is issued to the Loup River Public Power District, (Licensee) of Columbus, Nebraska, under Part I of the Federal Power Act (Act), for a period effective the first day of the month in which this license is issued and terminating on April 15, 2014, for the continued operation and maintenance of the Loup River Hydroelectric Project No. 1256, located in Platte and Nance Counties, Nebraska, on the Loup Canal and utilizing the waters of the Loup River, a navigable water of the United States. This license is subject to the terms and conditions of the Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the Act.

(B) The Loup River Hydroelectric Project No. 1256 consists of:

(1) All lands, to the extent of the Licensee's interest in those lands, constituting the project area and enclosed by the project boundary. The project area and boundary being shown and described by certain exhibits which form part of the application for license and which are designed and described as:

<u>Exhibit G-</u>	<u>FERC No. 1256-</u>	<u>Title</u>
1	22	Project Lands and Boundaries
2	23	Project Lands and Boundaries
3	24	Project Lands and Boundaries
4	25	Project Lands and Boundaries
5	26	Project Lands and Boundaries
6	27	Project Lands and Boundaries
7	28	Project Lands and Boundaries
8	29	Project Lands and Boundaries
9	30	Project Lands and Boundaries

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<sup>4/</sup> See the Montana Power Co., Mystic Lake Project No. 2301, Order Issuing New License (Major) (issued October 5, 1976).

10	31	Project Lands and Boundaries
11	32	Project Lands and Boundaries
12	33	Project Lands and Boundaries
13	34	Project Lands and Boundaries
14	35	Project Lands and Boundaries

(2) Project works consisting of: (1) a diversion dam and canal headworks located approximately 5 miles southwest of Genoa, Nebraska; (2) the Loup Canal approximately 35 miles long; (3) a regulating reservoir; (4) a tailrace canal approximately 5.5 miles long; (5) two powerhouses, one located at the Monroe Powerhouse which has an installed capacity of 7,200 kW and the other at the Columbus Powerhouse with an installed capacity of 40,500 kW; (6) transmission lines; and (7) appurtenant facilities. The location, nature, and character of these projects works are generally shown and described by the exhibits cited above and more specifically shown and described by the exhibits cited which also form a part of the application for license and which are designated and described as:

<u>Exhibit F-</u>	<u>FERC No. 1256-</u>	<u>Title</u>
1	1	Project Structures and Equipment
2	2	Project Structures and Equipment
3	3	Project Structures and Equipment
4	4	Project Structures and Equipment
5	5	Project Structures and Equipment
6	6	Project Structures and Equipment
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18	18	Project Structures and Equipment
19	19	Project Structures and Equipment
20	20	Project Structures and Equipment
21	21	Project Structures and Equipment

Exhibit F: Project equipment description appearing on pages A-2 through A-5 of Exhibit A.

Exhibit E: The Report on Fish, Wildlife and Botanical Resources, and the Report on Recreational Resources, filed on October 5, 1981, as Supplement 1 to the Exhibit E, consisting of 11 pages of text (E-3I through E-3S) and 2 pages of text (E-3T and E-3U), respectively.

(3) All of the structures, fixtures, equipment, or facilities used or useful in the maintenance or operation of the project and located within the project boundary, as approved by the Commission, all portable property that may be employed in connection with the project located within or outside the project boundary, as approved by the Commission, and all riparian or other rights which are necessary or appropriate for the maintenance or operation of the project.

(C) Exhibits F and G, designated in ordering paragraph (B) above, are approved and made a part of the license, only to the extent that they show the general location and nature of the project works. Those portions of Exhibit E, designated in ordering paragraph (B) above, are approved and made part of the license.

(D) This license is also subject to Article 1 through 28 set forth in Form L-3 (Revised October 1975) entitled "Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters of the United States" attached to and made a part of this license. This license is also subject to the following special conditions set forth as additional articles:

Article 29. The Licensee shall, prior to the commencement of any construction at the project, consult with the Nebraska State Historic Preservation Officer (SHPO) about the need for any cultural resource survey and salvage work. The Licensee shall make available funds in a reasonable amount for any such work as required. If any previously unrecorded archeological or historical sites are discovered during the course of construction or development of any project works or other facilities at the project, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historical resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historical work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

Article 30. The Licensee shall, within one year after the date of issuance of this license, file with the Commission for approval, revised Exhibit G drawings that exclude from the project boundary those leased lands now occupied within the project boundary by private dwellings, except for the reservation within the project boundary of a shoreline control strip, which measures at least 75 feet horizontally above the shoreline.

Article 31. The Licensee shall pay the United States the following annual charges, effective the first day of the month in which this license is issued:

For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations in effect from time to time. The authorized installed capacity for that purpose is 63,600 horsepower.



Article 32 . (a) In accordance with the provisions of this article, the Licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time where said facility is intended to serve single-family type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable State and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior 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.

(d) The Licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Electric Power Regulation, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or State agency official consulted, and any Federal or State approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the Licensee shall consult with Federal and State fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

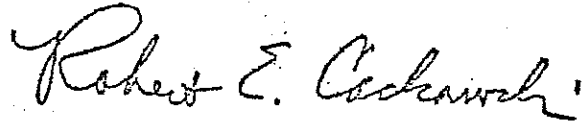
(2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(E) The Licensee's failure to file a petition appealing this order to Commission shall constitute acceptance of this license. In acknowledgement of acceptance of this license and its terms and conditions, it shall be signed for the Licensee and returned to the Commission within 60 days from the date this order is issued.



FOR Lawrence R. Anderson  
Director, Office of  
Electric Power Regulation

Project No. 1256

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this Order, Loup River Public Power District this 12 day of January, 19 83, has caused its corporate name to be signed hereby Thomas D. Kumpf, its \_\_\_\_\_, President, and its corporate seal to be affixed hereto and attested by Maxine Kolm, its \_\_\_\_\_ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 12 day of January, 19 83, a certified copy of the record of which is attached hereto.

By Thomas D. Kumpf  
President

Attest:

Maxine Kolm  
Secretary

(Executed in quadruplicate)

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 Power 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 of 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 non-power 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 be 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 may 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.