

Take notice that Guadalupe-Blanco River Authority (Applicant) filed on December 11, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3866 to be known as Cuero Dam Hydroelectric Project located on the Guadalupe River and Sandies Creek in DeWitt and Gonzales Counties, Texas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John H. Specht, General Manager, Guadalupe-Blanco River Authority, P.O. Box 271, Seguin, Texas 78155. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing concrete gravity dam, owned by Dick and Coot Coppedge of Cuero, Texas, with a height of 15 feet and length of 200 feet; (2) a reservoir with an approximate storage capacity of 608 acre-feet, a surface area of 91 acres, and a normal surface elevation of 158.4 feet; (3) an existing powerhouse containing one or more new generating units having a total rated capacity of 1,700 kW; (4) an existing 500-foot long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 6 million kWh.

[Note: Remainder of Notice omitted in printing.]

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S & S Limited Partnership, Project No. 4769-001

Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

(Issued November 20, 1981)

Robert E. Cackowski, Deputy Director, Office of Electric Power Regulation.

The Applicant¹ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 SUBPART K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice.^{2 3}

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2 included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the

Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

It is ordered that:

(A) Mud Creek Project No. 4769 as described and designated in S & S Limited Partnership's application filed on July 31, 1981, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in § 4.106 of the Commission's regulations, 18 C.F.R. § 4.106 45 Fed. Reg. 76115 (November 18, 1980).

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d) (1979), as amended, 44 Fed. Reg. 46449 (1979). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission.

— Footnotes —

¹ S & S Limited Partnership, Project No. 4769-001, filed on July 31, 1981.

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² Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends *inter alia*, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. § § 2705 and 2708).

³ Authority to act on this matter is delegated to the Deputy Director, Office of Electric Power Regulation under § 375.308 of the Commission's regulations 45 Fed. Reg. 21216 (1980), as amended by Order No. 112 in Docket No. RM81-5, issued November 21, 1980 (45 Fed. Reg. 79024).

Appendix A

Notice of Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

(Issued September 10, 1981)

Take notice that on July 31, 1981, S & S Limited Partnership (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. § § 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project

No. 4769) would be located on Mud Creek, in Twin Falls County, Idaho. Correspondence with the Applicant should be directed to: Dan C. Skeem, Route 3, Buhl, Idaho 83316.

Project Description—The proposed project would consist of: (A) The Upper Facility consisting of: (1) a 5-foot high dam; (2) a 190-foot long and 38-inch diameter penstock; (3) a powerhouse to contain a 166-kW generating unit; and (4) a transmission line from the powerhouse to the existing Idaho Power Company substation. The average annual energy generation is estimated to be 1,223 MWh. (B) The Lower Facility consisting of: (1) a 5-foot high dam; (2) a 250-foot long and 42-inch diameter penstock; (3) a powerhouse to contain a 100-kW generating unit; and (4) a transmission line. The average annual energy generation is estimated to be 600 MWh.

[Note: Remainder of Notice omitted in printing.]

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Marlex Oil & Refining, Inc., Docket No. RA81-74-000

Order of Presiding Officer Denying Application for Interim Relief

(Issued November 18, 1981)

Robert N. Herman, Presiding Officer.

Marlex Oil & Refining, Inc. (Marlex) is a small and independent refiner as those terms are defined in 10 C.F.R. § 211.62. Marlex filed a petition for review of an August 19, 1981 Decision and Order (Order) issued by the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE).¹ This order denied Marlex's request for authorization to sell entitlements for volumes of crude oil it purchased in 1976 to establish a starting inventory for its Long Beach, California refinery and in 1977 and 1979 to increase the refinery's inventory level. As part of its petition for review, Marlex requests interim relief which would require DOE to order the issuance to Marlex of additional entitlements sales obligations amounting to \$290,214 in the January Entitlements Notice.²

Background

The entitlements program³ was designed to correct an imbalance resulting from certain refiners having a greater access to less expensive regulated domestic crude oil than others. This unfair competitive advantage developed as a result of the dramatic increase in the cost of foreign crude oil, especially in

contrast with the price of controlled domestic oil.

Controlled domestic crude oil, or "old" oil had been regulated in an attempt to curtail the inflationary impact that the burgeoning cost of foreign oil was having on the economy. Old oil consisted of the volume of crude produced from a particular property in the base period year of 1972.⁴

In order to control the rise of domestic prices while at the same time encouraging domestic production, volumes of domestic crude oil that exceeded that property's 1972 production level, as well as newly discovered crude, were allowed to be sold at unregulated or "market" prices.

Under the entitlements program, a refiner was required to have one "entitlement" for every barrel of "old" oil it refined in the particular month for which the entitlement calculation was being made. Each month, every refiner was issued the number of entitlements amounting to its proportionate share of all the "old" crude oil refined nationally for that particular month. Refiners with "runs to stills"⁵ consisting of more

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