

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Bacon Felt Company, Inc.

Project No. 4542-013

NOTICE OF REVOCATION OF EXEMPTION BY IMPLIED SURRENDER  
AND SOLICITING COMMENTS, PROTESTS, AND MOTIONS TO INTERVENE

(September 8, 2009)

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

- a. Type of Proceeding: Revocation of exemption by implied surrender.
- b. Project No.: 4542-013
- c. Date Initiated: September 4, 2009
- d. Exemptee: The exemptee is Bacon Felt Company, Inc.
- e. Name and Location of Project: The constructed 150-kilowatt Boston Felt Project is located on the Salmon Falls River in Strafford County, New Hampshire.
- f. Filed Pursuant to: 18 CFR 4.106.
- g. Exemptee Contact Information: Mr. Howard A. Greenlaw, Bacon Felt Company, Inc., P.O. Box 6258, 31 Front Street, East Rochester, NH 03868-6258.
- h. FERC Contact: Tom Papsidero, (202) 502-6002.
- i. Deadline for filing comments, protests, and motions to intervene: **October 8, 2009.**

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (<http://www.ferc.gov>) under the "e-filing" link. The Commission strongly encourages electronic filings.

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All documents (original and eight copies) filed by paper should be sent to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please include the project number (P-4542-013) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

j. Description of Existing Facilities: The inoperative project consists of the following existing facilities: (1) a 150-foot-long and 10-foot-high wooden frame dam, which was breached by high flows which carried away a 30-foot-wide by 6-foot-deep section of the dam; (2) a forebay and trashracks; (3) a 56-inch-diameter and 7-foot-long penstock; (4) a concrete powerhouse with an installed capacity of 150 kW; (5) a 150-foot-long transmission line; and (6) other appurtenances.

k. Description of Proceeding: The exemptee is currently in violation of Standard Article 2 of its exemption granted on August 29, 1983 (24 FERC ¶ 62,240). 18 CFR 4.106 of the Commission's regulations provides, among other things, that the Commission reserves the right to revoke an exemption if any term or condition of the exemption is violated.

Standard Article 2 of the project exemption requires the exemptee to comply with any terms and conditions that the U. S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service, and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act. To date, the exemptee has neither restored the project to operability nor complied with the directive of FWS to implement fish passage measures at the project.

### Background

The Boston Felt Project was granted an exemption from licensing on August 29, 1983 (24 FERC ¶ 62,240). The project stopped operations in May 2006, due to a breach of the project dam by high river flows.

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By letter of October 12, 2007, the Commission issued a letter to the exemptee directing it to file either a detailed plan and schedule to resume generation at the project, or a request to surrender the exemption. In response, the exemptee filed a plan and schedule on April 28, 2008.

By letter of July 3, 2008, the Commission directed the exemptee to provide quarterly progress reports of the status of project repairs to include documentation of contracts issued, permits obtained, agreements made, etc., which were to be filed October 1, 2008, January 1, 2009, April 1, 2009, July 1, 2009, and October 1, 2009, or until the project had resumed generation. In that letter, the exemptee was reminded that failure to provide progress reports showing adequate progress may subject it to further compliance action.

By letter dated January 21, 2009, the FWS stated that, as a result of the Boston Felt Project being in a state of disrepair, the project was adversely impacting fish and wildlife resources of the Salmon Falls River and cited the need to implement fish passage measures, pursuant to the mandatory terms and conditions of the exemption. In its letter, the FWS further stated that it is in the public interest to revoke the project exemption and require removal of the remaining portion of the dam spillway.

By letter of March 5, 2009, the Commission issued a letter to the exemptee requiring it to show cause why the Commission should not initiate proceedings to revoke its exemption for lack of adequate progress toward the resumption of generation at the project. In that letter, the Commission directed the exemptee to include documentation of contracts issued, permits obtained, agreements made, etc., to demonstrate adequate progress. In its response filed March 31, 2009, the exemptee stated that resumption of generation at the project may be beyond their available resources and further stated that, by August 1, 2009, it would provide the detailed information requested in the Commission's March 5, 2009.

To date, the information requested in the Commission's March 5, 2009 letter, has not been filed and the project remains inoperative.

1. **Comments, Protests, or Motions to Intervene:** Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date.

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m. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number to which the filing refers.

n. Agency Comments: Federal, state, and local agencies are invited to file comments on the described proceeding. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Kimberly D. Bose,  
Secretary.

Document Content(s)

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