

166 FERC ¶ 62,141

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Brookfield Renewable

Project No. 2333-037

ORDER AMENDING LICENSE ARTICLE 406

(Issued March 26, 2019)

1. On January 29, 2019, Brookfield Renewable, licensee for the Rumford Falls Hydroelectric Project No. 2333, filed its annual Cultural Resources Report for 2018. In that report, the licensee also requested to amend the project's Programmatic Agreement (PA), pursuant to license Article 406.¹ The project is located on the Androscoggin River, in the town of Rumford, Oxford County, Maine.

License Requirements

2. Article 406 requires the licensee to implement provisions of the PA² between the Commission, the Advisory Council on Historic Preservation, and the Maine Historic Preservation Commission (MHPC). The PA requires the licensee to file, on the anniversary date of license issuance (*i.e.* October 18), an annual report summarizing the cultural resource activities conducted during the previous year and the cultural resource activities to be conducted in the ensuing year. The project's approved Cultural Resources Contingency Plan³ outlines the frequency and type of monitoring activities to be conducted at known archaeological sites within the project, and must include monitoring for erosion and vandalism. On November 23, 2010, the Commission issued an order amending Article 406 and changing the annual reporting date to January 31 of the year following the year in which monitoring occurred, so that monitoring activities performed in November and December could be included.

Licensee's Proposed Amendment

3. The licensee proposes amending the PA so that the annual monitoring, and the filing of annual reports, be changed to a biennial cycle. The licensee supports its

¹ *Rumford Falls Power Company*, 69 FERC ¶ 61,063 (1994)

² Executed April 16, 1993, among the Commission, the Advisory Council on Historic Preservation, and the Maine Historic Preservation Commission (SHPO)

³ Order Approving Cultural Resources Contingency Plan issued May 2, 1997 (79 FERC ¶ 62,082)

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proposal by noting that annual monitoring for the past eight years under the current requirement has found that erosion at the National Register-eligible Precontact period sites within the project boundary has not changed.

Consultation

4. As required by the PA, the licensee consulted with the MHPC regarding the proposed change. The licensee included with its request a copy of a January 29, 2019 email from the MHPC indicating its support for the proposal.

Conclusion

5. Implementation of the proposed amendment should not diminish protection provided by the monitoring, and would still ensure that any potential effects of the project on historic properties are identified so that they can be adequately addressed. Therefore, the proposed amendment to the PA should be approved.

The Director orders:

(A) Brookfield Renewable's (licensee) proposed amendment to the Programmatic Agreement (PA) filed pursuant to Article 406 for the Rumford Falls Hydroelectric Project No. 2333, on January 29, 2019, is approved. The PA and the approved Cultural Resources Contingency Plan are hereby modified and the licensee must file biennially on January 31, a report summarizing the cultural resource activities conducted during the previous two years and the cultural resource activities to be conducted in the ensuing years. The next Cultural Resources Contingency Plan is due on December 31, 2020.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2018). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

B. Peter Yarrington, Acting Chief
Environmental and Project Review Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

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