

**155 FERC ¶ 62,087**  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

BOST1 Hydroelectric LLC

Project No. 13458-004

ORDER DENYING PRELIMINARY PERMIT APPLICATION

(Issued May 4, 2016)

1. On March 7, 2016, BOST1 Hydroelectric LLC (BOST1) filed an application for a preliminary permit under section 4(f) of the Federal Power Act (FPA) proposing to study the feasibility of the Coon Rapids Dam Hydroelectric Project No. 13458 (Coon Rapids Project).<sup>1</sup> The proposed project would be located at the existing Coon Rapids Dam on the Mississippi River in Hennepin and Anoka Counties, Minnesota.<sup>2</sup> BOST1 was recently denied a successive permit to study the same project at the same site. For the reasons discussed below, this order dismisses the permit application.

**I. Background**

2. On October 7, 2010, BOST1 received a three-year preliminary permit for the Coon Rapids Project<sup>3</sup> and was granted a two-year extension of the permit term on September 6, 2013.<sup>4</sup> BOST1 did not file a final license application before the permit expired on September 30, 2015.

3. On October 1, 2015, BOST1 filed a successive permit application, which Commission staff denied on January 20, 2016, because BOST1 had failed to make the showing necessary to justify a successive permit following an initial five-year permit term. BOST1 failed to show that extraordinary circumstances or factors outside of its

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<sup>1</sup> 16 U.S.C. § 797(f) (2012).

<sup>2</sup> Three Rivers Park District, which is governed by a seven-member Board of Commissioners (Three Rivers Board), owns and operates the Coons Rapids Dam and adjacent proposed project lands.

<sup>3</sup> *BOST1 Hydroelectric LLC*, 133 FERC ¶ 62,027 (2010).

<sup>4</sup> *BOST1 Hydroelectric LLC*, 144 FERC ¶ 62,215 (2013).

control prevented it from filing a development application.<sup>5</sup> BOST1 filed a request for rehearing on February 19, 2016, which is pending. Seventeen days after it filed its rehearing request, BOST1 filed a new application for a preliminary permit for the Coon Rapids Project.

## II. Discussion

4. In the circumstances here, we view BOST1's March 7, 2016 permit application as indistinguishable from its October 1, 2015 application. To justify a permit in either case, BOST1, which has already had five years to prepare a development application, needed to demonstrate that extraordinary circumstances or factors outside of its control prevented it from filing a license application.<sup>6</sup> It failed to do so. BOST1's new permit application is nearly identical to its successive permit application and does not provide any new facts to satisfy the extraordinary circumstances standard. Therefore, BOST1's application for a preliminary permit is denied.<sup>7</sup>

### The Director Orders:

(A) BOST1 Hydroelectric LLC's preliminary permit application for the Coon Rapids Dam Hydroelectric Project No. 13458, filed March 7, 2016, is denied.

(B) This order is issued under authority delegated to the Director and constitutes final agency action. Any party may file a request for rehearing of this order within 30 days of the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2012), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2015).

Vince Yearick  
Director  
Division of Hydropower Licensing

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<sup>5</sup> *BOST1 Hydroelectric LLC*, 154 FERC ¶ 62,034 (2016).

<sup>6</sup> *Id.* at P 7.

<sup>7</sup> *See, e.g., Pine Creek Mine, LLC*, 148 FERC ¶ 61,027 (2014).

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