

156 FERC ¶ 62,229
 UNITED STATES OF AMERICA
 FEDERAL ENERGY REGULATORY COMMISSION

Percheron Power, LLC

Project Nos. 14760-000
 14761-000
 14762-000

ORDER DENYING PRELIMINARY PERMITS

(Issued September 29, 2016)

On March 1, 2016, Percheron Power, LLC filed three applications for preliminary permits, pursuant to section 4(f) of the Federal Power Act (FPA),¹ to study the feasibility of the proposed: 2.02-megawatt (MW) Pothole East Canal at PEC Station 1973 Project No. 14760; 1.42-MW Scootney Reservoir Inlet at Pothole East Canal Project No. 14761; and 1.75-MW Scootney Reservoir Outlet at Pothole East Canal Project No. 14762. All of the projects would be located on the Pothole East Canal near Othello and Mesa in Franklin County, Washington. The Pothole East Canal is part of the Columbia Basin Irrigation Project, which is managed by the U.S. Bureau of Reclamation (Reclamation).

On August 9, 2013, President Obama signed into law the “Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act.”² The Act, among other things, withdraws the Commission’s jurisdiction over non-federal hydropower development (5 MW or less) on Reclamation conduits, which includes any Reclamation tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. In a recent order issued on September 22, 2016,³ the Commission confirmed that the Act withdraws the Commission’s jurisdiction to authorize new, small conduit hydroelectric projects of 5 MW or less within Reclamation’s Columbia Basin Irrigation Project, including at the Pothole East Canal.

Because the proposed projects would be located on a Reclamation canal and have an installed capacity of less than 5 MW, the Commission would be precluded from issuing an exemption or license for these projects. Since the sole purpose of a preliminary permit is to maintain priority of application to file an exemption or license,⁴

¹ 16 U.S.C. § 797(f) (2012).

² Pub. L. No. 113-24, 127 Stat. 498 (Aug. 9, 2013).

³ *Percheron Power, LLC*, 156 FERC ¶ 61,191 (2016).

⁴ 16 U.S.C. § 798 (2012).

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which the Commission can no longer issue for a project at this site, no purpose would be served by issuing preliminary permits for your proposed projects. Therefore, your permit applications are denied.

The Director orders:

(A) The preliminary permit applications for the Pothole East Canal at PEC Station 1973 Project No. 14760, the Scootney Reservoir Inlet at Pothole East Canal Project No. 14761, and the Scootney Reservoir Outlet at Pothole East Canal Project No. 14617 are denied.

(B) This order 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 Federal Power Act, 16 U.S.C. § 825*l* (2012), and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2016).

Vince Yearick
Director
Division of Hydropower Licensing

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