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DEPARTMENT OF ENERGY  
FEDERAL ENERGY REGULATORY COMMISSION

Milburnie Hydro Inc.

Project No. 7910-006

NOTICE OF Termination Of Exemption By Implied Surrender  
And Soliciting Comments, Protests, And Motions To Intervene

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

- a. Type of Proceeding: Termination of exemption by implied surrender
- b. Project No.: 7910-006
- c. Date Initiated: December 4, 2012
- d. Exemptee: Milburnie Hydro Inc.

e. Name and Location of Project: The Milburnie Hydroelectric Project is located on Neuse River in Wake County, North Carolina.

f. Filed Pursuant to: 18 CFR 4.106

g. Exemptee Contact Information: Mr. Michael Allen, President, Milburnie Hydro, P.O. Box 1401, Burlington NC, 27216-1401

h. FERC Contact: Krista Sakallaris (202)502-6302 or Krista.Sakallaris@ferc.gov

i. Deadline for filing comments, protests, and motions to intervene is **30 days** from the issuance date of this notice. Please file your submittal electronically via the Internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's Web site under <http://www.ferc.gov/docs-filing/efiling.asp> and filing instructions in the Commission's Regulations at 18 C.F.R. section 385.2001(a)(1)(iii).<sup>1</sup> To assist you with eFilings you should refer to the submission guidelines document at <http://www.ferc.gov/help/submission-guide/user-guide.pdf>. In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these "qualified documents" at <http://www.ferc.gov/docs-filing/efiling/filing.pdf>. You must include your name and contact information at the end of your comments. Please include the project number (P-7910-006) on any documents or motions filed. The Commission strongly encourages electronic filings;

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<sup>1</sup> <http://www.ferc.gov/legal/fed-sta.asp> Select the link for Code of Federal Regulations and navigate to §385.2001.

otherwise, you should submit an original and seven copies of its submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ-12, 888 First Street, NE, Washington, DC 20426

j. Description of Existing Facilities: The inoperative project consists of the following existing facilities: (1) a 14-foot-high and 625-foot-long concrete dam; (2) a reservoir with an estimated storage area of 500 acre-feet; (3) a powerhouse with a total installed capacity of 645 kW; (4) transmission lines; and (5) appurtenant facilities.

k. Description of Proceeding: The exemptee is in violation of Standard Article 1 of its exemption; which was granted on May 11, 1984 (27 FERC ¶ 62,132). The Commission's regulations, 18 CFR 4.106, provides, among other things, that the Commission reserves the right to revoke an exemption if any term or condition of the exemption is violated. At some point between May 2006 and September 2009, vandals stole wiring from the projects powerhouse, causing the project to become inoperable.

On October 21, 2009, August 21, 2012, and on November 16, 2012, the Commission directed the exemptee to file a public safety plan and a plan and schedule to restore operation to the project, or to surrender the exemption. The Commission also informed the exemptee that it was in violation of the terms and conditions of the exemption. The exemptee has not attempted to restore project operation and has not responded to the Commissions letters by filing the required plans.

The Division of Dam Safety and Inspections accompanied by staff from the U.S. Fish and Wildlife Service and the North Carolina Department of Environment and Natural Resources inspected the project in August 2012; neither the exemptee nor a representative for the project attended the inspection. The exemptee has not properly maintained the project and it remains inoperable. By not operating the project as proposed and authorized, the exemptee is in violation of the terms and conditions of the exemption.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the Docket number (P-7910-006) excluding the last three digits in the docket number field to access the notice. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. 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, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular proceeding.

o. Filing and Service of Responsive Documents -- Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE," as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, protests or motions to intervene must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, protests, or motions to intervene should relate to project works which are the subject of the termination of exemption. A copy of any protest or motion to intervene must be served upon each representative of the exemptee specified in item g above. 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 all other filings in reference to this notice must be accompanied by proof of

service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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

Dated: December 4, 2012

Kimberly D. Bose,  
Secretary.