

## NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 5  
1115 State Route 86, PO Box 296, Ray Brook, NY 12977-0296  
P: (518) 897-1234 | F: (518) 897-1394  
[www.dec.ny.gov](http://www.dec.ny.gov)

May 19, 2015

Erie Boulevard Hydropower LP  
33 W. 1<sup>st</sup> Street S.  
Fulton, NY 13069

**Re: Chasm Falls Hydro Facility  
DEC #5-1648-00084/00008  
FERC #7320  
Malone (T), Franklin Co.**

Dear Permittee:

Enclosed is your Water Quality Certification, issued pursuant to Section 401(a)(1) of the Clean Waters Act of 1977 (PL 95-217) (The Act).

If you should have questions concerning any aspect of this permit, please contact Dominic Fontana, PE of our Regional Water Quality staff at (518) 897-1241.

Sincerely,

  
Erin L. Burns  
Deputy Regional Permit Administrator

ELB:ppm

Enclosures

ec: Randy Galusha, Acting RWE  
Jon Binder, Legal  
Mark Woythal, Bureau of Habitat  
Dominic Fontana, Water  
Jim Pinheiro, Fisheries  
Lance Durfey, Fisheries  
Bill Wellman, Trout Unlimited  
Steve Patch, USFWS  
Steve Murphy, Brookfield  
Jim Gibson, HDR, Inc.  
Howard Maneely, Town Supervisor  
Kimberly Bose, FERC  
John Mudre, FERC



Department of  
Environmental  
Conservation



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Facility DEC ID 5-1648-00084

**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**Permittee and Facility Information**

**Permit Issued To:**

ERIE BOULEVARD HYDROPOWER LP  
33 W 1ST ST S  
FULTON, NY 13069  
(315) 593-3118

**Facility:**

CHASM FALLS HYDRO FACILITY  
CHASM FALLS RD|FERC 7320  
MALONE, NY 12953

**Facility Location:** in MALONE in FRANKLIN COUNTY

**Facility Principal Reference Point:** NYTM-E: 561.51      NYTM-N: 4955.01

**Project Location:** Salmon River

**Authorized Activity:** This Water Quality Certificate authorizes the continued operation and maintenance of the existing Chasm Falls Hydroelectric Project, with a generating capacity of 3.35 MW. This Water Quality Certification is part of a Federal Energy Regulatory Commission (FERC) relicensing, Project # P-7320. The project shall be run in accordance with attached conditions and the applicable provisions of the Chasm Project Settlement Agreement dated April 13, 2015.

**Permit Authorizations**

**Water Quality Certification - Under Section 401 - Clean Water Act**

Permit ID 5-1648-00084/00008

(FERC Project No. 7320)

New Permit

Effective Date: 5/19/2015

Expiration Date: See Condition #1

**NYSDEC Approval**

**By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.**

Permit Administrator: ERIN L BURNS, Deputy Regional Permit Administrator

Address:                    NYSDEC REGION 5 HEADQUARTERS  
                                 1115 NYS ROUTE 86  
                                 PO BOX 296  
                                 RAY BROOK, NY 12977 -0296

Authorized Signature: \_\_\_\_\_

*Erin L. Burns*

Date

5/19/15



<p align="center"><b>Permit Components</b></p>
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NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

<p align="center"><b>NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: WATER QUALITY CERTIFICATION</b></p>
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**1. Expiration Date** The expiration date of this Water Quality Certificate is coincident with the expiration date of the license issued by the Federal Energy Regulatory Commission (FERC) for FERC project #7320.

**2. Conformance with Plans** All activities authorized by the permit must be in strict conformance with approved plans submitted by the applicant or applicant's agent as part of the permit application and licensing Settlement Agreement.

**3. Settlement Agreement** This certificate includes and incorporates the Chasm Project Settlement Agreement ("Settlement") dated April 13, 2015, to the extent that the Settlement provides for or requires the certificate holder to comply with New York State water quality standards and the conditions of this certificate.

**4. Notification Requirements for Emergencies** With the exception of emergency provisions described in the Settlement Agreement, the following procedures shall apply to all activities conducted at the project in response to an emergency:

Prior to commencement of emergency activities, the certificate holder must notify the Department and receive approval in advance of the work commencing. If circumstances require that emergency activities be taken immediately such that prior notice to the Department is not possible, then the Department must be notified by the certificate holder within 24 hours of commencement of the emergency activities. In either case, notification must be by certified mail or other written form of communication, including fax or electronic mail. This notification must be followed within 24 hours by submission of the following information:

- a description of the action;
- location map and plan of the proposed action; and
- reasons why the situation is an emergency.

All notifications, requests for emergency authorizations and information submitted to support such requests shall be sent to the Department contact listed in Permit Condition #15.





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**5. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

**6. Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

**7. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

**OPERATIONS**

**8. Base Flows** The certificate holder shall maintain a base flow of 70 cfs (or inflow to the impoundment, whichever is less), in accordance with the Settlement, Section 3.2.

**9. Bypassed Reach Flow** The certificate holder shall maintain a seasonal bypassed reach flow of 15 cfs from May 1 - October 1 and 23 cfs from October 2 - April 30 each year, in accordance with the Settlement, Section 3.3.

**10. Flow and Water Level Monitoring** The certificate holder shall develop a stream flow and water level monitoring plan consistent with the Settlement, Section 3.6.

**11. Impoundment Fluctuations** The project reservoir shall be operated in accordance with the Settlement, Section 3.1. Alternate impoundment operating plans must be reviewed and approved by the Department prior to being implemented. Emergencies shall be dealt with in accordance with Permit Condition #4 of this Certificate.

**12. Fish Protection and Passage** The certificate holder will maintain fish protection and passage provisions in accordance with the Settlement, Section 3.4.

**13. Sediment Management** The certificate holder shall manage sediments in accordance with the Department-approved Sediment Management Plan, dated May 25, 2011, and any subsequent updated versions over the course of the FERC license period. The conditions associated with the construction and maintenance section below do not apply to this sediment management plan condition.

**14. Invasive Species Management** The licensee will prevent the introduction and/or spread of invasive species in accordance with the Invasive Species Management Plan referenced in the Settlement, Section 3.7.

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**CONSTRUCTION AND MAINTENANCE REQUIREMENTS**

**15. Department Contact for Project Maintenance and Construction** All matters pertaining to project maintenance and construction work affecting water quality, compliance with water quality standards, and this certificate shall be addressed to:

Regional Permit Administrator  
New York State Department of Environmental Conservation  
1115 Route 86, PO Box 296  
Ray Brook, NY 12977-0296

**16. Notifications** The Regional Permit Administrator must be notified in writing at least 60 days prior to commencing any project maintenance or construction work pertaining to water quality, compliance with water quality standards or this certificate.

**17. Prohibition Period for Trout** All instream work, as well as any work that may result in the suspension of sediment, is prohibited during the trout spawning and incubation period commencing October 1 and ending April 30, unless project-specific approval is granted by the Department.

**18. Maintenance Dredging** The certificate holder shall install and maintain appropriate turbidity control structures while conducting any maintenance dredging activities associated with the Project. At least 60 days prior to maintenance dredging, the certificate holder shall notify the Department of the details of the dredging operations and provide details of the environmental controls to be used to minimize sediment and turbidity releases downstream of the work, along with the disposal location.

**19. Sediment Analysis and Disposal** The certificate holder shall notify the Department at least 60 days prior to sediment dredging or disturbance of the proposed activity in order for the Department to determine whether sediment sampling and analysis is necessary. If deemed necessary, the certificate holder shall sample any sediments to be disturbed or removed from the project's waters and test them for contaminants. Sampling and testing shall be accomplished according to a protocol that is consistent with the Department's Technical and Operations Guidance (TOGS) 5.1.9 or applicable guidelines/regulations. The sampling protocol shall include a disposal protocol based on analytical sediment sampling results and current applicable regulations/guidelines. The sampling results are required to be submitted to the Department at least 45 days prior to the commencement of dredging or work that will disturb sediment in the project waters. Dredging or other excavation can not commence until the certificate holder also secures the Department's approval for the disposal or interim holding locations for any sediments to be removed from the project waters.

**20. Construction Drawdowns** Whenever construction and/or maintenance activities require that the water level of project reservoirs be lowered, it shall not be drawn down more than 1 foot per hour. During refill, the water level of the impoundment shall not be allowed to rise more than 1 foot per hour. Baseflow requirements below the Chasm Project (70 cfs unless inflow to the impoundment is less than 70 cfs, in which case the outflow from the Chasm Project will be equal to inflow to the impoundment, as specified in Section 3.2 of the Settlement) is to be maintained during all impoundment drawdowns and refills.





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**21. Cofferdams, Access Roads, or other Structures on River Bank** Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the Salmon River or project reservoir: The proposed design of all such structures as they pertain to water quality, compliance with water quality standards, and this certificate must be approved by the Department prior to installation. The Department will conduct its review of the proposed design within 60 days after receipt of all materials it determines are necessary for completing such review.

**22. Erosion and Sediment Control** The certificate holder shall ensure that the following erosion and sediment/contaminant control measures, at a minimum, are adhered to during routine maintenance and construction that may result in sediments/contaminants entering any wetland or waterbody:

- Isolate in-stream work from the flow of water and prevent discolored (turbid) discharges and sediments caused by excavation, dewatering and construction activities from entering any waterbody or wetland.
- Exclude the use of heavy construction equipment below the mean high water line until the work area is protected by an approved structure and dewatered.
- Stabilize any disturbed banks by grading to an appropriate slope, followed by armoring or vegetating as appropriate, to prevent erosion and sedimentation into any waterbody or wetland.
- Minimize soil disturbance, provide appropriate grading and temporary and permanent re-vegetation of stockpiles and other disturbed areas to minimize erosion/sedimentation potential.
- Protect all waters from contamination by deleterious materials such as wet concrete, gasoline, solvents, epoxy resins or other materials used in the construction, maintenance and operation of the project.
- Install effective erosion control measures on the downslope of all disturbed areas to prevent eroded material from entering any waterbody or wetland. Erosion control measures must be maintained in a fully functional condition until the disturbed areas are fully stabilized. These erosion control measures are to be installed before commencing any other activities involving soil disturbance.
- Ensure complete removal of all dredged and excavated material, debris or excess materials from construction, from the bed and banks of all water areas to an approved upland disposal site.
- Ensure that all temporary fill and other materials placed in the waters of the river are completely removed, immediately upon completion of construction, unless otherwise directed by the Department.

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**23. Turbidity Monitoring** During routine maintenance or construction related activities in or near the Salmon River or project reservoir, the certificate holder will visually monitor the waters of the river at a point no more than 200 feet downstream of the worksite to ensure there is no substantial visible contrast to natural conditions as observed upstream of the worksite. If there is a substantial visible contrast to natural conditions caused by the work, the certificate holder shall take appropriate actions to prevent further turbidity exceedence of the applicable 6NYCRR Part 703 turbidity water quality standard. The certificate holder shall also notify the Department within 24 hours of a turbidity exceedence and the actions taken to correct the exceedence.

**24. Maintenance of River Flows** During all periods of maintenance and/or construction activity, the certificate holder shall continuously maintain adequate flows immediately downstream of the work site consistent with the provisions of this certificate. If adequate river flows are not maintained, the certificate holder is required to notify the Department's Region 5 office in Ray Brook, within 24 hours of the incident.

**25. Stormwater SPDES** All activities at the project proposing ground disturbance greater than one acre must obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002).

**WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS**

**1. Water Quality Certification** The New York State Department of Environmental Conservation hereby certifies:

- The Department has reviewed the certificate holder's Application for Federal Hydroelectric License (hereafter referred to as "the Application") and all other available pertinent information, including the Settlement;
- The project will comply with Sections 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act as amended and as implemented by the limitations, standards and criteria of the state statutory and regulatory requirements set forth in 6NYCRR Section 608.9(a); and
- The project will comply with applicable New York State effluent limitations, water quality standards and thermal discharge criteria set forth in 6NYCRR Parts 700-706.

This Water Quality Certificate is issued pursuant to Section 401 of the Federal Water Pollution Control Act (33 USC 1341).

**GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).





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The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
 NYSDEC REGION 5 HEADQUARTERS  
 1115 NYS ROUTE 86  
 PO BOX 296  
 RAY BROOK, NY 12977 -0296

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Water Quality Certification.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



**NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS****Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

**Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

**Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

**Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

Document Content(s)

Chasm Falls Hydro WQC permit.PDF.....1-9