and the Settlement. The Commission has considered all the comments and interventions in determining whether, and under what conditions, to issue this relicense.

PROJECT DESCRIPTION

The Raquette River, with a drainage basin of 1,269 square miles, originates in the Adirondack Mountains, flows generally north-northwest for more than 120 miles, and empties into the St. Lawrence River near Massena, New York. Most of the basin is sparsely populated, with much of the land forested and brushland. The region's economy depends primarily on recreational tourism and timber-based industries.

The project consists of four developments (from upstream to downstream): Higley, Colton, Hannawa, and Sugar Island. The four developments have a total installed capacity of 47,073 kW and are all located in an 11-mile reach of the Raquette River commencing 38 miles above its confluence with the St. Lawrence River.

The Higley development includes a 34-foot-high dam with 3-foot-high flashboards, two flood gates, a trashrack, two waste gates; a 742-acre reservoir; a 160-foot-long, 50-foot-wide intake; and a powerhouse containing three generating units with a total capacity of 4,972 kW. On October 14, 2001, one of the generating units ceased operation due to turbine failure. Erie proposes to construct a new 13-foot-diameter, 225-foot-long steel intake pipeline and a new powerhouse containing one generating unit with a capacity of 7,300 kW. The existing powerhouse will be retired.

The Colton development includes a 27-foot-high dam with 2-foot-high flashboards, a log flume, a trash gate, and a gated spillway; a 195-acre-reservoir; an 11,090-foot-long steel pipeline; three penstocks; and a powerhouse containing three generating units with a total capacity of 30,101 kW.

The Hannawa development has a 38-foot-high dam with 3.5-foot-high flashboards, a log chute, a Taintor gate, and a sluice gate; a 204-acre reservoir; a 2,700-foot-long canal; two penstocks; and a powerhouse containing two generating units with a total capacity of 7,200 kW.

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13The Mountain Club, Interior, and NYSDEC filed comments in support of this recommendation.

14The Raquette River is a navigable waterway of the United States. 8 FPC 569 (1949).
The Sugar Island development has a 37-foot-high dam with two Taintor gates; a 29-acre reservoir; an intake structure with trash racks and a headgate; a 4,700-foot-long steel pipeline; two penstocks; and a powerhouse containing two generating units with a total capacity of 4,800 kW.\textsuperscript{15}

As currently licensed, and as proposed to be relicensed, these developments, except for Higley, are operated run-of-river with pondage mode using releases from the Carry Falls and the Upper Raquette River Projects.\textsuperscript{16} The Higley development operates as a re-regulating development to provide steadier flows for the downstream hydropower developments.

WATER QUALITY CERTIFICATION

Under Section 401(a)(1) of the Clean Water Act (CWA),\textsuperscript{17} the Commission may not issue a license for a hydroelectric project unless the state water quality certifying agency has issued a water quality certification for the project or has waived certification. Section 401(d) of the CWA provides that state certification shall become a condition of any federal license or permit that is issued.\textsuperscript{18} Only a reviewing court can revise or delete these conditions.\textsuperscript{19}

NYSDEC issued water quality certification for the Middle Raquette Project on June 11, 1998.\textsuperscript{20} As discussed in the lead order, the certification includes standard terms and conditions and the "terms and conditions of the . . . Settlement."\textsuperscript{21} We have appended to this license the water quality certification, which includes the standard terms

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\textsuperscript{15} A more detailed project description is contained in ordering paragraph B(2).

\textsuperscript{16} This means that the licensee uses/releases flows received from upstream developments and in addition may use/release water stored in the reservoir (pondage), subject to drawdown limitations.

\textsuperscript{17} 33 U.S.C. § 1341 (a)(1).

\textsuperscript{18} 33 U.S.C. 1341(d).

\textsuperscript{19} See American Rivers v. FERC, 129 F.3d. 99 (D.C. Cir. 1997).

\textsuperscript{20} The certification was filed by the licensee on June 22, 1998.

\textsuperscript{21} See Water Quality Certification section of lead order.