

**LIHI CERTIFICATION HANDBOOK**

**-- PART VII --  
CERTIFICATION QUESTIONNAIRE**

\*\* PLEASE SUBMIT THIS QUESTIONNAIRE IN WORD FORMAT \*\*

<b>Background Information</b>	
1) Name of the Facility as used in the FERC license/exemption.	Gregg's Falls Project
2) Applicant's name, contact information and relationship to the Facility. If the Applicant is not the Facility owner/operator, also provide the name and contact information for the Facility owner and operator.	Essex Power Services Inc. (agent) For Eagle Creek Renewable Energy LLC (owner and operator) 55 Union Street, 4th Floor Boston, MA 02108 ATTN: Stephen Hickey tel: (617) 367-0032 email: <a href="mailto:sjh@essexhydro.com">sjh@essexhydro.com</a>  Eagle Creek Renewable Energy LLC 65 Madison Avenue, Suite 500 Morristown, NJ 07960 tel: 973-998-8400 email: <a href="mailto:dave.youlen@eaglecreekre.com">dave.youlen@eaglecreekre.com</a>
3) Location of Facility including (a) the state in which Facility is located; (b) the river on which Facility is located; (c) the river-mile location of the Facility dam; (d) the river's drainage area in square miles at the Facility intake; (e) the location of other dams on the same river upstream and	(a) New Hampshire (b) Piscataquog River (c) River Mile 30 (of 37) (d) 193.1 sq. miles

downstream of the Facility; and (f) the exact latitude and longitude of the Facility dam.	(e) see attached appendix 3-a (f) Lat. 43.018417°, Long. -71.567848° <b>The applicant provided a map illustrating other dams on the Picataquog River with FERC numbers.</b>
4) Installed capacity.	3.479 MW
5) Average annual generation.	10,902 MWh
6) Regulatory status.	FERC Exemption No. 3180 dtd July 21, 1983 as amended December 1, 1998. <b>The FERC Exemption provided is all that's available from the FERC and previous owners.</b>
7) Reservoir volume and surface area measured at the normal maximum operating level.	Reservoir Volume: 3,650 acre-feet Surface Area: 136 acres
8) Area occupied by non-reservoir facilities ( <i>e.g.</i> , dam, penstocks, powerhouse).	0.64 acres
9) Number of acres inundated by the Facility.	Approximately 4.06 acres at elevation 272.6 ft NGVD
10) Number of acres contained in a 200-foot zone extending around entire reservoir.	Approximately 27 acres
11) Contacts for Resource Agencies and non-governmental organizations	See Appendix 2
12) Description of the Facility, its mode of operation ( <i>i.e.</i> , peaking/run of river) and photographs, maps and diagrams.	See Appendix 3. <b>Photographs of the Facility (dam and associated project works) and a plan showing the layout of the Facility were provided to LIHI.</b>
<b>Questions for "New" Facilities Only:</b>	N/A

<p>If the Facility you are applying for is “new” (i.e., an existing dam that added or increased power generation capacity after August of 1998) please answer the following questions to determine eligibility for the program</p>	
13) When was the dam associated with the Facility completed?	N/A
14) When did the added or increased generation first generate electricity? If the added or increased generation is not yet operational, please answer question 18 as well.	N/A
15) Did the added or increased power generation capacity require or include any new dam or other diversion structure?	N/A
16) Did the added or increased capacity include or require a change in water flow through the facility that worsened conditions for fish, wildlife, or water quality (for example, did operations change from run-of-river to peaking)?	N/A

<p>17 (a) Was the existing dam recommended for removal or decommissioning by resource agencies, or recommended for removal or decommissioning by a broad representation of interested persons and organizations in the local and/or regional community prior to the added or increased capacity?</p> <p>(b) If you answered “yes” to question 17(a), the Facility is not eligible for certification, unless you can show that the added or increased capacity resulted in specific measures to improve fish, wildlife, or water quality protection at the existing dam. If such measures were a result, please explain.</p>	<p>N/A</p>	
<p>18 (a) If the added or increased generation is not yet operational, has the increased or added generation received regulatory authorization (e.g., approval by the Federal Energy Regulatory Commission)? If not, the facility is not eligible for consideration; and</p> <p>(b) Are there any pending appeals or litigation regarding that authorization? If so, the facility is not eligible for consideration.</p>	<p>N/A</p>	
<p><i>A. Flows</i></p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is the Facility in <i>Compliance with Resource Agency Recommendations</i> issued after December 31, 1986 regarding flow conditions for fish and wildlife protection, mitigation and enhancement (including in-stream flows, ramping and peaking rate conditions, and seasonal and episodic instream flow variations) for both the reach below the tailrace and all bypassed reaches?</p>	<p>N/A  <b>The applicant provided an MOA showing USFWS and NH F&amp;G’s position on the 20 cfs bypass flow. An explanation was also provided for non-compliance in 2010 and 2012.</b>                  See Appendix A</p>	

<p>2) If there is no flow condition recommended by any Resource Agency for the Facility, or if the recommendation was issued prior to January 1, 1987, is the Facility in Compliance with a flow release schedule, both below the tailrace and in all bypassed reaches, that at a minimum meets Aquatic Base Flow standards or “good” habitat flow standards calculated using the Montana-Tennant method?</p>	<p>NO = Go to A3</p>	
<p>3) <i>If the Facility is unable to meet the flow standards in A.2., has the Applicant demonstrated, and obtained a letter from the relevant Resource Agency confirming that demonstration, that the flow conditions at the Facility are appropriately protective of fish, wildlife, and water quality?</i></p>	<p>YES = Pass, go to B</p>	
<p><b>B. Water Quality</b></p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is the Facility either:</p> <p>a) In Compliance with all conditions issued pursuant to a Clean Water Act Section 401 water quality certification issued for the Facility after December 31, 1986? Or</p> <p>b) In Compliance with the quantitative water quality standards established by the state that support designated uses pursuant to the federal Clean Water Act in the Facility area and in the downstream reach?</p>	<p>YES = Go to B2</p> <p>A letter will be provided from the NH DES based on completion of a water quality assessment program in 2013. <b>Based on the theft of a data logger during testing and the high flows thereafter, applicant has committed to re</b></p>	

	<p><b>testing the water quality in 2015. Applicant has provided a commitment letter from NH DES to work with the applicant.</b></p>	
<p>2) Is the Facility area or the downstream reach currently identified by the state as not meeting water quality standards (including narrative and numeric criteria and designated uses) pursuant to Section 303(d) of the Clean Water Act?</p>	<p>NO = Pass</p> <p><b>The applicant has provided the most recent 303(d) reports to LIHI showing that the Winnepesaukee River is not listed as impaired.</b></p>	
<p>3) If the answer to question B.2 is yes, has there been a determination that the Facility does not cause, or contribute to, the violation?</p>	<p>N/A</p>	
<p><b>C. Fish Passage and Protection</b></p>	<p>PASS</p>	<p>FAIL</p>

<p>1) Is the Facility in Compliance with <i>Mandatory Fish Passage Prescriptions</i> for upstream and downstream passage of anadromous and catadromous fish issued by Resource Agencies after December 31, 1986?</p>	<p>YES = Go to C5 See Appendix C</p> <p><b>Anadromous and catadromous fish are still present at the facility and the applicant has provided LIHI a copy of the legally binding MOA with USFWS and NH F&amp;G to restore passage and protection measures in 2015.</b></p>	
<p>2) Are there historic records of anadromous and/or catadromous fish movement through the Facility area, but anadromous and/or catadromous fish do not presently move through the Facility area (<i>e.g.</i>, because passage is blocked at a downstream dam or the fish no longer have a migratory run)?</p> <p>a) If the fish are extinct or extirpated from the Facility area or downstream reach, has the Applicant demonstrated that the extinction or extirpation was not due in whole or part to the Facility?</p> <p>b) If a Resource Agency Recommended adoption of upstream and/or downstream fish passage measures at a specific future date, or when a triggering event occurs (such as completion of passage through a downstream obstruction or the completion of a specified process), has the Facility owner/operator made a legally enforceable commitment to provide such passage?</p>	<p><b>See C.1</b></p>	
<p>3) If, since December 31, 1986:</p>	<p><b>No mandatory</b></p>	

<p>a) Resource Agencies have had the opportunity to issue, and considered issuing, a Mandatory Fish Passage Prescription for upstream and/or downstream passage of anadromous or catadromous fish (including delayed installation as described in C2a above), and</p> <p>b) The Resource Agencies declined to issue a Mandatory Fish Passage Prescription,</p> <p>c) Was a reason for the Resource Agencies' declining to issue a Mandatory Fish Passage Prescription one of the following: (1) the technological infeasibility of passage, (2) the absence of habitat upstream of the Facility due at least in part to inundation by the Facility impoundment, or (3) the anadromous or catadromous fish are no longer present in the Facility area and/or downstream reach due in whole or part to the presence of the Facility?</p>	<p><b>fish passage prescription exists for the project but as noted in C.1, the applicant has signed a legally binding MOA with USFWS and NH F&amp;G to restore passage and protection measures in 2015 or as so required by the agencies.</b></p>	
<p>4) If C3 was not applicable:</p> <p>a) Are upstream and downstream fish passage survival rates for anadromous and catadromous fish at the dam each documented at greater than 95% over 80% of the run using a generally accepted monitoring methodology? Or</p> <p>b) If the Facility is unable to meet the fish passage standards in 4.a, has the Applicant either i) demonstrated, and obtained a letter from the U.S. Fish and Wildlife Service or National Marine Fisheries Service confirming that demonstration, that the upstream and downstream fish passage measures (if any) at the Facility are appropriately protective of the fishery resource, or ii) committed to the provision of fish passage measures in the future and obtained a letter from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service indicating that passage measures are not currently warranted?</p>	<p>YES = Go to C5 See Appendix C</p>	<p>NO = Fail</p>



5) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream and/or downstream passage of <i>Riverine</i> fish?	YES See C.1	NO = Fail
6) Is the Facility in Compliance with Resource Agency Recommendations for Riverine, anadromous and catadromous fish entrainment protection, such as tailrace barriers?	YES See C.1	NO = Fail
<b>D. Watershed Protection</b>	PASS	FAIL
1 ) Is there a buffer zone dedicated for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low-impact recreation) extending 200 feet from the average annual high water line for at least 50% of the shoreline, including all of the undeveloped shoreline?	N/A	NO = go to D2
2 ) Has the Facility owner/operator established an approved watershed enhancement fund that: 1) could achieve within the project's watershed the ecological and recreational equivalent of land protection in D.1, and 2) has the agreement of appropriate stakeholders and state and federal resource agencies?	N/A	NO = go to D3
3 ) Has the Facility owner/operator established through a settlement agreement with appropriate stakeholders, with state and federal resource agencies agreement, an appropriate shoreland buffer or equivalent watershed land protection plan for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low impact recreation)?	N/A	NO = go to D4
4 ) Is the facility in compliance with both state and federal resource agencies recommendations in a license approved shoreland management plan regarding protection, mitigation or enhancement of shorelands surrounding the project?	<b>The project is operated run-of-river which will minimize shoreline erosion. The applicant will take reasonable measures to</b>	

	<b>prevent shoreline erosion and has no ground disturbing activities planned at the project.</b>	
<b>E. Threatened and Endangered Species Protection</b>	PASS	FAIL
1) Are threatened or endangered species listed under state or federal Endangered Species Acts present in the Facility area and/or downstream reach?	<b>The Brook Floater and Wood Turtle are present at the facility. NH F&amp;G has signed off on the MOA with regard to project operations. The applicant has reached out to NH F&amp;G for confirmation of no impact on these species. NH F&amp;G's response will be forwarded upon receipt.</b>	
2) If a recovery plan has been adopted for the threatened or endangered species pursuant to Section 4(f) of the Endangered Species Act or similar state provision, is the Facility in Compliance with all recommendations in the plan relevant to the Facility?	<b>No recovery plan has been adopted for either the Brook Floater or Wood Turtle.</b>	
3) If the Facility has received authorization to incidentally <i>Take</i> a listed		

<p>species through: (i) Having a relevant agency complete consultation pursuant to ESA Section 7 resulting in a biological opinion, a habitat recovery plan, and/or (if needed) an incidental Take statement; (ii) Obtaining an incidental Take permit pursuant to ESA Section 10; or (iii) For species listed by a state and not by the federal government, obtaining authorization pursuant to similar state procedures; is the Facility in Compliance with conditions pursuant to that authorization?</p>	<p>N/A = Go to E5</p>	
<p>4) If a biological opinion applicable to the Facility for the threatened or endangered species has been issued, can the Applicant demonstrate that:</p> <p>a) The biological opinion was accompanied by a FERC license or exemption or a habitat conservation plan? Or</p> <p>b) The biological opinion was issued pursuant to or consistent with a recovery plan for the endangered or threatened species? Or</p> <p>c) There is no recovery plan for the threatened or endangered species under active development by the relevant Resource Agency? Or</p> <p>d) The recovery plan under active development will have no material effect on the Facility's operations?</p>	<p>N/A</p>	<p>NO = Fail</p>
<p>5) If E.2 and E.3 are not applicable, has the Applicant demonstrated that the Facility and Facility operations do not negatively affect listed species?</p>	<p>See applicant's response to E.1.</p>	
<p><b>F. Cultural Resource Protection</b></p>	<p>PASS</p>	<p>FAIL</p>
<p>1) If FERC-regulated, is the Facility in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license or exemption?</p>	<p><b>The New Hampshire Department of Historical Resources</b></p>	

	<p><b>confirmed in Appendix F-1 of the application that the project has no potential impact on any sites of historic or cultural concern.</b></p>	
<p>2) If not FERC-regulated, does the Facility owner/operator have in place (and is in Compliance with) a plan for the protection, mitigation or enhancement of impacts to Cultural Resources approved by the relevant state or federal agency or <i>Native American Tribe</i>, or a letter from a senior officer of the relevant agency or Tribe that no plan is needed because Cultural Resources are not negatively affected by the Facility?</p>	<p>N/A</p>	
<p><b>G. Recreation</b></p>	<p>PASS</p>	<p>FAIL</p>
<p>1) If FERC-regulated, is the Facility in Compliance with the recreational access, accommodation (including recreational flow releases) and facilities conditions in its FERC license or exemption?</p>	<p><b>Yes. Article 17 is not project specific. Article 17 is a general provision in any FERC license. The applicant maintains open access to all project lands other than the intake and tailrace. Boating and fishing frequently occurs on project waters.</b></p>	

<p>2) If not FERC-regulated, does the Facility provide recreational access, accommodation (including recreational flow releases) and facilities, as Recommended by Resource Agencies or other agencies responsible for recreation?</p>	<p>N/A</p>	
<p>3) Does the Facility allow access to the reservoir and downstream reaches without fees or charges?</p>	<p><b>The applicant maintains open access to all project lands other than the intake and tailrace. Attached appendix 20150116_ECRE Clement Dam recreational access points includes a map showing the upstream and downstream boat ramps and fishing access points.</b></p>	
<p><b>H. Facilities Recommended for Removal</b></p>	<p>PASS</p>	<p>FAIL</p>
<p>1) Is there a Resource Agency Recommendation for removal of the dam associated with the Facility?</p>	<p>NO = Pass, Facility is Low Impact</p>	