ATTACHMENT A

QUESTION 3:

PROJECT DESCRIPTION

PROJECT MAP

BEEBEE ISLAND PROJECT DESCRIPTION

The Beebee Island Project is located at river mile 9 on the Black River in Jefferson County, NY and is licensed by FERC under Project No. 2538. The Beebee Island Project is operated automatically to maintain impoundment levels within 0.5 foot below the dam crest or the top of flashboards and provides a continuous baseflow of not less than 1,000 cfs (or inflow).

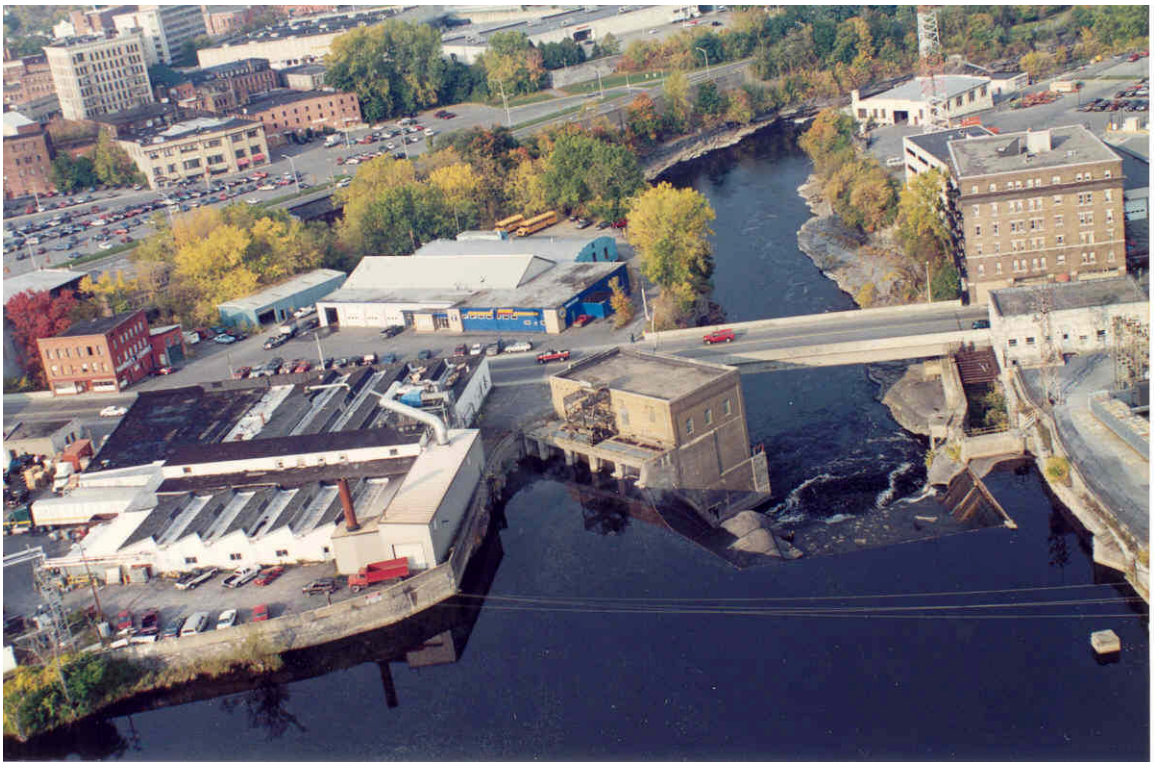
The Black River drainage basin is located in the north-central region of the state and has a total area of 1,876 square miles (at USGS gage located at Vanduzee Street). The Black River drains a portion of the western slope of the Adirondack Mountains and eastern and northern portions of the Tug Hill Plateau, and the river flows for 112 miles from its origin in the Adirondacks to its mouth at Lake Ontario. The river is divided into three general topographic reaches. The upper reach is mountainous and characterized by rapids and waterfalls. Below Lyons Falls (RM 73), the river enters a middle reach—the Black River Flats—that stretches 42 miles to the village of Carthage. Below Carthage, the river enters a lower reach, also characterized by rapids and falls as this reach drops 480 ft over 30 miles before entering Lake Ontario.

Three major storage reservoirs in the upstream drainage area are operated by the Board of the Hudson River/Black River Regulating District to provide storage of spring runoff, flood mitigation, and low-flow augmentation for the lower Black River. The Black River began providing hydroelectric power for pulp and paper mills and other industries during the mid-1800s. And while most of the mills and industries are no longer operating, 21 operating hydropower developments still line the Black River from river mile 92.0 to 1.5.

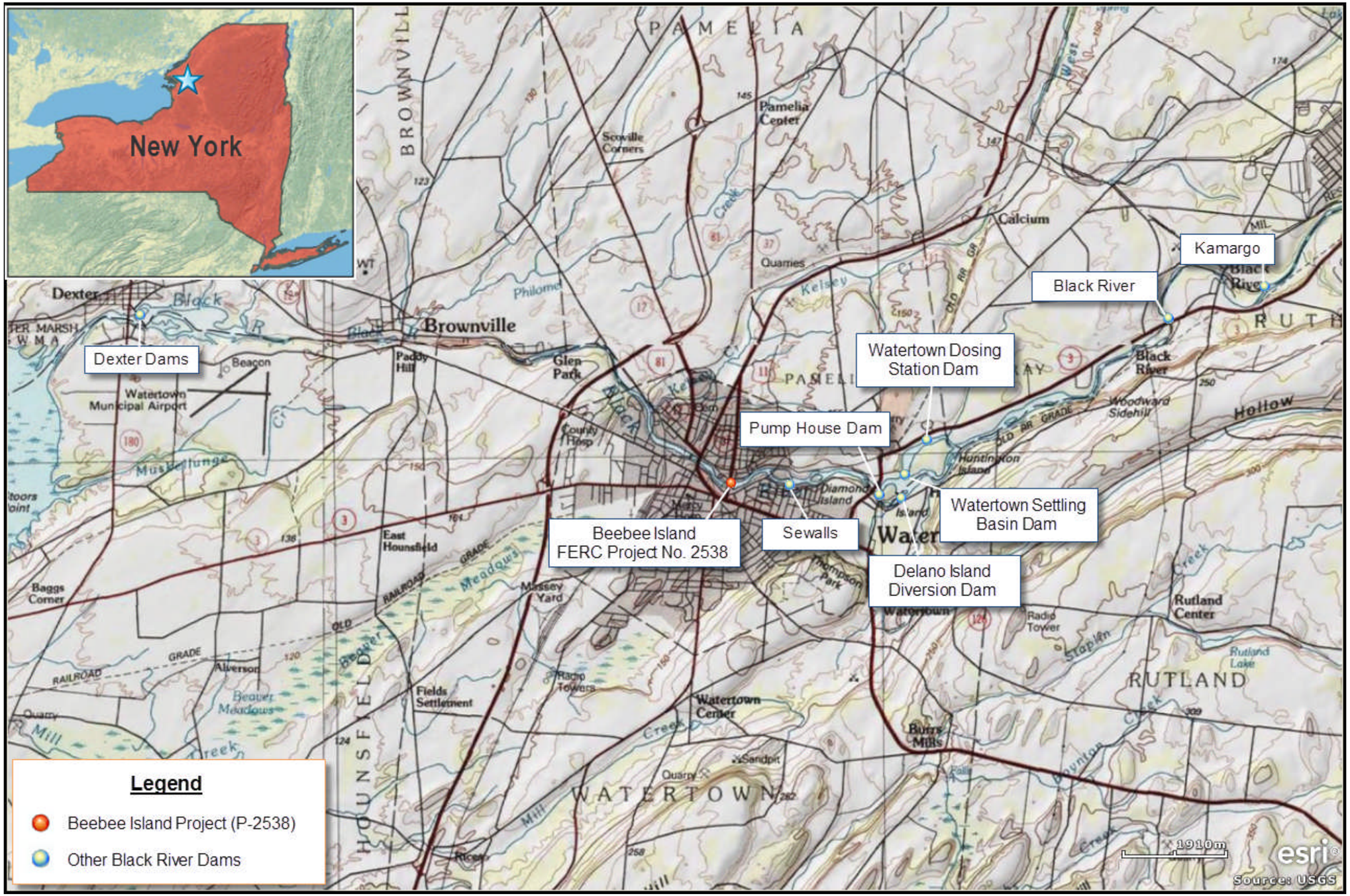
The dam at the Beebee Island Project is a 266-foot-long by 18-foot-high, U-shaped concrete gravity dam with a crest elevation of 428 feet and topped with seasonally-installed 3-foot-high wooden flashboards, and a 50-foot-long by 15-foot-high, concrete-capped stone auxiliary non-overflow dam. The Beebee Island reservoir has a surface area of 20 acres. The intake structure, which is integral with the powerhouse, is 82 feet long by 27 feet wide and includes four steel gates, a skimmer section, and stoplog slots. The intake structure is equipped with 2-inch clear-spaced trashracks with 1-inch clear-spaced seasonal trashracks in the top half of the water column. Ice and debris circumvent the powerhouse by way of an 8-foot-wide by 15-foot-high ice sluice between the steel gates and a retaining wall.

The brick and masonry Beebee Island powerhouse contains two vertical generating units, each rated at 4 MW. The units have a combined hydraulic capacity of 3,600 cfs and discharge directly at the base of the dam. Additional licensed works at the Beebee Island Development include primary transmission lines and appurtenant facilities.

The powerhouse and dam are on the north side of the island, so there is no bypassed reach in the north channel. A minimum flow of 14 cfs is released at all times to the 750-foot-long south channel bypass.



Downstream view of the Beebee Island Project located in the City of Watertown, NY.


New York
Dexter
Dexter Dams
Brownville
Watertown Municipal Airport
Beacon
Paddy Hill
Glen Park
Pamelia Center
Scoville Corners
Calcium
Quarries
Kamargo
Black River
Watertown Dosing Station Dam
Pump House Dam
Beebee Island FERC Project No. 2538
Sewalls
Watertown Settling Basin Dam
Delano Island Diversion Dam
Huntington Island
Diamond Island
Thompson Park
Woodvard Sidehill
Hollow
East Hounsfield
Baggs Corner
Alverson
Fields Settlement
Missey Yard
Ramp Towers
Watertown Center
Burrs Mills
Rutland Center
Radio Tower
Rutland Lake
RUTLAND
WATERTOWN
HOUNSFIELD
Legend
Beebee Island Project (P-2538)
Other Black River Dams
1910m
esri
Source: USGS

ATTACHMENT B

QUESTION 6:

SEPTEMBER 14, 1995 BLACK RIVER PROJECT & BEEBEE ISLAND PROJECT SETTLEMENT OFFER

DECEMBER 24, 1996 ORDER ISSUING NEW LICENSE (P-2538)

NOVEMBER 3, 1995 WATER QUALITY CERTIFICATION

AUGUST 20, 1998 MODIFIED WATER QUALITY CERTIFICATION

BLACK RIVER PROJECT, FERC NO. 2569,

of

NIAGARA MOHAWK POWER CORPORATION

and

BEEBEE ISLAND PROJECT, FERC NO. 2538,

of

BEEBEE ISLAND CORPORATION

SETTLEMENT OFFER

September 14, 1995

Black River Project FERC No. 2569
and
Beebee Island Project FERC No. 2538

Settlement Offer

Signatories:

Niagara Mohawk Power Corporation
Beebee Island Corporation
New York State Department of Environmental Conservation
United States National Park Service
United States Fish and Wildlife Service.
AdirondackMountain Club
New York Council, Trout Unlimited
New York State Conservation Council
New York Rivers United
American Whitewater Affiliation
Natural Heritage Institute
American Rivers
National Audubon Society

Final signatories revision 10/10/95

TABLE OF CONTENTS

I. INTRODUCTION

The purpose of this Settlement Offer is to document the areas of agreement that exist as the result of comprehensive settlement discussions between the signatories with regard to the relicensing of the Black River Project (Federal Energy Regulatory Commission [FERC] No. 2569) and the Beebee Island Project (FERC No. 2538). As such, it is a summary of all areas of agreement emanating from the detailed license application exhibits, studies, reports, meeting minutes and other consultation records that have been and will be developed for the projects and submitted to the consulted resource agencies and FERC.

The goal of this Settlement is to provide for power generation plus the long-term protection of, mitigation for damage to, and enhancement of the Black River's fish and wildlife resources as affected by the hydropower developments at the Black River and Beebee Island Projects. The Settlement will enhance opportunities for recreational and other river uses by reducing non-natural fluctuations in impoundments and riverine reaches affected by the developments in both Projects. Finally, the Settlement will include provisions for monitoring, enforcement and updating or revisitation of agreements.

This Settlement Offer provides the terms and conditions for the resolution of the operations, fisheries, wildlife, water quality, lands management and ownership, recreation and aesthetics issues raised by the signatories regarding the issuance of new licenses for the Black River and Beebee Island Hydroelectric Projects, these being all the issues presently addressed.

The Black River Project, which is licensed to, owned, operated and maintained by Niagara Mohawk Power Corporation (NMPC) consists of the Herrings, Deferiet, Kamargo, Black River and Sewalls Developments. The Beebee Island Project, which is owned by and licensed to Beebee Island Corporation (BIC) but operated and maintained by NMPC pursuant to contractual agreement with BIC, consists of just the Beebee Island Development. BIC is partly owned by NMPC.

All 6 developments are located on the Black River in New York State. The Herrings Development, the furthest upstream, is located 27.5 miles from Lake Ontario and the Beebee Island Project, the most downstream, is located 9.5 miles from Lake Ontario. The developments are in the Villages of Black River and Deferiet, Towns of Champion, Wilna, Rutland and Leray and in the City of Watertown in Jefferson County, New York.

I. GENERAL AGREEMENTS

A. Abbreviations

The following abbreviations will be used throughout this document:

Additional Information Request = AIR
Adirondack Mountain Club = ADK
American Whitewater Affiliation = AWA
Beebee Island Corporation = BIC, or licensee *
Cubic feet per second = cfs
Federal Energy Regulatory Commission = FERC
National Park Service = NPS
New York Council, Trout Unlimited = NY/TU
New York Rivers United = NYRU
New York State Department of Environmental Conservation = NYSDEC
New York State Conservation Council = NYSCC
Niagara Mohawk Power Corporation = NMPC, or licensee *
Run of River = r-o-r
United States Fish and Wildlife Service = USFWS

* or, "the licensees" in uses applying to both corporations

B. Effective Date

The effective date of this Settlement Offer is the date the FERC license is issued. However, if a party seeks rehearing on a particular issue, then the effective date of obligations under the Settlement Offer on that particular issue will be the date of final resolution of that issue by FERC or the applicable judicial forum.

C. Run-of-River Operation

For the purposes of this Settlement Offer, run-of-river operation is defined as operation based on an active storage volume of zero cubic feet at all times; therefore, the instantaneous sum of all discharges and releases will equal the instantaneous inflow to the impoundment to the extent practicable. This condition may be temporarily modified by operating emergencies beyond the control of licensees or for short periods upon mutual agreement between the licensee and the NYSDEC. The USFWS will be notified of these events by licensee.

D. Flows

1. The licensees will provide a continuous flow of not less than 1,000 cfs through the 6 developments, except when inflow is less than 1,000 cfs, outflow will be determined by and be equivalent to inflow.

2. There are some surges that are within and others that are beyond the control of licensees. For the purposes of this Settlement Offer, "surge" is defined as a sudden and perceptible, manmade raising or lowering of river flow and stage (where "sudden" is on the order of minutes).

3. For the purpose of establishing the duration of flows designated for walleye spawning season, walleye spawning season is defined as that period of the year commencing on March 15 and continuing until 30 days after the average daily water temperature of 50 degrees Fahrenheit is reached or exceeded on four consecutive days after April 15, unless modified by mutual agreement between NYSDEC and USFWS.

E. Flow Release Structures

Flow release structures will be designed to minimize adverse impacts to fish moving downstream and be cost effective and reasonable. Final details of designs, including final locations and the potential need for fish protection and conveyance measures (e.g., plunge pools, piping, etc.), if any, will be based on 1996 field inspections and professional judgement of the USFWS and NYSDEC. Installation will be undertaken by licensees within two years of FERC license issuance.

F. Project Operations

1. For compliance purposes, no impoundment elevation shall drop lower than 0.5 feet below the permanent crest of dam or the top of flashboards when dam is so equipped. This condition may be temporarily modified by operating emergencies beyond the control of the licensee or for short periods upon mutual agreement between the licensee and the NYSDEC. The USFWS will be notified of these events by licensee.

Additional operating conditions are described for the Herrings Development (III.A.), the Sewalls Development (VII.A.), and the Beebee Island Project (VIII.A.).

2. In order to protect nests of reservoir spawning fish and migratory and non-migratory nesting birds, flashboards shall be installed at each development by May 1 or as soon thereafter as safely possible.

3. If the impoundment cannot be maintained within 0.5 feet of the top of the flashboards between May 1 and June 30 because of flashboard problems, licensees will, for ease of communication, alert the local NYSDEC to propose remedial actions. NYSDEC will communicate with the USFWS, and will within 5 business days approve which, if any, remedial actions may be done before June 30. Permission for remedial actions will be granted only upon agreement by both agencies.

G. Fish Protection

To exclude many adult fish from being entrained through the turbines, licensees will replace the existing trashracks at all developments with new trashracks having 2-inch clear bar spacing. In addition, at all developments except for Sewalls Development (for which only the 2-inch clear bar spacing trashracks are required), overlays having 1-inch clear bar spacing will be placed in the top 50% of the water column from May 1 through October 1.

Installation of at least one set of new trashracks and overlays at any development will be completed within 2 years of the date of license issuance. Work on all developments within a project will be completed by year 12 from the date of issuance of the applicable license.

H. Upstream Fish Passage

Consistent with existing fishery management objectives, no upstream fish passage measures will be required at this time.

I. Fisheries Management

No effectiveness studies of fish exclusion, protection or movement will be required as part of this Settlement. However, should the understanding of fish movements, fish-passage technology, fishery management goals, or other needs change during the term of the licenses, the USFWS reserves the authority of the Department of Interior to prescribe fishways as may be deemed necessary in the future.

J. Endangered Species and Historic Preservation

There are no endangered species or historic preservation issues for these developments according to presently available information.

K. Visual Resources

All new and replacement fencing, including support structures, will be painted or finished in a dark brown-green (as used at the Kosterville Development on the Moose River). Existing fencing will be finished to the same color when maintenance includes painting or refinishing. Similar consideration will be given to out buildings or other architectural improvements to existing structures.

L. Access

Any access granted or acquired for recreational purposes in the context of this Settlement will be for general public use and not restricted to fishing.

M. Recreation Facilities and Consultation

Recreational facilities, as described in the above-referenced FERC new license applications and any Additional Information Request (AIR) responses filed with FERC, will be provided at each applicable development within two years of effective date of license issuance. Any exceptions or additions are described under the Recreation section for each development listed in this Settlement Offer (and are generally indicated on maps for each development, included as Attachment 3). Indicated recreational facilities will be located on licensees' existing lands unless otherwise noted. Existing recreational facilities as described in the applications will be maintained unless otherwise noted herein.

Recreation enhancements will be developed in consultation with individual members of the Black River Advisory Council (described in Attachment 1).

N. Cartop Boat

For the purposes of this Settlement, a cartop boat is one which requires neither a ramp nor trailer to launch and retrieve.

O. Proposals Withdrawn

Licensees' proposals to erect pneumatic flashboards at the Deferiet, Kamargo and Black River Developments; to construct a new powerhouse and generating facility on the north channel of the Sewalls Development; and to construct a new powerhouse and generating facility on the north shore of the Beebee Island Project and to increase the impoundment elevation at the Beebee Island Project by 5 feet through the installation of an inflatable crest dam, are all withdrawn. No changes to existing normal impoundment elevations are proposed.

III. HERRINGS DEVELOPMENT

A. Reservoir Fluctuations

For compliance purposes, the impoundment elevation shall not drop lower than 0.5 feet below the permanent crest of dam, or the top of flashboards if they have been installed. In an effort to further minimize fluctuating flows in the river reach below the Deferiet Development, licensee agrees to use its best efforts to achieve a goal of further reducing impoundment fluctuations at Herrings from 0.5 feet to 0.2 feet during a combination of the following conditions:

1) when river flows are between 1400 and 1900 cfs; and
2) between the dates of May 1 and October 1.

The degree of success on the part of the licensee in achieving this goal will not be used for regulatory compliance purposes. The licensee will annually report to the Black River Advisory Council on its effectiveness in achieving this goal.

B. Flow Release

A year-round flow of not less than 20 cfs will be released through the stoplog section located between the dam and trashracks to provide a downstream fish movement route.

C. Recreation

The following will be provided (*see also* Herrings map in Attachment 3):

1. **Portage Trail** -- Licensee will provide a portage trail on licensee's lands from the existing cartop boat launch on the north shore to a put-in below the tailrace, details to be determined in consultation with members of the Black River Advisory Council.

2. **Cartop Boat Launches** -- Licensee will provide overland access to a new cartop boat launch at the downstream end of the new portage trail described in III.C.1., above. Licensee will also continue to provide access to and parking at the existing cartop boat launch as this will serve as the starting point of the new portage trail.

IV. DEFERIET DEVELOPMENT

A. Bypassed Reach Flows

Bypassed reach flows will be provided through a combination of leakage, releases over the dam, and releases through the stoplog structure. Regardless of the portion of the bypassed reach flow attributed to leakage, licensee will provide a flow of not less than 45 cfs through the modified stoplog structure to provide for downstream fish movement. An instream flow of not less than 800 cfs will be provided through walleye spawning season and not less than 245 cfs throughout the remainder of the year. Reduction of flows at the end of walleye season will be in no more than 200 cfs increments at no less than four hour intervals, or as otherwise determined to be needed based on field inspections by licensee, NYSDEC and USFWS which will be conducted during the first year after release structures are installed.

B. Recreation

The following will be provided (*see also* Deferiet map in Attachment 3):

1. **Cartop Boat Take-out/Put-in at Deferiet Impoundment** -- Licensee will provide a new cartop boat put-in/take-out on the north shore of the Deferiet impoundment above the existing boat barrier, to include a 6 to 8 car capacity parking area with access from NYS Route 3.

2. **Cartop Boat Put-in at Deferiet Bypassed Reach** -- Licensee will provide a canoe put-in approximately 200 feet below the Deferiet dam. Signs here shall warn of downstream whitewater associated with use of this put-in.

3. **Recreational Access to the Black River at Deferiet Bypass/Tailrace Confluence** -- Licensee in cooperation with the Village of Deferiet will support cooperative development of recreational access to the Black River on Village of Deferiet and licensee's land about 8,000 feet downstream of the dam, subject to approval of licensee's plans submitted to the Village of Deferiet and cooperation of the Village of Deferiet in making their lands available for the public.

4. **Portage Trail** -- Licensee will provide a portage trail across the headgate structure between the impoundment take-out and the bypass put-in.

5. **South Shore Access** -- The existing access along the south shore of the Deferiet impoundment will be maintained as is.

6. **Other** -- (a) Licensee will provide a whitewater hazard warning sign at the headgate for downstream boaters.
(b) Licensee will paint fencing along the power canal dark green-brown, as specified in II.K.
(c) Licensee will cut off exposed rods in the river bed downstream of the stoplog section of the dam to enhance the area's safety.

V. KAMARGO DEVELOPMENT

A. Bypassed Reach Flows

A year-round instream flow of not less than 120 cfs will be provided in the bypassed reach through a notched section of the dam.

B. Recreation

The following will be provided (*see also* Kamargo map in Attachment 3):

1. **Portage** -- Licensee will provide cartop boat portage accommodations described below:

a. Licensee will provide a cartop boat take-out from the impoundment at the upstream end of Poors Island between the Kamargo dam and canal headgate structure;
b. Licensee will provide a new cartop boat put-in at the power canal immediately downstream of the canal headgate structure;
c. Licensee will allow cartop boat passage down a portion of the power canal where water velocities are slow, and will install a new boat barrier and cartop boat take-out on the Poors Island side about 1,600 feet down the power canal from the canal head gate structure in the vicinity of the 23 kv transmission line crossing;
d. Licensee will provide a foot trail from the power canal take-out connecting to the proposed Poors Island Recreation Area trail system;
e. Licensee will provide parking for 4 to 6 cars near the Poors Island access bridge approximately 300 feet from the canal take-out;
f. Licensee will provide a sign near the power canal take-out directing boaters to the cartop boat put-in near the Village of Black River overlook; and
g. Licensee's proposal for a cartop boat take-out on the north shore is withdrawn.

2. **Cartop Boat Put-In** -- Licensee will provide a new cartop boat put-in upstream of the Main Street bridge adjacent to the Village of Black River overlook and will modify the area to allow safe access.

3. **Other** -- Licensee will permit shoreline fishing on Poors Island and the north and south shorelines of the power canal upstream of the boat barrier described in V.B.1.c., via lands owned or controlled by the licensee.

VI. BLACK RIVER DEVELOPMENT

A. Bypassed Reach Flows

Instream flows of not less than 300 cfs will be provided in the bypassed reach during walleye spawning season through a combination of notched dam and low-level sluice-gate(s). Not less than 80 cfs will be provided through a notch in the dam during the balance of the year to provide for downstream fish movement. Reduction of flows at the end of walleye season will be in no more than 75 cfs increments at no less than four hour intervals, or as otherwise determined to be needed based on field inspections by licensee, NYSDEC and USFWS which will be conducted during the first year after release structures are installed.

B. Recreation

The following will be provided (*see also* Black River map in Attachment 3):

1. **Cartop Boat Launch and Take-out** -- Licensee will provide a cartop boat launch and take-out downstream from the site shown in the application. At least four parking spaces will be provided along Huntington Street on licensee's land. Additional parking will be provided as described in VI.B.4. Handicapped (wheelchair) access will be also provided at this location.

2. **Cartop Boat Put-in** -- Licensee will provide a cartop boat put-in as far upstream in the bypass reach as possible.

3. **Portage Trail** -- Licensee will provide a portage trail using Huntington Road and an existing rough dirt road close to the bypass reach.

4. **Other** --

(a) Licensee will provide additional parking south of NYS Route 3 and east of the NYS Route 3 bridge. Licensee will maintain parking at the existing picnic area along the bypass reach south of NYS Route 3.

(b) Licensee will remove the present security fence but will install a protective railing at the present overlook and picnic area and in other locations where licensee deems such necessary for reasonable protection of the public.

VII. SEWALLS DEVELOPMENT

A. Reservoir Fluctuations

Licensee will maintain run-of-river operation, as defined in II.C., of the Sewalls Development between May 1 and September 30 whenever river flow is below 2,000 cfs. During such periods of run-of-river operation, licensee may maintain constant spillage flows above the permanent crest elevation to provide run-of-river operation.

B. Bypassed Reach Flows

Year-round instream flows will be provided in both bypassed reaches as follows:

1) In the north channel, there will be a release of not less than 20 cfs through a notch in the dam in addition to the existing 12 cfs leakage; if leakage is reduced in the future, additional release modifications will be provided to maintain a flow of 32 cfs in the north channel.

2) In the south channel, current leakage of 137 cfs is sufficient; if leakage is reduced in the future, additional release modifications will be provided to maintain a flow of 137 cfs in the south channel.

3) The 20 cfs release through the notch in the dam in the north channel will provide for downstream fish movement.

C. Recreation

The following will be provided (*see also* Sewalls map in Attachment 3):

1. **Cartop Boat Access** -- Licensee will provide a new cartop boat take-out point at the river overlook on the south shore of the Sewalls impoundment. Signage will be provided at the take-out point to provide direction to potential downstream put-in locations.

2. **Flow Stabilization** -- Licensee will stabilize flow levels downstream to facilitate whitewater recreation by maintaining run-of-river operation between May 1 and September 30 as described in VII.A., above.

VIII. BEEBEE ISLAND PROJECT

A. Operations

Licensee shall operate in a run-of-river mode as described in Section II.C. To respond to instantaneous changes in inflow to the extent practicable, the controls will be set to actuate incremental changes of unit discharge within 0.2 feet of the top of flashboard elevation (431.0 feet USGS), or 0.2 feet of the spillway crest (428.0 feet USGS) when boards are out. For compliance purposes, the Beebee Island Project impoundment shall not drop below elevation 430.5 feet USGS when the flashboards are in or below elevation 427.5 feet USGS when the flashboards are out, in accordance with II.F.1.

B. Bypassed Reach Flows

A year-round instream flow of not less than 14 cfs will be provided in the south channel bypassed reach through a pipe through the dam with a plunge pool downstream.

C. Fish Protection and Downstream Movement

To reduce turbine entrainment-related fish mortality, new trash racks with 2-inch-wide clear space openings will be installed at the project and seasonal overlays will be installed on an annual basis as described in II.G.

Downstream fish movement will be provided from April 1 through November 30 via a modification to the existing stoplogged ice chute. To accommodate safe downstream fish movement, an approximately 3-foot-wide by 2.5-foot-deep flume with a rounded bottom will be installed within the existing ice chute so that it extends beyond the lip of the ogee spillway. A flow of 37 cfs will be provided to attract and convey fish. Measures will be implemented to provide for a 4-foot-deep plunge pool and an improved outlet at the end of the ice chute. Licensee will consult with the USFWS and NYSDEC on the final design. This fish conveyance structure will be installed within 2 years of license issuance.

D. Recreation

The following will be provided (*see also* Beebee Island map in Attachment 3):

1. **Cartop Boat Take-out** -- Licensee will provide a cartop boat take-out point on the south bank of the Beebee Island impoundment. Signage will be provided at the take-out point to provide direction to potential downstream put-in locations.

2. **Veiling Flow** -- Licensee will provide a veiling flow from the middle section of the Beebee Island Project spillway, approximately 92 feet long. This flow will be provided starting May 1, or as soon thereafter as licensees can safely install flashboards, through October 31 each year. The veiling flow will be released through a 1/2" gap to be maintained under the 3-feet high project flashboards, or through a functionally equivalent alternative.

IX. MISCELLANEOUS

A. Black River Advisory Council

In order to keep abreast of changing conditions that may affect river flows and management objectives, an Advisory Council to be representative of the various interests in the Black River corridor will be formed as more specifically detailed in Attachment 1.

B. Black River Fund

A fund will be established as described in Attachment 1.

C. Enforceability

This Settlement Offer shall be enforceable by any party to the extent that this Settlement Offer is accepted and approved by the NYSDEC and/or FERC and incorporated into the terms and conditions of any § 401 water quality certificate issued by NYSDEC or any new license issued by FERC for the Black River Hydroelectric Project (FERC No. 2569) and Beebee Island Hydroelectric Project (FERC No. 2538).

D. Cooperation

Each and all signatories will abide by and support the agreements and understandings commemorated herein in the context of their participation in the Black River Project No. 2569 and Beebee Island Project No. 2538 licensing proceedings before the FERC, the § 401 water quality certification proceedings before NYSDEC and any other forum, as appropriate.

E. Streamflow Monitoring

Licensees shall develop a flow monitoring plan in consultation with all signatories within 6 months of FERC license issuance. This flow monitoring plan will provide for the installation and maintenance of a United States Geological Survey (USGS) gaging station, unless justification for an alternative gaging system is provided. The flow monitoring plan shall include all gages and/or equipment for the purposes of:

a. determining the stage and/or flow of the Black River;
b. determining all other project flows including flows through the turbines and any other bypass/diversion flows; and,
c. determining project headpond and tailwater elevation.

Licensees shall keep accurate and sufficient records of the impoundment elevations and all project discharges to the satisfaction of the NYSDEC and shall provide such data in a format and interval as the NYSDEC may prescribe. All records will be made available for inspection at NMPC-Watertown within 5 business days or in writing within 30 business days of licensees' receipt of a written request for such records by any of the signatories to this Settlement. Furthermore, licensees will provide a 7-day per week contact person to provide immediate responses to questions about abnormal conditions.

All gaging and ancillary equipment associated with the project, including the headpond and tailwater gages, shall be made operational and fully calibrated within 12 months of FERC license issuance.

The flow monitoring plan including the gage calibration plan shall be submitted to the NYSDEC for review and approval.

Permanent staff gages shall be installed to allow independent verification of headpond and tailwater elevations to the nearest 0.1 foot. Stage versus discharge ratings shall be calibrated when rating changes occur, and maintained for these sites. Access to staff gages shall be provided to the NYSDEC, USFWS and/or their authorized representatives.

NMPC will continue operation of the current data logger array in the present locations and maintain or improve their current data sampling frequency and precision. The precision, location and number of data loggers will not be changed without notice to all signatories to the agreement.

F. Compliance With The Law

Nothing in this Settlement Offer shall preclude FERC, any resource agency or the licensees from complying with their obligations or exercising their responsibilities under the National Environmental Policy Act, the Clean Water Act, the Endangered Species Act, the Federal Power Act as amended by the Electric Consumers Protection Act, the Fish and Wildlife Coordination Act or any other applicable state or federal laws. However, by entering into this Settlement Offer, each signatory represents that it believes its statutory obligations or responsibilities are, or can be, met consistent with this Settlement Offer.

G. Binding Effect

Nothing in this Settlement Offer shall be construed as binding the USFWS or the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this Settlement Offer for the fiscal year, or to involve the USFWS or the NPS in any contract or other obligation for the future expenditure of money in excess of such appropriations or allocations.

H. General Provisions

1. Licensees agree to implement the various obligations and requirements set forth herein. Resource agencies and other signatories agree to support a new 30 year license for the Black River and Beebee Island Projects, incorporating and implementing the provisions contained herein. This support shall include reasonable efforts to expedite the National Environmental Policy Act (NEPA) process. For those issues addressed herein, the signatories agree not to propose, support or otherwise communicate to FERC or any other federal or state resource agency with jurisdiction directly related to the relicensing process any comments, certificate or license conditions other than ones consistent with the terms of this Settlement Offer. However, this Settlement Offer shall not be interpreted to restrict any signatory's participation or comments in future relicensing of this project. Further, this section shall not be read to predetermine the outcome of the NEPA analysis.

If such NEPA analysis leads to addition of any license conditions inconsistent with those contained herein, the signatories recognize that such addition would trigger the rights of the signatories to modify or withdraw from the Settlement Offer pursuant to Paragraph IX.I.1.

2. The signatories agree that this Settlement Offer fairly and appropriately considers the environmental, recreational, fishery, energy and other uses and interests on the Black River. The signatories further agree that this agreement is specific to the Black River and Beebee Island Projects. No signatory shall be deemed, by virtue of execution of this Settlement Offer, to have established precedent, or admitted or consented to any approach, methodology, or principle except as expressly provided for herein. In the event that this Settlement Offer is approved by the NYSDEC and/or FERC, such approval shall not be deemed precedential or controlling regarding any particular issue or contention in any other proceeding.

3. If a § 401 water quality certification or FERC license is issued that results in certificate or FERC license terms inconsistent with the terms of the Settlement Offer, any signatory may withdraw pursuant to Section IX.I.1 of this Settlement Offer. The Settlement Offer, including all mitigative measures and annual contributions to the Black River Fund as specified in Attachment 1, shall remain in effect for the term of the new license and for any annual license issued subsequent thereto, subject to authority reserved by FERC in the new license to require modifications.

4. The signatories have entered into the negotiations and discussions leading to this Settlement Offer with the explicit understanding that all offers of settlement and the discussions relating thereto are privileged, shall not prejudice the position of any signatory participant taking part in such discussions and negotiations, and are not to be otherwise used in any manner in connection with these or any other proceedings.

5. The Settlement Offer shall apply to, and be binding on, the signatories and their successors and assigns, but only with regard to the above-captioned proceeding and then only if the Settlement Offer is made effective as provided herein. No change in corporate status of either or both licensees shall in any way alter licensees' responsibilities under the Settlement Offer. Each signatory to the Settlement Offer certifies that he or she is authorized to execute the Settlement and legally bind the party he or she represents.

I. Approval of Settlement

1. The signatories have entered into and jointly submit this Settlement Offer with the express conditions that NYSDEC approves and accepts all provisions herein and either issues or waives § 401 water quality certifications and that FERC approves and accepts all provisions herein and issues new project licenses for the Black River and Beebee Island Projects consistent with the terms of the Settlement Offer. In the event that either NYSDEC and/or FERC changes, conditions or modifies any provision contained herein in any NYSDEC issued § 401 water quality certifications or FERC orders issuing new licenses, whether through its own action or through incorporation of conditions of § 401 water quality certifications, the Settlement Offer shall be considered modified to conform to the FERC orders unless any signatory to the Settlement Offer within 30 days of NYSDEC's or FERC's action provides written notice by certified mail to the other signatories that it objects to the modification, change or condition. The signatories shall then commence negotiations for a period of up to 90 days to resolve the issue and modify the Settlement Offer, as needed. If agreement cannot be reached, then the objecting party may withdraw from the Settlement Offer, without incurring any obligations or benefitting from rights associated with the Settlement Offer. In the event that the Settlement Offer is withdrawn, it shall not constitute a part of the record of ongoing proceedings.

2. In the event that FERC issues final orders that do not include conditions consistent with Paragraphs IX.A, IX.B and Attachments 1 and 2 of this Settlement Offer and regardless of whether this Settlement is withdrawn from by a party other than licensees, NYSDEC, USFWS or NPS, licensees agree that they will comply with and implement the terms of Paragraphs IX.A and IX.B and Attachments 1 and 2 as long as the Black River and Beebee Island Projects receive new FERC licenses with operational terms and conditions and financial impacts consistent with the Settlement Offer as filed.

J. Dispute Resolution

In the event that any dispute arises with the terms and conditions of this Settlement Offer, the signatories agree to engage in good faith negotiations for a period of at least 90 days, if necessary, in an effort to resolve the dispute, said negotiations to be initiated by the aggrieved party. A minimum of two meetings shall be held to attempt to resolve the dispute during the 90-day period, if necessary. In the event that resolution cannot be reached within the 90-day negotiating period, the dispute may be referred to FERC pursuant to FERC's Rules of Practice and Procedure (18 CFR 385, et seq.).

Not withstanding any other provision of this Settlement Offer, any signatory may seek relief in any appropriate forum for noncompliance with this Settlement Offer by any signatory hereto.

K. Project Decommissioning

This Settlement Offer does not include any condition relating to decommissioning or dam removal of the Black River or Beebee Island Projects in whole or part. With or without amendment of this Settlement Offer by mutual consent, any signatory may seek such further relief from FERC regarding such decommissioning as FERC may order, recognizing that no signatory to this Settlement Offer has or is advocating decommissioning of either project or any of the project facilities during the term of the new license for the project.

L. Use of Reopener Clauses in the New License

This Settlement Offer is not intended to limit or restrict any signatory's authority, if any, to seek different or modified license conditions through a license reopener. Before any signatory proceeds to seek a reopener, the signatory shall request all signatories to commence negotiations for a period of at least 90 days to resolve the issue, and to agree to modify this Settlement Offer accordingly, if necessary.

M. Severability

In the event that FERC rejects or modifies any of the provisions of this Settlement Offer, then the rest of the agreement shall remain in effect, subject to the provisions of IX.I.1., IX.I.2., and IX.J., above.

NIAGARA MOHAWK POWER CORPORATION

By: Thomas H. Boos

Title: Vice President - Fossil & Hydro Generation

Date: September 21, 1995

BEEBEE ISLAND CORPORATION

By: Thomas H. Boos

Title: President

Date: September 21, 1995

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: ____________________

Title: Director, Natural Resource Planning

Date: 10/2/95

NATIONAL PARK SERVICE

By: _____

Title: ~~Act~~ ~~Reg~~. Field Director

Date: ~~Sept~~. 21, 1995.

UNITED STATES FISH AND WILDLIFE SERVICE

By: Ronald E. Lambertson

Title: Regional Director

Date: 10-6-95

ADIRONDACK MOUNTAIN CLUB

By: Betty Lou Bailey

Title: Chairman, Canoe Route Subcommittee

Date: Sept. 29, 1995

NEW YORK STATE COUNCIL, TROUT UNLIMITED

By: Thomas R. Matias

Title: Committee on Hydro Relicensing

Date: September 18, 1995

NEW YORK STATE CONSERVATION COUNCIL

By: Henry Cosselman

Title: President

Date: Sept 20, 1995

NEW YORK RIVERS UNITED

By: 
Bruce R. Carpenter

Title: Executive Director, New York Rivers United

Date: 9-15-95

AMERICAN WHITEWATER AFFILIATION

By: Peter H. Hall

Title: Director

Date: 9/24/95

ORGANIZATION:

Natural Heritage Institute

By: Richard Roos-Collins

Title: Attorney, New York Rivers United

Date: October 4, 1995

AMERICAN RIVERS

By: Margaret Bowman

Title: Director of Hydropower Programs

Date: Sept 26, 1995

Black River Project FERC No. 2569
and Beebee Island Project FERC No. 2538
Settlement Offer

NATIONAL AUDUBON SOCIETY

By: _____

Title: _____

Date: _____

September 14, 1995

ATTACHMENT 1

BLACK RIVER FUND AND ADVISORY COUNCIL

September 14, 1995

ATTACHMENT 1

THE BLACK RIVER FUND AND ADVISORY COUNCIL

1. Beginning with the year the FERC License is accepted, NMPC will contribute annually $3,000 to the Black River Fund ("Fund") for 15 years and $4,000 annually for the following 15 years.

The fund may be used to facilitate acquisition or options, for the public benefit, of some or a combination of parcels described in Attachment 2, consisting of the following from NMPC:

(a) permanent conservation easement(s);
(b) reserved right(s); or
(c) fee title(s);
all with appropriate reservations for NMPC access, operation and maintenance purposes;
and, additionally,
(d) any other NMPC lands, easements and mineral rights not essential to project operation or maintenance and not otherwise identified herein.

Any money not used for such acquisitions will remain will remain in the fund for other uses.

Financing and requisition will be arranged through NMPC's Land Management & Development subsidiary. NMPC agrees not to alter, encumber or convey rights to the above-referenced parcels for 18 months following license issuance for the Black River Project, FERC No. 2569.

NYSDEC shall be responsible for facilitating the purchase agreement. The State will prepare the title documents, appraisal, surveys and all other documents necessary to transfer title of the property to be acquired at no cost to the Black River Fund or NMPC.

2. The Black River Fund will be administratively managed by NMPC and distributed according to the recommendation of a Black River Advisory Council ("Advisory Council"). The NYSDEC will chair the Advisory Council. At a minimum the following entities shall be invited to serve on the Advisory Council, with service being conditioned, save for Jefferson County, on those entities listed below being signatories to the Settlement:

- New York State Department of Environmental Conservation
- Niagara Mohawk Power Corporation
- United States Fish & Wildlife Service
- New York Rivers United
- New York State Conservation Council
- Adirondack Mountain Club
- Jefferson County
- New York Council, Trout Unlimited
- American Whitewater Affiliation
- National Park Service

Each member will have one vote, with distribution of funds and other Advisory Council decisions to be based on majority vote.

The Advisory Council will also make recommendations for consideration by the regulatory agencies and licensees regarding management of the Black River and hydropower project operations, in accordance with other provisions of this Settlement Offer. The Council shall designate one of the Watertown whitewater outfitters to serve as the liaison with licensees in cases of abnormal river conditions.

The Black River Fund will be used within the Black River basin for projects and services designated by majority vote of the Advisory Council for purposes of ecosystem restoration and protection, natural resource stewardship, public education, facility maintenance, applied research necessary to accomplish these projects and provide these services and additional public access to outdoor recreational resources not currently agreed to by licensees. The Fund is not intended for any of the signatories to carry out any obligations under the new FERC licenses or any amendment thereto. Furthermore, the Fund is not intended for any signatory to discharge any legal or statutory obligations. Unspent money shall accumulate with interest in a Federal Deposit Insurance Corporation (FDIC) insured account or instrument managed pursuant to prevailing trust standards. Within one year following surrender or expiration without annual renewal of the new FERC license for NMPC, available funds accumulated and not otherwise obligated shall revert to NMPC. .

ATTACHMENT 2

PURCHASE OPTIONS
FOR CERTAIN BLACK RIVER
LANDS AND INTERESTS OWNED BY NMPC

September 14, 1995

BLACK RIVER LAND PURCHASE/EASEMENT OPTIONS

OPTION	PARCEL DESCRIPTION	PARCEL SBL #	OPTION DESCRIPTION	ACRES	$/ACRE	$
1	Land on north side of river	66.00-3-3	Purchase of land on north side of river.	259	$650	$168,350
2	Mill Island	75.12-2-1	Purchase of Mill Island.	10.10	$1,000	$10,100
3	Sheep Island	75.12-2-4	Purchase of Sheep Island.	7.89	$650	$5,200
4	Land on north side of river	66.00-3-3	Conservation easement on all of the land on the north side of the river.[1]	259	$325	$84,175
5	Mill Island	75.12-2-1	Conservation easement on Mill Island.[1]	10.10	$500	$5,050
6	Sheep Island	75.12-2-4	Conservation easement on Sheep Island.[1]	7.89	$325	$2,600
7	Land on north side of river	66.00-3-3	Conservation easement for two (2) parking areas and a 250' strip along the northern shoreline.[2]	80[3]	$325	$26,000[4]
8	Land on south side of river	75.12-2-4 76.06-2-1	100' buffer strip that prohibits building	32[5]	$425	$13,600

[1] The conservation easement would prohibit development of the property and allow public access for recreational purposes.

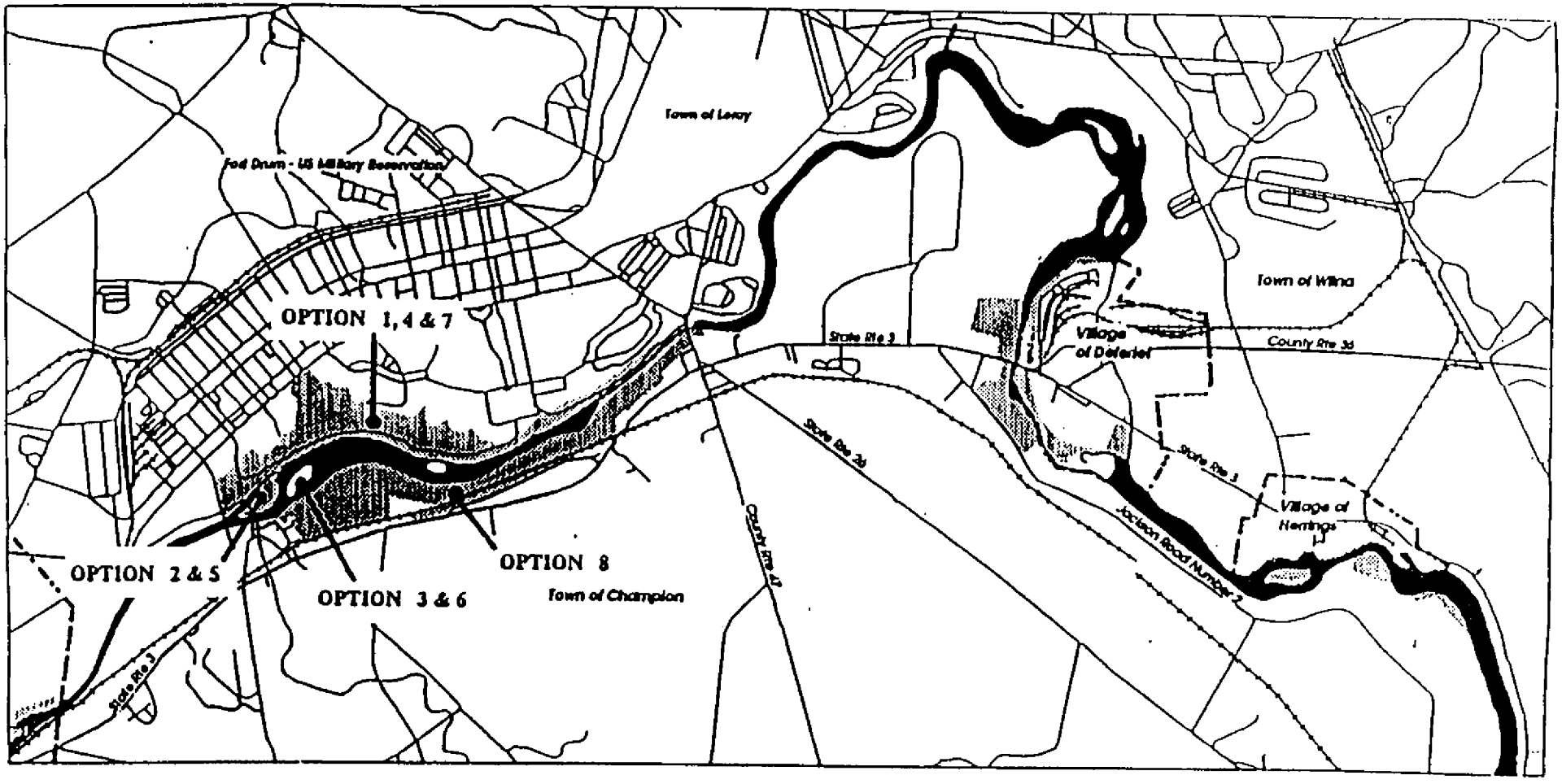
[2] The conservation easement would prohibit development and cutting of vegetation within 250' of the shoreline and would allow public access for recreational purposes within the 250' strip.

[3] Approximately 14,000' of shoreline 250' in width plus two (2) parking areas each approximately 200' X 200'.

[4] Does not include any capital costs for improvements.

[5] Approximately 14,000' of shoreline 100' in width. No public access. Only prohibits building.

Black River - Development Inventory



Legend

NMPC Property

Figure BLA-1.2
NMPC PROPERTY
(2 of 2)

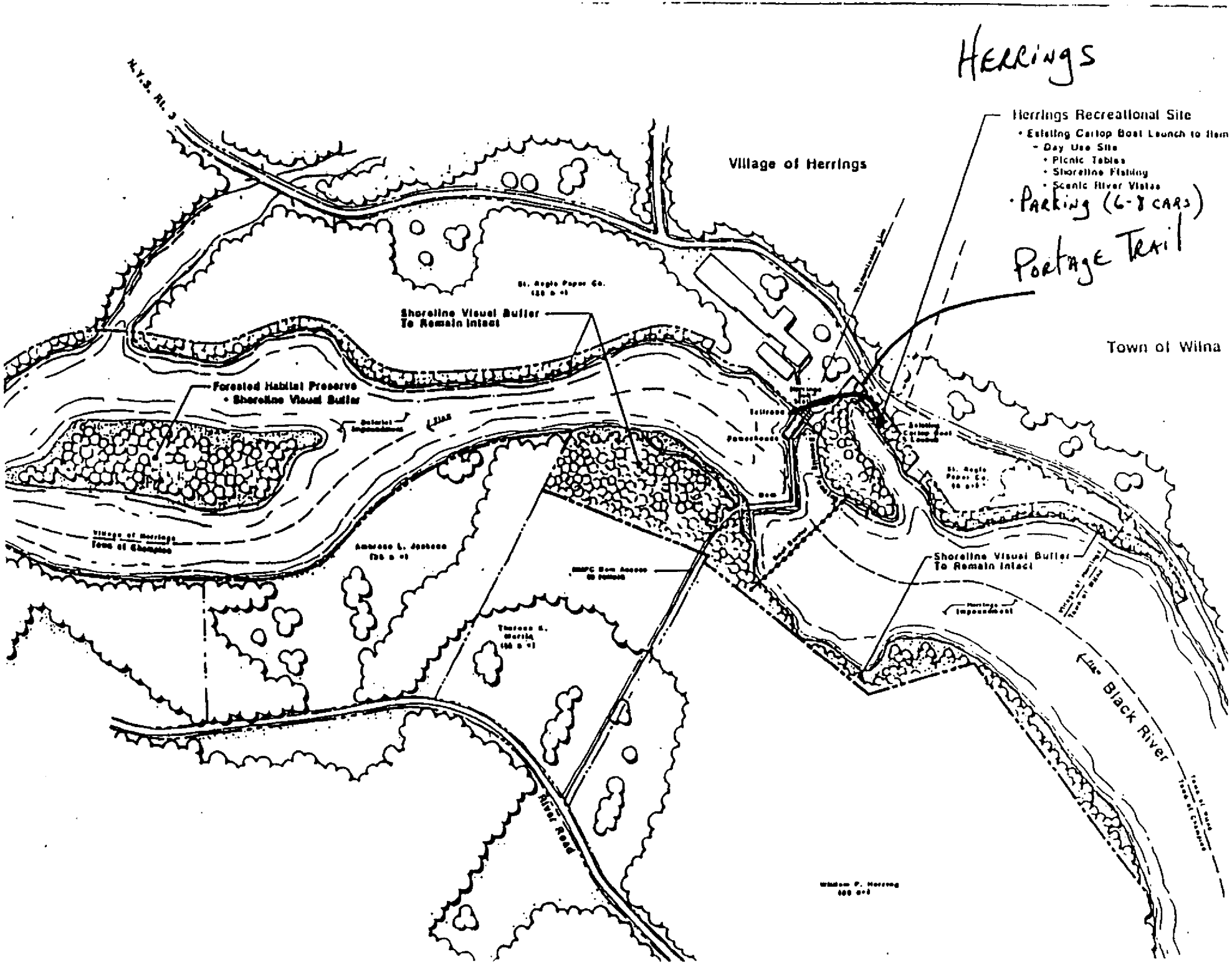
0 0.5 1
Miles
Scale: 1" = .xxx

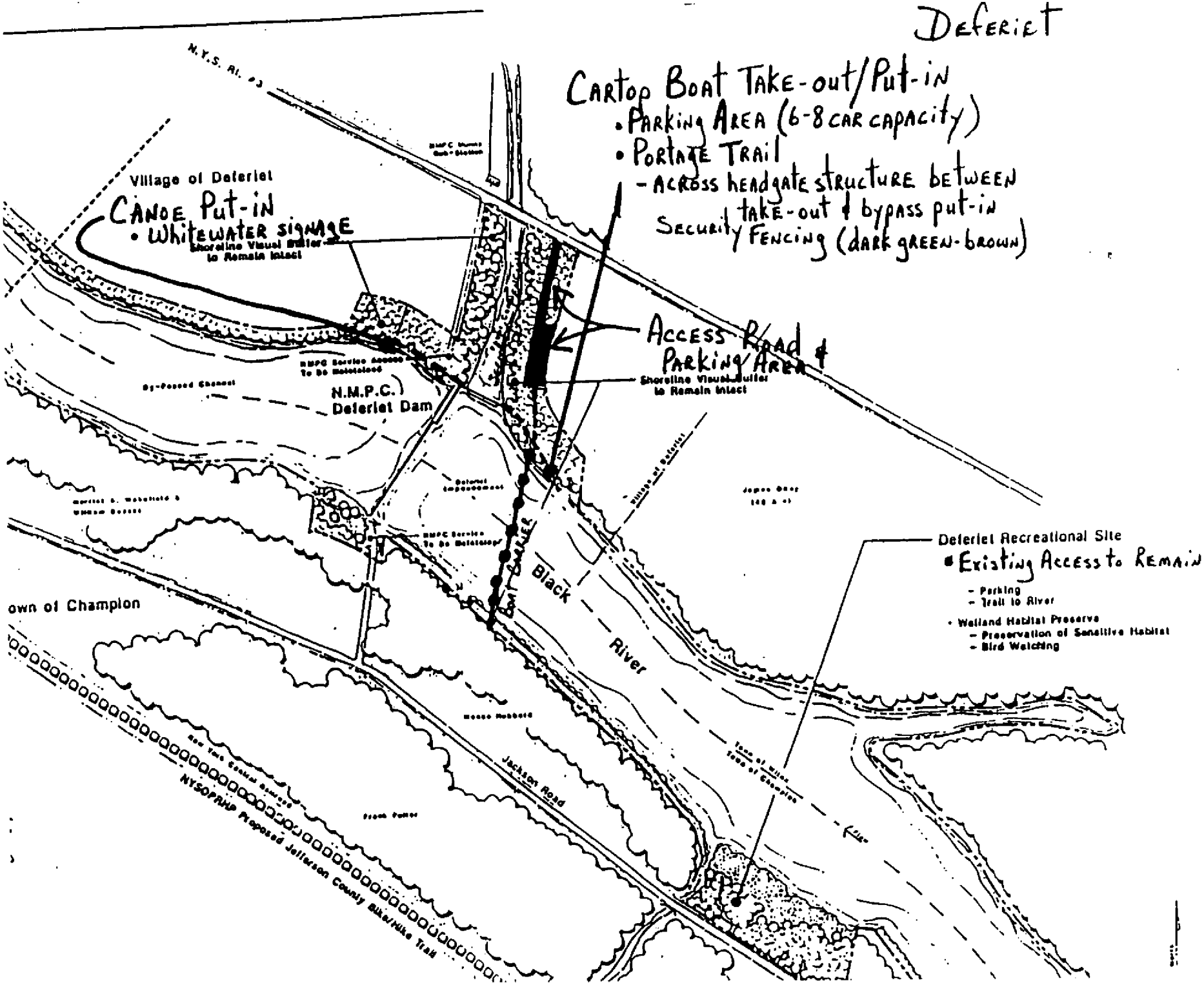
ATTACHMENT 3

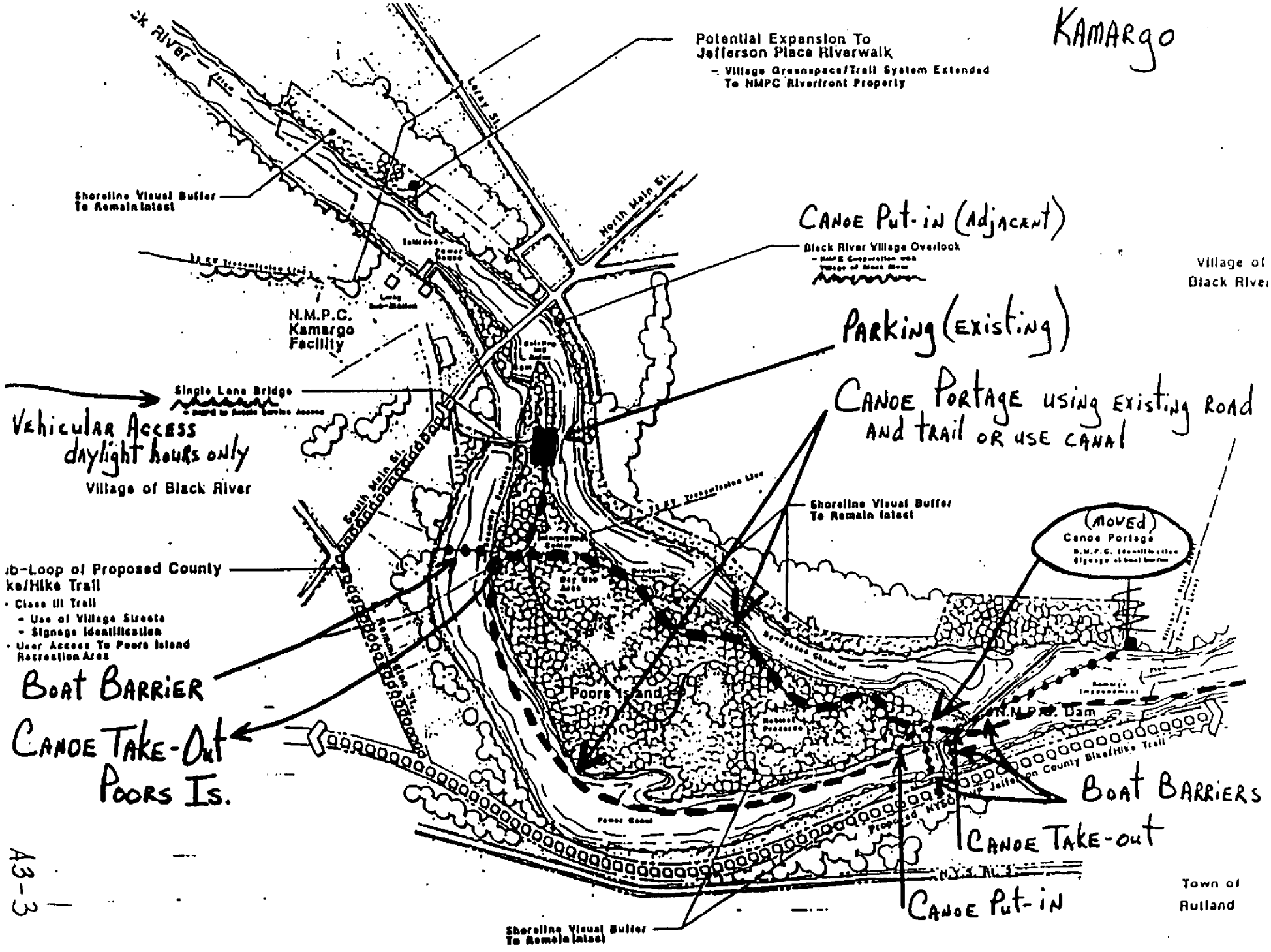
RECREATIONAL FACILITIES:

ADDITIONS AND CHANGES

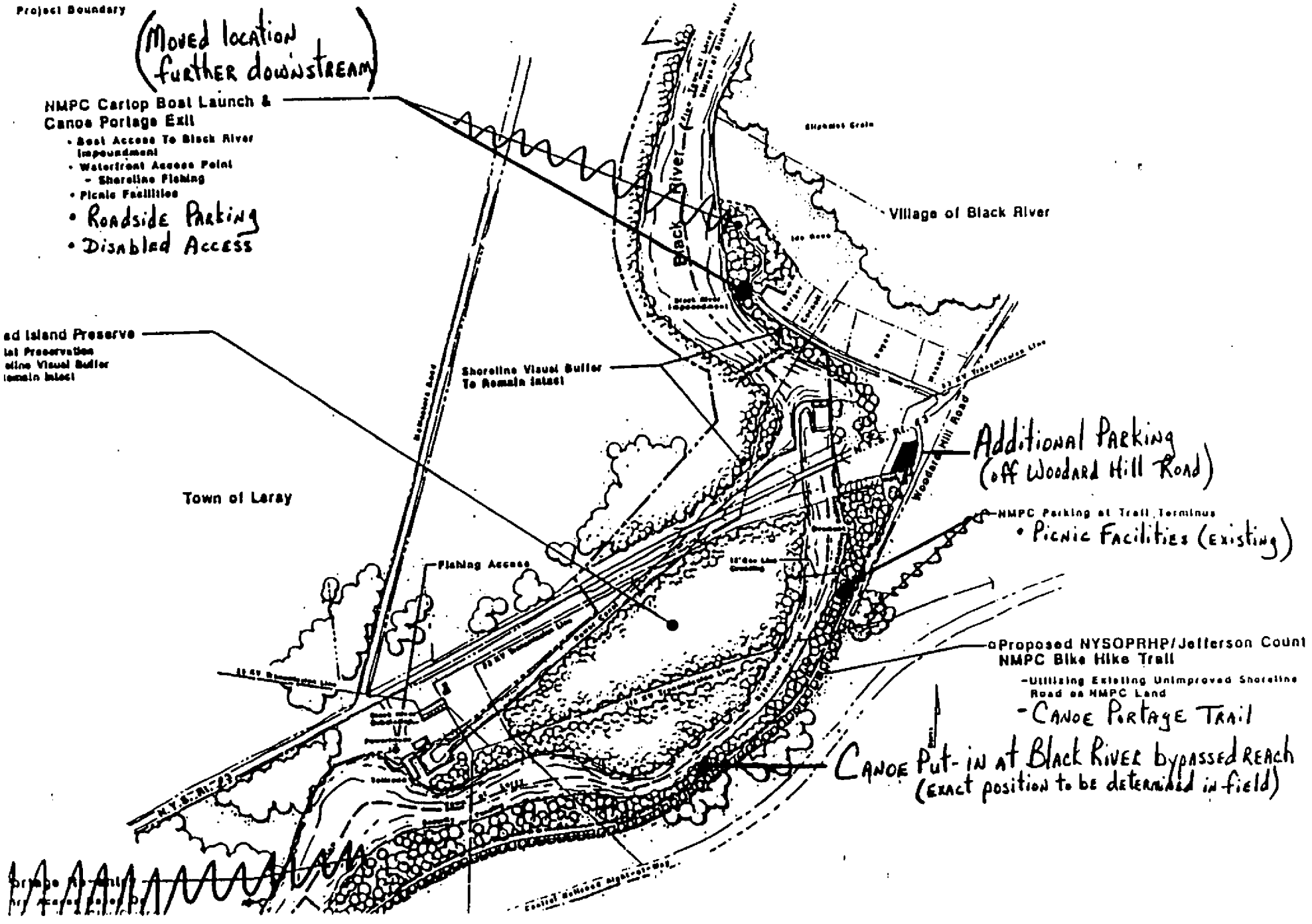
September 14, 1995


Herrings
Herrings Recreational Site
• Existing Cartop Boat Launch to Item
- Day Use Site
• Picnic Tables
• Shoreline Fishing
• Scenic River Vistas
• Parking (6-8 cars)
Portage Trail
Village of Herrings
Town of Wilna
Shoreline Visual Buffer
To Remain Intact
Forested Habitat Preserve
• Shoreline Visual Buffer
Shoreline Visual Buffer
To Remain Intact
Black River
River Road
N.Y.S. Rt. 3

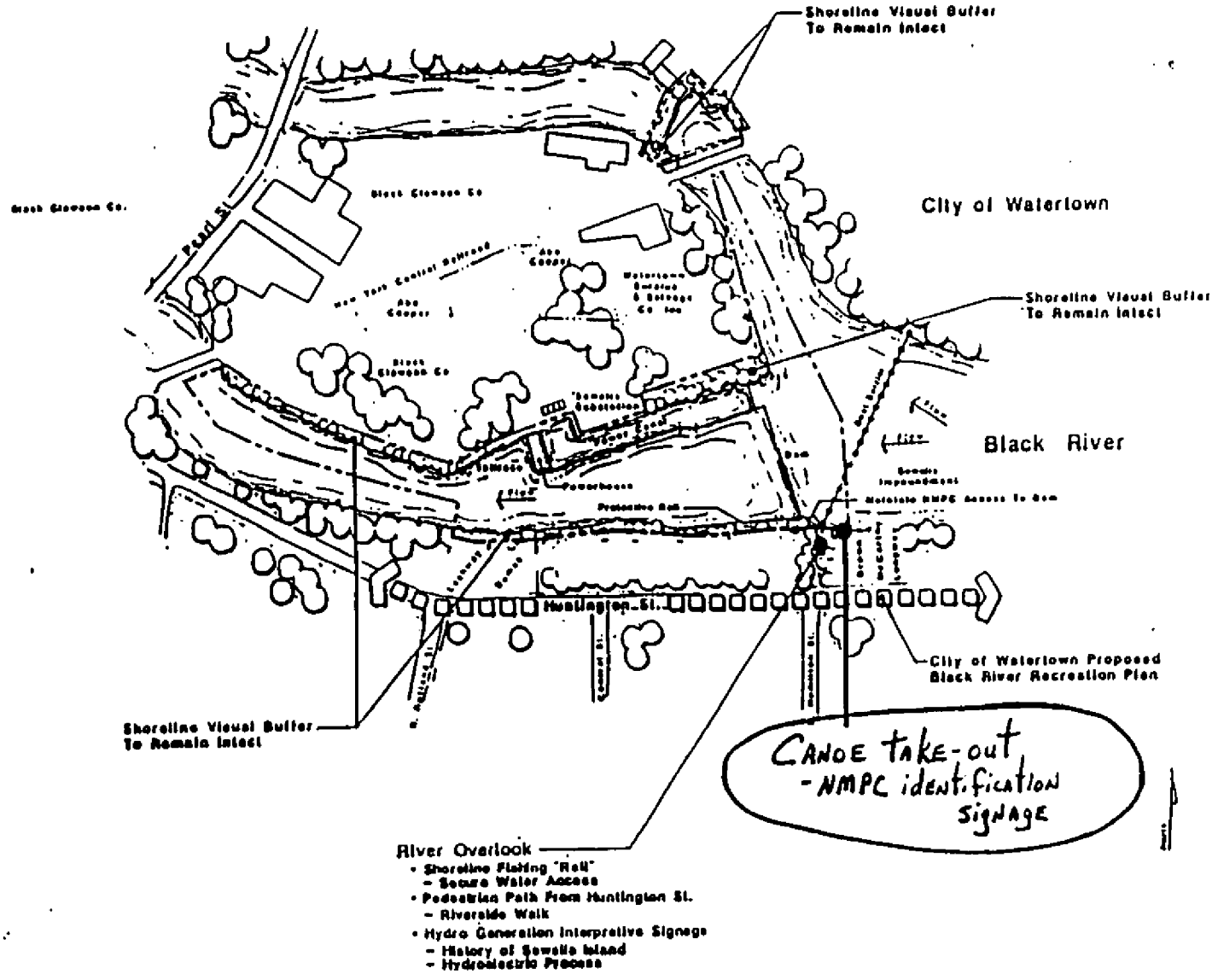

Deferiet
Cartop Boat Take-out/Put-in
• Parking Area (6-8 car capacity)
• Portage Trail
- Across headgate structure between take-out & bypass put-in
Security Fencing (dark green-brown)
N.Y.S. Rt. 3
Village of Deferiet
Canoe Put-in
• Whitewater signage
Shoreline Visual Buffer to Remain Intact
Access Road & Parking Area
Shoreline Visual Buffer to Remain Intact
N.M.P.C.
Deferiet Dam
Bypassed Channel
Boat Launch
Black River
Deferiet Recreational Site
• Existing Access to Remain
- Parking
- Trail to River
• Wetland Habitat Preserve
- Preservation of Sensitive Habitat
- Bird Watching
own of Champion
Jackson Road
NYSOPRHP Proposed Jefferson County Bike/Hike Trail


KAMARGO
Potential Expansion To Jefferson Place Riverwalk
– Village Greenspace/Trail System Extended To NMPC Riverfront Property
Shoreline Visual Buffer To Remain Intact
CANOE PUT-IN (ADJACENT)
Black River Village Overlook
Village of Black River
N.M.P.C. Kamargo Facility
PARKING (EXISTING)
Single Lane Bridge
CANOE PORTAGE USING EXISTING ROAD AND TRAIL OR USE CANAL
VEHICULAR ACCESS daylight hours only
Village of Black River
Shoreline Visual Buffer To Remain Intact
(MOVED) Canoe Portage
Sub-Loop of Proposed County Bike/Hike Trail
• Class III Trail
– Use of Village Streets
– Signage Identification
• User Access To Poors Island Recreation Area
BOAT BARRIER
CANOE TAKE-OUT POORS IS.
Poors Island
N.M.P.C. Dam
Jefferson County Bike/Hike Trail
BOAT BARRIERS
CANOE TAKE-OUT
CANOE PUT-IN
Shoreline Visual Buffer To Remain Intact
Town of Rutland

Black River


Project Boundary
(Moved location further downstream)
NMPC Cartop Boat Launch & Canoe Portage Exit
• Boat Access To Black River Impoundment
• Waterfront Access Point - Shoreline Fishing
• Picnic Facilities
• Roadside Parking
• Disabled Access
Village of Black River
Black River
ad Island Preserve
Shoreline Visual Buffer To Remain Intact
Additional Parking (off Woodard Hill Road)
Woodard Hill Road
Town of Leray
NMPC Parking at Trail Terminus
• Picnic Facilities (existing)
Fishing Access
Proposed NYSOPRHP/Jefferson Count NMPC Bike Hike Trail
-Utilizing Existing Unimproved Shoreline Road on NMPC Land
- Canoe Portage Trail
Canoe Put-in at Black River bypassed reach (exact position to be determined in field)

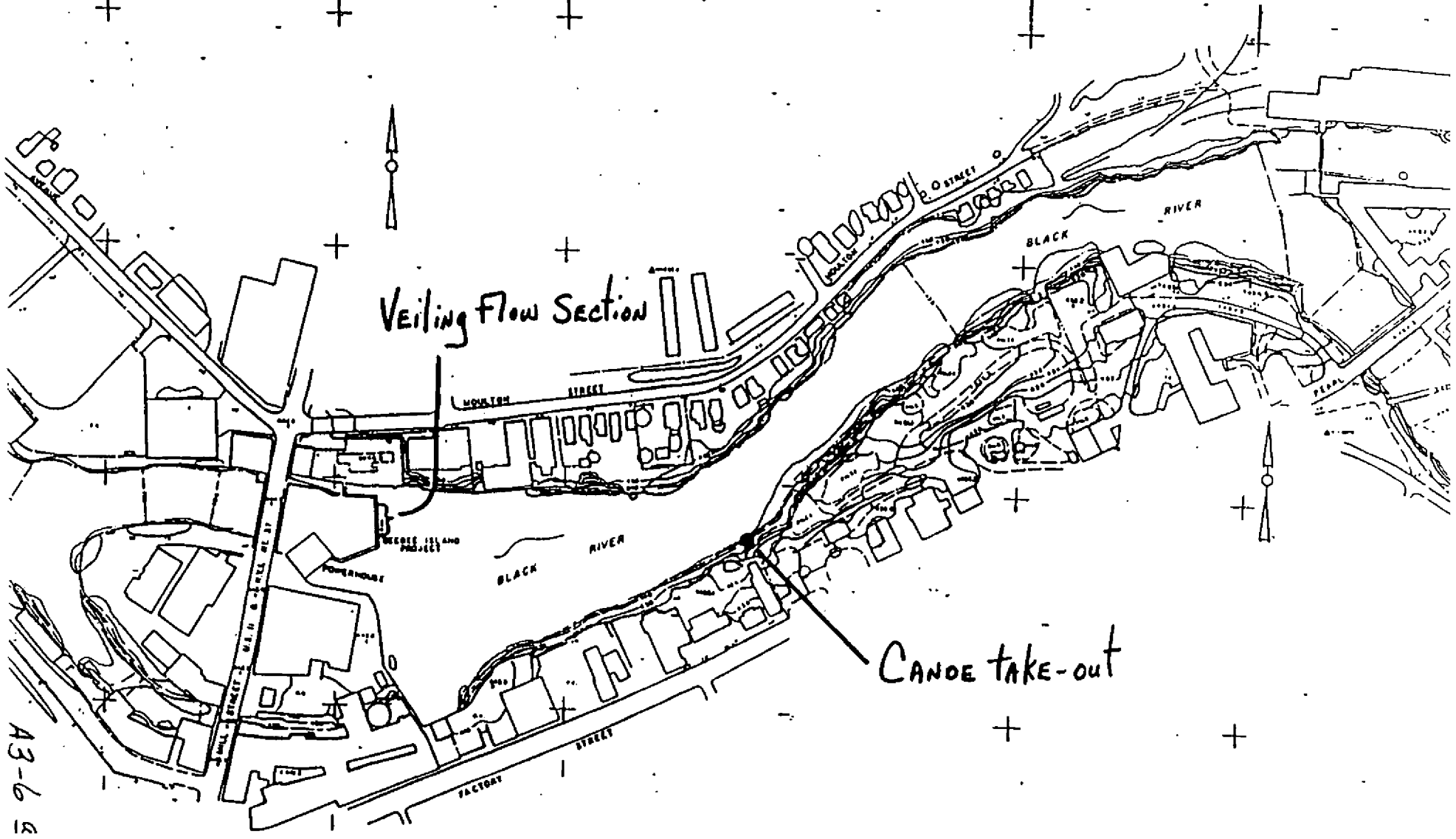
Sewalls



Hydro Facil

A3-5

Beebee_island



A3-6

ATTACHMENT 4

HYDROELECTRIC FACILITIES ON THE BLACK RIVER AND TRIBUTARIES

September 14, 1995

Existing Hydroelectric Developments in the Black River Basin

(excerpted from City of Watertown Project Environmental Assessment, FERC staff)

River / Plant	Mile*
Black River	
Dexter	1.5
Glen Park	8
Beebee Island	9.5
Sewall's Island	10
Diamond Island	10.5
Watertown	11
Black River	15
Kamargo	17
Deferiet	26
Herrings	27.5
Long Falls	31
Carthage Mill	31
Tannery Island	31
Carthage Paper Mkr.	31
Lyons Falls	73
Port Leyden (Low.)	76
Rock Island	76
Port Leyden (Up.)	76
Denley	79
Forestport	91
Kayuta Lake	95
Deer River	
High Falls	5
Kings Falls	8
Beaver River	
Lower Beaver Falls	4
Beaver Falls	5
High Falls	11
Belfort	13
Taylorville	14
Elmer Falls	15
Effley Falls	16
Soft Maple	20
Eagle Falls	23
Moshier Falls	29
Stillwater	31
Otter Creek	
Otter Creek	3
Moose River	
Gouldtown (Mill #5)	1
Kosterville (Mill B)	1
Moose River	2
Lyonsdale	3

* Miles measured upstream from the mouth of each river.

76 FERC - 101 FERC, 77 FERC ¶61,305, Beebee Island Corporation, Project No. 2538-001, (Dec. 24, 1996), (Dec. 24, 1996)

Click to open document in a browser

Beebee Island Corporation, Project No. 2538-001

[62,359]

[¶61,305]

Beebee Island Corporation, Project No. 2538-001

Order Approving Settlement Offer and Issuing New License

(Issued December 24, 1996)

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

The Beebee Island Corporation (Beebee Island) applied, on December 23, 1991, for a new license, [1] under sections 4(e) and 15 of the Federal Power Act (FPA), 16 U.S.C. §§797 (e) and 808, to continue to operate and maintain the 8.0-megawatt (MW) Beebee Island Water Power Project No. 2538, located on the Black River, [2] within the City of Watertown (Watertown) in Jefferson County, New York. Beebee Island will continue to sell the electricity generated by the project to its major shareholder, Niagara Mohawk Power Corporation (Niagara Mohawk), an investor-owned utility, and its minor shareholder, Filtration Science, Inc. (Filtration). [3] Operations of the Beebee Island Project are coordinated with those of Niagara Mohawk's five upstream developments that comprise the Black River Project No. 2569. As that project's license also expired on December 31, 1993, and Niagara Mohawk has applied for a new license, Commission staff consolidated review and environmental analysis for both projects' relicense proceedings.

Beebee Island amended its new license application by filing a Settlement Offer [4] that it and Niagara Mohawk had negotiated with the entities interested in both this and the contemporaneous Black River Project relicense proceedings. The Settlement Offer contains certain environmental measures. We are, today, approving the Settlement Offer and incorporating all appropriate provisions thereof into this 30-year new license for the Beebee Island Project. [5]

I. Procedural Background

Following publication of our December 15, 1992 notice that Beebee Island had filed a new

[62,360]

license application, [6] the following entities filed timely motions to intervene in the proceeding: the U.S. Department of the Interior (Interior), presenting the views of the U.S. Fish and Wildlife Service (FWS) and the National Park Service (NPS); the New York State Department of Environmental Conservation (NYSDEC); the Glen Park Associates Limited Partnership; [7] Watertown; Niagara Mohawk; and, jointly, four environmental interest entities, the American Whitewater Affiliation (Whitewater), American Rivers, Inc. (American Rivers), New York Rivers United (New York Rivers), and the Natural Heritage Institute (Heritage) (jointly, the Environmental Associations). [8]

Interior's intervention motion opposed relicense of the project, as proposed in the new license application, because of concerns over fishways, fish injury and mortality caused by entrainment, degradation of aquatic and terrestrial habitats, and the need for better recreational access. Although a signatory to the Settlement Offer, Interior reserves its opposition to license issuance. [9]

NYSDEC, on December 21, 1992, denied Beebee Island's request for water quality certification, a statutory prerequisite of licensing. Negotiations ensued that included not only the Beebee Island Project but also nine

Niagara Mohawk relicensing proceedings in which NYSDEC denied water quality certification, including the Black River Project. [10] All intervenors in the relicense and certification proceedings were invited to participate in the negotiations. For the Beebee Island and Black River projects, these negotiations took place between September 1994 and September 1995, and culminated in settlement agreements.

As noted, the Settlement Offer containing the agreements pertaining to this project and the Black River Project, together with an explanatory statement, were filed on October 13, 1995, pursuant to Commission rule 602. [11] The Settlement Offer signatories are: Niagara Mohawk, Beebee Island, NPS, FWS, NYSDEC, the Adirondack Mountain Club (Adirondack), [12] American Rivers, New York Rivers, Heritage, the New York Council of Trout Unlimited, and the New York State Conservation Council.

On October 24, 1995, the Commission's staff issued notice that the Beebee Island license application, as modified by Settlement Offer, was ready for environmental analysis. [13] Felts Mills Energy Partners L.P. (Felts Mills), on December 22, 1995, filed a motion for late intervention in this and the Black River Project proceedings, and requested dismissal of the Settlement Offer, claiming that the Settlement Offer infringes on its license application for the Felts Mills Project No. 4715. By unpublished order issued January 30, 1996, the Secretary granted Felts Mills late intervention.

The Commission's staff issued the Draft Environmental Assessment for the Beebee Island and the Black River Hydroelectric Projects (Draft EA) on March 18, 1996. [14] Niagara Mohawk, FWS, NYSDEC, New York Rivers, and Adirondack filed comments on the Draft EA. Interior, Adirondack, and New York Rivers had filed comments previously on the Settlement Offer. The final Environmental Assessment (EA), issued on September 27, 1996, [15] and made part of this order, responds to all those comments. The EA contains background information and analysis of impacts, and provides the basis for our finding that continued project operation will have no significant impact on the environment. [16]

Felts Mills opposes the Settlement Offer because it would establish the Black River Fund, which a Black River Advisory Council would use to fund, *inter alia*, the purchase and dedication

[62,361]

to conservation purposes of parcels of land that are located within the project boundaries of Felts Mills' proposed Felts Mills Hydroelectric Project No. 4715. [17] Felts Mills argues that because these lands cannot be both preserved for conservation and licensed for development, our approval of the Settlement Offer necessarily precludes issuance of a license to develop the Felts Mills site. We find that approval of the Settlement Offer does not preclude licensing the Felts Mills Project.

We have fully considered the Settlement Offer, all the motions and comments of the above-named organizations, and the staff's conclusions and recommendations in the EA in determining to issue a new license for the Beebee Island Project.

II. Project Description

The Beebee Island Project was constructed in 1931. It is one of ten existing or proposed hydroelectric projects on the river's lower reaches between Carthage, New York, and its mouth at Lake Ontario. [18] The project operates in an essentially run-of-river mode (minimal storage), and is subject to flood control and flow augmentation regulation by upstream storage projects, principally the Hudson River-Black River Regulating District's (Hudson-Black) Stillwater Reservoir Project No. 6743, located on the Beaver River. [19]

The Beebee Island Project's principal features consist of: (1) a 266-foot-long, 18-foot-high, U-shaped, concrete gravity main dam with a main spillway section, 100 feet long, across the North Channel of the Black River at Beebee Island, having permanent crest elevation of 428.0 feet U.S. Geological Survey Datum (USGS), topped by 3-foot-high wooden flashboards; (2) a 50-foot-long by 15-foot-high, concrete-capped, stone, auxiliary non-overflow dam across the South Channel, having crest elevation of 444.0 feet USGS; (3) an impoundment extending approximately 1,900 feet upstream at normal maximum surface elevation of 431.0 feet USGS, with area of approximately 20 acres and an estimated gross storage capacity of 60 acre-feet; (4) an intake structure that is an integral part of the powerhouse, 82 feet long and 27 feet wide,

equipped with steel trashracks, four steel gates, a skimmer section, and slots for stop-logs; (5) an 8-foot-wide by 15-foot-high ice sluice, controlled by stop-logs, between the steel gates and a retaining wall, that permits ice and debris to circumvent the powerhouse; (6) a 47-foot-wide by 82-foot-long powerhouse, located on the main dam at the south shore, with a skimmer gate and a sluiceway between it and a retaining wall that permits bypass of the turbines; and (7) two vertical generating units, each with rated capacity of 4,000 kilowatts (kW), with one unit being adjustable and utilizing flows between 300 cubic feet per second (cfs) and 1,800 cfs. Ordering Paragraph (B) contains a more detailed project description.

The project's nameplate rating is 8.0 MW, and its annual generation averages about 38,729 megawatt hours (MWh). The project's generating units usually operate at best gate (the discharge at which a turbine-generator unit operates most efficiently). When Black River flows are below 300 cfs, all inflows are spilled at the main (north) dam. At less than full gate (the maximum possible discharge through a turbine-generator unit), the generating units operate in various combinations and at various gates (discharges), to achieve overall

[62,362]

efficiency. Flows between 300 cfs and 1,800 cfs pass through the adjustable generating unit. Flows between 1,800 cfs and 3,600 cfs pass through both units. Above 3,600 cfs, excess flows are spilled over the dam.

III. The Settlement Offer

The Settlement Offer treats project operation, fish and wildlife resources, water quality, recreation, lands management and ownership, and aesthetics. Its provisions, in these areas, are to supersede any conflicting proposals made by Beebee Island in its new license application and subsequent submittals. [20] Beebee Island's proposals not in conflict with the Settlement Offer are maintained. The Settlement Offer maintains all the recreational features proposed by Beebee Island and adds to them.

The Settlement Offer resolves a range of resource use issues. For this new license, we consider only those terms that apply to the Beebee Island Project and not those relating solely to Niagara Mohawk's Black River Project. While, absent the Settlement Offer, we may not have conditioned the Beebee Island new license with all the terms we herein approve, we conclude that the agreement negotiated by the parties is in the public interest. We will include in the license those terms of the Settlement Offer that pertain to Beebee Island, [21] modified to accord with our policies, together with provisions enabling us to ensure compliance with all license conditions. [22]

We emphasize that the Settlement Offer's provisions, such as the dispute resolution process, cannot interfere with Beebee Island's compliance with its license. [23] The licensee must comply with Commission orders, even when an order relates to a matter currently subject to dispute resolution. The licensee may not perform actions that require Commission approval without first receiving Commission authorization, even if the result of the dispute resolution process requires these actions.

IV. Approval of the Settlement Offer Provisions

We describe here the Settlement Offer's provisions for the Beebee Island Project new license, followed by how our license articles implement them, with any needed modifications.

A. *Withdrawn Proposals*

The Settlement Offer withdraws Beebee Island's proposals intended to increase the project's installed capacity by 6.5 MW: construction of a new powerhouse and generating facility on the north shore; improvement of existing generating units; and raising the impoundment elevation five feet by installation of an eight-foot-high rubber dam in place of the three-foot seasonal flashboards. Ordering Paragraph (B) does not authorize additional installed capacity, but rather authorizes continued operation at the current installed capacity of 8,000 kW.

B. *Project Operation*

1. *Run of river*

The Settlement Offer requires the Beebee Island Project to operate run-of-river, which it defines as an active storage volume of zero cubic feet at all times so that the instantaneous sum of all discharges and releases will equal the instantaneous inflow to the impoundment to the extent practicable. Beebee Island may modify this condition temporarily during operating emergencies or, with NYSDEC's agreement, for short time periods and with licensee notification to FWS.

Article 401 adopts this provision. It requires the project to operate run-of-river, as defined in the Settlement Offer. It takes cognizance of operating emergencies that prevent compliance and permits the licensee to modify run-of-river operation, but requires the licensee to notify the Commission, FWS, and NYSDEC promptly. It similarly permits modification of the flow for short time periods, with the prior consent of NYSDEC and prompt notification to the Commission and FWS.

2. *Impoundment level*

The Settlement Offer lists, as one of the signatories' goals, reduction of non-natural river fluctuations in order to foster boating and other river uses. The Settlement Offer requires that the project impoundment not fall below 0.5 foot of the spillway crest of the dam (428.0 feet USGS) or the top of the flashboards (431.0 feet USGS) when installed. Beebee Island may

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modify this condition temporarily during operating emergencies, or, with NYSDEC's agreement, for short time periods and with licensee notification to FWS. Additionally, to respond to instantaneous changes in inflow, Beebee Island is to set the turbine intake controls to actuate incremental changes of unit discharge within 0.2 feet of the top of the spillway crest or the flashboard elevation. If, between May 1 and June 30, Beebee Island can not maintain the impoundment within 0.5 feet of the flashboard tops, because of flashboard problems, Beebee Island is to alert NYSDEC and to propose remedial actions. NYSDEC is to consult with FWS and, with the latter agency's agreement, will, within five business days, approve remedial actions to be implemented before or on June 30.

Article 401 requires the licensee to set the project controls to maintain the impoundment elevation within 0.2 foot of the top of the spillway crest or flashboard elevation, but permits, for compliance purposes, impoundments levels of 427.5 feet USGS when flashboards are not in use, and 430.5 feet USGS when flashboards are mounted. It allows for operating emergencies and for short-term variations, with NYSDEC's prior consent and prompt notification to the Commission and FWS.

Without limit to the time period May 1 to June 30, Article 401 requires the licensee to notify the Commission, FWS and NYSDEC of flashboard problems that prevent maintenance of the impoundment within 0.5 foot of the top of the flashboard elevation. The article also requires the licensee to propose remedial actions, and to file for Commission approval its proposed remedies, together with the resource agencies' comments on them.

3. *Flashboards*

To protect fish spawning in and birds nesting around the project impoundment, the Settlement Offer requires Beebee Island to install flashboards by May 1, or as soon thereafter as safely possible. Article 402 adopts this requirement.

C. *Flows*

1. *Continuous flow*

The Settlement Offer requires Beebee Island to provide a continuous flow of not less than 1,000 cfs through the project, except when inflow to the project is below 1,000 cfs, when inflow will determine and equal outflow. Article 403 requires that this standard be met within 270 days of license issuance.

2. *South Channel minimum flow*

The Beebee Island Project has an integrated powerhouse and dam on the north side of Beebee Island. Because the powerhouse discharges at the base of the dam, the bypassed reach in the North Channel (created by the north side of the island and the north bank of the river) is not dewatered. However, a non-overflow impounding structure across the South Channel prevents flow releases and consequently creates a 750-foot-long reach that is continuously dewatered except for leakage. In order to restore aquatic habitat to the South Channel bypassed reach, the Settlement Offer requires a year-round minimum flow of 14 cfs in the

South Channel bypassed reach. Article 404 requires the licensee, after installation of a minimum flow release structure, to release a 14 cfs minimum flow into the South Channel. [24]

3. *Flow release structure*

The Settlement Offer requires flow release structures to be designed to minimize adverse effects to downstream passing fish while being reasonably cost effective. Final design details, device locations, and other fish conveyance measures, such as plunge pools and piping, are to be based on 1996 field inspections and the judgment of FWS and NYSDEC, and the structures are to be installed within two years of license issuance. In particular, Beebee Island is to provide the 14 cfs year-round minimum flow into the South Channel bypassed reach by installing a pipe through the project dam permitting discharge into a plunge pool.

Article 406 requires the licensee, within one year of license issuance and after consultation with FWS and NYSDEC, to file design drawings for a flow release structure via a pipe through the project dam to a plunge pool, together with a schedule for implementation. The licensee is to complete construction of the approved devices within one year of Commission approval of the design drawings.

4. *Staff gages*

The Settlement Offer requires Beebee Island to install permanent staff gages to allow independent verification of headpond and tailwater elevations to the nearest 0.1 foot. Also, Beebee Island is to provide FWS and NYSDEC staff and representatives with access to these gages. Article 407 adopts this requirement.

5. *Flow monitoring plan*

The Settlement Offer requires Beebee Island to develop a flow monitoring plan, in consultation with all signatories and within six months of license issuance, that provides for the installation and maintenance of a U.S. Geological

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Survey gaging station, unless Beebee Island justifies an alternative gaging system. The plan is also to include all gages or other equipment needed to determine the stage and/or flow of the Black River, all project flows, and headpond and tailwater elevations.

The Settlement Offer also requires Beebee Island to keep records of the impoundment elevation and all project discharges to NYSDEC's satisfaction and provide the recorded data as NYSDEC may prescribe. The plan is to be submitted to NYSDEC for approval, and all equipment shall be made fully operational within one year of license issuance.

Article 408 requires the licensee, within 180 days of license issuance, to consult with FWS, NYSDEC, and the Black River Advisory Council (Advisory Council), [25] and to file, for Commission approval, a plan to monitor compliance with the flow requirements of this license. The plan is to include a gaging system, calibration, a schedule for making the gages and ancillary equipment operational within one year, and provisions for contact persons to respond to questions about flow or impoundment conditions. The article requires the licensee to consult with FWS, NYSDEC and Advisory Council representatives prior to filing its plan and schedule. The Commission reserves the right to make changes to the plan or schedule, and requires its implementation within one year of approval.

Article 409 requires the licensee to file, within 180 days of license issuance and for Commission approval, a plan describing its current or proposed practices for keeping records of impoundment levels and water flows, and their changes and rates of change. The plan is also to include the licensee's method of advance notification to FWS, NYSDEC, and the Advisory Council before the licensee proposes to the Commission any future changes to the record keeping practices. The plan must also accommodate FWS, NYSDEC and Advisory Council requests for access to the records both for inspection and for copies. The licensee is required to consult with FWS, NYSDEC and the Advisory Council before filing the plan.

D. *Fish and Wildlife Protection*

1. *Fish entrainment*

To prevent entrainment of adult fish, the Settlement Offer requires Beebee Island to replace the existing trashracks with trashracks having 2-inch-clearance bar spacing. From May 1 through October 1, Beebee

Island is to install overlays having 1-inch-clearance bar spacing over the trashracks in the top half of the water column. Installation of the new trashracks and overlays at the Beebee Island Project and at the five developments of the Black River Project is to begin within two years of license issuance, for both projects, and is to be completed, for both projects, by twelve years from the date the two licenses issue.

Article 410 requires the licensee, within one year of license issuance, and after consultation with FWS and NYSDEC, to file, for Commission approval, design drawings for permanent 2-inch-clearance bar spacing trashracks and for 1-inch-clearance bar spacing overlays for installation from May 1 through October 1, and an implementation schedule. The article also reserves the Commission's right to require changes to the plan and schedule.

2. *Fish passage*

The Settlement Offer requires Beebee Island to provide downstream fish passage between April 1 and November 30 via a modification to the existing stop-log ice sluice, to be designed in consultation with FWS and NYSDEC, and with a 37-cfs attractant flow. Beebee Island is to install the structure within two years of license issuance. The Settlement Offer does not require upstream fish passage measures.

Article 411 requires the licensee to file, within one year of license issuance, its detailed design drawings of the proposed flow release structure and fish conveyance measure, including an attractant flow of 37 cfs, and to include copies of FWS and NYSDEC comments on the drawings and a schedule for the structure's construction and implementation.

E. *Recreation*

The Settlement Offer requires Beebee Island, within two years of license issuance, to provide and maintain the recreational facilities described in its license application and its additional information responses, including pedestrian access, the impoundment for fishing, scenic overlook facilities, and a fishing platform. [26] Additionally, Beebee Island is to provide and maintain a car-top boat [27] take-out on the south bank of the impoundment, and signs giving directions to potential downstream put-in locations. The Settlement Offer also requires Beebee Island to develop the recreational

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facilities in consultation with the members of the Advisory Council.

Article 413 requires the licensee to file, within 180 days of license issuance, its plan to construct, operate and maintain these recreational facilities, together with a schedule that will permit their construction within one year of Commission approval. The licensee must first consult with appropriate federal, state and local agencies, and with the Advisory Council.

F. *Aesthetics*

From May 1, or as soon thereafter as flashboards can be safely installed, through October 31, the Settlement Offer requires Beebee Island to provide a 92-foot-long veiling flow over the spillway at the middle section of the main (north) dam, utilizing a half-inch gap under the flashboards, or a functionally equivalent alternative.

The Settlement Offer also requires Beebee Island to paint or finish in a dark green-brown color all new and replacement fencing, including support structures. It must maintain the color scheme for existing fences or structures that need re-painting.

Article 414 requires the licensee, after consultation with NYSDEC, Watertown, and owners of real property adjacent to the project, to file its plan for veiling flows within 180 days of license issuance. Article 415 requires the uniform color scheme.

G. *Water Quality Certification*

The Settlement Offer foresees NYSDEC's issuance of water quality certification, pursuant to section 401 of the Clean Water Act to the Beebee Island Project. It provides that, to the extent that certification incorporates the Settlement Offer's provisions, or that the Commission incorporates these provisions into the terms and conditions of the issued new license, any signatory may enforce the Settlement Offer's provisions. If the certification or the issued new license contains conditions that conflict with the Settlement Offer's provisions, any signatory may withdraw from the Settlement Offer.

As discussed below (section VI), valid water certification conditions become part of an issued license and are enforced by the Commission.

H. *Other Provisions*

The signatories agreed not to request the Commission to include in the issued license any terms or conditions inconsistent with the Settlement Offer's provisions. The Settlement Offer also provides that if the Commission rejects or modifies the provisions of the Settlement Offer, each signatory has the right to modify or withdraw from the Settlement Offer, but the rest of the agreement would remain in effect.

The Settlement Offer's provisions are to remain in effect during the term of an issued license and any annual license issued subsequently, subject to any authority that the Commission may reserve to itself to require modifications during the term of the new license. Should a signatory wish to modify a term or condition through a license reopener, the signatory must first request all signatories to commence negotiations for 90 days to resolve the issue and to try to agree on modification of the Settlement Offer. Should a dispute arise over the provisions of the Settlement Offer, the signatories agree to negotiate in good faith for at least 90 days to resolve the dispute. If resolution can not be attained, the dispute may be referred to the Commission pursuant to the Commission's Rules of Practice and Procedure. As noted (*see* section III, *supra*), the dispute resolution process must not interfere with Beebee Island's compliance with license requirements.

V. Environmental Analysis

The staff's environmental assessment of Beebee Island's new license application, as amended by the Settlement Offer, analyzed the effects of continued project operation on water quality, maintenance of stable minimum flows, fisheries (including fish passage), vegetation and wildlife, geological resources, recreation, aesthetic resources, and cultural resources.

It concluded that Beebee Island's implementation of the Settlement Offer's proposed project conditions will produce beneficial effects. Reducing fluctuations of the impoundment's water levels will enhance habitat and reproduction conditions for resident fish. Fish stranding will be reduced, and the more stable wetlands around the impoundment's shorelines will provide increased habitat for birds and other animals. Fish entrainment at the intake will be reduced and fish passage will be improved. Fish habitat will be improved at the South Channel bypassed reach. The 1,000 cfs continuous flow and surge control will stabilize riverine fish habitat downstream of the project. Boating, picnicking and other recreational activities will be expanded. The project will be subject to mitigation measures to protect aesthetics values.

VI. Water Quality Certification

Under section 401(a)(1) of the Clean Water Act, 33 U.S.C. §1341 *etseq.*, applicants for a federal license or permit for any activity that may result in any discharge into navigable waters of the United States must request, from

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the state in which the discharge originates, certification that any such discharge will comply with applicable state water quality standards. The Commission may not issue a license for a hydroelectric project unless the state certifying agency has issued water quality certification for the project or has waived certification by failing to act on a request for certification within a reasonable time, not to exceed one year. [28]

On November 3, 1995, after signing the Settlement Offer, NYSDEC issued water quality certification for the Beebee Island Project. [29] Its provisions are contained in the appendix to this order. The certification includes both NYSDEC's standard conditions and the terms and conditions of the Settlement Offer.

NYSDEC's standard conditions include: (1) inspection of the project and project records by NYSDEC to determine project compliance with the certification conditions; (2) cessation of generation and flow through turbines before dredging in any intake or forebay area; (3) contaminant testing of sediments to be disturbed or removed from project waters; (4) NYSDEC approval of an erosion and sediment control plan prior to the licensee's commencement of activities that could adversely affect water quality; (5) placement of cofferdams, ramps, roads and other structures encroaching on the Black River in accord with the erosion and sediment control plan; (6) maintenance, during construction, of adequate flows to ensure that established water quality

standards are met; (7) upstream and downstream turbidity monitoring during construction, and correction of activities that cause downstream turbidity to exceed upstream turbidity; and (8) prior notification to NYSDEC of any activities subject to the above conditions.

These standard conditions are valid certification conditions and are adopted as license requirements. However, we note that the state's power under the Clean Water Act is not unbounded, and that it is the Commission, not the state certifying agency, that administers and enforces all license conditions, including those in a section 401 certification. [30] Accordingly, whereas standard certification condition 4 requires NSYDEC approval of an erosion and sediment control plan prior to undertaking any activity that affects water quality, it will be the Commission that authorizes Beebee Island to commence those activities, and NYSDEC's prior approval notwithstanding.

The certification (p. 2) states that NYSDEC "reserves the right to reconsider the entire Certification if there is a significant change in the scope of the proposal or the project license, or in the event that the referenced application or Settlement Agreement are further amended." To the extent that the reservation referred to pre-relicensing amendments to the proposed project, it was governed by section 4.38(f)(7) of our regulations, which requires a new request for water quality certification "if the amendment would have a material adverse impact on the water quality in the discharge from the project or proposed project." [31] However, to the extent that the reservation purports to give NYSDEC the right to revise certification conditions after the license has been issued and becomes final, we reject such reservation as outside the scope of section 401 of the CWA. [32]

Although NYSDEC's certification requires verbatim adoption of the Settlement Offer's provisions, we have declined to do so. As described above (section IV), we have modified the provisions to comport with our policies and practices. Further, we adopted for this new license only those provisions that apply to the Beebee Island Project and that can be performed by the licensee.

VII. Felts Mills Opposition to Settlement Offer

Pursuant to the Offer of Settlement, NYSDEC would acquire rights to Niagara Mohawk-owned lands that are included in the project boundary for the proposed 13.2 MW Felts Mills Project No. 4715, for which an original license application has been filed by Felts Mills Energy Partners, L.P. [33]

Felts Mills has intervened in both this and the Black River Project proceeding to oppose

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Commission adoption of the Settlement Offer. Its objection is that, under the River Fund aspect of the Black River settlement, the parties have deliberately selected for conservation easements lands proposed for inclusion in the Felts Mills Project. It asserts that the settlement should be dismissed because it places the Black River and Felts Mills Projects in competition long after the deadline for the filing of competing applications; and that approving the Black River settlement will necessitate the denial of the Felts Mills license application.

For the reasons set forth in the license we issue concurrently for the Black River Project, we have found that the Commission has no jurisdiction over Niagara Mohawk's transfer of interest in lands not within a Niagara Mohawk licensed project, and that approval of the River Fund component (which is also included in the Black River Project's water quality certification) does not preclude issuance of a license of the Felts Mills project. Moreover, this land use issue does not involve the Beebee Island Project in any way.

VIII. Section 18 Fishway Prescription

Section 18 of the FPA, 16 U.S.C. §811 , states that the Commission shall require construction, maintenance, and operation by a licensee of such fishways as the Secretaries of Commerce and the Interior may prescribe. Commerce did not submit a prescription. Interior requested reservation of its authority to prescribe upstream and downstream fishways in the future. [34] FWS, in the Settlement Offer, agreed to defer installation of upstream fish passage devices at Beebee Island until development of salmonid restoration management goals for the Black River Basin, but specifically reserved Interior's authority to prescribe

fishways as may be deemed necessary in the future. [35] FWS subsequently specified that the reservation includes both upstream and downstream fishways. [36]

With recent installation of fish ladders at the two projects between the Beebee Island Project and Lake Ontario, the Dexter Project No. 2695 at river mile 1 and the Glen Park Project No. 4796 at river mile 6, anadromous salmonids (Atlantic salmon and steelhead trout) can now migrate upstream to the base of the Beebee Island Dam. Interior's reservation of its fishway prescription authority is reasonable. Consistent with Commission practice, Article 412 reserves our authority to require Beebee Island to construct, operate, and maintain such fishways as the Secretary of the Interior may prescribe. [37]

IX. Cultural Resources

The Historic Preservation Field Services Bureau, New York's state historic preservation office (the SHPO), [38] notified Beebee Island, on April 23, 1993, that the Beebee Island Hydroelectric Plant met the criteria for inclusion in the *National Register of Historic Places*, and that the proposed fish barrier overlays would have no effect on cultural resources. [39] Earlier, the SHPO had found the project area to be archaeologically sensitive. [40]

On July 19, 1996, a Programmatic Agreement was executed between the Commission, the (U.S.) Advisory Council on Historic Preservation (Historic Preservation), the SHPO, and Niagara Mohawk and its associated or subsidiary companies. Historic Preservation found that the Programmatic Agreement satisfied the Commission's responsibilities under the National Historic Preservation Act, 16 U.S.C. §470 *etseq.*, and regulations thereunder. [41] On December 1, 1996, the Commission's staff revised the appendices to the Programmatic Agreement for the Beebee Island and Black River Projects, including the changes proposed by Historic Preservation, the SHPO, and Niagara Mohawk (acting for both projects). [42] The Programmatic Agreement requires the licensees to administer each project in accord with the project's cultural resources management

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plan (CRMP), which specifies how historic properties will be protected.

Article 416 requires Beebee Island: to implement the Programmatic Agreement, including the filing of a CRMP; to implement the provisions of an approved CRMP; and, should the Programmatic Agreement be terminated prior to Commission approval of the CRMP, to obtain Commission approval before engaging in any ground disturbing or other activities that may affect historic properties.

X. Section 10 of the Federal Power Act

Section 15(a)(2) of the FPA, 16 U.S.C. §808 (a)(2), provides that the requirements of section 10 of the FPA, 16 U.S.C. §803 , pertaining to conditions of licenses are applicable also to Commission consideration of new license applications.

A. *Federal and State Comprehensive Plans*

Section 10(a)(2)(A) of the FPA, 16 U.S.C. §803 (a)(2)(A), requires us to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving waterways affected by the project. [43] Under this statutory provision, federal and state agencies filed 27 comprehensive plans that address various resources in New York. Of these, the Commission's staff identified and reviewed ten plans relevant to the project, [44] and found no conflicts between these plans and the Beebee Island Project. [45]

B. *Recommendation of Other Agencies*

Section 10(a)(2)(B) of the FPA, 16 U.S.C. §803 (a)(2)(B), requires us to consider the recommendations of relevant federal and state agencies exercising administration over flood control, navigation, irrigation, recreation, cultural, and other relevant resources, as well as the recommendations of Indian tribes affected by the project. The Settlement Offer constitutes the recommendations of NYSDEC concerning relevant state

resources. No federal agency recommendations were filed concerning flood control or navigation, and no Indian tribe made any filings.

C. *Consumption Efficiency Improvement Program*

Section 10(a)(2)(C) of the FPA, 16 U.S.C. §803 (a)(2)(C), requires that the Commission, in acting on a license application such as this, consider the electricity consumption efficiency improvement program of the applicant, including its plans, performance, and capabilities for encouraging or assisting its customers to conserve electricity cost-effectively, taking into account the published policies, restrictions, and requirements of state regulatory authorities.

As noted, Beebee Island sells most of the project's energy to its major shareholder, Niagara Mohawk. Responding to a request from the New York State Public Service Commission, Niagara Mohawk, prepared twelve demand-side management programs whose goals are to

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encourage efficient use of energy resources. These programs include measures ranging from water heater wraps to high efficiency lighting and equipment. Niagara Mohawk also has innovative rate options that include time-of-use rates, real-time pricing, and voluntary interruptible and curtailable rate programs. [46] We conclude that the application is consistent with the requirements of section 10(a)(2)(c) of the FPA.

D. *Recommendations of Federal and State Fish and Wildlife Agencies*

Section 10(j) of the FPA, 16 U.S.C. §803 (j), requires the Commission to include license conditions based on recommendations of federal and state fish and wildlife agencies submitted pursuant to the Fish and Wildlife Coordination Act [47] for the protection, mitigation, and enhancement of fish and wildlife resources. The Settlement Offer represents the recommendations of FWS and NYSDEC. We have required their implementation in Articles 401 through 410.

XI. Applicant's Plans and Capabilities

In accordance with section 15(a) of the FPA, 16 U.S.C. §808 (a), which requires us to determine whether the proposed license is best adapted to serve the public interest, we have evaluated Beebee Island's record as a licensee. Under section 15(a)(2), we evaluated: (1) plans and abilities to comply with the new license; (2) safe management, operation, and maintenance of the project; (3) ability to provide efficient and reliable electric service; (4) need for power; (5) transmission services; and (6) cost-effectiveness of plans. Under section 15(a)(3), we evaluated: (7) compliance record and (8) actions affecting the public.

1. *Plans and Abilities to Comply with the New License*

Section 15(a)(2)(A) requires us to consider Beebee Island's plans and abilities to comply with the articles, terms, and conditions of any license issued, and with other applicable provisions of Part I of the FPA. We have reviewed Beebee Island's license application, and have also reviewed Beebee Island's record for good faith compliance with the articles, terms, and conditions of its current license. As a result of our review, we believe that Beebee Island has or can acquire the resources and expertise to comply with the conditions of the new license.

2. *Safe Management, Operation, and Maintenance of the Project*

Section 15(a)(2)(B) requires us to consider Beebee Island's plans to manage, operate, and maintain the project safely. Niagara Mohawk, the major shareholder, routinely inspects the Beebee Island Project and makes needed repairs. The project is an automated station whose energy output is continuously monitored by Niagara Mohawk staff. Any equipment failure or water conduit failure would be noticed by the monitoring staff so that remedial action could be taken promptly. Niagara Mohawk has a comprehensive employee safety program that includes regularly scheduled safety meetings. Public safety at the project is promoted by fencing hazardous areas, particularly near the project intake, to prevent access by unauthorized personnel.

Commission staff in the New York Regional Office (NYRO) inspected the project most recently on June 5, 1995. NYRO staff described the project as being in good condition and having no significant public or dam safety problems. The project dam has low hazard potential as defined by the U.S. Army Corps of Engineers. [48] On the basis of Niagara Mohawk's March 1991 dambreak analysis, NYRO staff exempted the project,

on October 23, 1991, from the requirement of filing an Emergency Action Plan (EAP) unless conditions changed so as to require revision of the hazard potential. [49] On June 13, 1996, NYRO staff, after review of the project's safety and adequacy, reported that the dam and project works are in safe condition, and recommended that the new

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license include no special article related to dam safety. [50]

Niagara Mohawk has incorporated the notification procedure in case of dam failure or errant operation for all its projects on the Black River, including the Beebee Island Project, into a Black River Drainage Basin EAP, which it updates quarterly.

We conclude that the project will be safe for continued operation during the new license term, and will pose no threat to public safety if operated and maintained according to good engineering practices and our regulations governing hydroelectric projects.

3. *Ability to Provide Efficient and Reliable Electric Service*

Section 15(a)(2)(C) requires us to review the plans and abilities of Beebee Island to operate and maintain the project in a manner most likely to provide efficient and reliable electric service. Niagara Mohawk periodically evaluates the feasibility of increasing capacity or generation at its hydroelectric projects, including the Beebee Island Project.

Based upon our review of past operations, we conclude that Beebee Island has been operating the project in an efficient manner within the constraints of the existing license, and that it will continue to provide efficient and reliable electric service in the future.

4. *Need for Power*

Section 15(a)(2)(D) requires us to review the need for project power. As noted, Beebee Island sells most of the project's power to Niagara Mohawk. The Beebee Island Project has provided and can continue to provide a portion of Niagara Mohawk's power requirements, and contribute to Niagara Mohawk's resource diversity, as well as to the capacity needs of the New York Power Pool (NYPP). The NYPP forecasts an average annual increase in peak capacity demand of 0.6 percent during the summer months and 0.5 percent during the winter months for the 1995 to 2004 planning period. Hydroelectric generation accounts for over 10 percent of Niagara Mohawk's total generation capability. Niagara Mohawk meets approximately 33 percent of its power needs from "non-utility generators," such as Beebee Island. Relicensing the project will contribute to maintaining available capacity. [51]

We conclude that Niagara Mohawk will continue to need power for the short and long term, and that the Beebee Island Project can contribute to meeting that need.

5. *Transmission Services*

Section 15(a)(2)(E) requires us to consider Beebee Island's transmission services in relation to system reliability, costs and other applicable economic and technical factors. Beebee Island proposes no new or additional transmission facilities at the project because no added generation is proposed and the existing transmission system suffices. We are satisfied that the existing transmission facilities are adequate.

6. *Cost-effectiveness of Plans*

Section 15(a)(2)(F) requires us to consider whether Beebee Island's plans will be achieved in a cost-effective manner. After review of the new license application, we conclude that the project as presently configured and operated, as Beebee Island proposes, will continue to provide power in a cost-effective manner. We agree that adding additional capacity at this time is unnecessary.

7. *Compliance Record*

Section 15(a)(3)(A) requires us to consider Beebee Island's record of compliance with the terms and conditions of its existing license. We have reviewed Beebee Island's record of making timely filings and of complying with the terms and conditions of its existing license, including the reports of the NYRO staff. We conclude that Beebee Island's overall record is satisfactory.

8. *Actions Affecting the Public*

Section 15(a)(3)(B) requires us to consider Beebee Island's actions relating to the project that affect the public. The project has a beneficial effect on the socioeconomics of the Watertown, New York, area by contributing taxes to state and local governments, and by its expenditures to increase recreational opportunities that attract recreational users. Under the new license, Beebee Island will continue and increase these recreational services.

XII. Comprehensive Development

Sections 4(e) and 10(a)(1) of the FPA, 16 U.S.C. §§797 (e) and 803(a)(1), require the Commission, in acting on applications for a license, to give equal consideration to the power and development purposes and to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife, the protection of

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recreational opportunities, and the preservation of other aspects of environmental quality. Any license issued shall be such as in the Commission's judgment will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for beneficial public uses. Our decision to issue a new license for this project, and the terms and conditions included herein, reflects such consideration.

We have analyzed the Settlement Offer and have adopted license terms and conditions consistent with it. The environmental and recreational enhancements that will occur under the new license include: improved habitat and reproductive conditions for resident fish; improved fish protection at intakes; improved fish passage through the project; additional recreational facilities; and improved visual aspects.

We have also analyzed the economic benefits of power produced by the project. Under our new approach to evaluating the economics of hydropower licensing, as articulated in *Mead Corporation, Publishing Paper Division*, [52] our analysis uses current costs to compare the costs of the project and likely alternative power with no forecasts concerning potential future inflation, escalation, or deflation beyond the license issuance date. The basic purpose of our economic analysis is to provide a general estimate of the potential power benefits and the costs of a project, and reasonable alternatives to project power. The estimate helps to support an informed decision concerning what is in the public interest with respect to issuing the license.

Based on current economic conditions, without future escalation or inflation, the Commission's staff predicts that the project, if licensed as proposed in the Settlement Offer, will produce approximately 38.7 gigawatt hours of energy annually at a cost of approximately $715,500, about 18.7 mills per kilowatt hour (kWh). The staff estimated the cost of an equivalent amount of power from alternative sources to be $893,100, or about 23.3 mills/kWh, based on 1995 data of natural gas-fueled electric plants in the Middle Atlantic area. Thus, the cost of Beebee Project power is approximately $177,600, or about 4.6 mills/kWh, less than the cost of an equivalent amount of power from comparable alternative sources. [53]

We find, therefore, that operation of the Beebee Island Project under the terms and conditions of this license, which contains the environmental and recreational enhancement measures provided in the Settlement Offer, will be economically beneficial. The project will continue to be a dependable and inexpensive source of electric energy for the project's two customers. Moreover, the electricity it generates will reduce use of fossil-fueled electric generating plants, conserve non-renewable energy resources, and reduce atmospheric pollution.

We conclude that issuance of a new license for the Beebee Island Project will not constitute a major federal action significantly affecting the quality of the human environment.

XIII. License Term

Pursuant to section 15(e) of the FPA, 16 U.S.C. §808 (e), relicense terms shall be not less than 30 years nor more than 50 years. Our general policy is to establish 30-year terms for projects with little or no redevelopment, new construction, new capacity, or environmental mitigative and enhancement measures; 40-year terms for projects with a moderate amount of proposed redevelopment, new construction, new capacity, or mitigative and enhancement measures; and 50-year terms for projects with proposed extensive development, new construction, new capacity, or mitigative and enhancement measures.

According to the Settlement Offer filed in this proceeding, the parties contemplate a 30-year license for the Beebee Island Project. Because the term of the new license was likely an important element in the negotiations that led to the Settlement Offer, and because Beebee Island proposes no additional capacity or new construction, we will issue the license for a term of 30 years.

XII. Summary

In light of all of the above, including our review of the staff's environmental analysis of the proposed project and alternatives to it, we conclude that issuing a new license for the Beebee Island Project with the requirements included herein will not conflict with any planned or authorized development and will best adapt the project to a comprehensive plan for developing the Black River for beneficial public purposes.

The Commission orders:

(A) This license is issued to Beebee Island Corporation (Licensee), for a term of 30 years, effective the first day of the month in which the license is issued, to operate and maintain the Beebee Island Project. This license is subject to the terms and conditions of the Federal Power Act (FPA), which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA.

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(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, shown by the following drawings in exhibit G, which were included in the application for new license filed on December 23, 1991:

Exhibit	FERC Drawing No.	Description
G-1	2538-1001	Location Map
G-2	2538-1002	Project Boundary Map

(2) Project works consisting of: (1) a 20-acre reservoir, at normal maximum surface elevation of 431.0 feet U.S. Geological Survey Datum (USGS) and gross storage capacity of 60 acre-feet; (2) an 18-foot-high by 266-foot-long, U-shaped concrete gravity main dam with permanent crest elevation of 428.0 feet, topped with 3-foot-high wooden flashboards; (3) a 50-foot-long by 15-foot-high, concrete-capped stone auxiliary non-overflow dam, equipped with a skimmer gate; (4) an intake structure that is an integral part of the powerhouse, 82 feet long and 27 feet wide, equipped with steel trashracks, four steel gates, a skimmer section, and slots for stop-logs; (5) an 8-foot-(wide) by 15-foot-(high) ice sluice, controlled by stop-logs, between the steel gates and a retaining wall, that permits ice and debris to circumvent the powerhouse; (6) a 47-foot-wide by 82-foot-long powerhouse equipped with two vertical generating units, each rated at 4,000 kilowatts (kW), a design head of 32.0 feet, and a hydraulic capacity of 1,800 cubic feet per second (cfs); (7) a tailrace with a normal surface elevation of 397.4 feet USGS; (8) a 300-foot-long, 4.8-kilovolt (kV) primary transmission line; and (9) appurtenant facilities.

The project works generally described above are more specifically shown and described by the following exhibits, which were also included in the application for new license filed on December 23, 1991:

Exhibit A:

The existing mechanical, electrical, and transmission equipment as described on pages A-3 through A-15 of exhibit A.

Exhibit F:

Exhibit	FERC Drawing No.	Description

F-1	2538-1003	Dam Plan and Sections
F-2	2538-1004	Dam Elevations and Sections
F-3	2538-1005	Existing Powerhouse Plan Sections

(3) All of the structures, fixtures, equipment, or facilities used to operate or maintain the project and located within the project boundary, all portable property that may be employed in connection with the project and located within or outside the project boundary, and all riparian or other rights that are necessary or appropriate in the operation and maintenance of the project.

(C) The exhibits A, F, and G described above are approved and made part of the license.

(D) This license is subject to the articles set forth in Form L-3 (October 1975), entitled, “Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters of the United States,” 54 FPC 1792, 1817-24, and the following additional articles:

Article 201. The licensee shall pay the United States the following annual charges, effective as of the first day of the month in which this license is issued, for the purposes of reimbursing the United States for the costs of administering Part I of the Federal Power Act, a reasonable amount as determined in accordance with the provisions of the Commission’s regulations in effect from time to time. The authorized installed capacity for that purpose is 8,000 kilowatts.

Article 202. If the licensee’s project was directly benefitted by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement during the term of the original license (including extensions of that term by annual licenses), and if those headwater benefits were not previously assessed and reimbursed to the owner of the headwater improvement, the licensee shall reimburse the owner of the headwater improvement for those benefits, at such time as they are assessed, in the same manner as for benefits received during the term of this new license.

Article 203. Pursuant to section 10(d) of the Federal Power Act, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. The licensee shall set aside in a project amortization reserve account at the end of each fiscal year one half of the project surplus earnings, if any, in excess of the specified rate of return per annum on the net investment.

To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year, the licensee shall deduct the amount of that deficiency from the amount of any surplus earnings subsequently accumulated, until absorbed. The licensee shall set aside one-half of the remaining surplus earnings, if any, cumulatively computed, in the project amortization reserve account. The licensee shall maintain the amounts established in the project amortization reserve account until further order of the Commission.

The specified reasonable rate of return used in computing amortization reserves shall be

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calculated annually based on current capital ratios developed from an average of 13 monthly balances of amounts properly includible in the licensee’s long-term debt and proprietary capital accounts as listed in the Commission’s Uniform System of Accounts. The cost rate for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department’s 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 301. Within 45 days of the date of issuance of this license, the licensee shall file an original set and two duplicate sets of aperture cards of the approved drawings. The set of originals must be reproduced

on silver or gelatin 35-mm microfilm. The duplicate sets are copies of the originals made on diazo-type microfilm. All microfilm must be mounted on type D (31/4" x 73/8") aperture cards.

Prior to microfilming, the FERC Drawing Number (2538-1001, 1002, *etc.*) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number must be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC exhibit (*e.g.*, F-1, G-1, *etc.*), Drawing title, and date of this license must be typed on the upper left corner of each aperture card.

The original and one duplicate set of aperture cards must be filed with the Secretary of the Commission. The remaining duplicate set of aperture cards shall be filed with the Commission's New York Regional Office.

Article 302. Within 90 days of completion of construction of the facilities authorized by this license (flow release structure, recreation, *etc.*) the licensee shall file, for approval, revised exhibits A, F and G to show those project facilities as built.

Article 401. The licensee shall operate the project in a run-of-river mode. The licensee shall at all times act to minimize fluctuations of the impoundment's surface elevation by maintaining a discharge from the project so that, at any point in time, flows, as measured immediately downstream from the project tailrace, approximate the sum of inflows to the project reservoir.

To respond to instantaneous changes in inflow, and to the extent practicable, the licensee shall set the turbine intake controls to actuate incremental changes of unit discharge within 0.2 foot of the top of flashboard elevation (431.0 feet U.S. Geological Survey (USGS)), or 0.2 foot of the spillway crest (428.0 feet USGS) when flashboards are not in use. For compliance purposes, the impoundment shall not fall below elevation 430.5 feet USGS when the flashboards are in place, or below elevation 427.5 feet USGS when the flashboards are not in use.

These conditions and run-of-river operation may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon mutual agreement between the licensee and the New York State Department of Environmental Conservation (NYSDEC). If the flow is so modified, the licensee shall notify the Commission, the U.S. Fish and Wildlife Service and NYSDEC, if not already notified, as soon as possible, but no later than ten days after each such incident.

If flashboard problems prevent the licensee from maintaining the impoundment elevation above 427.5 feet USGS, the licensee shall so notify the Commission, FWS and NYSDEC. The licensee shall propose remedial action, for Commission approval, together with the comments and recommendations of these agencies on the proposed remedies. The Commission reserves the right to require changes to these proposed remedies.

Article 402. The licensee shall install flashboards each year by May 1 or as soon thereafter as safely possible. The licensee shall remove the flashboards in the fall each year as the licensee deems appropriate, based on ice conditions.

Article 403. Within 270 days of the date of issuance of this license, the licensee shall provide a continuous outflow from the project of not less than 1,000 cubic feet per second (cfs), except when inflow is less than 1,000 cfs, in which case outflow will be determined by and be equivalent to inflow.

Article 404. To provide protection of fish and invertebrate habitat in the South Channel bypassed reach, the licensee shall, after installation of the flow release structure required in Article 406, release a year-round minimum flow of 14 cubic feet per second from the project impoundment into the South Channel bypassed reach.

This minimum flow into the South Channel bypassed reach may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon agreement between the licensee and the New York State Department of Environmental Conservation (NYSDEC). If the flow is so modified, the licensee shall notify the Commission, the U.S. Fish and Wildlife Service, and NYSDEC, if not already notified, as soon as possible, but no later than ten days after each such incident.

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Article 405. Within two years of the date of issuance of this license, and after consultation with the New York State Department of Environmental Conservation, the licensee shall manually remove debris and trash from

the South Channel, without use of heavy, motorized equipment. The licensee shall monitor the status of the South Channel and repeat the debris and trash removal, as necessary.

Article 406. Within one year of the date of issuance of this license, the licensee shall file, for Commission approval, detailed design drawings of the licensee's proposed minimum flow release structure to provide a year-round minimum flow of 14 cubic feet per second via a pipe through the project dam into a plunge pool in the South Channel bypassed reach, together with a schedule for constructing and installing the structure. The licensee shall complete construction of this structure within one year of Commission approval of the design drawings.

The licensee shall prepare the aforementioned drawings and schedule after consultation with the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation. The licensee shall include, with the drawings and schedule, documentation of consultation, copies of agency comments and recommendations on the drawings and schedule after they have been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the licensee's proposed structure and schedule. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the drawings and schedule with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the proposed structure and schedule. Construction of the new structure shall not begin until the licensee is notified by the Commission that the filing is approved. Upon Commission approval, the licensee shall implement the proposal, including any changes required by the Commission.

Article 407. Within one year of the date of issuance of this license, the licensee shall install, and make fully calibrated and operational, permanent staff gages to allow measurement of headpond and tailwater elevations to the nearest 0.1 foot. The licensee shall provide access for reading the staff gages to staff and representatives of the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation.

Article 408. Within 180 days of the date of issuance of this license, the licensee shall file, for Commission approval, a plan to monitor its compliance with the continuous flow requirement of this license.

The plan's provisions shall include:

(1) installation and maintenance of a gaging system to measure: (a) stages and flows of the Black River; (b) project headpond and tailwater elevations; and (c) all other project flows, including flows through the turbines and any other bypass or diversion flows;

(2) calibration of stage versus discharge ratings when rating changes occur;

(3) a schedule for installing all necessary gages and necessary ancillary equipment and making them operational and fully calibrated within one year of Commission approval of the plan;

(4) provision for contact persons who will be available every day to respond to questions about abnormal flow or impoundment conditions.

The licensee shall prepare the monitoring plan and schedule after consultation with the U.S. Fish and Wildlife Service, the New York State Department of Environmental Conservation, and the Black River Advisory Council. The licensee shall include, with the plan and schedule, documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the consulting entities and specific descriptions of how the entities' comments are accommodated by the plan and schedule. The licensee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the plan and schedule. Upon Commission approval, the licensee shall implement the plan and schedule, including any changes required by the Commission.

Article 409. Within 180 days of the date of issuance of this license, the licensee shall file, for Commission approval, a plan of its current or proposed procedures for keeping accurate and sufficient records of the

project impoundment elevations and all project discharges. The plan shall include: the format of the data; the sampling techniques used; the frequency of collection; and the locations of data logging equipment. The plan shall provide a procedure for future notification to the U.S. Fish and Wildlife Service (FWS), the New York State Department of Environmental Conservation (NYSDEC) and the Black River Advisory Council (Advisory Council) of any changes the

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licensee proposes to make to its methods of data collection. The plan shall also provide for inspection of the records by NYSDEC, FWS, or Advisory Council representatives, within five business days of request for inspection, and for licensee provision of copies of these records to NYSDEC, FWS, or Advisory Council representatives within 30 business days of receipt of a written request for copies.

The licensee shall prepare the aforementioned plan after consultation with FWS, NYSDEC, and the Advisory Council. The licensee shall include with the plan, documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the consulting entities, and specific descriptions of how the entities' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

Article 410. Within one year of the date of issuance of this license, the licensee shall file, for Commission approval, detailed design drawings for the licensee's proposed new trashracks (or equivalent) with 2-inch-clearance bar spacings, and provision for trashrack overlays having 1-inch-clearance bar spacing to be placed on the trashracks in the top half of the water column, from May 1 through October 1, and an implementation schedule. This implementation schedule is to be prepared in coordination with a corresponding implementation schedule required by Article 410 of the new license for the Black River Project No. 2569. The new trashracks and overlays are to be installed at the Beebee Island Project and the five developments of the Black River Project at the rate of one development every two years, and installation of the required trashracks and overlays at both projects is to be completed within twelve years of the issuance date of the contemporaneous new licenses for both projects.

The licensee shall prepare the aforementioned drawings and schedule after consultation with the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation. The licensee shall include with the drawings and schedule documentation of consultation, copies of agency comments and recommendations on the drawings and schedule after they have been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the licensee's proposed structure and schedule. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the drawings and schedule with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the proposed drawings and schedule. Upon Commission approval, the licensee shall implement the proposal, including any changes required by the Commission.

Article 411. Within one year of the date of issuance of this license, the licensee shall file, for Commission approval, detailed design drawings of the licensee's proposed fish conveyance structure and associated measures, with a 37 cfs attractant flow, as described at page 11 of the Settlement Offer filed October 13, 1995, to be operational April 1 through November 30, together with a schedule for its installation and implementation.

The licensee shall prepare the aforementioned drawings and schedule after consultation with the U.S. Fish and Wildlife Service and the New York State Department of Environmental Conservation. The licensee shall include with the drawings and schedule documentation of consultation, copies of agency comments and recommendations on the drawings and schedule after they have been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the proposed

structure and schedule. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the drawings and schedule with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the proposed drawings and schedule. Upon Commission approval, the licensee shall implement the proposed measures, including any changes required by the Commission.

Article 412. Authority is reserved by the Commission to require the licensee to construct, operate, and maintain, or to provide for construction, operation, and maintenance of, such fish passage facilities as may be prescribed by the Secretary of the Interior under section 18 of the Federal Power Act.

Article 413. Within 180 days of the date of issuance of this license, the licensee shall file, for Commission approval, a detailed plan for

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constructing, operating, and maintaining the existing and proposed recreational facilities at the project development, as specified in: (1) pages E.7-11 through E.7-13 of exhibit E, and page 3 and Figure 1 of appendix J of the application for new license filed on December 23, 1991; (2) responses 11 and 16 of Beebee Island Corporation's Responses to Ferc Additional Information Requests, filed September 30, 1993; (3) Beebee Island Corporation's December 13, 1993 letter, filed on December 17, 1993; and (4) pages 11 and A3-6a of the Settlement Offer filed on October 13, 1995.

The recreation plan shall include, but not be limited to:

(1) pedestrian access to the impoundment for fishing; scenic overlook facilities and a fishing platform in conjunction with the City of Watertown (Watertown)'s proposed Heritage Trail, and to be constructed only if Watertown actually constructs the Heritage Trail; a boat barrier upstream of the dam; a car-top boat take-out; and signage to downstream boat put-in locations;

(2) final site plans for the facilities;

(3) identification of any additional lands underlying the new recreational facilities that the licensee recommends be incorporated within the project boundary; and revised exhibit G maps, for Commission approval, showing the additional lands that must be incorporated within the project boundary; and

(4) the name(s) of the entity or entities responsible for operating and maintaining each of the facilities;

(5) a discussion of how the facilities design takes into consideration the guidelines established by the Architectural and Transportation Barriers Compliance Board (36 C.F.R. Part 1191 (1995));

(6) erosion and sediment control measures and measures for revegetation of disturbed areas to be implemented during and after construction of the new recreational facilities;

(7) a schedule for constructing the facilities within one year of Commission approval of the plan.

The licensee shall use consistent design themes in path widths, signage typeface, colors, and the like to make apparent that the recreation features are components of an integrated system.

The licensee shall prepare the plan and schedule after consultation with the U.S. Fish and Wildlife Service, the U.S. National Park Service, the New York State Department of Environmental Conservation, the New York State Office of Parks, Recreation and Historic Preservation, Jefferson County, the City of Watertown, and the Advisory Council.

The licensee shall include, with the plan and schedule, documentation of consultation, copies of consulting entity comments and recommendations on the completed plan and schedule, after they have been prepared and provided to the consulting entities, and specific descriptions of how the entities' comments are accommodated by the plan and schedule. The licensee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan and schedule with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the plan and schedule. No land-disturbing activities shall begin until the licensee is notified by the Commission that the plan is approved. Upon Commission

approval, the licensee shall implement the plan and schedule, including any changes required by the Commission.

Article 414. Within 180 days of the date of issuance of this license, and in consultation with the New York State Department of Environmental Conservation, the City of Watertown, and owners of real property adjacent to the project, the licensee shall develop a plan, for Commission approval, to implement the licensee's proposal to provide one-half inch veiling flows over the 92-foot center section of the project dam from May 1 (or as soon as flashboards are installed) to October 31, during the daytime, and in the evening, with lighting during all or some evening flows.

The licensee shall include with the plan documentation of consultation, copies of the consulting entities' comments and recommendations on the completed plan after it has been prepared and provided to the entities and specific descriptions of how the entities' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information. The Commission reserves the right to require changes to the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

Article 415. The licensee shall paint or finish all new and replacement fencing, including support structures, in a dark brown-green color. Existing fencing will be finished to the same color, when maintenance includes painting

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or refinishing, as will outbuildings and other improvements to existing structures.

Article 416. The licensee shall implement the "Programmatic Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the New York State Historic Preservation Officer for Managing Historic Properties that may be Affected by Licenses Issuing to Niagara Mohawk Power Corporation, Beebee Island Corporation, or Moreau Manufacturing Corporation for the Continued Operation of Fourteen Hydroelectric Power Projects in Upstate New York", executed on July 19, 1996, [54] including but not limited to the Cultural Resource Management Plan (CRMP) for the project. In the event that the Programmatic Agreement is terminated, the licensee shall implement the provisions of its approved CRMP. The Commission reserves the authority to require changes to the CRMP at any time during the term of the license. If the Programmatic Agreement is terminated prior to Commission approval of the CRMP, the licensee shall obtain approval from the Commission before engaging in any ground-disturbing activities or taking any other action that may affect any historic properties within the project's area of potential effect.

Article 417. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article.

If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal or any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and water for which the licensee may grant permission without prior Commission approval are:

(1) landscape plantings;

(2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings;

(3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and

(4) food plots and other wildlife enhancement.

To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements.

Before granting permission for construction of bulkheads or retaining walls, the licensee shall:

(1) inspect the site of the proposed construction;

(2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site; and

(3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline.

To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

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(c) The licensee may convey easements or rights-of-way across, or leases of, project lands for:

(1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained;

(2) storm drains and water mains;

(3) sewers that do not discharge into project waters;

(4) minor access roads;

(5) telephone, gas, and electric utility distribution lines;

(6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary;

(7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and

(8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir.

No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for:

(1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained;

(2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained;

(3) other pipelines that cross project lands or waters but do not discharge into project waters;

(4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained;

(5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina;

(6) recreational development consistent with an approved exhibit R or approved report on recreational resources of an exhibit E; and

(7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year.

At least 60 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Hydropower Licensing, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of the period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved exhibit R or approved report on recreational resources of an exhibit E; or, if the project does not have an approved exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include the following covenants running with the land; (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to insure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's

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scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(E) The licensee shall serve copies of any Commission filing required by this order on any entity specified in this order to be consulted on matters related to that filing. Proof of service on these entities must accompany the filing with the Commission.

(F) This order is final unless a request for rehearing is filed within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act. The filing of a request for rehearing does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission. The licensee's failure to file a request for rehearing shall constitute acceptance in this order.

Appendix

Water Quality Certification Conditions for the Beebee Island Project No. 2538

New York State Department of Environmental Conservation Division of Regulatory Services

November 3, 1995

The Department of Environmental Conservation (the Department) hereby certifies that, based on our review of all pertinent information presented by Niagara Mohawk Power Corporation (NMPC) in its application for federal licenses for the Black River and Beebee Island Hydroelectric Projects and the Settlement Agreement dated September 14, 1995, NMPC has provided reasonable assurance that the subject Projects will comply with all applicable effluent standards, standards of performance and other state statutes, regulations and criteria applicable to the affected waterbody as required by the State regulatory provisions implementing section 401 of the Federal Water Pollution Control Act.

This certification is issued pursuant to section 401 of the Federal Water Pollution Control Act, 33 U.S.C. 1341. The Department makes this certification provided that the attached standard conditions are met, as well as the terms and conditions of the attached Settlement Agreement signed by the Department, NMPC, Beebee Island Corporation, the U.S. Fish and Wildlife Service, the National Park Service, New York Rivers United, the Adirondack Mountain Club, the National Audubon Society, the American Whitewater Affiliation, American Rivers, the New York State Conservation Council, the New York State Council of Trout Unlimited, and the National Heritage Institute. The terms and conditions of this settlement describe the operations of the five developments comprising the Black River Project and the one development of the Beebee Island Project located in the Towns of Champion, Wilna, Rutland, and LeRay, the Villages of Black River and Deferiet, and the City of Watertown, Jefferson County.

The Department reserves the right to reconsider the entire Certification if there is a significant change in the scope of the proposal or the project license, or in the event the referenced application or Settlement Agreement are further amended.

New York State Department of Environmental Conservation Standard Water Quality Conditions

A. *Oversight and Administration*

1. *Inspections*: The projects, including relevant records, are subject to inspection at reasonable hours and intervals, upon reasonable notice to the certificate holder, by an authorized representative of the Department to determine whether the certificate holder is complying with this certification. A copy of this certification, including all referenced maps, drawings, and special conditions, must be available for inspection by the Department during such inspections at the project.

B. *Project Maintenance and Construction*

2. *Maintenance Dredging*: The certificate holder shall curtail generation and install stoplogs or otherwise shut off flow through the turbine(s) prior to commencing any maintenance dredging activities in any intake/forebay area.

3. *Sediment Analysis and Disposal*: The certificate holder must sample any sediments to be disturbed or removed from the projects' waters and test them for contaminants. Sampling

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and testing shall be accomplished according to a protocol submitted to and approved by the Department beforehand. Prior to dredging or other excavation, the certificate holder must secure Department approval for all disposal locations for any contaminated sediments to be removed from the project waters.

4. *Erosion and Sediment Control*: Prior to commencing activities which could adversely affect water quality, the certificate holder must receive Department approval of an Erosion and Sediment Control Plan. This plan must be submitted at least 60 days before the intended date for commencing work. Actions undertaken in response to an emergency and governed by the procedures contained in 6 NYCRR section 621.12 are exempt from this condition. At minimum, the certificate holder must:

a. isolate instream work from the flow of water and prevent discolored (turbid) discharges and sediments from entering the waters of the river due to excavation, dewatering and construction activities.

b. avoid using heavy construction equipment below the mean high water line of the river until the work area is protected by an approved structure and dewatered.

c. stabilize any disturbed banks by grading to an appropriate slope, followed by armoring or vegetating as appropriate, to prevent erosion and sedimentation into the waterbody.

d. minimize soil disturbance, provide appropriate grading and temporary and permanent revegatation of stockpiles and other disturbed areas to minimize erosion/sedimentation potential.

e. install and maintain, in a fully functional condition, effective erosion control measures on the downslope of all disturbed areas before commencing any other soil disturbing activities.

f. protect all waters from contamination by deleterious materials such as wet concrete, gasoline, solvents, epoxy resins or other materials used in construction, maintenance and operation of the project.

g. 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.

h. ensure that all temporary fill and other materials placed in the waters of the river are completely removed promptly upon completion of construction unless otherwise directed by the Department.

5. *Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the river*: The design of all such structures will be developed in accordance with Condition #4 (above).

6. *Maintenance of River Flow*: During all periods of construction, the certificate holder shall maintain adequate flows immediately downstream of worksites to ensure that the water quality standards established for the water body are met.

7. *Turbidity Monitoring*: During all periods of construction, the certificate holder will monitor the waters of the river at a point immediately upstream of project activities and at a point no more than 100 feet downstream from any discharge point or other potential source of turbidity, to the extent practicable; and if not practicable, then at the nearest point beyond 100 feet downstream, but in no event beyond 200 feet downstream from the turbidity source. If at any time, turbidity measurements from the downstream locations exceed the measurements from the locations upstream of the work areas, certificate holder specifically agrees to immediately take all action necessary to identify the activities causing the turbidity and to correct the situation.

8. *Notifications*: At least two (2) weeks prior to commencing any work subject to conditions 2 through 7 of this certificate the certificate holder shall provide written notification to:

Chief, Project Management Section

New York State Department of Environmental

Conservation, Division of Regulatory Services

50 Wolf Road, Room 538

Albany, New York 1233-1750

-- Footnotes --

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Footnotes

1 The Commission issued the original license to Beebee Island, on May 27, 1968. 39 FPC 865, 866 (1968). The original license expired on December 31, 1993, and since then, the project has operated under annual license. *See* section 15(a)(1) of the FPA, 16 U.S.C. §808 (1). On January 21, 1994, the Commission Secretary issued notice authorizing continued operation of the project pending the disposition of Beebee Island's application. 59 Fed. Reg. 10125 (March 3, 1994); 66 FERC ¶61,145 (1994).

2 The Black River is navigable from its mouth at Lake Ontario to at least Lyons Falls, at river mile 72, beyond which the river traverses a mountainous area. *See Frank E. Peacock*, 32 FPC 1101, 1102 (1964). Section 23(b)(1) of the FPA, 16 U.S.C. §817(1), therefore requires the project to be licensed.

3 Niagara Mohawk buys the greater part of project electricity on a wholesale basis at that utility's avoided cost, while Filtration buys the remainder on a retail basis. License Application at p. H-1.

4 The Black River Project, FERC Project No. 2569, of Niagara Mohawk Power Corporation and Beebee Island Project, FERC Project No. 2538, of Beebee Island Corporation, Settlement Offer, September 14, 1995, filed October 13, 1995.

5 We are also issuing a new license for the Black River Project No. 2569 concurrently with this new license for Project No. 2538. *See*77 FERC ¶61,306 (1996).

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6 57 Fed. Reg. 62320 (December 30, 1992).

7 Glen Park Associates is co-licensee with Niagara Mohawk of the Glen Park Project No. 4796, the next downstream project on the Black River, located at river mile 6.

8 These motions to intervene were timely and unopposed and therefore granted automatically under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure. 18 C.F.R. §385.214 (c)(1) (1996).

9 FWS's April 8, 1996 filing with the Commission. FWS stated that Interior would not oppose new licenses for the Beebee Island and Black River Projects if the licenses were consistent with the Settlement Offer, but that the Draft Environmental Analysis did not include the draft license articles for FWS to review for consistency.

10 The nine proceedings are: Beaver Project No. 2645, which received a new license on August 2, 1996, 76 FERC ¶61,152 , *reh'gpending*, unpublished order granting rehearing for further consideration, issued September 19, 1996; E.J. West Project No. 2318; Middle Raquette River Project No. 2320; Lower Raquette River No. 2330; Oswego River Project No. 2474; Hudson River Project No. 2482; School Street Project No. 2539; Hoosic River Project No. 2616; and the Black River Project No. 2569.

11 18 C.F.R. §385.602 (1996).

12 The Adirondack Mountain Club intervened in the Black River Project No. 2569 proceeding.

13 60 Fed. Reg. 56992, 56994 (Nov. 13, 1995).

14 *See* Notice of Availability of Draft Environmental Assessment, 61 Fed. Reg. 11823 (March 22, 1996).

15 *See* Notice of Issuance, 61 Fed. Reg. 51697 (Oct. 3, 1996).

16 On November 6, 7, and 12, 1996, respectively, New York Rivers, FWS, and Niagara Mohawk filed subsequent comments on the EA.

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17 The proposed Felts Mills Project comprises two developments located at river miles 19.2 and 21.7 of the Black River at two partially-breached dams, which Felts Mills proposes to refurbish, and the site of a third breached dam in between the two other dams, which Felts Mills proposes to demolish. The site of the proposed Felts Mill Project lies between the Black River Project's Deferiet and Kamargo Developments, approximately ten miles upstream from the Beebee Island Project. The EA for the Black River and Beebee Island projects and the environmental impact statement for the Felts Mills Project, issued September 1996, analyze cumulative impacts of the three projects. The Black River/ Beebee Island EA (section V.B.) finds no major cumulative impacts of the three projects and includes,

by reference, the Felts Mills EIS, which makes specific findings of no significant cumulative impacts on water, terrestrial, transportation, and cultural resources, and findings of positive impacts on socioeconomic and recreation resources. Since the three projects will not contribute to cumulative adverse impacts, and since, as discussed below (*see* section VII, *infra*, and sections VI and VII of the Black River Project order, issued contemporaneously with this order), the projects do not conflict, we are processing the application for the proposed Felts Mills Project separately from the applications for the Beebee Island and Black River projects. *See*, *e.g.*, *Jack M. Fuls*, 32 FERC ¶61,424, at pp. 61,934 -35 (1985).

18 These dams and their associated hydroelectric plants are shown in Figure 2 and in Table 5 of the EA. The immediate upstream developments are, at river mile 10, the Sewalls Development of Niagara Mohawk's Black River Project, and, at river mile 11, Watertown's Watertown Project No. 2442.

19 On March 16, 1984, Hudson-Black was granted an exemption from licensing under Part I of the FPA for the 1.2-MW Stillwater Reservoir Project No. 6743. *See* 26 FERC ¶62,247. The Stillwater Reservoir, located at the headwaters of the Beaver River, is the largest regulating body of water in the Black River Basin. It is primarily operated for flood control and flow augmentation, with a targeted minimum flow of 1,000 cubic feet per second at the Watertown U.S. Geological Survey gaging station, located approximately two miles upstream of the Beebee Island Project.

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20 Beebee Island filed amendments, responses to additional information requests or other information concerning its new license application on: September 11 and November 23, 1992; February 2, September 30, and December 13, 1993; January 12 and August 16, 1994, and July 11, 1995.

21 Accordingly, our approval of the Settlement Offer does not create a precedent on any specific matters thereunder.

22 *See* order approving settlement agreement and issuing new license in *Niagara Mohawk Power Corporation*, 76 FERC ¶61,152 (1996), *citing Consumers Power Co.*, 68 FERC ¶61,077 (1994).

23 *Consumers Power Co., supra*, 68 FERC at pp. 61,372 , 61,374 .

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24 As required in Article 405, Beebee Island will remove debris and trash manually from the channel within two years of license issuance, and repeat removal efforts as needed.

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25 The Settlement Offer establishes a Black River Advisory Council whose goal is to protect resources of the Black River Basin and to promote recreation there. Its members are to be nearly all the signatories to the Settlement Offer plus Jefferson County. *See* Settlement Offer at pp. A1-1 and A1-2.

26 *See* the EA, Table 15 and figure 7, as amended by notice issued November 22, 1996.

27 The Settlement Offer defines a car-top boat as a boat that requires neither a ramp nor a trailer for launching or retrieving.

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28 On December 20, 1991, Beebee Island submitted to NYSDEC a request for water quality certification. On December 21, 1992, NYSDEC denied the request without prejudice. Beebee Island requested a NYSDEC hearing on the certification denial. Subsequent negotiations led to the Settlement Offer.

29 November 3, 1995 letter to Niagara Mohawk from NYSDEC, included in Beebee Island's November 6, 1995 filing. NYSDEC's water quality certification covered both the Beebee Island and the Black River Projects.

30 *See Great Northern Paper, Inc.*, 77 FERC ¶61,068, at pp. 61,271 -72 (1996).

31 18 C.F.R. §4.38 (f)(7)(iii) (1996).

32 *See Niagara Mohawk*, *supra*, 76 FERC at p. 61,832 .

33 The Felts Mills Project would comprise two developments, to be located at what are currently partially breached dams on the Black River at river miles 19.2 and 21.7, between two (of five) Black River Project No. 2569 developments, Kamargo (mile 17) and Deferiet (mile 26).

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34 Interior's filing of December 19, 1995, at p. 8.

35 Settlement Offer at p. 4.

36 FWS' April 8, 1996 filing.

37 *See Wisconsin Public Service Corporation*, 62 FERC ¶61,095, at pp. 61,685 -86 (1993), *aff'd sub nom. Wisconsin Public Service Corporation v. FERC*, 32 F.3d 1165 (7th Cir. 1994).

38 *See* National Historic Preservation Act, 16 U.S.C. §470 *etseq.* In issuing licenses, the Commission must act to preserve the nation's historic, cultural and archaeological heritage, and must consult with the appropriate State Historic Preservation Officer.

39 April 23, 1993 letter to Kleinschmidt Associates (Beebee Island's consultant) from Deputy Commissioner for Historic Preservation, Historic Preservation Field Services Bureau, New York State Office of Parks, Recreation and Historic Preservation.

40 September 11, 1985 letter to Niagara Mohawk from Director, Historic Preservation Field services Bureau. Included in new license application, appendix A.

41 August 5, 1996 filing by the Advisory Council on Historic Preservation.

42 December 1, 1996 letter from Director, Division of Licensing and Compliance, to the Advisory Council on Historic Preservation, the New York State Office of Parks, Recreation and Historic Preservation, and Niagara Mohawk.

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43 Comprehensive plans for this purpose are defined at 18 C.F.R. §2.19 (1996).

44 The federal plans are: (1) Nationwide Rivers Inventory, National Park Service, U.S. Department of the Interior, Washington, D.C., January 1982; (2) North American Waterfowl Management Plan: A Strategy for Cooperation, Fish and Wildlife Service, U.S. Department of the Interior, and Canadian Wildlife Service, Environment Canada, Washington, D.C., May 1986; and (3) Fisheries USA: the Recreational Fisheries Policy of the U.S. Fish and Wildlife Service, Washington, D.C., undated.

The state plans are: (1) Adirondack Park State Land Master Plan, Adirondack Park Agency, Ray Brook, New York, January 1985; (2) New York State Wild, Scenic, and Recreational Rivers System Field Investigation Summaries, Adirondack Park Agency, Albany, New York, undated; (3) Fisheries Enhancement Plan for the Black River, New York, Fish and Wildlife Service, U.S. Department of the Interior and New York State Department of Environmental Conservation, Amherst, New York, March 1994; (4) New York State Wild, Scenic, and Recreational River System Act, New York State Department of Environmental Conservation, Albany, New York, March 1985; (5) Article 27--Adirondack Park Agency Act, New York State Executive Law, Albany, New York, July 15, 1981; (6) Regulation for Administration and Management of the Wild, Scenic, and Recreational Rivers Systems in New York State excepting the Adirondack Park, New York State Department of Environmental Conservation, Albany, New York, March 26, 1986; and (7) State Comprehensive Outdoor Recreation Plan, New York State Parks, Recreation, and Historic Preservation, 1994.

45 FWS' November 7, 1996 filing argues that the Settlement Offer qualifies as a comprehensive plan pursuant to this section of the FPA, and accordingly, to the extent that the Felts Mills Project conflicts with the Settlement Offer, it cannot be considered to be in the best interest of the comprehensive development of the waterway involved. We disagree; although two federal and two state agencies are among the signatories to the Settlement Offer, the signatories, as a body, do not constitute an agency authorized by the United States or New York State to prepare such a plan. *See* the definition of comprehensive plan 18 C.F.R. §2.19 . In any event, a project's conflict with a comprehensive plan does not preclude licensing. Section 10(a)(2)(A), 16 U.S.C. §803 (a)(2)(A), of the FPA does not limit the Commission's ability to carry out its broad responsibilities under sections 10(a)(1) and 4(e) of the FPA, 16 U.S.C. §§803 (a)(1) and 797(e), to consider and balance all aspects of the public interest in determining whether, and under what conditions, a hydroelectric license should be issued. *See Richard Balagur*, 57 FERC ¶61,315, at p. 62,016 (1991).

[62,369]

46 Time-of-use rates are prices that vary according to the time of day, week, or year of the power bought, with power during high demand times being more costly.

Real-time pricing means that the cost to the customer for power bought will be the market price for the power at the time of sale.

Interruptible rates are prices that are lower than rates for non-interruptible service. Customers buying at this lower rate run the risk that the power will be cut off during periods of unusually high demand or loss of generation in order to maintain service to customers paying higher rates for non-interruptible service.

Curtailable rates are prices that are lower than would otherwise be charged because only an agreed-upon amount of power will be sold at these rates. Additional power will be more costly.

47 16 U.S.C. §661 *etseq.*

48 *See* 33 C.F.R. Part 222. The hazard potential pertains to the potential for loss of human life or property in the area downstream of the dam in the event of a failure or errant operation of the dam. Low hazard potential requires the downstream area to have no permanent structures for human habitation and to be relatively undeveloped so that only minimal economic loss would occur.

49 October 23, 1991 letter from NYRO staff to Niagara Mohawk, exempting the Beebee Island and the Black River Projects from the requirement of filing an EAP. NYRO staff confirmed the continuing exemption in December 1993 and November 1994. On

[62,370]

January 4, 1996, Niagara Mohawk filed, with the New York Regional Office staff, its report attesting to its continued compliance with Commission regulations (18 C.F.R. §12.21 (c)) enabling exemption.

50 June 13, 1996 internal memorandum from Director, NYRO, to Director, Division of Dam Safety and Inspections.

51 *See* the EA at II. B.

[62,371]

52 72 FERC ¶61,027 (1995), *reh'g granted and clarification denied*, 76 FERC ¶61,352 (1996).

53 *See* EA at VI. Developmental Analysis and Table 20.

[62,377]

54 The Programmatic Agreement was supplemented by the Commission's letter of December 1, 1996, which added appendix A. III.

New York State Department of Environmental Conservation
Division of Regulatory Services - Room 538
50 Wolf Road, Albany, New York 12233-1750
Telephone: (518) 457-2224
Fax: (518) 457-5965

Michael D. Zagata
Commission

November 3, 1995

Mr. Michael W. Murphy
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, NY 13202

Re: Black River Project, FERC No. 2569
and
Beebee Island Project, FERC No. 2538
Water Quality Certificate

Dear Mr. Murphy:

The Department of Environmental Conservation (the Department) hereby certifies that, based on our review of all pertinent information presented by Niagara Mohawk Power Corporation (NMPC) in its application for federal licenses for the Black River and Beebee Island Hydroelectric Projects and the Settlement Agreement dated September 14, 1995, NMPC has provided reasonable assurance that the subject Projects will comply with all applicable effluent standards, standards of performance and other state statutes, regulations and criteria applicable to the affected waterbody as required by the State regulatory provisions implementing Section 401 of the Federal Water Pollution Control Act.

This certification is issued pursuant to Section 401 of the Federal Water Pollution Control Act, 33 U.S.C. 1341. The Department makes this certification provided that the attached standard conditions are met, as well as the terms and conditions of the attached Settlement Agreement signed by the Department, NMPC, Beebee Island Corporation, the U.S. Fish and Wildlife Service, the National Park Service, New York Rivers United, the Adirondack Mountain Club, the National Audubon Society, the American Whitewater Affiliation, American Rivers, the New York State Conservation Council, the New York State Council of Trout Unlimited,

and the National Heritage Institute. The terms and conditions of this Settlement describe the operations of the five developments comprising the Black River Project and the one development of the Beebee Island Project located in the Towns of Champion, Wilna, Rutland, and Leray, the Villages of Black River and Deferiet, and the City of Watertown, Jefferson County.

The Department reserves the right to reconsider the entire Certification if there is a significant change in the scope of the proposal or the project license, or in the event the referenced application or Settlement Agreement are further amended.

Sincerely,

Jeffrey J. Sama
Deputy Chief Permit
Administrator

JJS/BAH/lk
Enclosures

cc with enclosure:
401 Service List
Signatories
R.Vaas, Regional Permit Administrator, Reg.6
L.Olivett, Habitat Protection Biologist, Reg.6
W.Sarbello & M.Woythal, Bureau of Environmental Protection

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
STANDARD WATER QUALITY CONDITIONS

A. OVERSIGHT AND ADMINISTRATION

1. Inspections: The projects, including relevant records, are subject to inspection at reasonable hours and intervals, upon reasonable notice to the certificate holder, by an authorized representative of the Department to determine whether the certificate holder is complying with this certification. A copy of this certification, including all referenced maps, drawings, and special conditions, must be available for inspection by the Department during such inspections at the project.

B. PROJECT MAINTENANCE AND CONSTRUCTION

2. Maintenance Dredging: The certificate holder shall curtail generation and install stoplogs or otherwise shut off flow through the turbine(s) prior to commencing any maintenance dredging activities in any intake/forebay area.

3. Sediment Analysis and Disposal: The certificate holder must sample any sediments to be disturbed or removed from the projects' waters and test them for contaminants. Sampling and testing shall be accomplished according to a protocol submitted to and approved by the Department beforehand. Prior to dredging or other excavation, the certificate holder must secure Department approval for all disposal locations for any contaminated sediments to be removed from the project waters.

4. Erosion and Sediment Control: Prior to commencing activities which could adversely affect water quality, the certificate holder must receive Department approval of an Erosion and Sediment Control Plan. This plan must be submitted at least 60 days before the intended date for commencing work. Actions undertaken in response to an emergency and governed by the procedures contained in 6 NYCRR Section 621.12 are exempt from this condition. At minimum, the certificate holder must:

   a. isolate instream work from the flow of water and prevent discolored (turbid) discharges and sediments from entering the waters of the river due to excavation, dewatering and construction activities.

   b. avoid using heavy construction equipment below the mean high water line of the river until the work area is protected by an approved structure and dewatered.

   c. stabilize any disturbed banks by grading to an appropriate slope, followed by armoring or vegetating as appropriate, to prevent erosion and sedimentation into the waterbody.

   d. minimize soil disturbance, provide appropriate grading and temporary and permanent revegetation of stockpiles and other disturbed areas to minimize erosion/sedimentation potential.

e. install and maintain, in a fully functional condition, effective erosion control measures on the downslope of all disturbed areas before commencing any other soil disturbing activities.

f. protect all waters from contamination by deleterious materials such as wet concrete, gasoline, solvents, epoxy resins or other materials used in construction, maintenance and operation of the project.

g. 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.

h. ensure that all temporary fill and other materials placed in the waters of the river are completely removed promptly upon completion of construction unless otherwise directed by the Department.

5. Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the river: The design of all such structures will be developed in accordance with Condition #4 (above).

6. Maintenance of River Flow: During all periods of construction, the certificate holder shall maintain adequate flows immediately downstream of worksites to ensure that the water quality standards established for the water body are met.

7. Turbidity Monitoring: During all periods of construction, the certificate holder will monitor the waters of the river at a point immediately upstream of project activities and at a point no more than 100 feet downstream from any discharge point or other potential source of turbidity, to the extent practicable; and if not practicable, then at the nearest point beyond 100 feet downstream, but in no event beyond 200 feet downstream from the turbidity source. If at any time, turbidity measurements from the downstream locations exceed the measurements from the locations upstream of the work areas, certificate holder specifically agrees to immediately take all action necessary to identify the activities causing the turbidity and to correct the situation.

8. Notifications: At least two (2) weeks prior to commencing any work subject to conditions 2 through 7 of this certificate the certificate holder shall provide written notification to:

Chief, Project Management Section
New York State Department of Environmental Conservation,
Division of Regulatory Services
50 Wolf Road, Room 538
Albany New York 12233-1750

UNITED STATES OF AMERICA 84 FERC ¶ 62,159
FEDERAL ENERGY REGULATORY COMMISSION

Beebee Island Corporation Project No. 2538-016

ORDER AMENDING ARTICLE 401
(Issued August 20, 1998)

On June 22, and supplemented on July 1, 1998, Beebee Island Corporation (licensee) filed a request to amend license article 401 1/ for the Beebee Island Project located on Black River in Jefferson County, New York.

Article 401 requires, in part, that the licensee operate the project in a run-of-river mode such that flows downstream from the project tailrace approximate the sum of inflows to the project reservoir. Further, the fourth paragraph of article 401, (and the subject of the licensee's amendment request) states:

> "If flashboard problems prevent the licensee from maintaining the impoundment elevation above 427.5 feet USGS, the licensee shall so notify the Commission, FWS [the U.S. Fish and Wildlife Service] and NYSDEC [the New York State Department of Environmental Conservation]. The licensee shall propose remedial action, for Commission approval, together with the comments and recommendations of these agencies on the proposed remedies. The Commission reserves the right to require changes to these proposes remedies".

THE LICENSEE'S FILING

The licensee stated that article 402 and the General Agreement of the Settlement Offer interplay with the request to amend article 401. Article 402 states that the licensee shall install flashboards each year by May 1 or as soon thereafter as safely possible and remove the flashboards in the fall as the licensee deems appropriate based on ice conditions.

The licensee added that Paragraph F, entitled "Project Operations" under section II of the Settlement Offer stated, "If the impoundment cannot be maintained within 0.5 feet of the top of the flashboards between May 1 and June 30 because of flashboard problems, licensees will, for ease of communication, alert the local NYSDEC to propose remedial actions. NYSDEC will communicate with the USFWS, and will within 5 business days approve which, if any, remedial actions may be done before June 30. Permission for remedial actions will be granted only upon agreement by both agencies."

1/ 77 FERC ¶61,306 (1996).

The licensee stated that the Commission may have overlooked the time period and reporting mechanism for remedial actions to be implemented when drafting the language for article 401. Remedial actions are intended to be used during the May 1 to June 30 time frame for centrarchid spawning. Further, the licensee added that remedial actions are generally limited to adjusting the flashboard configuration, or modifying spillage over the dam. The licensee indicated that the remedial actions are operational in nature and do not require any construction but do require quick decisions based on hydrologic and biological factors known to the local agencies.

Based on the above, the licensee stated that they do not believe that the Commission needs to exercise any review and approval authority in this limited instance. The licensee proposed the following amendment of article 401:

> "If flashboard problems prevent the licensee from maintaining the impoundment elevation above 427.5 feet USGS between May 1 and June 30, the licensee will, for ease of communication, alert the local NYSDEC to propose remedial actions. NYSDEC will communicate with the USFWS, and will within 5 business days approve which, if any, remedial actions may be done before June 30. Permission for remedial actions will be granted only upon agreement by both agencies. The remedial actions proposed and approved, together with the schedule for accomplishing same, shall be reported to the Commission within 5 business days of the licensee's receipt of approval for same."

By letter dated May 15, 1998 the licensee sent via FAX their amendment proposal to the FWS and NYSDEC requesting their review and comment.

RESOURCE AGENCY COMMENTS

The licensee stated that the NYSDEC concurred with their amendment proposal via e-mail. The licensee stated that the NYSDEC indicated that flashboard installation should occur by May 1 of each year or at the time when river flows fall below the plant capacity so the water level can be lowered below the crest in order to allow work crews to safely install the flashboards.

By letter dated July 13, 1998, the FWS also concurred with the licensee's request for amending article 401. The FWS stated that the intent of whether or not to replace flashboards was left to a mutually agreed upon solution between the NYSDEC and the FWS.

DISCUSSION

A Final Environmental Assessment, issued September 27, 1996, indicated that installing flashboards by May 1 each year would improve shoreline habitat at the beginning of the fish spawning season. 2/ This habitat is ideally suited for fish nesting and larval and juvenile fish rearing. If flashboards were lost during the winter and early spring due to ice or high flow conditions, the licensee is required to replace them as soon as possible under safe conditions.

The Settlement Offer recognized that the licensee may have problems maintaining the flashboards during the spring and in the event that flashboards failed between May 1 and June 30, after initial replacement, the licensee would contact the NYSDEC, who in turn would contact the FWS regarding remedial actions such as flashboard replacement. Consideration of viable options would depend on fish spawning, bird nesting, hydrologic conditions and the time of year. The Settlement Offer left the decision on whether or not to replace the flashboards during the May 1 to June 30 period, to a mutually agreed upon solution between the licensee, NYSDEC and FWS.

The licensee's amendment request proposes to omit the Commission from having to approve any remedial action for flashboard replacement during the May 1 to June 30 time frame. The licensee proposes to report to the Commission, within 5 business days, any remedial actions recommended by the licensee and approved by the agencies along with a schedule for accomplishing the actions.

For short term events that are limited in scope and duration (like the interruption in the installation of flashboards), the Commission routinely requires licensees to obtain concurrence from the relevant resource agencies. The subject amendment request is consistent with this practice. Therefore, since there is a short time frame associated with the enhancements provided by installing flashboards or any remedial actions in the event of problems with maintaining the flashboards, the licensee's request to amend article 401 appears reasonable.

However, based on information contained in any future report filed with the Commission, the Commission should reserve the right to require structural or operational changes to ensure compliance with article 401. Accordingly, the licensee's request to amend article 401, as modified, should be approved.

2/ See Notice of Issuance, 61 FR 51697 (Oct. 3, 1996).

The Director Orders:

(A) Beebee Island Corporation's (licensee) request to amend license article 401, filed June 22, and supplemented on July 1, 1998, for the Beebee Island Project, located on the Black River in Jefferson County, New York, as modified in Paragraph (B), is approved.

(B) The fourth paragraph of license article 401 is amended to read:

> "If flashboard problems prevent the licensee from maintaining the impoundment elevation above 427.5 feet USGS between May 1 and June 30, the licensee shall, for ease of communication, alert the local NYSDEC to propose remedial actions. The NYSDEC has agreed to communicate with the USFWS, and approve, within 5 business days, which, if any, remedial actions may be done before June 30. Implementation of the remedial actions shall be completed only after agreement by both agencies. The remedial actions proposed and approved, together with the schedule for accomplishing same, shall be reported to the Commission within 5 business days of the licensee's receipt of the agencies' approval. Based on the licensee's report, the Commission reserves the right to require structural or operational changes to ensure future compliance with article 401."

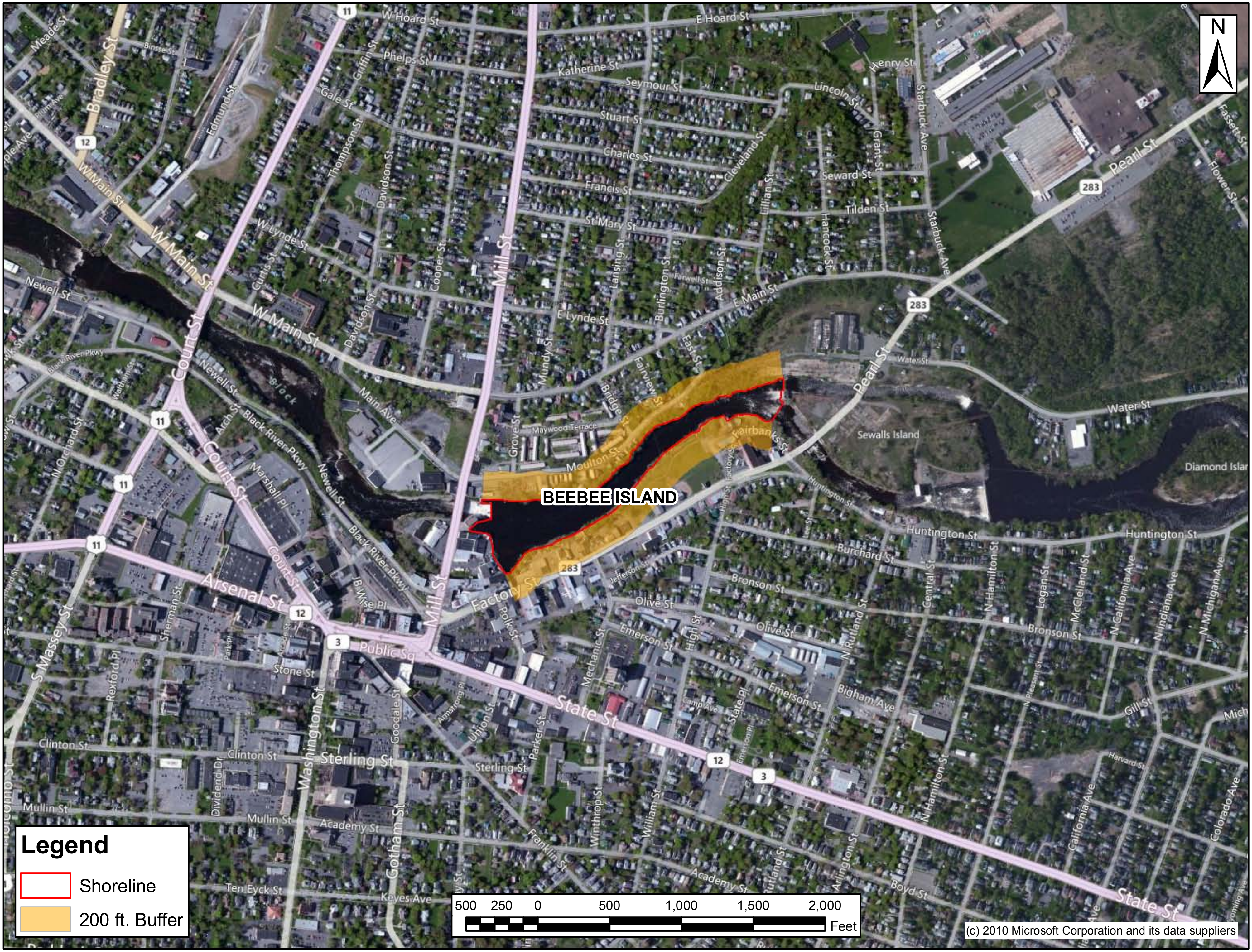
(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Carol L. Sampson
Director
Office of Hydropower Licensing

ATTACHMENT C

QUESTION 10:

MAP SHOWING 200 FT ZONE AROUND RESERVOIR



BEEBEE ISLAND
Legend
Shoreline
200 ft. Buffer
500 250 0 500 1,000 1,500 2,000
Feet
N
(c) 2010 Microsoft Corporation and its data suppliers

ATTACHMENT D

QUESTION 11:

LIST OF KEY AGENCY/STAKEHOLDER CONTACTS

Adirondack Mountain Club
301 Hamilton Street
Albany, NY 12210

American Rivers
1101 14th Street, NW, Suite 1400
Washington, D.C. 20005

American Whitewater
1035 Van Buren Street
Missoula, MT 59802

National Audubon Society
200 Trillium Lane
Albany, NY 12203

National Park Service
15 State Street
Boston, MA 02109

Natural Heritage Institute
Richard Roos-Collins
100 Pine Street, Suite 1550
San Francisco, CA 94111

New York Council, Trout Unlimited
7 Helen Street
Plattsburg, NY 12901

New York State Conservation Council
8 East Main Street
Ilion, NY 13357

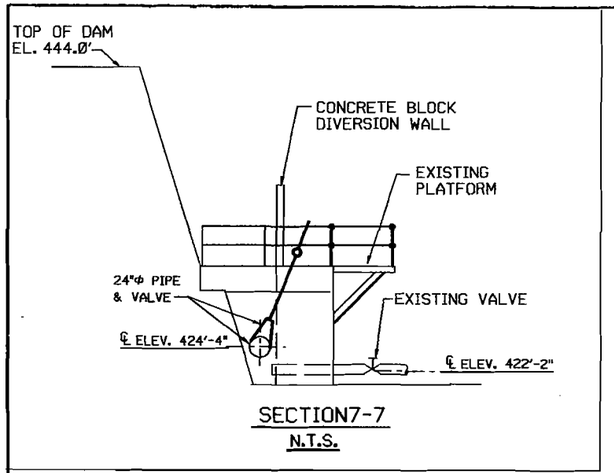
New York State Department of Environmental Conservation
Alice Richardson
Dulles State Office Building
317 Washington Street
Watertown, NY 13601

U.S. Fish & Wildlife Service
Steven Patch
3817 Luker Road
Cortland, NY 13045

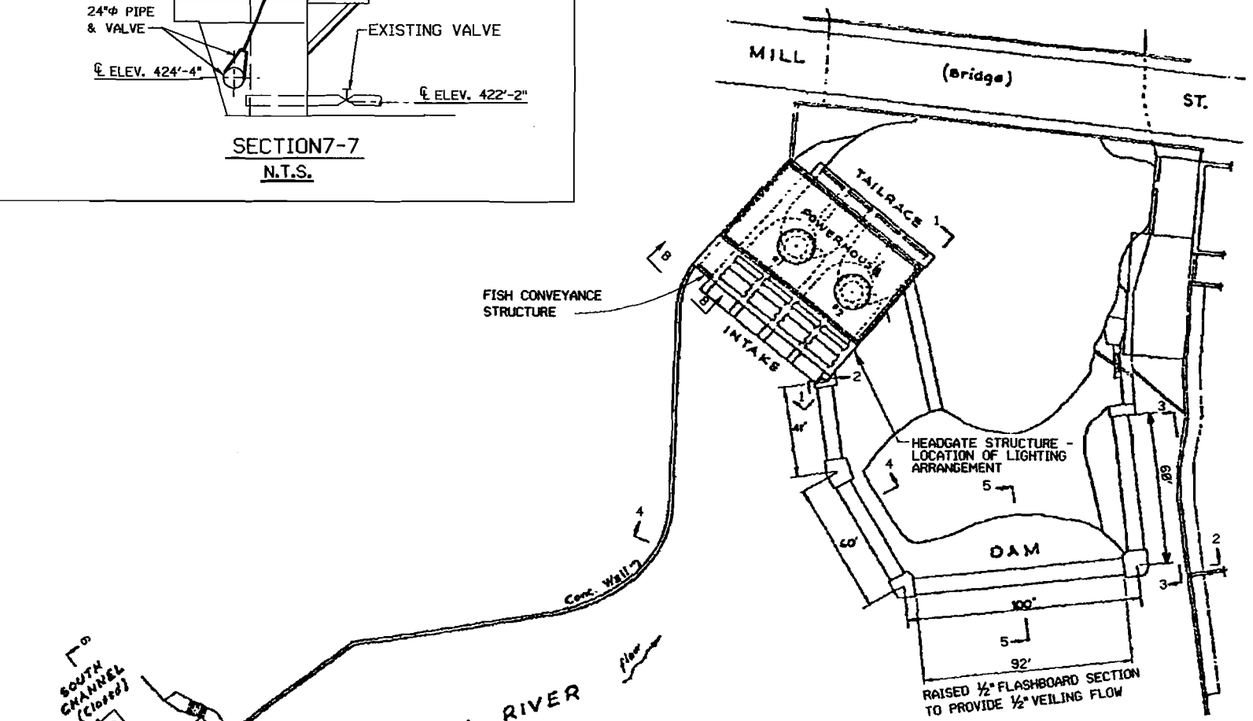
ATTACHMENT E

QUESTION 12:

EXHIBIT F & G DRAWINGS (P-2538)

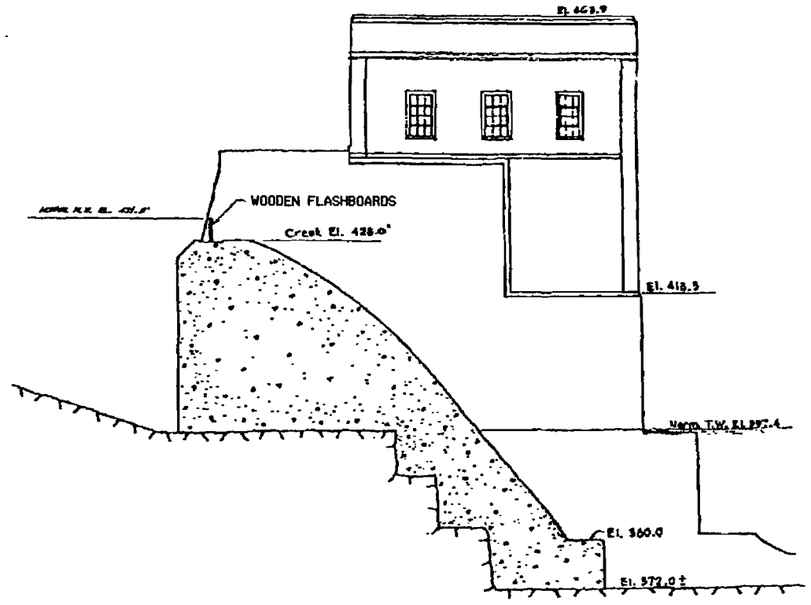


SECTION7-7
N.T.S.



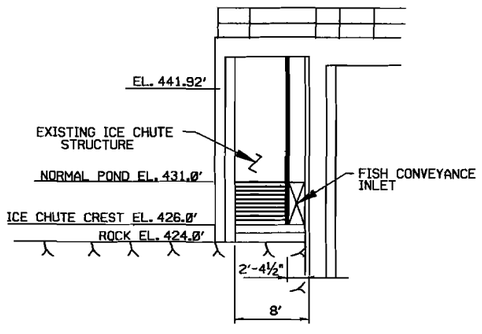
LOCATION PLAN

SCALE OF FEET



SECTION 1-1

SCALE OF FEET



SECTION 8-8
N.T.S.

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
4	1/12/06	ORDER APPROVING REVISED EXHIBIT A AND EXHIBIT F DRAWINGS	BAB	SPM	SPM
3	10/1/05	AS-BUILT FISH CONVEYANCE, VEILING FLOW, MINIMUM FLOW VALVE	BAB	SPM	SPM
2	12/24/96	ORDER APPROVING SETTLEMENT OFFER & ISSUING NEW LICENSE	SPC	DWM	TMS
1	12/6/91	LICENSE APPLICATION	BEEBEE ISLAND CORPORATION		

ORIGINAL ISSUE DATE 12/24/96

DRAWING NUMBER F12538.DGN F12538.CIT

FERC SEQ. NO. 2538-1006

ERIE BOULEVARD HYDROPOWER, L.P.
LIVERPOOL, N.Y.

BEEBEE ISLAND PROJECT
DAM PLAN & SECTIONS

EXHIBIT F | SCALE: AS NOTED | SHEET NO. 1

CEII

FERC NO. 2538-1006

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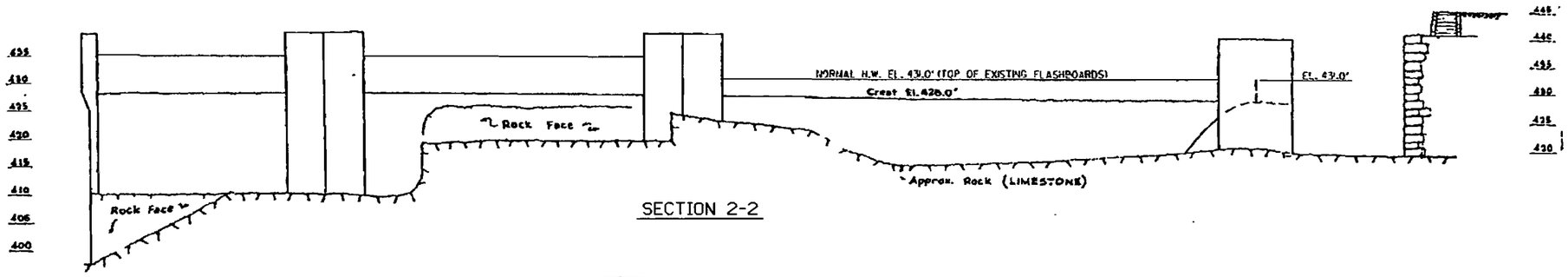
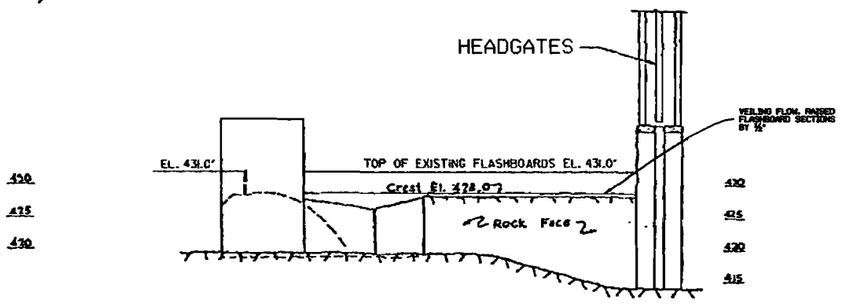
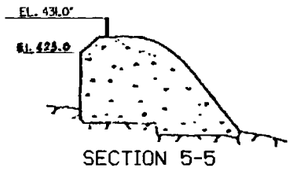


SECTION 2-2



SECTION 3-3



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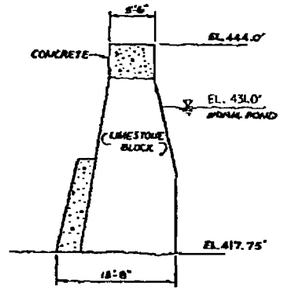
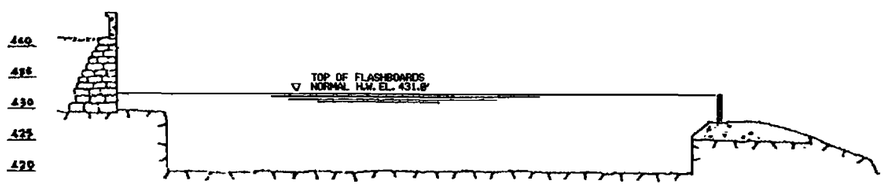


SECTION 6-6



SECTION 4-4

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SCALE OF FEET

0 A B
SCALE IN FEET

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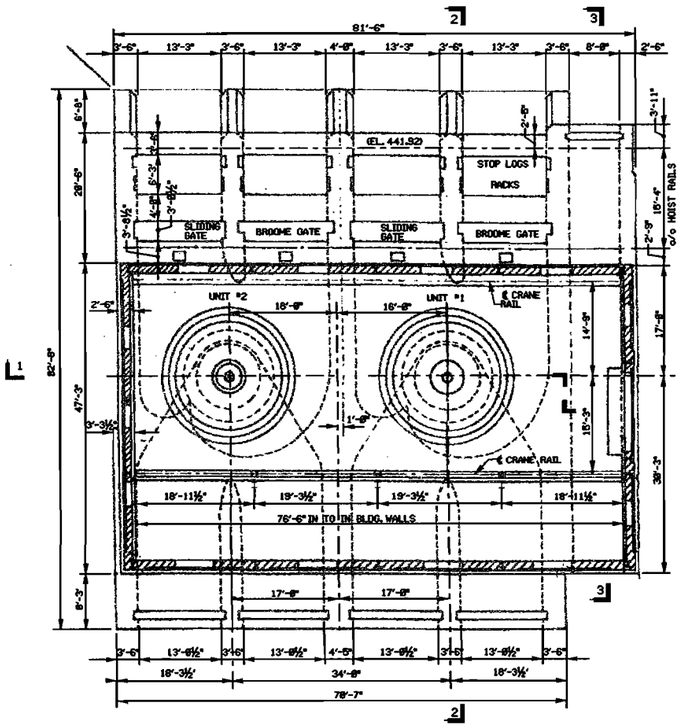
3	10/1/95	AS-BUILT, FISH CONVEYANCE, VEILING FLOW, MINIMUM FLOW VALVE	BAB	SPM	SPM
2	12/24/96	ORDER APPROVING SETTLEMENT OFFER & ISSUING NEW LICENSE	JPC	DWM	TMS
1	12/8/91	LICENSE APPLICATION	BEEBEE ISLAND CORPORATION		
NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	OWNER.	CK.	APP.

ORIGINAL ISSUE DATE 12/24/96
DRAWING NUMBER F22538.DGN F22538.CIT
FERC SEQUENCE NO. 2538-1087

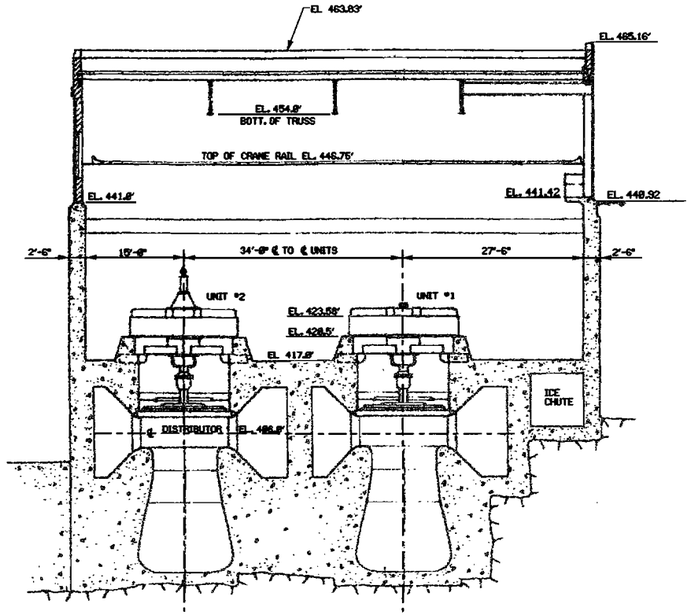
ERIE BOULEVARD HYDROPOWER, L.P.
LIVERPOOL, N.Y.
BEEBEE ISLAND PROJECT
DAM ELEVATIONS & SECTIONS
EXHIBIT F SCALE AS NOTED SHEET NO. 2

CEII

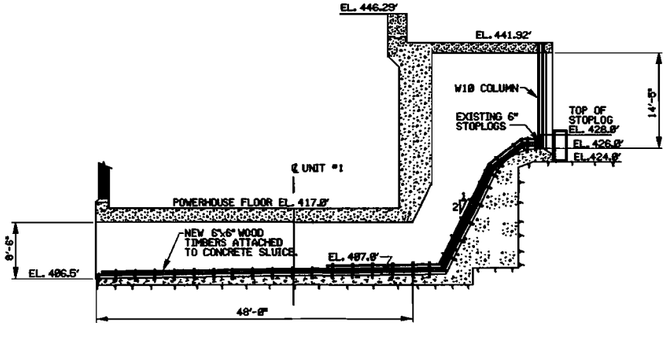
FERC NO. 2538-1087



EXISTING
POWERHOUSE PLAN



SECTION 1-1



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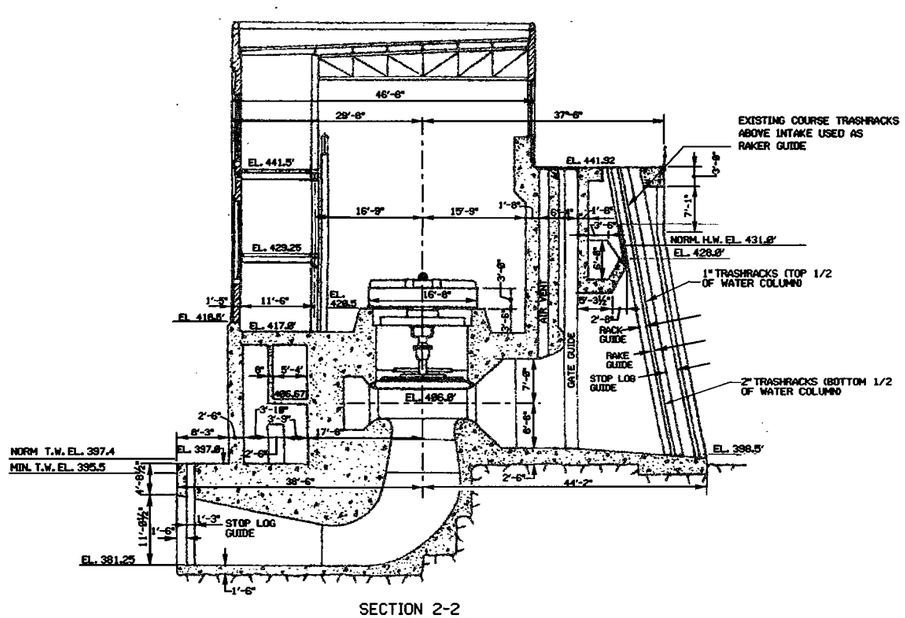

SECTION 2-2

can't find in PW

ERIE BOULEVARD HYDROPOWER, L.P.

LIVERPOOL, N.Y.

BEEBEE ISLAND PROJECT

EXISTING POWERHOUSE PLANS & SECTIONS

0 10 20 30 40 50
SCALE OF FEET

EXHIBIT F | SCALE: 1"=10' | SHEET NO. 3

CEII

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
5	1/27/06	REFILED EXHIBIT F-3 DRAWING DUE TO POOR QUALITY OF 1/12/06 FILING	BAB	SPM	SPM
4	1/12/06	ORDER APPROVING REVISED EXHIBIT A AND EXHIBIT F DRAWINGS	BAB	SPM	SPM
3	10/1/05	AS-BUILT, FISH CONVEYANCE, VEILING FLOW, MINIMUM FLOW VALVE & 1 INCH TRASHRACKS	BAB	SPM	SPM
2	12/24/98	ORDER APPROVING SETTLEMENT OFFER & ISSUING NEW LICENSE	RPC	DWM	TMS
1	12/6/91	LICENSE APPLICATION	BEEBEE ISLAND CORPORATION		

ORIGINAL ISSUE DATE	12/24/98
DRAWING NUMBER	F32538.DGN F32538.CIT
FERC SEQ. NO.	2538-1008

FERC NO. 2538-1008

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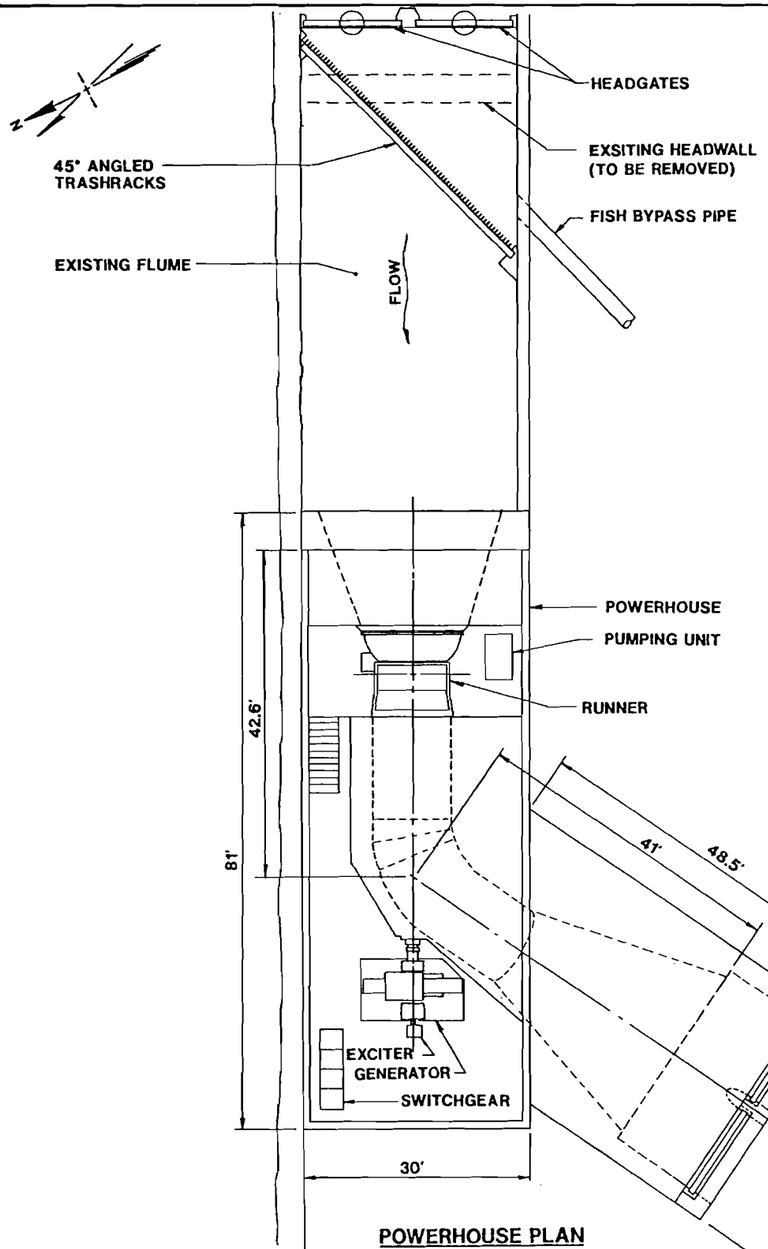
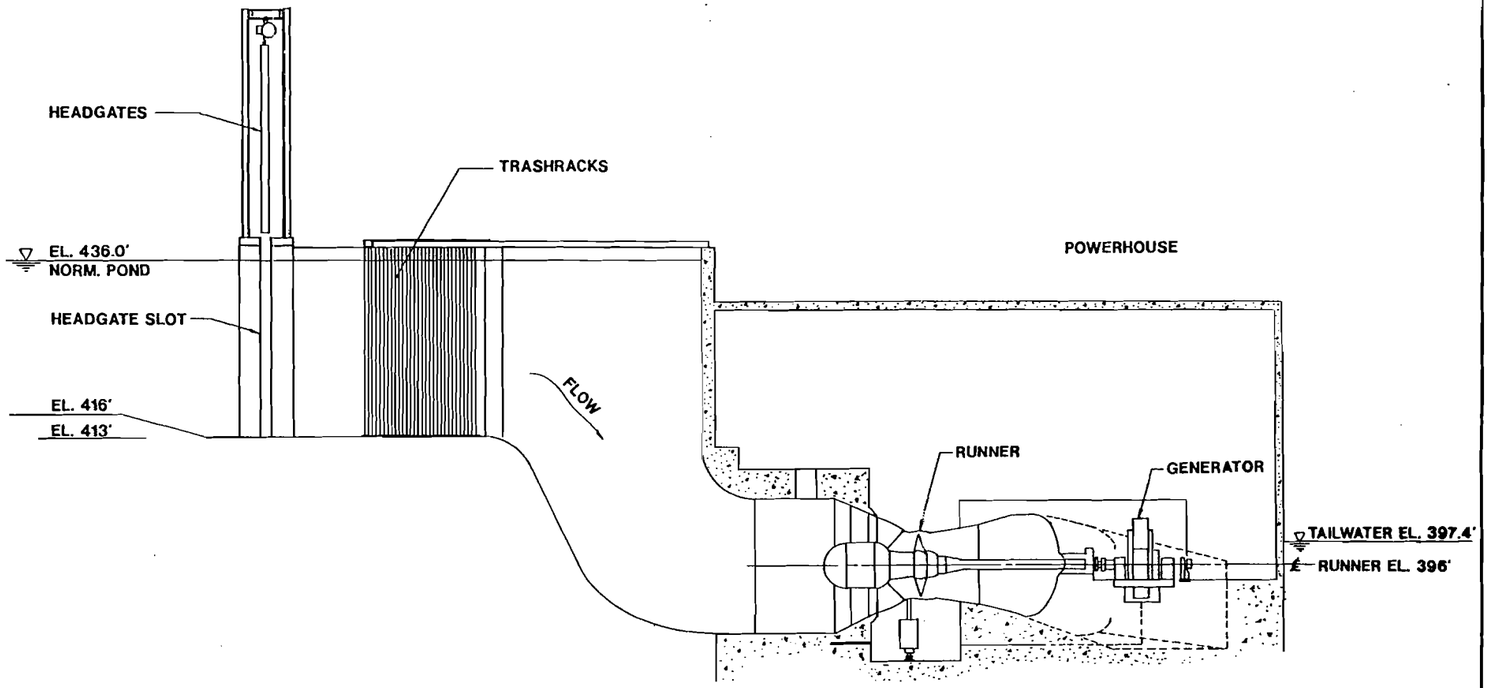


POWERHOUSE PLAN



ELEVATION

10 0 10 20

SCALE IN FEET

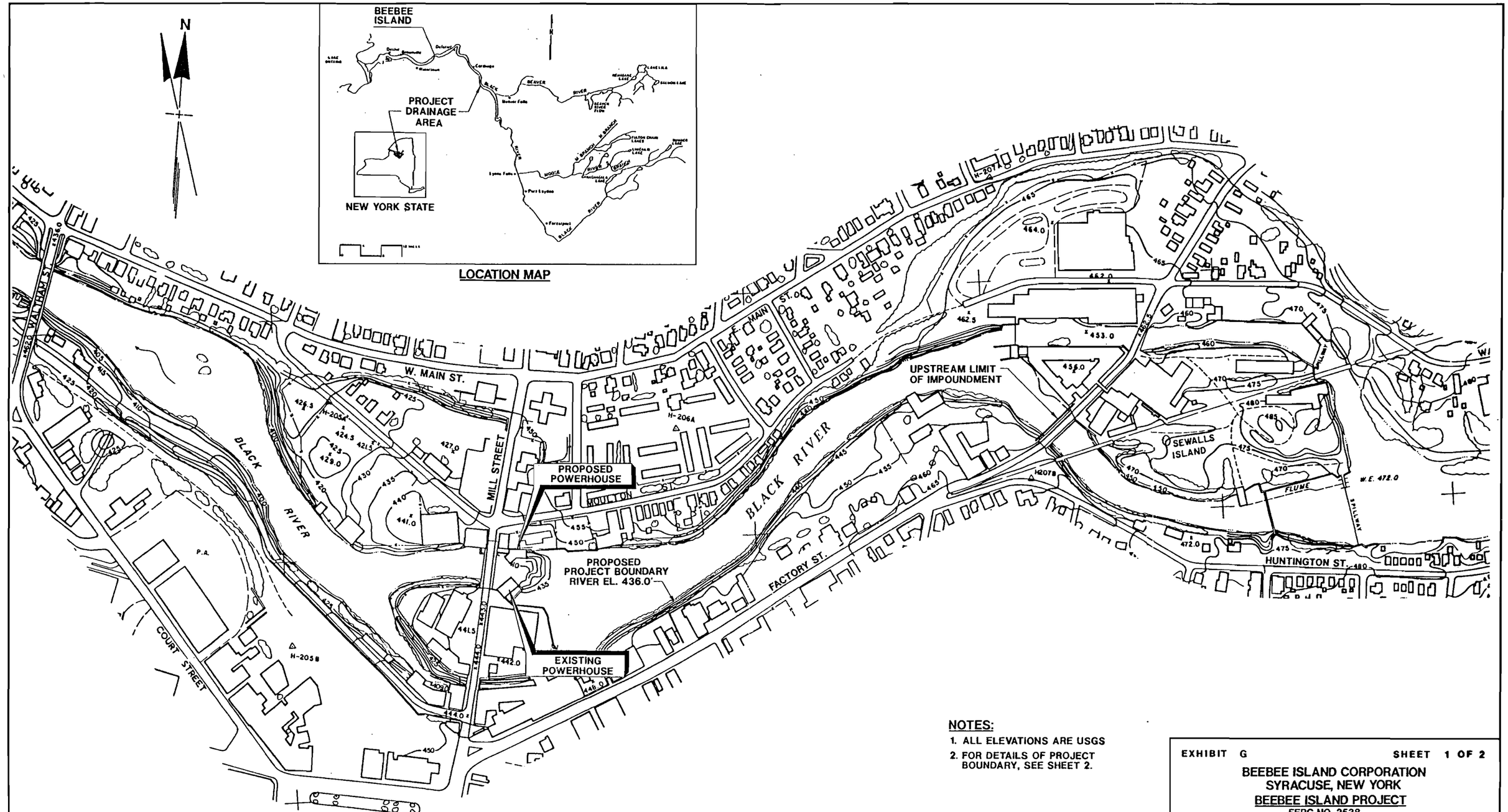
No Longer Proposed
Save for Reference Only
1/25/06 -SPM

THIS DRAWING IS PART OF THE APPLICATION FOR NEW LICENSE MADE BY THE UNDERSIGNED
THIS 6th DAY OF December ,19 91
BY Daniel P Breault
BEEBEE ISLAND CORPORATION

EXHIBIT F SHEET 4 OF 4
BEEBEE ISLAND CORPORATION
SYRACUSE, NEW YORK
BEEBEE ISLAND PROJECT
FERC NO. 2538
PROPOSED POWERHOUSE
PLAN AND ELEVATION

Kleinschmidt Associates
Consulting Engineers
Pittsfield, Maine

SHEET NO.	Drawn by MNF Date: 5-1-91	Date	Chkd.	Revision
OF	Chkd. by Date:			
B-	Appvd. by Date:			
	Scale: AS NOTED			



NOTES:

1. ALL ELEVATIONS ARE USGS
2. FOR DETAILS OF PROJECT BOUNDARY, SEE SHEET 2.

EXHIBIT G SHEET 1 OF 2

BEEBEE ISLAND CORPORATION
SYRACUSE, NEW YORK
BEEBEE ISLAND PROJECT
FERC NO. 2538

LOCATION MAP

THIS DRAWING IS PART OF THE APPLICATION FOR NEW LICENSE MADE BY THE UNDERSIGNED
THIS 6th DAY OF December, 1991
BY David R. Bennett
BEEBEE ISLAND CORPORATION

Kleinschmidt Associates
Consulting Engineers
Pittsfield, Maine

SHEET NO.	Drawn by RED Date: 12-19-90	Date	Chkd.	Revision
OF	Chkd. by ____ Date: ____			
B-	Appvd. by ____ Date: ____			
	Scale: AS NOTED			

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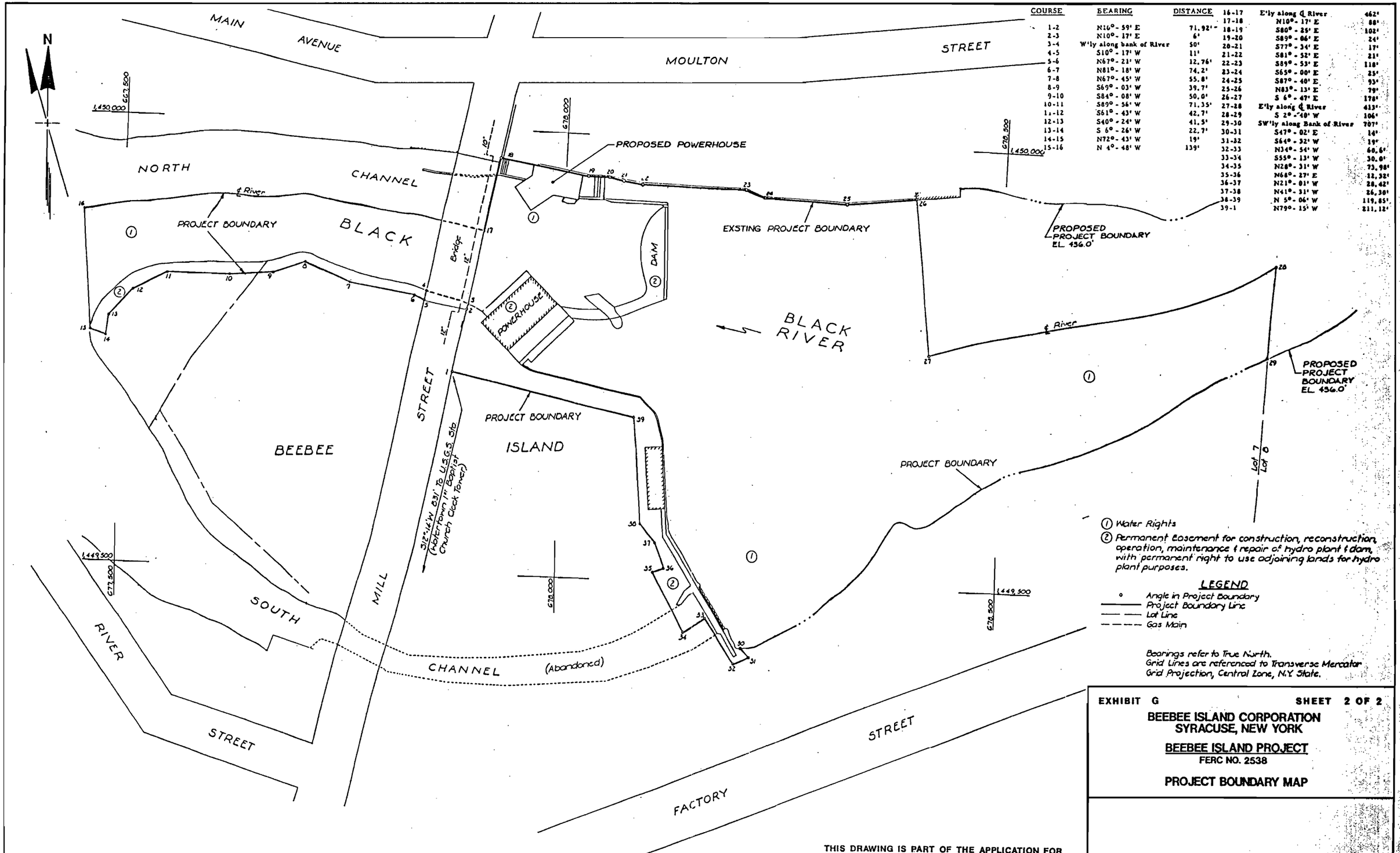
SCALE IN FEET



COURSE	BEARING	DISTANCE
1-2	N16°- 59' E	71.92'
2-3	N10°- 17' E	6'
3-4	W'ly along bank of River	50'
4-5	S10°- 17' W	11'
5-6	N67°- 21' W	12.76'
6-7	N81°- 18' W	74.2'
7-8	N67°- 45' W	55.8'
8-9	S69°- 03' W	39.7'
9-10	S84°- 08' W	50.0'
10-11	S89°- 56' W	71.35'
11-12	S61°- 43' W	42.7'
12-13	S40°- 24' W	41.5'
13-14	S 6°- 26' W	22.7'
14-15	N72°- 43' W	19'
15-16	N 4°- 48' W	139'
16-17	E'ly along ℄ River	462'
17-18	N10°- 17' E	88'
18-19	S80°- 25' E	102'
19-20	S89°- 06' E	24'
20-21	S77°- 34' E	17'
21-22	S81°- 52' E	21'
22-23	S89°- 53' E	118'
23-24	S65°- 00' E	25'
24-25	S87°- 40' E	93'
25-26	N83°- 13' E	79'
26-27	S 6°- 47' E	178'
E'ly along ℄ River		413'
28-29	S 2°- 48' W	106'
SW'ly along Bank of River		707'
30-31	S47°- 02' E	14'
31-32	S64°- 32' W	19'
32-33	N34°- 54' W	60.6'
33-34	S55°- 13' W	30.0'
34-35	N28°- 31' W	73.98'
35-36	N68°- 27' E	12.32'
36-37	N21°- 01' W	28.42'
37-38	N41°- 31' W	26.30'
38-39	N 5°- 06' W	119.85'
39-1	N79°- 15' W	211.12'

① Water Rights

② Permanent Easement for construction, reconstruction, operation, maintenance & repair of hydro plant & dam, with permanent right to use adjoining lands for hydro plant purposes.

LEGEND

° Angle in Project Boundary
——— Project Boundary Line
— — — Lot Line
– – – – Gas Main

Bearings refer to True North.
Grid Lines are referenced to Transverse Mercator Grid Projection, Central Zone, N.Y. State.

EXHIBIT G SHEET 2 OF 2

BEEBEE ISLAND CORPORATION
SYRACUSE, NEW YORK

BEEBEE ISLAND PROJECT
FERC NO. 2538

PROJECT BOUNDARY MAP

THIS DRAWING IS PART OF THE APPLICATION FOR NEW LICENSE MADE BY THE UNDERSIGNED
THIS 6th DAY OF December, 19 91
BY _____
BEEBEE ISLAND CORPORATION

Kleinschmidt Associates
Consulting Engineers
Pittsfield, Maine

SHEET NO.	Drawn by MF Date: 9-13-90	Date	Chkd.	Revision
OF	Chkd. by _____ Date: _____			
B-	Appvd. by _____ Date: _____			
	Scale: AS NOTED			

ATTACHMENT F

QUESTION A – FLOW:

2012 ANNUAL MINIMUM FLOW COMPLIANCE REPORT (P-2538 & P-2569)

HYDRO OPERATING PROCEDURE 202

NEW YORK WEST OPERATIONS
Transmittal Memo

DATE: April 4, 2012
FROM: **STEVEN P. MURPHY**
(315) 413-2788 (office)
(315) 461-8577 (fax)
(315) 439-0096 (cell)

DATE OF ATTACHMENT	April 4, 2012
TYPE OF ATTACHMENT	2011 Min Flow / Headpond Compliance Certification
FERC No	All NYW
PROJECT	All NYW
DEVELOPMENT	All NYW

NOTES

TO:

_____	ADAMS, M.
_____	AUSER, J.
_____	AUSTIN, P.
_____	BATES, D.
_____	BERNARD, J.
_____	BURTICK, D.
X	BUSH, B.
X	CARVEL, R.
_____	CLOOT, J.P.
_____	COLE, C.
_____	COLEMAN, CATHY
X	DAOUST, D.
_____	DONOVAN, B.
X	ELMER, J.
X	GAMBLE, J.
X	HICKEY, D.
_____	JOHNSON, M.
X	LONGO, R.
_____	LEMIEUX, T.
_____	JIGANTI, M.
_____	SMITH, A.
X	SNYDER, A.
_____	UNCHER, T.
X	ZECHER, M.
X	ZARRELLA, T.

X	SARAH KULPA (HDR)
X	AMANDA MINER (HDR)
_____	JIM GIBSON (HDR)

X **ORIGINAL TO SCANNER**

X For Your Information _____ Per Your Request _____ Review & Comment

_____ Follow-Up Action Req'd (see below) _____ No Action Now, More to Follow

Follow-Up By Whom:
Date:
Action:

Brookfield

New York West Operations
Erie Boulevard Hydropower, LP
33 West 1st Street South
Fulton, NY 13069

Tel. (315) 593-3118
Fax (315) 598-4831
www.brookfieldpower.com

April 4, 2012

Mr. Gerald Cross, Regional Engineer
FEDERAL ENERGY REGULATORY COMMISSION
New York Regional Office
19 West 34th Street - Suite 400
New York, New York 10001

Subject: Minimum Flow and Pond Level Compliance for 2011

Project No. 2330 Lower Raquette River
Project No. 2474 Oswego River
Project No. 2498 Hewittville
Project No. 2499 Unionville
Project No. 2538 Beebee Island
Project No. 2569 Black River
Project No. 2645 Beaver River
Project No. 2713 Oswegatchie River
Project No. 2837 Granby
Project No. 4402 Talcville
Project No. 4472 Franklin Falls
Project No. 5984 Oswego Falls
Project No. 7000 Newton Falls
Project No. 7320 Chasm
Project No. 7321 Macomb
Project No. 7387 Piercefield
Project No. 7518 Hogansburg
Project No. 9222 Yaleville
Project No. 10461 W. Branch St. Regis River

Dear Mr. Cross:

Erie Boulevard Hydropower, L. P. (Erie) submits, for the above referenced projects, that it has complied with minimum flow releases, headpond levels, and special water releases and similar requirements in calendar years 2011, except as previously advised in letter reports filed with the Commission for the respective hydro developments.

Should you have any questions, please contact the undersigned at (315) 598-6130.

Very truly yours,

Steven P. Murphy
New York West Operations

xc: J. Elmer
D. Daoust

1. General

a. This Hydro Operating Procedure (HOP) establishes the necessary requirements and responsibilities for the planning, timely notification, reporting, steps and follow through actions that must be implemented when performing a drawdown or dewatering operation (drawdown).

b. This HOP shall apply when it is determined that water storage facilities such as reservoirs, impoundments, ponds, canals, forebays, or other water containment and retaining structures must be dewatered or lowered beyond the lowest normal or licensed operating elevation for the purposes of inspection, repairs, maintenance, construction, dredging, or other activities.

c. To ensure timely notification, General Managers or their designee must submit an **Anticipated Drawdown Schedule** (*page 7*) to the Hydro Control Center (HCC) by March 15 each year, and revise the schedule if additional drawdowns are anticipated. The HCC will maintain a master list identifying all anticipated and approved drawdowns. Except for emergencies, a drawdown shall not be performed unless it is on the master list and a **Site-Specific Drawdown Plan** (*pages 4-6*) has been properly completed and approved.

d. The Anticipated Drawdown Schedule shall also be used by General Managers to report anticipated **pipeline** dewatering operations. HOP 202 does not apply to pipeline dewaterings that do not require a drawdown.

e. A drawdown shall not be conducted when an acceptable cost-effective alternative method can be developed to accomplish the work required. The General Manager or designee shall be responsible for making the determination of whether such an alternative is available. For any given structure, the frequency of drawdowns should be minimized and intervals between drawdowns maximized.

f. HOP 202 does not address obtaining permits and approvals that may be required from the NYSDEC or other regulatory agencies. The General Manager or designee shall coordinate with compliance & environmental staff in preparing the **Site-Specific Drawdown Plan** and to ensure all necessary regulatory permits, notifications and approvals are obtained prior to the drawdown.

g. HOP-203 entitled "Sediment Disturbance/Disposal and Erosion Control Plan" shall be reviewed, and if applicable, applied in conjunction with HOP 202.

h. The General Manager or designee shall be responsible for directly supervising any drawdown and ensuring that plant generation is used to accomplish the drawdown to the extent practicable.

2. *Drawdown Planning*

a. Prior to approving a drawdown, the General Manager or designee must complete a **Site-Specific Drawdown Plan** (*pages 4-6*) that addresses:

1. The location, purpose, duration and magnitude of drawdown;
2. A drawdown rate that considers shoreline gradients, bathymetry, impacts to shallow areas, time of year and other biological or regulatory constraints (**drawdown rates should generally not exceed one foot per hour however, site specific conditions may require that drawdown rates vary at specific elevations to accommodate changes in bathymetry**);
3. Measures to reduce fish stranding or recover/transport fish;
4. Measures to reduce the opportunity for channel/pond bed erosion and the suspension and transport of sediments causing turbidity;
5. Measures to maintain water flow (if appropriate) through the facility that is drawndown;
6. Measures to maintain required minimum or baseflows or variances to same if the full requirement cannot be achieved;
7. Means by which water levels will be controlled and maintained through coordinated turbine and/or gate operations (levels to be maintained as high as practicable);
8. Measures to monitor water levels, minimum or base flow requirements;
9. Measures to maintain a downstream flow during re-filling; and
10. Discussions held with NYSDEC with respect to items above.

3. *Notification*

a. Prior to the commencement of a drawdown, the General Manager or designee shall be responsible for providing notification to all appropriate State & Federal agencies, government officials, local agencies & entities and outside persons.

b. The General Manager or designee must also prepare and issue local newspaper press releases and local radio/TV station announcements.

4. *Steps For Drawdown*

STEP 1 The General Manager or designee shall complete a **Site-Specific Drawdown Plan** (*pages 4-6*). The preparer should first determine if historical plans exist for past drawdowns at the site, and use same as appropriate. As part of completing the plan, the preparer will be required to document coordination with the NYSDEC. Once complete, the preparer shall transmit the plan to the HCC for review and concurrence.

STEP 2 The HCC will review and indicate concurrence with the plan, and then transmit the plan to the General Manager for review and approval. Once approved, the General Manager or designee will distribute the completed plan to all persons and departments listed at the bottom of the plan.

STEP 3 Prior to starting the drawdown, the General Manager or designee shall:

a. Notify appropriate State and Federal agencies, government officials, local agencies and entities, lake associations or individuals of the date, time and estimated duration of the drawdown (such notifications must be documented). *Note, by completing the **Site-Specific Drawdown Plan,** the NYSDEC will have already been notified.*

b. Prepare and issue local newspaper press releases, and local radio/TV station announcements (and distribute same to compliance/environmental staff and to the HCC).

c. Coordinate with Area staff and the HCC to ensure that all involved personnel are prepared to proceed and proper communication contacts and channels have been established.

STEP 4 Upon completion of Step 3, the General Manager shall be notified, who in-turn, will issue final authorization to proceed. **Area staff shall not begin the drawdown until authorized by the General Manager.** For the duration of the drawdown, the General Manager or designee shall:

Steps For Drawdown *(continued)*

a. Ensure that Area staff maintain communication with the HCC at regularly specified time intervals to verify actual water elevations correlate to readings at the HCC and to coordinate changes in gate operation. Such communications will be maintained until the drawdown and refill operation is complete, or as otherwise established and directed by the HCC.

b. Confirm that adequate field supervision has been established for the duration of the project, including extended drawdown operations that occur beyond normal shift hours such as weekends and overnight periods.

c. Establish special coverage arrangements such that specified inspection time intervals and continuous communication are maintained between the project site and the HCC.

d. Confirm that Area staff maintain a clear and detailed written record of the drawdown in the on-site log books for all drawdowns, scheduled or otherwise.

STEP 5 Once the drawdown and refilling is complete, the General Manager or designee shall prepare and retain a file containing the Site-Specific Drawdown Plan, press releases, correspondence, and any other pertinent information for use in planning future drawdowns.

5. Unscheduled Drawdowns

If an inadvertent or unscheduled drawdown were to occur, the General Manager or designee will contact the Vice President New York Operations, the HCC and appropriate NYSDEC representative(s) immediately. Unless prior arrangements were made, coordination and follow-up with the NYSDEC will be the responsibility of the General Manager or designee, and the Vice President and HCC kept informed of any status changes.

HOP 202
SITE-SPECIFIC DRAWDOWN PLAN

1. GENERAL INFORMATION	
Date Form Completed	
Form Completed By	
Operating Area	
River	
Project	
Development	
Facility/Structure	
Purpose of Drawdown	
Duration of Drawdown	
Magnitude of Drawdown	
2. DRAWDOWN RATE	
Describe Drawdown Rate(s) to be Employed	
3. FISH STRANDING	
Describe Measures to Reduce Fish Stranding	
Describe Measures to Recover and Transport Fish	

HOP 202
SITE-SPECIFIC DRAWDOWN PLAN

4. EROSION & TURBIDITY	
Describe Measures to Reduce Opportunity for Erosion and Turbidity	
5. WATER FLOW-THROUGH	
Describe Measures to Provide Water Flow Through Waterbody During the Drawdown	
6. MINIMUM & BASE FLOWS	
Describe Measures to Maintain Minimum or Base Flows	
Describe Variances if Minimum or Base Flow Requirements Cannot be Fully Maintained	
7. WATER LEVEL CONTROL	
Describe How Water Levels Will be Controlled and Maintained (Turbine/Gate Operations)	
8. MONITORING	
Describe How Water Levels Will be Monitored	

HOP 202
SITE-SPECIFIC DRAWDOWN PLAN

9. RE-FILLING	
Describe Measures to Maintain Downstream Flows During Re-filling	
10. AGENCY COORDINATION	
Summarize Coordination with NYSDEC Regarding Items 1-9 (dates, staff, recommendations)	

Drawdown Plan Form Completed By: _____ Date: _____

Hydro Control Center Review & Concurrence By: _____ Date: _____

General Manager Review & Approval By: _____ Date: _____

Copies to be distributed to:

- Vice President New York Operations
- General Manager
- HCC
- Area Superintendent
- Compliance/Environmental Staff

ERIE BOULEVARD HYDROPOWER, L.P.

HOF-202

AREA

Date Submitted:

Anticipated Drawdown Schedule

This form shall be used for: Scheduling of pond & canal drawdowns & canal, forebay and pipeline dewatering operations

Plant	Reason	Month	Duration	Draw Depth	Field Contact

Notes:

XC: Vice President New York Operations

ATTACHMENT G

QUESTION C – FISH PASSAGE AND PROTECTION:

MARCH 22, 2001 FERC ORDER AMENDING FISH CONVEYANCE STRUCTURE (P-2538)

62
94 FERC ¶ 62,240

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Erie Boulevard Hydropower, LP — Project No. 2538-050

ORDER AMENDING FISH CONVEYANCE STRUCTURE

(Issued March 22, 2001)

On December 27, 2000, Erie Boulevard Hydropower, LP (licensee) filed a request to modify its downstream fish passage plan at the Beebee Island Water Power Project. The project is located on the Black River in Jefferson County, New York.

BACKGROUND

License article 411 required, in part, that the licensee file detailed design drawings of a fish conveyance structure to be installed at the project.[1] The licensee's plan, filed September 11, 1998, was approved by Order Modifying And Approving Fish Conveyance Structure.[2] After installation of the facility and observation of the facilities operation, the licensee was required by ordering paragraph (B) of the order, to file a report with the Commission that included any proposed modifications to the maintenance procedures or the approved fish conveyance structures.

LICENSEE'S PROPOSED MODIFICATIONS

The licensee's fish conveyance plan included modifying the entrance area of an ice chute to accommodate separately, both fish passage and ice/debris movement downstream. The licensee stated that it installed timber curbing of varying depths along the surface of the ogee spillway and extended the curbing to the downstream end of the powerhouse to provide a chute for downstream fish passage. The licensee indicated that the work was initially completed by the end of 1998.

The licensee stated that the timber curbing has been subjected to ice and debris loading and has not performed as expected. The licensee indicated that it has periodically restored the curbing but it has been ineffective in isolating the fish passage flow.

---

[1] 77 FERC ¶ 61,306 (1996).

[2] 84 FERC ¶ 62,259 (1998).

At a site meeting with the resource agencies in November 1999, it was observed that a portion of the fish passage flow discharged from the ice chute on to a protruding rock face. The resource agency representatives commented that removal of portions of the rock would improve the objective of safe downstream fish passage. The licensee indicated that it contracted to have the recommended portion of rock removed and completed the work by the end of September 2000.

The licensee proposes that following this winter's ice out, it not be required to restore the curbing. The licensee indicated that with the removal of the rock, downstream fish passage has been improved. The licensee also proposes to file as-built Exhibit F drawings of the fish conveyance measures within 90 days following Commission approval of its report.

RESOURCE AGENCY COMMENTS

The licensee indicated that both the U.S. Fish and Wildlife Service (FWS) and New York State Department of Conservation (DEC) attended an on-site meeting on November 19, 1999, to discuss fish passage issues among other topics. Following the rock removal work, the licensee stated that the resource agencies observed the downstream fish passage facility and expressed their satisfaction with the new arrangement.

By letter dated December 22, 2000, the licensee provided a copy of its report and proposals to the resource agencies. No written comments from the resource agencies were received by the licensee.

DISCUSSION

The licensee's approved downstream fish passage facilities have been in place at the Beebee Island Project since the end of 1998. The licensee's evaluation of the facilities has determined that some operational deficiencies may be adversely impacting the effectiveness of the facility. The licensee's proposal to not restore the timber curbing appears reasonable since it has been observed to be ineffective in isolating the fish passage flow as intended. The measures already implemented to remove rock structures near the discharge flows should help ensure safe passage.

The intent of article 411 is to provide safe downstream fish passage. The licensee should continue to monitor its downstream fish passage facility to determine if any additional measures are needed to ensure safe downstream fish passage at the project. If additional modifications are necessary, the licensee should consult with the FWS and DEC prior to filing a report with the Commission describing the additional measures that

are needed to ensure safe downstream passage. The report should include appropriate design drawings, a schedule for implementing the modifications, and copies of any resource agency comments concerning the proposed modifications. The Commission should reserve the authority to required changes to the proposed structures, schedule, and to the project's features or operation to ensure safe downstream fish passage.

The licensee's report fulfills the requirements of ordering paragraph (B) of the Order Modifying And Approving Fish Conveyance Structure. The licensee's proposed modifications and request to file as-built Exhibit F drawings within 90 days following Commission approval of its filing, appear reasonable and should, as modified, be approved.

The Director Orders:

(A) Erie Boulevard Hydropower's, LP (licensee) proposed modifications to the fish conveyance structure at the Beebee Island Project, filed December 27, 2000, as modified in paragraph (B), is approved.

(B) The licensee shall continue to monitor its downstream fish passage facility to determine if any additional measures are needed to ensure safe downstream fish passage at the project. If additional modifications are necessary, the licensee shall consult with the U.S. Fish and Wildlife Service and New York State Department of Conservation prior to filing a report with the Commission describing the additional measures that are needed to ensure safe downstream passage. The report shall include appropriate design drawings, a schedule for implementing the modifications, and copies of any resource agency comments concerning the proposed modifications. The Commission reserves the authority to required changes to the proposed structures, schedule, and to project features or operation to ensure safe downstream fish passage.

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to CFR § 385.713.

Thomas J. LoVullo
Team Leader
Division of Hydropower Administration and Compliance

ATTACHMENT H

QUESTION D – WATERSHED PROTECTION:

1995 SETTLEMENT AGREEMENT – ATTACHMENT I

1997 BLACK RIVER FUND MANAGEMENT PLAN

2012 BLACK RIVER FUND ANNUAL CONTRIBUTION LETTER

1999 VEGETATION BUFFER PLAN

2000 FERC ORDER APPROVING VEGETATION BUFFER PLAN

ORION
POWER NEW YORK

225 GREENFIELD PARKWAY, SUITE 201 • LIVERPOOL, NY 13088
PHONE: (315) 413-2700 • FAX: (315) 461-8577

ORIGINAL

99 OCT 25 AM 11:00

FEDERAL ENERGY
REGULATORY
COMMISSION

EXPRESS MAIL

October 22, 1999

Honorable David Boergers
Secretary
FEDERAL ENERGY REGULATORY COMMISSION
888 First Street, N.E.
Washington, DC 20426

SUBJECT: Black River Project LP 2569-~~048~~ 054 NY
Final Plan for License Article 415

Dear Secretary Boergers:

In accordance with the ORDER APPROVING SETTLEMENT OFFER AND ISSUING NEW LICENSE for the referenced project issued on December 24, 1996, Erie Boulevard Hydropower, LP (Erie) is herein filing an original and eight copies of the final plan for the above referenced license article. Erie submitted a draft plan for consultation with the New York State Department of Environmental Conservation (DEC), United States Fish & Wildlife Service (Service), Jefferson County USDA and Jefferson County Soil & Water Conservation District as required by License Article 415 on August 10, 1999. Agency correspondence addressing License Article 415 is included herein. Following is a list of entities in receipt of the draft plan, entities providing comments, and Erie's position on the comments received.

ARTICLE 415
MAINTAINING WOODLAND BUFFER AREAS ALONG THE PROJECTS SHORELINES AND VISUAL SCREENS AT DEFERIET

Entities in receipt of draft plan:

New York State Department of Environmental Conservation (DEC)
U.S. Fish and Wildlife Service (Service)
Jefferson County USDA
Jefferson County Soil & Water Conservation District

Entities providing comments:

U.S. Fish and Wildlife Service (Service)

FERC DOCKETED

OCT 25 1999

9910260286-3

Erie's position on entities comments:

United States Fish & Wildlife Service comment letter of October 7, 1999

Service comments: The Service comments that the draft plan generally satisfies the requirements for license article 415. The Service comments that on one site visit, an adjacent landowner downstream of the existing recreational area had cut down vegetation along the shoreline, possibly on licensed property, and that Erie was going to look into the situation.

The Service requested what actions, if any, were initiated to restore or replant the shoreline vegetation referenced above.

Licensee Response: The licensee has discussed the removal of the shoreline vegetation with the adjacent landowner. A field check determined that a majority of the vegetation removed was on the landowner's property. Vegetation removed on the licensee's property was to be replaced with in-kind vegetation.

Absent comments from other consulted entities, the licensee is filing this final plan with the Commission to fulfill the requirements of license article 415.

Please address all written correspondence to the undersigned. In the interim, if you have any questions regarding this matter, please call Tom Skutnik at (315) 413-2789.

Very truly yours,

Sam S. Hirschey, P.E.
Manager,
Licensing, Compliance & Project Properties
Erie Boulevard Hydropower, LP

Enclosure:

xc: Ms. Carol Sampson, FERC - Washington, DC
Ms. Lenore Kuwik, DEC – Albany
Mr. Anton Sidoti, FERC – NYRO
Mr. Jon Elmer
Mr. Tom Skutnik
Attached Distribution List

DISTRIBUTION LIST

BLACK RIVER PROJECT LP 2569-048 NY
LICENSE ARTICLE 415

Mr. Len Ollivett
NYS Department of Environmental Conservation
317 Washington Street
Watertown, New York 13601

Mr. David Stilwell
U. S. Fish and Wildlife Service
3817 Luker Road
Cortland, New York 13045

Mr. Ed Moffitt
Jefferson County USDA Service Center
21168 Route 232
Watertown, New York 13601

Mr. Jay Matteson
Jefferson County Soil & Water Conservation District
21168 Route 232
Watertown, New York 13601

FINAL PLAN AND DRAFT PLAN

FOR

BLACK RIVER PROJECT #2569

ARTICLE 415

MAINTAINING WOODLAND BUFFER AREAS

ALONG THE PROJECT'S SHORELINES

AND

VISUAL SCREENS AT DEFERIET

ORION POWER

ORION POWER NEW YORK/225 GREENFIELD PARKWAY, SUITE 201, LIVERPOOL, N.Y. 13088

August 10, 1999

TO: Attached Distribution List

SUBJECT: Black River Project LP 2569 NY
License Article 415 - Maintaining Woodland Buffer Areas along the Projects Shorelines and Visual Screens at Deferiet Development

Dear Mr / Ms:

In accordance with the Order Approving Settlement Agreement and Issuing New License, issued on December 24, 1996 for the Black River Project, ORION Power New York's (ORION) plan for Article 415, Maintaining Existing Woodland Buffers along the five developments shorelines and Visual Screens at Deferiet is presented herein.

ORION intends to maintain the woodland buffer areas along the five developments shorelines in their natural state. ORION has no intentions of clearing any of these woodland areas but would selectively remove dead trees or blowdown if presenting a safety hazard to recreationists.

License Article 415 also required preparation of design drawings of the visual screens or buffers for the new access road and parking area to be constructed at the Deferiet Development and a description of the materials to be used in constructing the access road and parking area. The purpose for the visual screens was to screen the access road and parking area from motorists and other users traveling along Route 3.

Niagara Mohawk, the former owner of the project, made improvements to the access road and parking area at Deferiet prior to the Commission's issuance of the project license on December 24, 1996. The access road was widened to accommodate construction vehicles and the parking area was constructed as a lay down area in 1993 for rehabilitation work performed on the canal headgate structure.

Since the access road and parking area were constructed prior to license issuance, to satisfy the requirements of this article for Deferiet, photographs were taken of the

existing woodsy, vegetative growth to portray the existing natural visual screen and the surface conditions of the access road and parking area.

Photos #1, #2 and #3 portray the entrance area to the access road as seen along Route 3. Photos #4, #5 and #6 depict the vegetative growth and surface condition of the access road as one proceeds to the parking area. The access road and parking area were constructed with a granular base and a run-of-crusher topping and photos #7 and #8 depict the current condition of the parking area. Photo #9 presents an observer's view upon leaving the parking area and proceeding along the access road to Route 3.

The vegetative growth was minimally disturbed during improvements to the access road and construction of the parking area. The photos indicate a significant regrowth and over time this existing visual screen will continue to improve. ORION does not have any intentions of clearing this natural visual screen for the Deferiet access road and parking area. However, periodic mowing and trimming along each side of the access road and around the perimeter of the parking area will be part of ORION's maintenance program to prevent these areas from becoming too overgrown.

ORION concludes that the existing natural visual screening in place for the access road and parking area at Deferiet is sufficient to satisfy the requirements of article 415. However, ORION is amenable to suggestions from the agencies, if any, for possible consideration and implementation.

The licensee requests your review and comments on this plan for visual screens at the Deferiet Development within 30 days from the date of this letter.

Please address any written correspondence to Sam S. Hirschey, Manager, Licensing, Compliance and Project Properties. In the meantime, if you have any questions, please contact the undersigned at 315-413-2789.

Very truly yours,

Thomas M. Skutnik

Thomas M. Skutnik
Licensing, Compliance and Project Properties

Enclosure:

xc: S. S. Hirschey
J. D. Elmer
Ms. Carol Sampson, FERC - Washington, DC
Ms. Lenore Kuwik, NYSDEC - Albany
Attached Distribution List

DISTRIBUTION LIST

BLACK RIVER PROJECT LP 2569 NY
LICENSE ARTICLE 415

Mr. Len Ollivett
NYS Department of Environmental Conservation
317 Washington Street
Watertown, New York 13601

Mr. David Stilwell
U. S. Fish and Wildlife Service
3817 Luker Road
Cortland, New York 13045

Mr. Ed Moffitt
Jefferson County USDA Service Center
21168 Route 232
Watertown, New York 13601

Mr. Jay Matteson
Jefferson County Soil & Water Conservation District
21168 Route 232
Watertown, New York 13601

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-NY, DEFERIET DEVELOPMENT

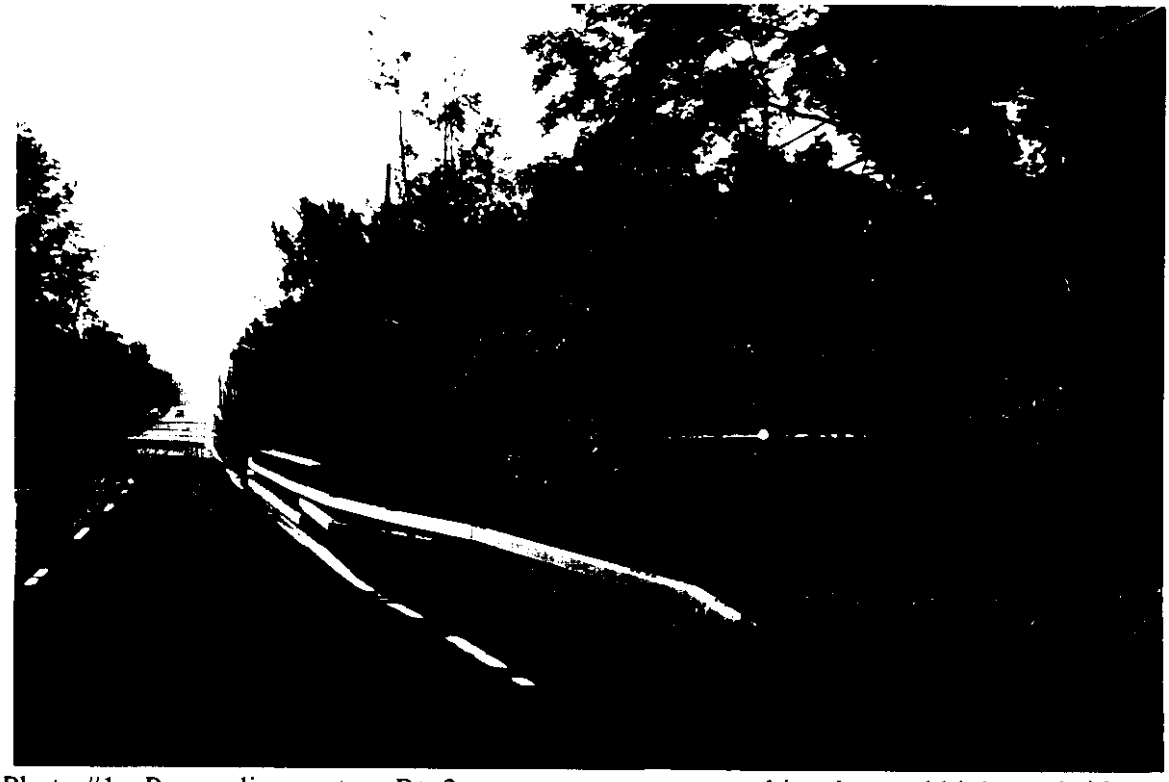


Photo #1 - Proceeding east on Rt. 3, entrance to access road just beyond highway bridge.

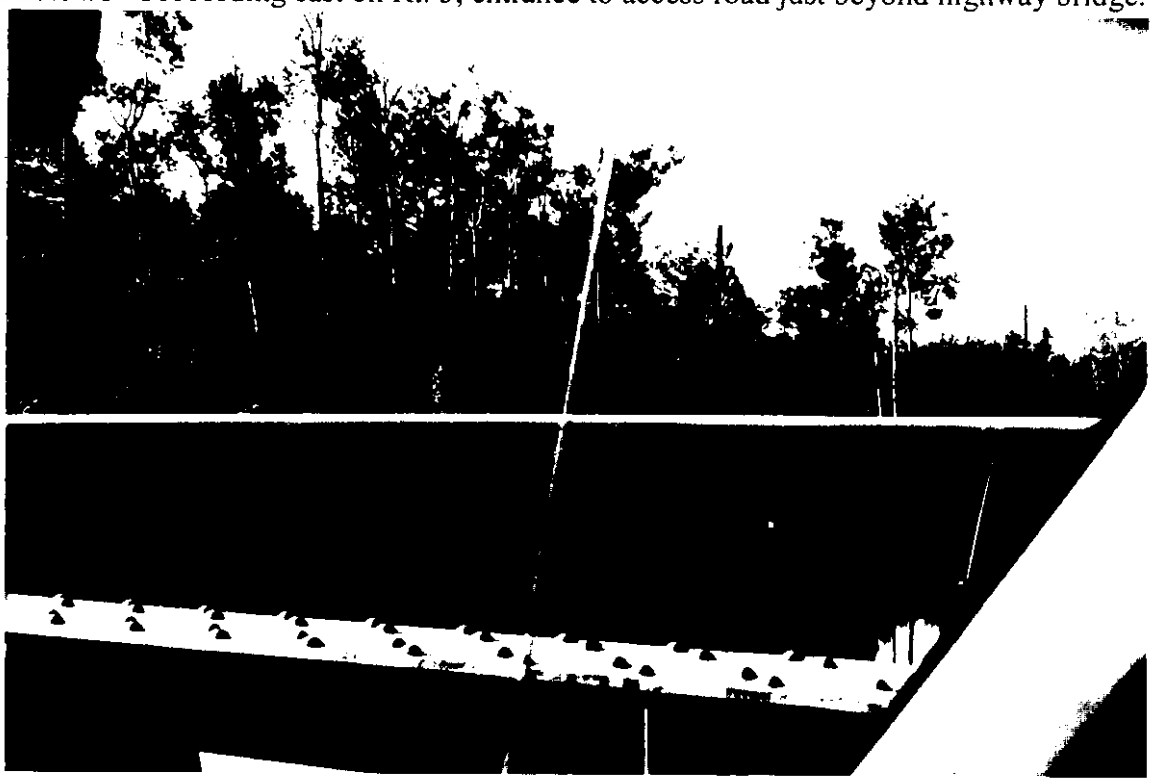


Photo #2 - Proceeding east on Rt. 3, view from highway bridge looking at access road.

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-NY, DEFERIET DEVELOPMENT

Photo #3 - View from Rt. 3, east side of access road, parking area in background.

Photo #4 - View from access road entrance.

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-NY, DEFERIET DEVELOPMENT

Photo #5 - Proceeding along access road to parking area.

Photo #6 - Proceeding along access road to parking area located beyond trees on left.

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-NY, DEFERIET DEVELOPMENT

Photo #7- Parking area.

Photo #8 - Parking area.

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-NY, DEFERIET DEVELOPMENT

Photo #9- View from parking area looking towards Rt. 3.

AGENCY CORRESPONDENCE

United States Department of the Interior

FISH AND WILDLIFE SERVICE
3817 Luker Road
Cortland, NY 13045

October 7, 1999

Mr. Thomas M. Skutnik
Licensing, Compliance and Project Properties
Orion Power New York
225 Greenfield Parkway
Suite 201
Liverpool, NY 13088

RE: Black River Project, FERC No. 2569
License Article 415: Shoreline buffers and visual screening for new access area at the Deferiet development.

Dear Mr. Skutnik:

The U.S. Fish and Wildlife Service (Service) has received and reviewed Orion Power's proposed plan for maintaining existing woodland buffers along the Black River Project's five reservoir shorelines and visual screens at the Deferiet development. The filing generally satisfies the requirements for License Article 415. However, during one of the inter-agency site visits, it was observed that a landowner adjacent to and immediately downstream of the existing Deferiet Recreational Access Site had cut down the vegetation along the shoreline. At that time a Niagara Mohawk Power Corporation (NMPC) representative indicated that the observed cutting likely occurred on the licensed property. The NMPC representative indicated that he would look into the situation.

In order to preserve the shoreline buffers, it is important that vegetative removal for non-project required uses be minimized. Please inform the Service of what actions, if any, were initiated to restore or replant the shoreline vegetation on the property referenced in the above paragraph. The Service appreciates the opportunity to provide Orion Power with our comments and recommendations. If you have further questions, please contact Dave Bryson at (607) 753-9334.

Sincerely,

Arned Secord

for David A. Stilwell
Field Supervisor

cc: NYSDEC, Watertown, NY (L. Ollivett)
FERC, Washington, DC (D. Boergers)

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Eire Boulevard Hydropower, LP

Project No. 2569-048
New York

ORDER APPROVING VEGETATIVE BUFFER PLAN

(Issued April 07, 2000)

On October 25, 1999, Eire Boulevard Hydropower, LP, licensee for the Black River Project FERC No. 2569, filed a Vegetative Screening Plan as required by article 415 of the project license.[1] The Black River Project, consisting of five hydropower developments (spanning approximately 17 miles), is located on the Black River in Jefferson County, New York.

THE FILED PLAN

The licensee intends to maintain the woodland buffer areas along the five development shorelines in their natural state, and has no intentions of clearing any of these woodland areas but would selectively remove dead trees or blow-downs if presenting a safety hazard to recreationists.

The plan shows the access road and parking area for the Deferiet development to be screened from Route 3 by existing vegetative growth.[2] Photographs submitted with the plan show the parking lot is not visible from either the highway or the Black River,

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[1] See: Order Approving Settlement Offer and Issuing New License, 77 FERC ¶61,306 (December 24, 1996). Article 415 requires the licensee to maintain the existing woodland buffer areas along the five developments' shorelines, and provide visual screens or buffers for access road widening and parking area construction at the Deferiet development. At least 90 days before the start of any land disturbing or land clearing activities for the Deferiet Development's new access road and parking area, the licensee shall file, for Commission approval, detailed design drawings of the screens or buffers and the parking area...and a schedule for their construction. The licensee shall consult with the appropriate federal, state and local agencies before preparing the plan.

[2] In the filing, the licensee states the access road and parking area was constructed by the former licensee, Niagra Mohawk Power Company, prior to the 1997 license issuance. The former licensee did not file drawings for Commission approval prior to the road and parking lot improvements; however, an appropriate vegetative buffer was retained and the intent of article 415, in that regard, was attained.

which passes under the highway near the development's entrance. The licensee states it will retain the vegetative screen except for periodic mowing and trimming along the edge of the road and parking area to keep them from being overgrown.

AGENCY CONSULTATION

The licensee consulted with the appropriate agencies, which include the New York State Department of Environmental Conservation, U.S. Fish and Wildlife Service (FWS), Jefferson County USDA Service Center, and the Jefferson County Soil & Water Conservation District. In a letter dated October 7, 1999, the FWS approved the plan, stating it generally satisfies the requirements of article 415. None of the other agencies commented on the plan.

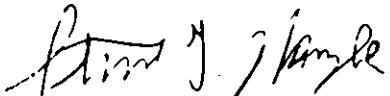
DISCUSSION

The licensee filed a plan that maintains the woodland buffer along the five development shorelines in its natural state. The licensee will not clear any of the buffer areas except to remove dead trees or blow-downs if presenting a safety hazard to recreationists. The licensee also showed how vegetative screening has been provided along the entrance drive and parking lot for the Deferiet Development. The licensee will retain the vegetative screen except for periodic mowing and trimming along the edge of the road and parking area to keep them from being overgrown. The FWS approved of the licensee's Vegetative Buffer Plan; none of the consulted agencies opposed the Plan. The filed plan fulfills the intent of article 415 and should be approved.

The Director orders:

(A) The licensee's October 25, 1999, Vegetative Buffer Plan fulfills the intent of article 415 and is approved.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.



for Fred E. Springer
Director
Division of Hydropower Administration
and Compliance

Brookfield

New York West Operations
Erie Boulevard Hydropower, LP
33 West 1st Street South
Fulton, NY 13069

Tel. (315) 593-3118
Fax (315) 598-4831
www.brookfieldpower.com

Electronically Filed April 2, 2012

Hon. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Subject: Black River Project P-2569 NY
License Article 412 – Black River Fund

Dear Secretary Bose:

Pursuant to Order On Rehearing issued March 14, 1997, on or before April 1 of each year, the licensee is required to file in accordance with the Commission's Uniform System of Accounts, a statement of the amount of money the licensee has contributed to the Black River Fund.

The Licensee has made the following contributions to the Black River Fund:

April 1998	$ 3,000
April 1999	$ 3,000
April 2000	$ 3,000
April 2001	$ 3,000
April 2002	$ 3,000
April 2003	$ 3,000
April 2004	$ 3,000
April 2005	$ 3,000
April 2006	$ 3,000
April 2007	$ 3,000
April 2008	$ 3,000
April 2009	$ 3,000
April 2010	$ 3,000
April 2011	$ 3,000
April 2012	$ 3,000
Total Contributions	$45,000

Should you have any questions, please contact me at (315) 598-6130.

Sincerely,

Steven P. Murphy
New York West Operations

xc: Alice Richardson, NYSDEC-Watertown

Document Content(s)

ATTACHMENT 1

BLACK RIVER FUND AND ADVISORY COUNCIL

September 14, 1995

ATTACHMENT 1

THE BLACK RIVER FUND AND ADVISORY COUNCIL

1. Beginning with the year the FERC License is accepted, NMPC will contribute annually $3,000 to the Black River Fund ("Fund") for 15 years and $4,000 annually for the following 15 years.

The fund may be used to facilitate acquisition or options, for the public benefit, of some or a combination of parcels described in Attachment 2, consisting of the following from NMPC:

(a) permanent conservation easement(s);
(b) reserved right(s); or
(c) fee title(s);
all with appropriate reservations for NMPC access, operation and maintenance purposes;
and, additionally,
(d) any other NMPC lands, easements and mineral rights not essential to project operation or maintenance and not otherwise identified herein.

Any money not used for such acquisitions will remain will remain in the fund for other uses.

Financing and requisition will be arranged through NMPC's Land Management & Development subsidiary. NMPC agrees not to alter, encumber or convey rights to the above-referenced parcels for 18 months following license issuance for the Black River Project, FERC No. 2569.

NYSDEC shall be responsible for facilitating the purchase agreement. The State will prepare the title documents, appraisal, surveys and all other documents necessary to transfer title of the property to be acquired at no cost to the Black River Fund or NMPC.

2. The Black River Fund will be administratively managed by NMPC and distributed according to the recommendation of a Black River Advisory Council ("Advisory Council"). The NYSDEC will chair the Advisory Council. At a minimum the following entities shall be invited to serve on the Advisory Council, with service being conditioned, save for Jefferson County, on those entities listed below being signatories to the Settlement:

- New York State Department of Environmental Conservation
- Niagara Mohawk Power Corporation
- United States Fish & Wildlife Service
- New York Rivers United
- New York State Conservation Council
- Adirondack Mountain Club
- Jefferson County
- New York Council, Trout Unlimited
- American Whitewater Affiliation
- National Park Service

Each member will have one vote, with distribution of funds and other Advisory Council decisions to be based on majority vote.

The Advisory Council will also make recommendations for consideration by the regulatory agencies and licensees regarding management of the Black River and hydropower project operations, in accordance with other provisions of this Settlement Offer. The Council shall designate one of the Watertown whitewater outfitters to serve as the liaison with licensees in cases of abnormal river conditions.

The Black River Fund will be used within the Black River basin for projects and services designated by majority vote of the Advisory Council for purposes of ecosystem restoration and protection, natural resource stewardship, public education, facility maintenance, applied research necessary to accomplish these projects and provide these services and additional public access to outdoor recreational resources not currently agreed to by licensees. The Fund is not intended for any of the signatories to carry out any obligations under the new FERC licenses or any amendment thereto. Furthermore, the Fund is not intended for any signatory to discharge any legal or statutory obligations. Unspent money shall accumulate with interest in a Federal Deposit Insurance Corporation (FDIC) insured account or instrument managed pursuant to prevailing trust standards. Within one year following surrender or expiration without annual renewal of the new FERC license for NMPC, available funds accumulated and not otherwise obligated shall revert to NMPC. .

ORIGINAL o

NIAGARA MOHAWK

NIAGARA MOHAWK POWER CORPORATION/300 ERIE BOULEVARD WEST, SYRACUSE, N.Y. 13202/TELEPHONE (315) 474-1511

OVERNIGHT COURIER

April 8, 1997

97 APR -9 PM 12:19

Ms. Lois D. Cashell, Secretary
FEDERAL ENERGY REGULATORY COMMISSION
888 First Street, N. E.
Washington, DC 20426

SUBJECT: **Black River Project**
FERC Project No. 2569-004 013
License Article 412 - Black River Fund

Dear Ms. Cashell:

On March 21, 1997, Niagara Mohawk filed a detailed plan for our participation in and management of the Black River Fund as required by License Article 412. Upon receipt of said plan, Commission staff reviewed the plan and provided verbal comments to Niagara Mohawk.

Specifically, the comments addressed calendar year reporting for the October 1 (reporting for the following calendar year) and April 1 (reporting for the previous calendar year) filing dates and deletion of any references to "FERC approval", for consistency with the March 14, 1997 Order on Rehearing.

Niagara Mohawk herein submits an original and eight copies of the revised detailed plan for Niagara Mohawk's participation in and management of the Black River Fund.

If you have any questions, please contact Mr. Jacob S. Niziol at (315) 428-5556.

Sincerely,

Sam S. Hirschey, P. E.
Manager,
Hydro Licensing & Regulatory Compliance

Enclosures
xc: J. S. Niziol
M. W. Murphy
J. Mark Robinson, FERC DL&C - Washington

T\TMSL98A.7AC

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FERC-DOCKETED
APR 9 1997

NIAGARA MOHAWK POWER CORPORATION

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-004 013

LICENSE ARTICLE 412 COMPLIANCE SUBMITTAL; PLAN FOR LICENSEE'S PARTICIPATION IN AND MANAGEMENT OF THE BLACK RIVER FUND

April 8, 1997

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-004

LICENSE ARTICLE 412 COMPLIANCE SUBMITTAL; PLAN FOR LICENSEE'S PARTICIPATION IN AND MANAGEMENT OF THE BLACK RIVER FUND

I. INTRODUCTION

Niagara Mohawk submitted to the Federal Energy Regulatory Commission ("FERC") an Application For A New License for Black River Project No. 2569 on November 25, 1991. Following this submittal, Niagara Mohawk entered into negotiations with resource agencies and non-governmental organizations (NGO's), which negotiations culminated with a Settlement Offer, dated September 14, 1995. The Settlement Offer was eventually adopted as part of the FERC's Order Issuing License, issued on December 24, 1996 ("License"). As part of the Settlement Offer, a river fund was established with annual contributions by Niagara Mohawk (c.f. attached Settlement Offer's Attachment 1 - Black River Fund and Advisory Council). As part of the License, FERC included Article 412 , which is as follows:

> Article 412. Within 90 days from the date of issuance of this license, the licensee shall file for Commission approval a detailed plan for the licensee's participation in and management of the Black River Fund, as set forth at pages A1-1 and A1-2 of the Settlement Offer filed October 13, 1995. On or before October 1 of each year, in accordance with the articles of this license and the Commission's Uniform System of Accounts, the licensee shall file for Commission approval a plan which shows the amount of money that the licensee will spend or contribute to the Black River Fund for the following year, pursuant to the funding provisions set forth in the Settlement Offer. The Commission reserves the right to require changes in the plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission. The Commission also reserves the right, after notice and opportunity for hearing, to modify the funding arrangement, including ordering a suspension or cessation of contributions and expenditures, should it be necessary or appropriate.
>
> The licensee shall also file, on or before April 1 of each year, a statement for the previous calendar year, in accordance with the articles of this license and the Commission's Uniform System of Accounts, showing the amounts of money the licensee has spent or contributed to the Black River Fund, and the purposes for which these amounts have been spent or contributed. The statement shall be sufficiently detailed to show whether the money has been spent on the purposes approved in the license.

By correspondence dated January 22, 1997, Niagara Mohawk sought rehearing (but not a stay) of certain aspects of the license, inclusive of Article 412. As regards Article 412, Niagara Mohawk's rehearing petition sought modification of Article 412 such that FERC receives reports

on Black River Fund expenditures but does not approve or administer same. FERC's ORDER ON REHEARING, issued on March 14, 1997 (2569-012), revised Article 412 to read as follows:

> Article 412. On or before October 1 of each year, the licensee shall file, in accordance with the Commission's Uniform System of Accounts, a statement of the amount of money the licensee will contribute to the Black River Fund for the following year, pursuant to the provisions of the October 13, 1995 Settlement Offer, at pages A1-1 and A1-2. On or before April 1 of each year, the licensee shall file, in accordance with the Commission's Uniform System of Accounts, a statement of the amount of money the licensee has contributed to the Black River Fund.

II. FUND OBJECTIVES

The Black River Fund ("Fund") and the managing entity envisioned by the Settlement Offer, the Black River Advisory Council ("BRAC"), were created for use within the Black River basin for projects and services designated by the BRAC for purposes of ecosystem restoration and protection, natural resource stewardship, public education, facility maintenance, and applied research necessary to accomplish these projects and provide these services and additional public access to outdoor recreational resources not currently covered by Niagara Mohawk as part of its Black River Project No. 2569 or the Settlement Offer executed for that project.

III. FUND EXPENDITURE(S)

Niagara Mohawk is to contribute no less than $3,000 (fixed contribution) annually to the Black River Fund for the years 1 - 15 following acceptance of the FERC license and $4,000 annually for the remaining years of the new license.[1]

The Black River Fund may be used to facilitate acquisition or options, for the public benefit, of some or a combination of parcels described in Attachment 2, via the following mechanisms: (a) permanent conservation easement(s); (b) reserved rights; or (c) fee title(s), all with appropriate reservations for Niagara Mohawk access, operation and maintenance purposes. Additionally, the Black River Fund may be used to facilitate acquisition or option of any other Niagara Mohawk lands, easements and mineral rights not essential to project operation or maintenance and not otherwise identified herein. Any money not used for such acquisitions will remain in the fund for other uses. NYSDEC will be responsible for facilitating the purchase agreement. The State will prepare the title documents, appraisal, surveys and all other documents necessary to transfer title of the property at no cost to the Black River Fund or Niagara Mohawk.

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[1] Note that the Settlement Offer sets up a schedule that is initiated by Niagara Mohawk acceptance of the License (an event that will occur on April 13, 1997, at the earliest, by virtue of the March 14, 1997 Order on Rehearing by FERC). Article 412, as interpreted by Niagara Mohawk with input from Commission Staff, keys annual FERC reporting to April 1st for preceeding calendar year(s). The annual FERC filing of October 1st will be interpreted to cover the following calendar year.

Unspent money will accumulate with interest in a Federal Deposit Insurance Corporation (FDIC) insured account or instrument managed pursuant to prevailing trust standards. Within one year following surrender or expiration without annual renewal of the new FERC license for Niagara Mohawk, available funds accumulated and not otherwise obligated shall revert to Niagara Mohawk.

IV. FUND ADMINISTRATION

The Black River Fund will be administratively managed by Niagara Mohawk and disbursements of the Fund will be made according to the recommendations of the BRAC. The BRAC will be chaired by a representative of the New York State Department of Environmental Conservation (NYSDEC). At a minimum, one BRAC meeting will be scheduled annually and other special meetings will be at the discretion of the NYSDEC and/or Niagara Mohawk. As a minimum, the following entities will be invited to serve on the BRAC, with service being conditioned, save for Jefferson County, on those entities listed below being signatories to the Settlement:

- New York State Department of Environmental Conservation (NYSDEC)
- Niagara Mohawk Power Corporation (NMPC)
- United States Fish & Wildlife Service (USFWS)
- New York Rivers United (NYRU)
- New York State Conservation Council (NYSCC)
- Adirondack Mountain Club (ADK)
- Jefferson County
- New York Council, Trout Unlimited (TU)
- American Whitewater Affiliation (AWA)
- National Park Service (NPS)

Other entities, not part of the original BRAC, will be invited to serve on the BRAC as deemed necessary or appropriate by the BRAC.

Distribution of funds by the BRAC will be based on majority vote of a quorum of the BRAC. The BRAC will also make recommendations which must be considered by the regulatory agencies and Niagara Mohawk regarding management of the Black River and hydropower project operations, in accordance with other provisions of the Settlement Offer. The Council shall designate one of the Watertown whitewater outfitters to serve as the liaison with licensees in cases of abnormal river conditions.

V. FUND REPORTING

On or before October 1 of each year, in accordance with revised Article 412 of the License and the Commission's Uniform System of Accounts, Niagara Mohawk will file a statement which shows the amount of money that Niagara Mohawk will contribute to the Black River Fund for the following calendar year, pursuant to the funding provisions set forth in the Settlement Offer and identified above under III. Fund Expenditure(s) (c.f. p. 6 Sample).

Niagara Mohawk will also file, on or before April 1 of each year, a statement for the previous calendar year, in accordance with revised Article 412 of the License and the Commission's Uniform System of Accounts, showing the amounts of money Niagara Mohawk has spent or contributed to the Black River Fund, and the purposes for which these amounts have been spent or contributed. The statement will be sufficiently detailed to show whether the money has been spent on the purposes approved in the License (c.f. p. 5 Sample)

VI. FUND SCHEDULE OF EVENTS

	Due Date
A. Events/Activities Required by Article 412	
1. Annually by October 1st, the licensee is to file a statement which shows the amount of money that the licensee will contribute to the Black River Fund in the following calendar year.	October 1, 1997
2. Annually by April 1st, the licensee is to file a statement for the previous calendar year, which statement shows the amounts of money licensee has spent or contributed to the Black River Fund and the purposes for which these amounts have been spent or contributed.	April 1, 1999
B. Events/Activities Required To Activate the Black River Advisory Council and the Black River Fund	
1. FERC issuance of "Order on Rehearing"	March 14, 1997
2. Niagara Mohawk license acceptance determination	By April 14, 1997
3. Initial meeting of Black River Advisory Council Participants	By August 1, 1997
a. Designating a representative for each member b. Adopting rules for decision making and conduct of meetings c. Considering receipts from NMPC and plan/ schedule for expenditures thereof d. Determine procedures for receipt, retention and expenditure of moneys	
4. NMPC initial annual contribution of $3,000 to Black River Fund	By April 13, 1998*

* "Order on Rehearing" was issued on March 14, 1997. The starting of the Settlement Offer's one year clock (from license acceptance, i.e. 30 days past rehearing determination with no further rehearing petitions or court appeals) would then commence on April 13, 1997 and result in an initial $3,000 Niagara Mohawk funding obligation within one year thereafter, assuming no further rehearing(s) are pending or sought.

NIAGARA MOHAWK POWER CORPORATION'S

BLACK RIVER PROJECT
FERC PROJECT NO. 2569-004

LICENSE ARTICLE 412 COMPLIANCE SUBMITTAL;
PLAN FOR LICENSEE'S PARTICIPATION IN
AND MANAGEMENT OF THE BLACK RIVER FUND

DATES: (1) October 1, 1997
(2) October 1, 2013
(3) October 1, 2024

SUBMITTAL:

_X_ A. By October 1st Annually, Licensee Filing, of a Plan Which Shows the Amount of Money That Licensee Will Contribute To The Black River Fund in the Following Calendar Year ("A" Filing).

____ B. By April 1st Annually, Statement Filing By Licensee Showing the Amounts of Money licensee Has Spent or Contributed to the Black River Fund and the Purposes For Which These Amounts Have Been Spent or Contributed ("B" Filing) for the Previous Calendar Year.

A FILING CONTENTS: Columns A and B

B FILING CONTENTS: Columns A, B and C

	COLUMN A	COLUMN B	COLUMN C
	Timeframe	LICENSEE's Monetary Contribution To Black River Fund	Purpose(s) for Which Licensee Contributed Money Has Been Spent
(1)	By April 13, 1998	$3,000.00/yr.	Acquisition by the State of New York, or its assignee, of those Attachment 1 lands/rights detailed in "III. Fund Expenditures"
(2)	By April 13, 2013	$4,000.00/yr.	As determined by the BRAC
(3)	By April 13, 2026	$4,000.00/yr.	As determined by the BRAC

(Last contribution to the Black River Fund)

SAMPLE

ATTACHMENT I

QUESTION E – THREATENED & ENDANGERED SPECIES PROTECTION:

CONSULTATION RECORD

Brookfield

New York West Operations
Erie Boulevard Hydropower, LP
33 West 1st Street South
Fulton, NY 13069

Tel. (315) 593-3118
Fax (315) 598-4831
www.brookfieldpower.com

March 27, 2012

Ms. Jean Pietrusiak
New York State Department of Environmental Conservation
New York Natural Heritage Program
625 Broadway, 5th Floor
Albany, NY 12233-4757

Subject: **Black River Hydroelectric Projects (FERC Nos. 2569 & 2538)**
Threatened and Endangered Species Consultation

Dear Ms. Pietrusiak:

Erie Boulevard Hydropower, L.P. (Erie) is the owner, operator, and licensee of the Black River (FERC No. 2569) and Beebee Island (FERC No. 2538) projects. These projects are comprised of six hydroelectric developments located at six dams along the Black River in Jefferson County. From upstream to downstream, these are the Herrings (River Mile [RM] 27.5), Deferiet (RM 26.0), Kamargo (RM 17.0), Black River (RM 15.0), Sewalls (RM 10.0), and Beebee Island (RM 9.0) developments.

As a matter of background, licenses from the Federal Energy Regulatory Commission (FERC) were issued for these two projects on December 24, 1996. Project operations and environmental protection measures at these projects have been largely determined by a comprehensive Offer of Settlement that Erie developed in conjunction with the New York State Department of Environmental Conservation and other entities in 1995. The licensing processes for these projects included consultation with resource agencies regarding threatened and endangered species.

Erie is presently working with the Low Impact Hydropower Institute (LIHI) to recertify the Black River and Beebee Island projects as low impact projects. In preparing the application for LIHI certification, Erie must update or confirm consultation with resource agencies with respect to the presence of threatened or endangered species within the vicinity of these six hydroelectric developments.

Per the request from LIHI, Erie respectfully requests information on the presence of threatened or endangered species within the vicinity of the above-listed projects. The project location coordinates have been provided below, as well as on the enclosed aerial maps.

- Herrings..... Latitude: 44.0205; Longitude: -75.6508
- Deferiet ..... Latitude: 44.0277; Longitude: -75.6772
- Kamargo..... Latitude: 44.0080; Longitude: -75.7852
- Black River ..... Latitude: 44.0038; Longitude: -75.8066
- Sewalls ..... Latitude: 43.9772; Longitude: -75.8933
- Beebee Island ..... Latitude: 43.9767; Longitude: -75.9069

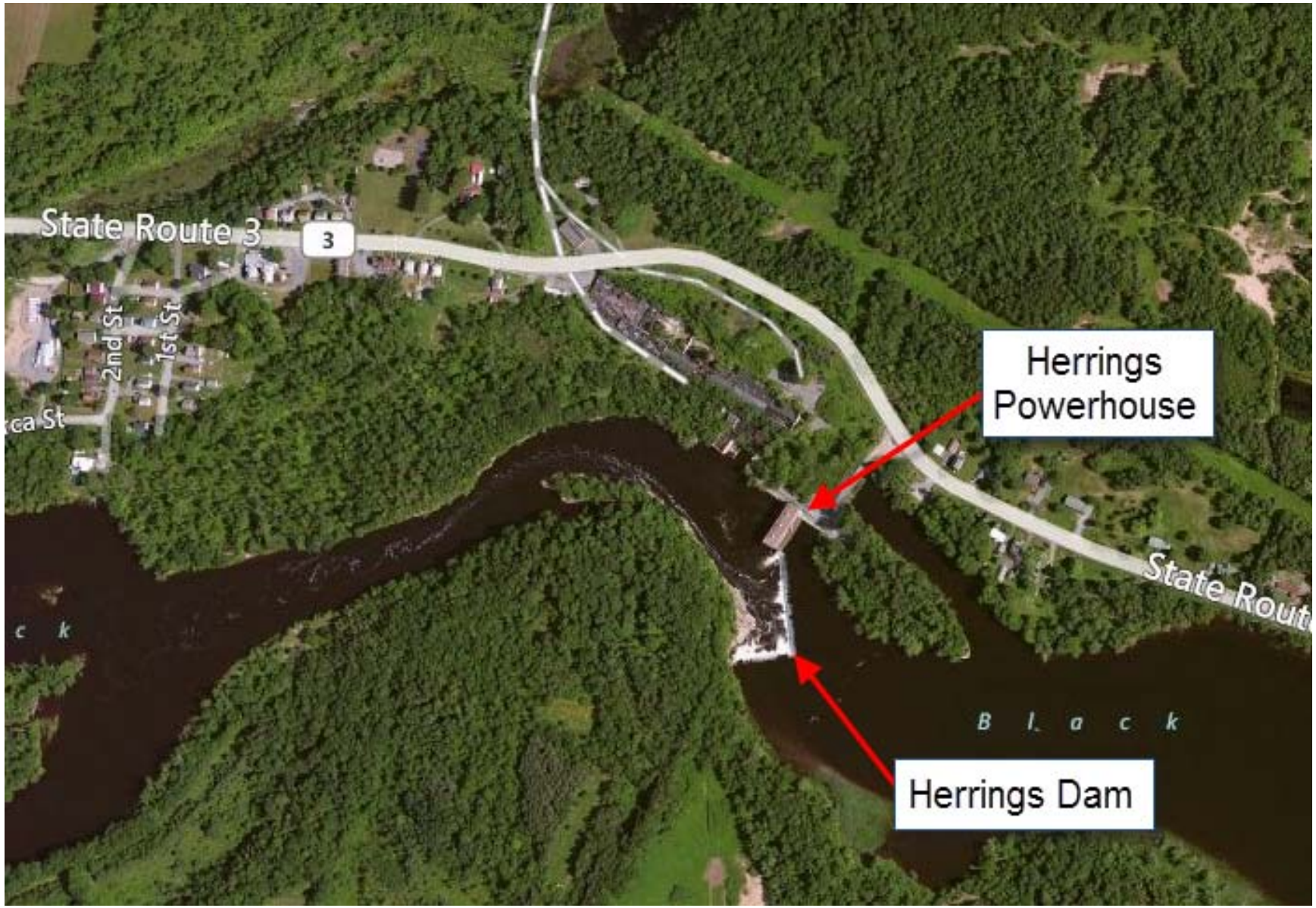
Erie would appreciate a response within 30 days of the date of this letter. Thank you in advance for your assistance, and if you have any questions, please do not hesitate to contact me at (315) 598-6130.

Sincerely,

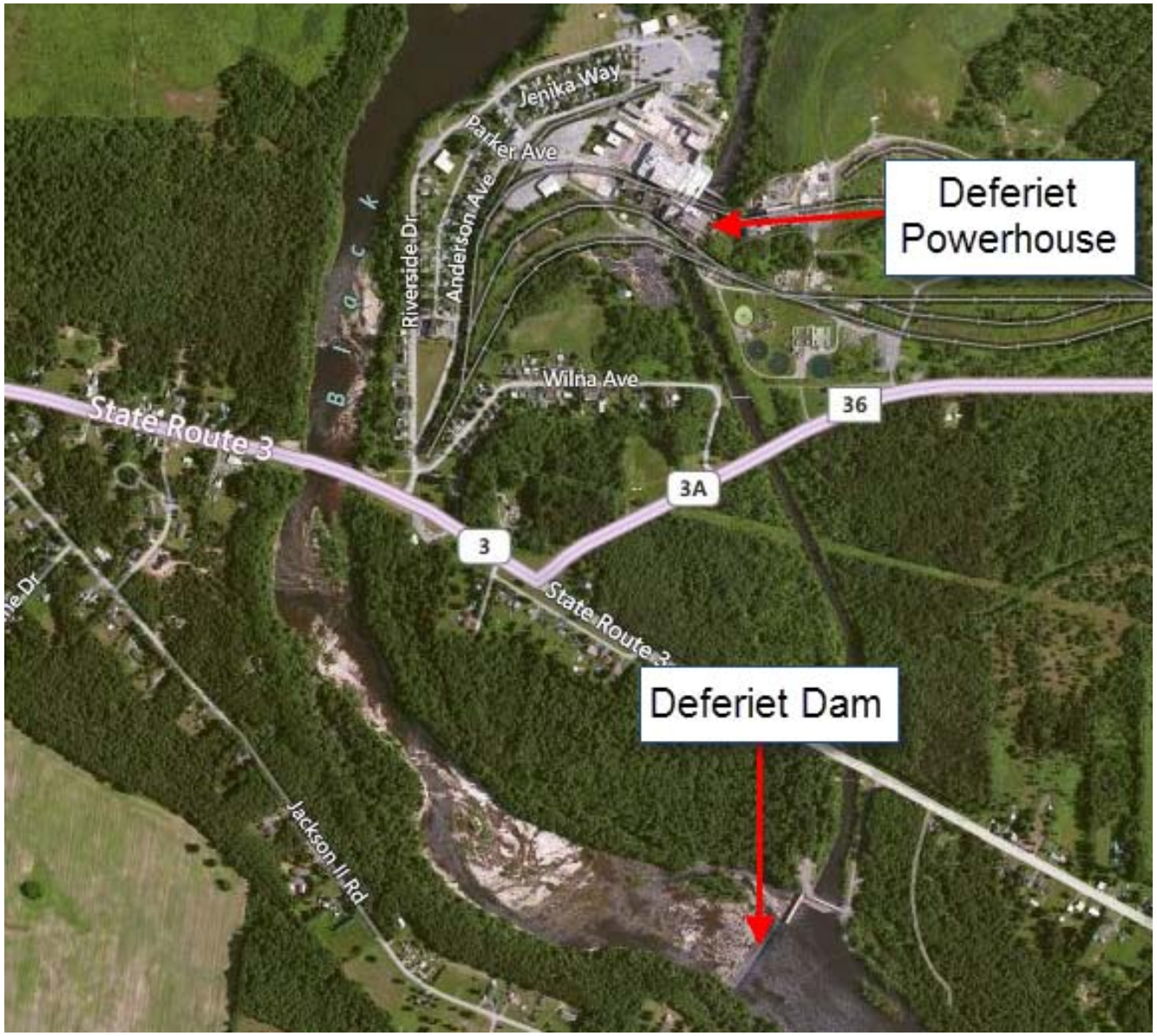
Steven P. Murphy
New York West Operations

Enclosure

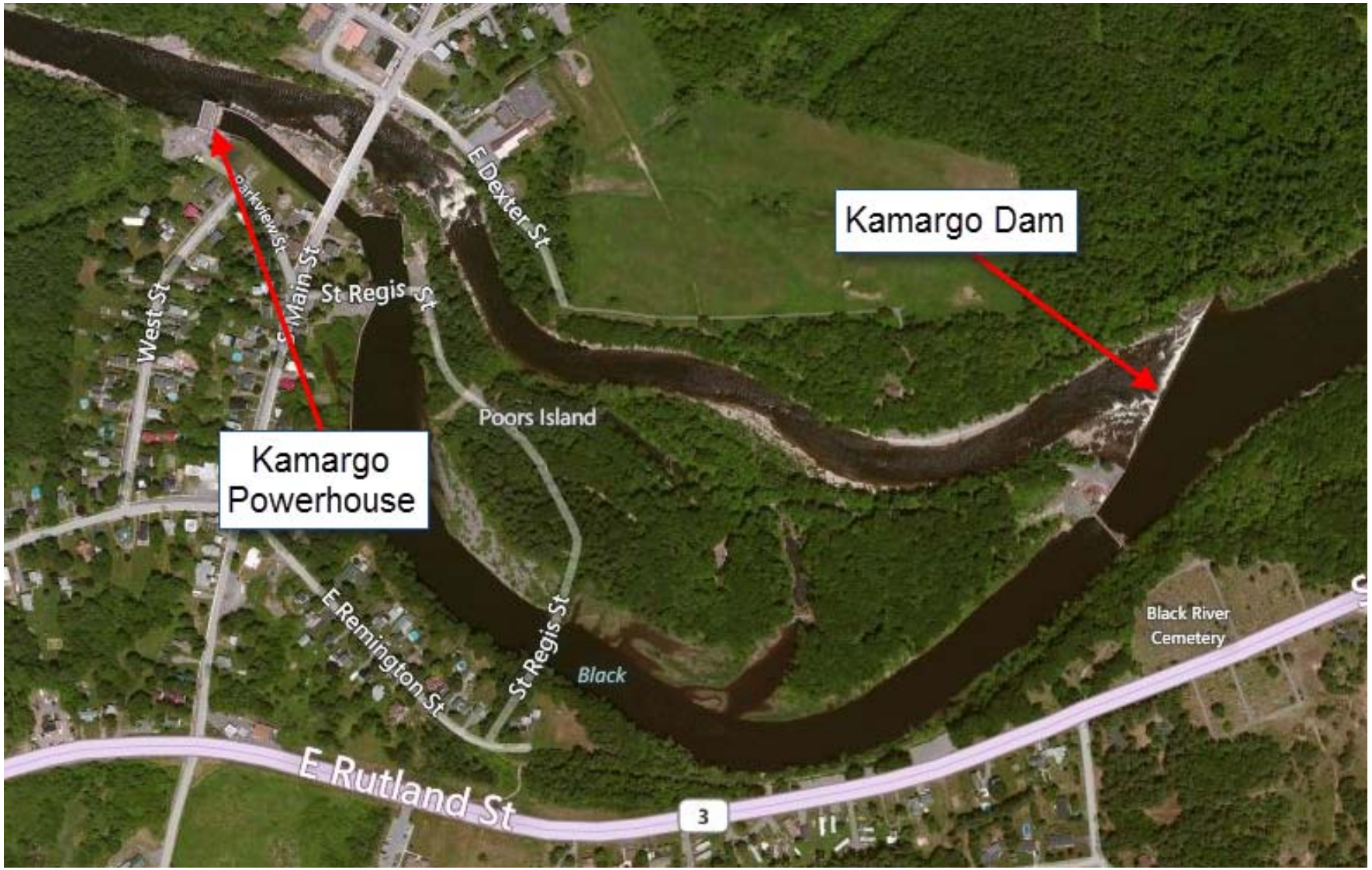
HERRINGS DEVELOPMENT



DEFERIET DEVELOPMENT



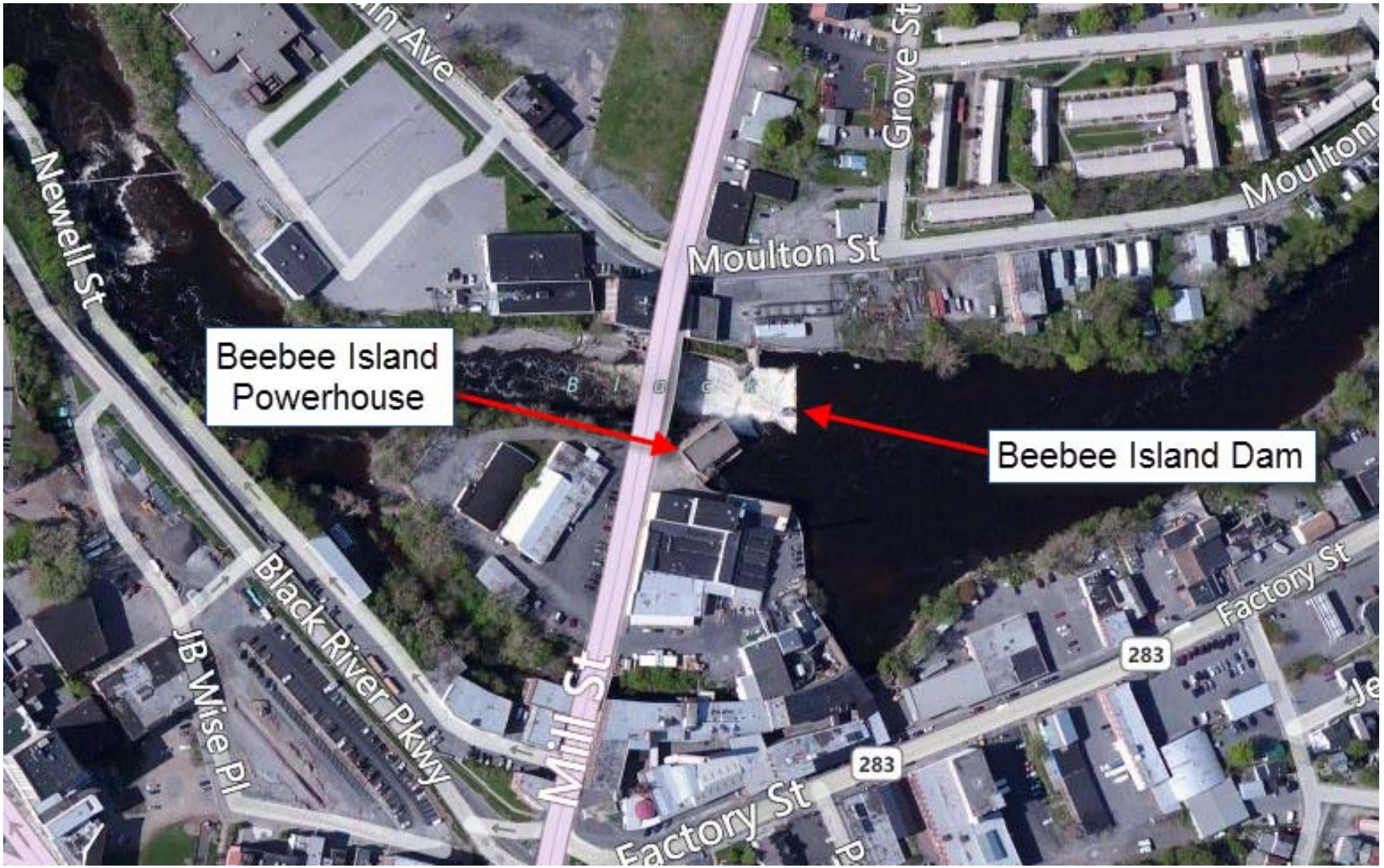
KAMARGO DEVELOPMENT



BLACK RIVER DEVELOPMENT

SEWALLS DEVELOPMENT

BEEBEE ISLAND PROJECT



Brookfield

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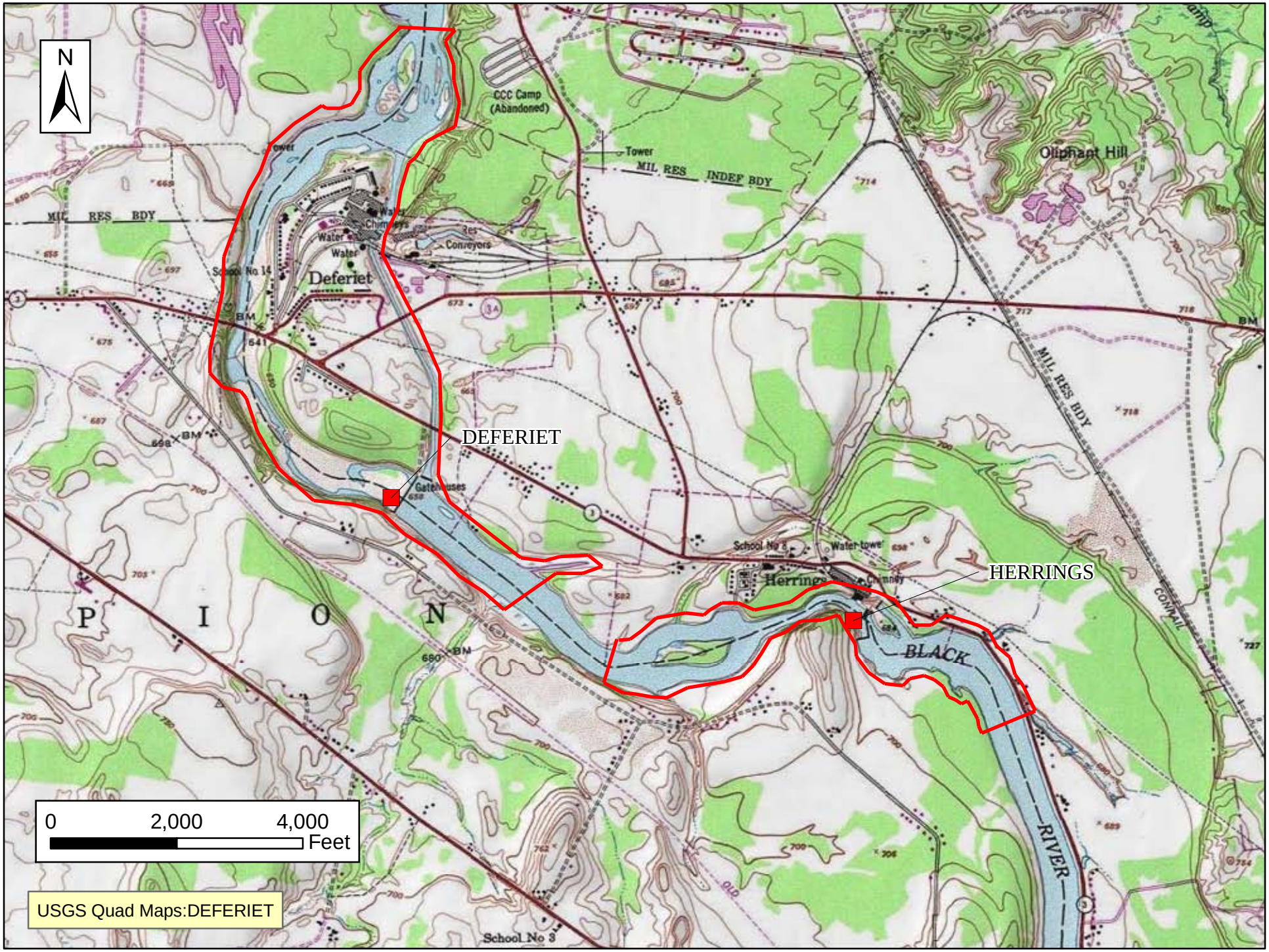
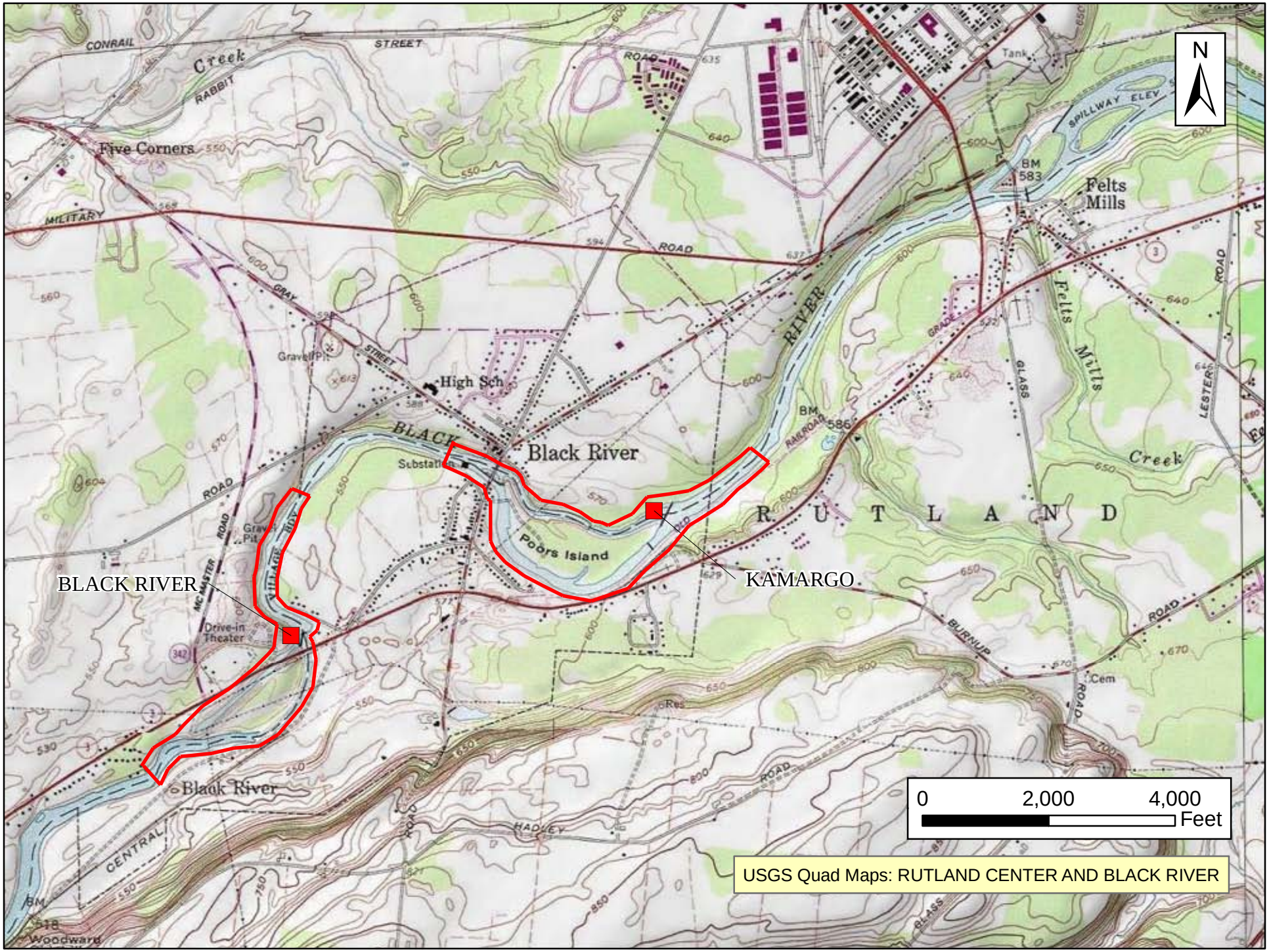
Sincerely,

Steven P. Murphy
New York West Operations

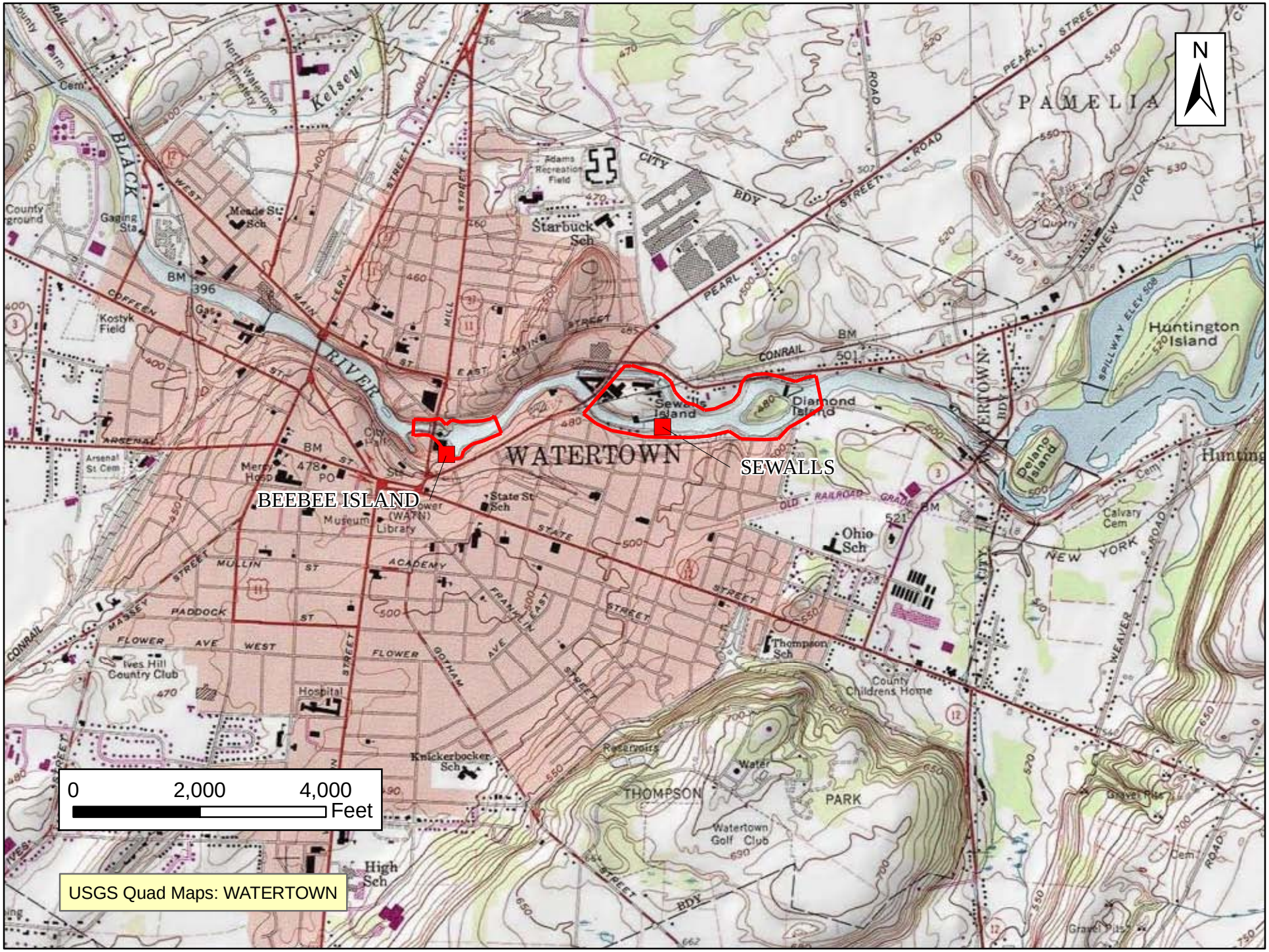
Enclosure



HERRINGS AND DEFERIET PROJECT BOUNDARIES



KAMARGO AND BLACK RIVER PROJECT BOUNDARIES



SEWALLS AND BEEBEE ISLAND PROJECT BOUNDARIES

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

April 27, 2012

Steven Murphy
Brookfield
Erie Blvd Hydropower
33 West First Street South
Fulton, NY 13069

Dear Mr. Murphy:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Black River Hydroelectric Project - FERC 2569 and 2538 located at six dams - this response applies to SITE 1, HERRINGS, - area as indicated on the map you provided, located in Jefferson County.

We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. 6

348 A

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

April 27, 2012

Steven Murphy
Brookfield
Erie Blvd Hydropower
33 West First Street South
Fulton, NY 13069

Dear Mr. Murphy:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Black River Hydroelectric Project - FERC 2569 and 2538 located at six dams – this response applies to SITE 2, Deferiet, area as indicated on the map you provided, located in Jefferson County.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

The enclosed report may be included in documents that will be available to the public. However, any enclosed maps displaying locations of rare species are considered sensitive information, and are intended only for the internal use of the recipient; they should not be included in any document that will be made available to the public, without permission from the New York Natural Heritage Program.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.ht ml.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. 6

348 B

Deferiet

Natural Heritage Report on Rare Species and Ecological Communities

NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,
Albany, NY 12233-4757
(518) 402-8935

~The information in this report includes only records entered into the NY Natural Heritage databases as of the date of the report. This report is not a definitive statement on the presence or absence of all rare species or significant natural communities at or in the vicinity of this site.
~Refer to the User's Guide for explanations of codes, ranks and fields.
~Location maps for certain species and communities may not be provided 1) if the species is vulnerable to disturbance, 2) if the location and/or extent is not precisely known, 3) if the location and/or extent is too large to display, and/or 4) if the animal is listed as Endangered or Threatened by New York State.

Natural Heritage Report on Rare Species and Ecological Communities

COMMUNITIES

Successional northern sandplain grassland

This occurrence of Successional Northern Sandplain Grassland is considered significant from a statewide perspective by the NY Natural Heritage Program. It is either an occurrence of a community type that is rare in the state or a high quality example of a more common community type. By meeting specific, documented significance criteria, the NY Natural Heritage Program considers this occurrence to have high ecological and conservation value.

Office Use

NY Legal Status:	Unlisted	**NYS Rank:**	S3	3397
Federal Listing:		**Global Rank:**	G4?	
Last Report:	1992-09-09	**EO Rank:**		
County:	Jefferson			S
Town:	Leray, Wilna			
Location:	Fort Drum Training Area 4/5 Wheeler Airfield Grassland			
General Quality and Habitat:	This is a large area. Exotics are only found along roadside and stream channel banks. Sandy terraces dissected by steep ravines cut by small streams, with extensive areas of dry grasslands. The grasslands grade into open glade-like oak woods with a continuous herb layer of grasses and sedges. The airport is on the southwest corner of thegrassland. In summer the grasslands are a silvery green when the hairgrass starts to flower, and in the late summer they turn to a nice copper color. A number of sedges and panic grasses are also common, mixed with small showy flowers. Oaks grow singly or in small groves, with blueberries and sweet-fern underneath.			

1 Records Processed

More detailed information about many of the rare and listed animals and plants in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org, from NatureServe Explorer at http://www.natureserve.org/explorer, from NYSDEC at http://www.dec.ny.gov/animals/7494.html (for animals), and from USDA's Plants Database at http://plants.usda.gov/index.html (for plants).

More detailed information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org. For descriptions of all community types, go to http://www.dec.ny.gov/animals/29384.html and click on Draft Ecological Communities of New York State.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

April 27, 2012

Steven Murphy
Brookfield
Erie Blvd Hydropower
33 West First Street South
Fulton, NY 13069

Dear Mr. Murphy:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Black River Hydroelectric Project - FERC 2569 and 2538 located at six dams – this response applies to SITE 3, KAMARGO, area as indicated on the map you provided, located in Jefferson County.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

The enclosed report may be included in documents that will be available to the public. However, any enclosed maps displaying locations of rare species are considered sensitive information, and are intended only for the internal use of the recipient; they should not be included in any document that will be made available to the public, without permission from the New York Natural Heritage Program.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.ht ml.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. 6

349 A

Site 3 - Kamargo

Natural Heritage Report on Rare Species

NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,
Albany, NY 12233-4757
(518) 402-8935

~The information in this report includes only records entered into the NY Natural Heritage databases as of the date of the report. This report is not a definitive statement on the presence or absence of all rare species or significant natural communities at or in the vicinity of this site.
~Refer to the User's Guide for explanations of codes, ranks and fields.
~We do not provide maps for species most vulnerable to disturbance.

Natural Heritage Report on Rare Species and Ecological Communities

REPTILES

Emydoidea blandingii
Blanding's Turtle

Office Use

NY Legal Status:	Threatened	**NYS Rank:**	S2S3 - Imperiled	142
Federal Listing:		**Global Rank:**	G4 - Apparently secure	ESU
County:	Jefferson			
Town:	Rutland			
Location:	Documented within .6 mile of project site. Animals can move .6 mile or more from documented locations. For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located.			

1 Records Processed

More detailed information about many of the rare and listed animals in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org, from NatureServe Explorer at http://www.natureserve.org/explorer, and from NYSDEC at http://www.dec.ny.gov/animals/7494.html.

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Joe Martens
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April 27, 2012

Steven Murphy
Brookfield
Erie Blvd Hydropower
33 West First Street South
Fulton, NY 13069

Dear Mr. Murphy:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Black River Hydroelectric Project - FERC 2569 and 2538 located at six dams - this response applies to SITE 4, BLACK RIVER - area as indicated on the map you provided, located in Jefferson County.

We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. 6

349 B

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

April 27, 2012

Steven Murphy
Brookfield
Erie Blvd Hydropower
33 West First Street South
Fulton, NY 13069

Dear Mr. Murphy:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Black River Hydroelectric Project - FERC 2569 and 2538 located at six dams - this response applies to SITE 5 SEWALLS - area as indicated on the map you provided, located in Jefferson County.

We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

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Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc. # 350 A
cc: Reg. 6

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

April 27, 2012

Steven Murphy
Brookfield
Erie Blvd Hydropower
33 West First Street South
Fulton, NY 13069

Dear Mr. Murphy:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed Black River Hydroelectric Project - FERC 2569 and 2538 located at six dams - this response applies to SITE 6 BEEBEE ISLAND - area as indicated on the map you provided, located in Jefferson County.

We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,
Jean Pietrusiak
Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

Enc.
cc: Reg. 6

350 B

Brookfield

New York West Operations
Erie Boulevard Hydropower, LP
33 West 1st Street South
Fulton, NY 13069

Tel. (315) 593-3118
Fax (315) 598-4831
www.brookfieldpower.com

March 27, 2012

Mr. David Stillwell
U.S. Fish and Wildlife Service
3817 Luker Road
Cortland, NY 13045

Subject: **Black River Hydroelectric Projects (FERC Nos. 2569 & 2538)**
Threatened and Endangered Species Consultation

Dear Mr. Stillwell:

Erie Boulevard Hydropower, L.P. (Erie) is the owner, operator, and licensee of the Black River (FERC No. 2569) and Beebee Island (FERC No. 2538) projects. These projects are comprised of six hydroelectric developments located at six dams along the Black River in Jefferson County. From upstream to downstream, these are the Herrings (River Mile [RM] 27.5), Deferiet (RM 26.0), Kamargo (RM 17.0), Black River (RM 15.0), Sewalls (RM 10.0), and Beebee Island (RM 9.0) developments.

As a matter of background, licenses from the Federal Energy Regulatory Commission (FERC) were issued for these two projects on December 24, 1996. Project operations and environmental protection measures at these projects have been largely determined by a comprehensive Offer of Settlement that Erie developed in conjunction with the U.S. Fish and Wildlife Service and other entities in 1995. The licensing processes for these projects included consultation with resource agencies regarding threatened and endangered species.

Erie is presently working with the Low Impact Hydropower Institute (LIHI) to recertify the Black River and Beebee Island projects as low impact projects. In preparing the application for LIHI certification, Erie must update or confirm consultation with resource agencies with respect to the presence of threatened or endangered species within the vicinity of these six hydroelectric developments.

Per the request from LIHI, Erie respectfully requests information on the presence of threatened or endangered species within the vicinity of the above-listed projects. The project location coordinates have been provided below, as well as on the enclosed aerial maps.

- Herrings..... Latitude: 44.0205; Longitude: -75.6508
- Deferiet ..... Latitude: 44.0277; Longitude: -75.6772
- Kamargo..... Latitude: 44.0080; Longitude: -75.7852
- Black River ..... Latitude: 44.0038; Longitude: -75.8066
- Sewalls ..... Latitude: 43.9772; Longitude: -75.8933
- Beebee Island ..... Latitude: 43.9767; Longitude: -75.9069

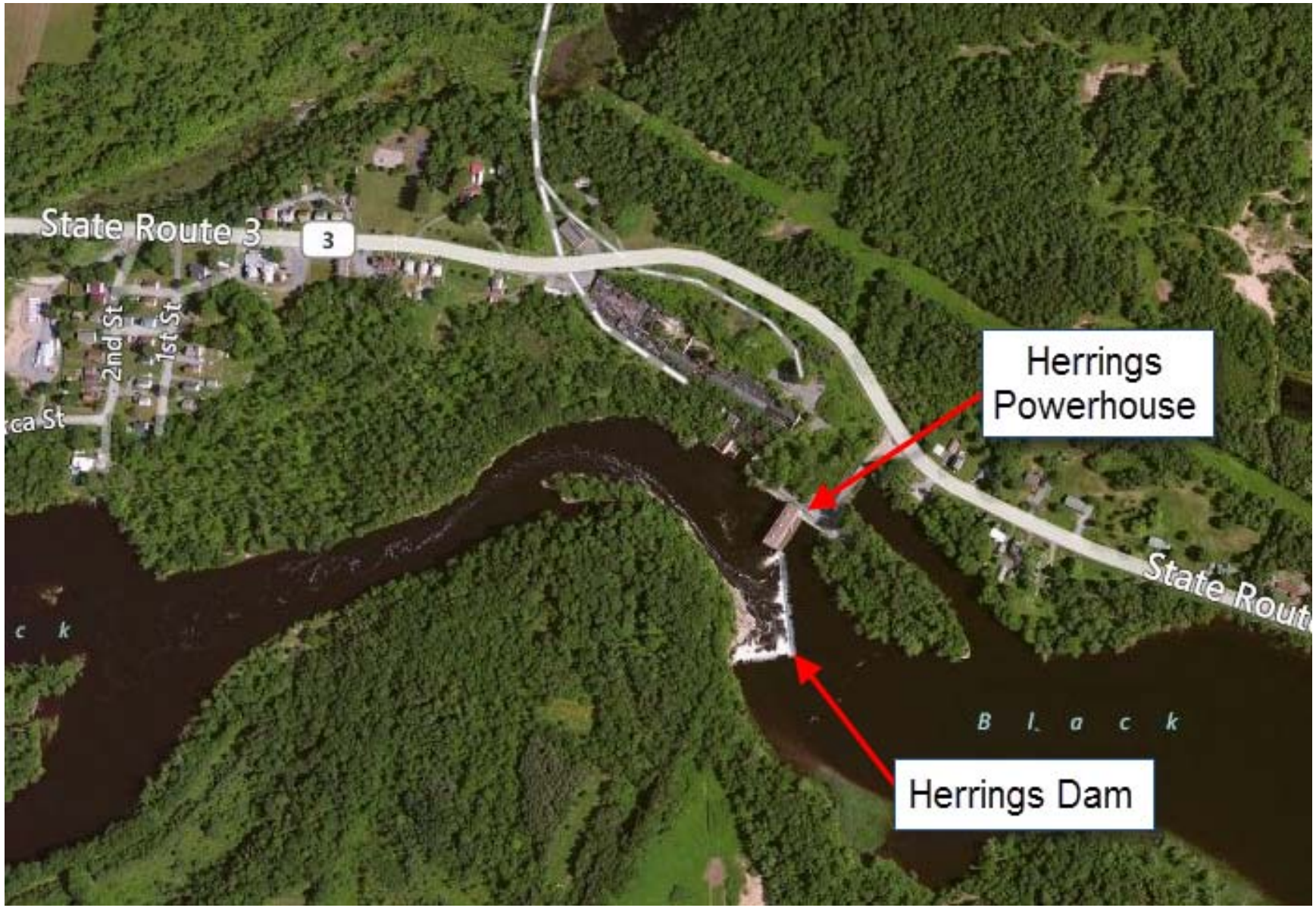
Erie would appreciate a response within 30 days of the date of this letter. Thank you in advance for your assistance, and if you have any questions, please do not hesitate to contact me at (315) 598-6130.

Sincerely,

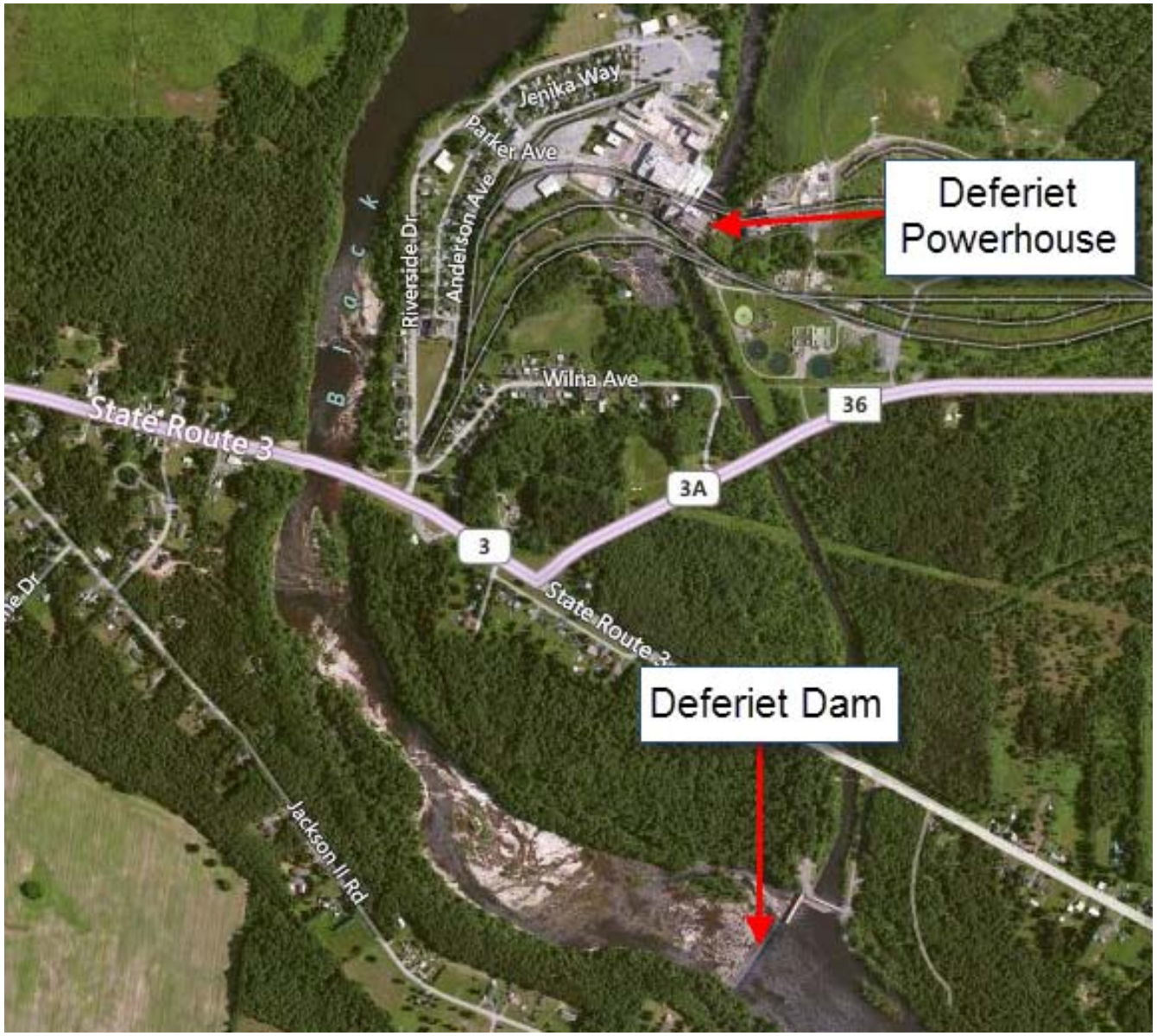
Steven P. Murphy
New York West Operations

Enclosure

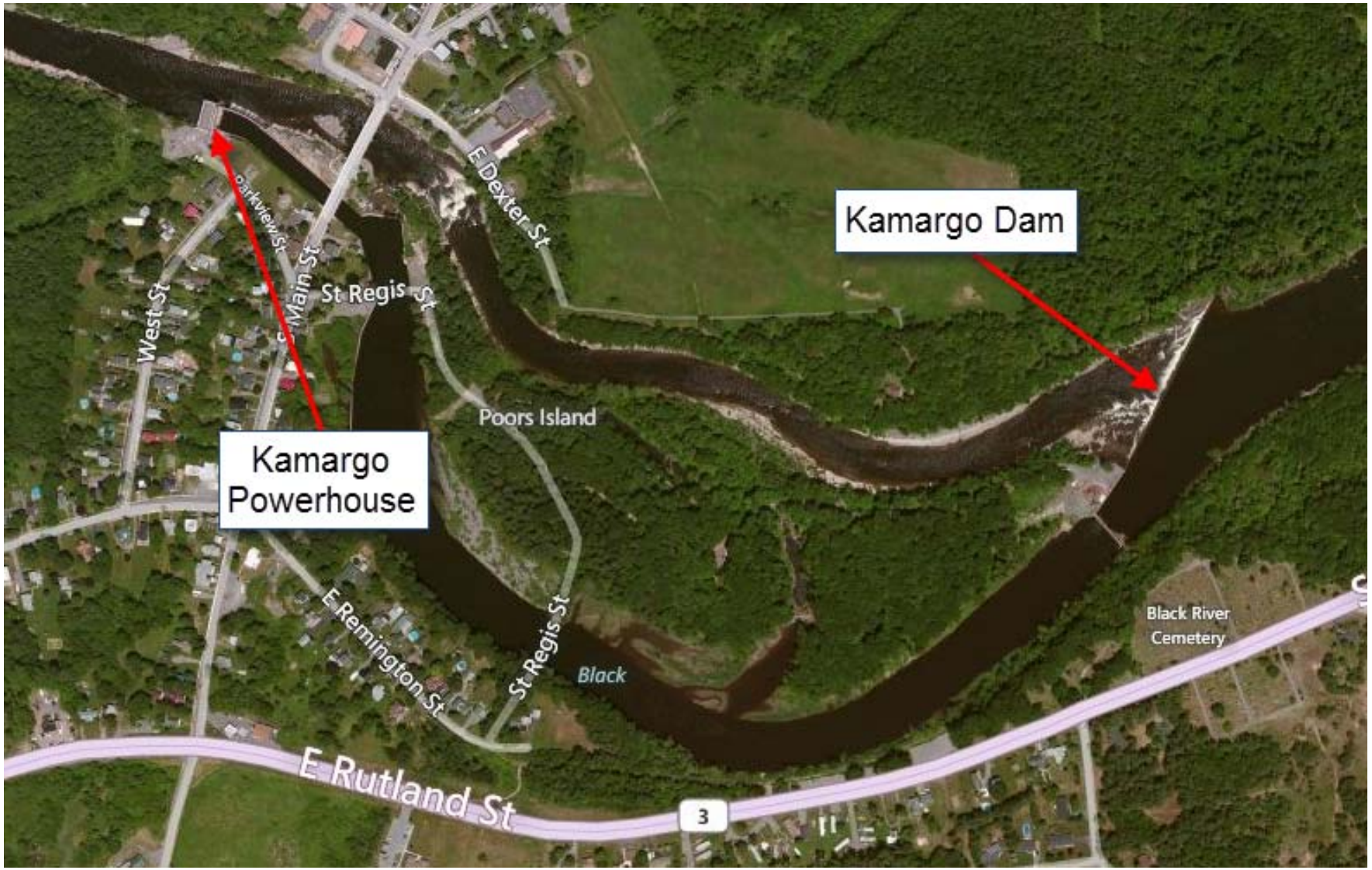
HERRINGS DEVELOPMENT



DEFERIET DEVELOPMENT



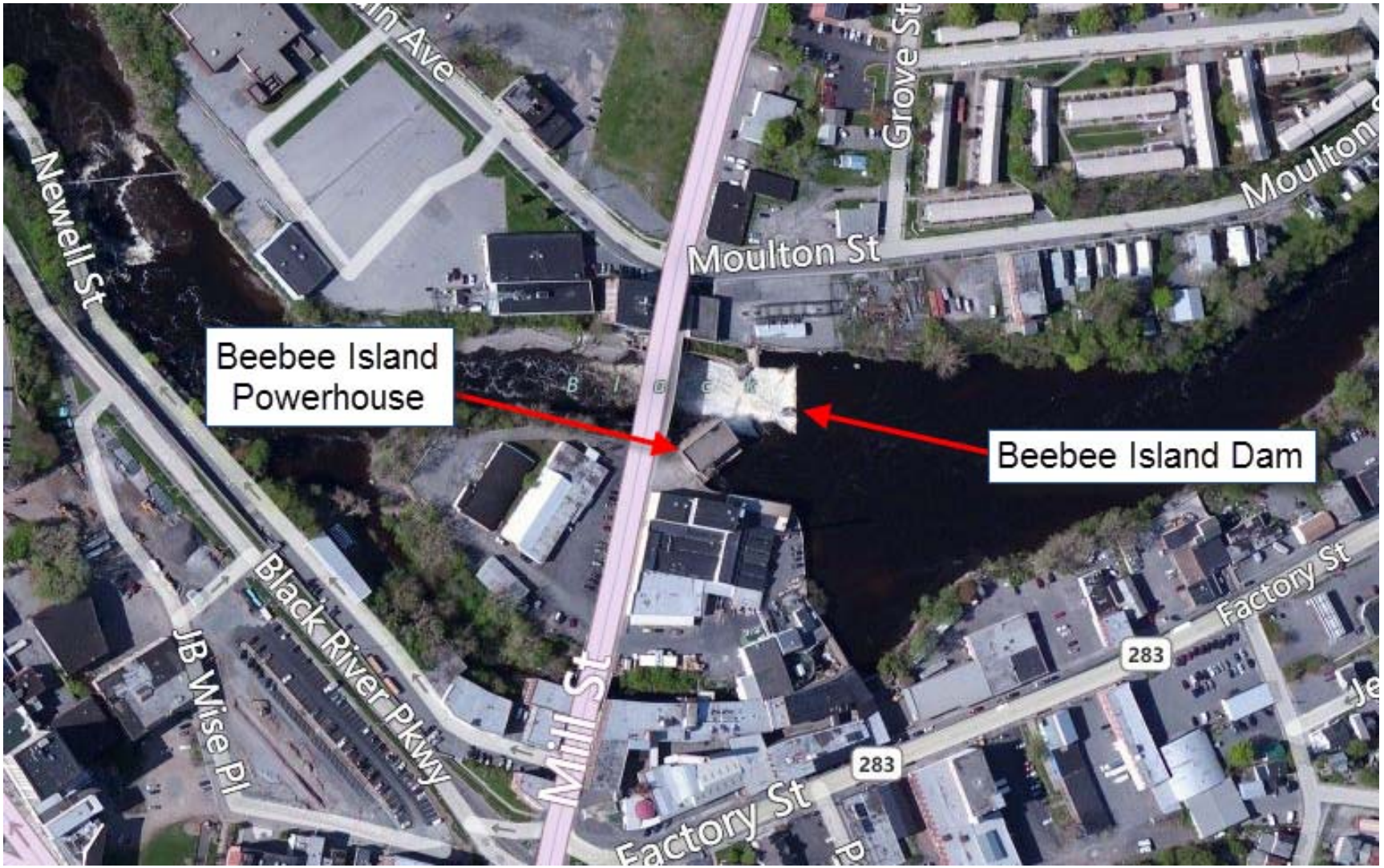
KAMARGO DEVELOPMENT



BLACK RIVER DEVELOPMENT

SEWALLS DEVELOPMENT

BEEBEE ISLAND PROJECT



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New York Field Office
3817 Luker Road
Cortland, NY 13045
Phone: (607) 753-9334 Fax: (607) 753-9699
http://www.fws.gov/northeast/nyfo

Project Number: 120284

To: Steven Murphy Date: Mar 30, 2012

Regarding: Black River Hydroelectric Projects (FERC Nos. 2569 and 2538)

Town/County: Jefferson County

The U.S. Fish and Wildlife Service (Service) New York Field Office has received your request for information regarding occurrences of Federally-listed or proposed threatened and endangered species within the vicinity of the above-referenced project/property. In an effort to streamline project reviews, we have shifted our species list request responses to our website at http://www.fws.gov/northeast/nyfo/es/section7.htm. Please go to our website and print the appropriate portions of our county list of endangered, threatened, proposed, and candidate species, and the official list request response for your files. Step-by-step instructions are also found on our website.

As a reminder, Section 9 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) prohibits unauthorized taking* of listed species and applies to Federal and non-Federal activities. Additionally, Section 7(a)(2) of the ESA requires Federal agencies, in consultation with the Service, to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take"* any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. If you have any questions or require further assistance regarding threatened or endangered species, please contact the Endangered Species Program at (607) 753-9334. Please refer to the above project number in any future correspondence.

Endangered Species Biologist: Robyn A. Niver Robyn A Niver

*Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to *take* (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife

ATTACHMENT J

QUESTION F – CULTURAL RESOURCES PROTECTION:

1996 PROGRAMMATIC AGREEMENT

1998 CULTURAL RESOURCES MANAGEMENT PLAN FOR P-2538

1999 FERC ORDER APPROVING CRMP FOR P-2538 & P-2569

II. BLACK RIVER PROJECT, PROJECT NO. 2569

NMPC applied to the Commission on November 25, 1991, for a new license for the Black River Project (FERC No. 2569), proposing to continue operating and maintaining existing facilities according to an established operating regime, and to improve recreational facilities. NMPC revised the application on October 13, 1995, by filing a Settlement Offer (Settlement Agreement) dated September 14, 1995.

The Black River Project consists of five developments located on a reach of the Black River extending upstream from the city of Watertown, in Jefferson County, New York. The five developments progressing downstream towards Lake Ontario are: Herrings, located at river mile (RM) 27.5; Deferiet at RM 26.0; Kamargo at RM 17.0; Black River at RM 15.0; and Sewalls at RM 10.0.

A. Project Facilities:

1. Herrings Development, located in the Village of Herrings has a total installed capacity of 5.4 MW, and consists of: a 512-feet-wide by 25-feet-high "L"-shaped concrete gravity dam with a crest elevation of 679.1 feet (USGS), topped with 1-foot-high wooden flashboards; a 140-acre reservoir at normal maximum surface elevation of 680.1 feet with a gross storage capacity of 669.4 acre-feet (ac-ft); an intake structure, integral with the powerhouse, consisting of (a) a stop-log waste sluice upstream of the existing perpendicular trashracks which measure 101 feet wide by 31 feet high and have 3.5 inches of clear bar spacing, (b) an 11-foot-wide stop-log waste sluice downstream of the trashracks, and (c) nine, 9-foot-wide, 12.5-foot-high motor operated slide gates; a 137-foot-wide, 33-foot-long brick-masonry powerhouse containing three vertical Allis-Chalmers generating units, each rated at 1,800 kilowatts (kW), with design head of 19.5 feet and hydraulic capacity of 1,203 cubic foot per second (cfs); a short excavated rock tailrace discharging directly into the Black River; transmission lines consisting of 30, 70, and 108-foot-long leads connecting to a 2.4 kilovolt (kV) powerhouse bus, and three 97-foot-long 2.4-kV lines connected to a 2.4/23-kV step-up transformer; and associated appurtenant equipment.

2. Deferiet Development, located in the Village of Deferiet, has a total installed capacity of 10.8 MW, and consists of: a 503-foot-long by 18-foot-high ambursen dam section, with a permanent crest elevation of 656 feet, topped with existing

3-foot-high wooden flashboards and a 192-foot-long sluice gate section that houses eleven 14-foot-wide stop-log bays; a 70-ac reservoir, at normal maximum surface elevation of 659.0 feet (USGS) and gross storage capacity of 405 ac-ft; headworks structure consisting of a 180-foot-wide concrete power canal headworks section housing twenty 5-foot-wide by 12.5-foot-high hand operated timber slide gates; a 4,200-foot-long canal which connects the power canal headworks and existing powerhouse, an intake structure consisting of a 108-foot-wide by 27-foot-high trashrack, three steel slide gates, and an 11-foot-wide ice sluice controlled by stop logs; a 145.5-foot-wide by 92.5-foot-long brick/masonry powerhouse equipped with three vertical Francis generating units, each rated at 3,600 kW, with design head of 46 feet, and hydraulic capacity of 1,147 cfs; a 1,400-foot-long excavated rock tailrace; transmission lines consisting of 65-,45-, and 65-foot-long leads connecting to a 2.4 kV powerhouse bus, and 67-, 69-, and 73-foot-long 2.4-kV underground lines connecting to 2.4/23-kV step-up transformer; and associated appurtenant equipment.

3. Kamargo Development, located in the Village of Black River, has a total installed capacity of 5.4 MW, and consists of: a 647-foot-long by 12-foot-high concrete gravity spillway dam, with permanent crest elevation of 561.8 feet (USGS), a 150-foot-long overflow section, and topped with existing 2-foot-high wooden flashboards; a 40-ac reservoir, at normal maximum surface elevation of 563.8 feet, with a gross storage capacity of 359.5 ac-ft; a 131-foot-long power canal headworks structure, with 14 8-foot-wide by 11-foot-high wooden headgates, leading to a 3,850-foot-long unlined power canal, and a 143-foot-long bulkhead section; a 580-foot-long concrete forebay channel consisting of a 190-foot-long concrete gravity overflow section, a 230-foot-long concrete gravity section topped with 1-foot-high flashboards, and a 160-foot-long side channel spillway section equipped with twelve stop-log-bays; an intake structure consisting of a 66-foot-wide by 28.5-foot-high trashrack, a waste sluice, and nine timber gates with stop-log slots; a 97.5-foot-wide by 37-foot-long brick/masonry powerhouse equipped with three vertical Francis generating units, each rated at 1,800 kW, a design head of 25 feet, and a hydraulic capacity of 1,100 cfs; a short excavated rock tailrace discharging directly into the Black River; transmission lines consisting of three 25-foot-long leads connecting to a 2.4-kV powerhouse bus, and three 89-foot-long, 2.4-kV underground lines connecting to 2.4/23-kV step-up transformer; and associated appurtenant equipment.

4. Black River Development, located in the town of LeRay, has a total installed capacity of 6.0 MW, and consists of: a dam consisting of a 327-foot-long by 16-foot-high horseshoe-shaped concrete retaining wall, a 36.5-foot-long gated section housing two sluice gates, an abandoned substructure powerhouse, and a 291-foot-long by 25-foot-high concrete gravity spillway with a permanent crest of 534 feet (USGS), topped with 2-foot high wooden flashboards; a 25-ac reservoir, at normal maximum surface elevation of 536 feet, with a gross storage capacity of 128 ac-ft; a headworks structure consisting of 80-foot-long concrete power canal upper bulkhead structure, housing twelve 6-foot-wide by 11-foot-high timber slide gates and one 3.5-foot-wide by 11.0-foot-high gate, and a 2,250-foot-long power canal composed of a 1,270-foot-long unlined section containing a 250-foot-long side concrete waste weir, and a 980-foot-long concrete-lined section containing a 134-foot-long side concrete waste weir and low-level sluice gate; an intake structure consisting of 80-foot-wide by 29-foot-high trashrack, and nine timber slide gates; a 118-foot-wide by 66-foot-long powerhouse equipped with three vertical Francis generating units, each rated at 2,000 kW with a design head of 33 feet, and a hydraulic capacity of 1,067 cfs; short excavated rock tailrace discharging directly into the Black River; transmission lines consisting of 36-, 65-, and 95-foot-long leads connecting to a 2.4-kV powerhouse bus, and three 88-foot-long, 2.4-kV underground lines connecting to 2.4/23-kV step-up transformer; and associated appurtenant equipment.

5. Sewalls Development, located in the city of Watertown, and consists of one facility on the south channel and one on the north channel of Sewalls Island.

The South Channel facility has an installed capacity of 2.0 MW, and consists of: a 243-foot-long by 15.5-foot-high concrete gravity dam with a permanent crest elevation of 463.9 feet (USGS); a 4-ac reservoir, at normal maximum surface elevation of 463.9 feet, with a gross storage capacity of 48 ac-ft; a headworks structure consisting of 65.5-foot-long power canal headworks structure housing two stop-log bays and two 15-foot-wide by 12-foot-high automated steel slide gates, leading to a 400-foot-long by 33 to 35-foot-wide concrete-lined power canal, with a wall adjacent to the Black River with a permanent crest elevation of 463 feet and equipped with 2-foot-high flashboards for its entire length; an intake structure consisting of a 69-foot-wide by 21-foot-high trashrack, a waste sluice and low-level drain, and four gate openings for steel slide gates; a 81-foot-wide by 32-foot-long powerhouse equipped with two

vertical Allis-Chalmers propeller-type generating units, each rated at 1,000 kW, a design head of 15.5 feet, and a hydraulic capacity of 900 cfs; a short excavated rock tailrace discharging directly into the Black River; transmission lines consisting of 12- and 47-foot-long leads connecting to a 2.4-kV powerhouse bus, and two 180-foot-long, 2.4-kV underground lines connecting to a 2.4/23-kV step-up transformer; and associated appurtenant equipment.

Presently, the North Channel facility is abandoned and not used for power generation. The facility includes: a 90-foot-long by 18.5-foot-high concrete dam with a permanent crest elevation of 463.9 feet; an abandoned 37-foot-long forebay canal headworks structure housing two steel slide gates; a 78-foot-long by 25-foot-wide concrete forebay canal with two draft-tubes encased in the floor; and an abandoned 68-foot-wide by 34-foot-long masonry/concrete block powerhouse.

B. Operating Regime:

The Black River is regulated by the Hudson River-Black River Regulating District (HRBRRD) at the Stillwater Reservoir, which is primarily operated for flood control of the Black River. The five developments of the Black River Project operate in conjunction with the daily releases from Stillwater Reservoir. As detailed in the Settlement Agreement, NMPC would continue to operate each of the Black River Project developments in a run-of-river (ROR) with pondage mode.

C. Proposed Project Modifications and Recreational Developments:

The proposed measures, as stated in the Final Environmental Assessment (FEA) dated September 27, 1996, under the preferred alternative, include: plan and implement an effective streamflow monitoring system; establish and maintain a continuous flow of 1,000 cfs or inflow, whichever is less, throughout all developments; install flashboards at each development by May 1 or as soon thereafter as safely possible; maintain minimum flows in all bypassed reaches; accommodate, install, or modify flow release measures at all developments; replace trashracks at all developments; accommodate or install fish passage measures at all developments; institute reservoir fluctuation limits at all developments; enhance recreational facilities at all developments within two years of license issuance; and finish all fencing, including support structures, and future architectural improvements with dark brown-green coloration.

In addition to enhancements at individual developments, NMPC would establish a Black River Fund and Advisory Council to facilitate acquisition or other protection for key land parcels and to make recommendations regarding management of the Black River and hydropower project operations. The proposed recreational enhancements are summarized below by development.

1. Herrings Development: expansion of existing launch area to add fishing, picnicking, and river viewing; portage trail from existing car-top boat launch on north shore to put-in at tailrace; and overland access to a new car-top boat launch at the downstream end of the new portage trail.

2. Deferiet Development: new car-top boat put-in/take-out on north shore with access from NYS Route 3 and 6-8 car parking area; portage across the headgate structure to a new put-in 200 feet below the dam where there would be signage warning of downstream whitewater; removal of exposed rods below the stop-log structure; maintain and improve existing access to the south shore of the impoundment, with addition of bird watching in the wetland area; recreational access to the Black River about 8,000 feet downstream of the dam, to be developed cooperatively with the village of Deferiet; riverside recreation trail system with shoreline fishing access and river overlook; and secure access to waterfront.

3. Kamargo Development: a car-top boat take-out from the impoundment at the upstream end of Poors Island between the Kamargo dam and canal headgate structure; a new car-top boat put-in at the power canal immediately downstream of the canal headgate structure; car-top boat passage down a portion of the power canal where water velocities are slow; a new boat barrier and car-top boat take-out on the Poors Island side about 1,600 feet down the power canal from the canal head-gate structure in the vicinity of the 23-kV transmission line crossing; a foot trail from the power canal take-out connecting to the proposed Poors Island Recreation Area trail system; parking for 4 to 6 cars near the Poors Island access bridge approximately 300 feet from the canal take-out; a sign near the power canal take-out directing boaters to the car-top put-in near the Village of Black River Overlook; a new car-top boat put-in upstream of the Main Street bridge adjacent to the Village of Black River Overlook, and modified area to allow safe access; vehicular access to Poors Island would be during daylight hours only via a single-lane bridge from South Main Street; Poors Island forested habitat preserve with interpretive center and planned environmental program; Poors Island hiking trail system with stone dust trail,

scenic riverview and overlooks, and bicycle storage for day hikes; Poors Island day-use picnic area with picnic tables and shelter, river overlook, and primitive restroom facilities; interconnection with the New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP) Jefferson County bike/hike trail, via trail utilizing village streets and signage; and shoreline fishing on Poors Island, and on the south side of the power canal upstream of the boat barrier.

4. Black River Development: a car-top boat launch and take-out upstream of the Route 3 bridge, to include a picnic area, shoreline fishing, and at least four parking spaces along Huntington Street on NMPC's land; car-top boat put-in as far upstream in the bypassed reach as possible; a portage trail using Huntington Road and an existing dirt road close to the bypassed reach; additional parking South of NYS Route 3 and east of the Route 3 bridge; maintain parking at the existing picnic area along the bypassed reach south of NYS Route 3; relocate existing picnic area and maintain under expanded site maintenance program; expanded existing picnic area; secure waterfront access; riverfront walking trail with overlook points; interconnection with NYSOPRHP Jefferson County bike/hike trail; maintain forested island preserve with shoreline visual buffer; and protective railing in-lieu of the present security fencing at the existing picnic area and at other necessary locations.

5. Sewalls Development: pedestrian path from Huntington Street to a river overlook with shoreline fishing safety rail, and interpretive signage; car-top boat take-out at the river overlook on the south shore, with signage to potential downstream put-in locations; and flow stabilization to facilitate whitewater recreation by maintaining ROR between May 1 and September 30 when flow is less than 2000 cfs.

D. Historic Properties:

The project facilities at hydroelectric facilities in New York State, including the five developments of the Black River Project, were surveyed by an historian retained for this purpose by NMPC. The results of this survey are documented in the following report:

A History of Hydroelectric Power in New York State. Prepared by Duncan Hay. New York State Museum. 1991.

1. Historic Structures: No historic structures listed in or eligible for listing in the National Register of Historic Places (NRHP) have been recorded within the areas of potential effect (APE) of the five developments that comprise the Black River Project.

2. Archeological Sites: No prehistoric or historic archeological sites listed in or eligible for listing in the NRHP have been recorded within the APE of the five developments that comprise the Black River Project.

E. Anticipated Effects:

The proposed issuing of a new license to NMPC for the Black River Project could have both beneficial and adverse effects.

1. Historic Structures: No specific historic resources potentially eligible for inclusion in the NRHP were identified within the Black River project boundaries.

2. Archeological Sites: No sites have been recorded that are listed in or are eligible for listing in the NRHP; however, as yet unknown archeological sites could be encountered during the construction of enhancement measures at any of the five developments. Project operation, maintenance, or enhancement activities might adversely affect eligible archeological sites, if any are determined to be present. The Cultural Resources Management Plan (CRMP), however, would define and implement procedures that would diminish the likelihood that archeological sites would be inadvertently discovered during operation and maintenance of the project or implementation of any enhancement measures. In addition, the CRMP would be designed to provide for the identification and evaluation of Historic Properties and the assessment of effects well prior to the initiation of the proposed action so that avoidance or mitigation measures could be implemented.

III. BEEBEE ISLAND PROJECT, PROJECT NO. 2538

The Beebee Island Corporation (BIC) applied to the Commission on December 20, 1991, for a new license for the Beebee Island Project (FERC No. 2538), proposing to continue operating and maintaining existing facilities according to an established operating regime, and to improve recreational facilities. BIC revised the application on October 13, 1995, by filing a Settlement Offer (Settlement Agreement) dated September 14, 1995. The Beebee Island Project, which is owned by and licensed to BIC but operated and maintained by NMPC, consists of one development located on the Black River at River Mile (RM) 9.0 in the city of Watertown.

A. Project Facilities:

1. Beebee Island Development, has a total installed capacity of 8.0 MW, and consists of: an 18-foot-high by 266-foot-long, U-shaped concrete gravity main dam with permanent crest elevation of 428.0 feet (USGS), topped with a 3-foot-high wooden flashboard; a 20-ac reservoir, at normal maximum surface elevation of 431.0 feet with a gross storage capacity of 60 ac-ft; a 50-foot-long by 15-foot-high, concrete-capped stone auxiliary non-overflow dam, equipped with a skimmer gate; a 47-foot-wide by 82-foot-long powerhouse equipped with two vertical generating units, each rated at 4,000 kW, a design head of 32.0 feet, and a hydraulic capacity of 1,800 cfs; a tailrace with a normal surface elevation of 397.4 feet; six 300-foot-long, 4.8-kV primary transmission lines; and associated appurtenant equipment.

B. Operating Regime:

The Black River is regulated by the Hudson River-Black River Regulating District (HRBRRD) at the Stillwater Reservoir, which is primarily operated for flood control of the Black River. The Beebee Island Project operates in conjunction with the daily releases from Stillwater Reservoir. As detailed in the Settlement Agreement, NMPC, pursuant to an agreement with BIC, would operate the Beebee Island Project in a run-of-river (ROR) mode.

C. Proposed Project Modifications and Recreational Developments:

The proposed measures, as stated in the Final Environmental Assessment (FEA) under the preferred alternative, include: plan and implement an effective streamflow monitoring system; establish and maintain a continuous flow of 1,000 cfs or inflow, whichever is less; install flashboards by May 1 or as soon thereafter as safely possible; maintain a year-round minimum flow of 14 cfs in the bypassed reach; modify flow release structures; replace trashracks; modify fish passage measures; and finish all fencing, including support structures, and future architectural improvements with dark brown-green coloration.

Recreational enhancements would be provided within two years of license issuance and would include: pedestrian access to the impoundment for fishing; up to four scenic overlook facilities and a fishing platform immediately downstream of the Pearl Street bridge, in conjunction with the city of Watertown's proposed Heritage Trail, and to be constructed only if the City actually constructs the Heritage Trail; boat barrier upstream of Beebee Island dam; selective site cleanup; car-top boat take-out on the south bank of the impoundment above a boat barrier with signage to potential downstream put-in locations; and veiling flows.

In addition, NMPC would establish a Black River Fund and Advisory Council to facilitate acquisition or other protection for key land parcels and to make recommendations regarding management of the Black River and hydropower project operations.

D. Historic Properties:

The project facilities at hydroelectric facilities in New York State, including the Beebee Island Project, were surveyed by an historian retained for this purpose by NMPC. The results of this survey are documented in the following report:

A History of Hydroelectric Power in New York State. Prepared by Duncan Hay. New York State Museum. 1991.

1. Historic Structures: The Beebee Island Hydroelectric Plant, constructed in 1931, meets Criteria A and C of the National Register of Historic Places (NRHP) as one of the earliest operating facilities of its type and period in the Black River Basin. The Beebee Island Hydroelectric Plant is

architecturally and historically significant as a highly intact and representative example of localized small hydroelectric generating industries in the early 20th century.

2. Archeological Sites: No prehistoric or historic archeological sites listed in or eligible for listing in the NRHP have been recorded within the areas of potential effect (APE). However, if archeological sites are found to be present within the APE, one or more could well be determined to be eligible for inclusion in the NRHP.

E. Anticipated Effects:

The proposed issuing of a new license to BIC for the Beebee Island Project could have both beneficial and adverse effects.

1. Historic Structures: Inasmuch as the Beebee Island Hydroelectric Plant is an Historic Property, issuing BIC a new license to continue operating and maintaining the project under the protection afforded by Section 106 is generally to be considered a beneficial effect. In itself, however, continuing to operate the project under the protection afforded by Section 106 does not ensure that no adverse effects would ensue. Adverse effects could inadvertently occur during routine daily activities in the absence of an operation and maintenance plan designed to hold intact the property's historic integrity. Issuing BIC a new license to continue operating the project without such a plan would overall adversely affect the Historic Property.

2. Archeological Sites: No sites have been recorded that are listed in or are eligible for listing in the NRHP. However, as yet unknown archeological sites could be encountered during the construction of enhancement measures at the Beebee Island Project. Project operation, maintenance, or enhancement activities might adversely affect eligible archeological sites, if any are determined to be present. The Cultural Resources Management Plan (CRMP), however, would define and implement procedures that would diminish the likelihood that archeological sites would be inadvertently discovered during operation and maintenance of the project or implementation of any enhancement measures. In addition, the CRMP would be designed to provide for the identification and evaluation of Historic Properties and the assessment of effects well prior to the initiation of the proposed action so that avoidance or mitigation measures could be implemented.

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D. C. 20426

Project No. 11502-000--Iowa
Red Rock Project
Town of Ely

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Thomas J. Wilkinson, Jr.
101 Second Street, S.E.
American Building, Suite 300
Cedar Rapids, IA 52401

Dear Mr. Wilkinson:

Article 8 of the preliminary permit for this project requires you to submit a progress report every 6 months on the feasibility studies conducted under the permit. The progress report due October 31, 1996, has not been received.

This certified letter constitutes notice under section 5 of the Federal Power Act that your preliminary permit will be canceled if you do not submit the progress report within 30 days from the date of this letter. If you have any questions, please call Mary Golato at (202) 219-2804.

Sincerely,

J. Mark Robinson
Director, Division of
Licensing and Compliance

ORIGINAL

Niagara Mohawk

OFFICE OF THE SECRETARY
FILED
98 OCT 27 AM 11:52
FEDERAL ENERGY REGULATORY COMMISSION

October 20, 1998

The Secretary
FEDERAL ENERGY REGULATORY COMMISSION
Mail Code: DLC, HL-11.2
888 First Street, N.E.
Washington, DC 20426

010

Subject: Beebee Island Project
LP 2538 NY
Cultural Resources Management Plan (CRMP) - Article 416
Revisions and Response to Advisory Council letter
OPRHP # 90PR2693

Dear Secretary:

We are in receipt of a letter from the Director of Hydropower Licensing dated June 25, 1998 regarding comments from the Advisory Council on Historic Preservation (Advisory Council) in reference to the above captioned subject. The Advisory Council provides comments on seven areas of the CRMP. On behalf of Beebee Island Corporation, Niagara Mohawk addresses these comments by revision to the CRMP or by clarifications contained herein (attached are one original and eight copies).

- A review of the CRMP finds that the "Compendium of Compatible Operation and Maintenance Activities"is noted and its applicability to the CRMP is discussed in "1. Summary", second paragraph and "4.1 Protection of NRE Properties", fifth and sixth paragraphs. Accordingly, we believe the discussion is adequate and no revision is needed.

- We have reviewed the report and have made changes so that the references to "historic properties"and "cultural resources" are consistent (i.e. Section 2.2 "Purpose" and the Section 4 title).

- The references in Section 2.3 "Guidelines and Source Documents"are rather voluminous and reside in the files of Niagara Mohawk's Syracuse and Watertown offices, FERC, NYS SHPO and the ACHP (the ACHP is requested to check their files and we would provide a copy if needed). Because of this, and that these documents are more background rather than "forward looking", we do not propose to overshadow the CRMP with a huge Appendix. However, we feel it is appropriate to include in Appendix A, a copy of the "Secretary of the Interior's Standards and Guidelines", since this document deals with discovered cultural resources, documentation requirements for historic properties (should that ever be required), and standards for the conduct of repair, maintenance and construction at the NRE powerhouse. In Section 4.1 "Protection of NRE Properties", paragraph four has been revised to note this reference in performing work.

FERC - DOCKETED

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- Management Decisions

  Management decisions for the Beebee Island Project are made by the President of the Beebee Island Corporation, who in turn assigns responsibilities to conduct the work to the appropriate Managers in Niagara Mohawk's Hydro Generation and Engineering Services Department. This is acknowledged by inclusion of this letter in appendix A.

  Unidentified Cultural Resource Properties

  In Section 4.4 "Unidentified Cultural Resource Properties", steps 2, 4 and 6 have been revised to provide more detail.

- Section 4.2 "Interim Measures", is proposed to be maintained as a reference since it does cite Section III of the Programmatic Agreement.

- Section 4.5 "Protection of Discovered Human Remains" has been revised. The reference to NAGPRA has been retained in a subordinate role with the thought that useful provisions might be prudently applied.

- Section 5.1 "Plan Revision and Continuing Consultation" has been revised to remove the reference to Section 4.4 and the first paragraph has been revised to better define the amendment process for the CRMP. Also, the procedures for consultation have been relocated to Section 4.1 "Protection of NRE Properties", following the discussion of the Compendium, which may be a more appropriate location than Section 4.3 for these procedures.

If you have any questions regarding this submittal, please contact Mr. Jacob S. Niziol at (315) 428-5556.

Very truly yours,

Sam S. Hirschey, P.E.
Manager, Hydro Licensing &
Regulatory Compliance

Enclosures:

xc w/ encl.: Mr. Robert D. Kuhn, PH.D., SHPO
Mr. Don L. Klima, ACHP
Mr. J.S. Niziol

ORIGINAL

CULTURAL RESOURCES MANAGEMENT PLAN
BEEBEE ISLAND PROJECT

Federal Energy Regulatory Commission
Project No. 2538 NY
OPRHP #93PR0584

Submitted for
Beebee Island Corporation
by
Niagara Mohawk Power Corporation
January 1998
Rev. 1 October 1998

CULTURAL RESOURCES MANAGEMENT PLAN
BEEBEE ISLAND PROJECT
Federal Energy Regulatory Commission Project No. 2538 NY

APPENDICES

1. SUMMARY

The Federal Energy Regulatory Commission (FERC) "Order Approving Settlement Agreement and Issuing New License" for the Beebee Island Project dated December 24, 1996, required, under Article 416, the formulation of a Cultural Resources Management Plan (CRMP). In the development of the Programmatic Agreement, July 1996, a resource evaluation of the Beebee Island Project on the Black River by the New York State Office of Parks, Recreation and Historic Preservation (NYS SHPO) identified the Beebee Island Hydroelectric Plant as being National Register Eligible (NRE). The NYS SHPO identified only the powerhouse as possessing historic significance in correspondence dated April 23, 1993.

During the term of the new FERC license, certain operation and maintenance activities could have an effect on the historic resources of the powerhouse, and therefore require consultation with the NYS SHPO. Other activities have been identified, however, which will not affect the historic resources of the powerhouse and these have been compiled and presented in a separate document, "Compendium of Compatible Operation and Maintenance Activities, (Categorical Exclusions For Historic Hydro Facilities)". The Compendium is a living, stand-alone document developed in consultation with the NYS SHPO, presently in NYS SHPO's files and, available on request.

At this time, the spillway and non-overflow dams at the Beebee Island Project and the Project's reservoir, riverine section, and related lands have not been found to be of historic or archaeological significance requiring specific protection. However, protection is afforded, in these instances, under the provisions of the CRMP pertaining to presently unknown cultural resources that may subsequently be discovered (Section 4.4).

2. INTRODUCTION

2.1 Background

The Beebee Island Project was built in 1931 and is located at river mile 9.0 in the lower Black River Valley in the City of Watertown, Jefferson County, in upstate New York, as depicted on the Location Plan in Appendix B. With its headwaters in the Adirondack foothills, the Black River flows west into Lake Ontario.

The new FERC license for the Beebee Island Project was issued on December 24, 1996, and required the development of this Cultural Resource Management Plan (CRMP) under Article 416 of the license. Niagara Mohawk as agent for Beebee Island Corporation manages operation and maintenance, as well as licensing activities.

2.2 Purpose

The purpose of the CRMP is to provide a management plan that would establish procedures for avoiding, minimizing or mitigating effects on historic properties of the Beebee Island powerhouse. At this time, the Beebee Island powerhouse is the only identified National Register Eligible (NRE) cultural resource requiring specific protection measures within the project boundary. The plan however, addresses procedures for treating yet undiscovered cultural resources and also provides for public interpretation of the significance of any identified historic resources.

2.3 Guidelines and Source Documents

This report has been prepared in accordance with the following:

Programmatic Agreement ... for Managing Historic Properties that may be affected by Licenses issued to Niagara Mohawk Power Corporation, ... for the Continued Operation of Fourteen Hydroelectric Power Projects in Upstate New York, with *Appendix A* . Dated July, 1996.

Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines, (in Federal Register, September 29, 1983, vol. 48, No. 190, Part IV, pp. 44716-44740).

Beebee Island Project FERC No. 2538, Settlement Offer, dated October 13, 1995.

FERC *Order Approving Settlement Agreement and Issuing New License*, December 24, 1996.

Final Environmental Assessment, dated September 27, 1996.

FERC License Application for the Beebee Island Hydroelectric Project, December, 1991, as altered by *Order Approving Settlement Agreement and Issuing New License.*

2.4 Preparers

This CRMP was prepared by Mr. Jacob S. Niziol, P.E. of Niagara Mohawk under the direction of Mr. Gary R. Schoonmaker, L.A. who also contributed to its formulation.

3. CULTURAL RESOURCES

3.1 General Context of Historic Hydro Resources

3.1.a. Periods of Hydro Development

The history of hydroelectric development in New York and the nation can be divided into several broad periods. The first, referred to as the pioneering age, ran from 1880, when DC arc light dynamos were first connected to water turbines, through 1895 when the Niagara Falls Power Company project first demonstrated the commercial potential of hydroelectric generation and transmission. The key inventions which made large scale generation and long distance transmission practical occurred during this period, primarily in the 1890's. In 1891 an experimental 112 mile transmission of three-phase alternating current was made in Germany. With this experiment it was shown that alternating current was superior to direct current for transmission purpose as it considerably reduced power loss in the line over long distances. Three-phase alternating current was adopted over single-phase as it produced a steadier current and was able to be transmitted further. Another of the advantages of three-phase current was that is could be used to operate three-phase, alternating current induction motors. Another milestone during this period was development of the electric transformer, which permitted power to be stepped up to high voltages for transmission and stepped down for application. High transmission voltages further reduced the loss of power in the line, and thus permitted much longer transmission distances. The culmination of the developing hydroelectric technology in North America came in 1895 with the construction of the Niagara Falls Power Company's Adams plant in Niagara Falls, New York.

The dramatic demonstration of long distance power transmission through polyphase AC current at Niagara Falls inspired more than two decades of aggressive and creative attempts to expand both generation and application electricity and hydropower. This second period of hydroelectric development, characterized by innovation and experimentation in hydroelectric technology, ran from 1895 through approximately 1915. During this period, a wide variety of solutions to the problems of harnessing waterpower and converting it into electricity were tried. Waterpower technology had reached a high level of sophistication during the 19th century, and alternating current was rapidly becoming a standardized and readily converted commodity. The combination and expansion of these two technologies inspired further innovations. Drives for efficiency and cost savings led to creative practices in mechanical, electrical and civil engineering that had wide ramifications, not only in hydroelectricity, but throughout the electrical and construction industries. Hydro plants built during the first decades of the 20th century incorporated an array of horizontal shaft multiple runner turbines, vertical shaft multiple runner turbines, cylinder gates, wicket gates, open flume settings. scroll cases, stone, brick, tile, wood-frame, and cast concrete powerhouses, and all manner of electrical equipment. During this period of innovation and experimentation, hydraulic, electrical, mechanical, structural, and architectural systems came together in ways that made each plant unique.

The period of innovation and experimentation gave way, in the years during and after World War I, to a third period characterized by marked standardization in the design and equipment of hydroelectric facilities. By the 1920s, most new hydro plants in the East were driven by single runner vertical Francis turbines supported by a Kingsbury type thrust bearing that also carried the weight of the alternator's rotating parts. Speed was controlled by hydraulic governors (usually Woodward) that actuated wicket gates. Some low head plants had open flume settings, but most turbines received water through some sort of scroll case. Powerhouses were generally steel frame structures, clad in brick and capped with a flat roof that allowed maximum clearance for the overhead crane with a minimum expense for wall height and roofing materials. Steel framed windows, either rectangular or arch topped, provided natural light and ventilation. Standardization in hydroelectric plant design was the product of several factors including cumulative experience, national and regional technical periodicals, the growing influence of consulting engineering and management firms, holding companies, and corporate consolidation. A larger number of hydroelectric plants came on line or were significantly upgraded between 1920 and 1930 than during any decade before or since. The decade of the 1920s also represented the final period of hydro development's "coming of age".

Waterpower development came to a near standstill during the Great Depression. Demand for electricity declined, and there was little incentive for companies to incur the expenses required for new powerplant construction. The effect of the depression was also compounded by the increasing cost competitiveness of fossil fuel powered thermal plants. While investor owned utilities suspended powerplant construction through the 1930s, hydroelectric development by federal agencies, local governments, and public authorities rose dramatically. During this period, public power developments came to provide a significant share of U.S. electrical output. The appearance, scale, multiple use features, and social agenda of the "New Deal" era federal hydro projects set them very much apart from previous patterns in American hydroelectric development.

World War II placed extraordinary demands on America's electric power systems. Consequently, some companies reactivated hydroelectric plants that had been retired or relegated to stand-by service during the depression. Some stations were also upgraded during the war. However, at the end of World War II, many aging plants were retired for the last time. While the number of plants in operation declined, the nations total hydro generating capacity showed a renewed growth. The 1950s and early 1960s saw construction of several very large mixed use projects by public agencies, including the Power Authority of the State of New York's 900 megawatt St. Lawrence and Niagara Falls projects. In the 1960s, public and Canadian hydro projects, large thermal plants and dreams of affordable nuclear energy made the costs of operating and maintaining small hydro plants appear prohibitively high to many utility managers. At least 344 hydroelectric plants were retired during this decade. By the mid-1970s, increasingly stringent air pollution regulations, financial disappointments in the nuclear field, and an oil embargo contributed to a reevaluation of hydro's role. Federal laws designed to encourage independent energy production, initiated a hydro boom during

the late 1970s and 1980s. Subsequently, utilities, municipalities and an increasing number of independent power producers have reactivated retired sites and made capacity additions to operating plants.

3.1.b. Surviving Historic Hydro Sites in New York State

Niagara Mohawk recently funded completion of a comprehensive historical inventory of active and retired hydroelectric facilities in New York State (Hay, 1990). Phase I of that study, conducted by the Historical Survey of the New York State Museum, built upon an earlier, uncompleted, survey started by the Environmental Planning Office of the New York State Public Service Commission. Fieldwork involved visiting, photographing, and recording data on over 270 sites. The Phase I study resulted in a 13 volume report documenting all pre-1940 hydroelectric facilities to at least Historic American Engineering Record (HAER) level 4. Each Niagara Mohawk facility was further documented to HAER level 3.

Phase II of the study involved preparation of a statewide context statement (Hay, 1991). This report addresses the historical development of hydroelectric power in New York State, and includes a textual history, with figures and an annotated bibliography. A summary of pertinent findings from this project is presented below.

In 1939, the Federal Power Commission (FPC) listed 1500 commercial hydroelectric plants rated at over 100 horsepower in operation throughout the country. New York accounted for 270 of those; more than any other state in the union. Lists of active and retired hydroelectric plants, published in 1983, by the FERC (successor to the FPC), indicate that throughout the country, 756 of the sites identified in 1939 were still being used to generate electricity. About 100 of New York's pre-1940 sites remained in operation.

Niagara Mohawk, and affiliated companies, own and/or operate 74 hydroelectric plants in New York State. Sixty-four of Niagara Mohawk's operating plants were built before 1940. Four other utilities, New York State Electric & Gas, Rochester Gas & Electric, Orange & Rockland Utilities, and Central Hudson Gas & Electric, together operate 24 hydro plants, 17 of which went on line before 1940. Two plants operated by the New York Power Authority were built in the 1920s, as were five municipal hydroelectric plants scattered throughout Upstate New York. There is less information available regarding non-utility facilities. Consequently it is more difficult to assign precise start-up dates. However, approximately half of the 22 industrial hydro plants and 21 independents utilize sites, and at least some structures and equipment, that were in place prior to 1940.

No plants remain in operation, and almost no physical evidence survives from hydroelectricity's pioneering age. The Fulton plant, started in 1884 on the Oswego River, is listed as the oldest hydroelectric plant in the Niagara Mohawk System, but the powerhouse was completely re-equipped during the 1920s, and extensively remodeled in the 1980s. The two Adams Powerhouses at Niagara Falls were demolished during the 1960s to make way

for the city's new water treatment plant. Only the smaller transformer house survives, along with a section of the entry portal, laid out as lawn sculpture beside the Robert Moses Parkway.

Innovation and experimentation, characteristic of the second period of hydro development, may be seen in the surviving structures and equipment of 33 operating plants in New York State. Twenty-seven of those are owned by Niagara Mohawk. New York once had about 80 pre-standardized hydroelectric stations. Half of those have been removed from service. Ten of the remainder were completely re-equipped or had additions built with new generating machinery installed during and after the 1920s. In most cases, renovations obliterated evidence of the roles that these plants played in the period of innovation and experimentation. At least 10 of the retired sites were reactivated during the hydro boom of the 1970s and 1980s. Two Niagara Mohawk plants, Bakers Falls and Middle Falls, have been retired, but are being preserved with their equipment in place. In addition to retirements, many operating pre-1915 plants have had extensive replacement of original equipment. As less efficient equipment wore out, and repair and replacement parts became expensive and hard to find, economic pressures encouraged major redevelopment of early plants. That trend was aggravated throughout the 1970s and 1980s by FERC policies that gave preference to schemes that promised the greatest possible power production, in cases where there were competing license applications for the same site.

Schaghticoke, Inghams, and Diamond Island, built during the early teens, represent the transition from hydro's era of innovation and experimentation to the period of standardization. These facilities contain many features characteristic of the standardized plants built during the 1920s, but they went into operation more than half-a-decade before the norms were established.

By far the largest number of surviving hydroelectric plants in New York were built during the period of standardization that began around 1915 and lasted until construction came to a standstill during the Depression. Thirty-one of Niagara Mohawk's operating plants show the effects of standardization. Only nine standardized plants have been removed from service in New York since World War II. Part of the reason for this high survival rate is that standardization was a by-product of the high plateau that hydro technology reached during the late teens and twenties. There have been increases in turbine and generator efficiencies in the years since, but those gains have not been large enough to justify the expense of replacing functional equipment.

3.1.c. Archaeological Resources at Hydro Sites

Lands in the vicinity of hydroelectric developments generally have a higher than average probability of yielding archaeological data (historic and prehistoric). This is because these sites are adjacent to major water courses, and are typically located at the site of major waterfalls and rapids. Rivers in New York State were used by Indians as transportation corridors. Waterfalls and rapids represented obstruction that generally had to be bypassed. These areas thus often included portage trails and temporary camp sites. In addition to travel

on the rivers, well established Indian trails often paralleled water courses and valleys. Along these foot trails, waterfalls and rapids were points of interest that were probably used disproportionately as stopping points and for overnight and seasonal camps.

Early European settlers also used rivers as transportation corridors. Fur traders and loggers used these water courses to transport their products to market. Like the Indians, these early settlers had to bypass major waterfalls and rapids. Along with being used as portages, sites with waterfalls and steep drops were quickly recognized for their waterpower potential. These sites were thus developed for saw mills, gristmills and other early water-powered industries. Around these early mill sites, settlements, villages and (in some cases) eventually cities grew up. Early mills were gradually replaced with larger manufacturing operations, and starting at the end of the 19th century, hydroelectric developments. Thus, many existing hydro projects occupy sites with a long history of known (or potential) human use. It is not surprising therefore, that many hydro sites are considered archaeologically sensitive even if specific archaeological sites are not known.

3.2 Identification of Historic Properties: Beebee Island Project

3.2.a. Beebee Island Project

3.2.a.1 Project Description

The Beebee Island Hydro Project consists of a reservoir with a surface area of 20 acres at normal water level elevation 431 feet USGS with three feet of flashboards; a 266 feet long concrete dam, 18 feet high;; the 47 feet wide by 82 feet long powerhouse with integral 22 feet wide by 82 feet long intake structure with trashracks and slide gates; two vertical generating units each rated at 4,000 kW at 32 feet design head; ancillary equipment; a tailrace with a normal elevation of 397.1 feet; and a 300 feet long, 4.8 kV transmission line.

The sole National Register Eligible (NRE) facility to be identified is the powerhouse. The dam and generating units of themselves do not possess unique characteristics in design or appearance that set them apart from those at numerous other facilities, and are therefore not NRE.

The powerhouse has three floors and is constructed of reinforced concrete, brick and steel. The powerhouse is fully functional, intact and largely unmodified since 1931. The powerhouse roof was replaced in 1985, the draft tube gates were rehabilitated in 1992, the brick mortar has been repointed recently and various mechanical repairs have been performed in this time frame. The modifications that have been performed have maintained the configuration and visual integrity of the facility. The powerhouse is representative of the standardization of hydro facilities after World War I and features modest Art Moderne detailing. There are no plans for modifying the substructure or the superstructure of the powerhouse under the new license.

3.2.a.2. National Register Eligibility

Cultural resource evaluations in the area of potential effect (APE) for the Beebee Island Project have determined that the Development's powerhouse is eligible for listing on the National Register of Historic Places. This listing is in accordance with the finding of the NYS SHPO letter dated April 23, 1993 (ref. Appendix A) under criteria A and C which state that the property is:

> "Associated with events that have made a significant contribution to the broad patterns of our history: or...
>
> Embodies the distinctive characteristics of a type, period or method of construction: or represents a significant and distinguishable entity whose components may lack individual distinction; "

The April 23, 1993 NYS SHPO letter addressed plans at the time to install a rubber dam and fish barrier overlays. Recent conditions have since rendered the rubber dam uneconomic and the impoundment and dam will remain unchanged. However, the trash rack fish barrier overlays will proceed to implementation..

3.2.a.3 Modifications and Operational Changes per the FERC License

With the new license for the Beebee Island Project, stemming from the Settlement Agreement, there are to be subtle changes to the physical facilities and operation. There will be an increase in recreational utilization of this water body and surrounding shoreline area with proposed recreational enhancements and changes to the dam and rack structures to accommodate minimum flow releases and fish protection. Summarized below are specific areas of change for the Beebee Island Project:

> Provide recreational enhancements and public access improvements (FERC license Article 413).
>
> Provide a one-half inch veiling flow seasonally over the 92 feet long center spillway section for aesthetic viewing. (FERC license Article 414)
>
> Provide for a continuous 14 cfs to be released into the south channel bypass reach through a new minimum flow release structure that is compatible with downstream fish passage. (FERC license Article 404 and 406).
>
> Provide for construction of fish conveyance facility at the dam in the north channel and release a continuous 37 cfs fish attractant flow.

Provide one inch clear opening overlays to the existing trash racks for fish protection. (FERC license Article 410).

Operationally, limit pond fluctuation and provide for continuous stream flow. (FERC license Article 401, 402 and 403).

The details for these activities were presented in the Settlement Offer and in both the Draft and Final Environmental Assessments. None of the activities or changes planned under the new license involve modifications to the National Register Eligible facilities (i.e. Beebee Island powerhouse), nor are they likely to involve presently unidentified NRE cultural resources at the Beebee Island Project. However, other operation and maintenance activities, in some cases, could potentially effect presently unknown NRE resources of the project. Measures to protect unknown NRE resources which may exist are presented in Section 4.

3.3 Archaeological Resources

Appendix A to the Programmatic Agreement, dated July, 1996 (Ref. CRMP Appendix A) notes that there are no known archeological resources within the FERC Project Boundary of the Beebee Island Project. In any event, Section 4.4 "Unidentified Cultural Resource Properties" makes provisions for situations where such resources are encountered.

4. MANAGEMENT PLAN FOR CULTURAL RESOURCES

4.1 Protection of NRE Properties

Historic properties associated with the Beebee Island Project have been identified as the Beebee Island powerhouse. Niagara Mohawk has operated and maintained the facility for many years as a valuable renewable energy resource, and by virtue of the recently issued 30 year FERC license, anticipates this stewardship will continue into the future. Continued use of a viable facility is usually considered the best practice for preservation and portrayal of the value and function of the historic resource.

The issued FERC license does not require significant modification or new construction for the Beebee Island powerhouse as noted in Section 3.2.a.3. "Modifications and Operational Changes per the FERC License".

Operation and maintenance activities will be directed towards continued efficient and safe operation of the facility. In time, there will of necessity be major maintenance or upgrade actions taken at the Development. One example would be the repointing of brickwork after significant loss of mortar from masonry joints. A second example might be the addition of special personal safety equipment (e.g. safety signage) that is required by OSHA. The first example would not be functionally different or visually apparent since the finished product will have the appearance of the original work, while the second example would introduce a visual element that was not in character for the period, but is now necessary for safety compliance.

Nonetheless, the guiding tenet for the Beebee Island powerhouse will be that the characteristics of the powerhouse which resulted in the NRE determination would be preserved and visual integrity will be maintained. General guidance in this regard is provided by the "Secretary of the Interior's Standards and Guidelines", pages 44737-44738, contained in Appendix A of this CRMP. Changes that are deemed necessary, but of a major nature would be submitted to SHPO for their review. However, there are numerous operation and maintenance activities of a recurring nature that fall into the categories of preventive and corrective maintenance. The former are routine, often daily, while the latter are done under the conditions of an outage or safety concern, where time is of the essence.

The separate document, "Compendium of Compatible Operation and Maintenance Activities", presents those operation and maintenance activities that Niagara Mohawk and NYS SHPO have agreed would not detract from the integrity of the historic resource and would therefore qualify as categorical exclusions. Under the terms of agreement with SHPO, Niagara Mohawk is not required to consult with SHPO on the listed actions and mitigation for these routine activities would not be considered necessary. Activities not listed will be evaluated as to potential effect on the character of the historic resource and consultation with NYS SHPO pursued.

The "compendium" is common to all CRMP's (Salmon River Project, Beaver River Project and all subsequent CRMP's). In cases where there is particular sensitivity to a specific maintenance activity, those special conditions would be spelled out in the project specific CRMP.

Should Niagara Mohawk propose an operation and maintenance activity not covered by the Compendium, or a modification to the historic resource, consultation will be required and the following procedure would be followed:

1 Niagara Mohawk will advise the SHPO, FERC and other interested parties at least 30 days prior to the start of work, describing specifically the action, necessity for the action and its physical effect.

2 SHPO would provide comments on the proposed action within 30 days

3 Niagara Mohawk would respond to the SHPO's comments, if any, otherwise the action may be undertaken.

4 Should SHPO or Niagara Mohawk not agree on mitigation needs, or in general, resolution to the issue, the procedures outlined in Section IV. DISPUTE RESOLUTION of the Programmatic Agreement shall be followed.

Actions taken under emergency conditions do not require prior consultation with SHPO, and are described in Section 5.1 "Plan Revision and Continuing Consultation". It would be unusual for emergency actions to involve historic resources at the Beebee Island powerhouse. However, in that eventuality, such actions will be conducted with sensitivity towards protection of historic values of the NRE facilities.

In the case of an emergency effecting a NRE structure, Niagara Mohawk will advise SHPO as immediately as possible of the proposed actions and document to FERC and SHPO within 30 days, the actions taken, present conditions and mitigation that is proposed.

4.2 Interim Measures

There are no major maintenance or ground disturbing activities anticipated between the license issuance and adoption of this CRMP. Surficial ground disturbing activities were involved in constructing the recreational enhancements, that started in 1998. Ongoing operation and maintenance activities will continue as they have in the past in order to maintain the facility. Should activities that might impact the NRE facility be proposed in the near term the procedures described in Section III. Interim Treatment of Historic Properties of the Programmatic Agreement would be followed.

4.3 Mitigation of Unavoidable Adverse Effects

Upon consultation with the SHPO regarding a proposed action, a circumstance may arise where Niagara Mohawk concludes an action is necessary and yet an adverse effect has been determined for the historic resource. An adverse effect would be determined if:

The resource is destroyed, demolished or elements contributing to the NRE of the facility are negatively altered.

Visual elements are introduced that negatively alter the character or setting.

Status is changed by abandonment or retirement.

Presently, there are no actions anticipated that would have an adverse effect.

Transfer of owner responsibility could potentially have an adverse effect, however this is mitigated by the new licensee being responsible for the license and compliance with Article 416.

Should an adverse effect be identified, a report will be prepared describing the need for the actions proposed, alternatives considered, rationale for the action and proposed mitigation. Mitigation could include documentation to the appropriate HABS/HAER standards, secured retirement of the property in place, the preservation and removal of the historic item to a suitable repository or other mutually acceptable action.

If during implementation of the plan or subsequent consultation proceedings Niagara Mohawk and SHPO disagree about eligibility or treatment of historic resources, FERC dispute resolution procedures would be followed.

4.4 Unidentified Cultural Resource Properties

There are no known archaeological sites within the licensed project boundary of the Beebee Island Project as discussed in Section 3, Archaeological Resources. However, in the course of maintenance, construction or excavation activity in the future, the prospect of a discovery does exist.

Upon discovery of a cultural resource of unknown significance by Niagara Mohawk's Operation and Maintenance Organization or Construction Services Representative, the following steps would be taken:

1. Work will be stopped in the area of concern and stabilization / protective measures will be taken.

2. Niagara Mohawk's Hydro Licensing and Regulatory Compliance group will be immediately notified. If appropriate, the requirements of Section 4.5 "Protection of Discovered Human Remains" should be addressed.

3. SHPO will then immediately be notified.

4. Identification and confirmation of potential significance will be performed in consultation with the NYSSHPO. If after consultation there is uncertainty, other resources (e.g. NYS Museum or qualified consultant) will be employed to arrive at a determination.

5. The planning for any subsequent survey would be made in accordance with *The Secretary of the Interior's Standards for Identification* and *The New York Archaeological Council's*

Standards for Cultural Resources Investigations and the Curation of Archaeological Collections in New York State.

6. The survey would be conducted by a qualified professional and documented in a report that includes alternate proposals for treatment of the discovery. The report shall be submitted to SHPO for review and concurrence with the FERC being final arbiter.

7. Any artifacts that are collected would be treated in accordance with the New York Archaeological Council standards.

4.5 Protection of Discovered Human Remains

Should human remains be unexpectedly unearthed in the conduct of work, construction activities will be halted in the immediate area and the site would be protected from traffic and weather to the extent practical. The local police jurisdiction and Niagara Mohawk's Engineering Department/ Hydro Licensing and Regulatory Compliance shall be contacted immediately. Subsequently, should the remains not be conclusively found to be of current vintage, the NYS Office of Parks, Recreation and Historic Preservation will be contacted for assistance.

Human remains are subject to New York State Public Health Law, Article 42, subsections 4216 and 4218 (Internet address http://www..assembly.state.ny.us/cgi-bin/claws?law/). The requirements of Section 106 of the NHPA, including Statement of Policy: Treatment of Human Remains and Grave Goods, (Internet address http://www.achp.gov.grave.html) shall be followed. In consultation with the NYSOPRHP, further guidance under the Native American Graves Repatriation Act (NAGPRA) would be followed as appropriate.

4.6 Public Interaction

The environs of the Beebee Island Project are moderately utilized for recreation. Canoeing and whitewater recreation are potentially important recreational activities in the Black River downstream of the Beebee Island Project. Recreational facilities and signage are provided by Niagara Mohawk and others to accommodate public access to the resources of the Project.

The Beebee Island powerhouse is a remotely operated facility and is not open to the public because of various safety reasons. However, tours would be afforded to groups who have a specific or general interest in historic hydro power (e.g. student classes, service organizations, scouts) upon application to the Superintendent of Hydro O&M in Watertown.

4.7 Consultation

Preparation of the CRMP was initiated for the Beebee Island Project several years ago as part of an effort to develop a system-wide CRMP. The consultation associated with that effort culminated in the development and subsequent execution of the Programmatic Agreement in 1996

This CRMP was submitted in draft form to the NY SHPO for review on December 19, 1997. Comments from SHPO dated January 28, 1998, found the CRMP acceptable. The CRMP was finalized and submitted to the FERC on February 2, 1998.

A subsequent review by the Advisory Council on Historic Preservation was Summarized in a letter dated April 8, 1998. Revision 1 to the CRMP and this letter address those comments.

The above consultation documents are included in Appendix A.

5. COMPLIANCE UNDER THE CRMP

5.1 Plan Revision and Continuing Consultation

Niagara Mohawk will amend this plan if a new site within the Project Boundary is discovered and determined to be National Register eligible. This CRMP would be revised after the appropriate investigations and consultations were performed and submitted to the NYS SHPO and the FERC. After the SHPO and FERC review process and acceptance, the amended document will be distributed noting that prior documents are to be purged.

5.2 Compliance Activities

Niagara Mohawk will file an annual report with the FERC and SHPO on the anniversary date of license issuance describing the activities conducted under the implemented CRMP.

APPENDIX A

CONSULTATION CORRESPONDENCE

Niagara Mohawk

October 20, 1998

The Secretary
FEDERAL ENERGY REGULATORY COMMISSION
Mail Code: DLC, HL-11.2
888 First Street, N.E.
Washington, DC 20426

Subject: Beebee Island Project
LP 2538 NY
Cultural Resources Management Plan (CRMP) - Article 416
Revisions and Response to Advisory Council letter
OPRHP # 90PR2693

Dear Secretary:

We are in receipt of a letter from the Director of Hydropower Licensing dated June 25, 1998 regarding comments from the Advisory Council on Historic Preservation (Advisory Council) in reference to the above captioned subject. The Advisory Council provides comments on seven areas of the CRMP. On behalf of Beebee Island Corporation, Niagara Mohawk addresses these comments by revision to the CRMP or by clarifications contained herein (attached are one original and eight copies).

- A review of the CRMP finds that the "Compendium of Compatible Operation and Maintenance Activities"is noted and its applicability to the CRMP is discussed in "1. Summary", second paragraph and "4.1 Protection of NRE Properties", fifth and sixth paragraphs. Accordingly, we believe the discussion is adequate and no revision is needed.

- We have reviewed the report and have made changes so that the references to "historic properties"and "cultural resources" are consistent (i.e. Section 2.2 "Purpose" and the Section 4 title).

- The references in Section 2.3 "Guidelines and Source Documents"are rather voluminous and reside in the files of Niagara Mohawk's Syracuse and Watertown offices, FERC, NYS SHPO and the ACHP (the ACHP is requested to check their files and we would provide a copy if needed). Because of this, and that these documents are more background rather than "forward looking", we do not propose to overshadow the CRMP with a huge Appendix. However, we feel it is appropriate to include in Appendix A, a copy of the "Secretary of the Interior's Standards and Guidelines", since this document deals with discovered cultural resources, documentation requirements for historic properties (should that ever be required), and standards for the conduct of repair, maintenance and construction at the NRE powerhouse. In Section 4.1 "Protection of NRE Properties", paragraph four has been revised to note this reference in performing work.

- Management Decisions

Management decisions for the Beebee Island Project are made by the President of the Beebee Island Corporation, who in turn assigns responsibilities to conduct the work to the appropriate Managers in Niagara Mohawk's Hydro Generation and Engineering Services Department. This is acknowledged by inclusion of this letter in appendix A.

Unidentified Cultural Resource Properties

In Section 4.4 "Unidentified Cultural Resource Properties", steps 2, 4 and 6 have been revised to provide more detail.

- Section 4.2 "Interim Measures", is proposed to be maintained as a reference since it does cite Section III of the Programmatic Agreement.

- Section 4.5 "Protection of Discovered Human Remains" has been revised. The reference to NAGPRA has been retained in a subordinate role with the thought that useful provisions might be prudently applied.

- Section 5.1 "Plan Revision and Continuing Consultation" has been revised to remove the reference to Section 4.4 and the first paragraph has been revised to better define the amendment process for the CRMP. Also, the procedures for consultation have been relocated to Section 4.1 "Protection of NRE Properties", following the discussion of the Compendium, which may be a more appropriate location than Section 4.3 for these procedures.

If you have any questions regarding this submittal, please contact Mr. Jacob S. Niziol at (315) 428-5556.

Very truly yours,

Sam S. Hirschey, P.E.
Manager, Hydro Licensing &
Regulatory Compliance

Enclosures:

xc w/ encl.: Mr. Robert D. Kuhn, PH.D., SHPO
Mr. Don L. Klima, ACHP
Mr. J.S. Niziol

PROGRAMMATIC AGREEMENT

AMONG

THE FEDERAL ENERGY REGULATORY COMMISSION,

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,

AND THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,

FOR MANAGING HISTORIC PROPERTIES

THAT MAY BE AFFECTED BY LICENSES ISSUING TO

NIAGARA MOHAWK POWER CORPORATION,

BEEBEE ISLAND CORPORATION OR

MOREAU MANUFACTURING CORPORATION

FOR THE CONTINUED OPERATION OF FOURTEEN

HYDROELECTRIC POWER PROJECTS

IN UPSTATE NEW YORK

WHEREAS, the Federal Energy Regulatory Commission or its staff, on delegated authority (hereinafter, "Commission"), expects to accept applications and to issue new licenses[1], appropriately conditioned, to

- Niagara Mohawk Power Corporation,
- Beebee Island Corporation, or
- Moreau Manufacturing Corporation

(hereinafter, "NMPC", "BIC", and "MMC," respectively, or "Licensees" collectively) to continue operating the following fourteen hydroelectric projects that had an initial license expiration date of December 31, 1993:

- Beaver River Project, Project No. 2645 (consisting of the Moshier, Eagle, Soft Maple, Effley, Elmer, Taylorville, Belfort, and High Falls Developments),

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[1] Unless otherwise noted, licenses would be issued to Niagara Mohawk Power Corporation.

» Black River Project, Project 2569 (consisting of the Herrings, Deferiet, Kamargo, Black River, and Sewalls Developments),

» Beebee Island Project, Project No. 2538[2],

» School Street Project, Project No. 2539,

» Oswego River Project, Project No. 2474 (consisting of the Varick, Minetto, and Fulton Developments),

» Middle Raquette River Project, Project No. 2320 (consisting of the Higley, Colton, Hannawa, and Sugar Island Developments),

» Lower Raquette River Project, Project No. 2330 (consisting of the Norwood, East Norfolk, Norfolk, and Raymondville Developments),

» E.J. West Project, Project No. 2318,

» Hudson River Project, Project No. 2482 (consisting of the Spier Falls and Sherman Island Developments),

» Feeder Dam Project, Project No. 2554[3], and

» Hoosic River Project, Project No. 2616 (consisting of the Johnsonville and Schaghticoke Developments);

New license applications to be filed at the Commission by January 31, 2000:

» Stewarts Bridge Project, Project No. 2047[4],

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[2] New license being sought by Beebee Island Corporation.

[3] New license being sought by Moreau Manufacturing Corporation.

[4] As the initial license expiration date for this project is June 30, 2000, any new license application is to be submitted to the Commission no later than June 30, 1998.

» Carry Falls Project, Project No. 2060[5] , and

» Upper Raquette River Project, Project No. 2084[6] (consisting of the Stark, Blake, Rainbow, Five Falls and South Colton Developments)

(hereinafter, individually by Project No. or "Projects" collectively), as authorized by Part I of the Federal Power Act, 16 U.S.C. Sections 791(a) through 825(r), as amended; and,

WHEREAS, the Commission has determined or may determine that issuing such licenses may affect properties included on or eligible for inclusion on the National Register of Historic Places (hereinafter, "Historic Properties"); and

WHEREAS, Appendix A of this Programmatic Agreement provides a description of each of these Projects, Historic Properties identified as of the date of issuance of the draft environmental document for each Project, anticipated effects, and the Licensees' proposed measures to protect Historic Properties; and

WHEREAS, the Commission has consulted with the Advisory Council on Historic Preservation (hereinafter, "Advisory Council") and the New York State Historic Preservation Office (hereinafter, "SHPO") pursuant to 36 C.F.R. Section 800.13, of the Advisory Council's regulations (36 C.F.R. Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470F; hereinafter, "Section 106");

WHEREAS, the Licensees have participated in the consultation and have been invited to concur in this Programmatic Agreement; and

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[5] As the initial license expiration date for this project is January 31, 2001, any new license application is to be submitted to the Commission no later than January 31, 1999.

[6] As the initial license expiration date for this project is January 31, 2002, any new license application is to be submitted to the Commission no later than January 31, 2000.

WHEREAS, the Commission will require the Licensees to implement the provisions of this Programmatic Agreement as a condition of issuing the new licenses for the Projects; and

NOW THEREFORE, the Commission, the Advisory Council, and the SHPO agree that the Projects will be administered in accordance with the following stipulations in order to satisfy the Commission's Section 106 responsibilities during the term of the Projects' new licenses.

S t i p u l a t i o n s .

The Commission will ensure that, upon a new license issuing for any of these Projects to the existing Licensee, the Licensee implements the following stipulations. All stipulations that apply to the Licensee will similarly apply to any and all of the Licensee's successors. Compliance with any of the following stipulations does not relieve either Licensee of any other obligations it has under the Federal Power Act, the Commission's regulations, or its license, nor does it constitute a waiver of the Licensee's right to notice and opportunity for a hearing as regards any changes to, or issuance of, a license.

I. CULTURAL RESOURCES MANAGEMENT PLAN

A. Within one year of a license issuing for each of these Projects, the Licensee will file for the Commission's approval a Cultural Resources Management Plan (hereinafter, "CRMP") for that Project specifying how Historic Properties will be managed in the Projects' areas of potential effect, as defined in 36 C.F.R. Section 800.2(c), during the term of the license. During development of the CRMP, the Licensee will consult with the SHPO and interested persons, as defined in 36 C.F.R. Section 800.1(c)(2). The Licensee will seek the SHPO's concurrence in the CRMP.

B. The Licensee will ensure that the CRMP filed with the Commission pursuant to this Programmatic Agreement is consistent with "Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines" (in Federal Register, September 29, 1983, Vol. 48, No. 190, Part IV, pp. 44716-44740; hereinafter, "Secretary's Standards"); and will take the following standards and documents into account:

» U.S. Department of the Interior, 1990, The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings,

» U.S. Department of the Interior, 1991, National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation,"

» U.S. Department of the Interior, 1991, National Register Bulletin 16A, "How to Complete the National Register Registration Form,"

» U.S. Department of the Interior, 1991, National Register Bulletin 16B, "How to Complete the National Register Multiple Property Documentation Form,"

» U.S. Department of the Interior, 1993, National Register Bulletin 36, "Guidelines for Evaluating and Registering Historical Archaeological sites and Districts,"

» Duncan Hay, 1991, Hydroelectric Development in the United States 1880-1946, Edison Electric Institute, Washington, D.C. (two volumes),

» Duncan Hay, 1991, A History of Hydroelectric Power in New York State, prepared for Niagara Mohawk Power Corporation, by the New York State Museum, Albany, New York, and

» Duncan Hay, 1990, New York State Hydroelectric Inventory, prepared for Niagara Mohawk Power Corporation, by the New York State Museum. Albany, New York (13 volumes);

in developing the CRMP. Moreover, the CRMP will be developed by or developed under the direct supervision of a person or persons who meet, at a minimum, the professional qualifications standards for architectural history and archeology in the Secretary's Standards (in 48 Federal Register 44738-39).

C. The CRMP will, at a minimum, include principles and procedures to address the following:

1. completion, if necessary, of identification of Historic Properties within the Projects' areas of potential effect;

2. continued use and maintenance of Historic Properties;

3. protection of Historic Properties threatened by shoreline erosion, other project-related ground-disturbing activities, and vandalism;

4. mitigation of unavoidable adverse effects on Historic Properties;

5. treatment and disposition of any human remains that may be discovered, taking into account any applicable state laws and the Advisory Council's "Policy Statement Regarding Treatment of Human Remains and Grave Goods" (September 27, 1988, Gallup, NM);

6. compliance with the Native American Graves Protection and Repatriation Act (25 U.S.C. Section 3001), if Tribal or Federal lands are within any of the project areas;

7. discovery of previously unidentified Historic Properties during project operations;

8. public interpretation of the historic and archeological values of the Project;

9. coordination with the SHPO and interested persons during implementation of the CRMP.

II. CRMP REVIEW AND IMPLEMENTATION

A. The Licensee will submit the CRMP, along with documentation of the views of the SHPO and interested persons, to the Commission for review and approval.

B. If the SHPO has concurred in the CRMP, and the Commission determines that the CRMP is adequate, the Commission will forward a copy of the CRMP\to the Advisory Council, which will have 30 days to review the CRMP.

1. If the Advisory Council does not object to the CRMP, the Commission will proceed to ensure that the Licensee implements the CRMP.

2. If the Advisory Council objects to the CRMP, the Commission will consult with the Advisory Council in an effort to reach agreement on the CRMP. If agreement cannot be reached, the Commission will request that the Advisory Council comment pursuant to Stipulation IV.B, of this Programmatic Agreement.

C. If the SHPO has not concurred in the CRMP, or the Commission finds the CRMP inadequate, the Commission will consult with the Licensee and the SHPO to seek agreement on the CRMP. If concurrence is not reached within 30 days, the Commission will request that the Advisory Council enter into consultation to seek agreement on the CRMP.

1. If agreement is reached on the CRMP, the Commission will forward a copy of the revised CRMP to the Advisory Council for review pursuant to Stipulation II.B.

2. If agreement on the CRMP cannot be reached among the Commission, the SHPO, the Licensee, and the Advisory Council, the Commission or the SHPO will request that the Advisory Council comment pursuant to Stipulation IV.B, of this Programmatic Agreement; or the Advisory Council may terminate consultation and comment sua sponte.

D. The Licensee will develop separate appendices for each project covered by the PA, and licenses for those projects will not be issued without consideration of the Advisory Council comments and those of the other PA signatories on these appendices. Once the Commission has approved the appendices, they will be attached to the executed PA, and the Commission's responsibilities under Section 106 of the National Historic Preservation Act would be satisfied for any license issued to these projects.

E. The Licensee will, on every anniversary of the license issuing following Commission approval of the CRMP, file a report with the Commission and the SHPO of activities conducted under the implemented CRMP. This annual

report filing obligation shall terminate in the year when all activities conducted under the implemented CRMP have been completed.

III. INTERIM TREATMENT OF HISTORIC PROPERTIES

A. Pending review and implementation of the CRMP pursuant to Stipulation II, the Licensees will consult with the SHPO and interested persons regarding the effect of the following:

1. all activities, including recreational developments, that require ground-disturbance;

2. new construction, demolition, or rehabilitation of project facilities;

3. active erosion of archeological sites due to project operations.

B. Consultation will be in accordance with 36 C.F.R. Sections 800.4 and 800.5(a) through (c), with the Licensee acting as the Agency Official. If the Licensee and the SHPO agree that the activity will not adversely effect Historic Properties, the Licensee may proceed in accordance with any agreed-upon treatment measures or conditions.

C. If either the Licensee or the SHPO determines that the activity will have an adverse effect, and the affected property is a National Historic Landmark, the Licensee will submit the matter to the Commission, which will initiate the process set forth at 36 C.F.R. Section 800.5(e). Otherwise, the Licensee and the SHPO will consult to develop a strategy for avoiding or mitigating such adverse effects. If the Licensee and the SHPO can reach agreement, the Licensee will implement the agreed-upon strategy. If they disagree, the Licensee will submit the matter to the Commission, which will initiate the process set forth at 36 C.F.R. Section 800.5(e).

IV. DISPUTE RESOLUTION

A. If at any time during implementation of this Programmatic Agreement and the resulting CRMP, the SHPO, the Licensee, the Advisory Council, or an interested person objects to any action or any failure

to act pursuant to this Programmatic Agreement or the CRMP, they may file written objections with the Commission.

1. The Commission will consult with the objecting party, and with other parties or interested persons, as appropriate, to resolve the objection.

2. The Commission may initiate sua sponte such consultation to remove any of its objections.

B. If the Commission determines that the objection cannot be resolved, the Commission will forward all documentation relevant to the dispute to the Advisory Council and request that the Advisory Council comment. Within 30 days after receiving all pertinent documentation, the Advisory Council will either:

1. provide the Commission with recommendations, which the Commission will take into account in reaching a final decision regarding the dispute; or

2. notify the Commission that it will comment pursuant to 36 C.F.R. Section 800.6(b) and Section 110(1) of the National Historic Preservation Act, and proceed to comment.

C. The Commission will take into account any Advisory Council comment, provided in response to such a request, with reference to the subject of the dispute, and will issue a decision on the matter. The Commission's responsibility to carry out all actions under this Programmatic Agreement that are not the subject of dispute will remain unchanged.

V. AMENDMENT AND TERMINATION OF THIS PROGRAMMATIC AGREEMENT

A. The Commission, the SHPO, a Licensee, or the Advisory Council may request that this Programmatic Agreement be amended, whereupon the Commission, the SHPO, the Advisory Council, and the Licensee will consult in accordance with 36 C.F.R. Section 800.13, to consider such amendment.

B. The Commission, the SHPO, the Licensee, or the Advisory Council may terminate this Programmatic Agreement by providing 30 days written notice to the other parties, provided that the Commission, the SHPO, the Licensee,

and the Advisory Council consult during the 30-day notice period in order to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Commission will comply with 36 C.F.R. Sections 800.4 through 800.6, with regard to individual actions covered by this Programmatic Agreement.

Execution of this Programmatic Agreement by the Director, Office of Hydropower Licensing, pursuant to authority delegated by the Commission; the State Historic Preservation Officer; and the Advisory Council on Historic Preservation; and subsequent implementation of this Programmatic Agreement evidence that the Commission has satisfied its responsibilities pursuant to Section 106 of the National Historic Preservation Act, as amended, for all individual actions carried out under the new licenses. Provided, however, that unless and until the Commission issues a new license for a project and this Programmatic Agreement is incorporated by reference therein, the Programmatic Agreement has no independent legal effect for any specific license applicant or project.

III. BEEBEE ISLAND PROJECT, PROJECT NO. 2538

The Beebee Island Corporation (BIC) applied to the Commission on December 20, 1991, for a new license for the Beebee Island Project (FERC No. 2538), proposing to continue operating and maintaining existing facilities according to an established operating regime, and to improve recreational facilities. BIC revised the application on October 13, 1995, by filing a Settlement Offer (Settlement Agreement) dated September 14, 1995. The Beebee Island Project, which is owned by and licensed to BIC but operated and maintained by NMPC, consists of one development located on the Black River at River Mile (RM) 9.0 in the city of Watertown.

A. Project Facilities:

1. Beebee Island Development, has a total installed capacity of 8.0 MW, and consists of: an 18-foot-high by 266-foot-long, U-shaped concrete gravity main dam with permanent crest elevation of 428.0 feet (USGS), topped with a 3-foot-high wooden flashboard; a 20-ac reservoir, at normal maximum surface elevation of 431.0 feet with a gross storage capacity of 60 ac-ft; a 50-foot-long by 15-foot-high, concrete-capped stone auxiliary non-overflow dam, equipped with a skimmer gate; a 47-foot-wide by 82-foot-long powerhouse equipped with two vertical generating units, each rated at 4,000 kW, a design head of 32.0 feet, and a hydraulic capacity of 1,800 cfs; a tailrace with a normal surface elevation of 397.4 feet; six 300-foot-long, 4.8-kV primary transmission lines; and associated appurtenant equipment.

B. Operating Regime:

The Black River is regulated by the Hudson River-Black River Regulating District (HRBRRD) at the Stillwater Reservoir, which is primarily operated for flood control of the Black River. The Beebee Island Project operates in conjunction with the daily releases from Stillwater Reservoir. As detailed in the Settlement Agreement, NMPC, pursuant to an agreement with BIC, would operate the Beebee Island Project in a run-of-river (ROR) mode.

C. Proposed Project Modifications and Recreational Developments:

The proposed measures, as stated in the Final Environmental Assessment (FEA) under the preferred alternative, include: plan and implement an effective streamflow monitoring system; establish and maintain a continuous flow of 1,000 cfs or inflow, whichever is less; install flashboards by May 1 or as soon thereafter as safely possible; maintain a year-round minimum flow of 14 cfs in the bypassed reach; modify flow release structures; replace trashracks; modify fish passage measures; and finish all fencing, including support structures, and future architectural improvements with dark brown-green coloration.

Recreational enhancements would be provided within two years of license issuance and would include: pedestrian access to the impoundment for fishing; up to four scenic overlook facilities and a fishing platform immediately downstream of the Pearl Street bridge, in conjunction with the city of Watertown's proposed Heritage Trail, and to be constructed only if the City actually constructs the Heritage Trail; boat barrier upstream of Beebee Island dam; selective site cleanup; car-top boat take-out on the south bank of the impoundment above a boat barrier with signage to potential downstream put-in locations; and veiling flows.

In addition, NMPC would establish a Black River Fund and Advisory Council to facilitate acquisition or other protection for key land parcels and to make recommendations regarding management of the Black River and hydropower project operations.

D. Historic Properties:

The project facilities at hydroelectric facilities in New York State, including the Beebee Island Project, were surveyed by an historian retained for this purpose by NMPC. The results of this survey are documented in the following report:

A History of Hydroelectric Power in New York State. Prepared by Duncan Hay. New York State Museum. 1991.

1. Historic Structures: The Beebee Island Hydroelectric Plant, constructed in 1931, meets Criteria A and C of the National Register of Historic Places (NRHP) as one of the earliest operating facilities of its type and period in the Black River Basin. The Beebee Island Hydroelectric Plant is

architecturally and historically significant as a highly intact and representative example of localized small hydroelectric generating industries in the early 20th century.

2. Archeological Sites: No prehistoric or historic archeological sites listed in or eligible for listing in the NRHP have been recorded within the areas of potential effect (APE). However, if archeological sites are found to be present within the APE, one or more could well be determined to be eligible for inclusion in the NRHP.

E. Anticipated Effects:

The proposed issuing of a new license to BIC for the Beebee Island Project could have both beneficial and adverse effects.

1. Historic Structures: Inasmuch as the Beebee Island Hydroelectric Plant is an Historic Property, issuing BIC a new license to continue operating and maintaining the project under the protection afforded by Section 106 is generally to be considered a beneficial effect. In itself, however, continuing to operate the project under the protection afforded by Section 106 does not ensure that no adverse effects would ensue. Adverse effects could inadvertently occur during routine daily activities in the absence of an operation and maintenance plan designed to hold intact the property's historic integrity. Issuing BIC a new license to continue operating the project without such a plan would overall adversely affect the Historic Property.

2. Archeological Sites: No sites have been recorded that are listed in or are eligible for listing in the NRHP. However, as yet unknown archeological sites could be encountered during the construction of enhancement measures at the Beebee Island Project. Project operation, maintenance, or enhancement activities might adversely affect eligible archeological sites, if any are determined to be present. The Cultural Resources Management Plan (CRMP), however, would define and implement procedures that would diminish the likelihood that archeological sites would be inadvertently discovered during operation and maintenance of the project or implementation of any enhancement measures. In addition, the CRMP would be designed to provide for the identification and evaluation of Historic Properties and the assessment of effects well prior to the initiation of the proposed action so that avoidance or mitigation measures could be implemented.

PA

federal register

Thursday
September 29, 1983

Part IV

Department of the Interior

National Park Service

Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

DEPARTMENT OF THE INTERIOR

National Park Service

Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. These standards and guidelines are not regulatory and do not set or interpret agency policy. They are intended to provide technical advice about archeological and historic preservation activities and methods.

DATE: These Standards and Guidelines are effective on September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Aten, Chief, Interagency Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240 (202-343-9500). A Directory of Technical Information listing other sources of supporting information is available from the National Park Service.

SUPPLEMENTARY INFORMATION: The Standards and Guidelines are prepared under the authority of Sections 101(f), (g), and (h), and Section 110 of the National Historic Preservation Act of 1966, as amended. State Historic Preservation Officers; Federal Preservation Officers including those of the Department of Agriculture, Department of Defense, Smithsonian Institution and General Services Administration; the Advisory Council on Historic Preservation; the National Trust for Historic Preservation; and other interested parties were consulted during the development of the Standards and Guidelines; additional consultation with these agencies will occur as the Standards and Guidelines are tested during their first year of use.

Purpose

The proposed Standards and the philosophy on which they are based result from nearly twenty years of intensive preservation activities at the Federal, State, and local levels.

The purposes of the Standards are:

To organize the information gathered about preservation activities.

To describe results to be achieved by Federal agencies, States, and others when planning for the identification, evaluation, registration and treatment of historic properties.

To integrate the diverse efforts of many entities performing historic preservation into a systematic effort to preserve our nation's cultural heritage.

Uses of the Standards

The following groups or individuals are encouraged to use these Standards:

Federal agency personnel responsible for cultural resource management pursuant to Section 110 of the National Historic Preservation Act, as amended, in areas under Federal jurisdiction. A separate series of guidelines advising Federal agencies on their specific historic preservation activities under Section 110 is in preparation.

State Historic Preservation Offices responsible under the National Historic Preservation Act, as amended, for making decisions about the preservation of historic properties in their States in accordance with appropriate regulations and the Historic Preservation Fund Grants Management Manual. The State Historic Preservation Offices serve as the focal point for preservation planning and act as a central state-wide repository of collected information.

Local governments wishing to establish a comprehensive approach to the identification, evaluation, registration and treatment of historic properties within their jurisdictions.

Other individuals and organizations needing basic technical standards and guidelines for historic preservation activities.

Organization

This material is organized in three sections: Standards; Guidelines; and recommended technical sources, cited at the end of each set of guidelines. Users of this document are expected to consult the recommended technical sources to obtain guidance in specific cases.

Review of the Standards and Guidelines

The Secretary of the Interior's Standards for Rehabilitation have recently undergone extensive review and their guidelines made current after 5 years of field use. Users and other interested parties are encouraged to submit written comments on the utility of these Standards and Guidelines except for the Rehabilitation Standards mentioned above. This edition will be thoroughly reviewed by the National Park Service (including consultation with Federal and State agencies), after the end of its first full year of use and any necessary modifications will be made. Subsequent reviews are anticipated as needed. Comments should be sent to Chief, Interagency Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240.

Contents

Secretary of the Interior's Standards for Preservation Planning

Preservation planning is a process that organizes preservation activities (identification, evaluation, registration and treatment of historic properties) in a logical sequence. The Standards for Planning discuss the relationship among these activities while the remaining activity standards consider how each activity should be carried out. The Professional Qualifications Standards discuss the education and experience required to carry out various activities.

The Standards for Planning outline a process that determines when an area should be examined for historic properties, whether an identified property is significant, and how a significant property should be treated.

Preservation planning is based on the following principles:

—Important historic properties cannot be replaced if they are destroyed. Preservation planning provides for conservative use of these properties, preserving them in place and avoiding harm when possible and altering or destroying properties only when necessary.

—If planning for the preservation of historic properties is to have positive effects, it must begin before the identification of all significant properties has been completed. To make responsible decisions about historic properties, existing information must be used to the maximum extent and new information must be acquired as needed.

—Preservation planning includes public participation. The planning process should provide a forum for open discussion of preservation issues. Public involvement is most meaningful when it is used to assist in defining values of properties and preservation planning issues, rather than when it is limited to review of decisions already made. Early

and continuing public participation is essential to the broad acceptance of preservation planning decisions.

Preservation planning can occur at several levels or scales: in a project area; in a community; in a State as a whole; or in the scattered or contiguous landholdings of a Federal agency. Depending on the scale, the planning process will involve different segments of the public and professional communities and the resulting plans will vary in detail. For example, a State preservation plan will likely have more general recommendations than a plan for a project area or a community. The planning process described in these Standards is flexible enough to be used at all levels while providing a common structure which promotes coordination and minimizes duplication of effort. The Guidelines for Preservation Planning contain additional information about how to integrate various levels of planning.

Standard I. Preservation Planning Establishes Historic Contexts

Decisions about the identification, evaluation, registration and treatment of historic properties are most reliably made when the relationship of individual properties to other similar properties is understood. Information about historic properties representing aspects of history, architecture, archeology, engineering and culture must be collected and organized to define these relationships. This organizational framework is called a "historic context." The historic context organizes information based on a cultural theme and its geographical and chronological limits. Contexts describe the significant broad patterns of development in an area that may be represented by historic properties. The development of historic contexts is the foundation for decisions about identification, evaluation, registration and treatment of historic properties.

Standard II. Preservation Planning Uses Historic Contexts To Develop Goals and Priorities for the Identification, Evaluation, Registration and Treatment of Historic Properties

A series of preservation goals is systematically developed for each historic context to ensure that the range of properties representing the important aspects of each historic context is identified, evaluated and treated. Then priorities are set for all goals identified for each historic context. The goals with assigned priorities established for each historic context are integrated to produce a comprehensive and consistent set of goals and priorities for all historic contexts in the geographical area of a planning effort.

The goals for each historic context may change as new information becomes available. The overall set of goals and priorities are then altered in response to the changes in the goals and priorities for the individual historic contexts.

Activities undertaken to meet the goals must be designed to deliver a usable product within a reasonable period of time. The scope of the activity must be defined so the work can be completed with available budgeted program resources.

Standard III. The Results of Preservation Planning Are Made Available for Integration Into Broader Planning Processes

Preservation of historic properties is one element of larger planning processes. Planning results, including goals and priorities, information about historic properties, and any planning documents, must be transmitted in a usable form to those responsible for other planning activities. Federally mandated historic preservation planning is most successfully integrated into project management planning at an early stage. Elsewhere, this integration is achieved by making the results of preservation planning available to other governmental planning bodies and to private interests whose activities affect historic properties.

Secretary of the Interior's Guidelines for Preservation Planning

Introduction

These Guidelines link the Standards for Preservation Planning with more specific guidance and technical information. They describe one approach to meeting the Standards for Preservation Planning. Agencies, organizations or individuals proposing to approach planning differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Managing the Planning Process
Developing Historic Contexts
Developing Goals for a Historic Context
Integrating Individual Historic Contexts—Creating the Preservation Plan
Coordinating with Management Frameworks
Recommended Sources of Technical Information

Managing the Planning Process

The preservation planning process must include an explicit approach to implementation, a provision for review and revision of all elements, and a mechanism for resolving conflicts within the overall set of preservation goals and between this set of goals and other land use planning goals. It is recommended that the process and its products be described in public documents.

Implementing the Process

The planning process is a continuous cycle. To establish and maintain such a process, however, the process must be divided into manageable segments that can be performed within a defined period, such as a fiscal year or budget cycle. One means of achieving this is to define a period of time during which all the preliminary steps in the planning process will be completed. These preliminary steps would include setting a schedule for subsequent activities.

Review and Revision

Planning is a dynamic process. It is expected that the content of the historic contexts described in Standard I and the goals and priorities described in Standard II will be altered based on new information obtained as planning proceeds. The incorporation of this information is essential to improve the content of the plan and to keep it up-to-date and useful. New information must be reviewed regularly and systematically, and the plan revised accordingly.

Public Participation

The success of the preservation planning process depends on how well it solicits and integrates the views of various groups. The planning process is directed first toward resolving conflicts in goals for historic preservation, and second toward resolving conflicts between historic preservation goals and other land-use planning goals. Public participation is intergral to this approach and includes at least the following actions:

1. Involving historians, architectural historians, archeologists, historical architects, folklorists and persons from related discipline to define, review and revise the historic contexts, goals and priorities;

2. Involving interested individuals, organizations and communities in the planning area in identifying the kinds of historic properties that may exist and suitable protective measures;

3. Involving prospective users of the preservation plan in defining issues, goals and priorities;

4. Providing for coordination with other planning efforts at local, state, regional and national levels, as appropriate; and

5. Creating mechanisms for identifying and resolving conflicts about historic preservation issues.

The development of historic contexts, for example, should be based on the professional input of all disciplines involved in preservation and not be limited to a single discipline. For prehistoric archeology, for example, data from fields such as geology, geomorphology and geography may also be needed. The individuals and organizations to be involved will depend, in part, on those present or interested in the planning area.

Documents Resulting from the Planning Process

In most cases, the planning process produces documents that explain how the process works and that discuss the historic contexts and related goals and priorities. While the process can operate in the absence of these documents, planning documents are important because they are the most effective means of communicating the process and its recommendations to others. Planning documents also record decisions about historic properties.

As various parts of the planning process are reviewed and revised to reflect current information, related documents must also be updated. Planning documents should be created in a form that can be easily revised. It is also recommended that the format, language and organization of any documents or other materials (visual aids, etc.) containing preservation planning information meet the needs of prospective users.

Developing Historic Contexts

General Approach

Available information about historic properties must be divided into manageable units before it can be useful for planning purposes. Major decisions about identifying, evaluating, registering and treating historic properties are most reliably made in the context of other related properties. A historic context is an organizational format that groups information about related historic properties, based on a theme, geographic limits and chronological period. A single historic context describes one or more aspects of the historic development of an area, considering history, architecture, archeology, engineering and culture; and identifies the significant patterns that individual historic properties represent, for example, Coal Mining in Northeastern Pennsylvania between 1860 and 1930. A set of historic contexts is a comprehensive summary of all aspects of the history of the area.

The historic context is the cornerstone of the planning process. The goal of preservation planning is to identify, evaluate, register and treat the full range of properties representing each historic context, rather than only one or two types of properties. Identification activities are organized to ensure that research and survey activities include properties representing all aspects of the historic context. Evaluation uses the historic context as the framework within which to apply the criteria for evalution to specific properties or property types. Decisions about treatment of properties are made with the goal of treating the range of properties in the context. The use of historic contexts in organizing major preservation activities ensures that those activities result in the preservation of the wide variety of properties that represent our history, rather than only a small, biased sample of properties.

Historic contexts, as theoretical constructs, are linked to actual historic properties through the concept of property type. Property types permit the development of plans for identification, evaluation and treatment even in the absence of complete knowledge of individual properties. Like the historic context, property types are artifical constructs which may be revised as necessary.

Historic contexts can be developed at a variety of scales appropriate for local, State and regional planning. Given the probability of historic contexts overlapping in an area, it is important to coordinate the development and use of contexts at all levels. Generally, the State Historic Preservation Office possesses the most complete body of information about historic properties and, in practice, is in the best position to perform this function.

The development of historic contexts generally results in documents that describe the prehistoric processes or patterns that define the context. Each of the contexts selected should be developed to the point of identifying important property types to be useful in later preservation decision-making. The amount of detail included in these summaries will vary depending on the level (local, state, regional, or national) at which the contexts are developed and on their intended uses. For most planning purposes, a synopsis of the written description of the historic context is sufficient.

Creating a Historic Context

Generally, historic contexts should not be constructed so broadly as to include all property types under a single historic context or so narrowly as to contain only one property type per historic context. The following procedures should be followed in creating a historic context.

1. Identify the concept, time period and geographical limits for the historic context

Existing information, concepts, theories, models and descriptions should be used as the basis for defining historic contexts. Biases in primary and secondary sources should be identified and accounted for when existing information is used in defining historic contexts.

The identification and description of historic contexts should incorporate contributions from all disciplines involved in historic preservation. The chronological period and geographical area of each historic context should be defined after the conceptual basis is established. However, there may be exceptions, especially in defining prehistoric contexts where drainage systems or physiographic regions often are outlined first. The geographical boundaries for historic contexts should not be based upon contemporary political, project or other contemporary boundaries if those boundaries do not coincide with historical boundaries. For example, boundaries for prehistoric contexts will have little relationship to contemporary city, county or state boundaries.

2. Assemble the existing information about the historic context

a. *Collecting information:* Several kinds of information are needed to construct a preservation plan. Information about the history of the area encompassed by the historic context must be collected, including any information about historic properties that have already been identified. Existing survey or inventory entries are an important source of information about historic properties. Other sources may include literature on prehistory, history, architecture and the environment; social and environmental impact assessments; county and State land use plans; architectural and folklife studies and oral histories; ethnographic research; State historic inventories and registers; technical reports prepared for Section 106 or other assessments of historic properties; and and direct consultation with individuals and organized groups.

In addition, organizations and groups that may have important roles in defining historic contexts and values

should be identified. In most cases a range of knowlegeable professionals drawn from the preservation, planning and academic communities will be available to assist in defining contexts and in identifying sources of information. In other cases, however, development of historic contexts may occur in areas whose history or prehistory has not been extensively studied. In these situations, broad general historic contexts should be initially identified using available literature and expertise, with the expectation that the contexts will be revised and subdivided in the future as primary source research and field survey are conducted. It is also important to identify such sources of information as existing planning data, which is needed to establish goals for identification, evaluation, and treatment, and to identify factors that will affect attainment of those goals.

The same approach for obtaining information is not necessarily desirable for all historic contexts. Information should not be gathered without first considering its relative importance to the historic context, the cost and time involved, and the expertise required to obtain it. In many cases, for example, published sources may be used in writing initial definitions of historic contexts; archival research or field work may be needed for subsequent activities.

b. *Assessing information:* All information should be reviewed to identify bias in historic perspective, methodological approach, or area of coverage. For example, field surveys for archeological sites may have ignored historic archelolgical sites, or county land use plans may have emphasized only development goals.

3. Synthesize information

The information collection and analysis results in a written narrative of the historic context. This narrative provides a detailed synthesis of the data that have been collected and analyzed. The narrative covers the history of the area from the chosen perspective and identifies important patterns, events, persons or cultural values. In the process of identifying the important patterns, one should consider:

a. Trends in area settlement and development, if relevant;

b. Aesthetic and artistic values embodied in architecture, construction technology or craftsmanship;

c. Research values or problems relevant to the historic context; social and physical sciences and humanities; and cultural interests of local communities; and

d. Intangible cultural values of ethnic groups and native American peoples.

4. Define property types

A property type is a grouping of individual properties based on shared physical or associative characteristics. Property types link the ideas incorporated in the theoretical historic context with actual historic properties that illustrate those ideas. Property types defined for each historic context should be directly related to the conceptual basis of the historic context. Property types defined for the historic context "Coal Mining in Northeastern Pennsylvania, 1860–1930" might include coal extraction and processing complexes; railroad and canal transportation systems; commercial districts; mine workers' housing; churches, social clubs and other community facilities reflecting the ethnic origins of workers; and residences and other properties associated with mine owners and other industrialists.

a. *Identify property types:* The narrative should discuss the kinds of properties expected within the geographical limits of the context and group them into those property types most useful in representing important historic trends.

Generally, property types should be defined after the historic context has been defined. Property types in common usage ("Queen Anne houses," "mill buildings," or "stratified sites") should not be adopted without first verifying their relevance to the historic contexts being used.

b. *Characterize the locational patterns of property types:* Generalizations about where particular types of properties are likely to be found can serve as a guide for identification and treatment. Generalizations about the distribution of archeological properties are frequently used. The distribution of other historic properties often can be estimated based on recognizable historical, environmental or cultural factors that determined their location. Locational patterns of property types should be based upon models that have an explicit theoretical or historical basis and can be tested in the field. The model may be the product of historical research and analysis ("Prior to widespread use of steam power, mills were located on rivers and streams able to produce water power" or "plantation houses in the Mississippi Black Belt were located on sandy clay knolls"), or it may result from sampling techniques. Often the results of statistically valid sample surveys can be used to describe the locational patterns of a representative portion of properties belonging to a particular property type. Other surveys can also provide a basis for suggesting locational patterns if a diversity of historic properties was recorded and a variety of environmental zones was inspected. It is likely that the identification of locational patterns will come from a combination of these sources. Expected or predicted locational patterns of property types should be developed with a provision made for their verification.

c. *Characterize the current condition of property types:* The expected condition of property types should be evaluated to assist in the development of identification, evaluation and treatment strategies, and to help define physical integrity thresholds for various property types. The following should be assessed for each property type:

(1) Inherent characteristics of a property type that either contribute to or detract from its physical preservation. For example, a property type commonly constructed of fragile materials is more likely to be deteriorated than a property type constructed of durable materials; structures whose historic function or design limits the potential for alternative uses (water towers) are less likely to be reused than structures whose design allows a wider variety of other uses (commercial buildings or warehouses).

(2) Aspects of the social and natural environment that may affect the preservation or visibility of the property type. For example, community values placed on certain types of properties (churches, historic cemeteries) may result in their maintenance while the need to reuse valuable materials may stimulate the disappearance of properties like abandoned houses and barns.

It may be most efficient to estimate of the condition of property types based on professional knowledge of existing properties and field test these estimates using a small sample of properties representative of each type.

5. Identify information needs

Filling gaps in information is an important element of the preservation plan designed for each historic context. Statements of the information needed should be as specific as possible, focusing on the information needed, the historic context and property types it applies to, and why the information is needed to perform identification, evaluation, or treatment activities.

Developing Goals for a Historic Context

Developing Goals

A goal is a statement of preferred preservation activities, which is

generally stated in terms of property types.

The purpose of establishing preservation goals is to set forth a "best case" version of how properties in the historic context should be identified, evaluated, registered and treated. Preservation goals should be oriented toward the greatest possible protection of properties in the historic context and should be based on the principle that properties should be preserved in place if possible, through affirmative treatments like rehabilitation, stabilization or restoration. Generally, goals will be specific to the historic context and will often be phrased in terms of property types. Some of these goals will be related to information needs previously identified for the historic context. Collectively, the goals for a historic context should be a coherent statement of program direction covering all aspects of the context.

For each goal, a statement should be prepared identifying:

1. The goal, including the context and property types to which the goal applies and the geographical area in which they are located;
2. The activities required to achieve the goal;
3. The most appropriate methods or strategies for carrying out the activities;
4. A schedule within which the activities should be completed; and
5. The amount of effort required to accomplish the goal, as well as a way to evaluate progress toward its accomplishment.

Setting priorities for goals

Once goals have been developed they need to be ranked in importance. Ranking involves examining each goal in light of a number of factors.

1. General social, economic, political and environmental conditions and trends affecting (positively and negatively) the identification, evaluation, registration and treatment of property types in the historic context.

Some property types in the historic context may be more directly threatened by deterioration, land development patterns, contemporary use patterns, or public perceptions of their value, and such property types should be given priority consideration.

2. Major cost or technical considerations affecting the identification, evaluation and treatment of property types in the historic context.

The identification or treatment of some property types may be technically possible but the cost prohibitive; or techniques may not currently perfected (for example, the identification of submerged sites or objects, or the evaluation of sites containing material for which dating techniques are still being developed).

3. Identification, evaluation, registration and treatment activities previously carried out for property types in the historic context.

If a number of properties representing one aspect of a historic context have been recorded or preserved, treatment of additional members of that property type may receive lower priority than treatment of a property type for which no examples have yet been recorded or preserved. This approach ensures that the focus of recording or preserving all elements of the historic context is retained, rather than limiting activities to preserving properties representing only some aspects of the context.

The result of considering the goals in light of these concerns will be a list of refined goals ranked in order of priority.

Integrating Individual Contexts—Creating the Preservation Plan

When historic contexts overlap geographically, competing goals and priorities must be integrated for effective preservation planning. The ranking of goals for each historic context must be reconciled to ensure that recommendations for one context do not contradict those for another. This important step results in an overall set of priorities for several historic contexts and a list of the activities to be performed to achieve the ranked goals. When applied to a specific geographical area, this is the preservation plan for that area.

It is expected that in many instances historic contexts will overlap geographically. Overlapping contexts are likely to occur in two combinations—those that were defined at the same scale (i.e., textile development in Smithtown 1850–1910 and Civil War in Smithtown 1855–1870) and those defined at different scales (i.e., Civil War in Smithtown and Civil War in the Shenandoah Valley). The contexts may share the same property types, although the shared property types will probably have different levels of importance, or they may group the same properties into different property types, reflecting either a different scale of analysis or a different historical perspective.

As previously noted, many of the goals that the formulated for a historic context will focus on the property types defined for that context. Thus it is critical that the integration of goals include the explicit consideration of the potential for shared property type membership by individual properties. For example, when the same property types are used by two contexts, reconciling the goals will require weighing the level of importance assigned to each property type. The degree to which integration of historic contexts must involve reconciling property types may be limited by the coordinated development of historic contexts used at various levels.

Integration with Management Frameworks

Preservation goals and priorities are adapted to land units through integration with other planning concerns. This integration must involve the resolution of conflicts that arise when competing resources occupy the same land base. Successful resolution of these conflicts can often be achieved through judicious combination of inventory, evaluation and treatment activities. Since historic properties are irreplaceable, these activities should be heavily weighted to discourage the destruction of significant properties and to be compatible with the primary land use.

Recommended Sources of Technical Information

Resource Protection Planning Process. State and Plans Grants Division, 1980. Washington, D.C. Available from Survey and Planning Branch, Interagency Resources Division, National Park Service, Department of the Interior, Washington, D.C. 20240. Outlines a step-by-step approach to implementing the resource protection planning process.

Resource Protection Planning Process Case Studies. Available from Survey and Planning Branch, Interagency Resources Division, National Park Service, Department of the Interior, Washington, D.C. 20240. Reports prepared by State Historic Preservation Offices and other using the planning process.

Planning Theory. Andreas Faludi, 1980. Oxford: Pergamon Press. Constructs a model of planning using concepts borrowed from general systems theory.

SECRETARY OF THE INTERIOR'S STANDARDS FOR IDENTIFICATION

Identification activities are undertaken to gather information about historic properties in an area. The scope of these activities will depend on: existing knowledge about properties; goals for survey activities developed in the planning process; and current management needs.

Standard I. Identification of Historic Properties Is Undertaken to the Degree Required To Make Decisions

Archival research and survey activities should be designed to gather the information necessary to achieve defined preservation goals. The

objectives, chosen methods and techniques, and expected results of the identification activities are specified in a research design. These activities may include archival research and other techniques to develop historic contexts, sampling an area to gain a broad understanding of the kinds of properties it contains, or examining every property in an area as a basis for property specific decisions. Where possible, use of quantitative methods is important because it can produce an estimate, whose reliability may be assessed, of the kinds of historic properties that may be present in the studied area. Identification activities should use a search procedure consistent with the management needs for information and the character of the area to be investigated. Careful selection of methods, techniques and level of detail is necessary so that the gathered information will provide a sound basis for making decisions.

Standard II. Results of Identification Activities are Integrated Into the Preservation Planning Process

Results of identification activities are reviewed for their effects on previous planning data. Archival research or field survey may refine the understanding of one or more historic contexts and may alter the need for additional survey or study of particular property types. Incorporation of the results of these activities into the planning process is necessary to ensure that the planning process is always based on the best available information.

Standard III. Identification Activities Include Explicit Procedures for Record-Keeping and Information Distribution

Information gathered in identification activities is useful in other preservation planning activities only when it is systematically gathered and recorded, and made available to those responsible for preservation planning. The results of identification activities should be reported in a format that summarizes the design and methods of the survey, provides a basis for others to review the results, and states where information on identified properties is maintained. However, sensitive information, like the location of fragile resources, must be safeguarded from general public distribution.

Secretary of the Interior's Guidelines for Identification

Introduction

These Guidelines link the Standards for Identification with more specific guidance and technical information. The Guidelines outline one approach to meet the Standards for Identification. Agencies, organizations and individuals proposing to approach identification differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Role of Identification in the Planning Process
Performing Identification
Integrating Identification Results
Reporting Identification Results
Recommended Sources of Technical Information

Role of Identification in the Planning Process

Identification is undertaken for the purpose of locating historic properties and is composed of a number of activities which include, but are not limited to archival research, informant interviews, field survey and analysis. Combinations of these activities may be selected and appropriate levels of effort assigned to produce a flexible series of options. Generally identification activities will have multiple objectives, reflecting complex management needs. Within a comprehensive planning process, identification is normally undertaken to acquire property-specific information needed to refine a particular historic context or to develop any new historic contexts. (See the Guidelines for Preservation Planning for discussion of information gathering to establish plans and to develop historic contexts.) The results of identification activities are then integrated into the planning process so that subsequent activities are based on the most up-to-date information. Identification activities are also undertaken in the absence of a comprehensive planning process, most frequently as part of a specific land-use or development project. Even lacking a formally developed preservation planning process, the benefits of efficent, goal-directed research may be obtained by the development of localized historic contexts, suitable in scale for the project area, as part of the background research which customarily occurs before field survey efforts.

Performing Identification

Research Design

Identification activities are essentially research activities for which a statement of objectives or research design should be prepared before work is performed. Within the framework of a comprehensive planning process, the research design provides a vehicle for integrating the various activities performed during the identification process and for linking those activities directly to the goals and the historic context(s) for which those goals were defined. The research design stipulates the logical integration of historic context(s) and field and laboratory methodology. Although these tasks may be performed individually, they will not contribute to the greatest extent possible in increasing information on the historic context unless they relate to the defined goals and to each other. Additionally, the research design provides a focus for the integration of interdisciplinary information. It ensures that the linkages between specialized activities are real, logical and address the defined research questions. Identification activities should be guided by the research design and the results discussed in those terms. (See Reporting Identification Results)

The research design should include the following:

1. *Objectives* of the identification activities. For example: to characterize the range of historic properties in a region; to identify the number of properties associated with a context; to gather information to determine which properties in an area are significant.

The statement of objectives should refer to current knowledge about the historic contexts or property types, based on background research or assessments of previous research. It should clearly define the physical extent of the area to be investigated and the amount and kinds of information to be gathered about properties in the area.

2. *Methods* to be used to obtain the information. For example: archival research or field survey. Research methods should be clearly and specifically related to research problems.

Archival research or survey methods should be carefully explained so that others using the gathered information can understand how the information was obtained and what its possible limitations or biases are.

The methods should be compatible with the past and present environmental character of the geographical area under study and the kinds of properties most likely to be present in the area.

3. *The expected results* and the reasons for those expections.

Expectations about the kind, number, location, character and condition of historic properties are generally based on a combination of background research, proposed hypotheses, and analogy to the kinds of properties known to exist in areas of similar environment or history.

Archival Research

Archival or background research is generally undertaken prior to any field survey. Where identification is undertaken as part of a comprehensive planning process, background research may have taken place as part of the development of the historic contexts (see the Guidelines for Preservation Planning). In the absence of previously developed historic contexts, archival research should address specific issues and topics. It should not duplicate previous work. Sources should include, but not be limited to, historical maps, atlases, tax records, photographs, ethnographies, folklife documentation, oral histories and other studies, as well as standard historical reference works, as appropriate for the research problem. (See the Guidelines for Historical Documentation for additional discussion.)

Field Survey

The variety of field survey techniques available, in combination with the varying levels of effort that may be assigned, give great flexibility to implementing field surveys. It is important that the selection of field survey techniques and level of effort be responsive to the management needs and preservation goals that direct the survey effort.

Survey techniques may be loosely grouped into two categories, according to their results. First are the techniques that result in the characterization of a region's historic properties. Such techniques might include "windshield" or walk-over surveys, with perhaps a limited use of sub-surface survey. For purposes of these Guidelines, this kind of survey is termed a "reconnaissance." The second category of survey techniques is those that permit the identification and description of specific historic properties in an area; this kind of survey effort is termed "intensive." the terms "reconnaissance" and "intensive" are sometimes defined to mean particular survey techniques, generally with regard to prehistoric sites. The use of the terms here is general and is not intended to redefine the terms as they are used elsewhere.

Reconnaissance survey might be most profitably employed when gathering data to refine a developed historic context—such as checking on the presence or absence of expected property types, to define specific property types or to estimate the distribution of historic properties in an area. The results of regional characterization activities provide a general understanding of the historic properties in a particular area and permit management decisions that consider the sensitivity of the area in terms of historic preservation concerns and the resulting implications for future land use planning. The data should allow the formulation of estimates of the necessity, type and cost of further identification work and the setting of priorities for the individual tasks involved. In most cases, areas surveyed in this way will require resurvey if more complete information is needed about specific properties.

A reconnaissance survey should document:

1. The kinds of properties looked for;
2. The boundaries of the area surveyed;
3. The method of survey, including the extent of survey coverage;
4. The kinds of historic properties present in the surveyed area;
5. Specific properties that were identified, and the categories of information collected; and
6. Places examined that did not contain historic properties.

Intensive survey is most useful when it is necessary to know precisely what historic properties exist in a given area or when information sufficient for later evaluation and treatment decisions is needed on individual historic properties. Intensive survey describes the distribution of properties in an area; determines the number, location, and condition of properties; determines the types of properties actually present within the area; permits classification of individual properties; and records the physical extent of specific properties.

An intensive survey should document:

1. The kinds of properties looked for;
2. The boundaries of the area surveyed;
3. The method of survey, including an estimate of the extent of survey coverage;
4. A record of the precise location of all properties identified; and
5. Information on the appearance, significance, integrity and boundaries of each property sufficient to permit an evaluation of its significance.

Sampling

Reconnaissance or intensive survey methods may be employed according to a sampling procedure to examine less-than-the-total project or planning area.

Sampling can be effective when several locations are being considered for an undertaking or when it is desirable to estimate the cultural resources of an area. In many cases, especially where large land areas are involved, sampling can be done in stages. In this approach, the results of the initial large area survey a[illegible]eed b[illegible] structure successively smaller detailed surveys. This "nesting approach is an efficient techniq it enables characterization of bo and small areas with reduced eff with all investigative techniques, a procedures should be designed to p an independent assessment of resul

Various types of sample surveys ca be conducted, including, but not limite to: random, stratified and systematic. Selection of sample type should be guided by the problem the survey is expected to solve, the nature of the expected properties and the nature of the area to be surveyed.

Sample surveys may provide data to estimate frequencies of properties and types of properties within a specified area at various confidence levels. Selection of confidence levels should be based upon the nature of the problem the sample survey is designed to address.

Predictive modeling is an application of basic sampling techniques that projects or extrapolates the number, classes and frequencies of properties in unsurveyed areas based on those found in surveyed areas. Predictive modeling can be an effective tool during the early stages of planning an undertaking, for targeting field survey and for other management purposes. However, the accuracy of the model must be verified; predictions should be confirmed through field testing and the model redesigned and retested if necessary.

Special survey techniques

Special survey techniques may be needed in certain situations.

Remote sensing techniques may be the most effective way to gather background environmental data, plan more detailed field investigations, discover certain classes of properties, map sites, locate and confirm the presence of predicted sites, and define features within properties. Remote sensing techniques include aerial, subsurface and underwater techniques. Ordinarily the results of remote sensing should be verified through independent field inspection before making any evaluation or statement regarding frequencies or types of properties.

Integrating Identification Results

The results of identification efforts must be integrated into the planning process so that planning decisions are based on the best available information. The new informantion is first assessed against the objectives of the identification effort to determine whether the gathered information meets

the defined identification goals for the historic context(s); then the goals are adjusted accordingly. In addition, the historic context narrative, the definition of property types and the planning goals for evaluation and treatment are all adjusted as necessary to accommodate the new data.

Reporting Identification Results

Reporting of the results of identification activities should begin with the statement of objectives prepared before undertaking the survey. The report should respond to each of the major points documenting:

1. Objectives;
2. Area researched or surveyed;
3. Research design or statement of objectives;
4. Methods used, including the intensity of coverage. If the methods differ from those outlined in the statement of objectives, the reasons should be explained.
5. Results: how the results met the objectives; result analysis, implications and recommendations; where the compiled information is located.

A summary of the survey results should be available for examination and distribution. Identified properties should then be evaluated for possible inclusion in appropriate inventories.

Protection of information about archeological sites or other properties that may be threatened by dissemination of that information is necessary. These may include fragile archeological properties or properties such as religious sites, structures, or objects, whose cultural value would be compromised by public knowledge of the property's location.

Recommended Sources of Technical Information

The Archeological Survey: Methods and Uses. Thomas F. King. Interagency Archeological Services, U.S. Department of the Interior, 1978. Washington, D.C. Available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. GPO stock number 024-016-00091. Written primarily for the non-archeologist, this publication presents methods and objectives for archeological surveys.

Cultural Resources Evaluation of the Northern Gulf of Mexico Continental Shelf. National Park Service, U.S. Department of the Interior, 1977.

Guidelines for Local Surveys: A Basis for Preservation Planning. Anne Derry, H. Ward Jandl, Carol Shull and Jan Thorman. National Register Division, U.S. Department of the Interior, 1978. Washington, D.C. Available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. GPO stock number 024-016-00089-7. General guidance about designing and carrying out community surveys.

The Process of Field Research: Final Report on the Blue Ridge Parkway Folklife Project. American Folklife Center, 1981.

Regional Sampling in Archeology. David Hurst Thomas. University of California, Archeological Survey Annual Report, 1980-0, 11:87-100.

Remote Sensing: A Handbook for Archeologists and Cultural Resource Managers. Thomas R. Lyons and Thomas Eugene Avery. Cultural Resource Management Division, National Park Service, U.S. Department of the Interior, 1977.

Remote Sensing and Non-Destructive Archeology. Thomas R. Lyons and James L. Ebert, editors. Remote Sensing Division, Southwest Cultural Resources Center, National Park Service, U.S. Department of the Interior and University of New Mexico, 1978.

Remote Sensing Experiments in Cultural Resource Studies: Non-Destructive Methods of Archeological Exploration, Survey and Analysis. Thomas R. Lyons, assembler, reports of the Chaco Center, Number One. National Park Service, U.S. Department of the Interior and University of New Mexico, 1978.

Sampling in Archeology. James W. Mueller, editor. University of Arizona Press, 1975. Tucson, Arizona.

Scholars as Contractors. William J. Mayer-Oakes and Alice W. Portnoy, editors. Cultural Resource Management Studies. U.S. Department of the Interior, 1979.

Sedimentary Studies of Prehistoric Archeological Sites. Sherwood Gagliano, Charles Pearson, Richard Weinstein, Diana Wiseman, and Christopher McClendon. Division of State Plans and Grants, National Park Service, U.S. Department of the Interior, 1982. Washington, D.C. Available from Coastal Environments Inc., 1260 Main Street, Baton Rouge, Louisiana 70802. Establishes and evaluates a method for employing sedimentological analysis in distinguishing site areas from non-site areas when identifying submerged archeological sites on the continental shelf.

State Survey Forms. Available from Interagency Resource Management Division, National Park Service, Department of the Interior, Washington, D.C. 20240. Characterizes cultural resource survey documentation methods in State Historic Preservation Offices.

Truss Bridge Types: A Guide to Dating and Identifying. Donald C. Jackson and T. Allan Comp. American Association for State and Local History, 1977. Nashville, Tennessee. Technical leaflet #98. Available from AASLH, 708 Berry Road, Nashville, Tennessee 37204. Information about performing surveys of historic bridges and identifying the types of properties encountered.

Secretary of the Interior's Standards for Evaluation

Evaluation is the process of determining whether identified properties meet defined criteria of significance and therefore should be included in an inventory of historic properties determined to meet the criteria. The criteria employed vary depending on the inventory's use in resource management.

Standard I. Evaluation of the Significance of Historic Properties Uses Established Criteria

The evaluation of historic properties employs criteria to determine which properties are significant. Criteria should therefore focus on historical, architectural, archeological, engineering and cultural values, rather than on treatments. A statement of the minimum information necessary to evaluate properties against the criteria should be provided to direct information gathering activities.

Because the National Register of Historic Places is a major focus of preservation activities on the Federal, State and local levels, the National Register criteria have been widely adopted not only as required for Federal purposes, but for State and local inventories as well. The National Historic Landmark criteria and other criteria used for inclusion of properties in State historic site files are other examples of criteria with different management purposes.

Standard II. Evaluation of Significance Applies the Criteria Within Historic Contexts

Properties are evaluated using a historic context that identifies the significant patterns that properties represent and defines expected property types against which individual properties may be compared. Within this comparative framework, the criteria for evaluation take on particular meaning with regard to individual properties.

Standard III. Evaluation Results in A List or Inventory of Significant Properties That Is Consulted In Assigning Registration and Treatment Priorities

The evaluation process and the subsequent development of an inventory of significant properties is an on-going activity. Evaluation of the significance of a property should be completed before registration is considered and before preservation treatments are selected. The inventory entries should contain sufficient information for subsequent activities such as registration or treatment of properties, including an evaluation statement that makes clear the significance of the property within one or more historic contexts.

Standard IV. Evaluation Results Are Made Available to the Public

Evaluation is the basis of registration and treatment decisions. Information about evaluation decisions should be organized and available for use by the general public and by those who take part in decisions about registration and treatment. Use of appropriate computer-assisted data bases should be a part of the information dissemination effort. Sensitive information, however, must be safeguarded from general public distribution.

Secretary of the Interior's Guidelines for Evaluation

Introduction

These Guidelines link the Standards for Evaluation with more specific guidance and technical information. These Guidelines describe one approach to meeting the Standards for Evaluation. Agencies, organizations, or individuals proposing to approach evaluation differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

The Evaluation Process
Criteria
Application of Criteria within a Historic Context
Inventory
Recommended Sources of Technical Information

The Evaluation Process

These Guidelines describe principles for evaluating the significance of one or more historic properties with regard to a given set of criteria.

Groups of related properties should be evaluated at the same time whenever possible; for example, following completion of a theme study or community survey.

Evaluation should not be undertaken using documentation that may be out of date. Prior to proceeding with evaluation the current condition of the property should be determined and previous analyses evaluated in light of any new information.

Evaluation must be performed by persons qualified by education, training and experience in the application of the criteria. Where feasible, evaluation should be performed in consultation with other individuals experienced in applying the relevant criteria in the geographical area under consideration; for example, the State Historic Preservation Officer or local landmarks commission.

Evaluation is completed with a written determination that a property is or is not significant based on provided information. This statement should be part of the record.

Criteria: The purposes of evaluation criteria should be made clear. For example, the criteria may be used "to evaluate properties for inclusion in the county landmarks list," or "to implement the National Register of Historic Places program."

For Federal cultural resource management purposes, criteria used to develop an inventory should be coordinated with the National Register criteria for evaluation as implemented in the approved State comprehensive historic preservation plan.

Content of Criteria: Criteria should be appropriate in scale to the purpose of the evaluation. For example, criteria designed to describe national significance should not be used as the basis for creating a county or State inventory. Criteria should be categorical and not attempt to describe in detail every property likely to qualify. Criteria should outline the disciplines or broad areas of concern (history, archeology, architectural history, engineering and culture, for example) included within the scope of the inventory; explain what kinds of properties, if any, are excluded and the reasons for exclusion; and define how levels of significance are measured, if such levels are incorporated into the criteria. If the criteria are to be used in situations where the National Register criteria are also widely used, it is valuable to include a statement explaining the relationship of the criteria used to the National Register criteria, including how the scope of the inventory differs from that defined by the National Register criteria and how the inventory could be use to identify properties that meet the National Register criteria.

Information Needed to Evaluate Properties: The criteria should be accompanied by a statement defining the minimum information necessary to evaluate properties to insure that this information is collected during identification activities intended to locate specific historic properties. Generally, at least the following will be needed:

1. Adequately developed historic contexts, including identified property types. (See the Guidelines for Preservation Planning for discussion of development of historic contexts.)

2. Sufficient information about the appearance, condition and associative values of the property to be evaluated to:

a. Classify it as to property type;

b. Compare its features or characteristics with those expected for its property type; and

c. Define the physical extent of the property and accurately locate the property.

To facilitate distinguishing between facts and analysis, the information should be divided into categories, including identification and description of pertinent historical contexts; description of the property and its significance in the historical context; and analysis of the integrity of the property relative to that needed to represent the context.

Usually documentation need not include such items as a complete title history or biography of every owner of a property, except where that information is important in evaluating its significance. Information on proposed or potential treatments or threats, such as destruction of a property through uncontrollable natural processes, is also not needed for evaluation, unless those effects are likely to occur prior to or during the evaluation, thereby altering the significant characteristic of the property. If archeological testing or structural analysis is needed for evaluation, it should not proceeded beyond the point of providing the information necessary for evaluation and should not unnecessarily affect significant features or values of the property.

When more information is needed: Evaluation cannot be conducted unless all necessary information is available. (See Information Needed to Evaluate Properties.) Any missing information or analysis should be identified (e.g. development of context or information on the property) as well as the specific activities required to obtain the information (archival research, field survey and testing, or laboratory testing). When adequate information is not available, it is important to record that fact so that evaluation will not be undertaken until the information can be obtained. In some cases needed information is not obtainable, for example, where historical records have been destroyed or analytical techniques have not been developed to date materials in archeological sites. If an evaluation must be completed in these cases, it is important to acknowledge what information was not obtainable and how that missing information may affect the reliability of the evaluation.

Application of the Criteria within a Historic Context

The first step in evaluation is considering how the criteria apply to the

particular historic context. This is done by reviewing the previously developed narrative for the historic context and determining how the criteria would apply to properties in that context, based on the important patterns, events, persons and cultural values identified. (See the discussion of the historic context narrative in the Guidelines for Preservation Planning.) This step includes identification of which criteria each property type might meet and how integrity is to be evaluated for each property type under each criterion. Specific guidelines for evaluating the eligibility of individual properties should be established. These guidelines should outline and justify the specific physical characteristics or data requirements that an individual property must possess to retain integrity for the particular property type; and define the process by which revisions or additions can be made to the evaluation framework.

Consideration of property type and intergrity: After considering how the criteria apply to the particular historic context, the evaluation process for a property generally includes the following steps:

1. A property is classified as to the appropriate historic context(s) and property type(s). If no existing property type is appropriate, a new property type is defined, its values identified, and the specific characteristics or data requirements are outlined and justified as an addition to the historic context. If necessary, a new historic context is defined for which values and property types and their integrity requirements are identified and justified.

2. A comparison is made between the existing information about the property and the integrity characteristics or data required for the property type.

a. If the comparison shows that the property possesses these characteristics, then it is evaluated as significant for that historic context. The evaluation includes a determination that the property retains integrity for its type.

b. If the comparison shows that the property does not meet the minimum requirements, one of several conclusions is reached:

(1) The property is determined not significant because it does not retain the integrity defined for the property type.

(2) The property has characteristics that may make it significant but these differ from those expected for that property type in that context. In this case, the historic context or property types should be reexamined and revised if necessary, based on subsequent research and survey.

The evaluation should state how the particular property meets the integrity requirements for its type. When a property is disqualified for loss of integrity, the evaluation statement should focus on the kinds of integrity expected for the property type, those that are absent for the disqualified property, and the impact of that absence on the property's ability to exemplify architectural, historical or research values within a particular historic context.

The integrity of the property in its current condition, rather than its likely condition after a proposed treatment, should be evaluated. Factors such as structural problems, deterioration, or abandonment should be considered in the evaluation only if they have affected the integrity of the significant features or characteristics of the property.

Inventory

An inventory is a repository of information on specific properties evaluated as significant.

Content: The inventory should include:

1. Summaries of the important historic contexts. These may be in the form of an approved plan or analyses of historic contexts important in the history of the geographical area covered by the inventory.

2. Descriptions of significant property types of these contexts, whether or not any specific properties have been identified.

3. Results of reconnaissance surveys or other identification activities, even if the level of information on specific properties identified as part of those activities is not sufficient to evaluate individual properties.

4. Information on individual properties that was used in evaluation.

Historic contexts are identified by name, with reference to documents describing those contexts, or with a narrative statement about the context(s) where such documents do not exist.

A description of the property. Part of this description may be a photographic record.

A statement that justifies the significance of the property in relation to its context(s). This statement should include an analysis of the integrity of the property.

Boundaries of the property.

A record of when a property was evaluated and included in the inventory, and by whom.

Records on demolished or altered properties and properties evaluated as not significant should be retained, along with full description of areas surveyed, for the planning information these records provide about impacts to properties and about the location and character of non-significant properties to prevent redundant identification work at a later time.

Maintenance: Inventory entries should be maintained so that they accurately represent what is known about historic properties in the area covered by the inventory. This will include new information gained from research and survey about the historic contexts, property types, and previously evaluated properties, as well as information about newly evaluated properties. For individual properties, addition of kinds of significance, change in the boundaries, or loss of significance through demolition or alteration should be recorded.

Uses and Availability: An inventory should be managed so that the information is accessible. Its usefulness depends on the organization of information and on its abilty to incorporate new information. An inventory should be structured so that entries can be retrieved by locality or by historic context.

The availability of the inventory information should be announced or a summary should be distributed. This may be in the form of a list of properties evaluated as significant or a summary of the historic contexts and the kinds of properties in the inventory. Inventories should be avilable to managers, planners, and the general public at local, State, regional, and Federal agency levels.

It is necessary to protect information about archeological sites or other properties whose integrity may be damaged by widespread knowledge of their location. It may also be necessary to protect information on the location of properties such as religious sites, structures, or objects whose cultural value would be compromised by public knowledge of the property's location.

Recommended Sources of Technical Information

How to Apply the National Register Criteria. Available through the National Register Branch, Interagency Resources Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Provides detailed technical information about interpretation of the significance and integrity criteria used by the National Register of Historic Places program.

How To Series. Available through the National Register Branch, Interagency Resources Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Discusses application of the National Register criteria for evaluation. Titles include:

How To Establish Boundaries for National Register Properties.
How To Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years.
How To Improve Quality of Photos for National Register Nominations.
How To Apply for Certification of Significance Under Section 2124 of the Tax Reform Act of 1976.
How To Apply for Certification of State and Local Statutes and Historic Districts.
How To Quality Historic Properties Under the New Federal Law Affective Easements.

Importance of Small, Surface, and Disturged Sites as Sources of Significant Archeological Data. Valerie Talmage and Olga Chesler. Interagency Archeological Service 1977. Washington, D.C. Available from the National Technical Information Service. NTIS Publication Number PB 270939/AS. Discusses the role of small, surface, and disturbed sites as sources of significant information about a variety of prehistoric activities. These types of sites are frequently ignored in the development of regional archeological research designs.

Secretary of the Interior's Standards For Registration

Registration is the formal recognition of properties evaluated as significant. Preservation benefits provided by various registration programs range from honorific recognition to prohibition of demolition or alteration of included properties. Some registration programs provide recognition and other broad benefits while other programs authorize more specific forms of protection.

Standard I. Registration Is Conducted According To Stated Procedures

Registration of historic properties in the National Register of Historic Places must be done in accordance with the National Register regulations published in the Code of Federal Regulations, 36 CFR 60. Registration for other lists or purposes follow an established process that is understood by the public, particularly by those interests that may be affected by registration.

Standard II. Registration Information Locates, Describes and Justifies the Significance and Physical Integrity of a Historic Property

Registers are used for planning, research and treatment. They must contain adequate information for users to locate a property and understand its significance. Additional information may be appropriate depending on the intended use of the register.

Standard III. Registration Information is Accessible to the Public

Information should be readily available to the public and to government agencies responsible for the preservation of historic properties and for other planning needs.

Secretary of the Interior's Guidelines for Registration

Introduction

These Guidelines link the Standards for Registration with more specific guidance and technical information. They describe one approach to meeting the Standards for Registration. Agencies, organizations, or individuals proposing to approach registration differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

Purpose of Registration Programs
Registration Procedures
Documentation on Registered Properties
Public Availability
Recommended Sources of Technical Information

Purpose of Registration Programs

Registration of historic properties is the formal recognition of properties that have been evaluated as significant according to written criteria. Registration results in an official inventory or list that serves an administrative function. A variety of benefits or forms of protection accure to a registered property, ranging from honorific recognition to prohibition of demolition or alteration.

Some registration programs provide recognition and other broad benefits or entitlements, while other registrations of properties may, in addition, authorize more specific forms of protection. The application of the registration process should be a logical outgrowth of the same planning goals and priorities that guided the identification and evaluation activities. All registration programs should establish priorities for recognition of their authorized range of properties; provide for confidentiality of sensitive information; and establish a means of appealing the registration or non-registration of a property.

Registration Procedures

Explicit procedures are essential because they are the means by which the public can understand and participate in the registration process. Procedures for registration programs should be developed by professionals in the field of historic preservation, in consultation with those who will use or be affected by the program. Prior to taking effect, procedures should be published or circulated for comment at the governmental level at which they will be used. (Procedures for registration of properties in the National Register of Historic Places and the National Historic Landmarks list, for example, are published in the **Federal Register**.)

Any registration program should include:

1. A professional staff to prepare or assess the documentation;
2. A professional review, independent of the nominating source, to provide an impartial evaluation of the documented significance;
3. Adequate notice to property owners, elected officials and the public about proposed registrations and the effects of listing, if any; and
4. A means of public participation.

Professional Review: The registration process should include an independent evaluation of the significance of the property and of the quality and thoroughness of the documentation supporting that significance. Such evaluation ensures that significance is adequately justified and that registration documentation meets the technical requirements of the registration process.

State and local preservation programs, concerned with both public and private properties, generally use a review board, panel or commission. This level of professional review has proven to be effective in assessing the significance of properties considered for registration.

Review boards and other forms of independent review should include professionals in the fields or diciplines included in the criteria; representatives of other fields or disciplines may be desirable to reflect other values or aspects of the register. Key personnel must be qualified by education, training or experience to accomplish their designated duties. (See the Professional Qualifications Standards.)

The scope of the independent review should be clearly stated in the registration procedures and should not include issues outside the scope of the applicable criteria for evaluation and other areas specified in the procedures. Generally, independent reviewers should not be involved in any primary research or analysis related to properties under consideration; this information should be gathered and organized prior to review meetings. Documentation presented to the reviewers should be made available to

the public prior to review meetings or public hearings. Registration of properties should not take place until review of documentation has been completed.

Public Notice: Adequate notice allows property owners, officials and other interested parties to comment on proposed registrations prior to action by the independent reviewers. The degree of protection and control provided by a registration program may be a factor in determining what constitutes adequate notice. For example, adequate notice of proposed inclusion in honorific registers may be less complex than that for registration that results in local controls on alteration or demolition of registered properties.

Notice to elected officials and the public is necessary to distribute information about potential registrations of concern to planning and development interests.

Adequate notice to property owners may be accomplished through means ranging from individual notification by mail to publication of a public notice, depending on the nature of the registration program and the number and character of the properties involved.

Public notices and owner notification about proposed registrations should include the dates and times of public meetings and review meetings, the kinds of comments that are appropriate, and how comments will be considered in the evaluation process. The notice should also state where information can be obtained about the registration program, the criteria used to evaluate properties for inclusion, and the significance of specific properties under consideration.

The procedures should include a means of public participation in the form of submission of written comments or a review meeting open to the public or a public hearing.

The procedures should state time periods within which reviews, notices, comments, public hearings, review meetings and appeals will occur. The time periods should be short enough to allow for efficient recognition of historic properties but also allow adequate time for public comment and participation by those affected. Time periods may vary depending on whether activities are carried out at the local, State, or national level. These time schedules should be widely circulated so that the process is widely understood.

Appeal Process: A means of appeal should be included in the registration process to allow for reconsideration of a property's inclusion. Reasons for appeal may range from existence of additional information about the property supporting or refuting its significance to administrative or procedural error. An appeal process should specify to whom an appeal may be made and how the information that is provided will be evaluated. The appeal procedures should also state the time limit, if any, on appealing a decision and on consideration of information and issuance of a decision by the appeal authority.

Documentation on Registered Properties

Documentation requirements should be carefully weighed to provide the information *actually* needed to reach a registration decision and should be made public. It should be made certain that identification and evaluation activities obtain and record the information necessary for registration. Documentation should be prepared in a standardized format and on materials that are archivally stable and easy to store and retrieve.

Location: The precise location of a historic property must be clearly identified.

Street address, town or vicinity, and county should be provided. Properties should also be located on maps; these may be USGS maps, county planning maps, or city base maps or real estate maps. A uniform system of noting location, such as UTM grid points or longitude and latitude, should supplement mapping. It is recommended that each registration process standardize the preferred choice of maps appropriate to the scope of the process.

Description: An accurate description of a property includes a description of both the current and historical physical appearance and condition of the property and notes the relevant property type(s) for the applicable historic context(s). Discussion should include alterations, deterioration, relocation and other changes to the property since its period of significance.

Significance: A statement of significance should explain why a property meets the criteria for inclusion in the register to which it has been nominated.

This statement should contain at least 3 elements:

1. Reference to the relevant historic context(s);
2. Identification of relevant property types within the context and their characteristics; and
3. Justification that the property under consideration has the characteristics required to qualify it.

Relevant historic contexts can be identified through reference to the preservation plan or other documents where the contexts have been previously described or can be provided by a narrative discussion of the context. (The development of contexts and their use in evaluating properties are discussed in the Guidelines for Preservation Planning and the Guidelines for Evaluation.) A significant property type and its characteristics are identified either through reference to the historic context(s) or by a narrative in the documentation that describes historic contexts. Justification of a specific property is made by systematic comparison of its characteristics to those required for the property type.

Boundaries: The delineation and justification of boundaries for a registered property are important for future treatment activities. It is expecially critical when legal restraints or restrictions may result from the registration of properties. Thus, boundaries should correspond as closely as possible to the actual extent and configuration of the property and should be carefully selected to encompass, but not exceed, the extent of the significant resource(s). The selection of boundaries should reflect the significant aspects of the property.

Arbitrary boundaries should not be chosen for ease of description since this can result in the inclusion of unrelated land or in exclusion of a portion of the historic property. Present property lines should not be chosen as property boundaries without careful analysis of whether they are appropriate to the historic property. A single uniform boundary description and acreage should not be applied to a group or class of properties (antebellum plantations, for example) without examination of the actual extent of each property. The selected boundaries should be justified as appropriate to the historic property.

Boundaries should be clearly and precisely described, using a verbal boundary description, legal description, accurate sketch map, or lines drawn on base maps, or a combination of these where needed to specify the limits of the property being registered. When used, maps should show the location of buildings, structures, sites or objects within the boundary.

Updating Information on Registered Properties: A change in the condition of the significant features of a property may require a change in the official registration record. Alteration of a significant architectural feature, for example, could mean that a property is no longer significant for its architectural design.

Additional significance of registered properties may be identified through development of new historic contexts.

Research may reveal that a property is significant in other historic contexts or is significant at a higher level. For example, a property previously recognized as of local significance could be found to be of national significance.

A change in location or condition of a registered property may mean that the property is no longer significant for the reasons for which it was registered and the property should be deleted from the registered list.

Public Availability

Lists of registered properties should be readily available for public use, and information on registered properties should be distributed on a regular basis. Lists of properties registered nationally are distributed through publication in the **Federal Register** and to Congressional Offices and State Historic Preservation Offices. Comprehensive information should be stored and maintained for public use at designated national, State and local authorities open to the public on a regular basis.

Information should be retrievable by the property name, and location, historic context or property type. The specific location of properties that may be threatened by dissemination of that information must be withheld. These may include fragile archeological properties or properties such as religious sites, structures, or objects whose cultural value would be compromised by public knowledge of the property location.

Recommended Sources of Technical Information

How to Complete National Register Forms. National Register Division, National Park Service, U.S. Department of the Interior, 1977. Washington, D.C. Available through the Superintendent of Documents, US Government Printing Office, Washington, D.C. 20402. GPO Stock Number 024–005–00666–4. This publication is the standard reference on the documentation requirements of the National Register of Historic Places program.

How To Series. Available through the National Register Branch, Interagency Resources Division, National Park Service, Department of the Interior 20240. These information sheets contain supplementary information about interpreting the National Register criteria for evaluation and documentation requirements of the National Register registration program. Title include:

How To Establish Boundaries for National Register Properties.
How To Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years.
How To Improve the Quality of Photographs for National Register Nominations.
How To Apply for Certification of Significance Under Section 2124 of the Tax Reform Act of 1976.
How To Apply for Certification of State and Local Statutes and Historic Districts.
How To Qualify Historic Properties Under the New Federal Law Affecting Easements.

Note on Documentation and Treatment of Historic Properties

Documentation and treatment of historic properties includes a variety of techniques to preserve or protect properties, or to document their historic values and information. While documentation activities may be applied to any potentially historic property, generally only those properties that first have been evaluated as significant against specified criteria (such as those of the National Register) are treated. Some commonly applied treatments are preservation in place, rehabilitation, restoration and stabilization; there are other types of treatments also. Documentation and treatment may be applied to the same property; for example, archeological, historical, and architectural documentation may be prepared before a structure is stabilized or before foundations or chimneys or other lost features are reconstructed.

Alternatives for treatment will usually be available, and care should be applied in choosing among them. Preservation in place is generally preferable to moving a property. Over time, the preferred treatment for a property may change; for example, an archeological site intended for preservation in place may begin to erode so that a combination of archeological documentation and stabilization may be required. If a decision is made that a particular property will not be preserved in place, the need for documentation must then be considered.

The three sets of documentation standards (i.e., the Standards for Historical Documentation, Standards for Architectural and Engineering Documentation, and Standards for Archeological Documentation) as well as the Standards for Historic Preservation Projects (Acquisition, Preservation, Stabilization, Protection, Rehabilitation, Restoration, and Reconstruction) describe the techniques of several disciplines to treat historic properties, and to document or preserve information about their historical values. The integration of planning for documentation and treatment with their execution is accomplished in a statement of objectives, or research design. Because both the goals and appropriate methodologies are likely to be interdisciplinary in nature, the relationship among these various activities should be specified in the research design to ensure that the resulting documentation produces a comprehensive record of historic properties in an efficient manner.

Secretary of the Interior's Standards for Historical Documentation

Historical documentation provides important information related to the significance of a property for use by historians, researchers, preservationists, architects, and historical archeologists. Research is used early in planning to gather information needed to identify and evaluate properties. (These activities are discussed in the Standards and Guidelines for Preservation Planning and the Standards and Guidelines for Identification.) Historical documentation is also a treatment that can be applied in several ways to properties previously evaluated as significant; it may be used in conjunction with other treatment activities (as the basis for rehabilitation plans or interpretive programs, for example) or as a final treatment to preserve information in cases of threatened property destruction. These Standards concern the use of research and documentation as a treatment.

Standard I. Historical Documentation Follows a Research Design That Responds to Needs Identified in the Planning Process

Historical documentation is undertaken to make a detailed record of the significance of a property for research and interpretive purposes and for conservation of information in cases of threatened property destruction. Documentation must have defined objectives so that proposed work may be assessed to determine whether the resulting documentation will meet needs identified in the planning process. The research design or statement of objectives is a formal statement of how the needs identified in the plan are to be addressed in a specific documentation project. This is the framework that guides the selection of methods and evaluation of results, and specifies the relationship of the historical documentation efforts to other proposed treatment activities.

Standards II. Historical Documentation Employs an Appropriate Methodology to Obtain the Information Required by The Research Design

Methods and techniques of historical research should be chosen to obtain needed information in the most efficient way. Techniques should be carefully selected and the sources should be

recorded so that other researchers can verify or locate information discovered during the research.

Standard III. The Results of Historical Documentation Are Assessed Against the Research Design and Integrated Into the Planning Process

Documentation is one product of research: information gatherd about the usefulness of the research design itself is another. The research results are assessed against the research design to determine how well they meet the objectives of the research. The results are integrated into the body of current knowledge and reviewed for their implications for the planning process. The research design is reviewed to determine how future research designs might be modified based on the activity conducted.

Standard IV. The Results of Historical Documentation Are Reported and Made Available to the Public

Research results must be accessible to prospective users. Results should be communicated to the professional community and the public in reports summarizing the documentation activity and identifying the repository of additional detailed information. The goal of disseminating information must be balanced, however, with the need to protect senaitive information whose disclosure might result in damage to properties.

Secretary of the Interior's Guidelines for Historical Documentation

Introduction

These Guidelines link the Standards for Historical Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Historical Documentation. Agencies, organizations or individuals proposing to approach historical documentation differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Historical Documentation Objectives
Research Design
Methods
Integrating Results
Reporting Results
Recommended Sources of Technical Information

Documentation Objectives

Documentation is a detailed record, in the form of a report or other written document, of the historical context(s) and significance of a property. Historical research to create documentation uses archival materials, oral history techniques, ethnohistories, prior research contained in secondary sources and other sources to make a detailed record of previously identified values or to investigate particular questions about the established significance of a property or properties. It is an investigative technique that may be employed to document associative, architectural, cultural or informational values of properties. It may be used as a component of structural recording or archeological investigation, to enable interpretation or to mitigate the anticipated loss of a property through conservation of information about its historical, architectural or archeological significance. Documentation generally results in both greater factual knowledge about the specific property and its values, and in better understanding of the property in its historical context. In addition to increasing factual knowledge about a property and its significance in one historical context, documentation may also serve to link the property to or define its importance in other known or yet-to-be defined historic contexts.

Documentation should incorporate, rather than duplicate, the findings of previous research. Research may be undertaken to identify how a particular property fits into the work of an architect or builder; to analyze the historical relationship among several properties; or to document in greater detail the historical contexts of properties. The kinds of questions investigated will generally depend on what is already known or understood and what information is needed. For example, documentation of a bridge whose technological significance is well understood, but whose role in local transportation history is not, would summarize the information on the former topic and focus research on the associative values of the property. The questions that research seeks to answer through deed, map or archival search, oral history and other techniques may also relate to issues addressed in structural documentation or archeological investigation; for example, the reasons for and history of modification of a building to be the subject of architectural or engineering documentation.

Research Design

Historical documentation is guided by a statement of objectives, research design or task directive prepared before research is performed. The research design is a useful statement of how proposed work will enhance existing archival data and permits comparison of the proposed work with the results. The purpose of the research design is to define the proposed scope of the documentation work and to define a set of expectations based on the information available prior to the research. Generally, the research design also ensures that research methods are commensurate with the type, quality and source of expected information.

The research design for a property should identify:

1. Evaluated significance of the property(ies) to be investigated;
2. Historical, architectural, archeological or cultural issues relevant to the evaluated significance of the property;
3. Previous research on those issues and how the proposed work is related to existing knowledge;
4. The amount and kinds of information required to produce reliable historical analyses;
5. Methods to be used to obtain the information;
6. Types of sources to be investigated; types of personnel required;
7. Expected results or findings based on available knowledge about the property and its context; and
8. Relationship of the proposed historical documentation to other proposed treatment activities; for example, recommendations on the use of documentation in interpretive programs or other aspects of treatment such as anticipated architectural, engineering or archeological documentation).

Research Methods

Research methods should be chosen based on the information needs, be capable of replication and be recorded so that another researcher could follow the same research procedure. Sources should be recorded so that other researchers can locate or verify the information discovered during the search.

Use of Sources: The variety of available written and graphic materials and the number of individuals that can serve as sources, including but not limited to personal records, deed and title books, newspapers, plats, maps, atlases, photographs, vital records, censuses, historical narratives, interviews of individuals and secondary source materials, should be considered in developing the research design. Part of the development of the research design is deciding what kinds of source materials are most likely to contain needed information and at what point in the research process that information will be most valuable. For example,

often secondary sources are most valuable for gathering background information, while primary sources are more useful to gather or confirm specific facts. The documentation goals may not *require* exhaustive investigation of sources, such as deed records or building permits. Research may be kept cost-effective by making careful decisions about when to use particular sources, thereby limiting the use of time-consuming techniques to when absolutely necessary. Decisions about when to gather information may also affect the quality of information that can be gathered. When dealing with large project areas where loss of many properties is anticipated, it is important to gather information from local archival sources and oral histories before project activities destroy or disperse family or community records and residents.

Analysis of the accuracy and biases of source materials is critical in analyzing the information gathered from these sources. Maps, historical atlases and insurance maps should be assessed like written records for errors, biases and omissions; for example, some map sources may omit structures of a temporary nature or may not fully depict ethnic or minority areas. Likewise, building plans and architectural renderings may not reflect a structure as it was actually built.

Analysis: Analysis should not only focus on the issues defined in the research design, but should also explore major new issues identified during the course of research or analysis. The documentation gathered may raise important issues not previously considered, and further investigation may be important, particularly when contradictory information has been gathered. It is important to examine the implications of these new issues to ensure that they are investigated in a balanced way.

Questions that should be considered in analyzing the information include:

1. Has enough information been gathered to anwser the questions that were posed?

2. Do the answers contradict one another? If so, it may be necessary to search for more evidence. If no additional evidence is available, judgements must be based on the available sources, weighing their biases. Conflicts of source materials should be noted.

In general, the more the researcher knows about the general historical period and setting, and limitations of the source materials under investigation, the better the individual is prepared to evaluate the information found in the documentary sources investigated. Peer review or consultation with other knowledgeable individuals about the information and the tentative conclusions can be an important part of the analysis.

Integrating Results

The results of documentation must be integrated into the planning process so that planning decisions are based on the best available informaiton. The new information is first assessed against the research design to determine whether the gathered information meets the defined objectives of the research. Then the relevant historic contexts, property types, and treatment goals for those contexts are all adjusted, as necessary, based on the historical documentation results.

Reporting Results

Reports should contain:

1. Summaries of the purpose of the documentation, the research design and methods and techniques of investigation.

2. Sources of facts or analyses so that other researchers can locate the information in its original context. Notation of any conflicts in source materials and how the individual performing the documentation interpreted these conflicts.

3. Sources consulted, including those expected to contain useful information and those that contained no information about the property(s).

4. Assessment of the accuracy, biases and historical perspective of all sources. This information and that identified in No. 3 may be provided in an annotated bibliography.

5. Discussion of major analyses and results, including conclusions regarding all major research issues identified in the research design, as well as important issues raised in the course of research. The analysis should be summarized in terms of its impact on interpretating the property's significance and expanding or altering the knowledge about the property and its context.

6. Researchers' interpretation of historical events or trends. These interpretations should be clearly identified.

Primary results should be preserved and made accessible in some manner, although they need not necessarily be contained in the report. At a minimum, the report should reference the location of notes and analyses.

Results of historical documentation should be made available for use in preservation planning and by the general public. Report formats may vary, depending on the audience and the anticipated uses of the documentation, but professionally accepted rules of report writing should be followed. If reports are of a technical nature, the format of the major scientific journal of the pertinent discipline may be the most appropriate format. Peer review of draft reports is one means of ensuring that state-of-the-art technical reports are produced.

Recommended Sources of Technical Information

Folklife and Fieldwork: A Layman's Introduction to Field Techniques. Peter Bartis. American Folklife Center, Washington, D.C., 1979.

Ordinary People and Everyday Life: Perspectives on the New Social History. James B. Gardnee and George Rollie Adams, editors. American Association for State and Local History, Nashville, Tennessee, 1983.

The Process of Field Research. Carl Fleischhauer and Charles K. Wolfe. American Folklife Center, Washington, D.C., 1981.

Researching Heritage Buildings. Margaret Carter. Ministry of the Environment, Ottawa, Canada, 1983.

Secretary of the Interior's Standards for Architectural and Engineering Documentation

These standards concern the development of documentation for historic buildings, sites, structures and objects. This documentation, which usually consists of measured drawings, photographs and written data, provides important information on a property's significance for use by scholars, researchers, preservationists, architects, engineers and others interested in preserving and understanding historic properties. Documentation permits accurate repair or reconstruction of parts of a property, records existing conditions for easements, or may preserve information about a property that is to be demolished.

These Standards are intended for use in developing documentation to be included in the Historic American Building Survey (HABS) and the Historic American Engineering Record (HAER) Collections in the Library of Congress. HABS/HAER, in the National Park Service, have defined specific requirements for meeting these Standards for their collections. The HABS/HAER requirements include information important to development of documentation for other purposes such as State or local archives

Standard I. Documentation Shall Adequately Explicate and Illustrate What is Significant or Valuable About the Historic Building, Site, Structure or Object Being Documented.

The historic significance of the building, site, structure or object identified in the evaluation process should be conveyed by the drawings, photographs and other materials that comprise documentation. The historical, architectural, engineering or cultural values of the property together with the purpose of the documentation activity determine the level and methods of documentation. Documentation prepared for submission to the Library of Congress must meet the HABS/HAER Guidelines.

Standard II. Documentation Shall be Prepared Accurately From Reliable Sources With Limitations Clearly Stated to Permit Independent Verification of the Information.

The purpose of documentation is to preserve an accurate record of historic properties that can be used in research and other preservation activities. To serve these purposes, the documentation must include information that permits assessment of its reliability.

Standard III. Documentation Shall be Prepared on Materials That are Readily Reproductible, Durable and in Standard Sizes.

The size and quality of documentation materials are important factors in the preservation of information for future use. Selection of materials should be based on the length of time expected for storage, the anticipated frequency of use and a size convenient for storage.

Standard IV. Documentation Shall be Clearly and Concisely Produced.

In order for documentation to be useful for future research, written materials must be legible and understandable, and graphic materials must contain scale information and location references.

Secretary of the Interior's Guidelines for Architectural and Engineering Documentation

Introduction

These Guidelines link the Standards for Architectural and Engineering Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Architectural Engineering Documentation. Agencies, organizations or individuals proposing to approach documentation differently may wish to review their approaches with the National Park Service.

The Guidelines are organized as follows:

Definitions

These definitions are used in conjunction with these Guidelines:

Architectural Data Form—a one page HABS form intended to provide identifying information for accompanying HABS documentation.

Documentation—measured drawings, photographs, histories, inventory cards or other media that depict historic buildings, sites, structures or objects.

Field Photography—photography, other than large-format photography, intended for the purpose of producing documentation, usually 35mm.

Field Records—notes of measurements taken, field photographs and other recorded information intended for the purpose of producing documentation.

Inventory Card—a one page form which includes written data, a sketched site plan and a 35mm contact print dry-mounted on the form. The negative, with a separate contact sheet and index should be included with the inventory card.

Large Format Photographs—photographs taken of historic buildings, sites, structures or objects where the negative is a 4 X 5", 5 X 7" or 8 X 10" size and where the photograph is taken with appropriate means to correct perspective distortion.

Measured Drawings—drawings produced on HABS or HAER formats depicting existing conditions or other relevant features of historic buildings, sites, structures or objects. Measured drawings are usually produced in ink on archivally stable material, such as mylar.

Photocopy—A photograph, with large-format negative, of a photograph or drawing.

Select Existing Drawings—drawings of historic buildings, sites, structures or objects, whether original construction or later alteration drawings that portray or depict the historic value or significance.

Sketch Plan—a floor plan, generally not to exact scale although often drawn from measurements, where the features are shown in proper relation and proportion to one another.

Goal of Documentation

The Historic American Buildings Survey (HABS) and Historic American Engineering Record (HAER) are the national historical architectural and engineering documentation programs of the National Park Service that promote documentation incorporated into the HABS/HAER collections in the Library of Congress. The goal of the collections is to provide architects, engineers, scholars, and interested members of the public with comprehensive documentation of buildings, sites, structures and objects significant in American history and the growth and development of the built environment.

The HABS/HAER Collections: HABS/HAER documentation usually consists of measured drawings, photographs and written data that provide a detailed record which reflects a property's significance. Measured drawings and properly executed photographs act as a form of insurance against fires and natural disasters by permitting the repair and, if necessary, reconstruction of historic structures damaged by such disasters. Documentation is used to provide the basis for enforcing preservation easement. In addition, documentation is often the last means of preservation of a property; when a property is to be demolished, its documentation provides future researchers access to valuable information that otherwise would be lost.

HABE/HAER documentation is developed in a number of ways. First and most usually, the National Park Service employs summer teams of student architects, engineers, historians and architectural historians to develop HABS/HAER documentation under the supervision of National Park Service professionals. Second, the National Park Service produces HABS/HAER documentation, in conjunction with restoration or other preservation treatment, of historic buildings managed by the National Park Service. Third, Federal agencies, pursuant to Section 110(b) of the National Historic Preservation Act, as amended, record those historic properties to be demolished or substantially altered as a result of agency action or assisted action (referred to as mitigation projects). Fourth, individuals and organizations prepare documentation to HABS/HAER standards and donate that documentation to the HABS/HAER collections. For each of these programs,

different Documentation Levels will be set.

The Standards describe the fundamental principles of HABS/HAER documentation. They are supplemented by other material describing more specific guidelines, such as line weights for drawings, preferred techniques for architectural photography, and formats for written data. This technical information is found in the HABS/HAER Procedures Manual.

These Guidelines include important information about developing documentation for State or local archives. The State Historic Preservation Officer or the State library should be consulted regarding archival requirements if the documentation will become part of their collections. In establishing archives, the important questions of durability and reproducibility should be considered in relation to the purposes of the collection.

Documentation prepared for the purpose of inclusion in the HABS/HAER collections must meet the requirements below. The HABS/HAER office of the National Park Service retains the right to refuse to accept documentation for inclusion in the HABS/HAER collections when that documentation does not meet HABS/HAER requirements, as specified below.

Standard I: Content

1. *Requirement:* Documentation shall adequately explicate and illustrate what is significant or valuable about the historic building, site, structure or object being documented.

2. *Criteria:* Documentation shall meet one of the following documentation levels to be considered adequate for inclusion in the HABS/HAER collections.

a. Documentation Level I:

(1) Drawings: a full set of measured drawings depicting existing or historic conditions.

(2) Photographs: photographs with large-format negatives of exterior and interior views; photocopies with large format negatives of select existing drawings or historic views where available.

(3) Written data: history and description.

b. Documentation Level II:

(1) Drawings: select existing drawings, where available, should be photographed with large-format negatives or photographically reproduced on mylar.

(2) Photographs: photographs with large-format negatives of exterior and interior views, or historic views, where available.

(3) Written data: history and description.

c. Documentation Level III:

(1) Drawings: sketch plan.

(2) Photographs: photographs with large-format negatives of exterior and interior views.

(3) Written data: architectural data form.

d. Documentation Level IV: HABS/HAER inventory card.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

4. *Commentary:* The HABS/HAER office retains the right to refuse to accept any documentation on buildings, site, structures or objects lacking historical significance. Generally, buildings, sites, structures or objects must be listed in, or eligible for listing in the National Register of Historic Places to be considered for inclusion in the HABS/HAER collections.

The kind and amount of documentation should be appropriate to the nature and significance of the buildings, site, structure or object being documented. For example, Documentation Level I would be inappropriate for a building that is a minor element of a historic district, notable only for streetscape context and scale. A full set of measured drawings for such a minor building would be expensive and would add little, if any, information to the HABS/HAER collections. Large format photography (Documentation Level III) would usually be adequate to record the significance of this type of building.

Similarly, the aspect of the property that is being documented should reflect the nature and significance of the building, site, structure or object being documented. For example, measured drawings of Dankmar Adler and Louis Sullivan's Auditorium Building in Chicago should indicate not only facades, floor plans and sections, but also the innovative structural and mechanical systems that were incorporated in that building. Large format photography of Gunston Hall in Fairfax County, Virginia, to take another example, should clearly show William Buckland's hand-carved moldings in the Palladian Room, as well as other views.

HABS/HAER documentation is usually in the form of measured drawings, photographs, and written data. While the criteria in this section have addressed only these media, documentation need not be limited to them. Other media, such as films of industrial processes, can and have been used to document historic buildings, sites, structures or objects. If other media are to be used, the HABS/HAER office should be contacted before recording.

The actual selection of the appropriate documentation level will vary, as discussed above. For mitigation documentation projects, this level will be selected by the National Park Service Regional Office and communicated to the agency responsible for completing the documentation. Generally, Level I documentation is required for nationally significant buildings and structures, defined as National Historic Landmarks and the primary historic units of the National Park Service.

On occasion, factors other than significance will dictate the selection of another level of documentation. For example, if a rehabilitation of a property is planned, the owner may wish to have a full set of as-built drawings, even though the significance may indicate Level II documentation.

HABS Level I measured drawings usually depict existing conditions through the use of a site plan, floor plans, elevations, sections and construction details. HAER Level I measured drawings will frequently depict original conditions where adequate historical material exists, so as to illustrate manufacturing or engineering processes.

Level II documentation differs from Level I by substituting copies of existing drawings, either original or alteration drawings, for recently executed measured drawings. If this is done, the drawings must meet HABS/HAER requirements outlined below. While existing drawings are rarely as suitable as as-built drawings, they are adquate in many cases for documentation purposes. Only when the desirability of having as-built drawings is clear are Level I measured drawings required in addition to existing drawings. If existing drawings are housed in an accessible collection and cared for archivally, their reproduction for HABS/HAER may not be necessary. In other cases, Level I measured drawings are required in the absence of existing drawings.

Level III documentation requires a sketch plan if it helps to explain the structure. The architectural data form should supplement the photographs by explaining what is not readily visible.

Level IV documentation consists of completed HABS/HAER inventory cards. This level of documentation, unlike the other three levels, is rarely considered adequate documentation for the HABS/HAER collections but is undertaken to identify historic resources in a given area prior to additional, more comprehensive documentation.

Standard II: Quality

1. *Requirement:* HABS and HAER documentation shall be prepared accurately from reliable sources with limitations clearly stated to permit independent verification of information.

2. *Criteria:* For all levels of documentation, the following quality standards shall be met:

a. Measured drawings: Measured drawings shall be produced from recorded, accurate measurements. Portions of the building that were not accessible for measurement should not be drawn on the measured drawings, but clearly labeled as not accessible or drawn from available construction drawings and other sources and so identified. No part of the measured drawings shall be produced from hypothesis or non-measurement related activities. Documentation Level I measured drawings shall be accompanied by a set of field notebooks in which the measurements were first recorded. Other drawings, prepared for Documentation Levels II and III, shall include a statement describing where the original drawings are located.

b. Large format photographs: Large format photographs shall clearly depict the appearance of the property and areas of significance of the recorded building, site, structure or object. Each view shall be perspective-corrected and fully captioned.

c. Written history: Written history and description for Documentation Levels I and II shall be based on primary sources to the greatest extent possible. For Levels III and IV, secondary sources may provide adequate information; if not, primary research will be necessary. A frank assessment of the reliability and limitations of sources shall be included. Within the written history, statements shall be footnoted as to their sources, where appropriate. The written data shall include a methodology section specifying name of researcher, date of research, sources searched, and limitations of the project.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

4. *Commentary:* The reliability of the HABS/HAER collections depends on documentation of high quality. Quality is not something that can be easily prescribed or quantified, but it derives from a process in which thoroughness and accuracy play a large part. The principle of independent verification HABS/HAER documentation is critical to the HABS/HAER collections

Standard III: Materials

1. *Requirement:* HABS and HAER documentation shall be prepared on materials that are readily reproducible for ease of access; durable for long storage; and in standard sizes for ease of handling.

2. *Criteria:* For all levels of documentation, the following material standards shall be met:

a. Measured Drawings:

Readily Reproducible: Ink on translucent material.

Durable: Ink on archivally stable materials.

Standard Sizes: Two sizes: 19 × 24" or 24 × 36".

b. Large Format Photographs:

Readily Reproducible: Prints shall accompany all negatives.

Durable: Photography must be archivally processed and stored. Negatives are required on safety film only. Resin-coated paper is not accepted. Color photography is not acceptable.

Standard Sizes: Three sizes: 4 × 5", 5 × 7", 8 × 10".

c. Written History and Description:

Readily Reproducible: Clean copy for xeroxing.

Durable: Archival bond required.

Standard Sizes: 8½ × 11".

d. Field Records:

Readily Reproducible: Field notebooks may be xeroxed. Photo identification sheet will accompany 35 mm negatives and contact sheets.

Durable: No requirement.

Standard Sizes: Only requirement is that they can be made to fit into a 9½ × 12" archival folding file.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

4. *Commentary:* All HABS/HAER records are intended for reproduction; some 20,000 HABS/HAER records are reproduced each year by the Library of Congress. Although field records are not intended for quality reproduction, it is intended that they be used to supplement the formal documentation. The basic durability performance standard for HABS/HAER records is 500 years. Ink on mylar is believed to meet this standard, while color photography, for example, does not. Field records do not meet this archival standard, but are maintained in the HABS/HAER collections as a courtesy to the collection user.

Standard IV: Presentation

1. *Requirement:* HABS and HAER documentation shall be clearly and concisely produced.

2. *Criteria:* For levels of documentation as indicated below, the following standards for presentation will be used:

a. Measured Drawings: Level I measured drawings will be lettered mechanically (i.e., Leroy or similar) or in a handprinted equivalent style. Adequate dimensions shall be included on all sheets. Level III sketch plans should be neat and orderly.

b. Large format photographs: Level I photographs shall include duplicate photographs that include a scale. Level II and III photographs shall include, at a minimum, at least one photograph with a scale, usually of the principal facade

c. Written history and description: Data shall be typewritten on bond, following accepted rules of grammar.

3. *Test:* Inspection of the documentation by HABS/HAER staff.

Architectural and Engineering Documentation Prepared for Other Purposes

Where a preservation planning process is in use, architectural and engineering documentation, like other treatment activities, are undertaken to achieve the goals identified by the preservation planning process. Documentation is deliberately selected as a treatment for properties evaluated as significant, and the development of the documentation program for a property follows from the planning objectives. Documentation efforts focus on the significant characteristics of the property, as defined in the previously completed evaluation. The selection of a level of documentation and the documentation techniques (measured drawings, photography, etc.) is based on the significance of the property and the management needs for which the documentation is being performed. For example, the kind and level of documentation required to record a historic property for easement purposes may be less detailed than that required as mitigation prior to destruction of the property. In the former case, essential documentation might be limited to the portions of the property controlled by the easement, for example, exterior facades; while in the latter case, significant interior architectural features and non-visible structural details would also be documented.

The principles and content of the HABS/HAER criteria may be used for guidance in creating documentation requirements for other archives. Levels of documentation and the durability and sizes of documentation may vary depending on the intended use and the repository. Accuracy of documentation should be controlled by assessing the reliability of all sources and making that assessment available in the archival record; by describing the limitations of the information available from research and physical examination of the

property: and by retaining the primary data (field measurements and notebooks) from which the archival record was produced. Usefulness of the documentation products depends on preparing the documentation on durable materials that are able to withstand handling and reproduction, and in sizes that can be stored and reproduced without damage.

Recommended Sources of Technical Information

Recording Historic Buildings. Harley J. McKee. Government Printing Office, 1970. Washington, D.C. Available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. GPO number 024-005-0235-9.

HABS/HAER Procedures Manual. Historic American Buildings Survey/Historic American Engineering Record, National Park Service, 1980. Washington, D.C.

Photogrammetric Recording of Cultural Resources. Perry E. Borchers. Technical Preservation Services, U.S. Department of the Interior, 1977. Washinton, D.C.

Rectified Photography and Photo Drawings for Historic Preservation. J. Henry Chambers. Technical Preservation Services, U.S. Department of the Interior, 1975. Washington, D.C.

Secretary of the Interior's Standards for Archeological Documentation

Archeological documentation is a series of actions applied to properties of archeological interest. Documentation of such properties may occur at any or all levels of planning, identification, evaluation or treatment. The nature and level of documentation is dictated by each specific set of circumstances. Archeological documentation consists of activities such as archival research, observation and recording of above-ground remains, and observation (directly, through excavation, or indirectly, through remote sensing) of below-ground remains. Archeological documentation is employed for the purpose of gathering information on individual historic properties or groups of properties. It is guided by a framework of objectives and methods derived from the planning process, and makes use of previous planning decisions, such as those on evaluation of significance. Archeological documentation may be undertaken as an aid to various treatment activities, including research, interpretation, reconstruction, stabilization and data recovery when mitigating archeological losses resulting from construction. Care should be taken to assure that documentation efforts do not duplicate previous efforts.

Standard I. Archeological Documentation Activities Follow an Explicit Statement of Objectives and Methods That Responds to Needs Identified in the Planning Process

Archeological research and documentation may be undertaken to fulfill a number of needs, such as overviews and background studies for planning, interpretation or data recovery to mitigate adverse effects. The planning needs are articulated in a statement of objectives to be accomplished by the archeological documentation activities. The statement of objectives guides the selection of methods and techniques of study and provides a comparative framework for evaluating and deciding the relative efficiency of alternatives. Satisfactory documentation involves the use of archeological and historical sources, as well as those of other disciplines. The statement of objectives usually takes the form of a formal and explicit research design which has evolved from the interrelation of planning needs, current knowledge, resource value and logistics.

Standard II. The Methods and Techniques of Archeological Documentation are Selected To Obtain the Information Required by the Statement of Objectives

The methods and techniques chosen for archeological documentation should be the most effective, least destructive, most efficient and economical means of obtaining the needed information. Methods and techniques should be selected so that the results may be verified if necessary. Non-destructive techniques should be used whenever appropriate. The focus on stated objectives should be maintained throughout the process of study and documentation.

Standard III. The Results of Archeological Documentation are Assessed Against the Statement of Objectives and Integrated Into the Planning Process

One product of archeological documentation is the recovered data; another is the information gathered about the usefulness of the statement of objectives itself. The recovered data are assessed against the objectives to determine how they meet the specified planning needs. Information related to archeological site types, distribution and density should be integrated in planning at the level of identification and evaluation. Information and data concerning intra-site structure may be needed for developing mitigation strategies and are appropriately integrated at this level of planning. The results of the data analyses are integrated into the body of current knowledge. The utility of the method of approach and the particular techniques which were used in the investigation (i.e. the research design) should be assessed so that the objectives of future documentation efforts may be modified accordingly.

Standard IV. The Results of Archeological Documentation are Reported and Made Available to the Public

Results must be accessible to a broad range of users including appropriate agencies, the professional community and the general public. Results should be communicated in reports that summarize the objectives, methods, techniques and results of the documentation activity, and identify the repository of the materials and information so that additional detailed information can be obtained, if necessary. The public may also benefit from the knowledge obtained from archeological documentation through pamphlets, brochures, leaflets, displays and exhibits, or by slide, film or multi-media productions. The goal of disseminating information must be balanced, however, with the need to protect sensitive information whose disclosure might result in damage to properties. Curation arrangements sufficient to preserve artifacts, specimens and records generated by the investigation must be provided for to assure the availability of these materials for future use.

Secretary of the Interior's Guidelines for Archeological Documentation

Introduction

These Guidelines link the Standards for Archeological Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Documentation. Agencies, organizations or individuals proposing to approach archeological documentation differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

1. Collection of base-line data;

2. Problem-oriented research directed toward particular data gaps recognized in the historic context(s);

3. Preservation or illustration of significance which has been identified for treatment by the planning process; or

4. Testing of new investigative or conservation techniques, such as the effect of different actions such as forms of site burial (aqueous or non-aqueous).

Many properties having archeological components have associative values as well as research values. Examples include Native American sacred areas and historic sites such as battlefields. Archeological documentation may preserve information or data that are linked to the identified values that a particular property possesses. Depending on the property type and the range of values represented by the property, it may be necessary to recover information that relates to an aspect of the property's significance other than the specified research questions. It is possible that conflicts may arise between the optimal realizations of research goals and other issues such as the recognition/protection of other types of associative values. The research design for the archeological documentation should provide for methods and procedures to resolve such conflicts, and for the close coordination of the archeological research with the appropriate ethnographic, social or technological research.

Archeological Documentation Objectives

The term "archeological documentation" is used here to refer specifically to any operation that is performed using archeological techniques as a means to obtain and record evidence about past human activity that is of importance to documenting history and prehistory in the United States. Historic and prehistoric properties may be important for the data they contain, or because of their association with important persons, events, or processes, or because they represent architectural or artistic values, or for other reasons. Archeological documentation may be an appropriate option for application not only to archeological properties, but to above-ground structures as well, and may be used in collaboration with a wide range of other treatment activities.

If a property contains artifacts, features, and other materials that can be studied using archeological techniques, then archeological documentation may be selected to achieve particular goals of the planning process—such as to address a specified information need, or to illustrate significant associative values. Within the overall goals and priorities established by the planning process, particular methods of investigation are chosen that best suit the types of study to be performed.

Relationship of archeological documentation to other types of documentation or other treatments: Archeological documentation is appropriate for achieving any of various goals, including:

Documentation Plan

Research Design: Archeological documentation can be carried out only after defining explicit goals and a methodology for reaching them. The goals of the documentation effort directly reflect the goals of the preservation plan and the specific needs identified for the relevant historic contexts. In the case of problem oriented archeological research, the plan usually takes the form of a formal research design, and includes, in addition to the items below, explicit statements of the problem to be addressed and the methods or tests to be applied. The purpose of the statement of objectives is to explain the rationale behind the documentation effort; to define the scope of the investigation; to identify the methods, techniques, and procedures to be used; to provide a schedule for the activities; and to permit comparison of the proposed research with the results. The research design for an archeological documentation effort follows the same guidelines as those for identification (see the Guidelines for Identification) but has a more property-specific orientation.

The research design should draw upon the preservation plan to identify:

1. Evaluated significance of the property(ies) to be studied;

2. Research problems or other issues relevant to the significance of the property;

3. Prior research on the topic and property type; and how the proposed documentation objectives are related to previous research and existing knowledge;

4. The amount and kinds of information (data) required to address the documentation objectives and to make reliable statements, including at what point information is redundant and documentation efforts have reached a point of diminishing returns;

5. Methods to be used to find the information; and

6. Relationship of the proposed archeological investigation to anticipated historical or structural documentation, or other treatments.

The primary focus of archeological documentation is on the data classes that are required to address the specified documentation objectives. This may mean that other data classes are deliberately neglected. If so, the reasons for such a decision should be carefully justified in terms of the preservation plan.

Archeological investigations seldom are able to collect and record all possible data. It is essental to determine the point at which further data recovery and documentation fail to improve the usefulness of the archeological information being recovered. One purpose of the research design is to estimate those limits in advance and to suggest at what point information becomes duplicative. Investigation strategies should be selected based on these general principles, considering the following factors:

1. Specific data needs;

2. Time and funds available to secure the data; and

3. Relative cost efficiency of various strategies.

Responsiveness to the concerns of local groups (e.g., Native American groups with ties to specific properties) that was built into survey and evaluation phases of the preservation plan, should be maintained in archeological investigation, since such activity usually involves site disturbance. The research design, in addition to providing for appropriate ethnographic research and consultation, should consider concerns voiced in previous phases. In the absence of previous efforts to coordinate with local or other interested groups, the research design should anticipate the need to initiate appropriate contracts and provide a mechanism for responding to sensitive issues, such as the possible uncovering of human remains or discovery of sacred areas.

The research design facilitates an orderly, goal directed and economical project. However, the research design must be flexible enough to allow for examination of unanticipated but important research opportunities that arise during the investigation.

Documentation Methods

Background Review: Archeological documentation usually is preceded by, or integrated with historical research (i.e. that intensive background information gathering including identification of previous archeological work and inspection of museum collections; gathering relevant data on geology, botany, urban geography and other related disciplines; archival research; informant interviews, or recording of oral tradition, etc.).

Depending on the goals of the archeological documentation, the background historical and archeological research may exceed the level of research accomplished for development of the relevant historic contexts or for identification and evaluation, and focuses on the unique aspects of the property to be treated. This assists in directing the investigation and locates a broader base of information than that contained in the property itself for response to the documentation goals. This activity is particularly important for historic archeological properties where information sources other than the property itself may be critical to preserving the significant aspects of the property. (See the Secretary of the Interior's Standards and Guidelines for Historical Documentation for discussion of associated research activities.)

Field Studies: The implementation of the research design in the field must be flexible enough to accommodate the discovery of new or unexpected data classes or properties, or changing field conditions. A phased approach may be appropriated when dealing with large complex properties or groups of properties, allowing for changes in emphasis or field strategy, or termination of the program, based on analysis of recovered data at the end of each phase. Such an approach permits the confirmation of assumptions concerning property extent, content or organization which had been made based on data gathered from identification and evaluation efforts, or the adjustment of those expectations and resulting changes in procedure. In some cases a phased approach may be necessary to gather sufficient data to calculate the necessary sample size for a statistically valid sample. A phased documentation program may often be most cost-effective, in allowing for early termination of work if the desired objectives cannot be achieved.

Explicit descriptive statements of and justification for field study techniques are important to provide a means of evaluating results. In some cases, especially those employing a sampling strategy in earlier phases (such as identification or evaluation), it is possible to estimate parameters of certain classes of data in a fairly rigorous statistical manner. It is thus desirable to maintain some consistency in choice of sampling designs throughout multiple phases of work at the same property. Consistency with previously employed aréal sampling frameworks also improves potential replication in terms of later locating sampled and unsampled areas. It often is desirable to estimate the nature and frequency of data parameters based on existing information or analogy to other similar cases. These estimates may then be tested in field studies.

An important consideration in choosing methods to be used in the field studies should be assuring full, clear, and accurate descriptions of all field operations and observations, including excavation and recording techniques and stratigraphic or inter-site relationships.

To the extent feasible, chosen methodologies and techniques should take into account the possibility that future researchers will need to use the recovered data to address problems not recognized at the time the data were recovered. The field operation may recover data that may not be fully analyzed; this data, as well as the data analyzed, should be recorded and preserved in a way to facilitate future research.

A variety of methodologies may be used. Choices must be explained, including a measure of cost-effectiveness relative to other potential choices. Actual results can then be measured against expectations, and the information applied later in similar cases.

Destructive methods should not be applied to portions or elements of the property if nondestructive methods are practical. If portions or elements of the property being documented are to be preserved in place, the archeological investigation should employ methods that will leave the property as undisturbed as possible. However, in cases where the property will be destroyed by, for example, construction following the investigation, it may be most practical to gather the needed data in the most direct manner, even though that may involve use of destructive techniques.

Logistics in the field, including the deployment of personnel and materials and the execution of sampling strategies, should consider site significant, anticipated location of most important data, cost effectiveness, potential time limitations and possible adverse environmental conditions.

The choice of methods for recording data gathered in the field should be based on the research design. Based on that statement, it is known in advance of field work what kinds of information are needed for analysis; record-keeping techniques should focus on these data. Field records should be maintained in a manner that permits independent interpretation in so far as possible. Record-keeping should be standardized in format and level of detail.

Archeological documentation should be conducted under the supervision of qualified professionals in the disciplines appropriate to the data that are to be recovered. When the general public is directly involved in archeological documentation activities, provision should be made for training and supervision by qualified professionals. (See the Professional Qualifications Standards.)

Analysis: Archeological documentation is not completed with field work; analysis of the collected information is an integral part of the documentation activity, and should be planned for in the research design. Analytical techniques should be selected that are relevant to the objectives of the investigation. Forms of analysis that may be appropriate, depending on the type of data recovered and the objectives of the investigation, include but are not limited to: studying artifact types and distribution; radiometric and other means of age determination; studies of soil stratigraphy; studies of organic matter such as human remains, pollen, animal bones, shells and seeds; study of the composition of soils and study of the natural environment in which the property appears.

Reporting Results

Report Contents: Archeological documentation concludes with written report(s) including minimally the following topics:

1. Description of the study area;
2. Relevant historical documentation/background research;
3. The research design;
4. The field studies as actually implemented, including any deviation from the research design and the reason for the changes;
5. All field observations;
6. Analyses and results, illustrated as appropriate with tables, charts, and graphs;
7. Evaluation of the investigation in terms of the goals and objectives of the investigation, including discussion of how well the needs dictated by the planning process were served;
8. Recommendations for updating the relevant historic contexts and planning goals and priorities, and generation of new or revised information needs;
9. Reference to related on-going or proposed treatment activities, such as structural documentation, stabilization, etc.; and

10. Information on the location of original data in the form of field notes, photographs, and other materials.

Some individual property information, such as specific locational data, may be highly sensitive to disclosure, because of the threat of vandalism. If the objectives of the documentation effort are such that a report containing confidential information such as specific site locations or information on religious practices is necessary, it may be appropriate to prepare a separate report for public distribution. The additional report should summarize that information that is not under restricted access in a format most useful to the expected groups of potential users. Peer review of draft reports is recommended to ensure that state-of-the-art technical reports are produced.

Availability: Results must be made available to the full range of potential users. This can be accomplished through a variety of means including publication of results in monographs and professionals journals and distribution of the report to libraries or technical clearinghouses such as the National Technical Information Service in Springfield, Virginia.

Curation

Archeological specimens and records are part of the documentary record of an archeological site. They must be curated for future use in research, interpretation, preservation, and resource management activities. Curation of important archeological specimens and records should be provided for in the development of any archeological program or project.

Archeological specimens and records that should be curated are those that embody the information important to history and prehistory. They include artifacts and their associated documents, photographs, maps, and field notes; materials of an environmental nature such as bones, shells, soil and sediment samples, wood, seeds, pollen, and their associated records; and the products and associated records of laboratory procedures such as thin sections, and sediment fractions that result from the analysis of archeological data.

Satisfactory curation occurs when:

1. Curation facilities have adequate space, facilities, and professional personnel;

2. Archeological specimens are maintained so that their information values are not lost through deterioration, and records are maintained to a professional archival standard;

3. Curated collections are accessible to qualified researchers within a reasonable time of having been requested; and

4. Collections are available for interpretive purposes, subject to reasonable security precautions.

Recommended Sources of Technical Information

Archeomagnetism: A Handbook for the Archeologist. Jeffrey L. Eighmy, U.S. Department of the Interior, Washington, D.C., 1980.

The Curation and Management of Archeological Collections: A Pilot Study. Cultural Resource Management Series, U.S. Department of the Interior, September 1980.

Human Bones and Archeology. Douglas H. Ubelaker. Interagency Archeological Services, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C., 1980. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Manual for Museums. Ralph H. Lewis, National Park Service, U.S. Department of the Interior, 1976.

Treatment of Archeological Properties: A Handbook. Advisory Council on Historic Preservation, Washington D.C., 1980.

Secretary of the Interior's Standards for Historic Preservation Projects

General Standards for Historic Preservation Projects

The following general standards apply to all treatments undertaken on historic properties listed in the National Register.

1. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.

4. Changes which have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

5. Distinctive architectural features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, stabilization, preservation, rehabilitation, restoration, or reconstruction project.

Specific Standards for Historic Preservation Projects

The following specific standards for each treatment are to be used in conjunction with the eight general standards and, in each case, begin with number 9. For example, in evaluating acquisition projects, include the eight general standards plus the four specific standards listed under standards for Acquisition. The specific standards differ from those published for use in Historic Preservation Fund grant-in-aid projects (36 CFR Part 68) in that they discuss more fully the treatment of archeological properties.

Standards for Acquisition

9. Careful consideration shall be given to the type and extent of property rights which are required to assure the preservation of the historic resource. The preservation objectives shall determine the exact property rights to be acquired.

10. Properties shall be acquired in fee simple when absolute ownership is required to insure their preservation.

11. The purchase of less-than-fee-simple interests, such as open space or facade easements, shall undertaken when a limited interest achieves the preservation objective.

12. Every reasonable effort shall be made to acquire sufficient property with the historic resource to protect its historical, archeological, architectural or cultural significance.

Standard for Protection

9. Before applying protective measures which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

10. Protection shall safeguard the physical condition or environment of a property or archeological site from further deterioration or damage caused by weather or other natural, animal, or human intrusions.

11. If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

Standards for Stabilization

9. Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

10. Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance and significance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical or archeological quality of the property, except where concealment would result in the alteration or destruction of historically or archeologically significant material or spaces. Accurate documentation of stabilization procedures shall be kept and made available for future needs.

11. Stabilization work that will result in ground disturbance shall be preceded by sufficient archeological investigation to determine whether significant subsurface features or artifacts will be affected. Recovery, curation and documentation of archeological features and specimens shall be undertaken in accordance with appropriate professional methods and techniques.

Standards for Preservation

9. Preservation shall maintain the existing form, integrity, and materials of a building, structure, or site. Archeological sites shall be preserved undisturbed whenever feasible and practical. Substantial reconstruction or restoration of lost features generally are not included in a preservation undertaking.

10. Preservation shall include techniques of arresting or retarding the deterioration of a property through a program of ongoing maintenance.

11. Use of destructive techniques, such as archeological excavation, shall be limited to providing sufficient information for research, interpretation and management needs.

Standards for Rehabilitation

9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historic, architectural, or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

Standards for Restoration

9. Every reasonable effort shall be made to use a property for is originally intended purpose or to provide a compatible use that will require minimum alteration to the property and its environment.

10. Reinforcement required for structural stability or the installation of protective or code required mechanical systems shall be concealed wherever possible so as not to intrude or detract from the property's aesthetic and historical qualities, except where concealment would result in the alteration or destruction of historically significant materials or spaces.

11. Restoration work such as the demolition of non-contributing additions that will result in ground or structural disturbance shall be preceded by sufficient archeological investigation to determine whether significant subsurface or structural features or artifacts will be affected. Recovery, curation and documentation of archeological features and specimens shall be undertaken in accordance with appropriate professional methods and techniques.

Standards for Reconstruction

9. Reconstruction of a part or all of a property shall be undertaken only when such work is essential to reproduce a significant missing feature in a historic district or scene, and when a contemporary design solution is not acceptable. Reconstruction of archeological sites generally is not appropriate.

10. Reconstruction of all or a part of a historic property shall be appropriate when the reconstruction is essential for understanding and interpreting the value of a historic district, or when no other building, structure, object, or landscape feature with the same associative value has survived and sufficient historical or archeological documentation exists to insure an accurate reproduction of the original.

11. The reproduction of missing elements accomplished with new materials shall duplicate the composition, design, color, texture, and other visual qualities of the missing element. Reconstruction of missing architectural or archeological features shall be based upon accurate duplication of original features substantiated by physical or documentary evidence rather than upon conjectural designs or the availability of different architectural features from other buildings.

12. Reconstruction of a building or structure on an original site shall be preceded by a thorough archeological investigation to locate and identify all subsurface features and artifacts. Recovery, curation and documentation of archeological features and specimens shall be undertaken in accordance with professional methods and techniques.

13. Reconstruction shall include measures to preserve any remaining original fabric, including foundations, subsurface, and ancillary elements. The reconstruction of missing elements. The reconstruction of missing elements and features shall be done in such a manner that the essential form and integrity of the original surviving features are unimpaired.

Secretary of the Interior Guidelines for Historic Preservation Projects

The guidelines for the Secretary of the Interior's Standards for Historic Preservation Projects, not included here because of their length, may be obtained separately from the National Park Serivce.

Professional Qualifications Standards

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of fulltime work but

may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

Archeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology; and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Architecture.

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

Historic Architecture

The minimum professional qualifications historic in architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

Preservation Terminology

Acquisition—the act or process of acquiring fee title or interest other than fee title of real property (including acquisition of development rights or remainder interest).

Comprehensive Historic Preservation Planning—the organization into a logical sequence of preservation information pertaining to identification, evaluation, registration and treatment of historic properties, and setting priorities for accomplishing preservation activities.

Historic Context—a unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

Historic Property—a district, site, building, structure or object significant in American history, architecture, engineering, archeology or culture at the national, State, or local level.

Integrity—the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

Intensive Survey—a systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance within specific historic contexts.

Inventory—a list of historic properties determined to meet specified criteria of significance.

National Register Criteria—the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

Preservation (treatment)—the act or process of applying measures to sustain the existing form, integrity and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Property Type—a grouping of individual properties based on a set of shared physical or associative characteristics.

Protection (treatment)—the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent.

Reconnaissance Survey—an examination of all or part of an area accomplished in sufficient detail to make generalizations about the types and distributions of historic properties that may be present.

Reconstruction (treatment)—the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or any part thereof, as it appeared at a specific period of time.

Rehabilitation (treatment)—the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

Research design—a statement of proposed identification, documentation, investigation, or other treatment of a historic property that identifies the project's goals, methods and techniques, expected results, and the relationship of the expected results to other proposed activities or treatments.

Restoration—the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time

by means of the removal of later work or by the replacement of missing earlier work.

Sample Survey—survey of a representative sample of lands within a given area in order to generate or test predictions about the types and distributions of historic properties in the entire area.

Stabilization (treatment)—the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

Statement of objectives—see Research design.

Dated: September 26, 1983.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 83-26807 Filed 9-28-83; 8:45 am]

BILLING CODE 4310-70-M

Errata Sheet

ARCHEOLOGY AND HISTORIC PRESERVATION; SECRETARY OF THE INTERIOR'S STANDARDS AND GUIDELINES

FEDERAL REGISTER, Vol. 48, No. 190, Part IV.

In the Guidelines for Archeological Documentation, the section titled "Archeological Documentation Objectives" was published out of sequence. The correct order of the material on pages 44734 and 44735 is as follows:

Secretary of the Interior's Guidelines for Archeological Documentation

Introduction

These Guidelines link the Standards for Archeological Documentation with more specific guidance and technical information. They describe one approach to meeting the Standards for Documentation. Agencies, organizations or individuals proposing to approach archeological documentation differently may wish to review their approach with the National Park Service.

The Guidelines are organized as follows:

Archeological Documentation Objectives
Documentation Plan
Methods
Reporting Results
Curation
Recommended Sources of Technical Information

Archeological Documentation Objectives

The term "archeological documentation" is used here to refer specifically to any operation that is performed using archeological techniques as a means to obtain and record evidence about past human activity that is of importance to documenting history and prehistory in the United States. Historic and prehistoric properties may be important for the data they contain, or because of their association with important persons, events, or processes, or because they represent architectural or artistic values, or for other reasons. Archeological documentation may be an appropriate option for application not only to archeological properties, but to above-ground structures as well, and may be used in collaboration with a wide range of other treatment activities.

If a property contains artifacts, features, and other materials that can be studied using archeological techniques, then archeological documentation may be selected to achieve particular goals of the planning process—such as to address a specified information need, or to illustrate significant associative values. Within the overall goals and priorities established by the planning process, particular methods of investigation are chosen that best suit the types of study to be performed.

Relationship of archeological documentation to other types of documentation or other treatments: Archeological documentation is appropriate for achieving any of various goals, including:

1. Collection of base-line data;
2. Problem-oriented research directed toward particular data gaps recognized in the historic context(s);
3. Preservation or illustration of significance which has been identified for treatment by the planning process; or
4. Testing of new investigative or conservation techniques, such as the effect of different actions such as forms of site burial (aqueous or non-aqueous).

Many properties having archeological components have associative values as well as research values. Examples include Native American sacred areas and historic sites such as battlefields. Archeological documentation may preserve information or data that are linked to the identified values that a particular property possesses. Depending on the property type and the range of values represented by the property, it may be necessary to recover information that relates to an aspect of the property's significance other than the specified research questions. It is possible that conflicts may arise between the optimal realizations of research goals and other issues such as the recognition/protection of other types of associative values. The research design for the archeological documentation should provide for methods and procedures to resolve such conflicts, and for the close coordination of the archeological research with the appropriate ethnographic, social or technological research.

Documentation Plan

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

OFFICE OF HYDROPOWER LICENSING

Project No. 2538-010--New York
Beebee Island Project
Niagara Mohawk Power Corp.

JUN 25 1998

Mr. Sam S. Hirschey
Niagara Mohawk Power Corp.
300 Erie Boulevard West
Syracuse, NY 13202

Dear Mr. Hirschey:

This refers to the Beebee Island Project, FERC No. 2538. On February 5, 1998, you filed a cultural resource management plan (CRMP) pursuant to article 416 of the license. Article 416 requires you to implement the Programmatic Agreement executed on July 19, 1996.

Pursuant to stipulation II B., we forwarded the CRMP to the Advisory Council on Historic Preservation (Council) for comment. In a letter dated June 17, 1998, the Council provided its comments on the CRMP.

We have reviewed the Council's comments and believe they are reasonable. This letter is to request you revise your CRMP to include these comments. If you do not agree with a comment, please provide your reasons.

Please file your revised CRMP within 60 days with:

The Secretary
Federal Energy Regulatory Commission
Mail Code: DLC, HL-11.2
888 First Street, NE
Washington, D.C. 20426

If you have any questions, please contact Jean Potvin at (202) 219-0022.

Sincerely,

Joseph A Morgan

Carol L. Sampson
Director
Office of Hydropower Licensing

Enclosures:
As Stated

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

JUN 17 1998

Ms. Carol L. Sampson
Director
Office of Hydropower Licensing
Federal Energy Regulatory Commission
Washington, D.C. 20426

Via Facsimile

REF: Beebee Island Hydroelectric Project (FERC Project No. 2538)-010
Niagara Mohawk Power Company
Beebee Island, New York

Dear Ms. Sampson:

Thank you for providing the Council with an opportunity to review the document titled *Cultural Resources Management Plan, Beebee Island Project, Federal Energy Regulatory Commission, Project No. 2538 NY, OPRHP #93PR0584* (January 1998). We have reviewed this Cultural Resources Management Plan (CRMP) and offer the following comments for your consideration.

- While the "Compendium of Compatible Operation and Maintenance Activities (Categorical Exclusions for Historic Hydro Facilities)" is considered a stand-alone document, the information it contains is essential to decision making under the procedures established by the CRMP. We note that this document has been appended to the CRMP, however, the plan does not explicitly note this incorporation.

- We strongly recommend using consistent terminology throughout the CRMP. Under the National Historic Preservation Act and the Council's regulations, "historic properties" are very specifically defined as those properties which are listed in or eligible for listing in the National Register of Historic Places. In contrast, the term "cultural resources" is much broader, referring to a diverse array of properties of cultural relevance, irrespective of their status for inclusion in the National Register.

- The inclusion of a list of "Guidelines and Source Documents" (Section 2.3) is an excellent addition to the plan. Where possible, these documents should be appended to the plan, as has been done with Appendix A of the Programmatic Agreement, and the CRMP should note that incorporation. Otherwise, the CRMP should record where these guidelines and source documents can be located and referenced.

- The discussion under Sections 4.1, "Protection of NRE Properties," and 4.3, "Mitigation of Unavoidable Adverse Effects," does not completely identify management decision makers or assign, in all cases, the responsibility for decision making. The listing of criteria of adverse effect, however, is a noteworthy addition. Similarly, the procedures described under Section 4.4, "Unidentified Cultural Resource Properties," needs to establish procedures for the "identification and confirmation of the potential significance" of any discovered properties, for greater involvement of the New York State Historic Preservation Office (SHPO) and for reaching decisions regarding treatment.

- Based on our review, it appears that "Interim Measures" (Section 4.2) refers to activities undertaken prior to the adoption of the CRMP. This section is unnecessary since Stipulation III of the PA specifies the procedures to be followed pending adoption of the CRMP.

- Since the Native American Graves Protection and Repatriation Act (NAGPRA) applies only the Federal lands, this reference should be deleted, and alternative procedures established, if the project consists entirely of private lands.

- Under Section 5.1, "Plan Revision and Continuing Consultation," it appears that the reference to Section 4.4 is not pertinent to this discussion. Furthermore, the procedures established for consultation in this section are more appropriately discussed in Section 4.3.

We look forward to receiving a copy of the final CRMP. Should you have any questions or require our assistance, please contact Laura Henley Dean, Ph.D. at (202) 606-8527. We appreciate your cooperation in this matter.

Sincerely,

Drucilla J. Null

for Don L. Klima
Director
Office of Planning and Review

OFFICE OF PARKS · RECREATION · HISTORIC PRESERVATION
NEW YORK STATE
Bernadette Castro
Commissioner

New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189
518-237-8643

January 28, 1998

Mr. Jacob S. Niziol, P.E.
Dam Safety & Compliance Coordinator
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, New York 13202

RE: FERC
Beebee Island Project LP2538NY
Watertown, Jefferson County
93PR0584

Dear Mr. Niziol:

The State Historic Preservation Officer (SHPO) has reviewed the additional information in the Draft Cultural Resources Management Plan (CRMP) you provided in accordance with Section 106 of the National Historic Preservation Act and relevant implementing regulations.

Based upon this review, it is the opinion the SHPO that the CRMP is acceptable. In addition, the Compendium of Compatible Operation and Maintenance Activities is acceptable.

Please refer to the Project Review number (PR) in any future correspondence regarding this project. If you have any questions, please call me at (518) 237-8643 x278.

Sincerely yours,

Tony Opalka

Tony Opalka
Historic Sites Restoration Coordinator

OFFICE OF PARKS RECREATION HISTORIC PRESERVATION
NEW YORK STATE
Orin Lehman
Commissioner

New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

April 23, 1993

Ms. Tina L. Jones
Kleinschmidt Associates
75 Main Street
P.O. Box 576
Pittsfield, Maine 04967

Dear Ms. Jones:

Re: FERC
Beebee Island Hydro
Watertown, Jefferson County
93PR0584

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966 and the relevant implementing regulations.

It is the SHPO's opinion that the Beebee Island Hydroelectric Plant meets the criteria for inclusion in the National Register of Historic Places. Please refer to the attached sheet for comments on eligibility.

Based upon this review, it is the SHPO's opinion that the installation of a rubber dam and fish barrier overlays will have No Effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places.

If you have any questions, please call Robert Kuhn of our Project Review Unit at (518) 237-8643 ext. 281.

Sincerely,

Julia S. Stokes
Deputy Commissioner for
Historic Preservation

JSS/RDK:gc

Eligibility Attachment

SITE EVALUATION AND ELIGIBILITY DISCUSSION

FERC (Agency)

Watertown /C/, Jefferson County (Location)

Beebee Island Hydro (93PR0584) (Project Name)

Beebee Island Hydroelectric Plant (04540.000897) (Site Identifier)

I. X Property appears NR/SR eligible.

- Identify relevant theme: _____
- Existence of relevant context: X yes ___ no (undeveloped)
  Discuss: Hydroelectric Development in the United States, 1880-1940

SPECIFIC CRITERIA:

A. _X_ Associated with events that have made a significant contribution to the broad patterns of our history; OR

B. ___ Associated with lives of persons significant in our past; OR

C. _X_ Embodies the distinctive characteristics of a type, period, or method of construction; OR represents a significant and distinguishable entity whose components may lack individual distinction; OR

D. ___ Have yielded, or may be likely to yield, information important in pre-history or history.

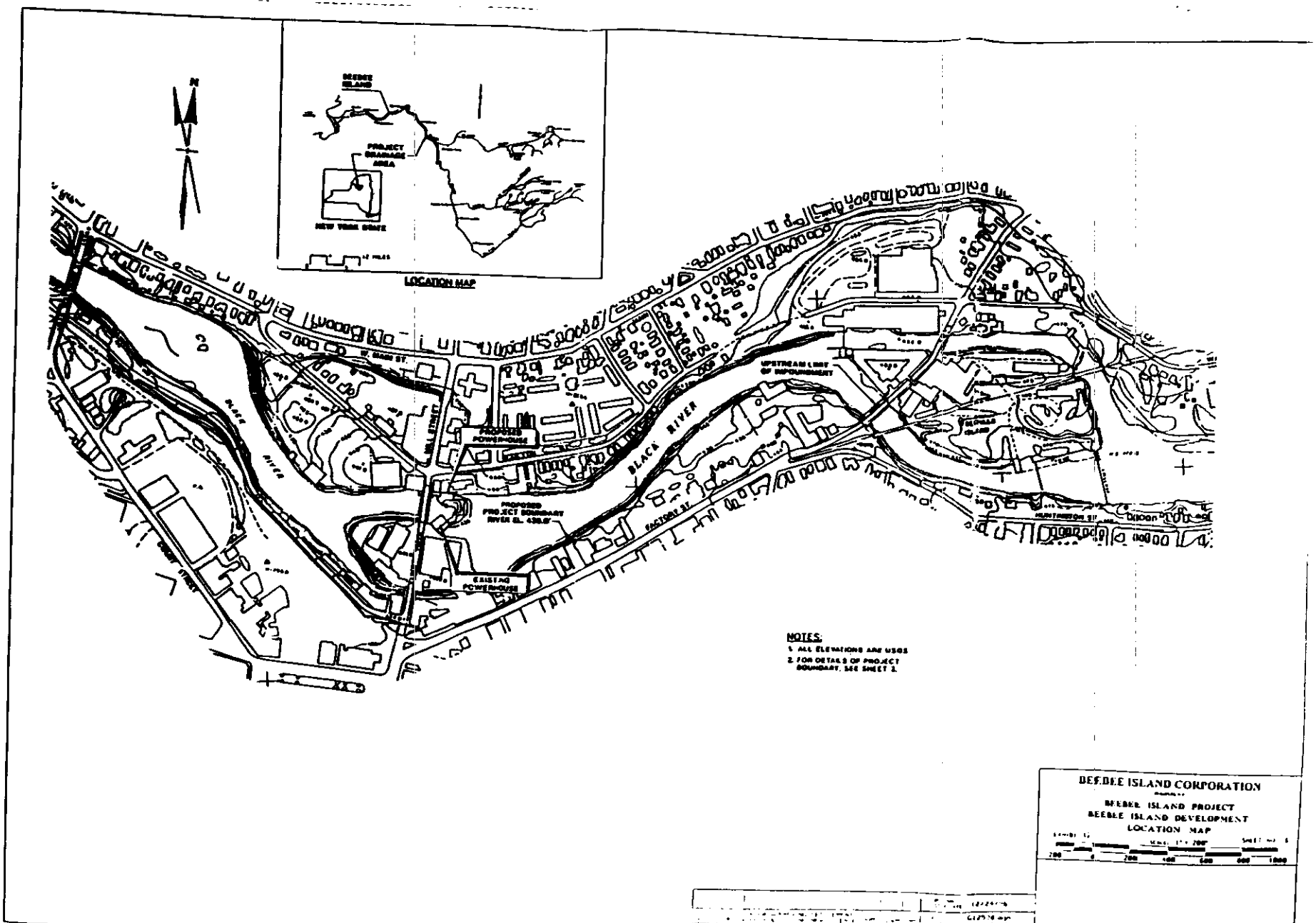
DISCUSSION: The Beebee Island Hydroelectric Plant is architecturally and historically significant as a highly intact and representative example of hydroelectric architecture and technology that recalls the standardization of hydro facilities that took place after World War I and the economic changes that affected the hydroelectric industry with the onset of the Great Depression. The Beebee Island Hydroelectric Plant was constructed in 1931. The 50 x 90 foot brick building houses two General Electric 4000 KW generators, and the building and interior machinery are largely intact. During the 1920's and 1930's innovation in the hydroelectric industry was overshadowed by a movement toward standardization in the design of many plants. The simple rectangular form and modest Art Moderne detailing of the Beebee Island Plant reflect the standardization of design that was prevalent during this period which was characterized by an emphasis on functional designs that interpreted popular architectural styles with great restraint. Historically, the Beebee Plant was constructed shortly after the onset of the Great Depression, and its small size with only two generators recalls the dramatic reduction in demand for electric power during this period, and the tenuous economic climate that private utilities faced at that time.

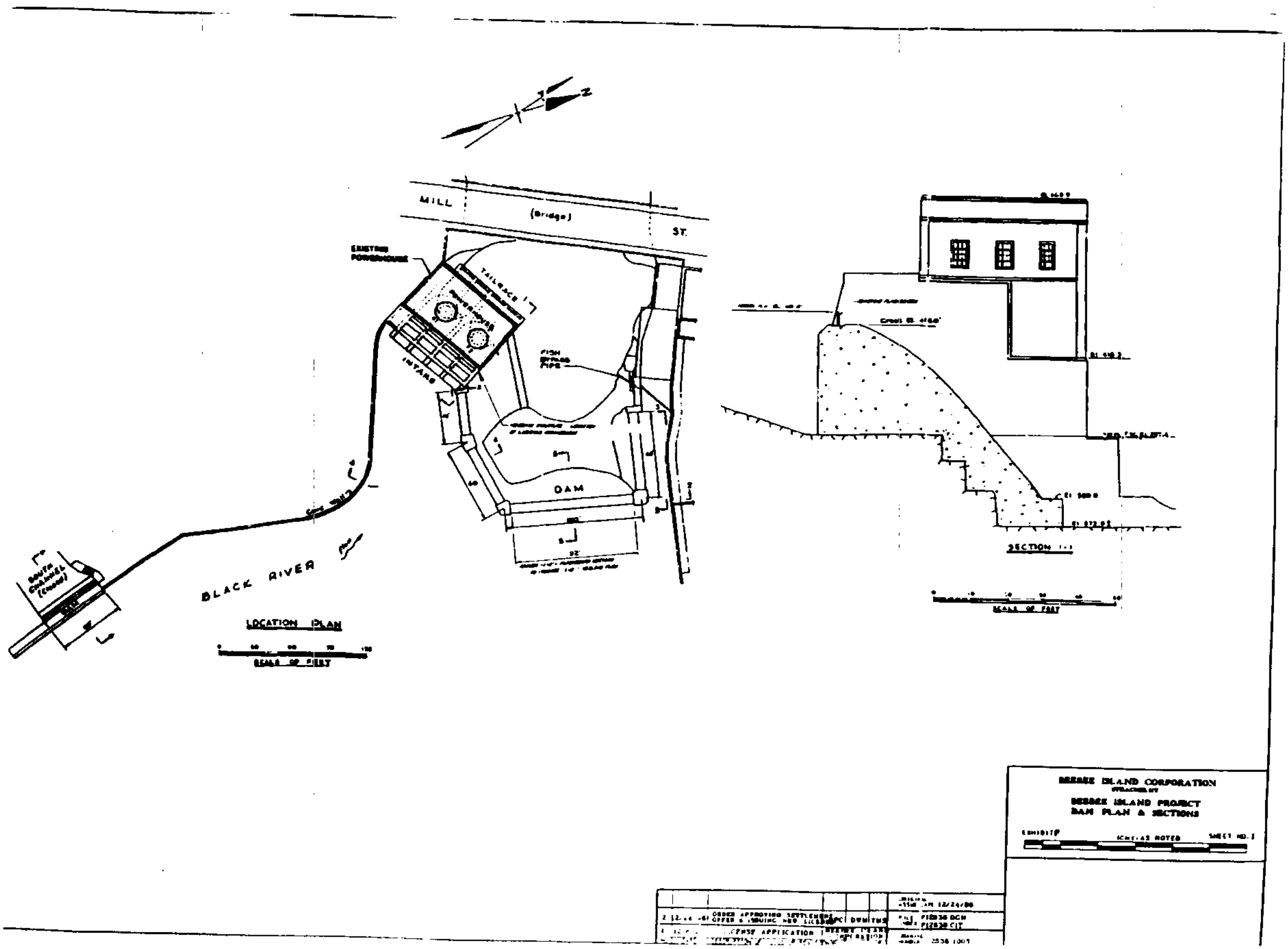
Evaluated by: Robert Kuhn, Historic Preservation Program Analyst
April 22, 1993

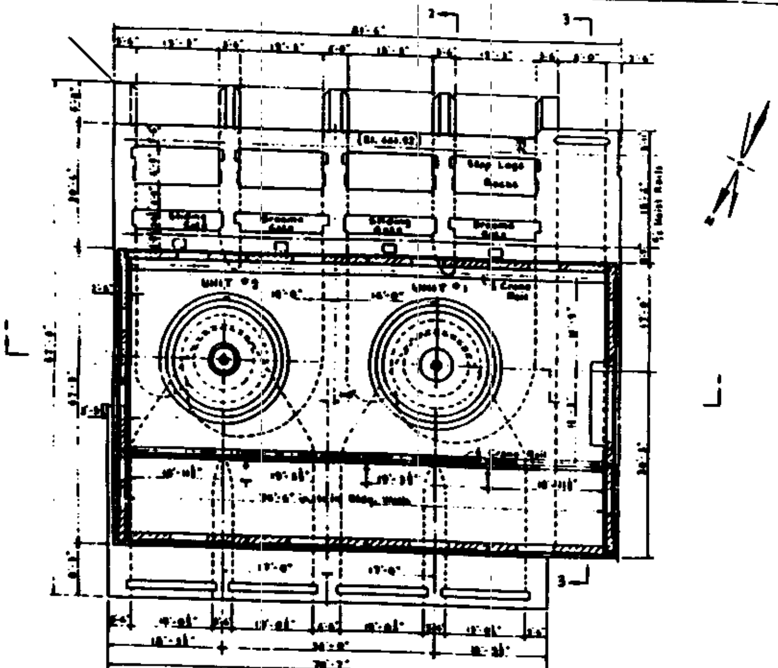
APPENDIX B

DRAWINGS

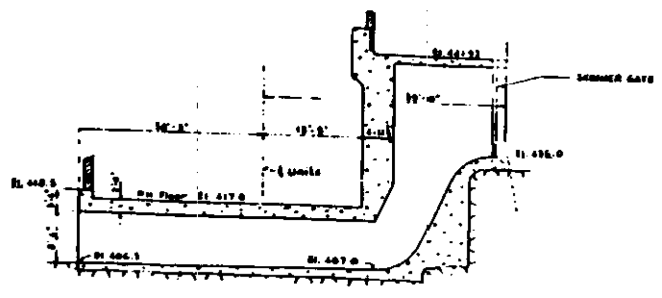
Location Map	Exhibit G Sheet No. 1
Dam - Plan & Sections	Exhibit F Sheet No. 1
Existing Powerhouse - Plan & Section	Exhibit F Sheet No. 3


N
BEEBEE ISLAND
PROJECT DRAINAGE AREA
NEW YORK STATE
LOCATION MAP
W. MAIN ST.
MILL STREET
PROPOSED POWERHOUSE
PROPOSED PROJECT BOUNDARY RIVER EL. 438.0'
EXISTING POWERHOUSE
BLACK RIVER
FACTORY ST.
UPSTREAM LIMIT OF IMPOUNDMENT
BLOOMER ISLAND
HUNTINGTON ST.
NOTES:
1. ALL ELEVATIONS ARE USGS
2. FOR DETAILS OF PROJECT BOUNDARY, SEE SHEET 2.
BEEBEE ISLAND CORPORATION
BEEBEE ISLAND PROJECT
BEEBEE ISLAND DEVELOPMENT
LOCATION MAP


MILL
(Bridge)
ST.
EXISTING POWERHOUSE
TAILRACE
INTAKE
FISH BYPASS PIPE
DAM
BLACK RIVER
SOUTH CHANNEL (Closed)
LOCATION PLAN
SCALE OF FEET
SECTION 1-1
SCALE OF FEET
BEEBEE ISLAND CORPORATION
BEEBEE ISLAND PROJECT
DAM PLAN & SECTIONS
SCALE: AS NOTED
SHEET NO. 1
ORDER APPROVING SETTLEMENT OFFER & ISSUING NEW LICENSE
LICENSE APPLICATION
12/24/00
2538 1001

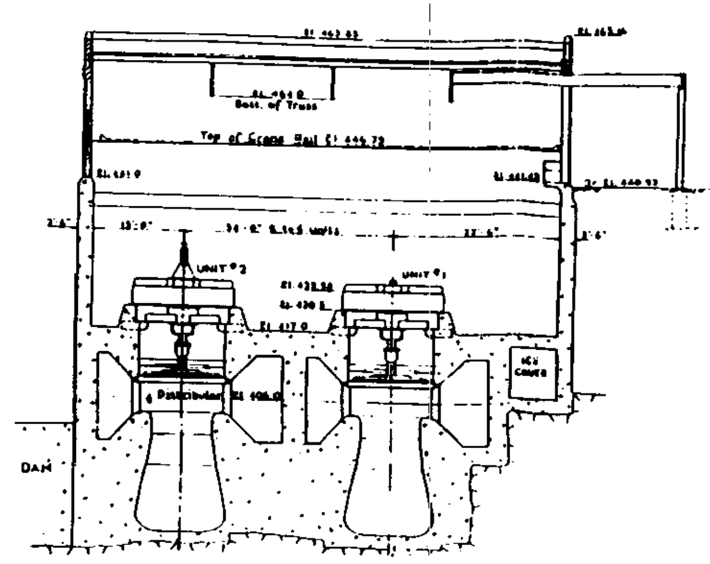


EXISTING POWERHOUSE PLAN

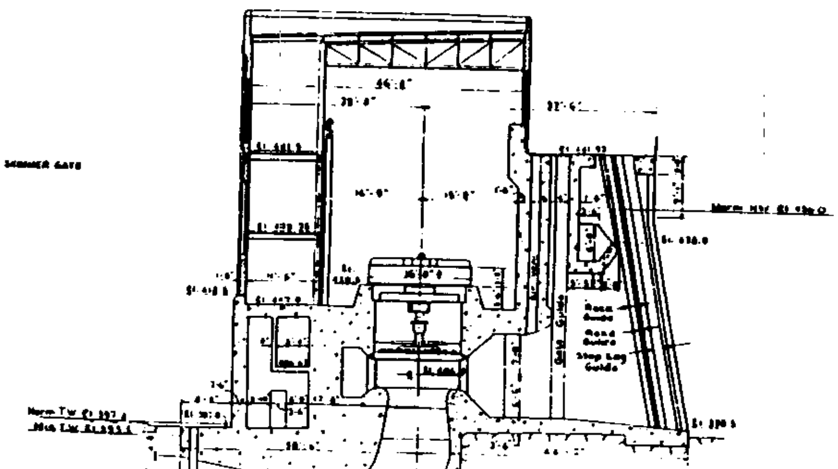


SECTION 3-3

SCALE OF FEET



SECTION 1-1



THIS DRAWING IS PART OF THE APPLICATION FOR NEW LICENSE MADE BY THE UNDERSIGNED THIS ___ DAY OF December, 1991.
BY ___
BEEBEE ISLAND CORPORATION

EXHIBIT F SHEET 3 OF 4

BEEBEE ISLAND CORPORATION
SYRACUSE, NEW YORK

BEEBEE ISLAND PROJECT
FERC NO. 2538

EXISTING POWERHOUSE PLAN AND SECTIONS

Drawn by RED Date 12-19-90
Scale AS NOTED

85 FERC ¶ 62,109

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Niagara Mohawk Power Corporation) Project Nos. 2538-010 & 2569-021

ORDER APPROVING CULTURAL RESOURCES MANAGEMENT PLANS

NOV 17 1998

On February 5, 1998, Niagara Mohawk Power Corporation (licensee) filed Cultural Resources Management Plans (CRMPs) for the Beebee Island Project, FERC No. 2538, and the Black River Project, FERC No. 2569. The Beebee Island Project is located on the Black River, within the City of Watertown in Jefferson County, New York. The Black River Project is located on the Black River in Jefferson County, New York. The CRMPs are required by article 416 of both project licenses issued December 24, 1996. 1/ Subsequent to comments by Commission staff and the Advisory Council on Historic Preservation (ACHP), the licensee filed revised CRMPs on October 27, 1998.

BACKGROUND

On July 19, 1996, a Programmatic Agreement (PA) was executed between the Commission, the Advisory Council on Historic Preservation (ACHP), the Historic Preservation Field Services Bureau, New York's state historic preservation office (SHPO), and Niagara Mohawk and its associated or subsidiary companies. The PA covers fourteen hydropower projects, including both the Beebee Island and Black River projects. The PA requires the licensees to administer each project in accordance with the project's CRMP that specifies how historic properties will be protected. On December 1, 1996, the Commission's staff revised the appendices to the PA for the Beebee Island and Black River Projects, including changes proposed by ACHP, the SHPO, and Niagara Mohawk.2/

1/ See Order Approving Settlement Offer and Issuing New License, 77 FERC ¶ 61,305, (1996).

See Order Approving Settlement Offer and Issuing New License, 77 FERC ¶ 61,306, (1996).

2/ December 1, 1996 letter from Director, Division of Licensing and Compliance, to the Advisory Council on Historic Preservation, the New York State Office of Parks, Recreation and Historic Preservation, and Niagara Mohawk.

981118-0422-3

FERC - DOCKETED
NOV 17 1998

Article 416 requires the licensee to implement the PA, including the filing of a CRMP, to implement the provisions of an approved CRMP; and, should the PA be terminated prior to Commission approval of the CRMP, to obtain Commission approval before engaging in any ground disturbing activities or other activities that may affect historic properties.

THE CULTURAL RESOURCES MANAGEMENT PLANS

No historic structures listed in or eligible for listing in the National Register of Historic Places where found within the Area of Potential Effect (APE) of the five developments which comprise the Black River Project. Also, no known prehistoric or archaeological sites have been recorded within the APE of the five developments that comprise the Black River Project.

The SHPO notified the licensee, on April 23, 1993, that the Beebee Island Hydroelectric Plant met the criteria for inclusion in the National Register of Historic Places. 3/ The SHPO identified only the powerhouse as possessing historic significance.

The CRMP for the Beebee Island Project sets forth the guidelines the licensee will follow for operation and maintenance activities directed toward the powerhouse. The licensee and the SHPO prepared a separate document titled: "Compendium of Compatible Operation and Maintenance Activities, (Categorical Exclusions for Historic Hydro Facilities)." The licensee describes the document as a living, stand-alone document developed in consultation with the SHPO. This document contains activities which have been identified which will not affect the historic resources of the powerhouse and which the licensee can do without SHPO consultation. Activities not listed in the Compendium will require consultation with the SHPO.

The CRMPs for both projects set forth guidelines for dealing with new properties discovered during project operation, maintenance, or excavation, and identify when consultation with the SHPO is required. The plans discuss mitigation of unavoidable adverse effects and describe what procedures will be followed in the event that ground disturbing activities are conducted or there is a change in project operation. The CRMPs also contain procedures for emergency undertakings and public interpretation.

3/ April 23, 1993 letter to Kleinschmidt Associates (Beebee Island's consultant) from Deputy Commissioner for Historic Preservation, Historic Preservation Field Services Bureau, New York State Office of Parks, Recreation and Historic Preservation.

CONCLUSIONS

The licensee's plans are consistent with the PA, the Secretary of the Interior's Standards and Guidelines, and the project settlement. The CRMPs propose to follow the ACHP's policy statement and relevant state laws and guidelines for the treatment and disposition of human remains. The licensee's proposal also includes annual filings, due on the anniversary of the licenses to SHPO and the Commission, on activities conducted under the implemented CRMP.

Commission staff believes the final CRMPs set the appropriate standards and guidelines to protect the known and unknown properties of the Black River and Beebee Island projects. Commission staff also believes the plans are consistent with the requirements of article 416. Upon approval of this order, the licensee should implement the CRMPs.

The Director orders:

(A) The Cultural Resources Management Plans for the Black River and Beebee Island Hydroelectric Projects, filed on October 27, 1998, are approved and made part of the licenses.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Joseph D. Mazzer

Carol L. Sampson
Director
Office of Hydropower Licensing

ATTACHMENT K

QUESTION G – RECREATION:

1998 RECREATION PLAN FOR P-2538 & P-2569

SERVICE LIST

BLACK RIVER ADVISORY COUNCIL

Mr. Peter Skinner
American Whitewater Association
RR #2, Box 272
West Sand Lake, New York 12196-9753

Mr. Bruce Carpenter
New York Rivers United
199 Liberty Plaza
Rome, New York 13440

Mr. George Schmidt
Trout Unlimited
1528 Dorwaldt Blvd.
Niskayuna, New York 12309

Mr. Henry Cosselman
NYS Conservation Council
RFD 1, North Road, Box 145
Oswego, New York 13126

Ms. Nancy Weal
American Whitewater Association
21601 Floral Drive
Watertown, New York 13601

Ms. Betty Lou Bailey
Adirondack Mountain Club
4029 Georgetown Square
Schenectady, New York 12303-5300

Mr. Philip Ashwood
Adirondack Mountain Club
P.O. Box 4
Calcium, New York 13616

Mr. Jon Elmer
Niagara Mohawk Power Corporation
137 Main Avenue
Watertown, New York 13601

Mr. Irwin K. Stone
Trout Unlimited
1417 Sunset Ridge
Watertown, New York 13601

Mr. David Stilwell
U.S. Fish and Wildlife Service
3817 Luker Road
Cortland, New York 13045

Mr. Kevin Mendik
National Park Service
North Atlantic Region
15 State Street
Boston, Massachusetts 02109

Mr. Steve Fort
Jefferson County Planning Office
175 Arsenal Street
Watertown, New York 13601

Mr. Ken Mix
City of Watertown
Municipal Building
Watertown, New York 13601

Mr. Thomas Skutnik
Hydro Licensing & Regulatory Compliance
Niagara Mohawk Power Corporation
300 Erie Blvd., West
Syracuse, New York 13202

Mr. Samuel S. Hirschey
Hydro Licensing & Regulatory Compliance
Niagara Mohawk Power Corporation
300 Erie Blvd., West
Syracuse, New York 13202

Mr. Len Ollivett
NYS Department of Environmental
Conservation
317 Washington Street
Watertown, New York 13601

FINAL PLAN
FOR

BLACK RIVER PROJECT #2569
&
BEEBEE ISLAND PROJECT #2538

ARTICLE 413

RECREATION PLAN

Revision: 0
December 10, 1998

BLACK RIVER PROJECT & BEEBEE ISLAND PROJECT
FERC PROJECT NOS. 2569-004-NY & 2538-001-NY

ARTICLE 413

RECREATION PLAN

INTRODUCTION

License Articles 413, Item 1, addresses recreational facilities for both the Black River Project and the Beebee Island Project in general. Specifics of the Recreation Plan can be found in Exhibit E of the license applications, Responses to Additional Information Requests, and the Settlement Offer filed on October 13, 1995. Additionally for the Black River Project, proposed recreational facilities are identified in the Environmental Assessment issued on September 27, 1996 and in a December 13, 1993 letter filed with the Federal Energy Regulatory Commission regarding the Beebee Island Project.

(1) EXISTING AND PROPOSED RECREATIONAL FACILITIES

BLACK RIVER PROJECT

License Article 413, Item 1 - "improved and expanded river access for fishing and for general recreational use; car-top boat facilities, put-ins and take-outs; parking areas; interpretive signage; portage trails; foot trails; bike trails; fishing areas, picnicking areas; bird-watching areas; scenic viewing areas and overlooks; protective railings, warning signs and boat barriers; access to Poors Island, bicycle storage there, and establishment there of a habitat reserve with interpretive center offering environmental programs;"

Herrings Development

The Licensee will continue to operate and maintain the existing parking area and path leading to the existing cartop boat launch on the north shore near the powerhouse. The shoreline adjacent to the cartop boat launch will be maintained to provide fishing access and river viewing.

The existing parking area and cartop boat launch are accessible to the disabled. River viewing from this location will also be accessible to the disabled. The Licensee will provide two picnic tables in this area, one of which will be accessible to the disabled. Additionally, a dedicated parking area with appropriate signage will be provided for the disabled near the existing site recreation sign. Shoreline fishing and the proposed canoe portage will not be accessible to the disabled because the steep, uneven terrain makes disabled access extremely difficult even after extensive modifications.

The existing cartop boat launch will serve as the starting point of the proposed canoe portage trail. The canoe portage trail will traverse across Niagara Mohawk lands to a proposed cartop boat

launch (put-in) at the downstream end of the portage trail below the tailrace. The Licensee will provide informational signage denoting disabled accessible fishing access facilities on the Herrings recreational sign.

Deferiet Development

The Licensee will continue to operate and maintain the existing parking area and path leading to the existing cartop boat launch/wetland access area (bird watching area) on the south shore upstream of the dam. Disabled access to the cartop boat launch/wetland access area will not be possible due to terrain constraints.

The Licensee will provide a new cartop boat put-in/take-out on the north shore of the Deferiet impoundment upstream of the boat barrier. A parking area to accommodate 6-8 cars will be provided near the put-in/take-out with access from NYS Route 3. A canoe portage trail will commence at the put-in/take-out, cross over the canal headgate structure and terminate at a new put-in approximately 200 feet downstream of the dam. A sign warning of a downstream whitewater hazard will be posted near the put-in. Additionally, the Licensee will install a sign on the canal headgate structure fencing warning of the downstream whitewater hazard and a sign directing recreationists to the alternate canoe put-in.

An alternate canoe portage trail will be provided utilizing the existing access road from the take-out/parking area to NYS Route 3, thence north-westerly along NYS Route 3 to Riverside Drive, and then along Riverside Drive to the put-in, in the Village of Deferiet, near the tailrace. The Licensee will provide the necessary signage for this alternate put-in.

The Licensee will remove/cut off the exposed rods in the river bed downstream of the stoplog section of the dam to enhance the area's safety.

The Licensee, in cooperation with the Village of Deferiet, will support cooperative development of recreational access to the Black River on the Village of Deferiet and the Licensee's lands approximately 8,000 feet downstream of the dam. The Licensee will contact the Village of Deferiet to initiate discussion and planning for public access to this area of the Black River. The Licensee will provide two picnic tables in this area.

The Licensee will provide a riverside recreation trail on the east shoreline downstream of the dam to accommodate shoreline fishing access. This recreation trail will be provided on a 50' wide strip of land owned by the Licensee.

The Licensee has investigated a trail with river overlooks on the western shoreline, which would proceed south to southeast from NYS Route 3. The Licensee proposes to clear the downed timber in this area, and will continue to allow the informal access that currently exists for river overviews.

Kamargo Development

The Licensee will provide a cartop boat take-out from the impoundment at the upstream end of Poors Island between the dam and the canal headgate structure. A portage trail will be provided to the new cartop boat put-in in the power canal immediately downstream of the headgate structure on the Poors Island side. Recreationists can enter the power canal at this put-in and take-out at a new take-out to be provided upstream of the boat barrier on the Poors Island side, approximately 1600 feet downstream from the canal headgate structure, in the vicinity of the 23-kV transmission line crossing. The Licensee will provide a sign at the take-out directing boaters to the put-in on the left shoreline downstream of the Main Street bridge. A foot trail from the power canal take-out connecting to the proposed Poors Island Recreation Area trail system will be provided.

Vehicular access to Poors Island will be during daylight hours only via a single-lane bridge reached from South Main Street. The Licensee will provide a parking area for 4-6 cars near the Poors Island access bridge approximately 300 feet from the power canal take-out.

The Licensee proposes a day-use recreational park/forested habitat preserve on Poors Island. This would include a forested habitat preserve area complete with an interpretive center and signage highlighting the islands diverse biota, an island hiking trail system with scenic riverviews, and a day-use picnic area. The Licensee will provide four picnic tables and grills in the day-use area. The Licensee will provide a bicycle storage rack for day hikes and primitive restroom facilities on Poors Island. Shoreline fishing on Poors Island along the power canal shoreline and the bypassed reach will be permitted by the Licensee.

Per the Settlement Offer, the Licensee was to allow shoreline fishing on the south shoreline of the power canal upstream of the boat barrier via lands owned or controlled by the Licensee. The Licensee owns approximately 1800 feet of land downstream of the Kamargo dam on the south shoreline of the power canal. This land is situated between the river edge and the abandoned New York Central Railroad line. This shoreline area will be available for shoreline fishing. Access to this area can be gained via East Remington Street and the abandoned railroad line.

Portions of the Poors Island day-use recreational area will be accessible to the disabled. However, complete access will not be possible due to terrain constraints.

The Licensee will not permit any overnight camping.

The Licensee is proposing the canoe put-in be located downstream of the Main Street bridge, on the opposite shore from the Black River overlook. This location would shorten the canoe portage distance from the Poors Island take-out to this put-in and also reduce the portage along South Main Street.

The license application noted that the Kamargo overlook in the Village of Black River would be provided via a co-operative venture between the Village and the Licensee. This overlook has already been constructed.

Black River Development

The Licensee will provide a cartop boat launch/take-out upstream of the NYS Route 3 bridge to be located along Huntington Street. This area will be modified to accommodate a picnic area with four picnic tables and grills, shoreline fishing access and parking for four cars along Huntington Street, all on the Licensee's lands. This area will be accessible to the disabled.

A portage trail will be provided from the take-out utilizing Huntington Street, crossing NYS Route 3 and following an existing dirt road located along the bypassed reach to two put-ins. The first put-in will be located as determined in the field under conditions of no spillage. The second put-in will be located approximately 300 feet upstream of the powerhouse, but on the opposite or left shoreline (same side as first put-in). The steep, rugged terrain makes the put-ins virtually impossible for disabled access.

The Licensee will provide an additional parking area for 4 - 6 cars south of NYS Route 3 and east of the NYS Route 3 bridge along Woodard Hill Road, as close to NYS Route 3 as land ownership allows.

The Licensee will maintain the parking and picnicking at the existing picnic area along the bypassed reach south of NYS Route 3. The Licensee will remove the security fence along the bypassed reach at the existing picnic facilities and overlook. The security fencing will be replaced with a protective railing at this location.

Sewalls Development

The Licensee will provide a cartop boat take-out on the south shore of the impoundment. Signage providing direction to potential downstream put-ins will be installed at the take-out. The Licensee will also provide a pedestrian path from Huntington Street to a river overlook, a shoreline fishing safety rail and a hydro interpretive sign at this location. The pedestrian path and shoreline fishing will be accessible to the disabled.

Prior to constructing the above recreational facilities, the Licensee will coordinate these facilities with the City of Watertown's plans for recreational opportunities at Sewalls Island.

The Licensee will put forth its best efforts to maintain run-of-river operation between May 1 and September 30 to facilitate whitewater recreation downstream, whenever river flow is below 2,000 cfs.

BEEBEE ISLAND PROJECT

License Article 413, Item 1, - "pedestrian access to the impoundment for fishing; scenic overlook facilities and a fishing platform in conjunction with the City of Watertown (Watertown)'s proposed Heritage Trail, and to be constructed only if Watertown actually constructs the Heritage

Trail; a boat barrier upstream of the dam; a car-top boat take-out; and signage to downstream boat put-in locations;"

It appears that the Licensee owns lands for the take-out as shown in the draft recreation plan, but does not own lands for the Settlement location. At issue regarding the take-out, in either case, is access to the Licensee's lands where the take-out will be installed. Consequently, until the access issue is resolved, the Licensee is deferring installation of the Beebee Island put-in/take-out until access to Licensee's lands is obtained.

The Licensee, on behalf of Beebee Island Corporation, will provide a cartop boat put-in/take-out on the south shore of the impoundment, when the access issue is resolved, and install a boat barrier upstream of the dam. Signage providing direction to potential downstream put-ins will be installed at the cartop boat take-out.

The recreational facilities associated with the City of Watertown's Heritage Trail are not being constructed until such time when the City of Watertown actually constructs the Heritage Trail. At that time, the Licensee will consult with the City of Watertown so that these facilities will complement the City's plan.

FERC issued an ORDER APPROVING PLAN FOR VEILING FLOWS (ORDER) on August 19, 1997. The Licensee provided the veiling flows in 1998, per this ORDER, after installation of the flashboards. The schedule for release of the veiling flow is from May 1, or as soon thereafter as flashboards can safely be installed, through October 31 annually.

HIKER/BIKER TRAIL

The Licensee is amenable to working with the New York State Office of Parks, Recreation & Historic Preservation (NYSOPRHP) and Jefferson County regarding the bike/hike trail along the Black River when or if such plans are developed. The Licensee will consider providing interconnections to this trail provided the necessary land ownership is in place and the need for extensive modifications is not required.

(2) FINAL SITE PLANS FOR THE FACILITIES

The enclosed recreation drawings illustrate the Licensee's recreational improvements. The Licensee will provide as-built drawings after completion of the construction activities.

(3) ADDITIONAL LANDS REQUIRED FOR NEW RECREATIONAL FACILITIES

It appears that no additional lands for new recreational facilities are required, with the exception being the Beebee Island Project. As discussed in Section (1), until access to Licensee's lands is resolved, it is unknown what changes to project lands will be required.

(4) THE NAME OF THE ENTITY OR ENTITIES RESPONSIBLE FOR OPERATING AND MAINTAINING THE FACILITIES

The Licensee is the responsible party for the operation and maintenance of the recreational facilities.

(5) HOW THE DESIGN OF THE RECREATIONAL FACILITIES TAKES INTO CONSIDERATION THE GUIDELINES ESTABLISHED BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (36 C.F.R. PART 1191)

The following denotes how the design of the recreational facilities incorporates the Architectural and Transportation Barriers Compliance Board guidelines and designing the facilities using the US Forest Service's Design Guide for Universal Access to Outdoor Recreation guidelines.

Parking areas

The Licensee will provide parking spaces for the disabled at Herrings, Deferiet, Kamargo and Black River. These parking spaces will be reserved for persons with disabilities and a sign showing the International Symbol of Accessibility will be installed at each designated parking space. The size of the parking space and accompanying access aisle will be in accordance with the Architectural and Transportation Compliance Board (ATCB) recommendations, Section 4, Accessible Elements and Spaces, subsections 4.1 and 4.6.

Picnic tables and grills

The picnic tables and grills will conform to the Americans with Disabilities Act Accessibility Guidelines (ADAAG). The picnic tables will be a maximum of 32 inches from the ground to the top and will extend a minimum of 30 inches beyond the legs at each end. The grills will be 30 - 36 inches high.

Trails for the Disabled

The maximum grade for trails requiring disabled access, will have a maximum grade of 10% and will have a level rest area at every 900 feet maximum.

(6) EROSION AND SEDIMENT CONTROL MEASURES AND MEASURES FOR REVEGETATION OF DISTURBED AREAS

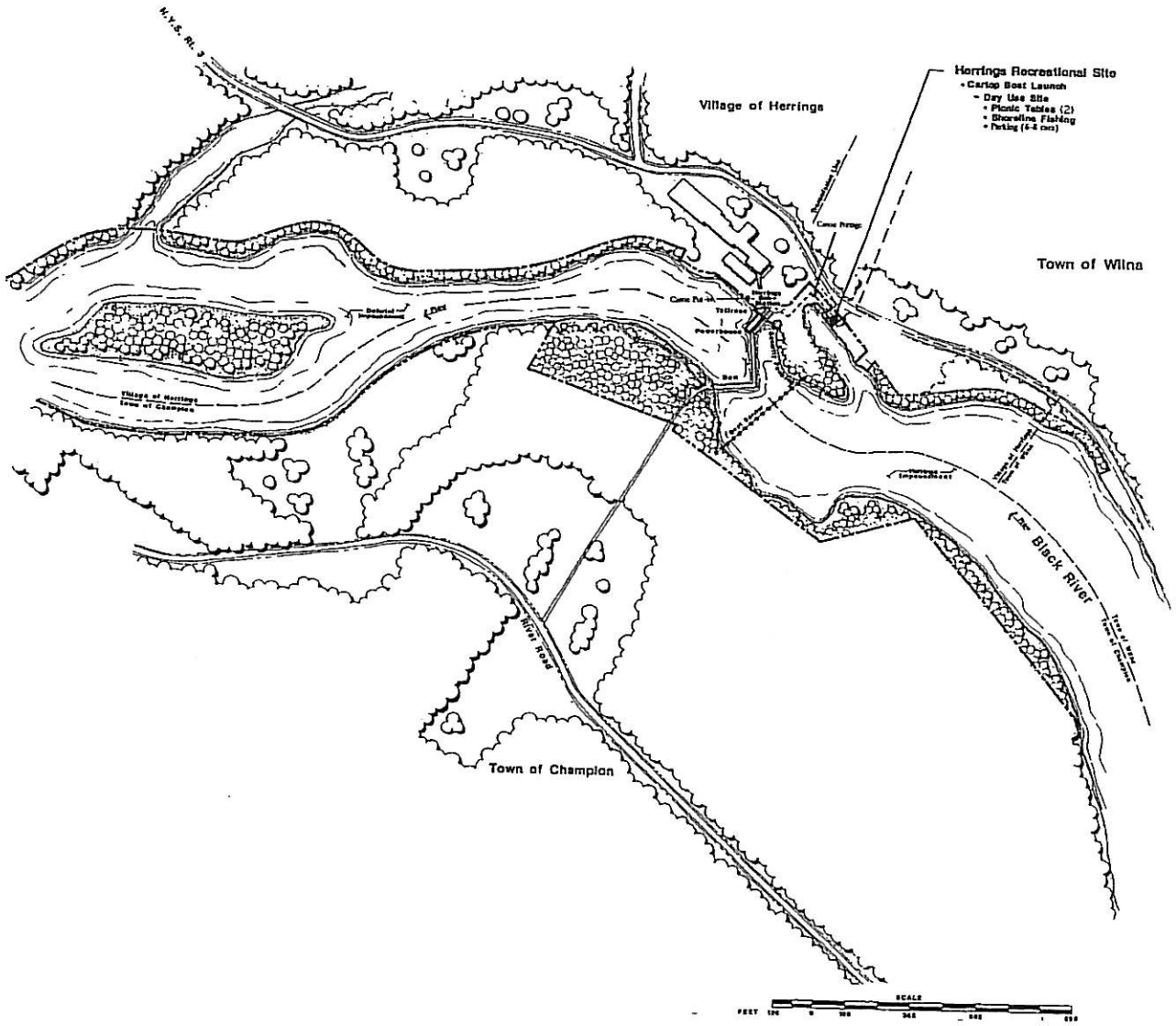
The attached erosion and sedimentation control standard details drawing, which includes revegetation of disturbed areas affected by site enhancements, is the Licensee's means of implementing and controlling erosion and revegetation.

(7) SCHEDULE FOR CONSTRUCTING THE FACILITIES WITHIN ONE YEAR OF PLAN APPROVAL

The Licensee intends to construct the recreational facilities during the 1999 construction season. Construction activities will commence in early May 1999 anticipating early completion for use during the 1999 recreation season.

The Beebee Island take-out is being deferred until access to the impoundment is obtained.

The recreational facilities at Beebee Island, contingent upon construction of the Heritage Trail, will not be constructed until construction of the Heritage Trail is ensured.



N

Legend

Project Boundary

ERIE BOULEVARD HYDROPOWER, LP
LIVERPOOL, N.Y.

BLACK RIVER HYDRO PROJECT

FERC PROJECT NO. 2569

HERRINGS DEVELOPMENT

APPROVED RECREATION PLAN

EXHIBIT R-1

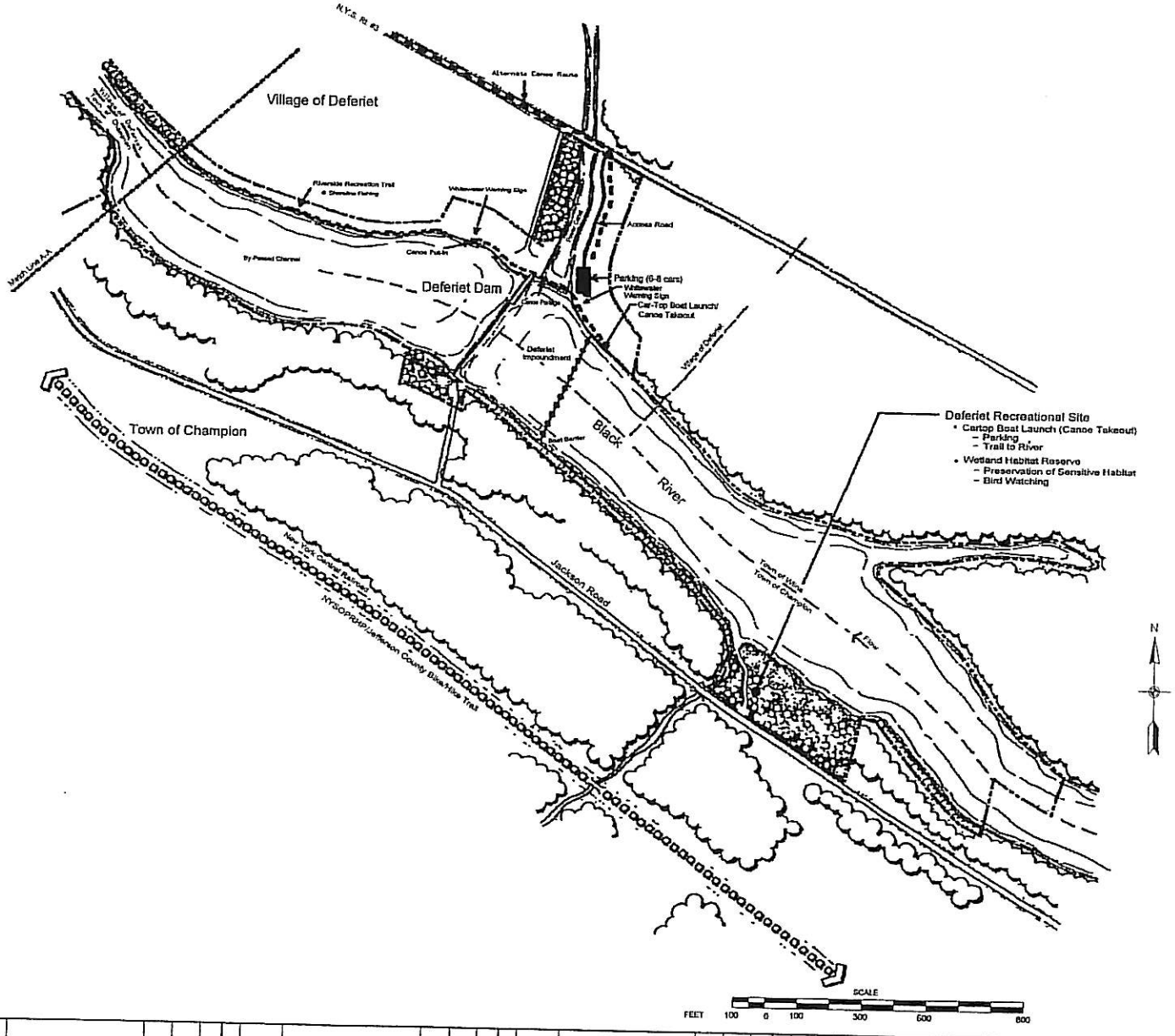
SHEET 1 OF 6

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
2	1/2/03	FERC APPROVED AS BUILT (SHEETS REHPSEIED)	PA	SPH	SPH
1	4/01/02	Approved Recreation Plan	BAB	SPH	THS

ORIGINAL ISSUE DATE

FILE NAME 60707010.CIT
60707010.DGN

FERC NO. 2569-1019



NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
2	1/2/03	FERC APPROVED AS BUILT (SHEETS RENUMBERED)	PA	SPM	SPM
1	4/01/02	Approved Recreation Plan	BAD	SPM	THS

ORIGINAL ISSUE DATE

FILE NAME 60708010.CIT
60708010.DGN

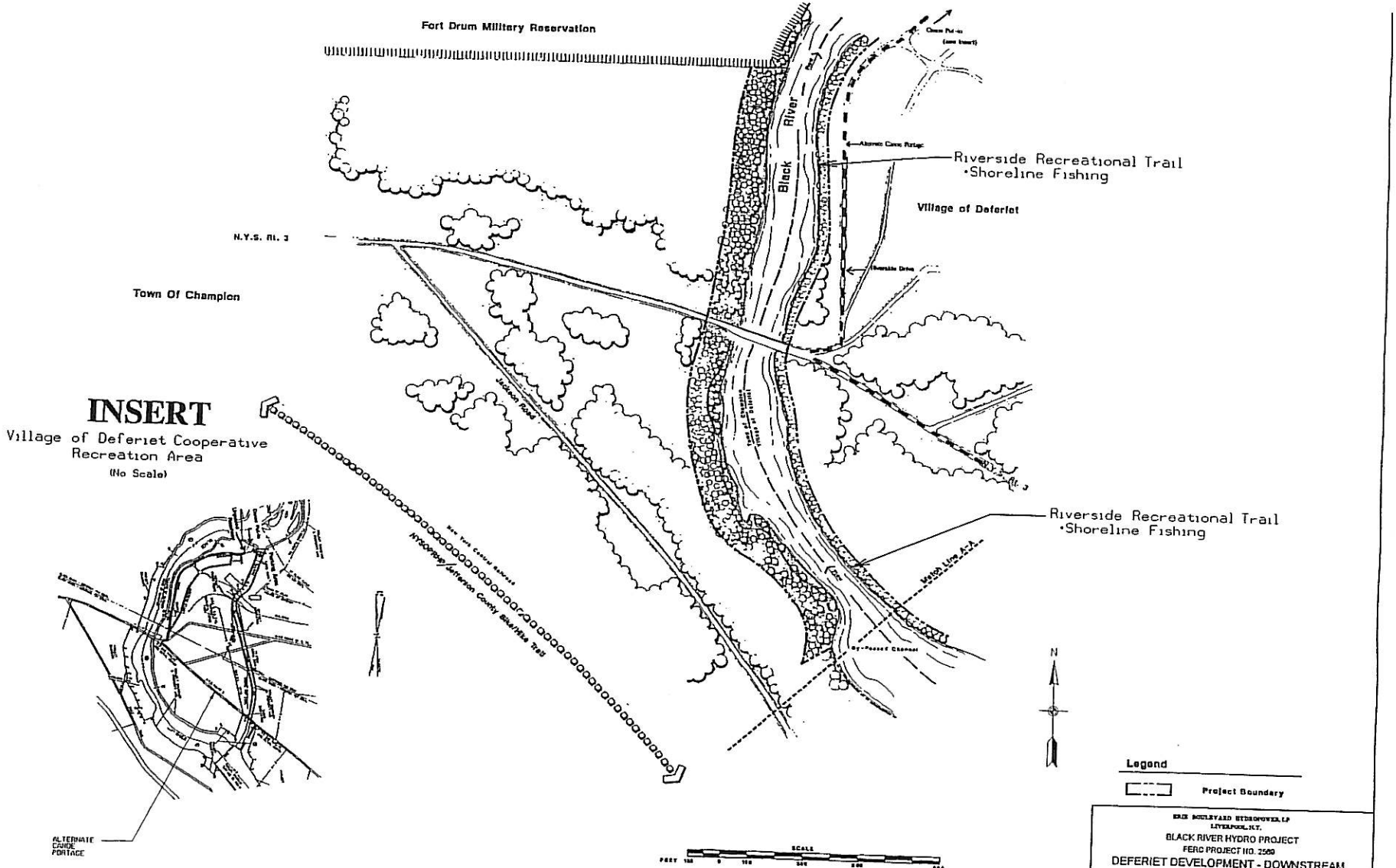
FERC NO. 2569-1020

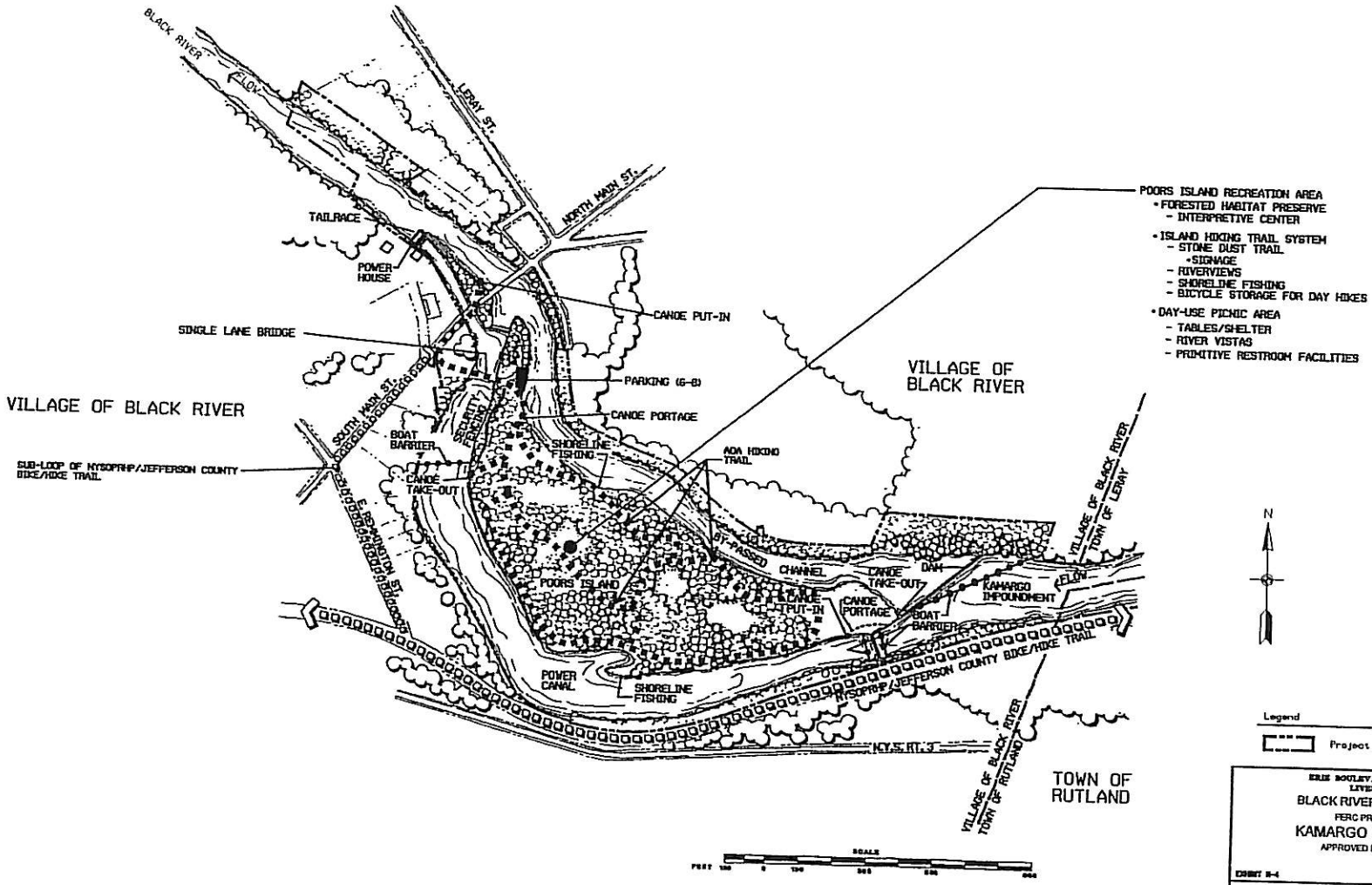
ERIE BOULEVARD HYDROPOWER, LP
LIVERPOOL, N.Y.

BLACK RIVER HYDRO PROJECT
FERC PROJECT NO. 2569

DEFERIET DEVELOPMENT - DAM
APPROVED RECREATION PLAN

EXHIBIT R-2 SHEET 2 OF 4


Fort Drum Military Reservation
Black River
Riverside Recreational Trail
•Shoreline Fishing
Village of Deferiet
N.Y.S. Rt. 3
Town Of Champion
Jackson Road
Riverside Recreational Trail
•Shoreline Fishing
INSERT
Village of Deferiet Cooperative Recreation Area
(No Scale)
ALTERNATE CANOE PORTAGE
N
Legend
Project Boundary
SCALE
ERIE BOULEVARD HYDROPOWER, LP
LIVERPOOL, N.Y.
BLACK RIVER HYDRO PROJECT
FERC PROJECT NO. 2569
DEFERIET DEVELOPMENT - DOWNSTREAM
APPROVED RECREATION PLAN
EXHIBIT A-1
SHEET 3 OF 6
2 1/2/03 FERC APPROVED AS BUILT (SHEETS REVISED) PA SPH SPM
1 4/01/02 Approved Recreation Plan DAB SPH TMS
ORIGINAL ISSUE DATE
FILE NAME 60T09010.CIT
60T09010.DGN
FERC NO. 2569-1021



NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
4	5/13/05	UPDATE APPROVED AS-BUILT EXHIBIT R DRAWING	BAB	SPH	SPH
3	5/13/04	ADDED NEW TRAIL	BAB	JDE	SPH
2	1/2/03	FERC APPROVED AS BUILT (SHEETS RENUMBERED)	PA	SPH	SPH
1	4/01/02	Approved Recreation Plan	BAB	SPH	THS

ORIGINAL PUBLIC ISSUE DATE

FILE NAME: 60710010.CIT, 60710010.DGN

FERC NO. 2569-1025

ERIE BOULEVARD HYDROPOWER, LP
LIVERPOOL, N.Y.

BLACK RIVER HYDRO PROJECT

FERC PROJECT NO. 2569

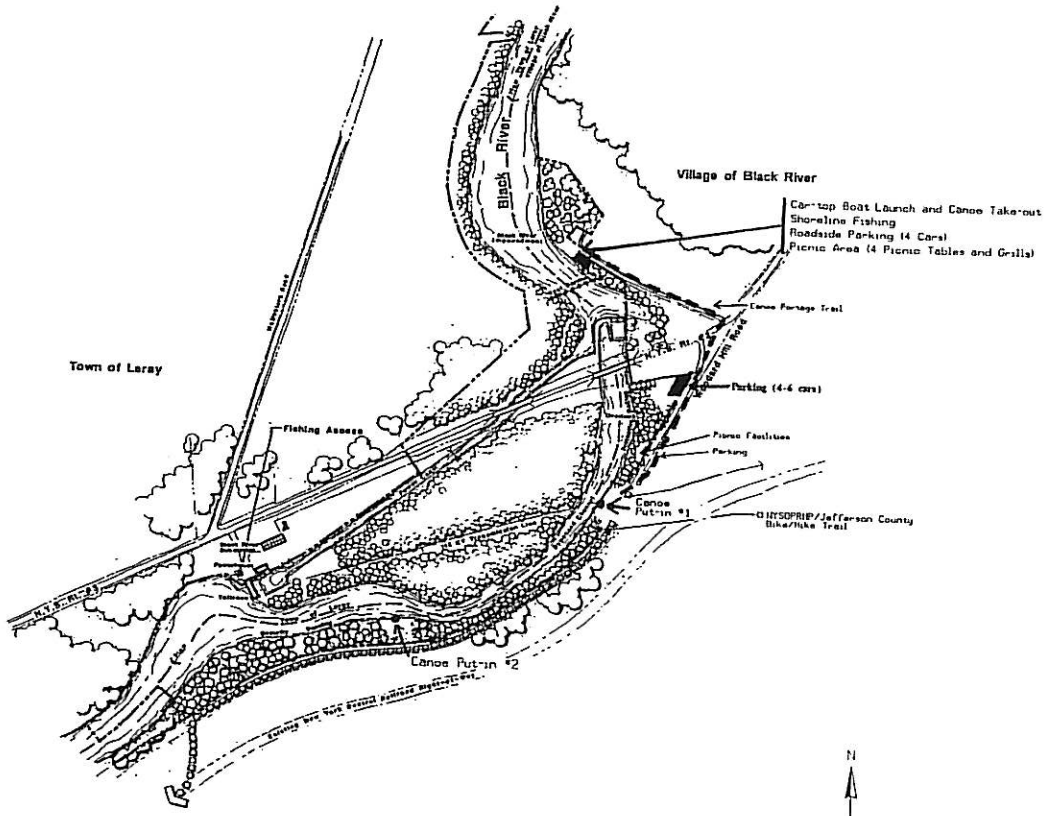
KAMARGO DEVELOPMENT

APPROVED RECREATION PLAN

EXHIBIT R-1

SHEET 4 OF 4

05:60482160710010.dgn 6/15/2005 4:30:49 PM



SCALE

FEET 120 0 100 300 500 800

Legend

Project Boundary

ERIE BOULEVARD HYDROPOWER,LP
LIVERPOOL, N.Y.

BLACK RIVER HYDRO PROJECT
FERC PROJECT NO. 2569

BLACK RIVER DEVELOPMENT
APPROVED RECREATION PLAN

EXHIBIT R-5

SHEET 5 OF 6

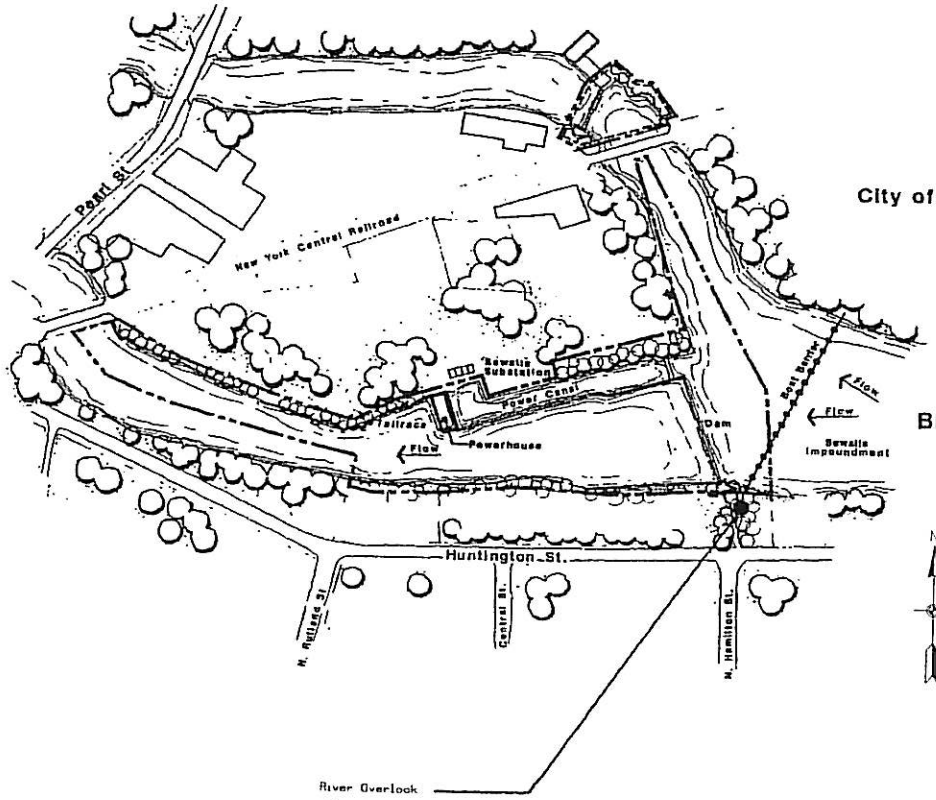
NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
2	1/2/03	FERC APPROVED AS BUILT (SHEETS REMARKED)	PA	SPH	SPH
1	4/21/82	Approved Recreation Plan	BAB	SPH	MG

ORIGINAL ISSUE DATE

FILE NAME 607070I0.CIT
607080I0.DGN

FERC NO. 2569-1023

City of Watertown



City of Watertown

Black River

River Overlook

- Shoreline Fishing
- Pedestrian Path From Huntington St. to River Overlook
- Hydro Generation Interpretive Signage
- Canoe Take-out
- Sign Directing Boaters to Downstream Put-ins

Legend

Project Boundary

SCALE

FEET 100 0 100 200 400 600

BLUE BOULEVARD HYDROPOWER, LP
LIVERPOOL, N.Y.

BLACK RIVER HYDRO PROJECT

FERC PROJECT NO. 2569

SEWALLS ISLAND DEVELOPMENT

APPROVED RECREATION PLAN

EXHIBIT R-4

SHEET 4 OF 6

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
2	1/2/03	FERC APPROVED AS BUILT (SHEETS RENUMBERED)	PA	SPH	SPH
1	4/01/02	Approved Recreation Plan	BAB	SPH	TMS

ORIGINAL ISSUE DATE

FILE NAME: 6071210.CIT, 6071210.DGN

FERC NO. 2569-1024