

**ERIE BOULEVARD HYDROPOWER, L.P.
SALMON RIVER PROJECT (FERC No. 11408)**

**APPLICATION BEFORE
THE LOW IMPACT HYDROPOWER INSTITUTE
FOR CERTIFICATION OF THE
SALMON RIVER PROJECT
AS A LOW IMPACT FACILITY**

NOVEMBER 2005

**SALMON RIVER PROJECT LIHI APPLICATION FOR CERTIFICATION
SUMMARY**

The Salmon River Project (FERC No. 11408) consists of the Bennetts Bridge and Lighthouse Hill Hydroelectric Developments located in the Towns of Redfield and Orwell, Oswego County, New York. A Settlement Offer (dated December 9, 1993) resulted in FERC's Order Issuing Original License (issued February 21, 1996).

The implementation of protection, mitigation and enhancement measures associated with the Salmon River Project have all been completed.

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LOW IMPACT HYDROPOWER QUESTIONNAIRE

[Excerpted from Part VI, Section E of the Low Impact Hydropower Certification Program. Words in italics are defined in Part VI, Section C, and line-by-line instructions are available in Section D of the program, available on-line in PDF format at <http://www.lowimpacthydro.org>.

E. LOW IMPACT HYDROPOWER QUESTIONNAIRE

Background Information	
1) Name of the <i>Facility</i> .	Salmon River Project, FERC No. 11408, comprised of the Bennetts Bridge and Lighthouse Hill Developments.
2) Applicant's name, contact information and relationship to the Facility. If the Applicant is not the Facility owner/operator, also provide the name and contact information for the Facility owner and operator.	Mr. Steven P. Murphy Erie Boulevard Hydropower, L.P. c/o Brascan Power – New York 225 Greenfield Parkway, Suite 201 Liverpool, New York 13088
3) Location of Facility by river and state.	Salmon River, New York
4) Installed capacity.	Total installed capacity is 36.25 MW (FERC License). By development the installed capacity is as follows: Bennetts Bridge = 28.75 MW Lighthouse Hill = 7.5 MW
5) Average annual generation.	144,690 megawatt hours
6) Regulatory status.	Licensed via a collaborative settlement. The Settlement was signed in 1994 and the initial License was issued in 1996.

7) Reservoir volume and surface area measured at the high water mark in an average water year.	Bennetts Bridge: 66,000 acre feet and 3550 surface acres Lighthouse Hill: 3,200 acre feet and 170 surface acres
8) Area occupied by non-reservoir facilities (e.g., dam, penstocks, powerhouse).	Not Required
9) Number of acres inundated by the Facility.	Not Required
10) Number of acres contained in a 200-foot zone extending around entire impoundment.	Not Required
11) Please attach a list of contacts in the relevant Resource Agencies and in non-governmental organizations that have been involved in Recommending conditions for your Facility.	Attached list of key resource agencies and NGOs involved in Settlement.
12) Please attach a description of the Facility, its mode of operation (i.e., peaking/run of river) and a map of the Facility.	Project Descriptions are attached in the form of a Revised Exhibit A. The Bennetts Bridge Development is a seasonal store and release facility that operates in a peaking mode. The Lighthouse Hill Development operates as a store and release facility that operates in a re-regulating mode. Operations follow the flow requirements and reservoir target elevations as defined in Article 401 of the License. Article 401 of the Salmon River License is attached and addressed in more detail in Section A.1 of this application.
Questions for For "New" Facilities Only:	
If the Facility you are applying for is "new" i.e., an existing dam that added or increased power generation capacity after August of 1998 please answer the following questions to determine eligibility for the program	N/A
13) When was the dam associated with the Facility completed?	N/A
14) When did the added or increased generation first generate electricity? If the added or increased generation is not yet operational, please answer question 18 as well.	N/A
15) Did the added or increased power generation capacity require	
Current Exhibit F & G Project Drawings and project photos are attached.	

	or include any new dam or other diversion structure?	N/A	
	16) Did the added or increased capacity include or require a change in water flow through the facility that worsened conditions for fish, wildlife, or water quality, (for example, did operations change from run-of-river to peaking)?	N/A	
	17 (a) Was the existing dam recommended for removal or decommissioning by resource agencies, or recommended for removal or decommissioning by a broad representation of interested persons and organizations in the local and/or regional community prior to the added or increased capacity?	N/A	
	(b) If you answered "yes" to question 17(a), the Facility is not eligible for certification, unless you can show that the added or increased capacity resulted in specific measures to improve fish, wildlife, or water quality protection at the existing dam. If such measures were a result, please explain.	N/A	
	18 (a) If the increased or added generation is not yet operational, has the increased or added generation received regulatory authorization (e.g., approval by the Federal Energy Regulatory Commission)? If not, the facility is not eligible for consideration; and	N/A	
	(b) Are there any pending appeals or litigation regarding that authorization? If so, the facility is not eligible for consideration.	N/A	
A. Flows		PASS	FAIL
1) Is the Facility in Compliance with Resource Agency Recommendations issued after December 31, 1986 regarding flow conditions for fish and wildlife protection, mitigation and enhancement (including in-stream flows, ramping and peaking rate conditions, and seasonal and	Yes, the Salmon River Project is in compliance with resource agency recommendations issued after December 31, 1986	YES = Pass, Go to B N/A = Go to A2	NO = Fail

<p>episodic instream flow variations) for both the reach below the tailrace and all bypassed reaches?</p>	<p>regarding flow conditions.</p> <p>The FERC License, Settlement Agreement and 401 WQC include the requirements for flow releases and water level control recommended by the New York State Department of Environmental Conservation (NYSDEC), U.S. Fish and Wildlife Service (USFWS) and other signatories to the Settlement Agreement.</p> <p>Article 401 of the Salmon River License is attached and lists all flow and water level related recommendations.</p>	
<p>2) If there is no flow condition recommended by any Resource Agency for the Facility, or if the recommendation was issued prior to January 1, 1987, is the Facility in Compliance with a flow release schedule, both below the tailrace and in all bypassed reaches, that at a minimum meets Aquatic Base Flow standards or "good" habitat flow standards calculated using the Montana-Tennant method?</p>	<p>YES = Pass, go to B NO = Go to A3 N/A</p>	<p>NO = Fail</p>
<p>3) If the Facility is unable to meet the flow standards in A.2., has the Applicant demonstrated, and obtained a letter from the relevant Resource Agency confirming that demonstration, that the flow conditions at the Facility are appropriately protective of fish, wildlife, and water quality?</p>	<p>YES = Pass, go to B N/A</p>	<p>NO = Fail</p>
<p>B. Water Quality</p>		
<p>1) Is the Facility either:</p> <p>a) In Compliance with all conditions issued pursuant to a Clean Water Act Section 401 water quality certification issued for the Facility after December 31, 1986? Or</p> <p>b) In Compliance with the quantitative water quality standards established by the state that support designated</p>	<p>PASS YES = Go to B2</p> <p>Yes, the Salmon River Project is in compliance with all conditions issued pursuant to a Clean Water Act – Section 401 Water Quality Certificate issued for the project on April 28, 1994 (attached). The Section 401 WQC is conditioned on compliance with the terms of the Settlement Agreement.</p>	<p>FAIL NO = Fail</p>

uses pursuant to the federal Clean Water Act in the Facility area and in the downstream reach?		
2) Is the Facility area or the downstream reach currently identified by the state as not meeting water quality standards (including narrative and numeric criteria and designated uses) pursuant to Section 303(d) of the Clean Water Act?	YES = Go to B3 NO = Pass Yes, the Salmon River is listed in the January 28, 2004 Section 303(d) List as Part 2(b) waters, or <i>Waters Impaired by Fish Consumption Advisories</i> . The NYSDEC classifies waters of the Salmon River based on designated best use. Water classification for the Salmon River is C(T) (coldwater fisheries that supports trout) (best use is fishing and all other uses except as a source of water supply for drinking, culinary or food processing purposes, and primary contact recreation).	NO = Fail
3) If the answer to question B.2 is yes, has there been a determination that the Facility is not a cause of that violation?	YES = Pass Yes, the NYSDEC Section 303(d) List (attached) indicates contaminated sediments as the source of Mirex and PCBs.	
C. Fish Passage and Protection		
1) Is the Facility in Compliance with <i>Mandatory Fish Passage Prescriptions</i> for upstream and downstream passage of anadromous and catadromous fish issued by Resource Agencies after December 31, 1986?	PASS YES = Go to C5 N/A = Go to C2 NA – By letter dated January 25, 1993, the Department of Interior stated that no upstream passage facilities are required at this time, but DOI will request the FERC reserve authority to require the same. Section E., page 13 of FERC’s February 16, 1996 Final Environmental Assessment describes in greater detail. Article 406 of the FERC License includes the Commission’s Reservation pursuant to Section 18 of the Federal Power Act.	FAIL NO = Fail
2) Are there historic records of anadromous and/or catadromous fish movement through the Facility area, but anadromous and/or catadromous fish do not presently move through the Facility area (e.g., because passage is blocked at a downstream dam or the fish run is extinct)?	YES = Go to C2a NO = Go to C3 No, the natural 110-foot Salmon River Falls precludes upstream migration.	

<p>a) If the fish are extinct or extirpated from the Facility area or downstream reach, has the Applicant demonstrated that the extinction or extirpation was not due in whole or part to the Facility?</p> <p>b) If a Resource Agency Recommended adoption of upstream and/or downstream fish passage measures at a specific future date, or when a triggering event occurs (such as completion of passage through a downstream obstruction or the completion of a specified process), has the Facility owner/operator made a legally enforceable commitment to provide such passage?</p>	<p>YES = Go to C2b N/A = Go to C2b N/A</p> <p>YES = Go to C5 N/A = Go to C3 N/A</p>	<p>NO = Fail NO = Fail</p>
<p>3) If, since December 31, 1986:</p> <p>a) Resource Agencies have had the opportunity to issue, and considered issuing, a Mandatory Fish Passage Prescription for upstream and/or downstream passage of anadromous or catadromous fish (including delayed installation as described in C2a above), and</p> <p>b) The Resource Agencies declined to issue a Mandatory Fish Passage Prescription,</p> <p>c) Was a reason for the Resource Agencies' declining to issue a Mandatory Fish Passage Prescription one of the following: (1) the technological infeasibility of passage, (2) the absence of habitat upstream of the Facility due at least in part to inundation by the Facility impoundment, or (3) the anadromous or catadromous fish are no longer present in the Facility area and/or downstream reach due in whole or part to the presence of the Facility?</p>	<p>NO = Go to C5 N/A = Go to C4</p> <p>No, the agencies had the opportunity to issue Mandatory Fish Passage Prescriptions, but did not do so. A 110-foot waterfall in the project has created a natural barrier for upstream passage. Because management objectives for the Salmon River are subject to change over the life of the project, the Department of Interior has reserved Section 18 authority.</p>	<p>YES = Fail</p>

4) If C3 was not applicable:	YES = Go to C5	NO = Fail
<p>a) Are upstream and downstream fish passage survival rates for anadromous and catadromous fish at the dam each documented at greater than 95% over 80% of the run using a generally accepted monitoring methodology? Or</p> <p>b) If the Facility is unable to meet the fish passage standards in 4.a., has the Applicant demonstrated, and obtained a letter from the US Fish and Wildlife Service or National Marine Fisheries Service confirming that demonstration, that the upstream and downstream fish passage measures (if any) at the Facility are appropriately protective of the fishery resource?</p>	N/A	
5) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream and/or downstream passage of <i>Riverine</i> fish?	<p>YES = Go to C6 N/A = Go to C6</p> <p>N/A, there are no mandatory prescriptions (section 18 or similar) for passage of riverine fish.</p>	NO = Fail
6) Is the Facility in Compliance with Resource Agency Recommendations for Riverine, anadromous and catadromous fish entrainment protection, such as tailrace barriers?	<p>YES = Pass, go to D N/A = Pass, go to D</p> <p>Yes, the settlement agreement and the License requires the installation of 1-inch trashracks at both developments. The Lighthouse Hill trashracks were replaced in 1999 and the Bennetts Bridge trashracks are scheduled for replacement when the existing trashracks wear out.</p>	NO = Fail
D. Watershed Protection		
1) Is there a buffer zone dedicated for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low-impact recreation) extending 200 feet from the high water mark in an average water year around 50 - 100% of the	<p>PASS</p> <p>YES = Pass, go to E and receive 3 extra years of certification</p> <p>Yes, the licensee estimates more than 50% of the project impoundments have dedicated buffer zones dedicated for</p>	<p>FAIL</p> <p>NO = go to D2</p>

impoundment, and for all of the undeveloped shoreline	conservation purposes. Although many areas of the project boundary do not extend 200 feet from the high water mark, the Licensee recognizes much of the upland property is owned by the State of New York and managed as State Forest. Outside the requirements of the license, the Licensee has been working with the NYSDEC to develop land use practices consistent with adjoining State properties dedicated for conservation purposes. In consultation with the NYSDEC, the Licensee has developed a Land Use Management Plan for project lands that manages shorelines previously developed and protects undeveloped properties.	
2) Has the facility owner/operator established an approved watershed enhancement fund that: 1) could achieve within the project's watershed the ecological and recreational equivalent of land protection in D.1., and 2) has the agreement of appropriate stakeholders and state and federal resource agencies?	YES = Pass, go to E and receive 3 extra years of certification Yes, the licensee and the signatories to the Settlement Agreement established the Salmon River Enhancement Fund financed through annual contributions by the Licensee. The Fund is managed in support of NYSDEC's proposed Land Management Plan for the Salmon River Corridor.	NO = go to D3
3) Has the facility owner/operator established through a settlement agreement with appropriate stakeholders and that has state and federal resource agencies agreement an appropriate shoreland buffer or equivalent watershed land protection plan for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low impact recreation)	YES = Pass, go to E	NO = go to D4
4) Is the facility in compliance with both state and federal resource agencies recommendations in a license approved shoreland management plan regarding protection, mitigation or enhancement of shorelands surrounding the project.	YES = Pass, go to E	No = Fail
E. Threatened and Endangered Species Protection		
1) Are threatened or endangered species listed under state or federal Endangered Species Acts present in the Facility	PASS YES = Go to E2 NO = Pass, go to F	FAIL

<p>area and/or downstream reach?</p>	<p>YES, the NYSDEC and USFWS (consultation attached) have identified Bald Eagles as an occasional transient species nesting within 1 mile outside of the project boundary. The USFWS has also identified the Indiana Bat as an endangered species that may inhabit areas within the project boundary. The USFWS did not provide any written correspondence in response to the Licensee's request. The Licensee did have extensive phone consultation with the USFWS regarding land use practices within the project boundary related to the Bald Eagle and the Indiana Bat. Repeated requests for written confirmation from USFWS have been unsuccessful. USFWS contact regarding this matter is Ms. Lori Sacari @ (607) 753-9334.</p>	
<p>2) If a recovery plan has been adopted for the threatened or endangered species pursuant to Section 4(f) of the Endangered Species Act or similar state provision, is the Facility in Compliance with all recommendations in the plan relevant to the Facility?</p>	<p>YES = Go to E3 N/A = Go to E3 N/A</p>	<p>NO = Fail</p>
<p>3) If the Facility has received authority to incidentally Take a listed species through: (i) Having a relevant agency complete consultation pursuant to ESA Section 7 resulting in a biological opinion, a habitat recovery plan, and/or (if needed) an incidental Take statement; (ii) Obtaining an incidental Take permit pursuant to ESA Section 10; or (iii) For species listed by a state and not by the federal government, obtaining authority pursuant to similar state procedures; is the Facility in Compliance with conditions pursuant to that authority?</p>	<p>YES = Go to E4 N/A = Go to E5 N/A</p>	<p>NO = Fail</p>
<p>4) If a biological opinion applicable to the Facility for the threatened or endangered species has been issued, can the Applicant demonstrate that: a) The biological opinion was accompanied by a FERC license or exemption or a habitat conservation plan? Or</p>	<p>YES = Pass, go to F</p>	<p>NO = Fail</p>

<p>b) The biological opinion was issued pursuant to or consistent with a recovery plan for the endangered or threatened species? Or</p> <p>c) There is no recovery plan for the threatened or endangered species under active development by the relevant Resource Agency? Or</p> <p>d) The recovery plan under active development will have no material effect on the Facility's operations?</p>		
<p>5) If E.2. and E.3. are not applicable, has the Applicant demonstrated that the Facility and Facility operations do not negatively affect listed species?</p>	<p>YES = Pass, go to F</p> <p>YES, although the USFWS did not provide any written correspondence in response to the Licensee's request, the Licensee did have extensive phone consultation with the USFWS regarding land use practices and project operation within the project boundary related to the Bald Eagle and the Indiana Bat. Repeated requests for written confirmation from USFWS have been unsuccessful. . USFWS contact regarding this matter is Ms. Lori Sacari @ (607) 753-9334.</p>	<p>NO = Fail</p>
<p>F. Cultural Resource Protection</p>		
<p>1) If FERC-regulated, is the Facility in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license or exemption?</p>	<p>PASS</p> <p>YES = Pass, go to G N/A = Go to F2</p> <p>Yes, the facilities in the Salmon River Project are in compliance with all requirements regarding cultural resource protection, mitigation or enhancement included in the FERC License. The historical resources for this project are limited to the Bennetts Bridge powerhouse, dam and surge tank structures. A Programmatic Agreement and Cultural Resource Management Plan for addressing the historic character of this project is in place.</p>	<p>FAIL</p> <p>NO = Fail</p>
<p>2) If not FERC-regulated, does the Facility owner/operator have in place (and is in Compliance with) a plan for the protection, mitigation or enhancement of impacts to</p>	<p>YES = Pass, go to G</p>	<p>NO = Fail</p>

Cultural Resources approved by the relevant state or federal agency or <i>Native American Tribe</i> , or a letter from a senior officer of the relevant agency or Tribe that no plan is needed because Cultural Resources are not negatively affected by the Facility?	N/A	
G. Recreation		
1) If FERC-regulated, is the Facility in Compliance with the recreational access, accommodation (including recreational flow releases) and facilities conditions in its FERC license or exemption?	<p>PASS</p> <p>YES = Go to G3 N/A = Go to G2</p> <p>Yes, an Order Modifying and Approving Recreation Plan pursuant to Article 412, was issued May 1, 1997. The Commission recently issued an Order Amending Recreation Plan on February 10, 2004. The enhancements in these Orders have been implemented by the Licensee. In addition to these recreational facilities, the Licensee has also implemented whitewater flow releases (at least 5 weekends per year) below the Lighthouse Hill Development pursuant to Article 401.</p>	FAIL NO = Fail
2) If not FERC-regulated, does the Facility provide recreational access, accommodation (including recreational flow releases) and facilities, as Recommended by Resource Agencies or other agencies responsible for recreation?	<p>YES = Go to G3 N/A</p>	NO = Fail
3) Does the Facility allow access to the reservoir and downstream reaches without fees or charges?	<p>YES = Pass, go to H</p> <p>Yes, both facilities have access to both the reservoir and downstream reaches free of charge.</p>	NO = Fail
H. Facilities Recommended for Removal		
1) Is there a Resource Agency Recommendation for removal of the dam associated with the Facility?	<p>PASS</p> <p>NO = Pass, Facility is Low Impact</p> <p>No, no resource agency recommended removal of any of the dams associated with the Salmon River Project.</p>	FAIL YES = Fail