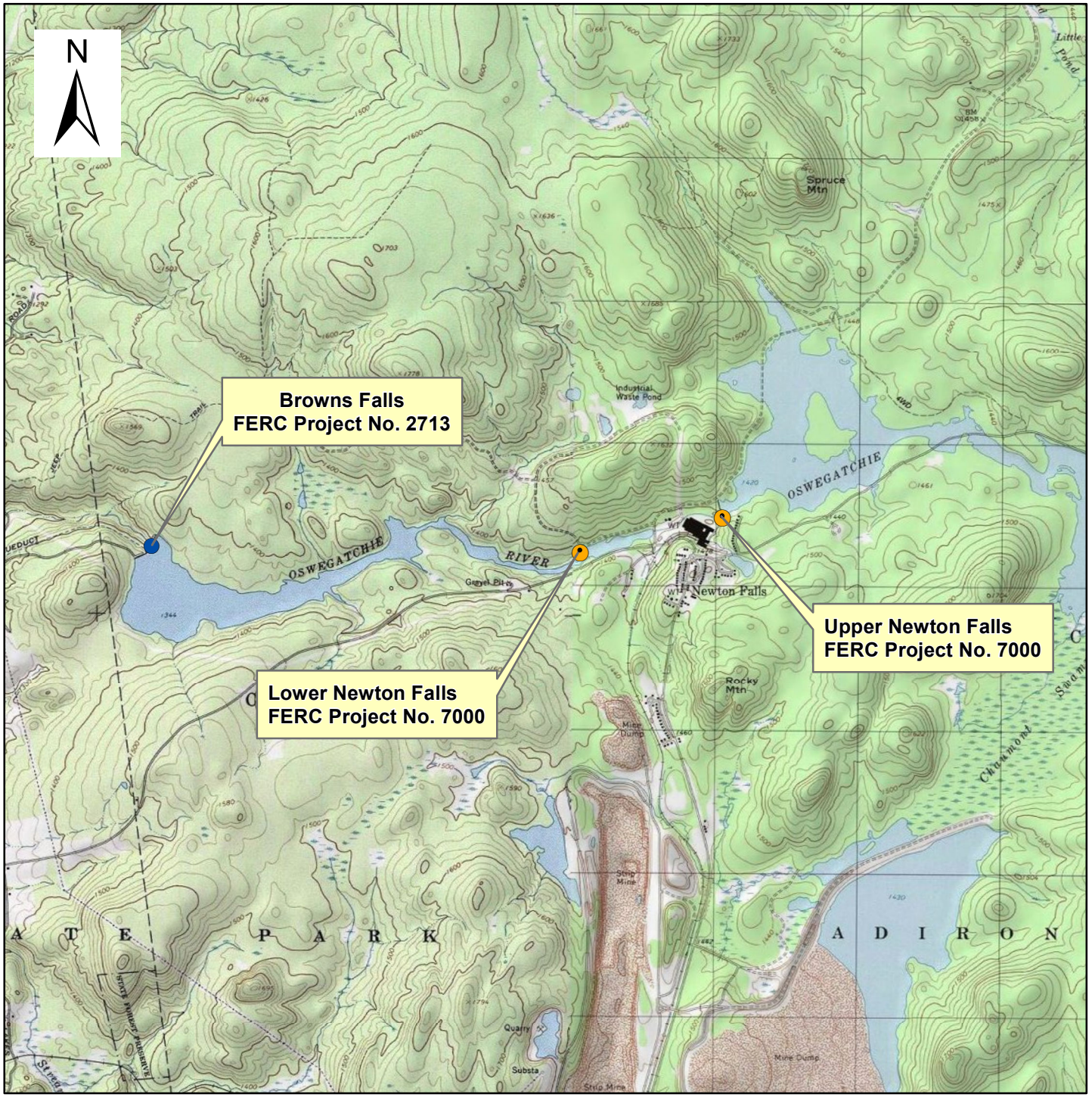
ATTACHMENT A

QUESTION 3:

PROJECT MAP

AERIAL PHOTOS



St. Lawrence County, New York

PROJECT LOCATION MAP

Newton Falls Hydroelectric Project FERC No. 7000

Legend

- Newton Falls Project (P-7000)
- Other Oswegatchie River Dams

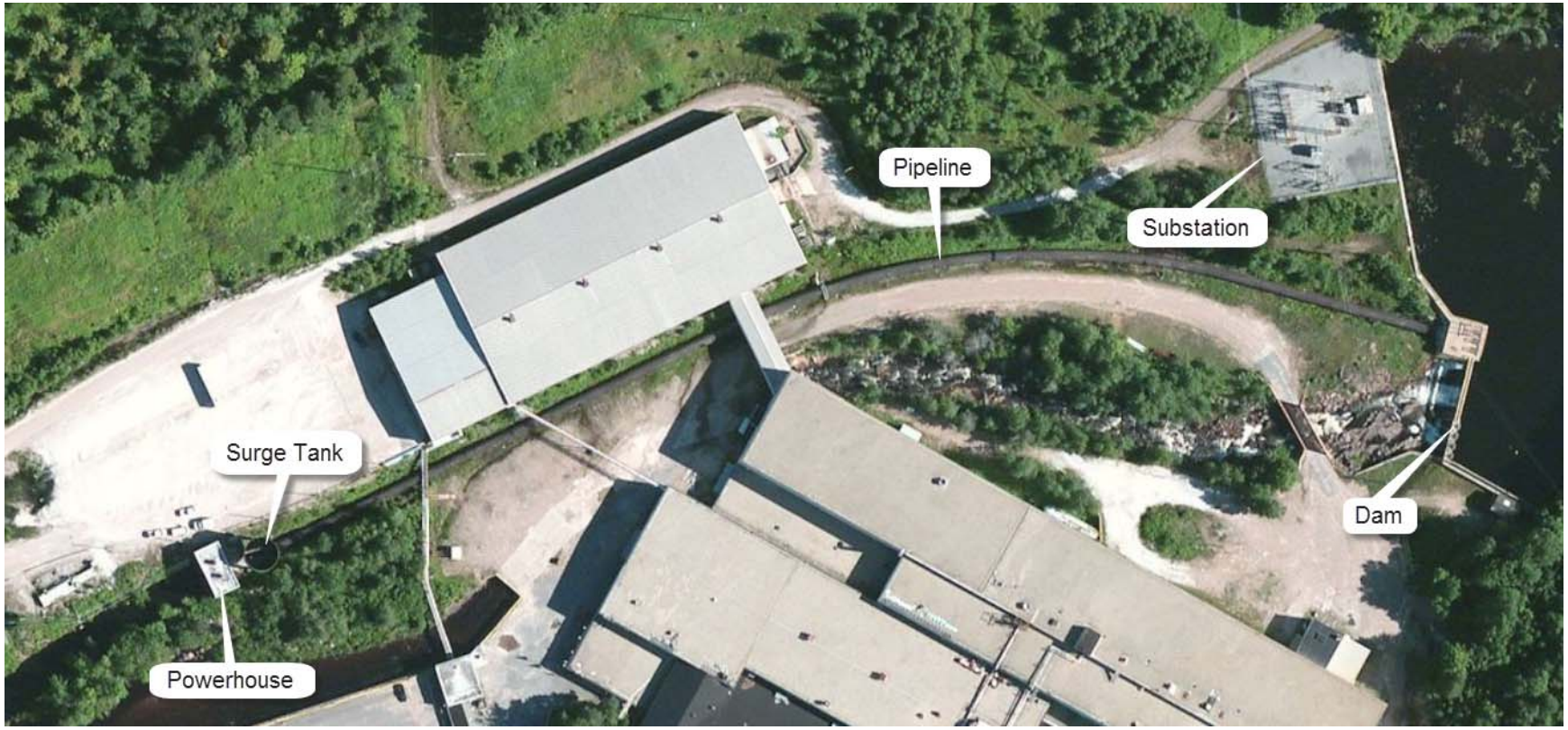
0 2,000 4,000 6,000 Feet

Brookfield

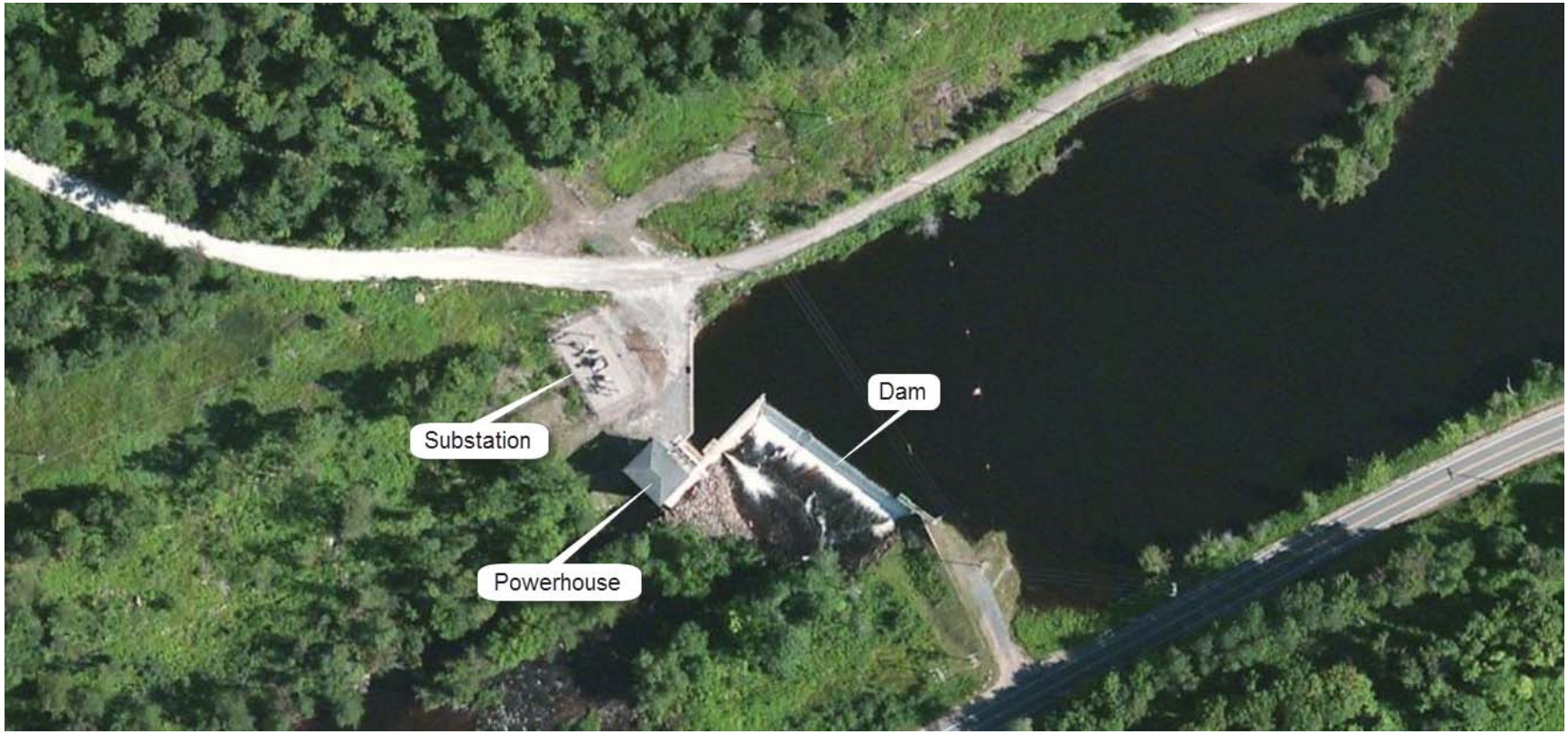
Path: G:\Projects\Brookfield\133301_NYWestCompliance\map_docs\LIHI_Location Map.mxd

Data Source: USGS Quadragle 1:24,00; Newton Falls and Oswegatchie

UPPER NEWTON FALLS DEVELOPMENT



LOWER NEWTON FALLS DEVELOPMENT



ATTACHMENT B

QUESTION 6:

JULY 15, 2002 NEWTON FALLS PROJECT SETTLEMENT OFFER

AUGUST 13, 2003 ORDER ISSUING NEW LICENSE (P-7000)

DECEMBER 20, 2002 WATER QUALITY CERTIFICATION

NEWTON FALLS HOLDINGS, LLC
1930 WEST WESLEY ROAD, NW
ATLANTA, GA 30327

PHONE: 770 638 0016
FAX: 770 638 1172
E-MAIL: harolds216@aol.com

July 15, 2002

Magalie Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

ORIGINAL

Re: Newton Falls Hydroelectric Relicensing, FERC No. 7000-15 Offer of Settlement

Dear Ms. Salas:

As part of the consultation process for the licensing of the Newton Falls Hydroelectric Project, FERC No. 7000-15, meetings were held with the U.S. Fish and Wildlife Service, New York State Department of Environmental Conservation, Adirondack Park Agency, and other stakeholders. These meetings focused on discussions regarding a settlement agreement that would satisfy both the stakeholders and the Licensee. We are please to state that these discussions have resulted in a settlement agreement signed by all groups that participated. The agreement incorporates both compromise and consensus on all issues that were brought to the attention of the licensee. The stakeholder group believes this Offer of Settlement has resolved the issues that would be the subject of all, potential study requests and/or additional information requests.

Therefore, pursuant to 18 CFR §385.602, Newton Falls Holdings, L.L.C. (NFH) is submitting to the FERC one (1) original and (8) copies of the Newton Falls Hydroelectric Project Offer of Settlement.

The signatories of this Settlement Offer have given careful consideration of the need to balance non-power and power aspects of the project which resulted in numerous measures for the protection, mitigation and enhancement of the resources affected by this project. As some of these measures may not be consistent with the Original License Application proposals, be it known that any inconsistencies between any of the pending license applications and the Settlement Offer, should allow the Settlement Offer to prevail.

A separate Explanatory Statement is required to accompany all Settlement Offer submittals according to 18 CFR §385.602(c)(ii). This transmittal letter should be considered the Explanatory Statement for the filing of the Newton Falls Hydroelectric Project Offer of Settlement as the contents hereof elucidates the facts and places into perspective the effect of the execution of the Settlement Offer.

EXPLANATORY STATEMENT

INTRODUCTION

On January 29, 2002 Newton Falls Holdings, LLC filed its application for new license for the Newton Falls Project. At that time negotiations with the various stakeholders were ongoing, but because the statutory deadline for filing the new license application for this project was January 31, 2002, the Applicant filed its application with settlement pending. As such, the application did not include definitive protection, mitigation and enhancement in the pertinent license application exhibits.

20070170124-3

DOCKETED

This Settlement Offer fills that void in the license application and sets forth the terms and conditions on which the signatories have agreed should be included in the new license for the Newton Falls Project. Upon approval by the Commission and through agreement by all of the signatories this Settlement Offer will attain a new license term of 40 years according to the terms and conditions that the signatories have agreed upon. These terms and conditions include protection, mitigation and enhancement measures affecting existing fishery and recreational resources in the vicinity of the project.

Accordingly, the various measures set forth in this Offer of Settlement serve to augment and/or replace measures proposed in the application for new license filed with the Commission on January 29, 2002. Commission staff is respectfully requested to take into account the sum and substance of the enclosed Offer of Settlement before determining whether any additional information will be needed for the Commission to conduct its ensuing environmental analysis pertaining to the Newton Falls Project and the staff is requested to consider and recommend the measures set forth in this Settlement Offer.

OFFER OF SETTLEMENT COMPOSITION

The enclosed settlement offer includes the following significant features:

Section 1 is composed of a number of ancillary points and considerations pertaining to the Settlement Offer including a description (subsection 1.2) of what provisions of the Settlement Offer are intended to be included in the ensuing FERC license;

Section 2 covers a number of general agreements among the parties that are common to the new license affected by the Settlement Offer.

Section 3 covers the development-specific protection, mitigation and enhancement measures (PM&E) for the Newton Falls Project including recreational enhancements to be included in the ensuing FERC license (subsection 3.5.1) as well as provisions of the Settlement Offer that are to be omitted from the new license (subsection 3.5.2).

CONCLUSION

The Applicant is aware that the Commission strongly supports the settlement process and settlement offers, accordingly, it has joined with the parties listed in Section 1 of the Settlement Offer in an attempt to best respond to resource concerns. All of the signatories have sacrificed great time, effort, and expense to unilaterally agree to a fair and sound Settlement Offer that encompasses a balance of non-power and power needs and affords interested stakeholders relicensing benefits.

If you should have any questions, please contact Jerry Gomez of Gomez and Sullivan Engineers, P.C. at (315) 724-4860.

Sincerely,

Michelle Dunn for

Harold G. Slone, Manager
Newton Falls Holdings, L.L.C.

Enclosure
Cc: See Attached Service List

Newton Falls Hydroelectric Project
FERC No. 7000
Service List

Adirondack Council Bernard Melewski 342 Hamilton St. Albany, NY 12210	**Adirondack Mountain Club** Betty Lou Bailey 4029 Georgetown Square Schenectady, NY 12303-5300
American Rivers, Inc. Andrew Fahlund 1025 Vermont Ave. NW Suite 720 Washington, DC 20005	**Newton Falls Holding, L.L.C.** Rene-Paul Forier 875 County Route 60 Newton Falls, NY 13666
Erie Boulevard Hydropower, L.P. Glenn E. Camus 225 Greenfield Parkway Liverpool, NY 13088	**Adirondack Mountain Club** **Laurentian Chapter** Tom Ortmeyer 15 Lawrence Ave. Potsdam, NY 13676
Winston & Strawn David J. Madden, Jr. 1400 L Street NW Washington, DC 20005-3509	**New York Rivers United** Bruce Carpenter P.O. Box 1460 Rome, NY 13442-1460
Newton Falls Holdings, L.L.C. Harold G. Slone 1930 W. Wesley Rd. NW Atlanta, GA 30327-2022	**N.Y.S. Department of** **Environmental Conservation** Lenore Kuwik 625 Broadway, Fourth Floor Albany, NY 12233-0001
U.S. Department of the Interior Judith M. Stolfo 1 Gateway Ctr. Suite 612 Newton, MA 02458-2881	**Smith, Gambrell & Russell, L.L.P.** Malcom D. Young, Esq. Suite 3100, Promenade H 1230 Peachtree St. NE Altlanta, GA 30309-3574
Swidler, Berlin, Shereff, Friedman, L.L.P. Stephen C. Palmer 3000 K St. NW Washington, DC 20007-5109	**New York State Dept. of** **Environmental Conservation** Len Ollivett 317 Washington St. Watertown, NY 13601-3787
New York State Dept. of **Environmental Conservation** Larry Gunn 317 Washington St. Watertown, NY 13601-3787	**N.Y.S. Department of** **Environmental Conservation** William G. Little 625 Broadway Albany, NY 12233-1500
U.S. Fish & Wildlife Service Alexander R. Hoar 300 Westgate Center Dr. Hadley, MA 01035-9587	**National Park Service** Dave Clark 15 State Street Boston, MA 02109-3502

Newton Falls Hydroelectric Project
FERC No. 7000
Service List

U.S. Fish & Wildlife Service David Stilwell 3817 Luker Rd. Cortland, NY 13045-9385	**New York State Conservation Council** Henry Cosselman 822 County Route 1 Oswego, NY 13126
U.S. Fish and Wildlife Service Steve Patch 3817 Luker Road Cortland, NY 13045	**Adirondack Park Agency** George (Skip) Outcalt P.O. Box 99 Ray Brook, NY 12977
St. Lawrence County Planning Dept. Keith Zimmerman 48 Court St. – Bldg. #1 Canton, NY 13617	**Erie Boulevard Hydro L.P.** Thomas M. Skutnik Hydro Licensing & Regulatory Compliance 225 Greenfield Parkway, Suite 201 Liverpool, NY 13088
Gomez and Sullivan Engineers, P.C. Jerry Gomez 288 Genesee Street Utica, NY 13501	

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

ORIGINAL

Project No. 7000

NEWTON FALLS HYDROELECTRIC PROJECT
OFFER OF SETTLEMENT

MAY 2002

NEWTON FALLS HYDROELECTRIC PROJECT
OFFER OF SETTLEMENT

Upper Development
Lower Development

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NEWTON FALLS HYDROELECTRIC PROJECT
OFFER OF SETTLEMENT

Upper Development
Lower Development

1.0 INTRODUCTION

The Agreement and The Parties

This agreement (the Offer of Settlement) dated as of May 2002, is made and entered into pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC) (18 C.F.R. § 385.602) by and among the following entities who shall, except as otherwise noted, be referred hereafter to as a Party and collectively as "Parties":

- Licensee
- Adirondack Mountain Club (ADK)
- Adirondack Park Agency (APA)
- American Rivers
- New York Rivers United (NYRU)
- New York State Department of Environmental Conservation (NYSDEC)
- U.S. Department of the Interior (DOI), U.S. Fish and Wildlife Service (USFWS)
- New York State Conservation Council (NYSCC)
- Adirondack Council
- Newton Falls Holdings, L.L.C., its successors or assigns

1.1 Term of the Offer of Settlement

This Offer of Settlement shall become effective when it has been executed by the above-referenced Parties and shall remain in effect, in accordance with its terms, throughout the term of the new license including any annual licenses, thereafter.

1.2 Agreements to Be Incorporated As License Conditions

The agreements in the Offer of Settlement are a comprehensive, integrated, and indivisible set of measures intended to address non-power and power values relating to the licensing of the Upper and Lower Developments of the Newton Falls Hydroelectric Project. The Parties agree that each term of this Offer of Settlement is in consideration and support of every other term and that it is essential that the FERC, except where expressly noted to the contrary in this Offer of Settlement, incorporate as license conditions in the new license each of the commitments which the Licensee has agreed to undertake in Section 3.0 of this Offer of Settlement. "License conditions" are intended to mean numbered articles of the license.

1.3 Purpose and Goals

The purpose of this Offer of Settlement is to document the agreements that have been reached as the result of comprehensive discussions among the Parties with regard to the referenced hydroelectric developments with the re-license application filed with the FERC and the application for water-quality certification filed with the NYSDEC.

The goal of the Offer of Settlement is to provide for the continued operation of the subject developments with appropriate long-term environmental and recreational protection and mitigation measures that will meet diverse objectives for maintaining a balance of non-power and power values on the Oswegatchie River.

The Parties, having given careful and equal consideration to non-power and power values, provide in this Offer of Settlement the terms and conditions for the resolution of operational, fisheries, wildlife, water quality, and recreational issues raised by and analyzed by the Parties as they are applicable to the issuance of a new license and Water-Quality Certification for the subject developments.

1.4 Project Decommissioning

This Offer of Settlement does not include any provisions relating to decommissioning or dam removal of the subject developments in whole or part. With or without amendment of this Offer of Settlement, any Party may seek such further relief from the FERC regarding such decommissioning as the FERC may order, recognizing that no Party to this Offer of Settlement has, or is, advocating decommissioning of any development or any of the project facilities at this time, nor does evidence currently exist which would suggest the need to advocate for decommissioning during the term of the license. If or when the subject project is decommissioned or retired during the term of the new license, the Parties will be entitled to take such positions on decommissioning issues at that time as they find appropriate.

1.5 Successors and Assigns

The Offer of Settlement shall be binding on the Parties and on their successors and assigns.

1.6 Parties To Support Regulatory Approvals

The Parties agree to support the issuance of a license and water-quality certification that is consistent with the terms of this Offer of Settlement. This support shall include reasonable efforts to expedite the National Environmental Policy Act (NEPA) process to be undertaken by the FERC, as well as any regulatory approvals that may be needed to implement provisions of the Offer of Settlement. For those issues addressed herein, the Parties agree not to propose or otherwise communicate to the FERC

or to any other federal or state resource agency with jurisdiction directly related to the relicensing process any comments, certification, or license conditions other than ones consistent with the terms of this Offer of Settlement. However, this Offer of Settlement shall not be interpreted to restrict any Party's participation or comments in future relicensing of the subject developments.

1.7 Agency Appropriations

Nothing in this Offer of Settlement shall be construed as obligating any federal, state, or local government to expend in any fiscal year any sum in excess of appropriations made by Congress to state or local legislatures or administratively allocated for the purpose of this Offer of Settlement for the fiscal year or to involve the DOI or USFWS in any contract or obligation for the future expenditure of money in excess of such appropriations or allocations.

1.8 Establishes No Precedents

The Parties have entered into the negotiations and discussions leading to this Offer of Settlement with the explicit understanding that this Offer of Settlement and the discussions relating thereto are privileged, shall not prejudice the position of any Party or entity that took part in such discussions and negotiations, and are not to be otherwise used in any manner in connection with these or any other proceedings. The Parties understand and agree that this Offer of Settlement establishes no principles or precedents with regard to any issue addressed herein or with regard to any Party's participation in future relicensing proceedings and that none of the Parties to this Offer of Settlement will cite this Offer or its approval by the FERC, or the NYSDEC as establishing any principles or precedents except with respect to the matters to which the Parties have herein agreed.

1.9 Conventions and Definitions

The Parties agree that the following conventions and definitions should have the meanings so noted throughout this Offer of Settlement.

Base Flow: The instream flow intentionally and continuously released below the project.

Bypass Flow: The instream flow intentionally and continuously released into a bypass reach.

Bypass Reach: The portion of original river bed fully or partially dewatered as a result of the diversion of water.

Elevation: Vertical distance, measured in feet, above mean sea level using USGS datum.

Impoundment Fluctuation: Defined within this agreement as a specific range of impoundment elevations associated with normal project operation which is measured in the downward direction from a specific reference point (top of flashboards).

Left/Right Bank: The left or right river bank as seen looking downstream.

License Issuance and Acceptance: For purposes of this Offer of Settlement, "License Issuance and Acceptance" means that the FERC issues a final license consistent with the terms of the Offer of Settlement relative to the particular enhancement being considered.

Licensee: Newton Falls Holdings, L.L.C., its successors or assigns.

Normal Operation: The daily operation of the Upper and Lower developments of the Newton Falls Project which may involve utilization of allowable impoundment fluctuations as needed to produce energy.

2.0 GENERAL AGREEMENTS OF THE PARTIES

2.1 License Term

The Parties agree, based upon and in consideration of the Offer of Settlement provisions identified in Section 2.2, that the license should be for a term of 40 years from the date of license issuance, and agree to join in a request for rehearing if a license is issued for less than 40 years from the date of issuance.

2.2 Enforceability and Withdrawal Rights

The Parties agree that it is their intent, and this Offer of Settlement is based upon, and in consideration of their expectation that Sections 3.1, 3.2, 3.3, 3.4, and 3.5.1 will be included in any license issued as numbered license articles and that the Commission will enforce these provisions. If, in making its licensing decision, the Commission determines that any of the sections identified herein are not within its jurisdiction to enforce, it will so expressly and clearly notify the Parties in the licensing order. If the Commission does not so expressly identify any of the provisions of the Sections identified herein, then the Parties will, in reliance thereon, proceed as though each of the Sections identified herein is enforceable by FERC.

In the event that the FERC should, contrary to the integrated and indivisible nature of this Offer of Settlement described herein in Section 1.2, issue a new license which materially and significantly modifies any of the commitments identified in Sections 3.1, 3.2, 3.3, 3.4, and 3.5.1 which the Licensee has agreed to undertake as part of this Offer of Settlement and in the event the new license is not thereafter satisfactorily modified as a result of the filing of a request for rehearing as provided in Section 2.3, and in the event any Party thereafter determines that its interests will be materially and adversely affected by the change or changes so made by the Commission, it may, after first providing written notice of its intention to do so to the other Parties together with a written explanation of its reasons for doing so, withdraw from this Offer of Settlement and thereafter the Offer of Settlement shall have no force and effect and the Parties shall

in any subsequent administrative and judicial proceedings take the position that the basis upon which the Commission's public interest determination was made in connection with the issuance of the new license and the new license should have no force and effect and should be considered null and void.

2.3 Rehearings and Judicial Review

The Parties agree that none of them will file a request with the FERC for rehearing of any new license unless the license (a) contains conditions which are materially inconsistent with the terms of this Offer of Settlement, (b) omits as license conditions terms of the Offer of Settlement which the Parties have agreed should be included as license conditions, or (c) the FERC determines that it will not enforce any of the provisions of the Offer of Settlement which the Parties have agreed should become enforceable conditions of the new license, as expressly identified in Section 2.2. In the event that any Party decides to file a request for rehearing in accordance with the terms of this provision, it will provide written notice of its intention to do so to the other Parties at the earliest practicable time and thereafter the other Parties will join in the rehearing request or file an appropriate and supportive rehearing request of their own. If any Party, following the issuance of a FERC Order on Rehearing, elects to file a petition for judicial review with respect to the matters covered by this provision, the other Parties will support such a petition to the extent reasonably possible.

2.4 Water-Quality Certification — Withdrawal Rights

The NYSDEC will distribute to the Parties copies of the 401 certification that is issued. The Parties agree that they will support NYSDEC's issuance of a Section 401 Water-Quality Certification that is consistent with the provisions of this Offer of Settlement. In the event the NYSDEC issues a 401 certification for the project that is materially inconsistent with the provisions of this Offer of Settlement, any Party can withdraw from this Offer of Settlement by providing written notice of its intention to do so to the other Parties within 60 days from the date of issuance of any such certification

or, in the event any Party seeks judicial or agency review, 60 days from the date of the denial of such review.

2.5 Reopeners

The Parties agree that, except as provided herein, this Offer of Settlement is not intended to limit or restrict the ability of any Party to petition the FERC pursuant to any reopener condition contained in the new license, including any exercise by the Secretary of DOI relating to her/his fishway prescription authority under § 18 of the FPA. No such petition, including the exercise of § 18 authority, may be filed which would, if granted, be materially inconsistent with this Offer of Settlement, or cause other portions of the Offer of Settlement to be reopened, unless the Party who files the petition has substantial evidence that a change in circumstances has occurred including any material change made by the Commission to the terms of this Offer of Settlement which provides good cause for the filing of the petition. Before any Party files such a petition with the FERC, it shall provide at least 60 days written notice of its intention to do so to all the other Parties and, promptly following the giving of notice, has consulted with the other Parties regarding the need for and the purpose of the petition. In the event such a petition is filed, the filing Party shall include with its filing documentation of its consultation with the other Parties and a summary of their recommendations and of its response to those recommendations. The filing Party shall also serve a copy of its petition on all the other Parties.

2.6 License Amendments

The Parties agree that, except as provided herein, nothing in this Offer of Settlement is intended to limit or restrict the ability of the Licensee to seek amendments of any new license. The Licensee may only seek a license amendment which would be materially inconsistent with the provisions of this Offer of Settlement if it has substantial evidence that a change in circumstances has occurred which provides good cause for the filing of the amendment and has provided the Parties at least 60 days written notice (using updated addresses as needed) of its intention to do so and, promptly following the

giving of notice, has consulted with the Parties regarding the need for and the purpose of the amendment. For other license amendments which just relate to the license terms set forth in this Offer of Settlement, the Licensee shall provide all Parties at least 30 days notice of the proposed amendment and, if requested to do so by any Party, shall consult with the Parties regarding the amendment and defer the filing for another 30 days. In any application for an amendment which relates to any of the terms and conditions of this Offer of Settlement, the Licensee shall document its consultation, summarize the positions and recommendations of the Parties, and provide its response to those positions and recommendations. The Licensee shall serve a copy of any application for amendment upon the Parties at the time of the filing. The Licensee will not oppose an intervention request filed in a timely manner by any Party in an amendment proceeding involving the license.

2.7 Fish Passage and Section 18

The Parties agree that no fish passage measures should be required at this time, but the new FERC license for the developments should include the standard license article in which the Secretary of the Interior exercises [reserving the ability of the FERC to require such fish passage in the future and should include the full reservation of the Secretary of the Interior's] § 18 authority, by reserving the Secretary's authority to prescribe the construction, operation, and maintenance of such fishways as deemed necessary.

2.8 Offer of Settlement Amendments

The Parties agree that, except as provided herein, nothing in this Offer of Settlement is intended to limit or restrict the ability of any Party to seek an amendment to this Offer of Settlement during the effective period of the license with respect to matters not addressed in the license. Any Party seeking such an amendment may do so upon presenting substantial evidence that a material change in circumstances has occurred that provides good cause for seeking the amendment. Any such amendment proposal shall not be materially inconsistent with any license articles or the obligations of the Licensee

pursuant to the license. Any Party proposing such an amendment to this Offer of Settlement shall provide all Parties with at least 30 days written notice of the proposed amendment using updated addresses as needed. If requested to do so by any Party, the initiating Party shall consult with the other Parties regarding the proposed amendment for at least another 30 days. No amendment will be effective if any Party objects to the amendment. Any Party that abstains may not object to and will be bound by any amendment in which all other Parties concur. After such notice and consultation, if all Parties either concur with or do not object to the proposed amendment, the Party making the proposal shall secure signed agreements to the amendment from all Parties who concur with the proposal. The Licensee will file the amendment with the FERC for informational purposes.

2.9 Filings Prior to Issuance of New License

Prior to the issuance of the new license pursuant to this Offer of Settlement neither the Licensee nor any Party shall make any filing with the FERC seeking a modification of project works under license or of the operation of the project unless such a modification involves an emergency or is not materially inconsistent with this Settlement Offer and the Party who wishes to make the filing provides the other Parties at least 30 days notice of such a filing.

2.10 Compliance With the Endangered Species Act

Consultation with the NYSDEC and the USFWS has established that, except for occasional transient individuals, no Federally- or state-listed threatened or endangered species are known to exist in the project impact area at this time.

2.11 Project Boundary

Consistent with the existing license of the Newton Falls Hydroelectric Project, the Parties agree that the project boundary of the Upper Impoundment shall be established at elevation 1424.0 feet USGS (3 feet above spillway crest), and the project boundary of the

Lower Impoundment shall generally be established at elevation 1375.5 feet USGS (3 feet above spillway crest).

The Licensee may desire to raise the Upper Impoundment level to three (3) feet above permanent dam crest (elevation 1424.0 feet USGS) if conditions change during the term of the new license. At that time, the Licensee will enter into consultation with the Parties to raise the impoundment level and undertake the necessary studies to determine potential impacts.

3.0 MEASURES WHICH THE LICENSEE WILL UNDERTAKE WITH RESPECT TO LICENSE CONDITIONS AND OTHER NON-LICENSE PROVISIONS OF SETTLEMENT

3.1 Impoundment Fluctuations and Flashboard Heights

By January 2006, the Licensee shall limit impoundment fluctuations within the Upper and Lower developments as specified in Table 3-1.

Table 3-1
Newton Falls Hydroelectric Project
Normal Impoundment Fluctuations

Development	Permanent Spillway Crest of Dam (USGS)	Flashboards	Normal Impoundment Fluctuation
Upper	1421.0	2.3 feet[2]	1.0 feet[1] feet measured in downward direction from top of flashboards July 16 – April 30. 0.5 feet measured in downward direction from top of flashboards May 1 – July 15.
Lower	1372.5	1.5 feet	Run-of-river with limited fluctuation (0.3 feet below top of flashboards).

(1) The Licensee may conduct post-licensing impoundment fluctuation studies to determine the potential of changing the fluctuation limit in consultation with the Parties during the term of the new license.
(2) The Licensee may conduct post-licensing studies to determine the potential for changing the impoundment level in consultation with the Parties during the term of the license.

Normal impoundment fluctuations specified in Table 3-1 shall be defined as the maximum drawdown limit associated with the operating range necessary to achieve normal operation. The normal impoundment fluctuation limit shall be measured in the downward direction from the top of flashboards of each dam. Water surface elevations higher than the elevation from which any downward fluctuation is measured are considered outside of the normal impoundment fluctuation zone, and variations of same are not considered as a utilization of the normal impoundment fluctuation.

The Licensee may curtail or suspend these impoundment limitations if required by operating emergencies beyond its control and for short periods upon mutual agreement between the Licensee and the USFWS and NYSDEC. If the limitations are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten days after each such incident.

The Licensee may conduct post-licensing studies to determine the potential of changing the normal impoundment fluctuations and/or changing the Upper Impoundment level during the term of the new license. The design of such studies and any changes in normal impoundment fluctuations or levels are subject to the approval of the Parties.

3.1.1 Justification for Impoundment Fluctuations Limitations

Upper Impoundment

In the absence of extensive impoundment fluctuation studies, the Parties agreed that a 1.0-foot daily fluctuation would have minimal impacts on the shallow littoral and wetland habitats surrounding the Upper Impoundment. A seasonal reduction to 0.5 feet from May 1 through July 15 will reduce impacts to centrarchids, northern pike, and other fish spawning in the impoundment, as well as to birds nesting along the shoreline.

Lower Impoundment

The Lower Impoundment essentially operates in a run-of-river regime, following the releases from the Upper Impoundment. Fluctuations in the impoundment from the Licensee's operations will be minimal (0 to 0.3 feet below top of flashboards), generally maintaining the level at or near the top of flashboards.

3.2 Instream Flows

3.2.1 Minimum Base Flow Below Lower Development

A minimum base flow of 100 cfs or inflow, whichever is less, shall be maintained in the Oswegatchie River below the Lower Development. This minimum base flow can be comprised of discharges through the turbine at the Lower Development, discharges at the Lower Dam, and the fish movement/bypass flows specified in Section 3.2.2. This minimum flow requirement is a continuation of a requirement under the current FERC license for the project.

3.2.2 Fish Movement/Bypass Flows

The Licensee shall release the minimum bypass flows specified in Table 3-2 (or inflow to the project, whichever is less) from a point located at the respective dam of each development. The specified bypass flows are to be released through the proposed downstream fish movement facilities and are independent of any leakage through gates, etc. at the dam. The Parties agree that these flows provide adequate conveyance flows for the proposed downstream fish movement facilities, as well as habitat protection and fish movement flows for the bypassed reaches.

Table 3-2
Newton Falls Hydroelectric Project
Bypass Flow Schedule

Development	Flow Magnitude	Start Date
Upper	20 cfs	January 2006
Lower	20 cfs	January 2008

The Licensee shall derive appropriate gate settings, or other agreed upon measures, for the provision of the bypass flow at each development. The

Licensee shall release each bypass flow from a point located at the dam of each development.

3.2.2.1 Justification for Fish Movement/Bypass Flows

Upper Development

A Demonstration Flow Study was performed to assess the appropriate flows for the bypassed reach. Limited habitat for smallmouth bass spawning or fallfish was available at any flow. All other target organisms exhibited increased habitat with increasing flows up to 30 cfs. No improvements were seen as flows were increased above 30 cfs. Smallmouth bass adult and juvenile habitat demonstrated moderate increases when flows were increased from 20 cfs to 30 cfs.

The primary use of this bypassed reach is to provide forage. Both macroinvertebrate habitat and habitat for riffle-dwelling species (represented by longnose dace) showed significant increases with increasing flow from leakage to 30 cfs. Fish movement was limited at leakage, but maximized at flows of 20 cfs and higher.

The USFWS' engineering guidelines for downstream fish movement require a minimum conveyance flow of 20 cfs. This flow will provide adequate habitat to meet the management objectives of the bypassed reach. Since the flow through the fish movement structure is discharged to the bypassed reach, the bypassed reach will always receive at least 20 cfs plus leakage.

Lower Development

The USFWS' engineering guidelines for downstream fish movement require a minimum conveyance flow of 20 cfs. Although conditions did not permit observations of a variety of flows through this bypassed reach, the Parties concluded, based in part on videotapes of 20 cfs, that the 20 cfs fish conveyance

flow would be adequate for this relatively short bypassed reach. This flow will allow fish movement throughout the bypassed reach, while increasing macroinvertebrate habitat and forage fish habitat.

3.2.3 Emergency Exceptions

The Licensee may curtail or suspend the instream flow requirements of Sections 3.2.1 and 3.2.2, if required by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee, USFWS and NYSDEC. If the flows are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten days after each such incident.

3.3 Flow and Water Level Monitoring

The Licensee shall develop a stream-flow and water-level monitoring plan in consultation with the NYSDEC and the USFWS by January 2006. The monitoring plan shall include all necessary gages and/or equipment to:

- Determine the instream flow releases of the Upper and Lower developments of the Newton Falls Project at appropriate locations.
- Determine headpond elevations as needed for instream flow verification.
- Provide an appropriate means of independent verification of water levels by the NYSDEC and USFWS.

All gaging and ancillary equipment required by the monitoring, including headpond gages, shall be made operational and fully calibrated by October 2006.

The dates provided in this section will not be extended without prior consultation with all Parties.

The monitoring plan will contain provisions for the installation of staff gages at appropriate locations to permit independent verification of headpond levels to the nearest 0.1-foot. These locations will be selected in consultation with the USFWS and NYSDEC. The Licensee will make reasonable efforts to install the staff gages where they will be visible to the general public. Access to staff gages shall be provided to the NYSDEC, the USFWS, and/or their authorized representatives.

The Licensee shall keep accurate and sufficient records of the impoundment elevations and instream flows to the satisfaction of the NYSDEC and shall provide such data in a format and at intervals as required by the NYSDEC. All records will be made available for inspection at the Licensee's principal business office within New York State within five (5) business days or will be provided in written form within 30 days of the Licensee's receipt of a written request for such records by the NYSDEC. Furthermore, the Licensee will provide to the NYSDEC a seven-day-per-week contact person to provide immediate verification of monitored flows and responses to questions about abnormal or emergency conditions.

The Licensee shall keep accurate and sufficient records of any uncontrollable station outage that causes a reduction in the required instream flows at the Upper and Lower developments. The Licensee will consult with the NYSDEC to develop a plan for reporting these types of incidents. The reporting plan shall be finalized by January 2006.

3.4 Fish Protection and Downstream Movement

The existing trashracks at each development shall be replaced or modified with fish-protection measures specified in Table 3-3 and in accordance with the schedule proposed in Table 3-3.

Table 3-3 Newton Falls Hydroelectric Project Downstream Fish Movement and Protection Measures			
Development	**Protection[1] Measure/Schedule**	**Downstream Movement Routes**	**Conveyance System**
Upper	1-inch clear spacing trashracks installed by January 2008	Spillway, sluiceway, and gates.	Plunge pools, smooth transitions, channel modifications, etc.
Lower	1-inch clear spacing trashracks installed by January 2008	Spillway and gates.	Plunge pools, smooth transitions, channel modifications, etc.

(1) 1-inch clear opening trashracks may be permanent or overlays installed seasonally (May 1 through November 15)

The Licensee shall provide downstream fish movement facilities in consultation with NYSDEC and USFWS by January 2006 at the Upper Dam and January 2008 at the Lower Dam. A minimum conveyance flow of 20 cfs (see Section 3.2.2) is to be provided for the downstream fish movement facilities at both the Upper and Lower Dams.

For the term of the new license, the Licensee shall not be required to (1) test the effectiveness of any, or all, components of existing and future protection or fish movement measures and/or structures, (2) make qualitative or quantitative determinations of fish entrainment and/or mortality, (3) provide compensation for any fish entrainment and/or mortality, or (4) provide upstream fish passage facilities, except as provided in the next paragraph.

The Licensee shall not be required to increase the level of protection and movement as agreed to by this Offer of Settlement for the term of the license, unless prescribed by the U.S. Department of the Interior under Section 18 of the Federal Power Act (see Section 2.7).

The Licensee may curtail or suspend the requirements of this commitment if required by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee, USFWS and NYSDEC. If the requirements of this commitment are so modified, the Licensee shall notify the FERC, USFWS, and NYSDEC as soon as possible, but no later than ten days after each such incident.

3.4.1 Justification

The existing trashracks at the Upper Development have 2 inch clear spacing between vertical bars and its location does not create an area of high velocity in front of the intake (maximum approach velocities estimated at 1.8 fps). The existing trashracks at the Lower Development have 2 inch clear spacing between vertical bars and its location does not create an area of high velocity in front of the intake (maximum approach velocities estimated at 2.0 fps).

When the existing trashracks at each development are replaced, or modified, either on a permanent or seasonal (May 1-November 15) basis, they will be replaced/modified with trashracks having 1.0 inch clear spacing, which will deter most adult game fish from entering the intake. These devices may also behaviorally deter smaller fish that generally have a higher survival rate during turbine passage.

3.5 Recreation

The recreational opportunities provided by this Offer of Settlement supplement the existing recreational opportunities in the Newton Falls Project area, and will provide public access to, and use of, the impoundments, and some adjacent lands associated with the Upper and Lower developments.

3.5.1 Recreational Enhancement Commitments To be Included in the License

By January 2006, the Licensee shall implement all recreation enhancements specified below.

(a) Car-top Boat Launches: The Licensee shall construct a small, gravel car-top boat launch just west of the town beach along with a gravel parking area to accommodate 5-6 cars adjacent to the boat launch with appropriate signage,

including a 10 HP motor limitation sign. A picnic table will be provided at this access area. Additionally, an informal car-top boat launch, currently existing about one mile east of the town beach, shall be improved with gravel and the Licensee shall install appropriate signage, including a 10 HP motor limitation sign. Roadside parking immediately east of the boat launch currently exists.

(b) Canoe Portage: Licensee shall provide a canoe portage route commencing at a take-out in the upper impoundment. The take-out shall be located on the right side of the upper impoundment approximately 300 feet upstream of the dam. The portage shall utilize existing roadways, improved for the portage, to the put-in into the lower impoundment, approximately 150 feet downstream of the bridge. Recreationists can traverse the lower impoundment to the take-out on the left side, just upstream of the dam. For continuation of the canoe route, recreationists shall put-in, approximately 150 yards downstream of the lower dam, just downstream of the confluence of the tailrace with the bypassed reach. Licensee to continue to consult with ADK on the design and location of the portage trail.

(c) Public Access: The Licensee shall allow public access to all lands within the FERC project boundary associated with each development covered by this Offer of Settlement, with the exception of those lands and facilities specifically related to hydroelectric generation where public safety would be a concern. Lands and facilities where public access will be precluded may include, but are not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities.

(d) Future Recreational Opportunities: The Licensee shall work with signatories to this Offer of Settlement to examine further reasonable opportunities to develop access to project lands or waters when, and if, the need arises.

(e) Whitewater Opportunities: The Parties agree that the Licensee shall not be required by this Offer of Settlement, or articles of license, to supply whitewater releases downstream of the Newton Falls Project.

(f) Recreation Monitoring: The Licensee shall not be required to monitor the use of recreational facilities included in this Offer of Settlement beyond the requirements of the FERC's Form 80 reporting.

(g) Operating Emergencies: The Licensee may curtail or suspend recreation measures if required to by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee and the NYSDEC. If such suspension of measures occurs under emergency conditions, the Licensee shall notify the NYSDEC as soon as possible, but no later than ten days after each such incident.

3.5.2 Recreational Enhancements to be Excluded from License

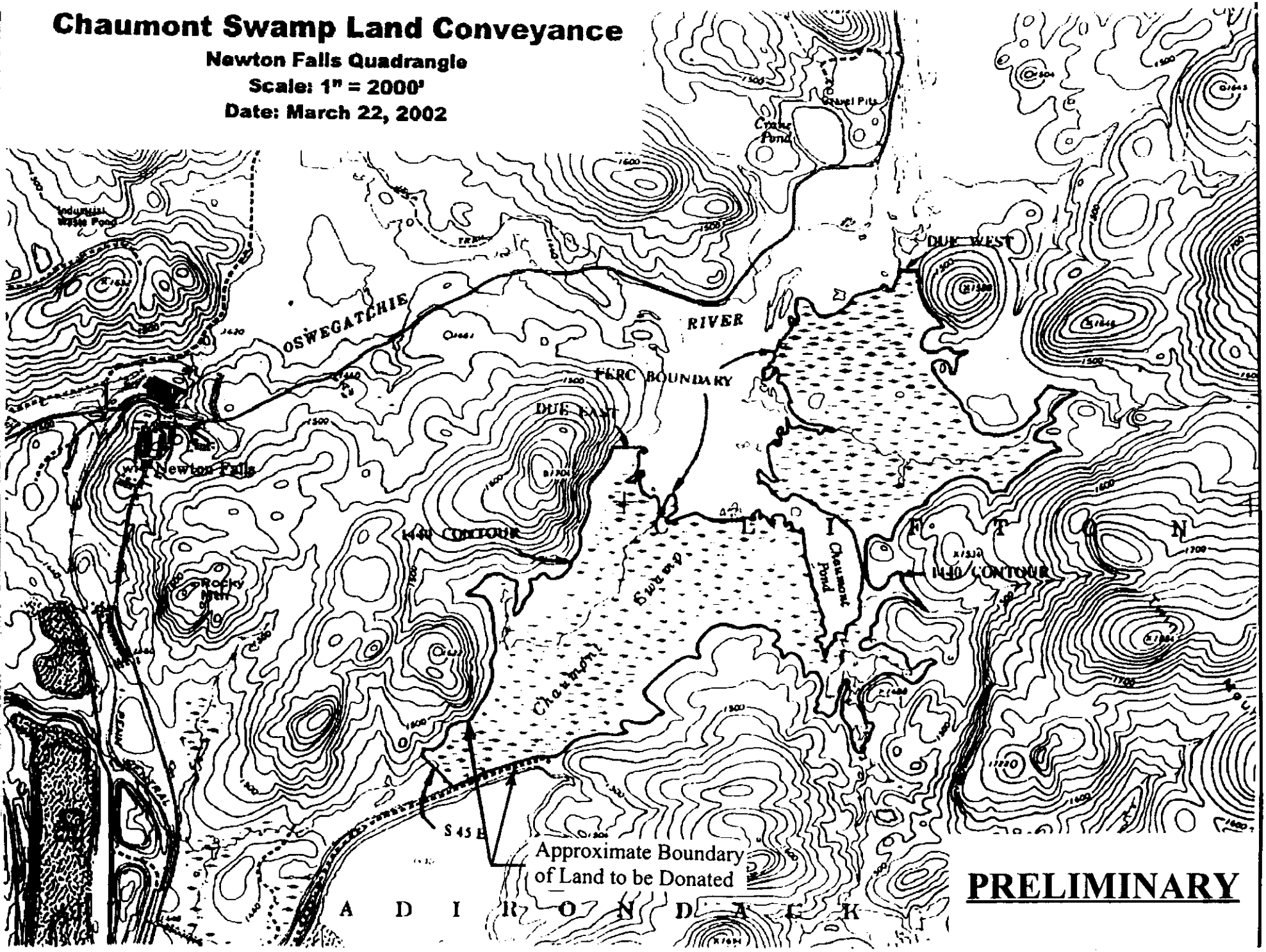
By January 2005, Newton Falls Holding, L.L.C. agrees to transfer (donate) the fee title of a parcel of land containing portions of Chaumont Swamp (see attached map) to the State of New York, or other appropriate organization if the State of New York declines the offered donation. This donation by Newton Falls Holdings, L.L.C. will include preparation of a survey and deed for this purpose. The deed will provide for open access to the land in perpetuity for general public use for all passive recreation, including hunting, bird watching, snowshoeing, etc. The parcel of land to be donated is not within the existing project boundary and is not to be included in the project boundary for a new FERC license for the Newton Falls Hydroelectric Project.

Chaumont Swamp Land Conveyance

Newton Falls Quadrangle

Scale: 1" = 2000'

Date: March 22, 2002



PRELIMINARY

4.0 SIGNATURE PAGES

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

NEWTON FALLS HOLDINGS, L.L.C.

By: _____
Harold G. Slone

Title: Manager

Date: 5/30/02

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

U.S. Fish and Wildlife Service

By: MaParker
Mamie A. Parker

Title: Regional Director

Date: JUN 24 2002

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

Adirondack Park Agency

By: Daniel T. Fitts

Daniel T. Fitts

Title: Executive Director

Date: July 11, 2002

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

New York State Department of Environmental Conservation

By: _____
Peter Duncan

Title: Deputy Commissioner for Natural Resources

Date: _____

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

New York Rivers United

By: _____
Bruce Carpenter

Title: Executive Director

Date: 5/28/02

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

New York State Conservation Council

By: Howard Cushing
Howard Cushing

Title: President

Date: 6/1/2002

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

Adirondack Mountain Club

By: Betty Lou Bailey
Betty Lou Bailey

Title: Chairman, Canoe Route Subcommittee
Conservation Committee

Date: June 3, 2002

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

American Rivers

By: _____
Andrew Fahlund

Title: Director of Hydropower Programs

Date: 6/3/02

OFFER OF SETTLEMENT
NEWTON FALLS HYDROELECTRIC PROJECT
FERC PROJECT NO. 7000

Adirondack Council

By: Bernard C Melewski
Bernard Melewski

Title: Acting Executive Director

Date: June 17, 2002

5.0 Contact List of Parties Taking Part in the Offer of Settlement

U.S. Fish and Wildlife Service

David A. Stilwell, Field Supervisor
(same address as below)

Primary Contact
Steve Patch
3817 Luker Road
Cortland, NY 13045
Phone: (607) 753-9334 (Ext. 130)
Fax: (607) 753-9699
E-mail: stephen_patch@fws.gov

New York State Dept. of Environmental Conservation

Brian Fenlon
(address same as below)

Len Ollivett
(address same as below)
Phone: (315) 785-2267
Fax: (315) 785-2242
E-mail: leollive@gw.dec.state.ny.us

Primary Contact
Larry Gunn, Environmental Analyst
317 Washington St.
Watertown, NY 13601-3787
Phone: (315) 785-2245
Fax: (315) 785-2242
E-mail: ldgunn@gw.dec.state.ny.us

Adirondack Park Agency

Primary Contact
George (Skip) Outcalt
P.O. Box 99
Ray Brook, NY 12977
Phone: (518) 891-4050
Fax: (518) 891-3938
E-mail: gvoutcal@gw.dec.state.ny.us

New York Rivers United

Primary Contact
Bruce Carpenter
P.O. Box 1460
Rome, NY 13442-1460
Phone: (315) 339-2097
Fax: (315) 339-6028
E-mail: bruce_carpenter@newyorkriversunited.org

Adirondack Mountain Club

Primary Contact
Betty Lou Bailey
4029 Georgetown Square
Schenectady, NY 12303-5300
Phone & Fax: (518) 355-0604

Tom Ortmeyer, Vice President for Conservation
Laurentian Chapter
15 Lawrence Ave.
Potsdam, NY 13676
Phone: (315) 265-8219 (home)
(315) 268-6536 (work)
Fax: (315) 268-7600
E-mail: ortmeyer@clarkson.edu

New York State Conservation Council

Primary Contact
Henry Cosselman
822 County Route 1
Oswego, NY 13126
Phone: (315) 343-6185

New York State Conservation Council, Inc.
8 East Main Street
Ilion, NY 13357-1899
Phone: (315) 894-3302
Fax: (315) 894-2893

Adirondack Council

Bernard Melewski, Acting Executive Director
342 Hamilton Street
Albany, NY 12210
Phone: (518) 432-1770
Fax: (518) 449-4839

American Rivers

Andrew Fahlund, Director of Hydropower Program
1025 Vermont Ave., NW
Suite 720
Washington, D.C. 20005-6319
Phone: (202) 347-7550
Fax: (202) 347-9240
E-mail: amrivers@amrivers.org

Newton Falls Holding, L.L.C.

Harold Slone
1930 West Wesley Rd. NW
Atlanta, GA 30327
Phone: (770) 638-0016 ext. 100 (work)
(404) 355-8477 (home)
(404) 906-4818 (cell)
Fax: (707) 638-1172 (work)
(404) 352-1884 (home)
E-mail: harolds216@aol.com

Rene-Paul Forier
875 County Route 60
Newton Falls, NY 13666
Phone: (315) 848-3322
Fax: (315) 848-3325
E-mail: forier@usadatanet.net

Erie Boulevard Hydro, L.P.

Primary Contact
Tom Skutnik
225 Greenfield Parkway, Suite 201
Liverpool, NY 13088
Phone: (315) 413-2789
Fax: (315) 461-8577
E-mail: tskutnik@reliant.com

Gomez and Sullivan Engineers, P.C.

Jerry Gomez
288 Genesee Street
Utica, NY 13502
Phone: (315) 724-4860
Fax: (315) 724-4862
E-mail: jgomez@gomezandsullivan.com

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Orion Power New York GP II, Inc. Project No. 7000-015

ORDER ON OFFER OF SETTLEMENT AND ISSUING NEW LICENSE
(August 13, 2003)

INTRODUCTION

1. On January 30, 2002, Newton Falls Holdings, L.L.C. (NFH) filed an application for a new license pursuant to Sections 4(e) and 15 of the Federal Power Act (FPA)[1] to continue operation and maintenance of the 2.22-megawatt (MW) Newton Falls Hydroelectric Project No. 7000, located on the Oswegatchie River, in the town of Clifton, St. Lawrence County, New York.[2] The project generates approximately 9,500,000 kilowatt-hours (kWh) of electricity annually.

2. The Federal Energy Regulatory Commission (Commission) issued the original license for the project to Newton Falls Paper Mill, Inc., on February 28, 1984.[3] The license expires on January 31, 2004. The Commission approved the transfer of the license to NFH on September 28, 2001,[4] and it approved the transfer of the license to Orion Power New York GP II, Inc. (Orion Power) on September 12, 2002.[5] Orion Power proposes no new construction or new capacity at the project.

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[1] 16 U.S.C. ' '797(e) and 808.

[2] The Oswegatchie River is navigable from its mouth on the St. Lawrence River at Ogdenbury, to Cranberry Lake (about River mile 110), including the reach of the river in which the project is located (about river mile 98). See the licensing order at 26 FERC, supra, at p. 63,301 and 19 FERC & 62,047 (1982). Therefore, Section 23(b)(1) of the Federal Power Act, 16 U.S.C. § 817(1), requires Project No. 7000 to be licensed.

[3] 26 FERC ¶ 62,174 (1984).

[4] 96 FERC ¶ 62,327 (2001).

[5] 100 FERC ¶ 62,171 (2002). Orion failed to file a request to be (continued...)

BACKGROUND

3. The Commission issued public notice of the application on April 5, 2002, indicating that the application for a new license for the project had been accepted for filing and setting June 4, 2002, as the deadline for filing comments, protests, and motions to intervene. The U.S. Department of the Interior (Interior), the New York State Department of Environmental Conservation (NYSDEC), the Adirondack Mountain Club (ADK), the Adirondack Council; American Rivers, Inc., New York Rivers United (NYRU), and the Natural Heritage Institute filed timely motions to intervene, but did not oppose the project. [6]

4. NFH file a Settlement Agreement (Settlement) with the Commission on July 16, 2002, for proposed protection, mitigation, and enhancement measures at the Newton Falls Project. Signatories of the Settlement are NFH, the U.S. Fish and Wildlife Service (FWS), NYSDEC, Adirondack Park Agency, Adirondack Council, ADK, American Rivers, NYRU, and the New York State Conservation Council.[7]

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[5](continued...)

substituted as the applicant for the instant license, as described in the order approving the transfer of the original license to it. However, in the circumstances here, it would serve no useful purpose to delay this proceeding to require Orion to file the request and to publish notice of it, especially since, the notice of Orion's license transfer application indicated that the project was the subject of a pending relicensing proceeding. Pursuant to authority in 18 C.F.R. § 375.308(y)(1) (2003), I will waive the requirements for substituting applicants. However, Orion is admonished to comply with the Commission's regulations in the future.

[6] The motions to intervene were automatically granted because they were timely and unopposed. See 18 C.F.R. § 385.214(c)(1) (2003).

[7] In the September 12, 2002, license transfer order, the Commission noted that although Orion Power was not a signatory to the Settlement, NFH signed the Settlement as Alicensee,@ and Section 1.5 of the Settlement states that the Settlement would be binding on the Settlement parties and on their successors and assigns. On November 12, 2002, and November 22, 2002, Orion Power submitted its acknowledgment of acceptance of the transfer order and its terms and conditions, and adopted the provisions of the Settlement for the license application for the Newton Falls Project.

5. The Commission issued a public notice on November 1, 2002, indicating the project was ready for environmental analysis and soliciting comments, recommendations, terms and conditions, and prescriptions. In response, the Commission received comments from Interior and ADK.

6. On May 27, 2003, the Commission's staff made available for public comment an environmental assessment (EA). The EA recommended that the project be licensed consistent with its Settlement Agreement, and with certain additional measures. The EA found that licensing the project would not constitute a major federal action significantly affecting the quality of the human environment. Comments on the EA were filed by the FWS, ADK, NYSDEC, and Orion Power. The Commission's staff considered these comments and addresses them in this order. The motions to intervene and comments filed by the agencies and interested parties have been fully considered and addressed in this order in determining whether, and under what conditions, to issue this license.

PROJECT DESCRIPTION

7. The existing Newton Falls Project consists of the Upper Development and the Lower Development. The Upper Development, which operates in a storage-and-release peaking mode, consists of a 600-foot-long, 40-foot-high, concrete dam; a 650-acre reservoir; a 1,200-foot-long bypassed reach, a 1,200-foot-long penstock; a 375-foot-long 2.3-kilovolt (kV) transmission line; and a powerhouse containing 3 turbine/generator units with a total rated capacity of 1.54 MW. The Lower Development, which operates in a run-of-river mode,[8] consists of a 350-foot-long, 25-foot-high concrete dam; a 9-acre reservoir; a 300-foot bypassed reach; a 2,200-foot-long, 2.3-kV transmission line; and a powerhouse containing 1 turbine/generator unit with a rated capacity of 680 kilowatt (kW). A more detailed project description is contained in ordering paragraph (B)(2).

THE SETTLEMENT AGREEMENT

8. The Settlement incorporates agreements reached among the parties to the Settlement (Parties) with regard to the Upper and Lower Developments. The stated goal of the Settlement is to provide for the continued operation of the developments with appropriate long-term environmental and recreational protection and mitigation measures. The Parties provide in the Settlement recommended terms and conditions for the resolution of operational, fisheries, wildlife, water quality, and recreational issues

[8] The Upper Development's powerhouse discharges directly to the reservoir of the Lower Development.

applicable to the issuance of a new license and a water quality certificate (WQC) for the Newton Falls Hydroelectric Project.

9. Section 1 of the Settlement states the effective date of the agreement, the agreement's continued effectiveness throughout the term of the license, and the purpose of settlement. Section 1 also provides a set of definitions and conventions and stipulates the Parties intent to support issuance of a license consistent with the terms of the agreement.

10. Section 1.2 of the Settlement states the Parties' intent that the license condition provisions of Section 3 of the Settlement be included in numbered license articles. However, Commission policy requires placing provisions (such as the Section 3 provisions) that are mandatory license provisions (here, because they are included as requirements of the water quality certification for the project) verbatim in appendices, and incorporating the provisions by reference in ordering paragraphs.[9] Nevertheless, the provisions are incorporated in numbered license articles for the purpose of adding basic requirements to enable the Commission to enforce the provisions. However, these articles do not purport to, and indeed cannot, alter or override mandatory conditions, but rather are meant to be complementary to them.[10] The license provisions in Section 3 of the Settlement, along with the Settlement provisions listing acronyms and definitions referenced in those provisions, are set forth in Appendix B of this order and incorporated in the license (see Ordering Paragraph E).

11. Section 2 of the Settlement states the Parties' agreement to support the issuance of a new license with a 40 year term, and proposes a condition reserving the Commission's authority to require the construction, operation, and maintenance of such fishways as may prescribed by Interior. Pursuant to Section 2, the Parties propose to establish the project boundary of the Upper Development at elevation 1424.0 feet National Geodetic Vertical Datum (NGVD). The Parties propose to establish the project boundary of the Lower Development at elevation 1375.5 feet NGVD.

12. Section 3 of the Settlement sets forth proposed impoundment fluctuation ranges, flashboard heights, fish protection bypass flows, minimum flows for the Lower Development, fish protection measures to facilitate downstream fish movement, and

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[9] See Erie Boulevard Hydropower L.P., 101 FERC ¶ 62,090 at p. 64,208 para14 (2002), order on rehearing, 102 FERC ¶ 61,115 (2003) citing Avista Corporation, 93 FERC ¶ 61,116 (2000).

[10] Avista, 93 FERC ¶ 61,116 , supra, n. 13.

measures to improve public access and enhance recreational opportunities at the project. Also, in Section 3, the prospective licensee agrees to develop a stream flow and water level monitoring plan.

13. In the EA, the staff evaluated the measures proposed in the Settlement and concluded that the measures would adequately protect and enhance fishery, recreational, and other resources affected by the project.

APPLICANT'S PLANS AND CAPABILITIES

14. In accordance with Sections 10(a)(2)(c) and 15(a) of the FPA,[11] staff has evaluated Orion Power's record as a licensee with respect to the following: (A) conservation efforts; (B) compliance history and ability to comply with the license; (C) safe management, operation, and maintenance of the project; (D) ability to provide efficient and reliable electric service; (E) need for power; (F) transmission services; (G) cost effectiveness of plans; and (H) actions affecting the public. I accept the staff's findings in each of the following areas.

A. Conservation Efforts (Section 10(a)(2)(C))

15. Section 10(a)(2)(C) of the FPA requires the Commission to consider the electricity consumption 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. Orion Power sells the project's energy to Niagara Mohawk Power Corporation, a utility. Both companies are subsidiaries of Reliant Energy.

16. Staff concludes that Orion Power has and will continue to comply with section 10(a)(2)(C) of the FPA.

B. Compliance History and Ability to Comply with the New License (Sections 15(a)(2)(A) and 15(a)(3)(A))

17. Staff reviewed the relicense application and Orion Power's compliance with the terms and conditions of the existing license. Staff finds that Orion Power's overall record

[11] 16 U.S.C. ' ' 803(a)(2)(c) and 808(a).

of making timely filings and compliance with its license is satisfactory. Staff concludes that Orion Power can comply with the conditions of a new license.

C. Plans and Abilities of the Applicant to Manage, Operate, and Maintain the Project Safely (Section 15(a)(2)(B))

18. Orion Power owns and operates the Newton Falls Project. The project dam and appurtenant facilities are subject to Part 12 of the Commission's regulations concerning project safety. Staff reviewed Orion Power's management, operation, and maintenance of the project pursuant to the requirements of Part 12 and the associated Engineering Guidelines, including all applicable safety requirements such as warning signs and boat barriers, Emergency Action Plan, and Independent Consultant's Safety Inspection Reports. Orion Power's record of managing, operating, and maintaining these facilities presents no reason not to issue a new license.

19. Staff concludes that the dam and other project works are safe, and that the applicant's record of managing, operating, and maintaining these facilities is adequate.

D. Plans and Abilities of the Applicant to Operate and Maintain the Project in a Manner Most Likely to Provide Efficient and Reliable Electric Service (Section 15(a)(2)C))

20. Staff reviewed the project's past operational record, as well as Orion Power's plans and abilities to operate and maintain the project in a manner most likely to provide efficient and reliable electric service. In the 5 years prior to filing their application, there hasn't been any unscheduled outages. Based on its review, staff concludes that Orion Power has been operating the project in an efficient manner, within the constraints of the existing license, and is likely to continue to do so under a new license.

E. Need of the Applicant Over the Short and Long Term for the Electricity Generated by the Project to Serve Its Customers (Section 15(a)(2)(D))

21. Power generated by the Newton Falls Project is sold to Niagara Mohawk Power Corporation. While the Newton Falls Project represents only a portion of the need for Niagara Mohawk Power Corporation, the project provides a source of low-cost, dependable generation that displaces non-renewable fossil-fuel generation. The project's power also contributes to a diversified generation mix and helps meet power needs in the Northeast Power Coordinating Council region.

22. We conclude that power from the Newton Falls Project would help meet a need for power and ancillary services in both the short and long term. The project provides low-cost power that displaces non-renewable, fossil-fired generation and contributes to a diversified generation mix. Displacing the operation of fossil-fueled facilities avoids some power plant emissions and creates an environmental benefit.

F. The Impact of Receiving or Not Receiving the Project License on the Operation, Planning and Stability of Applicant's Transmission System (Section 15(a)(2)(E))

23. Orion Power does not have a transmission system.

G. Whether the Plans of the Applicant Will be Achieved, to the Greatest Extent Possible, in a Cost Effective Manner (Section 15(a)(2)(F))

24. Orion Power proposes no new construction or changes in project operation. The project, under a new license, would continue to operate in a storage and release peaking mode, and the existing project, which has had its debt significantly reduced over the previous license, would continue to be a very valuable source of economical electric power. The project, with the proposed and additional staff-recommended measures included as part of this license, would produce about 8.5 GWh of power annually, at a cost of about 44.92 mills per kilowatt-hour. Staff concludes that the plans of the applicant would be achieved, to the extent possible, in a cost-effective manner.

H. Actions Affecting the Public (Section 15(a)(3)(B))

25. The Newton Falls Project generates electricity used to serve the needs of the public. Orion Power provides project lands and access sites for public recreation usage, and also provides public safety measures at the dam. Environmental measures included in the license will generally improve environmental quality, and will have a beneficial effect on public use of project facilities for recreational purposes.

ANCILLARY SERVICE BENEFITS

26. In analyzing public interest factors, the Commission takes into account that hydroelectric projects offer unique operational benefits to the electric utility system (ancillary benefits). These benefits include their value as almost instantaneous load-following response to dampen voltage and frequency instability on the transmission system, system-power-factor-correction through condensing operations, and a source of

power available to help in quickly putting fossil-fuel-based generating stations back on line following a major utility system or regional blackout.

WATER QUALITY CERTIFICATION

27. Under Section 401(a)(1) of the Clean Water Act (CWA),[12] the Commission may not issue a license for a hydroelectric project unless the state water quality certifying agency either has issued a Water Quality Certificate (WQC) for the project or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA provides that the State certification shall become a condition on any Federal license or permit that is issued.[13]

28. On January 31, 2002, NFH applied to the NYSDEC for a Water Quality Certification (WQC) for the Newton Falls Project, as required by Section 401 of the Clean Water Act. The NYSDEC received the request for a WQC on January 31, 2002, and issued a WQC for the Newton Falls Project, consistent with the provisions of the Settlement, on December 20, 2002. The WQC requires that Orion Power meet all the terms and conditions of the Settlement relating to water quality, 20 NYSDEC general and special conditions for the protection of water quality under state regulations implementing section 401, and a special condition for providing public access and recreational opportunities in conformance with the Settlement. The WQC conditions are attached to this order as Appendix A, and are made part of this license (see ordering paragraph D).

COASTAL ZONE MANAGEMENT PROGRAM

29. Under Section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA), 16 U.S.C. ' 1456(c)(3)(A), the Commission cannot issue a license for a hydropower project within or affecting a state's coastal zone, unless the state CZMA agency concurs with the license applicant's certification of consistency with the state's Coastal Zone Management Program. The Newton Falls Project is located outside New York=s coastal zone management boundary. By letter dated May 30, 2002, the New York Department of State, Division of Coastal Resources determined that the project would not affect land and water uses and natural resources within the State's coastal areas. Therefore, a coastal zone consistency certification is not needed.

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[12]33 U.S.C. ' 1341(a)(1).

[13]33 U.S.C. ' 1341(d)

SECTION 18 FISHWAY PRESCRIPTIONS

30. Section 18 of the FPA[14] provides that the Commission shall require the construction, operation, and maintenance by a licensee of such fishways as the Secretaries of Commerce or the Interior may prescribe. By letter dated December 20, 2002, Interior requested that the Commission reserve, in any license issued for the Newton Falls Project, Interior=s authority to prescribe fishways. Consistent with the Commission's policy, Article 405 of this license reserves the Commission's authority to require such fishways as may be prescribed by Interior for the Newton Falls Project.

RECOMMENDATIONS OF FEDERAL AND STATE FISH AND WILDLIFE AGENCIES UNDER FPA SECTION 10(j)

31. Section 10(j)(1) of the FPA[15] requires the Commission, when issuing a license, to include license conditions based on the recommendations of the federal and state fish and wildlife agencies, submitted pursuant to the Fish and Wildlife Coordination Act,[16] to "adequately and equitably protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" affected by the project.

32. On December 23, 2002, Interior filed section 10(j) recommendations for the Newton Falls Project, which were generally consistent with the provisions of the Settlement. The conditions of this license are consistent with Interior's 10(j) recommendations and the settlement.

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[14]16 U.S.C. ' 811.

[15]16 U.S.C. ' 803(j)(1).

[16]16 U.S.C. ' 661 et seq.

THREATENED AND ENDANGERED SPECIES

33. Section 7 of the Endangered Species Act (ESA), 16 U.S.C. ' 1536(a), requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of endangered or threatened species, or result in the destruction or adverse modification of the critical habitat of such species. In a letter dated November 8, 2002, FWS states that except for occasional transient individuals, no federally-listed or proposed endangered or threatened species are known to exist in the Newton Falls Project impact area. In addition, no habitat in the project's impact area is currently designated or proposed "critical habitat." Interior concludes that no Biological Assessment or further Section 7 consultation under the Endangered Species Act is required.

COMMENTS RECEIVED ON THE EA

34. On May 27, 2003, the EA for the Newton Falls Project was made available for public comment. Comments were filed timely by the FWS, ADK, and NYSDEC.[17] Orion Power's comments were not filed in a timely manner; nevertheless, I have considered these comments.[18] Staff responses are summarized below.

Project Decommissioning

35. In the EA, the annual loss of energy is incorrect, it should be 9,500,000 kWh.

Water Quality

36. In non-trout waters, Dissolved Oxygen requirement refers to the minimum daily average.

Reservoir Fluctuations and Flashboard Height

37. The FWS, NYSDEC, and Orion Power requested Commission staff to clarify how the proposed action would reduce the Upper Development's reservoir fluctuations during July 16 and April 30.

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[17] The entities filed their comments on June 13, 2003, July 10, 2003, July 11, 2003, respectively.

[18] Comments were due July 11, 2003, and Orion Power's comments were filed on July 14, 2003.

38. Under the existing license, the maximum allowable water level fluctuation in the Upper Development's reservoir is up to 2.2 feet below the top of the flashboards, except during May 1 through June 30, the spawning period for smallmouth bass and northern pike. During spawning, the Upper Development's reservoir drawdown is limited to 1.0 foot below the top of the flashboards. The proposed action is to limit fluctuation of the Upper Development's reservoir to within 1.0 foot below the top of the flashboards from July 16 through April 30, and within 0.5 foot below the top of the flashboards from May 1 through July 15. This action would then correspond to a 1.2-foot reduction in the fluctuation from the existing conditions (2.2 feet below top of flashboards) to the proposed conditions (1.0 foot below top of flashboards) from July 16 through April 30.

39. Also the EA incorrectly stated that a 0.5-foot reduction in the fluctuation from existing conditions (1.0 foot below top of flashboards) to the proposed conditions (0.5 foot below top of flashboards) would occur from May 1 through July 15. Under the current license, during May 1 to June 30, the water level fluctuation is limited to 1.0 foot. Therefore, a 0.5-foot reduction in the fluctuation from existing conditions would occur from May 1 to June 30. During July 1 to July 15, the reduction in reservoir fluctuation for the Upper Development's reservoir would be 1.7 feet (from 2.2 feet to 0.5 foot below top of flashboards).

Fish Passage

40. Commission staff uses the terminology "fish passage" and "fish movement" interchangeably to describe facilities for downstream fish movement.

Terrestrial Resources

41. The EA states that Orion Power agreed to transfer a parcel of land containing portions of Chaumont Swamp, which are located outside of the project boundary, to the State of New York, or other appropriate organization should the state decline the offered donation. This statement is incorrect, Orion Power does not own the parcel of land, rather the donor is Newton Falls Holding, L.L.C.

Project Boundary

42. Orion Power objected to Commission staff recommending that proposed recreational facilities at the Upper Development be included within the project boundary. Orion Power proposed to provide permanent recreational easements; however, Orion Power's proposal to acquire and retain rights to fulfill the license requirement is not sufficient. All lands that are required to fulfill project purposes (i.e., recreational

facilities at the Upper Development), need to be included in the project boundary. Therefore, I am requiring that the project boundary be expanded to include the proposed project recreational facilities that are currently located outside of the project boundary, and that Orion Power hold sufficient rights to these properties, such as Orion Power's proposed recreational easements, to fulfill project purposes.

Cultural Resources

43. The shoreline erosion monitoring plan requires a reconnaissance and monitoring of the area of concern to be completed by responsible personnel of the licensee as defined by the SHPO. Commission staff worded the phase "responsible personnel as defined by the SHPO" in order to provide further clarification as to what constitutes a "responsible personnel."

Developmental Analysis

44. ADK commented the economic analysis of the EA was flawed since Orion Power would not have acquired a project that operated at a loss. As discussed in the introductory paragraphs to the developmental analysis, the FERC economic model incorporates a number of simplifications and assumptions. The purpose of the Commission's economic analysis is to provide a general estimate of the potential power benefits and costs of a project and reasonable alternatives, and to support an informed decision on the public interest with respect to a proposed license. However, it does not always reflect the true conditions under which an applicant would own and operate a project. As discussed for this case, the model uses a single current year energy price, whereas the applicant may anticipate that the sale price of project output would increase in the future. An applicant may be able to obtain financing at a more favorable rate than the assumed interest rate; the assumed discount rate may not be appropriate for the applicant's circumstances; or the applicant may derive some other benefit from the project, such as load following capability, that is not captured in a simple mill rate. The uncertainty introduced by these assumptions is part of why project economics are only one of the many public interest factors the Commission must consider in determining whether, and under what conditions, to issue a license. The applicant's decisions, on the other hand, are based on their own financial analysis and business requirements.

45. ADK also commented that the capital costs for the recreation features ($40,680) was high, but Commission staff have no reason to refute the estimates provided by the Orion Power in the Additional Information Request filed on October 21, 2002.

46. ADK and Orion Power both commented that the footnotes for Table 7 are incorrect. Provided below are the revised footnotes for Table 7.

[a] NFH would also donate a parcel of land to the State of New York, for which they provided a capital cost of $400,000. However, the land is not within the existing project boundary and is not to be included in the project boundary for a new license. Therefore, we have not included it in our developmental analysis.

[b] Also recommended by Interior.

[c] Combination of Upper Development ($112,000 capital; $10,000 O&M) and Lower Development ($92,000 capital; $10,000 O&M) fish protection measures from Orion Power (2002a). Escalated to 2003 at 1.7 percent annual rate. Annualized cost includes $1,890 (50,000 kWh) in lost energy.

[d] Combination of Upper Development ($42,000 capital; $1,500 O&M) and Lower Development ($35,000 capital; $1,500 O&M) fish movement measures from Orion Power (2002a). Escalated to 2003 at 1.7 percent annual rate.

[e] Combination of Upper Development ($25,000 capital; $1,500 O&M) and Lower Development ($25,000 capital; $1,500 O&M) minimum flow measures from Orion Power (2002a). Escalated to 2003 at 1.7 percent annual rate. Annualized cost includes $28,350 (750,000 kWh) in lost energy.

[f] A minimum flow of 100 cfs is provided at the Lower Development under the current license.

[g] Increase in O&M of $1,000 from Orion Power (2002a), escalated to 2003 at 1.7 percent annual rate. Annualized cost includes $7,180 (190,000 kWh) in lost energy.

[h] Increase in O&M of $1,000 from Orion Power (2002a), escalated to 2003 at 1.7 percent annual rate. Annualized cost includes $380 (10,000 kWh) in lost energy.

[i] Costs assumed to be included under minimum flow and reservoir fluctuation enhancements.

[j] Combination of Upper Development ($25,000 capital, $1,000 O&M) and Lower Development ($15,000 capital; $1,000 O&M) recreation measures from Orion Power (2002a), with assumed distribution between boat launches and canoe portage. Escalated to 2003 at 1.7 percent annual rate.

[k] Minimal costs.

[l] Proposed by Orion Power outside the terms of the Settlement.

m Settlement Agreement, with two additional measures (recreation easements and shoreline monitoring plan).

COMPREHENSIVE PLANS

47. Section 10(a)(2)(A) of the FPA[19] requires the Commission to consider the extent to which a hydroelectric project is consistent with federal and state comprehensive plans for improving, developing, or conserving waterways affected by the project. Under Section 10(a)(2), federal and state agencies filed a total of 29 comprehensive plans that address various resources in New York. Of these, the Commission staff identified and reviewed eight plans relevant to the project.[20] No inconsistencies were found.

COMPREHENSIVE DEVELOPMENT

48. Sections 4(e) and 10(a)(1) of the FPA,[21] respectively, require the Commission to give equal consideration to the power development purposes and to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of fish

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[19] 16 U.S.C. ' 803(a)(2)(A).

[20] **New York:** (1) Adirondack Park Agency, 1985. Adirondack Park State Land Master Plan. Ray Brook, New York. January 1985. 68 pp.; (2) Adirondack Park Agency. Undated. New York State Wild, Scenic, and Recreational Rivers System Field Investigation Summaries. Albany, New York. 21 Reports; (3) New York State Department of Environmental Conservation. 1985. New York State Wild, Scenic, and Recreational River System Act. Albany, NY. March 1985. 22 pp.; (4) New York State Executive Law. 1981. Article 27 - Adirondack Park Agency Act. Albany, New York. July 15, 1981. 65 pp.; (5) New York State Office of Parks, Recreation, and Historic Preservation. 1983. People, Resources, Recreation. Albany, NY. March 1983. 353 pp. and appendices.

Federal: (6) U.S. Fish and Wildlife Service. Canadian Wildlife Service. 1986. North American Waterfowl Management Plan. Department of the Interior. May 1986. 19 pp.; (7) U.S. Fish and Wildlife Service. Undated. Fisheries USA: The Recreational Fisheries Policy of the United States Fish and Wildlife Service; (8) National Park Service. 1982. The Nationwide Rivers Inventory. Department of the Interior, Washington, DC. January 1982. 432 pp.

[21] 16 U.S.C. ' ' 797(e) and 803(a)(1).

and wildlife, the protection of 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 all beneficial public uses. The decision to license this project, and the terms and conditions included herein, reflect such consideration.

49. In determining whether a proposed project will be best adapted to a comprehensive plan for developing a waterway for beneficial public purposes, the Commission considers a number of public interest factors, including the economic benefits of project power.

50. Under the Commission's approach to evaluating the economics of hydropower projects, as articulated in Mead Corp.,[22] the Commission employs an analysis that 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 the Commission's 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 a proposed license. In making its decision, the Commission considers the project power benefits both with the applicant's proposed mitigation and enhancement measures and with the Commission's modifications and additions to the applicant's proposal.

51. As proposed by Orion Power, staff estimates that the annual cost of the project would be about $381,840 (44.92 mills/kWh). The annual power benefit, for the estimated annual generation of 8.5 GWh, would be $321,300 (37.80 mills/kWh). The resulting annual net benefit would be negative $60,540 (-7.12 mills/kWh). The proposed action with additional staff-recommended measures would increase the annual cost about $2,390 to $384,230 (45.20 mills/kWh) for the same generation, so the annual net benefit would decrease by $2,390 to negative $62,930 (-7.40 mills/kWh).

52. Our evaluation of the economics of the proposed action and the proposed action with additional staff-recommended measures shows in each analysis that project energy

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[22] 72 FERC & 61,207 (1995).

would cost more than alternative energy. However, project economics is only one of the many public interest factors that is considered in determining whether or not to issue a license, and operation may be desirable for other reasons. For example, other public interest factors are to: (a) diversify the mix of energy sources in the area; (b) promote local employment; and (c) provide a fixed- cost source of power and reduce contract needs. Ultimately, the applicant must decide if it is in their best interest to operate the project.

53. Based on our independent review and evaluation of the Newton Falls Project, recommendations from the resource agencies and other stakeholders, and the no-action alternative, as documented in the EA, I have selected the relicensing of the Newton Falls Project as proposed by Orion Power in the Settlement, with the additional staff-recommended measures, as the preferred alternative.

54. I selected this alternative because: (1) issuance of a new license would serve to maintain a beneficial, dependable, and an inexpensive source of electric energy; (2) the required environmental measures would protect and enhance fish and wildlife resources, water quality, recreational resources and historic properties; and (3) the 2.22-MW of electric energy generated from renewable resource would continue to offset the use of fossil-fueled, steam-electric generating plants, thereby conserving nonrenewable resources and reducing atmospheric pollution.

55. The preferred alternative includes the following measures:

(1) limit reservoir fluctuations for the Upper and Lower Developments (Article 401);

(2) develop and implement a streamflow and water level monitoring plan (Article 402);

(3) replace or modify existing trashracks to provide bar racks with 1-inch clear spacing between the bars (Article 403);

(4) develop downstream fish movement facilities at the Upper and Lower Developments, and provide a flow of 20 cfs, or inflow, whichever is less, through both developments' downstream fish movement facilities (Article 404);

(5) reserve the Commission's authority to require the construction, operation, and maintenance of fishways as may be prescribed by Interior (Article 405);

(6) develop and implement a recreation plan (Article 406);

(7) modify the project boundary of the Upper and Lower Developments and include, within the project boundary, recreational facilities associated with the project (Article 407); and

(8) develop and implement a shoreline erosion monitoring plan (Article 408).

LICENSE TERM

56. Section 15(e) of the FPA[23] provides that any license issued shall be for a term of not less than 30 years nor more than 50 years. The Commission's 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 such activities; and 50-year terms for projects with extensive measures.

57. The Settlement contains a provision requesting the issuance of a 40-year license term. This license authorizes a relatively moderate amount of new environmental mitigation and enhancement measures, encompassing such matters as minimum flows, limits on reservoir fluctuations, and recreational and fishery resources, as well as development and implementation of plans to improve public access and cultural resources management. Consequently, and because the term of the license was likely an important element in the negotiations that led to the Settlement, a 40-year term of license for the Newton Falls Project is appropriate.

SUMMARY OF FINDINGS

58. The EA contains background information, analysis of effects, support for related license articles, and the basis for a finding of no significant impact on the environment. Issuance of the license is not a major federal action significantly affecting the quality of the human environment. The design of this project is consistent with the engineering standards governing dam safety. The project would be safe if operated and maintained in accordance with the requirements of this license.

59. Based on the review and evaluation of the project, as proposed by the applicant, and with the additional staff-recommended environmental measures, I conclude that the

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[23] 16 U.S.C. ' 808(e).

continued operation and maintenance of the project in the manner required by the license will protect and enhance fish and wildlife resources, water quality, recreational, aesthetic, and cultural resources. The electricity generated from this renewable water power resource will be beneficial because it will continue to offset the use of fossil-fueled, steam-electric generating plants, thereby conserving nonrenewable resources and reducing atmospheric pollution. I conclude that the Newton Falls Project, with the conditions and other special license articles set forth below, will be best adapted to the comprehensive development of the Oswegatchie River for beneficial public uses.

The Director orders:

(A) This license is issued to Orion Power New York GP II, Inc. (licensee) for a period of 40 years, effective February 1, 2004, to operate and maintain the Newton Falls Hydroelectric 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.

(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, enclosed by the project boundary shown by Exhibit G, filed on January 30, 2002 and revised on October 21, 2002:

Exhibit G Drawing	FERC No. 7000-	Showing
Sheet-1	1007	Project Boundary-General
Sheet-2	1008	Project Boundary (Western Portion)
Sheet-3	1009	Project Boundary (Central Portion)
Sheet-4	1010	Project Boundary (Eastern Portion)
Sheet-4-1	1011	Comparison of Current and Proposed Project Boundaries
Sheet-5	1012	Project Boundary (Enlarged Area Around Powerhouse)

(2) The project works consisting of:

The Upper Development including: (a) a 600-foot-long, 40-foot-high concrete

gravity dam, including (i) a 114-foot-long non-overflow section that forms the left abutment of the dam, (ii) a 42-foot-long floodgate structure with four 8-foot-wide by 7-foot-high gate openings, (iii) a 58-foot-long spillway with a height of 21 feet and 2.3-foot-high flashboards (crest elevation of 1,421.0 feet National Geodetic Vertical Datum [NGVD]), (iv) a 36-foot-long by 45-foot-wide by 25-foot-high intake structure, having trashracks with 2-inch clear bar spacing, and (v) a 315-foot-long non-overflow section that forms the right abutment of the dam; (b) a powerhouse containing three Leffel Type "Z" turbine-generator units that have a combined installed capacity of 1,540 kW and a combined hydraulic capacity of 464 cubic feet per second (cfs); (c) a 1,200-foot-long, 9-foot-diameter woodstave penstock with a riveted steel surge tank; (d) a 375-foot-long 2.3-kilovolt (kV) transmission line; (e) a reservoir with a surface area of 650 acres and 5,930 acre-feet of gross storage capacity; (f) a 35-foot-wide, 250-foot-long tailrace; and (g) appurtenant facilities.

The Lower Development including: (a) a 350-foot-long, 28-foot-high concrete gravity dam, including (i) 120-foot-long spillway with a height of 25 feet and 1.5-foot-high flashboards (crest elevation of 1,372.5 feet NGVD) and (ii) a 75-foot-long by 20-foot-wide by 15-foot-high intake structure, having trashracks with 2-inch clear bar spacing; (b) a powerhouse containing a Leffel Type "Z" turbine-generator unit has an installed capacity of 680 kW and a hydraulic capacity of 486 cfs; (c) a 2,200-foot-long, 2.3-kV transmission line; (d) a reservoir with a surface area of 9 acres and 115 acre-feet of gross storage capacity; (e) a 30-foot-wide, 200-foot-long tailrace; and (f) appurtenant facilities.

The project works generally described above are more specifically described in Exhibit A of the application (pages A-1 to A-4) and shown by Exhibit F drawings, filed on January 30, 2002:

Exhibit F Drawing	FERC No. 7000 -	Description
Sheet-1	1001	Project Plan
Sheet-2	1002	Lower Dam Plan and Sections
Sheet-3	1003	Upper Dam Plan and Sections
Sheet-4	1004	Lower Powerhouse Plan, Sections, and Elevations
Sheet-5	1005	Upper Powerhouse Plan, Sections, and Elevations

Sheet-6	1006	Penstock Plans and Sections

(3) All of the structures, fixtures, equipment, or facilities used or useful in the operation and maintenance of 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, as approved by the Commission, 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 this license.

(D) This license is subject to the water quality certification conditions submitted by the New York State Department of Environmental Conservation pursuant to Section 401(a) of the Clean Water Act, as those conditions are set forth in Appendix A to this order.

(E) This license is subject to the Settlement conditions set forth in Appendix B to this order.

(F) 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," and the following additional articles:

Article 201. The licensee shall pay the United States 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 cost of administration of Part I of the Federal Power Act, as determined in accordance with provisions of the Commission's Regulations in effect from time to time. The authorized installed capacity for that purpose is 2,220 kilowatts.

Article 202. The licensee shall file, within 45 days of the effective date of the license, three sets of aperture cards of the approved exhibit drawings. The sets must be reproduced on silver or gelatin microfilm and mounted on type D (3 1/4" X 7 3/8") aperture cards.

Prior to microfilming, the FERC Drawing Number (7000-1001 through 7000-1012) 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.

Two of the sets shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's New York Regional Office.

Article 203. The licensee shall clear and keep clear to an adequate width all lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which result from maintenance, operation, or alteration of the project works. All clearing of lands and disposal of unnecessary material shall be done with due diligence to the satisfaction of the authorized representative of the Commission and in accordance with appropriate federal, state, and local statutes and regulations.

Article 204. 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 calculated annually based on current capital ratios developed from an average of 13 monthly balances of amounts properly included 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 6 months after completion of construction of the facilities authorized by this license (e.g., recreational facilities), the licensee shall submit, for Commission approval, revised Exhibits A, F, and G to show those project facilities as built. The licensee shall file six copies with the Commission, one copy with the

Commission's New York Regional Director, and one copy with the Director, Division of Hydropower Administration and Compliance, Office of Energy Projects.

Article 302. If the licensee's project was directly benefited 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 401. As required by Section 3.1 of Appendix B of this order, the licensee shall limit Upper Development reservoir fluctuations by January 31, 2006. The licensee shall limit the Lower Development reservoir fluctuations by January 31, 2008. As required by Section 3.2 of Appendix B of this order, a minimum base flow of 100 cfs or inflow, whichever is less, shall be maintained in the Oswegatchie River below the Lower Development.

The licensee may temporarily modify these minimum or reservoir elevation flows if required by operating emergencies by its control, or for short periods upon mutual agreement between the licensee, the New York State Department of Environmental Conservation, and the U.S. Fish and Wildlife Service. If the reservoir elevations are modified pursuant to 3.1 or 3.2 of Appendix B to this order, respectively, the licensee shall notify the Commission as soon as possible, but no later than 10 days after each such incident.

Article 402. As required by Section 3.3 of Appendix B of this order, the licensee shall develop a streamflow and water level monitoring plan to ensure compliance with the impoundment fluctuations, minimum base flow below the lower development, and fish movement/bypass flows required, respectively, by sections 3.1, 3.2, and 3.2.2 of Appendix B of this order. The plan shall be developed in consultation with the New York State Department of Environmental Conservation (NYSDEC) and the U.S. Fish and Wildlife Service (FWS), and submitted for Commission approval by January 31, 2006. The plan shall detail the mechanisms and structures, including any periodic maintenance and calibration necessary for any installed devices or gages, to ensure that the devices work properly, and shall specify how often reservoir elevations, minimum flows, and operational compliance will be recorded and reported to the NYSDEC and FWS.

The plan shall include, at a minimum, the requirements of Section 3.3 of Appendix B of this order and the following:

(1) measures to monitor instream flow releases from both developments to verify the minimum flow releases to the bypassed reaches and to verify the base flow in the Oswegatchie River below the Lower Development;

(2) measures to monitor headpond and tailwater elevations, as needed for instream flow verification;

(3) measures to provide an appropriate means of independent verification of water levels by the NYSDEC and the FWS;

(4) provisions for the installation of permanent staff gages to provide verification of headpond levels, to the nearest 0.1 foot, and staff gages in the tailrace areas, the location of the gages to be determined in consultation with the NYSDEC and the FWS; the staff gages shall be visible to the general public, with access to the gages provided to the NYSDEC and the FWS; all gages and other equipment shall be operational and fully calibrated by October 31, 2006;

(5) measures to keep accurate and sufficient records of reservoir elevations and instream flows to the satisfaction of the NYSDEC, and make the data available in a format, and at intervals, as requested by the NYSDEC;

(6) provisions to provide to the NYSDEC a seven-day-per-week contact person to provide immediate verification of monitored flows and responses to questions about abnormal or emergency conditions; and

(7) measures to keep accurate and sufficient records of any uncontrollable station outage that causes a reduction in the required instream flows at the Upper and Lower Developments.

The plan shall include provisions consistent with the emergency notification requirements for project operation and the instream flows required by this license. In addition, should impoundment elevations or instream flows, as measured according to the approved monitoring plan, fall below the levels required by this license, the plan shall include a provision whereby the licensee files with the Commission a report of the incident within 30 days of the incident.

The report shall, to the extent possible, identify the cause, severity, and duration of the incident, and any observed or reported adverse environmental impacts resulting from the incident. The report also shall include:

(1) operational data necessary to determine compliance with this article;

(2) a description of any corrective measures implemented at the time of the occurrence and the measures implemented or proposed to ensure that similar incidents do not recur; and

(3) comments or correspondence, if any, received from the NYSDEC and FWS regarding the incident.

Based on the report and the Commission's evaluation of the incident, the Commission reserves the right to require modifications to project facilities and operations to ensure future compliance.

The licensee shall include with the streamflow and water level monitoring plan documentation of consultation with NYSDEC and FWS, copies of comments and recommendations on the completed plan after it has been prepared and provided to the NYSDEC and FWS, and specific descriptions of how the NYSDEC and FWS=s comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the NYSDEC and the FWS 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 403. As required by Section 3.4 of Appendix B of this order, the licensee shall, by January 31, 2008, replace or modify the trashracks at the Upper and Lower Developments to provide bar racks with 1-inch clear spacing between the bars. The trashracks shall be installed either permanently or seasonally (from May 1 through November 15) by using overlays. At least six months before replacing the trashracks, the licensee shall file, for Commission approval, a plan to replace the trashracks. The plan shall, at a minimum, include functional design drawings showing the specifications of the permanent or seasonal trashracks and a schedule for the installation.

The licensee shall prepare the drawings in consultation with the New York State Department of Environmental Conservation (NYSDEC) and the U.S. Fish and Wildlife Service (FWS). The licensee shall include with the drawings documentation of consultation with the NYSDEC and FWS, copies of comments and recommendations on the drawings after they have been prepared and provided to the NYSDEC and FWS, and specific descriptions of how the NYSDEC and FWS's comments are accommodated by the drawings. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the drawings 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 drawings. Upon Commission approval, the licensee shall construct the trashracks, including any changes required by the Commission.

The licensee may temporarily modify the installation of the trashracks if required by operating emergencies beyond its control, or for short periods upon mutual agreement between the licensee, the NYSDEC, and FWS. If the installation is so modified, the licensee shall notify the Commission as soon as possible, but no later than 10 days after each such incident.

Article 404. As required by Section 3.4 of Appendix B of this order, the licensee shall provide downstream fish movement facilities at the Upper and Lower Developments. The downstream movement facilities shall consist of plunge pools, smooth transitions, channel modifications, etc., and the routes shall consist of the spillway, sluiceway and gates at the Upper Development and the spillway and gates at the Lower Development. The downstream fish movement facilities shall be completed by January 31, 2006 at the Upper Development and by January 31, 2008 at the Lower Development.

The licensee shall also provide a minimum flow of 20 cfs, or inflow, whichever is less, to the Upper Development bypassed reach by January 31, 2006, and a minimum flow of 20 cfs, or inflow, whichever is less, to the Lower Development bypassed reach by January 31, 2008. The minimum flow at each development shall be released through each development's respective downstream fish movement facilities.

At least six months before constructing the downstream fish movement facilities, the licensee shall file for Commission approval functional design drawings of the facilities. Also, the licensee shall provide a schedule for completing the installation of the downstream fish movement facilities.

The licensee shall prepare the drawings in consultation with the New York State Department of Environmental Conservation (NYSDEC) and the U.S. Fish and Wildlife Service (FWS). The licensee shall include with the drawings documentation of agency consultation with the NYSDEC and FWS, copies of comments and recommendations on the completed drawings after they have been prepared and provided to the NYSDEC and FWS, and specific descriptions of how the NYSDEC and FWS's comments are accommodated by the drawings. The licensee shall allow a minimum of 30 days for the NYSDEC and FWS to comment and to make recommendations prior to filing the drawings 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 drawings. Upon Commission approval, the licensee shall construct the downstream movement facilities, including any changes required by the Commission.

The licensee may temporarily modify the operation of the downstream fish movement facilities if required by operating emergencies beyond its control, or for short periods upon mutual agreement between the licensee, the NYSDEC and FWS. If the minimum flows or the downstream fish movement facilities are so modified, the licensee shall notify the Commission as soon as possible, but no later than 10 days after each such incident.

Article 405. The Commission reserves the authority to require the licensee to construct, operate, and maintain or to provide for the construction, operation, and maintenance of such fishways as may be prescribed by the Secretary of Interior under Section 18 of the Federal Power Act.

Article 406. Within one year after the effective date of the license, the licensee shall file for Commission approval a recreation plan to implement the requirements of Section 3.5.1 of Appendix B to this order. The plan, at a minimum, shall include the requirements of Section 3.5.1 and the following:

(1) Description of measures, including final design drawings and construction schedule, to: (a) construct one new car-top boat launch just west of the town beach, including a gravel parking area, a picnic table, and appropriate signage; (b) improve with gravel and provide appropriate signage at the existing car-top boat launch located about 1 mile east of the town beach; and (c) provide a canoe portage route, designed in consultation with Adirondack Mountain Club (ADK), including a take-out on the right side of the Upper Development's reservoir about 300 feet upstream of the dam, the use of existing roadways improved for the

portage, a put-in at the Lower development's reservoir about 150 feet downstream of the bridge, and a take-out on the left side of the Lower Development's reservoir just upstream of the Lower Development dam with a put-in about 450 feet downstream of the Lower Development dam;

(2) measures for soil erosion and sedimentation control during the construction of the recreational facilities;

(3) measures to provide permanent recreational easements for the duration of the project=s license to ensure recreational access for the two boat launches and canoe take-out and portage from the upper reservoir;

(4) provisions to allow public access to all licensee owned lands within the project boundary at the Upper and Lower Developments. The licensee shall limit public access to lands and facilities specifically related to hydroelectric generation including, but not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities;

(5) measures to monitor the use of project recreational facilities consistent with the requirements of the FERC Form 80 reporting;

(6) measures to manage the facilities over the term of any new license issued;

(7) a schedule for consulting with the parties of the Settlement to examine further opportunities to develop access to project lands. The licensee shall file the summary of the consultation and any proposed action with the Commission; and

(8) a discussion of how the needs of the disabled were considered in the planning and design of each recreation facility.

The licensee shall prepare the recreation plan after consultation with the New York State Department of Environmental Conservation (NYSDEC) and the ADK to ensure that the facilities provided best meet recreation needs and are coordinated with other initiatives in the region. 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 NYSDEC and ADK, and specific descriptions of how the NYSDEC and ADK comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the NYSDEC and ADK to comment and make recommendations prior to filing the plan with the Commission for approval. 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. No ground-disturbing or land-clearing activities for new recreation facilities shall begin until the licensee is notified by the Commission that the recreation plan is approved. Upon approval, the licensee shall implement the plan, including any changes required by the Commission.

The licensee may temporarily modify the recreation measures if required by operating emergencies beyond its control, or for short periods upon mutual agreement between the licensee and the NYSDEC. If the recreation measures are so modified, the licensee shall notify the Commission and the NYSDEC as soon as possible, but no later than 10 days after each such incident.

Article 407. Within two years after the effective date of the license, the licensee shall file, for Commission approval, eight copies of the revised Exhibit G drawings denoting the revised project boundary. The licensee shall submit six copies to the Commission, one copy to the Commission's New York Regional Director, and one copy to the Director, Division of Hydropower Administration and Compliance, Office of Energy Projects. The project boundary shall be modified to include: all lands up to elevation 1,424 feet NGVD (3 feet above spillway crest) for the Upper Development and up to elevation 1,375.5 feet NGVD (3 feet above spillway crest) for the Lower Development; and recreational facilities associated with the project, including the two boat launch areas and the canoe put-in and take-out at the Upper Development that are currently outside of the project boundary.

Article 408. The licensee; before starting any land-clearing or land-disturbing activities within the project boundaries, other than those specifically authorized in this license, shall consult with the New York State Historic Preservation Officer (SHPO). If the licensee discovers previously unidentified archeological or historic properties during project operation, during the course of constructing or developing project works or other facilities at the project, or during the course of shoreline erosion monitoring, the licensee shall consult with SHPO.

Moreover, within 6 months after the effective date of the license, the licensee shall consult with the SHPO and file for Commission approval a shoreline erosion monitoring plan. With the filing, the licensee shall include the SHPO's comments and recommendations on the shoreline erosion monitoring plan, and specific descriptions of how the SHPO's comments are accommodated by the plan. The licensee shall allow a

minimum of 30 days for the SHPO to comment and to make recommendations prior to filing the plan with the Commission for approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The shoreline erosion monitoring plan, at a minimum, shall include the following provisions:

(1) initial reconnaissance of portions of the Upper Development's reservoir shoreline to establish a baseline to compare future erosion conditions in areas of concern identified by the SHPO, which are the flat areas adjacent to the upper end of the Upper Development reservoir;

(2) follow-up comparative reconnaissance monitoring of the Upper Development's reservoir shoreline area following the occurrence of an extreme flow event (Upper Development's reservoir elevations greater than 1,424 feet NGVD); and

(3) reconnaissance and monitoring of the area of concern by responsible personnel of the licensee as defined by the SHPO.

In the event significant signs of erosion are discovered, the licensee shall, within 30 days of the discovery, consult further with the SHPO to determine what further actions and/or investigations, if any, are needed, and file the results of this consultation (e.g., any supplemental plan developed in consultation with the SHPO, the SHPO's comments on any such plan, the licensee's response to the SHPO's comments). The licensee shall take no further action that may foreclose the Commission's opportunity to direct changes to the filing until notified by the Commission that the filing is approved.

Article 409. (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 of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters 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 impoundment 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.

(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 impoundment. 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. If no conveyance was made during the prior calendar year, the licensee shall so inform the Commission and the Regional Director in writing no later than January 31 of each year.

(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 Energy Projects, 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 that 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 SHPO.

(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 ensure 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 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.

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

(H) 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 FPA. The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this Order, except as specifically ordered by the Commission.

The licensee's failure to file a request for rehearing shall constitute acceptance of this Order.

J. Mark Robinson
Director
Office of Energy Projects

APPENDIX A

New York State Department of Environmental Conservation
Certification Under Section 401 of the Federal Power Act

Water Quality Certificate Conditions for the Newton Falls Project Issued December 20, 2002, Under Section 401 of the Federal Clean Water Act by the New York State Department of Environmental Conservation.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

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

Item B: Permittee's Contractors to Comply with Permit

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

Item C: Permittee Responsible for Obtaining Other Required Permits

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

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

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

GENERAL CONDITIONS

General Condition 1: Facility Inspection by the Department

The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 7 and SAPA 401(3).

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

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

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

General Condition 3: Applications for Permit Renewals or Modifications

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal application at least:

a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (Alt) and Solid Waste Management Facilities (SWMF); and

b) 30 days before expiration of all other permit types. Submission of applications for permit renewal or modification are to be submitted to:
NYSDEC Chief Permit Administrator
625 Broadway
Albany, NY 12233-1750
Telephone (518)402-9167

General Condition 4: Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit in accordance with 6 NYCRR Part 621. The grounds for modification, suspension or revocation include:

a) materially false or inaccurate statements in the permit application or supporting papers;

b) failure by the permittee to comply with any terms or conditions of the permit;

c) exceeding the scope of the project as described in the permit application;

d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;

e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

CERTIFICATION

1. The New York State Department of Environmental Conservation ("Department" or "NYS DEC") hereby certifies:

- $ the Department has reviewed the certificate holder's Application for Federal Hydroelectric License (hereafter referred to as "the Application") and all other available pertinent information, including the Offer of Settlement filed with the Federal Energy Regulatory Commission (FERC) in July 2002;

- $ the project will comply with Sections 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act as amended and as implemented by the limitations, standards and criteria of the state statutory and regulatory requirements set forth in 6NYCRR Section 608.9(a); and

- $ the project will comply with applicable New York State effluent limitations, water quality standards and thermal discharge criteria set forth in 6NYCRR Parts 700-706.

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

CONTACTS: Except as otherwise specified, all contacts with the Department concerning this certificate shall be addressed to:

New York State Department of Environmental Conservation
Regional Permit Administrator
317 Washington Street, Watertown, NY 13601

Written submissions to the Department must include five (5) complete copies of the submission.

SPECIAL CONDITIONS

A. ADMINISTRATION

1. This certificate includes and incorporates the Newton Falls Hydroelectric Project Offer of Settlement' ("Settlement") dated May, 2002.

2. Inspections: The project, including relevant records, is 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 applicant is complying with this certification. A copy of this certification, including the Settlement dated May, 2002, as well as the FERC license and all pertinent maps, drawings and special conditions must be available for inspection by Department staff during such inspections at the project.

3. Emergencies: With the exception of emergency provisions described in the Settlement (see subsections 3.1, 3.2.3, 3.4 and 3.5.Ig), the following procedures shall apply to activities conducted at the Project in response to an emergency:

Prior to commencement of emergency activities, the NYSDEC must be notified and must determine whether to grant approval. If circumstances require that emergency activities be taken immediately such that prior notice to the NYSDEC is not possible, then the NYSDEC must be notified by the Certificate Holder(s) within 24 hours of commencement of the emergency activities. In either case, notification must be by certified mail, telegram, or other written form of communication, including fax and electronic mail. This notification must be followed within 3 weeks by submission of the following information:

(1) a description of the action;

(2) location map and plan of the proposed action;

(3) reasons why the situation is an emergency

All notifications, requests for emergency authorizations and information submitted to support such requests shall be sent to the Regional Permit Administrator at the address listed above.

4. Modifications and Revocations: The DEC reserves the right to modify or revoke this certificate when:

1) the scope of the authorized activity is exceeded or a violation of any condition of this certificate or provisions of the ECL and pertinent regulation is found;

2) the certificate was obtained by misrepresentation or failure to disclose relevant facts;

3) new material information is discovered;

4) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the certificate was issued.

B. OPERATING CONDITIONS

5. Instream Flows: The certificate holder shall maintain instream flows in accordance with the Settlement, in particular, Section 3.2.

6. Flow Monitoring: The certificate holder shall develop a stream flow and water level monitoring plan consistent with the Settlement in particular Section 3.3.

7. Impoundment Fluctuations: The Upper and Lower Reservoirs (project reservoirs) shall be operated in accordance with the Settlement (see subsection 3.1). Alternate impoundment operating plans must be reviewed and approved by NYS DEC prior to being implemented. Emergencies shall be dealt with in accordance with Special Condition #3 of this Certificate.

8. Fish Protection and Downstream Fish Movement: Fish protection provisions and downstream fish movement provisions shall be provided in accordance with the Settlement (see section 3.4).

C. PROJECT MAINTENANCE AND CONSTRUCTION

note: All matters pertaining to "Project Maintenance and Construction" shall be addressed to:

Regional Permit Administrator
New York State Department of Environmental Conservation
317 Washington Street
Watertown, NY 13601

9. Maintenance Dredging: The certificate holder shall install and maintain appropriate turbidity control structures while conducting any maintenance dredging activities in the intake/forebay area of the Project.

10. Sediment Analysis and Disposal: The certificate holder must sample any sediments to be disturbed or removed from the project waters and test them for contaminants. Sampling and testing shall be accomplished according to a protocol submitted to and approved by the Department prior to sampling.

Prior to dredging or other excavation, the certificate holder must secure Department approval for all disposal or interim holding locations for any sediments to be removed from the project waters.

11. Erosion and Sediment Control: The certificate holder shall ensure that the following erosion and sediment/contaminant control measures, at a minimum, are adhered to during routine maintenance and construction that may result in sediments/contaminants entering the project reservoirs or the Oswegatchie River.

1. Isolate in-stream work from the flow of water and prevent discolored (turbid) discharges and sediments caused by excavation, dewatering and construction activities from entering the waters of the Oswegatchie River.

2. Prohibit heavy construction equipment from operating below the mean high water level of project reservoirs and the Oswegatchie River until the work area is protected by a watertight structure and dewatered.

3. Minimize soil disturbance, grade so as to prevent or minimize erosion and provide temporary and/or permanent stabilization of all disturbed areas and stockpiles to minimize the potential for erosion and subsequent sedimentation within project reservoirs or the Oswegatchie River.

4. 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.

5. Install and maintain erosion control structures on the down slope of all disturbed areas to prevent eroded material from entering project reservoirs or the Oswegatchie River. Erosion control structures must be installed before commencing any activities involving soil disturbance and all erosion control structures must be maintained in a fully functional condition.

6. Ensure complete removal of all dredged/excavated material and construction debris from the bed and banks of project reservoirs/ Oswegatchie River in the vicinity of the Project.

7. Ensure that all temporary fill and other materials placed in the waters of the river are completely removed, immediately upon completion of construction, unless otherwise directed by the Department.

12. Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the Oswegatchie River or project reservoirs: The design of all such structures must be approved by the Department prior to installation.

13. River Flow: During any period of maintenance and/or construction activity, the certificate holder shall continuously maintain adequate flows immediately downstream of work sites consistent with the provisions of this certificate.

14. Construction Drawdowns: Whenever construction and/or maintenance activities require that the water level of project reservoirs be lowered, it shall not be drawn down more than I foot per hour. During refill, the water level of the impoundment shall not be allowed to rise more than 1 foot per hour.

15. Turbidity Monitoring: During maintenance or construction-related activities in or near the Oswegatchie River or project reservoirs, the certificate holder will monitor the turbidity or project waters at a point immediately upstream of the work area and at a point no more than 100 feet downstream from the work area. The certificate holder specifically agrees that if, at any time, turbidity measurements from the downstream locations exceed the measurements from the upstream locations, all related construction on the project will cease until the source of the turbidity is discovered and the situation is corrected.

16. Notifications: The Regional Permit Administrator must be notified in writing at least two weeks prior to commencing any project maintenance or construction work performed under the authority of this certificate.

D. PUBLIC ACCESS AND RECREATION

17. Public access and recreational opportunities shall be provided in conformance with the Settlement.

APPENIX B
"SECTIONS 1.0, 1.9, AND 3.0 OF THE SETTLEMENT."

1.0 INTRODUCTION

The Agreement and The Parties

This agreement (the Offer of Settlement) dated as of May 2002, is made and entered into pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC) (18 C.F.R. § 385.602) by and among the following entities who shall, except as otherwise noted, be referred hereafter to as a Party and collectively as 'Parties":

- Licensee
- Adirondack Mountain Club (ADK)
- Adirondack Park Agency (APA)
- American Rivers
- New York Rivers United (NYRU)
- New York State Department of Environmental Conservation (NYSDEC)
- U.S. Department of the Interior (DOI), U.S. Fish and Wildlife Service (USFWS)
- New York State Conservation Council (NYSCC)
- Adirondack Council
- Newton Falls Holdings, L.L.C., its successors or assigns

1.9 Conventions and Definitions

The Parties agree that the following conventions and definitions should have the meanings so noted throughout this Offer of Settlement.

Base Flow: The instream flow intentionally and continuously released below the project.
Bypass Flow: The instream flow intentionally and continuously released into a bypass reach.
Bypass Reach: The portion of original river bed fully or partially dewatered as a result of the diversion of water.
Elevation: Vertical distance, measured in feet, above mean sea level using USGS datum.
Impoundment Fluctuation: Defined within this agreement as a specific range of impoundment elevations associated with normal project operation which is measured in the downward direction from a specific reference point (top of flashboards).
Left/Right Bank: The left or right river bank as seen looking downstream.

License Issuance and Acceptance: For purposes of this Offer of Settlement, "License Issuance and Acceptance" means that the FERC issues a final license consistent with the terms of the Offer of Settlement relative to the particular enhancement being considered.
Licensee: Newton Falls Holdings, L.L.C., its successors or assigns.
Normal Operation: The daily operation of the Upper and Lower developments of the Newton Falls Project which may involve utilization of allowable impoundment fluctuations as needed to produce energy.

3.0 MEASURES WHICH THE LICENSEE WILL UNDERTAKE WITH RESPECT TO LICENSE CONDITIONS AND OTHER NON-LICENSE PROVISIONS OF SETTLEMENT

3.1 Impoundment Fluctuations and Flashboard Heights

By January 2006, the Licensee shall limit impoundment fluctuations within the Upper and Lower developments as specified in Table 3-1.

Table 3-I
Newton Falls Hydroelectric Project
Normal Impoundment Fluctuations

Development	Permanent Spillway Crest of Dam (USGS)	Flashboards	Normal Impoundment Fluctuations
Upper	1421.0	2.3 feet(2)	1.0 feet(1) feet measured in downward direction from top of flashboards July 16— April 30. 0.5 feet measured in downward direction from top of flashboards May I — July 15.
Lower	1372.5	1.5 feet	Run-of-river with limited fluctuation (0.3 feet below top of flashboards).

(1) The Licensee may conduct post-licensing impoundment fluctuation studies to determine the potential of changing the fluctuation limit in consultation with the Parties during the term of the new license.
(2) The Licensee may conduct post-licensing studies to determine the potential for changing the impoundment level in consultation with the Parties during the term of the license.

Normal impoundment fluctuations specified in Table 3-1 shall be defined as the maximum drawdown limit associated with the operating range necessary to achieve normal operation. The normal impoundment fluctuation limit shall be measured in the downward direction from the top of flashboards of each dam. Water surface elevations higher than the elevation from which any downward fluctuation is measured are considered outside of the normal impoundment fluctuation zone, and variations of same are not considered as a utilization of the normal impoundment fluctuation.

The Licensee may curtail or suspend these impoundment limitations if required by operating emergencies beyond its control and for short periods upon mutual agreement between the Licensee and the USFWS and NYSDEC. If the limitations are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten days after each such incident.

The Licensee may conduct post-licensing studies to determine the potential of changing the normal impoundment fluctuations and/or changing the Upper Impoundment level during the term of the new license. The design of such studies and any changes in normal impoundment fluctuations or levels are subject to the approval of the Parties.

3.1.1 Justification for Impoundment Fluctuations Limitations

Upper Impoundment

In the absence of extensive impoundment fluctuation studies, the Parties agreed that a 1.0-foot daily fluctuation would have minimal impacts on the shallow littoral and wetland habitats surrounding the Upper Impoundment. A seasonal reduction to 0.5 feet from May I through July 15 will reduce impacts to centrarchids, northern pike, and other fish spawning in the impoundment, as well as to birds nesting along the shoreline.

Lower Impoundment

The Lower Impoundment essentially operates in a run-of-river regime, following the releases from the Upper Impoundment. Fluctuations in the impoundment from the Licensee's operations will be minimal (0 to 0.3 feet below top of flashboards), generally maintaining the level at or near the top of flashboards.

3.2 Instream Flows

3.2.1 Minimum Base Flow Below Lower Development

A minimum base flow of 100 cfs or inflow, whichever is less, shall be maintained in the Oswegatchie River below the Lower Development. This minimum base flow can be comprised of discharges through the turbine at the Lower Development, discharges at the Lower Dam, and the fish movement/bypass flows specified in Section 3.2.2. This minimum flow requirement is a continuation of a requirement under the current FERC license for the project.

3.2.2 Fish Movement/Bypass Flows

The Licensee shall release the minimum bypass flows specified in Table 3-2 (or inflow to the project, whichever is less) from a point located at the respective dam of each development. The specified bypass flows are to be released through the proposed downstream fish movement facilities and are independent of any leakage through gates, etc. at the dam. The Parties agree that these flows provide adequate conveyance flows for the proposed downstream fish movement facilities, as well as habitat protection and fish movement flows for the bypassed reaches.

Table 3-2
Newton Falls Hydroelectric Project
Bypass Flow Schedule

Development	Flow Magnitude	Start Date
Upper	20 cfs	January 2006
Lower	20 cfs	January 2008

The Licensee shall derive appropriate gate settings, or other agreed upon measures, for the provision of the bypass flow at each development. The Licensee shall release each bypass flow from a point located at the dam of each development.

3.2.2.1 Justification for Fish Movement/Bypass Flows

Upper Development

A Demonstration Flow Study was performed to assess the appropriate flows for the bypassed reach. Limited habitat for smallmouth bass spawning or fallfish was

available at any flow. All other target organisms exhibited increased habitat with increasing flows up to 30 cfs. No improvements were seen as flows were increased above 30 cfs. Smallmouth bass adult and juvenile habitat demonstrated moderate increases when flows were increased from 20 cfs to 30 cfs.

The primary use of this bypassed reach is to provide forage. Both macroinvertebrate habitat and habitat for riffle-dwelling species (represented by longnose dace) showed significant increases with increasing flow from leakage to 30 cfs. Fish movement was limited at leakage, but maximized at flows of 20 cfs and higher.

The USFWS' engineering guidelines for downstream fish movement require a minimum conveyance flow of 20 cfs. This flow will provide adequate habitat to meet the management objectives of the bypassed reach. Since the flow through the fish movement structure is discharged to the bypassed reach, the bypassed reach will always receive at least 20 cfs plus leakage.

Lower Development

The USFWS' engineering guidelines for downstream fish movement require a minimum conveyance flow of 20 cfs. Although conditions did not permit observations of a variety of flows through this bypassed reach, the Parties concluded, based in part on videotapes of 20 cfs, that the 20 cfs fish conveyance flow would be adequate for this relatively short bypassed reach. This flow will allow fish movement throughout the bypassed reach, while increasing macroinvertebrate habitat and forage fish habitat.

3.2.3 Emergency Exceptions

The Licensee may curtail or suspend the instream flow requirements of Sections 3.2.1 and 3.2.2, if required by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee, USFWS and NYSDEC. If the flows are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten days after each such incident.

3.3 Flow and Water Level Monitoring

The Licensee shall develop a stream-flow and water-level monitoring plan in consultation with the NYSDEC and the USFWS by January 2006. The monitoring plan shall include all necessary gages and/or equipment to:

• Determine the instream flow releases of the Upper and Lower developments of

the Newton Falls Project at appropriate locations.

• Determine headpond elevations as needed for instream flow verification.

• Provide an appropriate means of independent verification of water levels by the NYSDEC and USFWS.

All gaging and ancillary equipment required by the monitoring, including headpond gages, shall be made operational and fully calibrated by October 2006.

The dates provided in this section will not be extended without prior consultation with all Parties.

The monitoring plan will contain provisions for the installation of staff gages at appropriate locations to permit independent verification of headpond levels to the nearest 0.1-foot. These locations will be selected in consultation with the USFWS and NYSDEC. The Licensee will make reasonable efforts to install the staff gages where they will be visible to the general public. Access to staff gages shall be provided to the NYSDEC, the USFWS, and/or their authorized representatives.

The Licensee shall keep accurate and sufficient records of the impoundment elevations and instream flows to the satisfaction of the NYSDEC and shall provide such data in a format and at intervals as required by the NYSDEC. All records will be made available for inspection at the Licensee's principal business office within New York State within five (5) business days or will be provided in written form within 30 days of the Licensee's receipt of a written request for such records by the NYSDEC. Furthermore, the Licensee will provide to the NYSDEC a seven-day-per-week contact person to provide immediate verification of monitored flows and responses to questions about abnormal or emergency conditions.

The Licensee shall keep accurate and sufficient records of any uncontrollable station outage that causes a reduction in the required instream flows at the Upper and Lower developments. The Licensee will consult with the NYSDEC to develop a plan for reporting these types of incidents. The reporting plan shall be finalized by January 2006.

3.4 Fish Protection and Downstream Movement

The existing trashracks at each development shall be replaced or modified with fish-protection measures specified in Table 3-3 and in accordance with the schedule proposed in Table 3-3.

Table 3-3 Newton Falls Hydroelectric Project Downstream Fish Movement and Protection Measures Development			
Development	**Protection[1] Measure/Schedule**	**Downstream Movement Routes**	**Conveyance System**
Upper	1-inch clear spacing trashracks installed by January 2008	Spillway, sluiceway, and gates.	Plunge pools, smooth transitions, channel modifications, etc.
Lower	1-inch clear spacing trashracks installed by January 2008	Spillway and gates.	Plunge pools, smooth transitions, channel modifications, etc.

(1) 1-inch clear opening trashracks may be permanent or overlays installed seasonally (May 1 through November 15)

The Licensee shall provide downstream fish movement facilities in consultation with NYSDEC and USFWS by January 2006 at the Upper Dam and January 2008 at the Lower Dam. A minimum conveyance flow of 20 cfs (see Section 3.2.2) is to be provided for the downstream fish movement facilities at both the Upper and Lower Dams.

For the term of the new license, the Licensee shall not be required to (1) test the effectiveness of any, or all, components of existing and future protection or fish movement measures and/or structures, (2) make qualitative or quantitative determinations of fish entrainment and/or mortality, (3) provide compensation for any fish entrainment and/or mortality, or (4) provide upstream fish passage facilities, except as provided in the next paragraph.

The Licensee shall not be required to increase the level of protection and movement as agreed to by this Offer of Settlement for the term of the license, unless prescribed by the U.S. Department of the Interior under Section 18 of the Federal Power Act (see Section 2.7).

The Licensee may curtail or suspend the requirements of this commitment if required by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee, USFWS and NYSDEC. If the requirements of this commitment are so modified, the Licensee shall notify the FERC, USFWS, and NYSDEC as soon as possible, but no later than ten days after each such

incident.

3.4.1 Justification

The existing trashracks at the Upper Development have 2 inch clear spacing between vertical bars and its location does not create an area of high velocity in front of the intake (maximum approach velocities estimated at 1.8 fps). The existing trashracks at the Lower Development have 2 inch clear spacing between vertical bars and its location does not create an area of high velocity in front of the intake (maximum approach velocities estimated at 2.0 fps).

When the existing trashracks at each development are replaced, or modified, either on a permanent or seasonal (May 1-November 15) basis, they will be replaced/modified with trashracks having 1.0 inch clear spacing, which will deter most adult game fish from entering the intake. These devices may also behaviorally deter smaller fish that generally have a higher survival rate during turbine passage.

3.5 Recreation

The recreational opportunities provided by this Offer of Settlement supplement the existing recreational opportunities in the Newton Falls Project area, and will provide public access to, and use of, the impoundments, and some adjacent lands associated with the Upper and Lower developments.

3.5.1 Recreational Enhancement Commitments To be Included in the License

By January 2006, the Licensee shall implement all recreation enhancements specified below.

(a) Car-top Boat Launches: The Licensee shall construct a small, gravel car top boat launch just west of the town beach along with a gravel parking area to accommodate 5-6 cars adjacent to the boat launch with appropriate signage, including a 10 HP motor limitation sign. A picnic table will be provided at this access area. Additionally, an informal car-top boat launch, currently existing about one mile east of the town beach, shall be improved with gravel and the Licensee shall install appropriate signage, including a 10 HP motor limitation sign. Roadside parking immediately east of the boat launch currently exists.

(b) Canoe Portage: Licensee shall provide a canoe portage route commencing at a take-out in the upper impoundment. The take-out shall be located on the right side of the upper

impoundment approximately 300 feet upstream of the dam. The portage shall utilize existing roadways, improved for the portage, to the put-in into the lower impoundment, approximately 150 feet downstream of the bridge. Recreationists can traverse the lower impoundment to the take-out on the left side, just upstream of the dam. For continuation of the canoe route, recreationists shall put-in, approximately 150 yards downstream of the lower dam, just downstream of the confluence of the tailrace with the bypassed reach. Licensee to continue to consult with ADK on the design and location of the portage trail.

(c) Public Access: The Licensee shall allow public access to all lands within the FERC project boundary associated with each development covered by this Offer of Settlement, with the exception of those lands and facilities specifically related to hydroelectric generation where public safety would be a concern. Lands and facilities where public access will be precluded may include, but are not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities.

(d) Future Recreational Opportunities: The Licensee shall work with signatories to this Offer of Settlement to examine further reasonable opportunities to develop access to project lands or waters when, and if, the need arises.

(e) Whitewater Opportunities: The Parties agree that the Licensee shall not be required by this Offer of Settlement, or articles of license, to supply whitewater releases downstream of the Newton Falls Project.

(f) Recreation Monitoring: The Licensee shall not be required to monitor the use of recreational facilities included in this Offer of Settlement beyond the requirements of the FERC's Form 80 reporting.

(g) Operating Emergencies: The Licensee may curtail or suspend recreation measures if required to by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee and the NYSDEC. If such suspension of measures occurs under emergency conditions, the Licensee shall notify the NYSDEC as soon as possible, but no later than ten days after each such incident.

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 6
Dulles State Office Building, 317 Washington Street, Watertown, New York 13601-3787
Phone: (315) 785-2245 • **FAX:** (315) 785-2242
Website: www.dec.state.ny.us

Erin M. Crotty
Commissioner

ORIGINAL

December 20, 2002

Samuel S. Hirschey, Manager
Hydro Licensing and Regulatory Compliance
Orion Power New York GP 11, Inc.
225 Greenfield Parkway, Suite 201
Liverpool, NY 13088

RE: Newton Falls Hydroelectric Project
DEC #6-4026-00015/00003
FERC Project #7000
Clifton (T), St. Lawrence County

Dear Mr. Hirschey:

Enclosed is the Water Quality Certification for the Newton Falls Hydroelectric Project. The Certificate is being issued pursuant to Section 401 of the Federal Water Pollution Control Act (33 USC 1341) and section 608.9 of the New York State Department of Environmental Conservation regulations pertaining to the Use and Protection of Waters (6NYCRR Part 608).

If you have any questions regarding the Water Quality Certification, please contact me.

Sincerely,

Lawrence D. Gunn

Lawrence D. Gunn
Environmental Analyst 1
Region 6

LDG:dli

cc: Service List
Settlement Offer Signatories
Magalie R. Salas, FERC
Thomas DeWitt, FERC
Janet Hutzel, FERC
J. Sabattis, Orion
William Little, NYS DEC
William Sarbello, NYS DEC

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC APPLICATION NUMBER		EFFECTIVE DATE
6-4026-00015/00003	**WATER QUALITY** Certificate	December 20, 2002
FACILITY/PROGRAM NUMBER(S)		EXPIRATION DATE(S)
FERC Project # 7000		COINCIDENT WITH EXPIRATION DATE OF THE NEW LICENSE ISSUED BY THE FEDERAL ENERGY REGULATORY COMMISSION (FERC) FOR FERC PROJECT #7000

CERTIFICATE ISSUED TO	TELEPHONE NUMBER
Orion Power New York GP II, Inc.	315-413-2700
ADDRESS OF RECIPIENT 225 Greenfield Parkway, Suite 201, Liverpool, New York 13088	
CONTACT PERSON FOR RECIPIENT Sam Hirschey, Manager, Hydro Licensing and Regulatory Compliance	**TELEPHONE NUMBER** 315-413-2790
NAME AND ADDRESS OF PROJECT/FACILITY Newton Falls Hydroelectric Project, Newton Falls, NY 13666	
LOCATION OF PROJECT/FACILITY On the Oswegatchie River, approximately 12 river miles (per license) downstream of Cranberry Lake, NY	

COUNTY	TOWN	WATERCOURSE	NYTM COORDINATES
St Lawrence	Clifton	Oswegatchie River	E: 501.1 N: 4895.7

DESCRIPTION:

Operation and Maintenance of the Newton Falls Hydroelectric Project in accordance w ith the attached Conditions and the provisions of the Newton Falls Hydroelectric Project Offer of Settlement dated M ay, 2002.

By acceptance of this certificate, the certificate holder agrees that it will act in strict com pliance with the applicable water quality sections of the Environmental Conserv ation Law (ECL), all water quality regulations, the conditions included as part of this certificate and the prov isions of the Newton Falls Hy droelectric Project 'O ffer of Settlement' dated May, 2002 and filed with the Federal Energy Regulatory Commission (FERC).

REGIONAL PERMIT ADMINISTRATOR	ADDRESS	
Brian D. Fenlon	317 Washington Street, Watertown, NY 13601	
AUTHORIZED SIGNATURE Brian D. Fenlon	DATE December 20, 2002	PAGE 1 OF 5

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

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

Item B: Permittee's Contractors to Comply with Permit

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

Item C: Permittee Responsible for Obtaining Other Required Permits

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

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

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

GENERAL CONDITIONS

General Condition 1: Facility Inspection by the Department

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

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

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

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

General Condition 3: Applications for Permit Renewals or Modifications

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal application at least:

a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and

b) 30 days before expiration of all other permit types.

Submission of applications for permit renewal or modification are to be submitted to:

NYSDEC Chief Permit Administrator,
625 Broadway, Albany NY 12233-1750, Telephone (518) 402-9167

General Condition 4: Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit in accordance with 6 NYCRR Part 621. The grounds for modification, suspension or revocation include:

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

(1) a description of the action;
(2) location map and plan of the proposed action;
(3) reasons why the situation is an emergency

All notifications, requests for emergency authorizations and information submitted to support such requests shall be sent to the Regional Permit Administrator at the address listed above.

4. Modifications and Revocations: The DEC reserves the right to modify or revoke this certificate when:

   1) the scope of the authorized activity is exceeded or a violation of any condition of this certificate or provisions of the ECL and pertinent regulation is found;
   2) the certificate was obtained by misrepresentation or failure to disclose relevant facts;
   3) new material information is discovered;
   4) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the certificate was issued.

B. OPERATING CONDITIONS

5. Instream Flows: The certificate holder shall maintain instream flows in accordance with the Settlement, in particular, Section 3.2.

6. Flow Monitoring: The certificate holder shall develop a stream flow and water level monitoring plan consistent with the Settlement in particular Section 3.3.

7. Impoundment Fluctuations: The Upper and Lower Reservoirs (project reservoirs) shall be operated in accordance with the Settlement (see subsection 3.1). Alternate impoundment operating plans must be reviewed and approved by NYS DEC prior to being implemented. Emergencies shall be dealt with in accordance with Special Condition #3 of this Certificate.

8. Fish Protection and Downstream Fish Movement: Fish protection provisions and downstream fish movement provisions shall be provided in accordance with the Settlement (see section 3.4).

C. PROJECT MAINTENANCE AND CONSTRUCTION

note: All matters pertaining to "Project Maintenance and Construction" shall be addressed to:

Regional Permit Administrator
New York State Department of Environmental Conservation
317 Washington Street
Watertown, NY 13601

9. Maintenance Dredging: The certificate holder shall install and maintain appropriate turbidity control structures while conducting any maintenance dredging activities in the intake/forebay area of the Project.

10. Sediment Analysis and Disposal: The certificate holder must sample any sediments to be disturbed or removed from the project waters and test them for contaminants. Sampling and testing shall be accomplished according to a protocol submitted to and approved by the Department prior to sampling.

    Prior to dredging or other excavation, the certificate holder must secure Department approval for all disposal or interim holding locations for any sediments to be removed from the project waters.

11. Erosion and Sediment Control: The certificate holder shall ensure that the following erosion and sediment/contaminant control measures, at a minimum, are adhered to during routine maintenance and construction that may result in sediments/contaminants entering the project reservoirs or the Oswegatchie River.

SPECIAL CONDITIONS

1. Isolate in-stream work from the flow of water and prevent discolored (turbid) discharges and sediments caused by excavation, dewatering and construction activities from entering the waters of the Oswegatchie River.

2. Prohibit heavy construction equipment from operating below the mean high water level of project reservoirs and the Oswegatchie River until the work area is protected by a watertight structure and dewatered.

3. Minimize soil disturbance, grade so as to prevent or minimize erosion and provide temporary and/or permanent stabilization of all disturbed areas and stockpiles to minimize the potential for erosion and subsequent sedimentation within project reservoirs or the Oswegatchie River.

4. 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.

5. Install and maintain erosion control structures on the down slope of all disturbed areas to prevent eroded material from entering project reservoirs or the Oswegatchie River. Erosion control structures must be installed before commencing any activities involving soil disturbance and all erosion control structures must be maintained in a fully functional condition.

6. Ensure complete removal of all dredged/excavated material and construction debris from the bed and banks of project reservoirs/ Oswegatchie River in the vicinity of the Project.

7. Ensure that all temporary fill and other materials placed in the waters of the river are completely removed, immediately upon completion of construction, unless otherwise directed by the Department.

12. Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the Oswegatchie River or project reservoirs The design of all such structures must be approved by the Department prior to installation.

13. River Flow: During any period of maintenance and/or construction activity, the certificate holder shall continuously maintain adequate flows immediately downstream of work sites consistent with the provisions of this certificate.

14. Construction Drawdowns: Whenever construction and/or maintenance activities require that the water level of project reservoirs be lowered, it shall not be drawn down more than 1 foot per hour. During refill, the water level of the impoundment shall not be allowed to rise more than 1 foot per hour.

15. Turbidity Monitoring: During maintenance or construction-related activities in or near the Oswegatchie River or project reservoirs, the certificate holder will monitor the turbidity or project waters at a point immediately upstream of the work area and at a point no more than 100 feet downstream from the work area. The certificate holder specifically agrees that if, at any time, turbidity measurements from the downstream locations exceed the measurements from the upstream locations, all related construction on the project will cease until the source of the turbidity is discovered and the situation is corrected.

16. Notifications: The Regional Permit Administrator must be notified in writing at least two weeks prior to commencing any project maintenance or construction work performed under the authority of this certificate.

D. PUBLIC ACCESS AND RECREATION

17. Public access and recreational opportunities shall be provided in conformance with the Settlement.

cc: Settlement Participants
M.Salas, FERC
Service List, FERC Project #7000

SPECIAL CONDITIONS

1. Isolate in-stream work from the flow of water and prevent discolored (turbid) discharges and sediments caused by excavation, dewatering and construction activities from entering the waters of the Oswegatchie River.

2. Prohibit heavy construction equipment from operating below the mean high water level of project reservoirs and the Oswegatchie River until the work area is protected by a watertight structure and dewatered.

3. Minimize soil disturbance, grade so as to prevent or minimize erosion and provide temporary and/or permanent stabilization of all disturbed areas and stockpiles to minimize the potential for erosion and subsequent sedimentation within project reservoirs or the Oswegatchie River.

4. 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.

5. Install and maintain erosion control structures on the down slope of all disturbed areas to prevent eroded material from entering project reservoirs or the Oswegatchie River. Erosion control structures must be installed before commencing any activities involving soil disturbance and all erosion control structures must be maintained in a fully functional condition.

6. Ensure complete removal of all dredged/excavated material and construction debris from the bed and banks of project reservoirs/ Oswegatchie River in the vicinity of the Project.

7. Ensure that all temporary fill and other materials placed in the waters of the river are completely removed, immediately upon completion of construction, unless otherwise directed by the Department.

12. Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the Oswegatchie River or project reservoirs The design of all such structures must be approved by the Department prior to installation.

13. River Flow: During any period of maintenance and/or construction activity, the certificate holder shall continuously maintain adequate flows immediately downstream of work sites consistent with the provisions of this certificate.

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D. PUBLIC ACCESS AND RECREATION

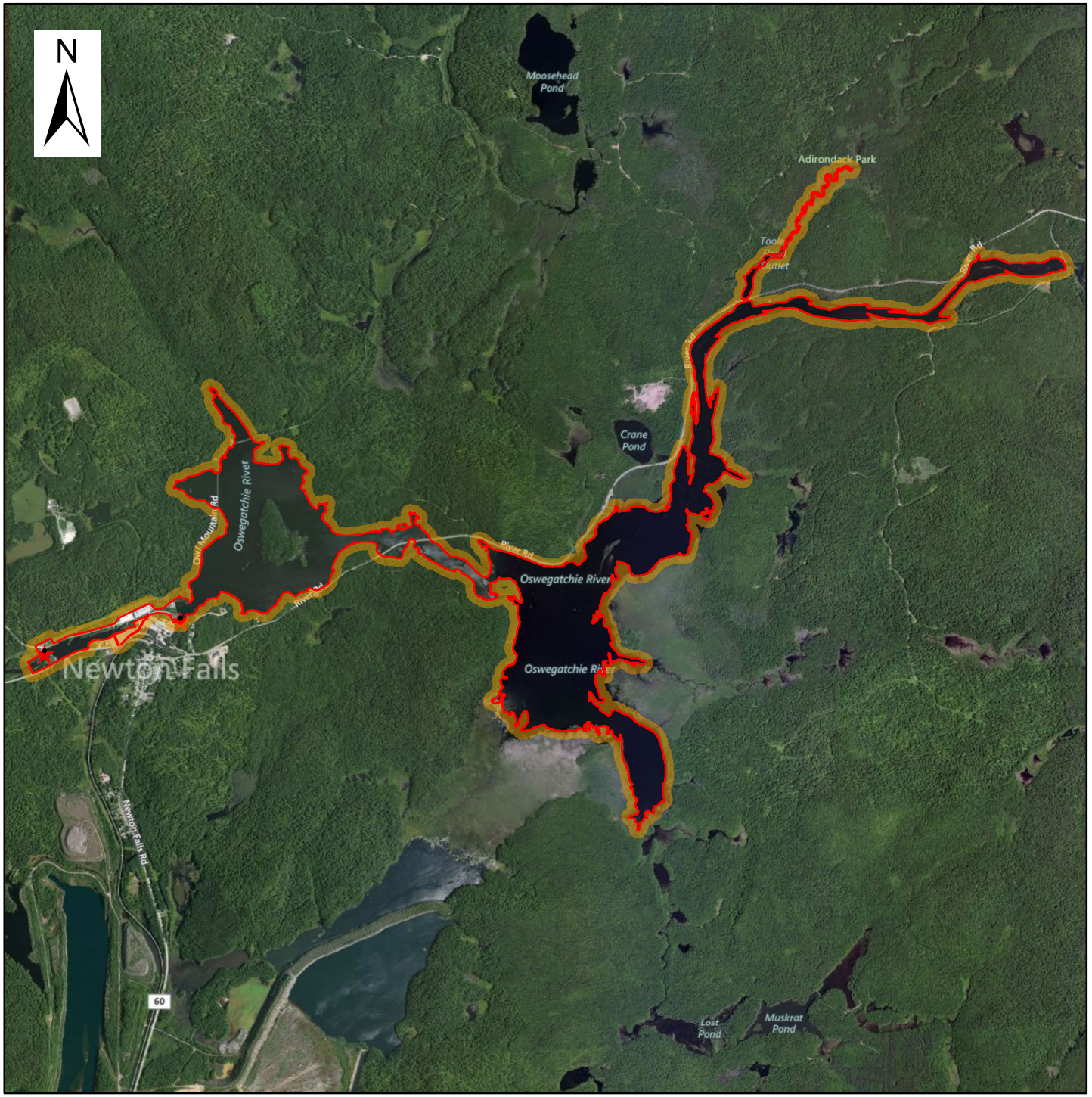
17. Public access and recreational opportunities shall be provided in conformance with the Settlement.

cc: Settlement Participants
M.Salas, FERC
Service List, FERC Project #7000

ATTACHMENT C

QUESTION 10:

MAP SHOWING 200 FT ZONE AROUND RESERVOIR



PROJECT LOCATION MAP

Newton Falls Hydroelectric Project FERC No. 7000

Legend

- Shoreline
- 200 Foot Buffer
- Newton Falls Project (P-7000)

0 2,000 4,000 6,000 Feet

Brookfield

Path: G:\Projects\Brookfield\133301_NYWestCompliance\map_docs\NewtonFallsLIHIBuffer.mxd

Data Source: USGS Quadragle 1:24,00; Newton Falls and Oswegatchie

ATTACHMENT D

QUESTION 11:

LIST OF KEY AGENCY/STAKEHOLDER CONTACTS

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

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

Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977

Adirondack Mountain Club
15 Lawrence Ave.
Potsdam, NY 13676

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

Adirondack Council
342 Hamilton Street
Albany, NY 12210

American Rivers
1025 Vermont Ave., NW, Suite 720
Washington, D.C. 20005

ATTACHMENT E

QUESTION 12:

PROJECT DESCRIPTION

EXHIBIT F & G DRAWINGS (P-7000)

NEWTON FALLS
PROJECT DESCRIPTIONS

The Newton Falls Hydroelectric Project consists of two developments (Upper Newton Falls and Lower Newton Falls), which are located on the Oswegatchie River in the Town of Clifton, St. Lawrence County, New York. The Project is located approximately 98 miles upstream of the river's confluence with the St. Lawrence River. The Oswegatchie River has seventeen hydroelectric projects along its length. Cranberry Lake is the principal storage facility in the Oswegatchie River basin. The Cranberry Lake Dam is located approximately 12 miles upstream of Newton Falls.

Newton Falls Hydroelectric Project (FERC No. 7000)

The Newton Falls Hydroelectric Project is located on the Oswegatchie River and consists of two developments: Upper Newton Falls located at river mile (RM) 99.6 and Lower Newton Falls located at RM 99.1.

Upper Newton Falls Development

The project includes a concrete gravity dam with a total length of approximately 600 feet and a maximum height of 50 feet. Components of the dam are a south non-overflow section, a post tension anchored uncontrolled concrete ogee gravity section, a four bay flood gate structure with slide gates (also post-tension anchored), an intake, and a north non-overflow section. Water is conveyed from the dam to the powerhouse via a 1,200-foot-long penstock. Along the penstock is a surge tank located upstream of the penstock trifurcation into the powerhouse.

The Upper Dam is a concrete gravity structure with a total length of approximately 600 feet and a maximum height of 50 feet. The south non-overflow section is approximately 114 feet long and forms the left abutment of the dam. The north non-overflow section is a low concrete gravity section, approximately 315 feet long, and forms the right abutment of the dam. The south nonoverflow section was refurbished in 1989 with extensive concrete repair and the construction of a new 5.0 foot high concrete parapet wall to protect the adjacent downstream backfill. The Upper Dam spillway, intake and floodgate structures are described below.

There is an overflow spillway and a flood gate structure at the project, described as follows: The Upper Dam spillway is an uncontrolled concrete ogee gravity section approximately 59 feet long with a height of 21 feet. The fixed crest elevation is 1421.0 feet mean sea level (MSL) and is licensed for 3.0-foot-high (maximum) flashboards. The upper dam spillway was rehabilitated in 1989 with the installation of post-tensioned anchors to provide additional stability and extensive concrete repair of exposed concrete surfaces.

The Upper Dam floodgate structure is a four-bay concrete gravity structure measuring approximately 42 feet by 18.5 feet with a height of 17 feet. Slide gate openings are 7 feet high by 8 feet wide with a typical invert elevation of 1410 feet MSL. This structure was refurbished in 1989 with extensive concrete repair and the installation of post-tensioned anchors to provide additional stability.

The intake is a reinforced concrete gravity structure measuring approximately 36 feet by 45 feet with a maximum height of 25 feet. The intake diverts water to the powerhouse via a penstock.

The penstock is a 9-foot-inside-diameter, 1,200-foot-long steel-banded wood-stave penstock with timber cradles on timber mud sills. The penstock was replaced in 1985. There is a surge tank on the penstock just upstream of the powerhouse. The surge tank is a riveted steel differential tank structure located upstream of the penstock trifurcation into the powerhouse. Repairs made in 1985 included replacement of the surge tank bowl (lower skin plate) and painting of the entire surge tank.

The upper powerhouse consists of a reinforced concrete substructure and brick superstructure. The powerhouse measurements are approximately 49 feet by 26 feet with a maximum height of 45 feet. Three Leffel Type "Z" turbines are housed in the powerhouse.

The development is licensed to operate in a peaking and/or load following mode with a 1-foot maximum drawdown allowed. A seasonal drawdown of 0.5-foot is required from May 1 – July 15. Generally, however, Upper Newton Falls is operated within a tenth of a foot or two of normal full reservoir elevation, although licensed for a foot of drawdown. If the pond is drawn down a foot, it may take considerable time to refill the reservoir, which could impact the base flow requirement downstream of the Lower Development (that is why it is generally limited to a fluctuation of only 0.1 foot or so). The spillway facilities for the upper dam consist of an ogee-shaped concrete gravity overflow section and four flood gates. The spillway overflow section is normally topped with flashboards. During normal conditions, flow is also discharged through a 9-foot diameter penstock leading to the powerhouse. Flows passing through the penstock were disregarded in the flood analysis. There is a downstream fish passage outlet at the right end of the spillway that passes a minimum of 20 cfs on a continuous basis.

Upper Newton Falls Spillway and Floodgate Section

Lower Newton Falls Development

The project includes 350-foot long, 24-foot high concrete gravity dam topped with flashboards (licensed for 3-foot), a 9-acre reservoir with a gross storage of 115 acre-feet, 300-foot bypass reach, and a one unit powerhouse with a total rated output of 680 KW at a net head of 22 feet. The normal full reservoir level is 1,374 feet (with 1.5 foot high flashboards). Components of the dam, from left to right, facing downstream, are a left embankment/corewall section, an ogee spillway with flashboards, a forebay wall, an integral powerhouse/intake, and a concrete retaining wall retaining the access/parking lot fill.

The dam is 350 feet long, and consists of a left embankment/corewall section, an ogee spillway with flashboards, a forebay an integral powerhouse/intake, and a concrete retaining wall retaining the access/parking lot fill. These components of the dam are described in more detail below.

The spillway is a concrete gravity ogee section with an overall length of 120 feet, and a maximum height of about 24 feet (28-feet to the top of the non-overflow ends of the structure). The crest is mounted with 1.5 foot high timber flashboards resulting in a top elevation of 1374 feet. The fixed crest is at elevation 1372.5 feet. It is noted that the development is licensed for 3-foot flashboards, which would allow for a full reservoir elevation of 1,375.5 feet. At the left end of the spillway is a 6-foot by 6-foot square low level outlet, controlled by a lift gate with a

manual operator at the crest. The manual operator is powered by a portable drill and gasoline electric generator pair. The spillway concrete was rehabilitated in 1996.

The left embankment/corewall structure is a soil backfilled corewall structure with a length of about 125 feet and a top elevation of about 1,376.5. In 1996, a toe drain consisting of two longitudinal perforated pipes and a blanket drain were installed to remedy seepage at the toe. The forebay wall is located to the right of the spillway and serves as a training wall for the intake. It is about 80 feet long with a top elevation of 1,376.5 feet. A three foot square sluice gate with an invert elevation of 1361.5 feet exists in the forebay wall, controlled by a lift gate with a manual operator at the crest. The manual operator is powered by a portable drill and gasoline electric generator pair.

A concrete gravity retaining wall that retains the driveway to the powerhouse exists to the right of the intake, and serves as a training wall for the intake. The wall is about 88 feet long with a top elevation of approximately (estimated) 1,378 feet.

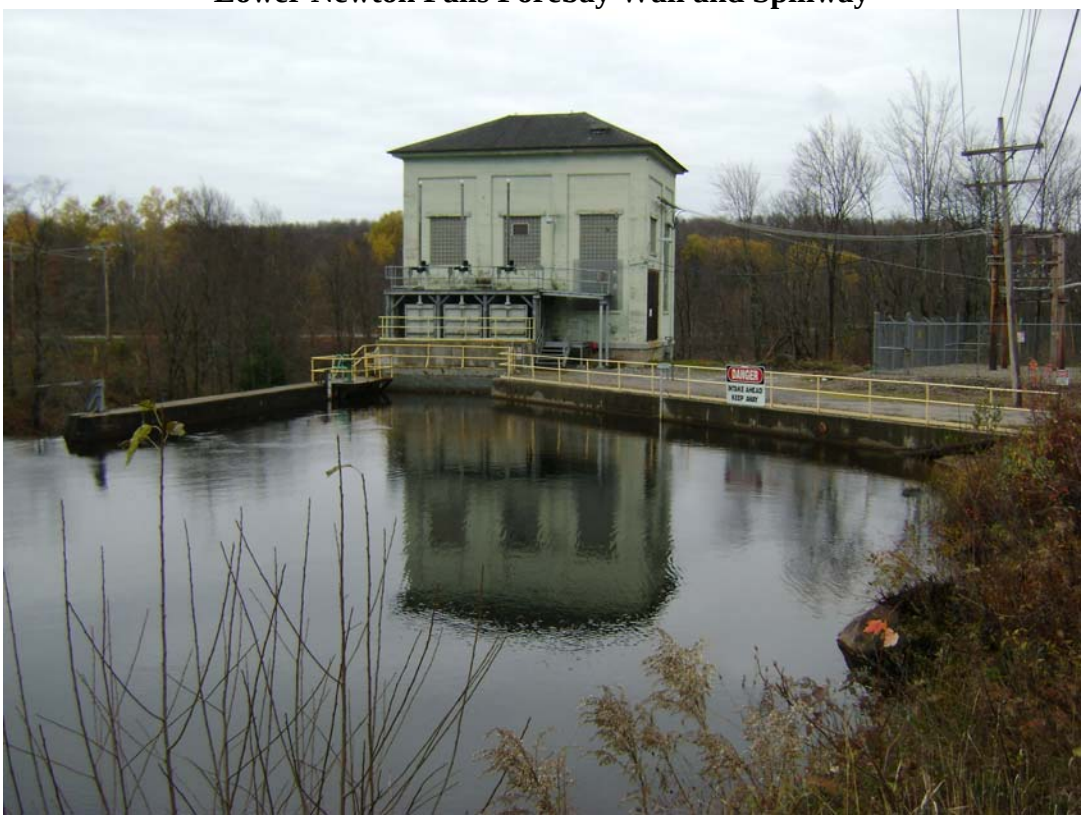
The intake is integral with the upstream face of the powerhouse. The intake structure is a reinforced concrete structure approximately 20 feet wide by 15 feet high. The intake has three bays controlled by three vertical screw stem lift gates which were rehabilitated in 2005. The screw stem hoists (one per gate) are electric. The trashracks have a clear spacing of 1 inch.

There are no penstocks or flumes at the project. The powerhouse and intake are integral structures.

The powerhouse has a concrete substructure and a brick superstructure. The powerhouse substructure sidewalls/foundation and buttresses were rehabilitated in 2006. It is a reinforced concrete structure with measurements of 30 feet by 50 feet. A single Leffel Type "Z" turbine is housed in the powerhouse. The generator unit has a rated capacity of 680 KW and operates under 22 feet of head.

The development is licensed to operate in a run of river mode with a 0.3-foot maximum drawdown below the flashboards. The top of the flashboards is elevation 1374 feet, the normal full reservoir level. The spillway overflow section is normally topped with flashboards. During normal conditions, flow is also discharged through the intake, into a passage leading to the powerhouse. Per the current license, a minimum flow of 100 cfs or inflow, whichever is less, is maintained in the Oswegatchie River below the Lower Development. This minimum flow of 100 cfs is achieved through one of two methods. The turbine in the Lower Development requires a minimum flow of approximately 146 cfs. Therefore, when there is enough flow to keep the generating unit on line, the water is passed through the unit. However, when the flow falls below the minimum turbine flow, the required flow is passed over the spillway.

Lower Newton Falls Forebay Wall and Spillway

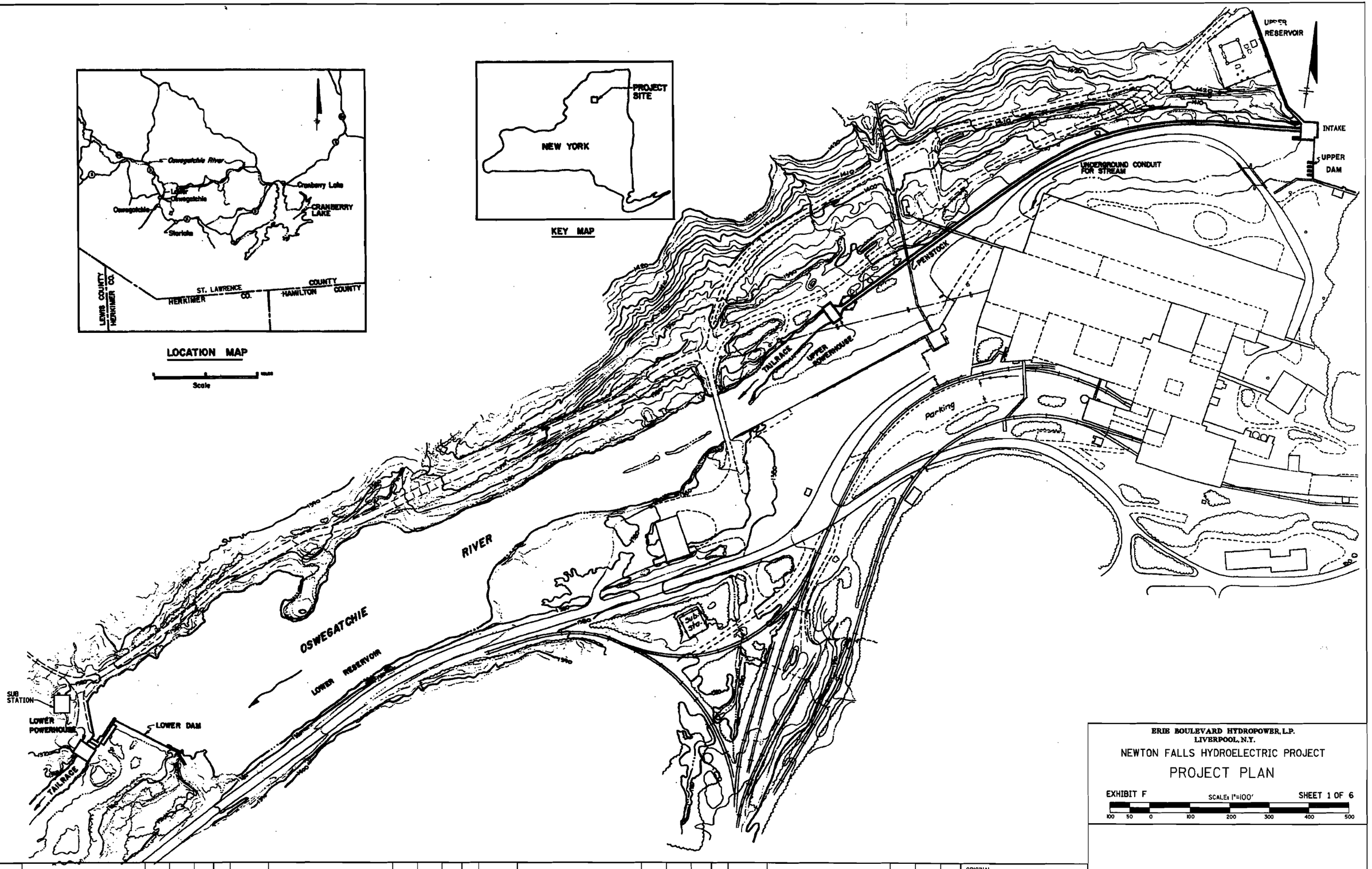


Lower Newton Falls Powerhouse

LOCATION MAP

Scale

KEY MAP



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

NEWTON FALLS HYDROELECTRIC PROJECT

PROJECT PLAN

EXHIBIT F — SCALE: 1"=100' — SHEET 1 OF 6

100 50 0 100 200 300 400 500

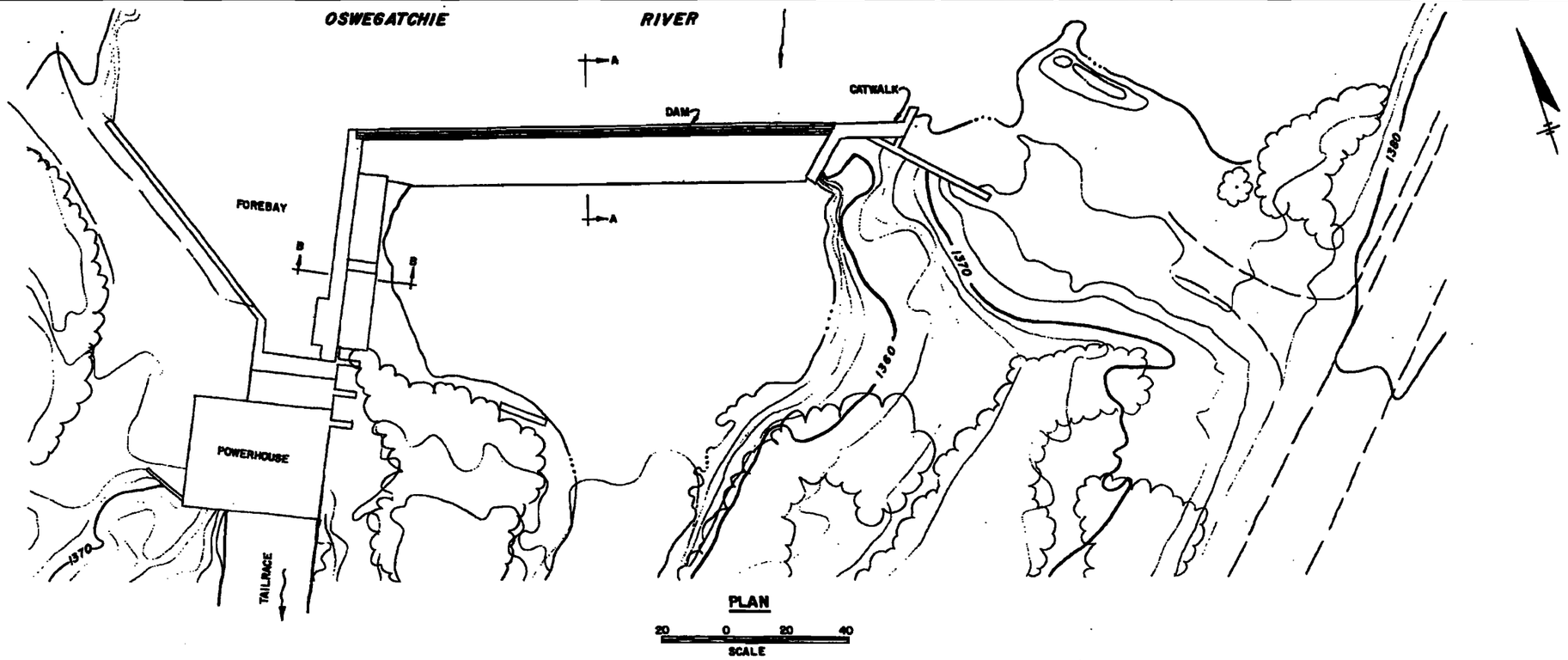
NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	6/9/06	ORDER APPROVING REVISED DRAWING (ISSUED 12/13/05)	PA	TMS	TMS
2	02/01/2004	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS
1	8/13/2003	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME 6104701Ø.DGN 6104701Ø.CIT

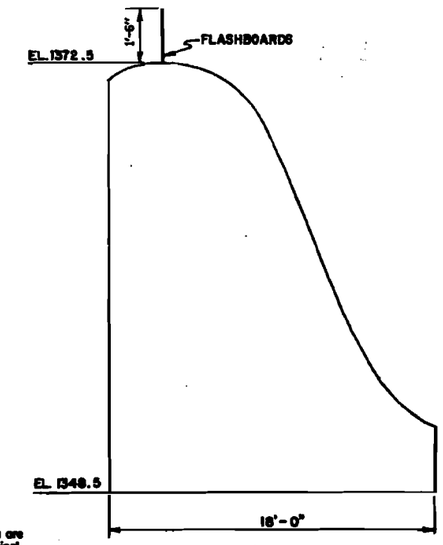
FERC NO. 7ØØØ-1Ø13

FERC NO. 7ØØØ-1Ø13



PLAN

20 0 20 40
SCALE



SECTION A-A

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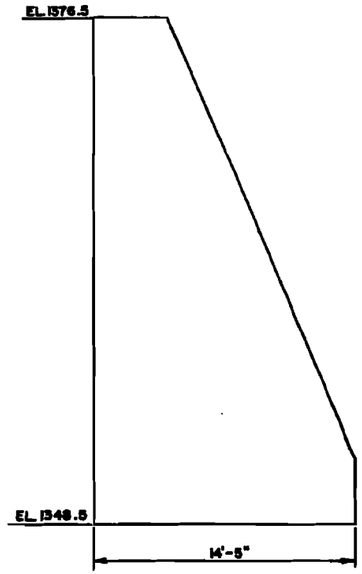
SCALE



SECTION B-B

4 0 4 8 FEET
SCALE

NOTE: Dimensions shown are approximate. Original design drawings are not available.

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	6/9/06	ORDER APPROVING REVISED DRAWING (ISSUED 12/13/05)	PA	TMS	TMS
2	02/01/2004	LICENSE EFFECTIVE DATE	LAA	TMS	TMS
1	8/13/2003	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS

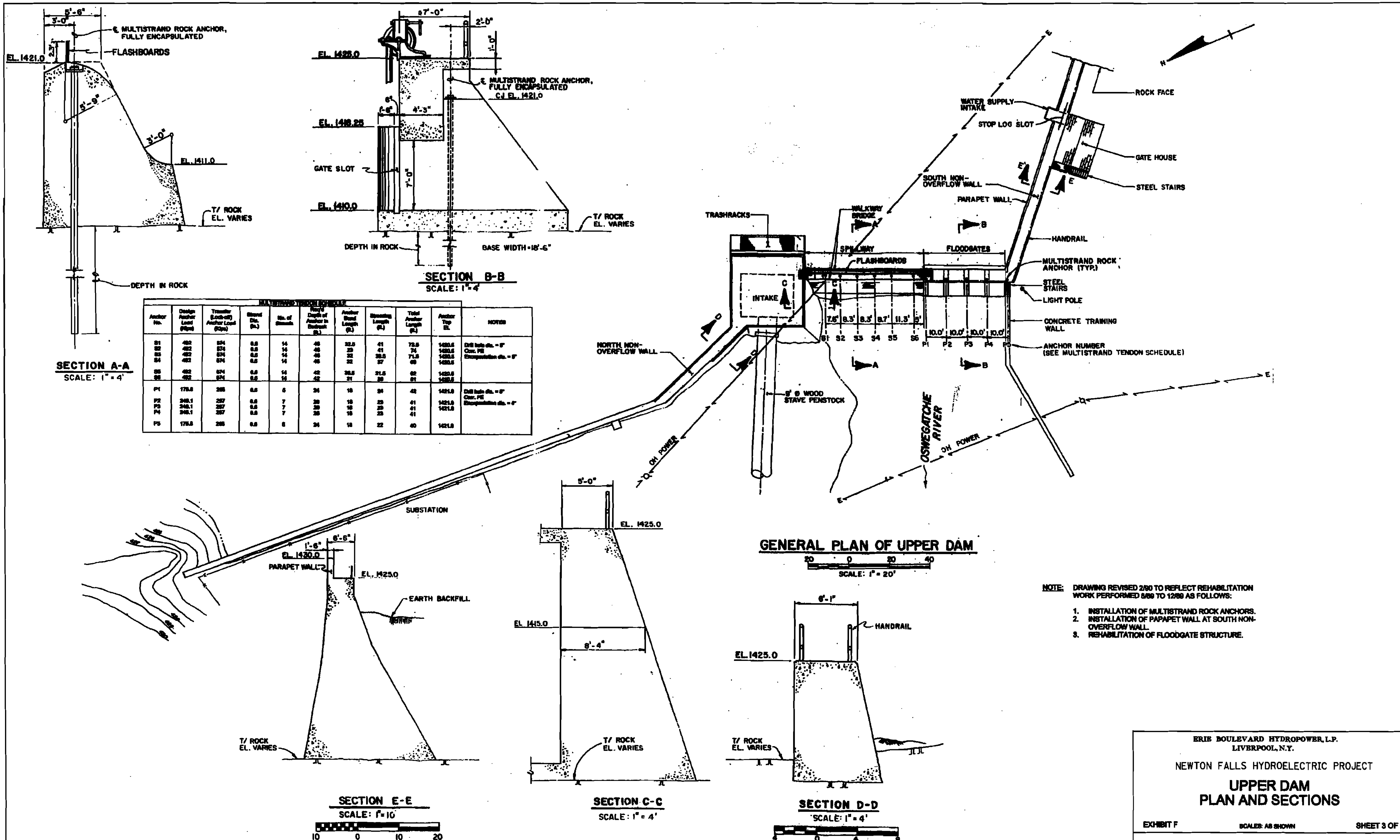
ORIGINAL ISSUE DATE 08/13/2003
FILE NAME 61048010.DGN 61048010.CIT
FERC NO. 7000-1014

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

NEWTON FALLS HYDROELECTRIC PROJECT

LOWER DAM PLAN & SECTIONS

EXHIBIT F SCALES: AS SHOWN SHEET 2 OF 6



MULTISTRAND TENDON SCHEDULE

Anchor No.	Design Anchor Load (Kips)	Transfer (Lock-off) Anchor Load (Kips)	Strand Dia. (in.)	No. of Strands	Req'd Depth of Anchor in Bedrock (ft.)	Anchor Bond Length (ft.)	Stressing Length (ft.)	Total Anchor Length (ft.)	Anchor Top El.	NOTES
S1	482	574	0.6	14	46	32.5	41	73.5	1420.5	Drill hole dia. = 6" Corr. PE Encapsulation dia. = 5"
S2	482	574	0.6	14	46	29	41	74	1420.5	
S3	482	574	0.6	14	46	32	38.5	71.5	1420.5	
S4	482	574	0.6	14	46	32	37	69	1420.5	
S5	482	574	0.6	14	42	30.5	31.5	62	1420.5	
S6	482	574	0.6	14	42	31	30	61	1420.5	
P1	178.8	265	0.6	6	24	18	24	42	1421.0	Drill hole dia. = 6" Corr. PE Encapsulation dia. = 5"
P2	248.1	287	0.6	7	28	18	23	41	1421.0	
P3	248.1	287	0.6	7	28	18	23	41	1421.0	
P4	248.1	287	0.6	7	28	18	23	41		
P5	178.8	265	0.6	6	24	18	22	40	1421.0	

NOTE: DRAWING REVISED 2/90 TO REFLECT REHABILITATION WORK PERFORMED 8/89 TO 12/89 AS FOLLOWS:

1. INSTALLATION OF MULTISTRAND ROCK ANCHORS.
2. INSTALLATION OF PAPAPET WALL AT SOUTH NON-OVERFLOW WALL.
3. REHABILITATION OF FLOODGATE STRUCTURE.

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

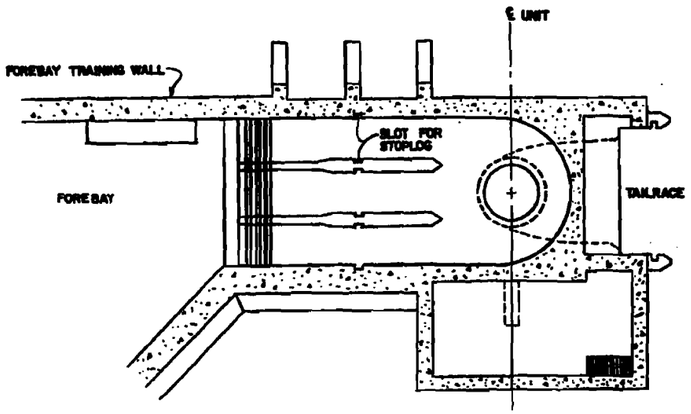
NEWTON FALLS HYDROELECTRIC PROJECT

UPPER DAM
PLAN AND SECTIONS

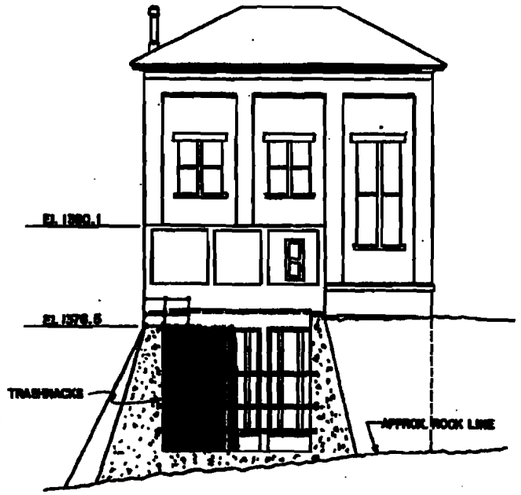
EXHIBIT F — SCALES: AS SHOWN — SHEET 3 OF 6

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	6/9/06	ORDER APPROVING REVISED DRAWING (ISSUED 12/13/05)	PA	TMS	TMS
2	2/01/2004	LICENSE EFFECTIVE DATE	LAA	TMS	TMS
1	8/13/2003	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS

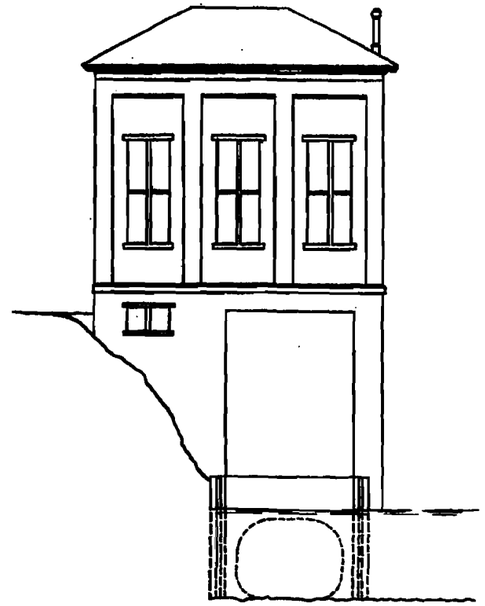
ORIGINAL ISSUE DATE: 08/13/2003
FILE NAME: 61049010.DGN 61049010.CIT
FERC NO. 7000-1015



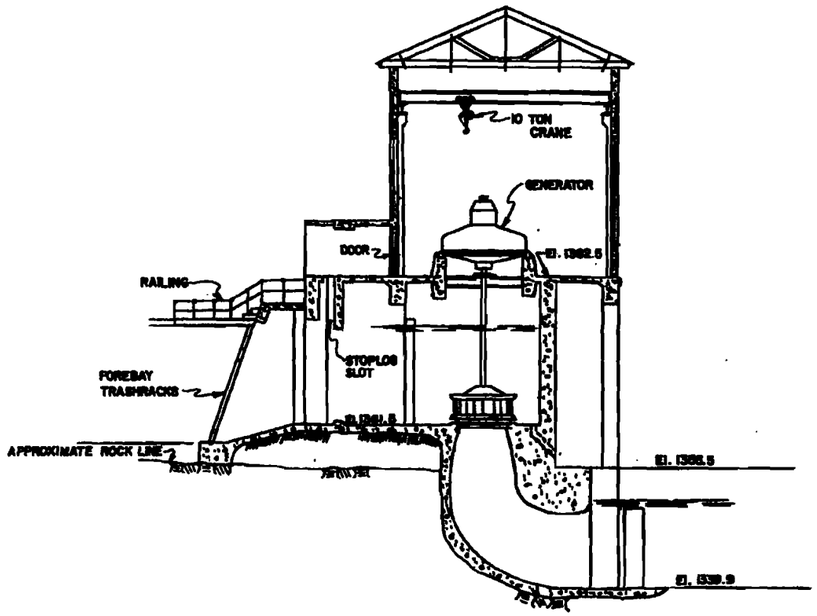
PLAN



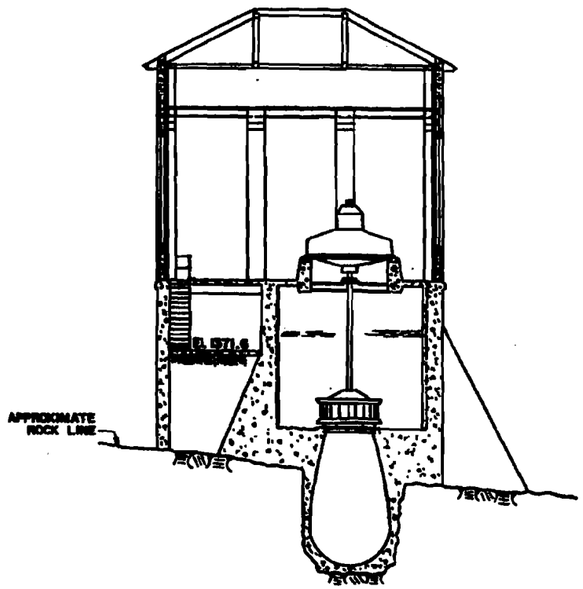
EAST ELEVATION



WEST ELEVATION



CROSS SECTION



LONGITUDINAL SECTION

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	6/9/06	ORDER APPROVING REVISED DRAWING (ISSUED 12/13/05)	PA	TMS	TMS
2	2/01/2004	LICENSE EFFECTIVE DATE	LAA	TMS	TMS
1	8/13/2003	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME 61050010.DGN
61050010.CIT

FERC NO. 7000-1016

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

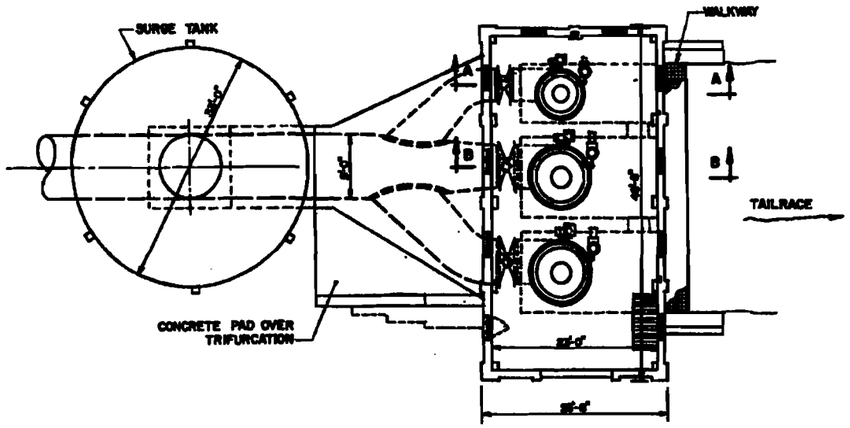
NEWTON FALLS HYDROELECTRIC PROJECT

LOWER POWERHOUSE PLAN, SECTIONS AND ELEVATIONS

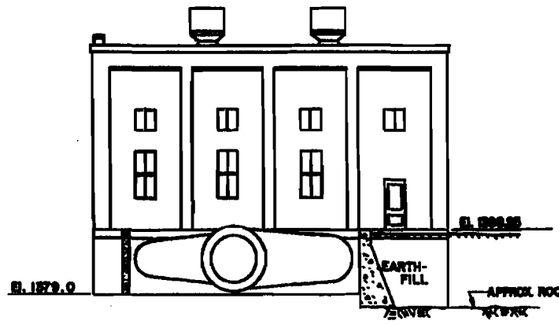
EXHIBIT F

SCALE: 1" = 10'

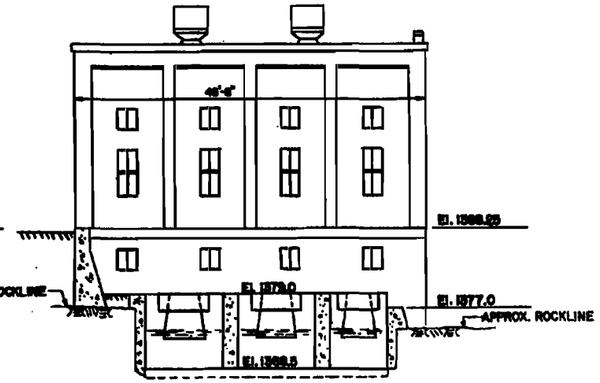
SHEET 4 OF 6



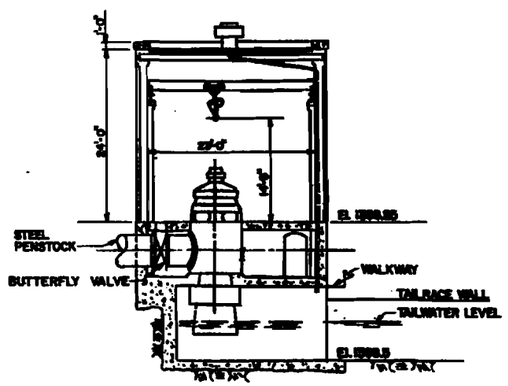
PLAN



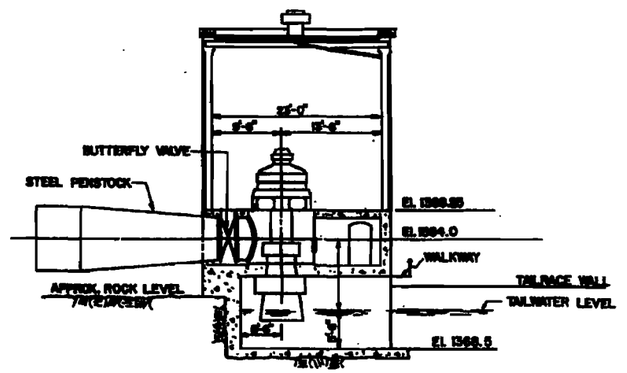
EAST ELEVATION



WEST ELEVATION



SECTION A-A



SECTION B-B

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

NEWTON FALLS HYDROELECTRIC PROJECT

UPPER POWERHOUSE
PLAN, SECTIONS AND ELEVATIONS

10 5 0 10 20
SCALE: 1" = 10'

EXHIBIT F

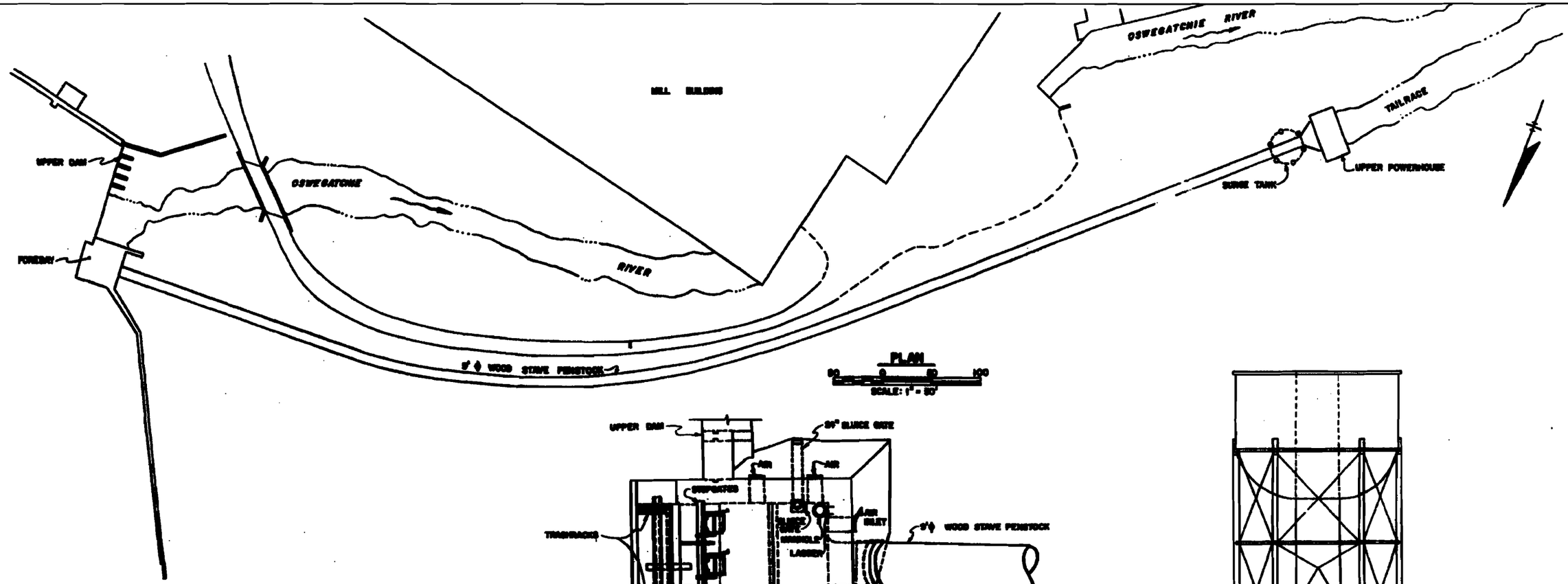
SHEET 5 OF 6

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	6/9/06	ORDER APPROVING REVISED DRAWING (ISSUED 12/13/05)	PA	TMS	TMS
2	2/01/2004	LICENSE EFFECTIVE DATE	LAA	TMS	TMS
1	8/13/2003	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS

ORIGINAL ISSUE DATE 08/13/2003

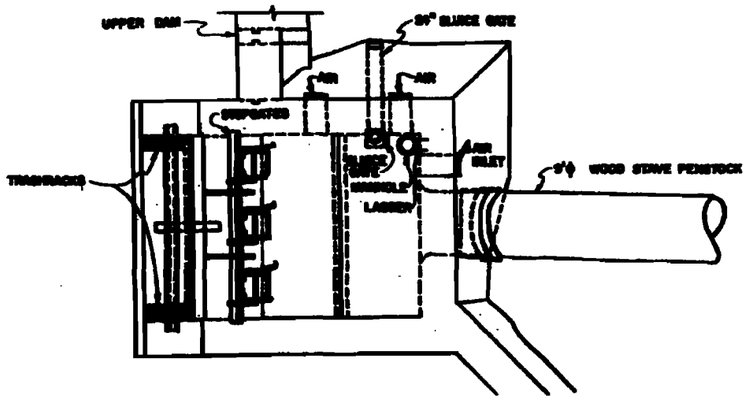
FILE NAME 61051010.DGN 61051010.CIT

FERC NO. 7000-1017

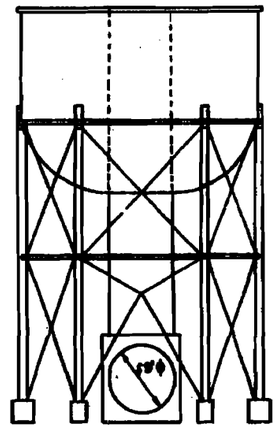


PLAN

SCALE: 1" = 50'

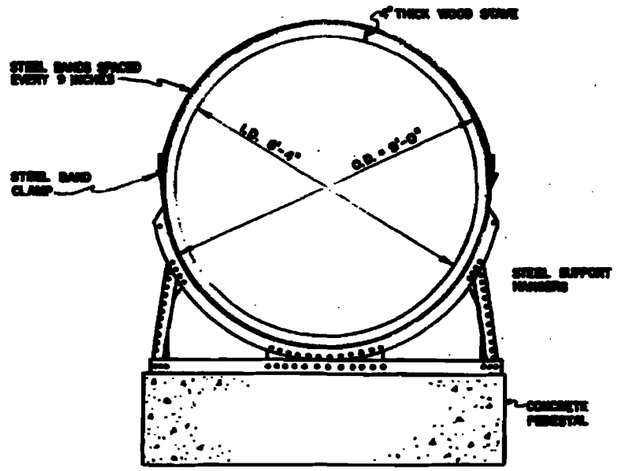


FOREBAY PLAN



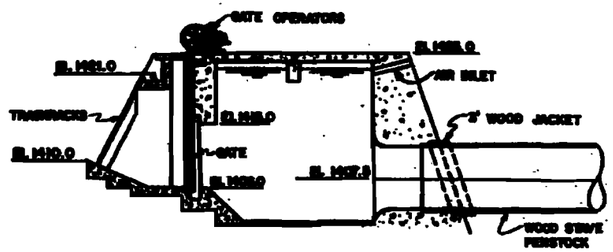
SURGE TANK EAST ELEVATION

SCALE: 1"=10'



PENSTOCK TYPICAL SECTION

SCALE 1"=2'



FOREBAY SECTION

SCALE: 1"=10'

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

NEWTON FALLS HYDROELECTRIC PROJECT

PENSTOCK PLAN & SECTIONS

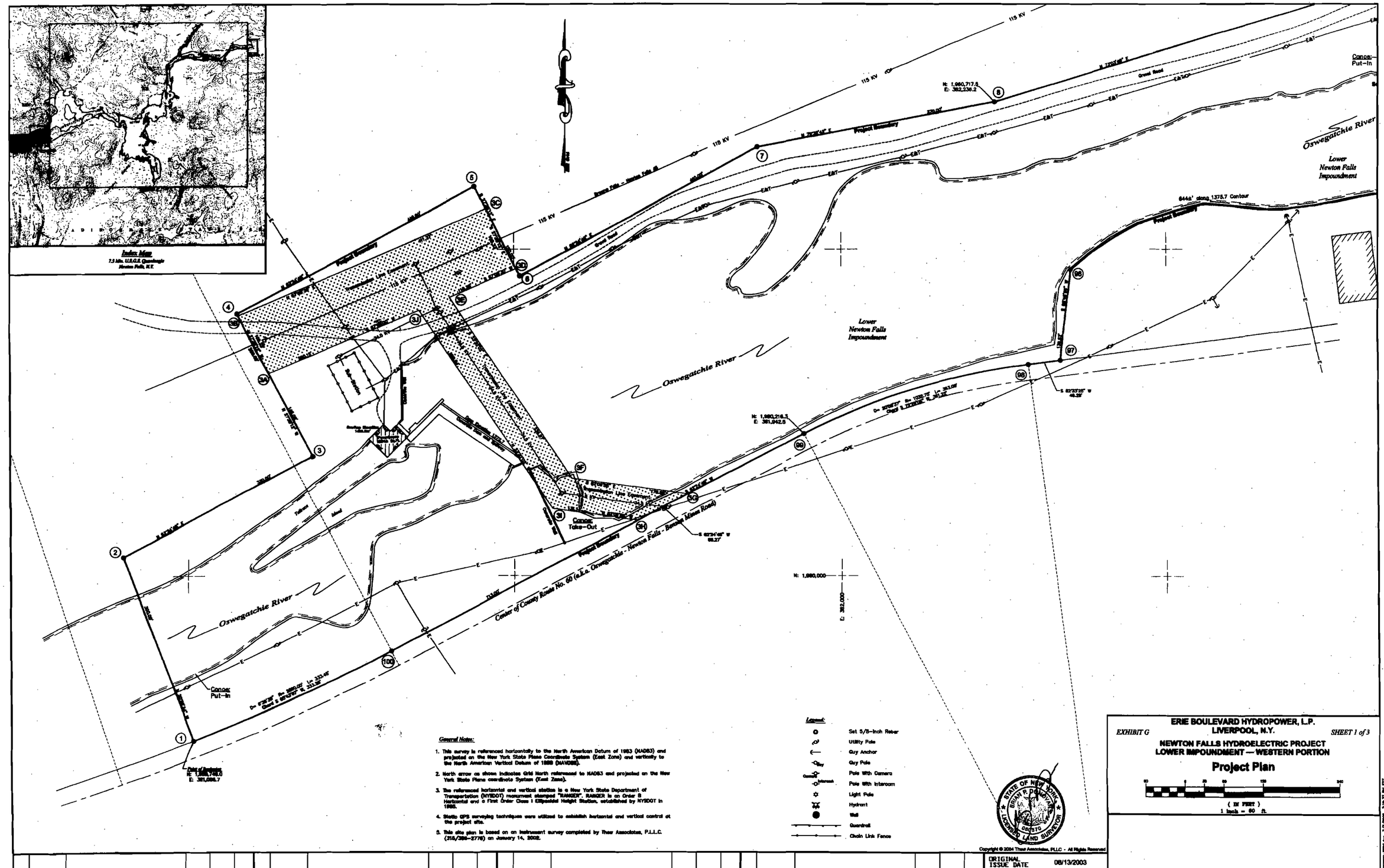
EXHIBIT F SCALES: AS SHOWN SHEET 6 OF 6

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	6/9/06	ORDER APPROVING REVISED DRAWING (ISSUED 12/13/05)	PA	TMS	TMS
2	2/01/2004	LICENSE EEFECTIVE DATE	LAA	TMS	TMS
1	8/13/2003	ORDER ISSUING NEW LICENSE	LAA	TMS	TMS

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME 61052010.DGN 61052010.CIT

FERC NO. 7000-1018



General Notes:

1. This survey is referenced horizontally to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone) and vertically to the North American Vertical Datum of 1988 (NAVD88).
2. North arrow as shown indicates Grid North referenced to NAD83 and projected on the New York State Plane coordinate System (East Zone).
3. The referenced horizontal and vertical station is a New York State Department of Transportation (NYSDOT) monument stamped "RANGER". RANGER is an Order B Horizontal and a First Order Class I Ellipsoidal Height Station, established by NYSDOT in 1998.
4. Static GPS surveying techniques were utilized to establish horizontal and vertical control at the project site.
5. This site plan is based on an instrument survey completed by Thaw Associates, P.L.L.C. (315/398-2778) on January 14, 2002.

Legend:

- Set 5/8-Inch Rebar
- Utility Pole
- Guy Anchor
- Guy Pole
- Pole With Camera
- Pole With Intercom
- Light Pole
- Hydrant
- Well
- Guardrail
- Chain Link Fence

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
4	6/9/08	Order Approving Revised Drawing (Issued 12/13/06)		TMB	TMB
3	11/22/04	Per Article 407 Requirements		TMB	TMB
2	02/01/04	License Effective Date			
1	08/13/03	Order Issuing New License			

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME

FERC NO. 7000-1019

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

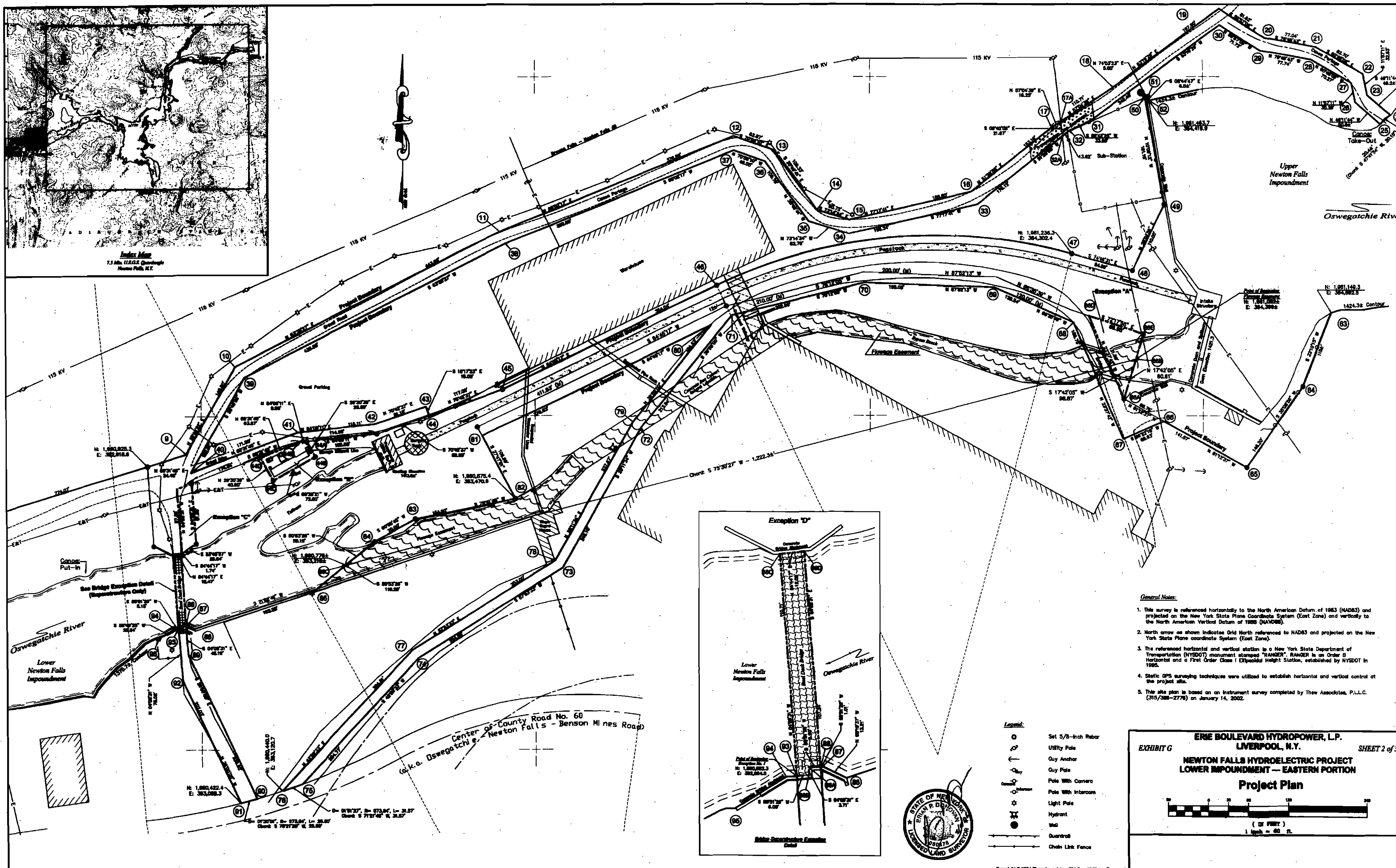
EXHIBIT G *SHEET 1 of 3*

NEWTON FALLS HYDROELECTRIC PROJECT
LOWER IMPOUNDMENT — WESTERN PORTION

Project Plan

(IN FEET)
1 inch = 60 ft.

FERC NO. 7000-1019



General Notes:

1. This survey is referenced horizontally to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone) and vertically to the North American Vertical Datum of 1988 (NAVD88).
2. North arrow as shown indicates Grid North referenced to NAD83 and projected on the New York State Plane coordinate System (East Zone).
3. The referenced horizontal and vertical station is a New York State Department of Transportation (NYSDOT) monument stamped "RANGER". RANGER is an Order B Horizontal and a First Order Class I Ellipsoidal Height Station, established by NYSDOT in 1995.
4. Static GPS surveying techniques were utilized to establish horizontal and vertical control at the project site.
5. This site plan is based on an instrument survey completed by Thew Associates, P.L.L.C. (315/388-2778) on January 14, 2002.

Legend:

- Set 5/8-Inch Rebar
- Utility Pole
- Guy Anchor
- Guy Pole
- Pole With Camera
- Pole With Intercom
- Light Pole
- Hydrant
- Well
- Guardrail
- Chain Link Fence

EXHIBIT G

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

SHEET 2 of 3

NEWTON FALLS HYDROELECTRIC PROJECT
LOWER IMPOUNDMENT — EASTERN PORTION

Project Plan

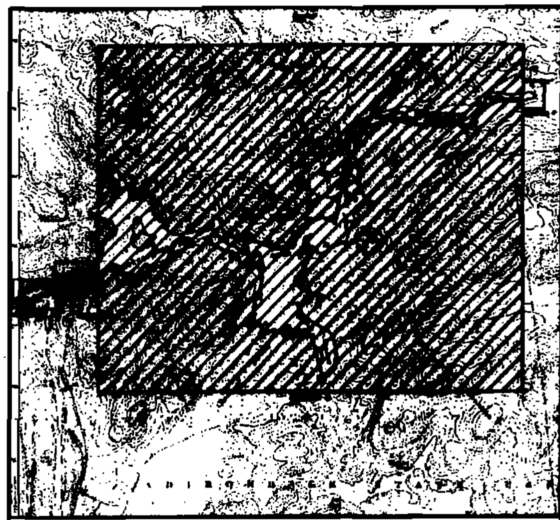
(IN FEET)
1 inch = 60 ft.

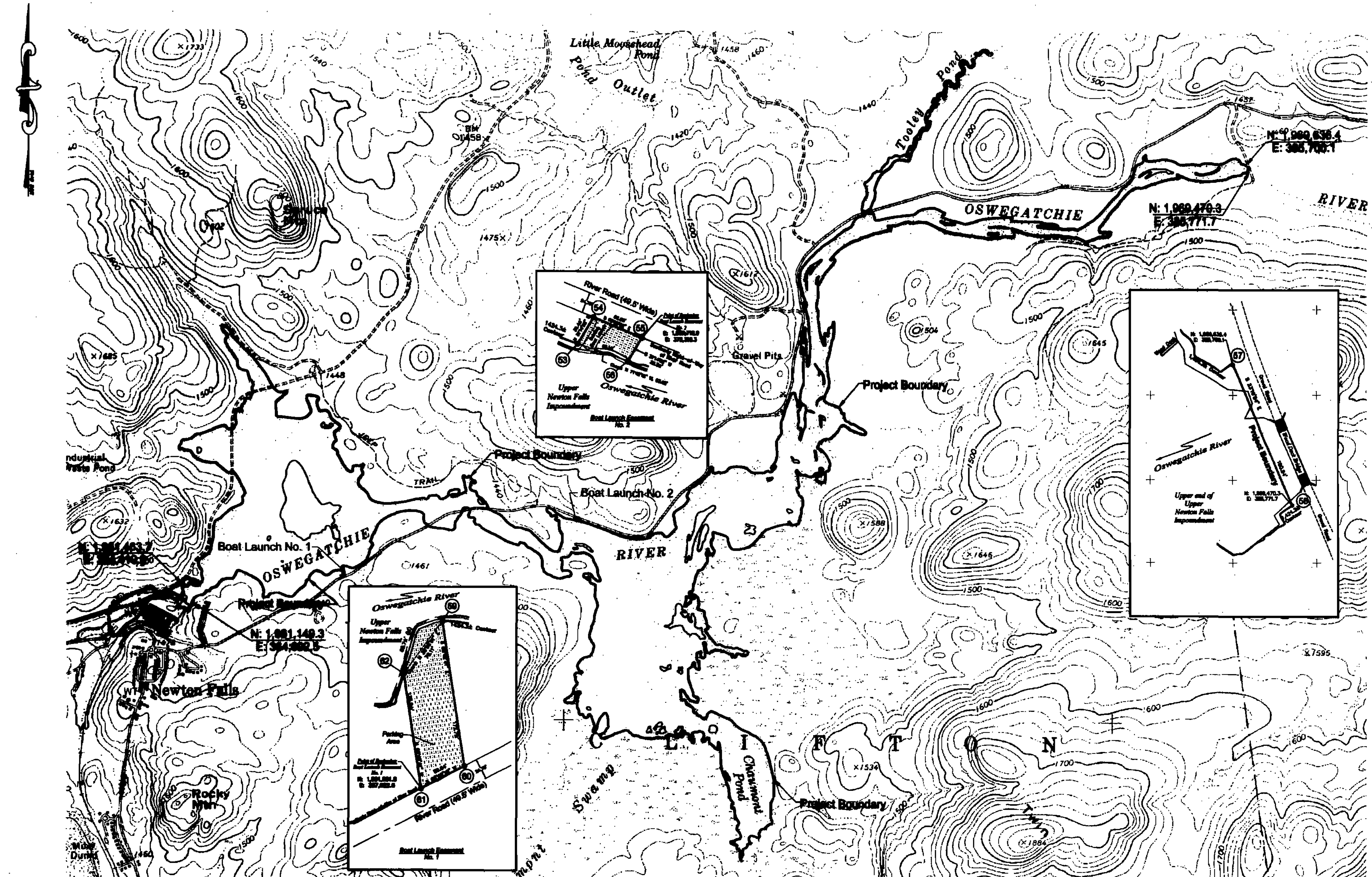
NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
4	6/9/06	Order Approving Revised Drawing (Issued 12/13/05)		TMS	TMS
3	11/22/04	Per Article 407 Requirements		TMS	TMS
2	02/01/04	License Effective Date			
1	08/13/03	Order Issuing New License			

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME

FERC NO. 7000-1020





General Notes:

1. This survey is referenced horizontally to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone) and vertically to the North American Vertical Datum of 1988 (NAVD88).
2. North arrow as shown indicates Grid North referenced to NAD83 and projected on the New York State Plane coordinate System (East Zone).
3. The referenced horizontal and vertical station is a New York State Department of Transportation (NYSDOT) monument stamped "RANGER". RANGER is an Order B Horizontal and a First Order Class I Ellipsoidal Height Station, established by NYSDOT in 1995.
4. Static GPS surveying techniques were utilized to establish horizontal and vertical control at the project site.
5. This site plan is based on an instrument survey completed by Thew Associates, P.L.L.C. (315/388-2776) on January 14, 2002.

The property lines portrayed hereon were digitized from the underlying U.S.G.S. Quadrangle and are approximate only. The actual property lines are intended to follow the 1,424.3 foot contour and may include additional areas.

All islands above the 1,424.3 foot contour within the Upper Newton Falls Impoundment are excluded from the conveyance from Newton Falls Holdings, LLC to Erie Boulevard Hydropower, LP.

STATE OF NEW YORK · BRIAN B. DONOVAN · 050378 · LICENSED LAND SURVEYOR

EXHIBIT G

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

SHEET 3 of 3

NEWTON FALLS HYDROELECTRIC PROJECT

Project Plan

GRAPHIC SCALE

1000 0 500 1000 2000 4000

(IN FEET)
1 inch = 1000 ft.

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
4	6/9/06	Order Approving Revised Drawing (Issued 12/13/05)		TMS	TMS
3	11/22/04	Per Article 407 Requirements		TMS	TMS
2	02/01/04	License Effective Date		-	
1	08/13/03	Order Issuing New License			

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME

FERC NO. 7000-1021

FERC NO. 7000-1021

ATTACHMENT F

QUESTION A – FLOW:

2012 ANNUAL MINIMUM FLOW COMPLIANCE REPORT (P-7000)

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

ATTACHMENT G

QUESTION B – WATER QUALITY:

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION 2010 SECTION 303(d) LIST OF IMPAIRED WATERS

The FINAL New York State **June 2010**

2010 Section 303(d) List of Impaired Waters Requiring a TMDL/Other Strategy

Presented here is the *Final New York State 2010 Section 303(d) List of Impaired/ TMDL Waters*. The list identifies those waters that do not support appropriate uses and that require development of a Total Maximum Daily Load (TMDL) or other restoration strategy. A Response Summary for public comments received concerning the previously issued Draft List is also available.

The Federal Clean Water Act requires states to periodically assess and report on the quality of waters in their state. Section 303(d) of the Act also requires states to identify *Impaired Waters*, where specific designated uses are not fully supported. For these Impaired Waters, states must consider the development of a *Total Maximum Daily Load (TMDL)* or other strategy to reduce the input of the specific pollutant(s) that restrict waterbody uses, in order to restore and protect such uses. An outline of the process used to monitor and assess the quality of New York State waters is contained in the New York State *Consolidated Assessment and Listing Methodology (CALM)*. The CALM describes the water quality assessment and Section 303(d) listing process in order to improve the consistency of assessment and listing decisions.

The waterbody listings in the New York State Section 303(d) List are grouped into a number of categories. The various categories, or Parts, of the list are outlined below.

Final 2010 Section 303(d) List of Impaired Waters Requiring a TMDL

Part 1 Individual Waterbody Segments with Impairments Requiring TMDL Development
These are waters with verified impairments that are expected to be addressed by a segment/pollutant-specific TMDL.

Part 2 Multiple Segment/Categorical Waterbody Impairments Requiring TMDL Development
These are groups of waters affected by similar causes/sources where a single TMDL may be able to address multiple waters with the same issue. Part 2 is subdivided into:

a) Waters Impaired by Atmospheric Deposition (acid rain)
b) Waters Impaired by Fish Consumption Advisories
c) Waters Impaired by Shellfishing Restrictions

Part 3 Waterbodies Requiring Verification of Impairment or Cause/Pollutant
These are waters where scheduling of TMDL development may be deferred pending verification of either the suspected impairment or the cause/pollutant related to the impairment. Part 3 is subdivided into:

a) Waterbody Impairments Requiring Verification
b) Verified Waterbody Impairments Requiring Verification of Cause/Pollutants
c) Waterbody Segments Being Address Through Other Restoration Measures

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain)
Appendix B - Listed Waterbodies Not Meeting Dissolved Oxygen Standards

Impaired/Delisted Waters NOT Included on the NYS 2010 Section 303(d) List
Not all impaired waters of the state are included on the Section 303(d) List. By definition, the List is to be comprised of impaired waters *that require development of a Total Maximum Daily Load (TMDL) plan*. Although separate from the NYS 2010 Section 303(d) List, a compilation of waterbody/pollutants representing those impairments that are not included on the List provides additional information toward understanding listing decisions and clarifies how impairments are considered.

Waterbody Segments Not Listed Because TMDL is Not Necessary (separate list)
A list of *Other Impaired Waterbody Segments Not Listed (on 303(d) List) Because Development of a TMDL is Not Necessary* is available to facilitate the review of Section 303(d) List. The purpose of this supplement is to provide a more comprehensive inventory of waters of the state that do not fully support designated uses and that are considered to be impaired.

Section 303(d) of the Clean Water Act stipulates that impaired waters that do not require a TMDL are not to be included on the Section 303(d) List. There are three (3) justifications for not including an impaired water on the Section 303(d) List:

> Category 4a Waters - TMDL development is not necessary because a TMDL has already been established for the segment/pollutant.
> Category 4b Waters - TMDL is not necessary because other required control measures are expected to result in restoration in a reasonable period of time.
> Category 4c Waters - TMDL is not appropriate because the impairment is the result of pollution, rather than a pollutant that can be allocated through a TMDL.

2010 Waterbody/Pollutant Delistings (separate list)
A separate list of water/pollutant combinations that were included on the previous (2008) Section 303(d) List, but that are NOT included on the 2010 List is also available. This listing provides some linkage and continuity between the previous and proposed new Lists. The specific reason why a waterbody/pollutant no longer appears on the List (i.e., delisting action, reassessment, re-segmentation, etc.) is included in this document. Some of these waters (those that have been delisted but that remain *Impaired*) also appear on the list of *Other Impaired Waterbody Segments Not Listed Because Development of a TMDL is Not Necessary*.

2010 Section 303d List of Impaired Waters

Segments and/or pollutants listed in **Bold Type** are new listings; i.e., they were not included in the previous (2008) Section 303(d) List.
* Denotes High Priority Waters, scheduled for TMDL/restoration strategy development and submission for approval to USEPA within the next two years.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Niagara River/Lake Erie Drainage Basin						
Ont 158- 6		Gill Creek and tribs (0101-0002)	Niagara	River	C	Aquatic Toxicity	Urban Runoff, Contam. Sed	2004
Ont 158- 8-1		Bergholtz Creek and tribs (0101-0004)	Niagara	River	C	Phosphorus	Urban Runoff	2004
						Pathogens	Urban Runoff	2004
Ont 158-12- 6		Ransom Creek, Lower, and tribs (0102-0004)	Erie	River	C	D.O./Oxygen Demand	Onsite WTS	2004
						Pathogens	Onsite WTS	2004
Ont 158-12- 6		Ransom Creek, Upper, and tribs (0102-0027)	Erie	River	C(T)	D.O./Oxygen Demand	Onsite WTS	2004
						Pathogens	Onsite WTS	2004
Ont 158-13		Two Mile Creek and tribs (0101-0005)	Erie	River	B	Floatables	CSOs	2004
						D.O./Oxygen Demand	CSOs, Municipal	2004
						Pathogens	CSOs, Municipal	2004
Ont 158-15		Scajaquada Creek, Lower, and tribs (0101-0023)	Erie	River	B	Floatables	CSOs, Urban Runoff	2004
						D.O./Oxygen Demand	CSOs, Urban Runoff	2004
						Phosphorus	**CSOs, Urban Runoff**	**2010**
						Pathogens	CSOs, Urban Runoff	2004
Ont 158-15		**Scajaquada Creek, Middle, and tribs (0101-0033)**	**Erie**	**River**	**C**	**Floatables**	**CSOs, Urban Runoff**	**2010**
						D.O./Oxygen Demand	**CSOs, Urban Runoff**	**2010**
						Phosphorus	**CSOs, Urban Runoff**	**2010**
						Pathogens	**CSOs, Urban Runoff**	**2010**
Ont 158-15		**Scajaquada Creek, Upper, and tribs (0101-0034)**	**Erie**	**River**	**B**	**D.O./Oxygen Demand**	**CSOs, Urban Runoff**	**2010**
						Phosphorus	**CSOs, Urban Runoff**	**2010**
						Pathogens	**CSOs, Urban Runoff**	**2010**
Ont 158-E (portion 5)		**Lake Erie (Northeast Shoreline) (0104-0036)**	**Erie**	**G.Lakes**	**B**	**Pathogens**	**Urban/Storm Runoff**	**2010**
Ont 158-E (portion 6)		**Lake Erie (Main Lake, North) (0104-0037)**	**Erie**	**G.Lakes**	**A-Spcl**	**Pathogens**	**Urban/Storm Runoff**	**2010**
Ont 158-E (portion 7)		**Lake Erie (Main Lake, South) (0105-0033)**	**Chautaqa**	**G.Lakes**	**A-Spcl**	**Pathogens**	**Urban/Storm Runoff**	**2010**
Ont 158-E (portion 7a)		Lake Erie, Dunkirk Harbor (0105-0009)	Chautauqua	G.Lakes	B	Pathogens	Urban/Storm Runoff	2004
Ont 158..E- 2- 1-P81b		**Green Lake (0101-0038)**	**Erie**	**Lake**	**B**	**Phosphorus**	**Urban Runoff**	**2010**
Ont 158..E- 3		Rush Creek and tribs (0104-0018)	Erie	River	C	Pathogens	CSOs, Urban Runoff, Munic	2004
						Phosphorus	CSOs, Urban Runoff, Munic	2004
Ont 158..E-23-P152		Java Lake (0104-0004)	Wyoming	Lake	B	Phosphorus	Onsite WTS	2004
		Allegheny River Drainage Basin						
Pa-63-13- 4	*	Chadakoin River and tribs (0202-0018)	Chautauqua	River	C	Phosphorus	Munic/Ind, Urb Runoff	2008
Pa-63-13- 4-P122	*	Chautauqua Lake, South (0202-0020) [1]	Chautauqua	Lake	A	Phosphorus	Agriculture	2004
Pa-63-13- 4-P122	*	Chautauqua Lake, North (0202-0072) [1]	Chautauqua	Lake	A	Phosphorus	Agriculture	2004

[1] Impairments to Chautauqua Lake have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lake Ontario (Minor Tribs) Drainage Basin						
Ont (portion 14)		**Lake Ontario Shoreline, Central (0302-0044)**	**Wayne**	**G.Lakes**	**A**	**Pathogens**	**Urban/Storm Runoff**	**2010**
Ont (portion 16)		**Rochester Embayment - East (0302-0002)**	**Monroe**	**G.Lakes**	**A**	**Pathogens**	**Urban/Storm Runoff**	**2010**
Ont (portion 17)		Rochester Embayment - West (0301-0068)	Monroe	G.Lakes	A	Pathogens	Urban/Storm Runoff	2008
Ont 80/P89	*	Port Bay (0302-0012)	Wayne	Lake	B	Phosphorus	Agric, Municipal	2002
Ont 122-P153	*	Buck Pond (0301-0017)	Monroe	Lake	B	Phosphorus	Urban/Storm Runoff	2002
Ont 123-P154	*	Long Pond (0301-0015)	Monroe	Lake	B	Phosphorus	Urban/Storm Runoff	2002
Ont 123-P154- 2-P155	*	Cranberry Pond (0301-0016)	Monroe	Lake	B	Phosphorus	Urban/Storm Runoff	2002
		Genesee River Drainage Basin						
Ont 117 (portion 1)	*	Genesee River, Lower, Main Stem (0401-0001)	Monroe	River	B	Phosphorus	various, multiple sources	2004
						Pathogens	various, multiple sources	2004
						Silt/Sediment	various, multiple sources	2004
Ont 117 (portion 2)	*	Genesee River, Middle, Main Stem (0401-0003)	Monroe	River	B	D.O./Oxygen Demand	Agriculture	2004
						Phosphorus	Agriculture	2004
Ont 117- 19	*	Black Creek, Lower, and minor tribs (0402-0033)	Monroe	River	C	Phosphorus	Agric, Municipal	2004
Ont 117- 19	*	Black Creek, Upper, and minor tribs (0402-0048)	Genesee	River	C	Phosphorus	Agric, Municipal	2004
Ont 117- 27-P57		Honeoye Lake (0402-0032)	Ontario	Lake	AA	Phosphorus	Agric, Onsite WTS	2002
						D.O./Oxygen Demand	Agric, Onsite WTS	2002
Ont 117- 40-P67		Conesus Lake (0402-0004)	Livingston	Lake	AA	Phosphorus	Agriculture	2006
						D.O./Oxygen Demand	Agriculture	2002
Ont 117- 66- 8- 2		**Bradner Creek and tribs (0404-0020)**	**Livingston**	**River**	**C**	**Phosphorus**	**Agriculture**	**2010**
Ont 117- 70-P115	*	Silver Lake (0403-0002)	Wyoming	Lake	A	Phosphorus	Agriculture	1998
		Chemung River Drainage Basin						
Pa 3-58-31- 7-P66		Smith Pond (0502-0012)	Steuben	Lake	B	Phosphorus	Onsite WTS	2008
		Susquehanna River Drainage Basin						
SR- 44-14-27-P35a	*	Whitney Point Lake/Reservoir (0602-0004)	Broome	Lake	C	Phosphorus	Agriculture	2002
SR-146- 69		**North Winfield Creek and tribs (0601-0035)** [2]	**Herkimer**	**River**	**C(T)**	**Pathogens**	**Onsite WTS,**	**2010**
		Oswego River (Finger Lakes) Drainage Basin						
Ont 66- 3-P9		Lake Neatahwanta (0701-0018)	Oswego	Lake	B	Nutrients (phosphorus)	Urban/Storm Runoff	1998
Ont 66-11-P26-33- 5		Canastota Creek, Lower, and tribs (0703-0002)	Madison	River	C	D.O./Oxygen Demand	Municipal, CSOs	2008
						Pathogens	Municipal, CSOs	2008
Ont 66-11-P26-37- 6- 2		Limestone Creek, Lower, and minor tribs (0703-0008)	Onondaga	River	C	D.O./Oxygen Demand	Municipal	2008
						Pathogens	Municipal	2008

[2] This listing replaces/corrects the previous listing for Unadilla River, Upper, Main Stem (0601-0037). The water quality problems cited in the previous listing are limited to North Winfield Creek; consequently, this is a more appropriate listing for this impairment.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Oswego River (Finger Lakes) Drainage Basin (con't)						
Ont 66-12-43-P212		Owasco Lake (0706-0009)	Cayuga	Lake	AA(T)	Pathogens	Wildlife/Other Sources	1998
Ont 66-12-43-P212-28	*	Owasco Inlet, Upper, and tribs (0706-0014)	Cayuga	River	C(T)	Nutrients	Municipal/Agric	2008
Ont 66-12-P296 (portion 4)	*	Cayuga Lake, Southern End (0705-0040)	Tompkins	Lake	A	Phosphorus	Municipal, NPS	2002
						Silt/Sediment	Municipal, NPS	2002
						Pathogens	Municipal, NPS	2008
		Black River Drainage Basin						
Ont 19- 51		Mill Creek/South Branch, and tribs (0801-0200)	Lewis	River	C	Nutrients	Agriculture	2008
						Pathogens	Agriculture	2008
		Saint Lawrence River Drainage Basin						
SL- 1 (portion 1)		**Raquette River, Lower, and minor tribs (0903-0059)**	**St.Lawrence**	**River**	**B**	**Pathogens**	**Onsite WTS**	**2010**
SL-25- 7- P1	*	Black Lake Outlet, Black Lake (0906-0001) [3]	St.Lawrence	Lake	B	Nutrients (phos)	Agriculture	1998
SL-25- 7/P1- 2		**Fish Creek and minor tribs (0906-0026)**	**St.Lawrence**	**River**	**C**	**Nutrients (phos)**	**OWTS/San Discharge**	**2010**
SL-25-101		**Little River and tribs (0905-0090)**	**St.Lawrence**	**River**	**C(T)**	**Priority Organics**	**Indust/Landfill**	**2010**
		Lake Champlain Drainage Basin						
C		Cumberland Bay (1001-0001)	Clinton	Bay	B	D.O./Oxygen Demand	Industr, Contam.Sed.	2002
C- 3 (portion 2)		Great Chazy River, Lower, Main Stem (1002-0001)	Clinton	River	A	Silt/Sediment	Agric, Erosion	2002
C-101-P367		Lake George (1006-0016) and tribs [4]	Warren	Lake	AAspcl	Silt/Sediment	Urb/Storm, Erosion	2002
C-101-P367-1 thru 26		Tribs to Lake George, East Shore (1006-0020) [4, 5]	Warren	River	AAspcl	Silt/Sediment	Urb/Storm, Erosion	2002
C-101-P367-32 thru 41		Tribs to Lake George, Lk.George Village (1006-0008) [4, 6]	Warren	River	AAspcl	Silt/Sediment	Urb/Storm, Erosion	2002
C-101-P367-53,56		Huddle/Finkle Brooks and tribs (1006-0003) [4, 7]	Warren	River	AAspcl	Silt/Sediment	Urb/Storm, Erosion	2002
C-101-P367-59		Indian Brook and tribs (1006-0002) [4]	Warren	River	AAspcl	Silt/Sediment	Urb/Storm, Erosion	2002
C-101-P367-86		Hague Brook and tribs (1006-0006) [4]	Warren	River	AAspcl	Silt/Sediment	Urb/Storm, Erosion	2002
C-134- 4		**Wood Cr/Champlain Canal and tribs (1005-0036)**	**Washington**	**River**	**C**	**D.O./Oxygen Demand**	**Municipal, SSOs**	**2010**
						Phosphorus	**Municipal, SSOs**	**2010**
						Pathogens	**Municipal, SSOs**	**2010**

[3] Impairments in Black Lake have been verified. Consequently this listing has been moved to Part 1 from Part 3a. Segment was previously listed as Black Lake.

[4] The Restoration Strategy/TMDL effort to address silt/sediment loads to Lake George will be a comprehensive, lake-wide watershed effort and will consider additional lake tributaries that provide significant silt/sediment loads to the lake. The initial strategy focused on Finkle Brook and was public noticed for comment in 2005.

[5] The specifically identified impaired water(s) in this segment include Foster Brook (-11).

[6] The specifically identified impaired water(s) in this segments include East Brook (-37), West Brook (-38), Prospect Mountain Brook (-39), English Brook (-41).

[7] The specifically identified impaired water(s) in this segment include Finkle Brook (-56).

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Upper Hudson River Drainage Basin						
H-260- 6		Dwaas Kill and tribs (1101-0007)	Saratoga	River	C(T)	Phosphorus	Urban Runoff, Constr.	2006
						Silt/Sediment	Urban Runoff, Constr.	2006
H-265		Schuyler Creek and tribs (1101-0093)	Saratoga	River	C(T)	Phosphorus	Sanitary Discharge	2008
						D.O./Oxygen Demand	Sanitary Discharge	2008
						Pathogens	Sanitary Discharge	2008
H-299-P27-13- 1-P30-		Tribs to Lake Lonely (1101-0001)	Saratoga	River	C	Phosphorus	Municipal, Urb/Storm	2006
						D.O./Oxygen Demand	Municipal, Urb/Storm	2006
						Pathogens	Municipal, Urb/Storm	2006
		Mohawk River Drainage Basin						
H-240 (portion 12)		Mohawk River, Main Stem (1201-0093) [8]	Herkimer	River	C	Floatables	CSOs, Urban, Ind/Munic	2004
						Pathogens	CSOs, Urban, Ind/Munic	2004
						D.O./Oxygen Demand	CSOs, Urban, Ind/Munic	2004
H-240 (portion 12b)		Utica Harbor (1201-0228)	Oneida	Bay	C	Floatables	CSOs, Urban, Ind/Munic	2004
						Pathogens	CSOs, Urban, Ind/Munic	2004
						D.O./Oxygen Demand	CSOs, Urban, Ind/Munic	2004
H-240 (portion 13)		Mohawk River, Main Stem (1201-0010)	Oneida	River	B	Floatables	CSOs, Urban, Ind/Munic	2004
						Pathogens	CSOs, Urban, Ind/Munic	2004
						D.O./Oxygen Demand	CSOs, Urban, Ind/Munic	2004
H-240- 11-P496/P498	*	Ann Lee (Shakers) Pond, Stump Pond (1201-0096)	Albany	Lake	C	Phosphorus	Urban Runoff	1998
H-240- 22-P519		Collins Lake (1201-0077)	Schenectady	Lake	B	Phosphorus	Urban Runoff	2004
H-240- 82-P638a		Schoharie Reservoir (1202-0012)	Greene	Lake(R)	AA(TS)	Silt/Sediment	Streambank Erosion	1998
H-240- 82- 63		Cobleskill Creek, Lower, and tribs (1202-0019)	Schoharie	River	C	Pathogens	Onsite WTS	2004
H-240- 82- 63-19-9-P589		Engleville Pond (1202-0009)	Schoharie	Lake	A	Phosphorus	Agriculture	2004
H-240-187-		Steele Creek tribs (1201-0197)	Herkimer	River	A(TS)	Phosphorus	Agric, Stream Erosion	2004
						Silt/Sediment	Agric, Stream Erosion	2004
H-240-211,214		Ballou, Nail Creeks (1201-0203)	Oneida	River	C	D.O./Oxygen Demand	CSOs, Urban Runoff	2004
						Phosphorus	CSOs, Urban Runoff	2004
H-240-227	*	Ninemile Creek, Lower, and tribs (1201-0014)	Oneida	River	B(T)	Pathogens	Onsite WTS	2004

[8] In previous Lists, this listing had included the note that the segment included the lower half-mile of Starch Factory Creek (1201-0067) due to impairments from a CSO discharge to the creek. However this CSO has since been eliminated and as a result it is no longer necessary to include this portion of the creek with this listing.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lower Hudson River Drainage Basin						
H- 4		Saw Mill River (1301-0007)	Westchester	River	various	Floatables	Urban Runoff	1998
						D.O./Oxygen Demand	**Urban/Storm, San.Dschgs**	**2010**
						Phosphorus	**Urban/Storm, San.Dschgs**	**2010**
						Pathogens	**Urban/Storm, San.Dschgs**	**2010**
H- 4		**Saw Mill River, Middle, and tribs (1301-0100)** [9]	**Westchester**	**River**	**various**	**D.O./Oxygen Demand**	**Urban/Storm, San.Dschgs**	**2010**
						Phosphorus	**Urban/Storm, San.Dschgs**	**2010**
						Pathogens	**Urban/Storm, San.Dschgs**	**2010**
H- 13		**Sparkill Creek, Lower (1301-0088)**	**Rockland**	**River**	**C**	**D.O./Oxygen Demand**	**Urban/Storm Runoff**	**2010**
						Pathogens	**Urban/Storm Runoff**	**2010**
H- 31-P44-14-P50- 2-P50a		**Lake Shenorock (1302-0083)**	**Westchester**	**Lake**	**B**	**Phosphorus**	**Urban/Storm Runoff**	**2010**
H- 31-P44-17-5-P57a		Lake Lincolndale (1302-0089) [10]	Westchester	Lake	B	Phosphorus	Onsite WTS, Urban	2002
H- 31-P44-23-P59- 6-P62a		Lake Carmel (1302-0006) [11]	Putnam	Lake	B	Phosphorus	Onsite WTS	2002
H- 31-P44-35-P109- 6-13-P115a		**Truesdale Lake (1302-0054)**	**Westchester**	**Lake**	**B**	**Phosphorus**	**Urban/Storm Runoff**	**2010**
H- 31-P44-54-P128a		**Teatown Lake (1302-0150)**	**Westchester**	**Lake**	**B**	**Phosphorus**	**Urban/Storm Runoff**	**2010**
H- 49a-P160		Lake Meahagh (1301-0053) [12]	Westchester	Lake	C	Phosphorus	Onsite WTS, Urban	2002
H- 55- 1-P165		**Wallace Pond (1301-0140)**	**Westchester**	**Lake**	**B**	**Phosphorus**	**Urban/Storm Runoff**	**2010**
H- 55-11-P179		**Lake Mohegan (1301-0149)**	**Westchester**	**Lake**	**B**	**Phosphorus**	**Urban/Storm Runoff**	**2010**
H- 94- 6-P340		**Orange Lake (1301-0008)**	**Orange**	**Lake**	**B**	**Phosphorus**	**Onsite WTS, Urban**	**2010**
H- 95-10-P345g		Hillside Lake (1304-0001)	Dutchess	Lake	B	Phosphorus	Onsite WTS	2002
H-101-P365	*	Wappingers Lake (1305-0001) [13]	Dutchess	Lake	B	Phosphorus	Urban/Storm Runoff	1998
						Silt/Sediment	Urban/Storm Runoff	2002
H-114		Fallkill Creek (1301-0087) [14]	Dutchess	River	C	Phosphorus	Urban/Storm Runoff	2002
H-139-13-52		**Monhagen Brook and tribs (1306-0074)**	**Orange**	**River**	**C**	**Phosphorus**	**Urban/Storm Runoff**	**2010**

[9] The new additional Saw Mill River segments are the result of re-segmenting the previously listed Saw Mill River segment (1301-0007) into three separate segments.

[10] Impairments in Lake Lincolndale have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

[11] Impairments in Lake Carmel have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

[12] Impairments in Lake Meahagh have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

[13] Impairments in Wappingers Lake have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

[14] Impairments in Fallkill Creek have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lower Hudson Drainage Basin (con't)						
H-171-P848		Ashokan Reservoir (1307-0004)	Ulster	Lake(R)	AA(T)	Silt/Sediment	Streambank Erosion	2002
H-171-P848-		Esopus Creek, Upper, and minor tribs (1307-0007) [15]	Ulster	River	A(T)	Silt/Sediment	Streambank Erosion	1998
H-188-P902		Robinson Pond (1308-0003) [16]	Columbia	Lake	B(T)	Phosphorus	Agriculture	1998
H-193-29-P950a	*	Basic Creek Reservoir (1309-0001) [17]	Albany	Lake(R)	A	Phosphorus	Agriculture	2002
H-202-P8f		Sleepy Hollow Lake (1301-0059)	Greene	Lake	A	Silt/Sediment	Streambank Erosion	2002
H-204- 2- 7-P24	*	Kinderhook Lake (1310-0002)	Columbia	Lake	B	Phosphorus	Agric, On-site WTS	2002
H-204- 2- 7-P34		**Nassau Lake (1310-0001)**	**Rensselaer**	**Lake**	**B**	**Phosphorus**	**Onsite WTS, Urban**	**2010**
H-221- 4- 3		Krumkill Creek, Upper, and tribs (1311-0004) [18]	Albany	River	A	Aquatic Toxicity	Urban Runoff/CSOs	2002
H-221- 4-P270- 1- 9-P276a		**Duane Lake (1311-0006)**	**Schenectady**	**Lake**	**B**	**Phosphorus**	**Onsite WTS, Urban**	**2010**
H-226		Patroon Creek and tribs (1301-0030) [19]	Albany	River	C	D.O./Oxygen Demand	Urban/Storm/CSOs	2002
H-2228a thru 237		Minor Tribs to West of Hudson (1301-0027) [20, 21]	Albany	River	D>C	Aquatic Toxicity	Industrial	2002
H-235-11-P377		Snyders Lake (1301-0043)	Rensselaer	Lake	B	Phosphorus	Oxygen Demand Sed.	2002
		Delaware River Drainage Basin						
D-71-10- 6-P388,P389		**Fly Pond, Deer Lake (1404-0038)**	**Broome**	**Lake**	**B**	**Phosphorus**	**Onsite WTS**	**2010**
		Ramapo/Hackensack River Basin						
NJ- 1/P977a-13-P984,P984a		**Congers Lake, Swartout Lake (1501-0019)**	**Rockland**	**Lake**	**B**	**Phosphorus**	**Urban/Storm Runoff**	**2010**

15 A restoration strategy/TMDL for this segment will be developed in conjunction with the Schoharie Reservoir strategy/TMDL.

16 Impairments in Robinson Pond have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

17 Impairments in Basic Creek Reservoir have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

18 Impairments in Krumkill Creek have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

19 Impairments in Patroon Creek have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

20 Formerly listed as Kromma Kill (1301-0027). The specifically identified impaired water(s) in this segment include Kromma Kill (-234).

21 Impairments in Kromma Kill have been verified. Consequently this listing has been moved to Part 1 from Part 3a.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Atlantic Ocean/Long Island Sound Drainage Basin						
(MW1.2) SI (portion 1)	*	Arthur Kill, Class I, and minor tribs (1701-0010)	Richmond	Estuary	I	Floatables [22]	Urban/Storm/CSO	2002
(MW1.2) SI (portion 3)	*	Newark Bay (1701-0183)	Richmond	Estuary	SD	Floatables [22]	Urban/Storm/CSO	2002
(MW1.2) SI (portion 4)	*	Kill Van Kull (1701-0184)	Richmond	Estuary	SD	Floatables [22]	Urban/Storm/CSO	2002
(MW1.2) SI..P1039,P1051,P1053		Grassmere, Arbutus and Wolfes Lakes (1701-0357)	Richmond	Lake	B	Phosphorus	Onsite WTS, Urban	2002
(MW2.3) ER-1-5-P1043		Van Cortlandt Lake (1702-0008)	Bronx	Lake	B	Phosphorus	Urban Runoff	2002
(MW2.4) ER-3		Bronx River, Upper, and tribs (1702-0107)	Westchester	River	C	D.O./Oxygen Demand	Urb/Storm Runoff	2002
						Pathogens	Urb/Storm Runoff	2004
(MW2.5) ER/LIS-LNB		Little Neck Bay (1702-0029) [23]	Queens	Estuary	SB	Pathogens	Urban/Storm/CSO	1998
(MW3.1) LIS (portion 2a)	*	Larchmont Harbor (1702-0116)	Westchester	Estuary	SB	Floatables	Urb/Storm, Municipl	2002
						Pathogens	Urb/Storm, Municipl	2002
(MW3.2) LIS- 2		Hutchinson River, Middle, and tribs (1702-0074)	Westchester	River	B	Oil/Grease	Urb/Storm, Industr	2002
						D.O./Oxygen Demand	Urb/Storm, Industr	2002
						Pathogens	Urb/Storm, Industr	2002
(MW3.3) LIS (portion 2b)	*	Mamaroneck Harbor (1702-0125)	Westchester	Estuary	SB	Floatables	Urb/Storm, Municipl	2002
						Pathogens	Urb/Storm, Municipl	2002
(MW3.3) LIS- 8		Mamaroneck River, Lower (1702-0071)	Westchester	River	SC	D.O./Oxygen Demand	Urb/Storm Runoff	2002
						Silt/Sediment	Urb/Storm Runoff	2002
(MW3.3) LIS- 8		Mamaroneck River, Upp, & minor tribs (1702-0123)	Westchester	River	C	D.O./Oxygen Demand	Urb/Storm Runoff	2002
						Silt/Sediment	Urb/Storm Runoff	2002
(MW3.3) LIS- 8- 1		Sheldrake River (1702-0069)	Westchester	River	C	Phosphorus	Urb/Storm Runoff	2002
						Silt/Sedimnt	Urb/Storm Runoff	2002
(MW3.4) LIS (portion 2c)	*	Milton Harbor (1702-0063)	Westchester	Estuary	SB	Floatables	Urb/Storm, Municipl	2002
						Pathogens	Urb/Storm, Municipl	2002
(MW3.4) LIS-11		Blind Brook, Lower (1702-0062)	Westchester	River	SC	Silt/Sediment	Urb/Storm Runoff	2002
(MW3.4) LIS-11		Blind Brook, Upper, and tribs (1702-0130)	Westchester	River	C	Silt/Sediment	Urb/Storm Runoff	2002
(MW3.6) LIS (portion 2d)	*	Port Chester Harbor (1702-0260)	Westchester	Estuary	SB	Floatables	Urb/Storm, Municipl	2002
						Pathogens	Urb/Storm, Municipl	2002
(MW4.2b) LIS-MB (portion 2)		Manhasset Bay, and tidal tribs (1702-0141)	Nassau	Estuary	SB	Pathogens	Urb/Storm Runoff	2002
(MW4.3a) LIS-HH		Hempstead Harbor, south, & tidal tribs (1702-0263)	Nassau	Estuary	SB	Pathogens	Urb/Storm Runoff	2002
(MW4.3a) LIS-HH-38		Glen Cove Creek, Lower, and tribs (1702-0146)	Nassau	Estuary	SC	Pathogens	Urb/Storm, Mun/Ind	2002
						Silt/Sediment	Urb/Storm, Mun/Ind	2002

[22] A New York City CSO Abatement Program and NYCDEP Catch Basin Hooding Program are in place. Similar efforts to address floatables from New Jersey are necessary to restore water uses.

[23] This listing had been included in Part 3c of the 2008 List. The listing has been moved to Part 1 since it was subsequently determined that actions included in the 2005 NYC CSO Order will not fully address this particular impairment.

Part 1 - Individual Waterbody Segments with Impairment Requiring TMDL Development (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Atlantic Ocean/Long Island Sound Drainage Basin (con't)						
(MW5.3) LIS-62-P296	Millers Pond (1702-0013)	Suffolk	Lake	C	D.O./Oxygen Demand	Urban/Storm Runoff	2002
					Phosphorus	Urban/Storm Runoff	2002
(MW6.1d) GB..GPB-P495	Mattituck or Marratooka Pond (1701-0129)	Suffolk	Lake	A	Metals	Urb/Storm Runoff	2002
					D.O./Oxygen Demand	Urb/Storm Runoff	2002
					Pathogens	Urb/Storm Runoff	2002
					Phosphorus	Urb/Storm Runoff	2002
(MW7.2a) AO-MB-168a thru 175	Tidal Tribs to West Moriches Bay (1701-0312) [24]	Suffolk	Estuary	SC	Pathogens	Urb/Storm, Agric,OWTS	2006
					Nitrogen	Urb/Storm, Agric,OWTS	2006
					D.O./Oxygen Demand	Urb/Storm, Agric,OWTS	2006
(MW7.5) AO-GSB-185-P889	Canaan Lake (1701-0018)	Suffolk	Lake	B(T)	Phosphorus	Urb/Storm Runoff	2002
					Silt/Sediment	Urb/Storm Runoff	2002
(MW7.7) AO-GSB-193..P304	Lake Ronkonkoma (1701-0020)	Suffolk	Lake	B	Pathogens	Urb/Storm Runoff	2002
					Phosphorus	Urb/Storm Runoff	2002
(MW7.8) AO-GSB-194	Champlin Creek, Upper, and tribs (1701-0019)	Suffolk	River	C(TS)	Thermal Changes	Urb/Storm Runoff	2002
(MW8.2a) EB-224 thru 227	LI Tribs, fresh to East Bay (1701-0204)	Nassau	River	C	Silt/Sediment	Urb/Storm Runoff	2002
					Phosphorus	Urb/Storm Runoff	2002
(MW8.3a) MDB-228	East Meadow Brook, Upper, and tribs (1701-0211)	Nassau	River	C	Silt/Sediment	Urb/Storm Runoff	2002
(MW8.4) HB	Hempstead Bay (1701-0032)	Nassau	Estuary	SA	Nitrogen	Municpl, Urb/Storm Runoff	2006
(MW8.4a) HB-233-P1005..P1012	Hempstead Lake (1701-0015)	Nassau	Lake	C	Phosphorus	Urban/Storm Runoff	2002
(MW8.4a) HB-235-P1017a	Grant Park Pond (1701-0054)	Nassau	Lake	C	Phosphorus	Urban/Storm Runoff	1998
(MW8.5b) JB	Jamaica Bay, Eastern, and tribs, Queens (1701-0005)	Queens	Estuary	SB	Nitrogen	Urban/CSO,Municipl	2002
					D.O./Oxygen Demand	Urban/CSO,Municipl	2002
(MW8.5b) JB-247	Bergen Basin (1701-0009)	Queens	Estuary	I	Nitrogen	Urban/CSO,Municipl	2006
					D.O./Oxygen Demand	Urban/CSO,Municipl	2002
(MW8.6) JB-249a	Hendrix Creek (1701-0006)	Kings	Estuary	I	Nitrogen	Urban/CSO/Municipl	1998
					D.O./Oxygen Demand	Urban/CSO/Municipl	1998

[24] Includes Upper Forge River, which is the trib of primary concern. The Lower Forge River is included in *Part 2c - Shellfishing Waters* portion of the list.

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition)

Might be addressed by a waterbody specific TMDL or a pollutant/source specific TMDL or other strategy to attain water quality standards.

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Black River Drainage Basin						
Ont 19- 40 (portion 7)/P431,P434		Soft Maple Pond, Soft Maple Reservoir (0801-0173) [25]	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40 (portion 10)		Beaver River, Upper, and tribs (0801-0210) [26]	Herkimer	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 40- 7-P416,P417		Lower, Upper West Pond (0801-0284)	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-10-4-P419,P286		Goose Pond, Meister Pond (0801-0286)	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-15-4-P436	*	Sand Pond (0801-0055)	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-18-3-P441,P442	*	Crooked Lake, McCabe Pond (0801-0144) [27]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-18..P443 thru P448	*	Pepperbox Pond, Spring Ponds, Tied Lake (0801-0076) [28]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-19-P456 thru P459	*	Minor Lakes Trib to Three Mile Cr Wshed (0801-0453) [29]	Herkimer	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19-40-20-P473,P474	*	Sunday Lake, Sunday Creek Reservoir (0801-0195) [30]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	2008
Ont 19-40-22-P479 thru P492	*	Minor Lakes Trib to Moshier Creek (0801-0039) [31]	Herkimer	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493- 2-P494,P496	*	Shallow Pond, Raven Lake (0801-0107)	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493- 2-P498	*	Lyons Lake (0801-0109) [32]	Herkimer	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493- 3-P499	*	Slim Pond (0801-0125)	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493- 4-P500	*	Evergreen Lake (0801-0110) [33]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998

[25] The specifically identified impaired water(s) in this segment also include unnamed pond (P432).

[26] The specifically identified impaired water(s) in this segment include Sunday Creek (-20); the Beaver River is not considered to be impaired.

[27] The specifically identified impaired water(s) in this segment also include Ikeis Pond (P438).

[28] The specifically identified impaired water(s) in this segment include Lower Spring Pond (P444).

[29] The specifically identified impaired water(s) in this segment include unnamed pond (P456a), unnamed pond (P457) and Bear Pond (P459).

[30] The specifically identified impaired water(s) in this segment also include unnamed pond (P474b) and unnamed pond (P476).

[31] The specifically identified impaired water(s) in this segment include Cropsey Pond (P480), unnamed pond (P484a), Deer Pond (P485), unnamed pond (P488), unnamed pond (P490) and Upper Moshier Pond (P491).

[32] The specifically identified impaired water(s) in this segment also include unnamed pond (P497).

[33] The specifically identified impaired water(s) in this segment also include unnamed pond (P501).

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Black River Drainage Basin (con't)						
Ont 19- 40-P493- 5-P502/6-P505	*	Peaked Mtn. Lake, Hidden Lake (0801-0111) [34]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493- 6..P508.P511	*	Ginger Pond, Soda Pond (0801-0126) [35]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493- 6-P515	*	Dismal Pond (0801-0065) [36]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493..P522 thru P535	*	Minor Lakes Trib to Red Horse Creek (0801-0068) [37]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-19-P547 thru P565		Minor Lakes Trib to Shingle Shanty Brook (0801-0149) [38]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-21- 1-P568		Rose Pond (0801-0308) [39]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-21-1-P570	*	Terror Lake (0801-0018)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-21-P571	*	East Pond (0801-0066)	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-32		Twitchell Creek and tribs (0801-0211)	Herkimer	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 40-P493-32-P578 thru 587	*	Minor Lakes Trib to Twitchell Creek (0801-0077) [40]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-32-15-P580		Silver Lake (0801-0150)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 40-P493-32-P584		Twitchell Lake (0801-0165)	Herkimer	Lake	A(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 57- 5-P608,P610,P615	*	Evies Pond, Long Lake, Fish Pond (0801-0323) [41]	Lewis	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 57- 7-P628,P630	*	Trout Pond, Bill's Pond (0801-0127) [42]	Lewis	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998

[34] The specifically identified impaired water(s) in this segment also include unnamed pond (P506).

[35] The specifically identified impaired water(s) in this segment also include unnamed pond (P510).

[36] The specifically identified impaired water(s) in this segment also include unnamed ponds (P512, P513, P516).

[37] The specifically identified impaired water(s) in this segment include East Higby Twins Pond (P522), West Higby Twins Pond (P523), Mud Pond (P524), unnamed pond (P526), Summit Pond (P527) and Wilder Pond (P531).

[38] The specifically identified impaired water(s) in this segment include Fly Pond West (P558).

[39] The specifically identified impaired water(s) in this segment include unnamed pond (P569); Rose Pond is not considered to be impaired.

[40] The specifically identified impaired water(s) in this segment include Pocket Pond (P581).

[41] The specifically identified impaired water(s) in this segment include Cork Pond (P607), Spectacle Pond West (P611), Spectacle Pond East (P612) and Mahan Pond (P613); Evies Pond, Long Lake, Fish Pond are not considered to be impaired..

[42] The specifically identified impaired water(s) in this segment also include Stewart Pond (P627).

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Black River Drainage Basin (con't)						
Ont 19- 57- 9-2-P632,P635,P638	*	Panther, Fifth Creek, Lennon Ponds (0801-0075) [43]	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 57-23-P647	*	Independence Lake (0801-0327) [44]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 57-P651	*	Little Diamond Pond (0801-0153)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 60-P674 thru P684	*	Minor Lakes Trib to Upper Otter Creek (0801-0041) [45]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81		South Br. Moose River, Upper, and tribs (0801-0346) [46]	Hamilton	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81- 7- 1..P702 thru P708	*	Minor Lakes Trib to Upper Pine Creek (0801-0072) [47]	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-18-17		North Branch Moose River and tribs (0801-0212) [48]	Herkimer	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 81-18-17-14-P736..P738		Thirsty Pond (0801-0154) [49]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-18-17-P752		Big Moose Lake (0801-0035)	Herkimer	Lake	A(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 81-18-17-P752-		Tribs to Big Moose Lake (0801-0213) [50]	Herkimer	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 81-18-17..P753 to P767	*	Minor Lakes Trib to Big Moose Lake, NW (0801-0050) [51]	Hamilton	Lake	AA	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-18-17-P752..P760	*	Otter Pond (0801-0016)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-18-17-P752..P768,P769	*	Lower, Upper Sister Lakes (0801-0004)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-18-17-P752..P772		South Pond (0801-0057) [52]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998

[43] The specifically identified impaired water(s) in this segment also include Mikes Pond (P631), unnamed pond (P636), unnamed pond (P638) and Blue Pond (P640).

[44] The specifically identified impaired water(s) in this segment include unnamed pond (P645) and unnamed pond (P646); Independence Lake is not considered to be impaired.

[45] The specifically identified impaired water(s) in this segment include West Pond (P675), East Pond (P687), Black Foot Pond (P681) and unnamed pond (P679).

[46] The specifically identified impaired water(s) in this segment include Bradley Brook and Cellar Brook; the South Branch Moose River is not considered to be impaired.

[47] The specifically identified impaired water(s) in this segment include Lost Lake (P702).

[48] The specifically identified impaired water(s) in this segment include Bald Mountain Brook (-P739-3); the North Branch Moose River is not considered to be impaired.

[49] The specifically identified impaired water(s) in this segment include a number of smaller ponds, including unnamed pond (P737); Thirsty Pond is not considered to be impaired.

[50] The specifically identified impaired water(s) in this segment include Constable Creek, West Pond Outlet and Squash Pond Outlet.

[51] The specifically identified impaired water(s) in this segment include Squash Pond (P754), Silver Dollar Pond (P755), Merriam Lake (P756), Gull Lake South (P758), unnamed pond (P759), Gull Lake North (P762), unnamed pond (P765) and unnamed pond (P766) .

[52] The specifically identified impaired water(s) in this segment also include unnamed pond (P771) and unnamed pond (P773).

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Black River Drainage Basin (con't)						
Ont 19- 81-18-17-P775 to P779	*	Minor Lakes Trib to Big Moose Lake, SE (0801-0017) [53]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-18-17-P752-9-P777	*	Constable Pond (0801-0214)	Herkimer	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 81-18-P792d..P787a-2		Tribs to Fulton Chain Lakes (0801-0207) [54]	Hamilton	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2002
Ont 19- 81-18-P782d...P788	*	Eagles Nest Lake (0801-0011) [55]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-51- 2-P836,P837	*	Stink Lake, Balsam Lake (0801-0034)	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-52-P841	*	Kettle Pond (0801-0131) [56]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-58-5-P852		Indian Lake (0801-0002) [57]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-58-12-P854,P855	*	Horn Lake, Mountain Lake (0801-0052) [58]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-58-22-2-3-P862 to P875	*	Minor Lakes Trib to Indian River (0801-0010) [59]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-58-25-P874	*	Brook Trout Lake (0801-0009)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-60..P876 thru P880	*	Minor Lakes Trib to Benedict Creek (0801-0029) [60]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-61- 4-P885	*	Falls Pond (0801-0399) [61]	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-69-P888	*	Sly Pond (0801-0007)	Hamilton	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 81-71- 2-1-P889	*	Cellar Pond (0801-0001)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19- 88-P905		Barnes Lake (0801-0134)	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998

[53] The specifically identified impaired water(s) in this segment include Pug Hole (Mays) Pond (P775) and Pigeon Lake (P779).

[54] The specifically identified impaired water(s) in this segment include Seventh Lake Inlet (-2), Buck Creek and Wheeler Creek.

[55] The specifically identified impaired water(s) in this segment also include unnamed pond (P792).

[56] The specifically identified impaired water(s) in this segment also include unnamed pond (P840) and unnamed pond (P846).

[57] The specifically identified impaired water(s) in this segment also include unnamed pond (P851) and Muskrat Pond (P853).

[58] The specifically identified impaired water(s) in this segment also include unnamed pond (P856), unnamed pond (P867a), unnamed pond (P858), Twin Lake Lower (P859), Twin Lake Upper (P860), Little Deer Lake (P861) and unnamed pond (P863).

[59] The specifically identified impaired water(s) in this segment include unnamed pond (P864a), Deep Lake (P866), Twin Lake West (P869), Twin Lake East (P870), unnamed pond (P871), unnamed pond (P872), Wolf Lake (P873) and Northrup Lake (P875).

[60] The specifically identified impaired water(s) in this segment include Bear Pond (P880).

[61] The specifically identified impaired water(s) in this segment include smaller Jimmy Pond (P886); Falls Pond is not considered to be impaired.

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Black River Drainage Basin (con't)						
Ont 19- 88-P907		Round Pond (0801-0407) [62]	Lewis	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19-104- 2- 5-P948		Dead Lake (0801-0427) [63]	Herkimer	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19-104-2-P951,-1-P952	*	Little Woodhull Lake, Lily Lake (0801-0070)	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19-114-P995,P996	*	Burp Lake, Black Creek Lake (0801-0139) [64]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19-128-6-P1003	*	Little Salmon Lk. (0801-0140)	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
Ont 19-P1007-10-3-P1008 to P1016		Minor Lakes Trib to North Lake (0801-0080) [65]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
		Saint Lawrence River Drainage Basin						
SLC-29-P65		Wolf Pond (0902-0006)	Franklin	Lake	B	Acid/Base (pH)	Atmospheric Dep.	1998
SLC-29-P68		Catamount Pond (0902-0092) [66]	Franklin	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SLC-32- 6-P73-26-P079		Diamond Lake (0902-0011)	Franklin	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SLC-32-20-41-P101,P102		Lower, Upper Twin Ponds, more (0902-0045) [67]	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SLC-32-66-P217,-67-P221	*	Duck Pond, Benz Pond (0902-0021) [68]	St.Lawrence	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-46-P31		Joe Indian Lake (0903-0060)	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P109-11-2-4-P116		Lost Pond (0903-0057)	Hamilton	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P109-11-2-P120...P129	*	Rock Pond (0903-0003)	Hamilton	Lake	B(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P109-11-P144...P147	*	High Pond (0903-0001)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P109-11-P144...P148	*	Little Pine Pond (0903-0028)	St.Lawrence	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P109-11-P156..P160,P161,P162		Spruce Grouse, Spring, Graves Ponds (0903-0041) [69]	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998

[62] The specifically identified impaired water(s) in this segment include smaller unnamed pond (P906); Round Pond is not considered to be impaired.

[63] The specifically identified impaired water(s) in this segment include smaller unnamed pond (P946); Dead Lake is not considered to be impaired.

[64] The specifically identified impaired water(s) in this segment also include Cotton Lake (P994).

[65] The specifically identified impaired water(s) in this segment include Snyder Lake (P1011) and unnamed pond (P1016).

[66] Previously listed in error with Lake Champlain Basin segments as 1003-0002 in Appendix A as Smaller Lake Impaired by Acid Rain.

[67] Previously listed as Lower Twin Pond (0902-0045).

[68] Previously listed as Benz Pond (0902-0021).

[69] Previously listed as Spring Pond (0903-0041).

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Saint Lawrence River Drainage Basin (con't)						
SL- 1-P109-11-P156..P168..P170	*	Halfmoon Pond (0903-0032)	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P309..P241-22-P245		South Pond (0903-0005)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P309..P241-22-P245-2-P247		Salmon Pond (0903-0004)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P309..P241..P276..P278		Pilgrim Pond (0903-0043)	Hamilton	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 1-P293-14-1-P321,P322,P331		Haymarsh Ponds, Lone Pond (0903-0017) [70]	Hamilton	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL- 2-59-32..P359,P261,P362		Len, Wolf, Beaver Ponds (0904-0002) [71]	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73		W.Br.Oswegatchie (0905-0003)	Lewis	River	FP	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73-19-5-3-P136		Dry Timber Lake (0905-0032)	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73-26-38-P179 thru P186	*	Gregg Lk, Green, Twin, Loon Hollow Pds (0905-0035) [72]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73-26-42-1-P195	*	Muskrat Pond (0905-0061) [73]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73-26-42-P196,P197	*	Bear Pond, Diana Pond (0905-0062) [74]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73-26-43-P198,P199,P200	*	Lower, Middle, Upper South Pond (0905-0057) [75]	Herkimer	Lake	D	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-73..P240 thru P247	*	Desert, Jakes, Buck, Hog Ponds (0905-0038) [76]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-101..P289	*	Crystal Lake (0905-0030) [77]	St.Lawrence	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998

[70] Previously listed in Appendix A as Lone Pond (0903-0008); segment also includes previously listed Unnamed Pond #6-323.

[71] Previously listed as Wolf Pond (0904-0002).

[72] Previously listed as Green Pond (0905-0035); segment also includes previously listed Loon Hollow Pond (0905-0105) and the smaller lakes Kelly Pond (0905-0073) and unnamed pond #4-180 (0905-0075).

[73] The specifically identified impaired water(s) in this segment also include previously listed unnamed pond #4-194 (0905-0060).

[74] Previously listed as Bear Pond (0905-0062); segment also includes previously listed Diana Pond (0905-0063).

[75] Previously listed as Upper South Pond (0905-0057).

[76] Previously listed as Jakes Pond (0905-0038).

[77] The specifically identified impaired water(s) in this segment also include previously listed Unnamed Pond #4-288e (0905-0078).

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Saint Lawrence River Drainage Basin (con't)						
SL-25-P309..P364 thru P381	*	Minor Lake Trib to Upper Oswegatchie (0905-0005) [78]	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
SL-25-P309..140-P377		Gull Lake (0905-0072)	Herkimer	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
		Lake Champlain Drainage Basin						
C-15-P114..P119	*	Lake Clear (1003-0109) [79, 80]	Franklin	Lake	AA(T)	Acid/Base (pH)	Atmospheric Dep.	1998
		Upper Hudson River Drainage Basin						
H-363-P119		Bullhead Pond (1101-0033)	Saratoga	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
H-461..P582 thru P612	*	Minor Lakes Trib to Indian River/Lake (1104-0008) [81]	Hamilton	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
H-469..P624 thru P669		Minor Lakes Trib to Cedar River (1104-0003) [82]	Hamilton	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998
H-503-P680/P682- 6..P687	*	Round Pond (1104-0073)	Hamilton	Lake	FP	Acid/Base (pH)	Atmospheric Dep.	1998
		Mohawk River Drainage Basin						
H-240-144-13..P727,P729,P730		Green, Otter, Stewart Lakes (1201-0009)	Fulton	Lake	B	Acid/Base (pH)	Atmospheric Dep.	1998
H-240-144-13..P732		Irving Pond (1201-0230)	Fulton	Lake	B	Acid/Base (pH)	Atmospheric Dep.	1998
H-240-144-43-P786		Morehouse Lake (1201-0080)	Hamilton	Lake	B(T)	Acid/Base (pH)	Atmospheric Dep.	1998
H-240-144-44-P790,P790a	*	Big Alderbed Pd, Blind Mans Vly (1201-0002)	Hamilton	Lake	C(T)	Acid/Base (pH)	Atmospheric Dep.	1998
H-240-180 (portion 5)		West Canada Creek, Upp, and tribs (1203-0008)	Herkimer	River	A(T)/FP	Acid/Base (pH)	Atmospheric Dep.	1998
H-240-180 (portion 6)		West Canada Creek, Upp, and tribs (1203-0025)	Herkimer	River	C(T)/FP	Acid/Base (pH)	Atmospheric Dep.	2004
H-240-180- P799-19..P818 to P822		Lakes Trib to Jerseyfield Lake (1203-0002) [83]	Herkimer	Lake	C	Acid/Base (pH)	Atmospheric Dep.	1998

[78] The specifically identified impaired water(s) in this segment include previously listed Oven Lake (0905-0042), Grassy Pond (0905-0034), Hyde Pond (0905-0071), Hitchens Pond (0905-0036) and smaller Little Duck Pond (0905-0089) and Jenkins Pond (0905-0069).

[79] This listing was previously listed as Minor Lake Trib to Upper Saranac Lake (1003-0086). However the Minor Lake Trib to Upper Saranac Lake segment has been discontinued and lakes in that watershed have been reassigned to multiple other more appropriate smaller lake watershed segments. which includes Saint Germain Pond (P201)

[80] The specifically identified impaired water(s) in this segment include Saint Germain Pond (P201); Lake Clear is not considered to be impaired.

[81] The specifically identified impaired water(s) in this segment include Little Moose Pond (P607).

[82] The specifically identified impaired water(s) in this segment include South Pine Lake and Carry Pond (P669).

[83] The specifically identified impaired water(s) in this segment include Diamond Lake (P822).

Part 2a - Multiple Segment/Categorical Impaired Waterbody Segments (atmospheric deposition) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Delaware River Drainage Basin						
D- 1-P58b-82	East Branch Neversink River and tribs (1402-0007)	Ulster	River	C(T)	Acid/Base (pH)	Atmospheric Dep.	2004
D- 1-33-P37	Wolf Reservoir (1402-0045)	Sullivan	Lake(R)	B	Acid/Base (pH)	Atmospheric Dep.	2004

Other/Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain)...See Appendix A

Previous Section 303(d) Lists included additional small lake waterbodies impacted by atmospheric deposition. Because subsequent development of a comprehensive monitoring strategy required limiting the WI/PWL database to lakes 6.4 acres or larger, these smaller lakes are no longer tracked as individual waterbodies in the database. These lakes have been joined with other lakes in the same watershed a single segment. In order to accommodate these changes regarding the tracking of waterbodies within the WI/PWL database and to provide continuity between this listing and previous lists that included the tracking of the smaller lake as individual waterbodies, a list of *Other/Smaller Lakes Impaired by Atmospheric Deposition* (currently representing 72 lakes/ponds) is included in the 2010 Section 303(d) List and is attached as Appendix A. This appendix lists the smaller lakes that appeared on previous Section 303(d) Lists with a note indicating the WI/PWL segment into which the lake has been consolidated. NOTE: The 2008 Section 303(d) List included 80 smaller lakes in Appendix A. The reduction in the number of smaller lakes in the 2010 List is a result of some of the smaller lakes being consolidated into WI/PWL segments that are included in Part 2a of the List.

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption)

Might be addressed by a waterbody specific TMDL or a pollutant/source specific TMDL or other strategy to attain water quality standards.

NOTE: Fish consumption advisories/impairments for all waters listed below extend into and include tributary (and downstream) waters to the first impassable barrier.

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Niagara River/Lake Erie Drainage Basin						
Ont 158 (portion 1)		Niagara River, Lower, Main Stem (0101-0027)	Niagara	River	A-Spcl	Dioxin	Cont.Sed, Land.Disp.	1998
						Mirex	Cont.Sed, Land.Disp.	1998
						PCBs	Cont.Sed, Land.Disp.	1998
Ont 158 (portion 2)		Niagara River, Upper, Main Stem (0101-0006)	Niagara	River	A-Spcl	PCBs	Cont.Sed, Land.Disp.	1998
Ont 158 (portion 3)		Chippewa (West) Channel (0101-0028)	Niagara	River	A-Spcl	PCBs	Cont.Sed, Land.Disp.	1998
Ont 158 (portion 4)		Black Rock Channel (0101-0025)	Niagara	River	A-Spcl	PCBs	Cont.Sed, Land.Disp.	1998
Ont 158- 8		Cayuga Creek and minor tribs (0101-0001) [84]	Niagara	River	C	Dioxin	Contaminated Sed.	1998
Ont 158-12 (portion 1)		Tonawanda Creek, Lower, Main Stem (0102-0022)	Niagara	River	C	PCBs	Contaminated Sed.	1998
Ont 158-15-P25		Delaware Park Lake (0101-0026)	Erie	Lake	B	PCBs	Cont.Sed, Land.Disp.	1998
Ont 158-E (portion 1)		Lake Erie, Erie Basin (0104-0032)	Erie	G.Lakes	C	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 2)		Lake Erie, Outer Harbor North (0104-0033)	Erie	G.Lakes	B	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 3)		Lake Erie, Outer Harbor South (0104-0034)	Erie	G.Lakes	C	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 4)		Lake Erie, Northeast Shoreline (0104-0035)	Erie	G.Lakes	C	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 5)		Lake Erie, Northeast Shoreline (0104-0036)	Erie	G.Lakes	B	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 6)		Lake Erie, Main Lake, North (0104-0037)	Erie	G.Lakes	A-Spcl	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 7)		Lake Erie, Main Lake, South (0105-0033)	Chautauqua	G.Lakes	A-Spcl	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 7a)		Lake Erie, Dunkirk Harbor (0105-0009)	Chautauqua	G.Lakes	B	PCBs	Contaminated Sed. [85]	2002
Ont 158-E (portion 7b)		Lake Erie, Barcelona Harbor (0105-0011)	Chautauqua	G.Lakes	B	PCBs	Contaminated Sed. [85]	2002
Ont 158..E- 1		Buffalo River (0103-0001)	Erie	River	C	PCBs	Contaminated Sed. [85]	1998
		Lake Ontario (Minor Tribs) Drainage Basin						
Ont (portion 1)	*	Lake Ontario Shoreline, Eastern (0303-0023)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 2)	*	Lake Ontario Shoreline, Eastern (0303-0024)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998

[84] Fish consumption advisory for Cayuga Creek includes lower Bergholtz Creek to the first impassible barrier. Previously Bergholtz Creek was listed separately, but since there is no waterbody-specific health advisory for Bergholtz Creek, the impairment in the lower creek is more appropriately captured in the note at the beginning of Part 2b.

[85] For Lake Erie and Lake Ontario Shoreline segments included on the Section 303(d) List due to fish consumption restrictions, the primary source of contamination is the open lake rather than the near-shore waters. Due to fish migration, the advisories apply to tributary waters up to the first impassable barrier.

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lake Ontario (Minor Tribs) Drainage Basin (con't)						
Ont (portion 2a)	*	Chaumont Bay (0303-0011)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 2b)	*	Guffin Bay (0303-0025)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 3)	*	Lake Ontario Shoreline, Eastern (0303-0026)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 3a)	*	Black River Bay (0303-0102)	Jefferson	Bay	C	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 4)	*	Lake Ontario Shoreline, Eastern (0303-0027)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 4a)	*	Henderson Bay (0303-0022)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 5)	*	Lake Ontario Shoreline, Eastern (0303-0028)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 6)	*	Lake Ontario Shoreline, Eastern (0303-0029)	Jefferson	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 7)	*	Lake Ontario Shoreline, Eastern (0303-0030)	Oswego	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 8)	*	Lake Ontario Shoreline, Eastern (0303-0031)	Oswego	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 9)	*	Lake Ontario Shoreline, Eastern (0303-0017)	Oswego	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 10)	*	Lake Ontario Shoreline, Oswego (0302-0040)	Oswego	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 11)	*	Lake Ontario Shoreline, Central (0302-0041)	Oswego	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lake Ontario (Minor Tribs) Drainage Basin (con't)						
Ont (portion 12)	*	Lake Ontario Shoreline, Central (0302-0042)	Cayuga	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 13)	*	Lake Ontario Shoreline, Central (0302-0043)	Wayne	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 14)	*	Lake Ontario Shoreline, Central (0302-0044)	Wayne	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 15)	*	Lake Ontario Shoreline, Central (0302-0045)	Wayne	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 16)	*	Rochester Embayment - East (0302-0002)	Monroe	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 17)	*	Rochester Embayment - West (0301-0068)	Monroe	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 18)	*	Lake Ontario Shoreline, Western (0301-0069)	Monroe	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 19)	*	Lake Ontario Shoreline, Western (0301-0070)	Orleans	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 20)	*	Lake Ontario Shoreline, Western (0301-0071)	Orleans	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 21)	*	Lake Ontario Shoreline, Western (0301-0072)	Niagara	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont (portion 22)	*	Lake Ontario Shoreline, Western (2301-0053)	Niagara	G.Lakes	A	PCBs	Contaminated Sed. [85]	1998
						Mirex	Contaminated Sed. [85]	1998
						Dioxin	Contaminated Sed. [85]	1998
Ont 53 (portion 1)		Salmon River, Lower, and minor tribs (0303-0016)	Oswego	River	C(T)	PCBs	Contaminated Sed.	1998
						Mirex	Contaminated Sed.	1998
Ont 53 (portion 2)/P18a		Lower Salmon River Reservoir (0303-0067)	Oswego	Lake(R)	C(T)	PCBs	Contaminated Sed.	1998
						Mirex	Contaminated Sed.	1998
Ont 53 (portion 3)		Salmon River, Middle, and tribs (0303-0068)	Oswego	River	C(T)	PCBs	Contaminated Sed.	1998
						Mirex	Contaminated Sed.	1998
Ont 108/P113		Irondequoit Bay (0302-0001)	Monroe	Lake	B	Mirex	Contaminated Sed.	1998
						PCBs	Contaminated Sed.	1998

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lake Ontario (Minor Ribs) Drainage Basin (con't)						
Ont 148		Eighteenmile Creek, Lower, and tribs (0301-0002)	Niagara	River	B,C,D	PCBs	Contaminated Sed.	1998
Ont 148		Eighteenmile Creek, Middle, and tribs (0301-0054)	Niagara	River	C	PCBs	Contaminated Sed.	1998
Ont 148		Eighteenmile Creek, Upp, and mnr tribs (0301-0055)	Niagara	River	D	PCBs	Contaminated Sed.	1998
		Genesee River Drainage Basin						
Ont 117 (portion 1)		Genesee River, Lower, Main Stem (0401-0001)	Monroe	River	B	PCBs	Contam.Sed.	2004
						Mirex	Contam.Sed.	2004
						Dioxin	Contam.Sed.	2004
Ont 117- 27-34-11-P43	*	Canadice Lake (0402-0002)	Ontario	Lake	AA(TS)	PCBs	Cont.Sed, Land.Disp.	1998
		Chemung River Drainage Basin						
PA 3-28- 6- 1- 3-13a	*	Koppers Pond (0501-0012)	Chemung	Lake	C	PCBs	Cont.Sed, Land.Disp.	1998
		Oswego River (Finger Lakes) Drainage Basin						
Ont 66 (portion 2)		Oswego River (0701-0006)	Oswego	River	B	PCBs	Contaminated Sed.	1998
Ont 66-12-12-P154 (portion 1)		Onondaga Lake, northern end (0702-0003)	Onondaga	Lake	B	Dioxin	Contaminated Sed.	1998
						Mercury	Contaminated Sed.	1998
						PCBs, other toxics	Contaminated Sed.	1998
Ont 66-12-12-P154 (portion 2)		Onondaga Lake, southern end (0702-0021) [86]	Onondaga	Lake	C	Dioxin	Contaminated Sed.	1998
						Mercury	Contaminated Sed.	1998
						PCBs, other toxics	Contaminated Sed.	1998
Ont 66-12-P369-115-P388		Keuka Lake (0705-0003)	Yates	Lake	AA(TS)	DDT	Contaminated Sed.	1998
		Black River Drainage Basin						
Ont 19- 81-18-P782a thru d	*	Fulton Chain Lakes, First thru Fourth Lake (0801-0373) [87]	Herkimer	Lake	A	DDT	Cont.Sed., Land Disp	1998

[86] As noted at the beginning of Part 2b, fish consumption advisories/impairments for Part 2b waters extend into and include tributary (and downstream) waters to the first impassable barrier. There is some evidence that contamination of fish in Ley Creek extends beyond this barrier, though there is no separate waterbody-specific health advisory for the creek. Consequently, this listing should be considered as including all of Ley Creek.

[87] Previously the segment Tribs to Fulton Chain Lakes (0801-0098) which includes Gray Lake Outlet, which is suspected source of DDT contamination/fish consumption advisory in Fourth Lake, was listed for this impairment. But since the health advisory applies to the lake it is more appropriate to list the segment which includes Fourth Lake (0801-0373) with the understanding that for the purposes of Section 303(d) listing, this segment includes the lower portion of Gray Lake Outlet.

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Saint Lawrence Drainage Basin						
SL (portion 1)	St.Lawrence River (0901-0001)	St.Lawrence	River	A	Dioxin	Contaminated Sed.	1998
					Mirex	Contaminated Sed.	1998
					PCBs	Contaminated Sed.	1998
SL (portion 2)	St.Lawrence River (0901-0002)	St.Lawrence	River	A	Dioxin	Industr, Contam.Sed.	1998
					Mirex	Industr, Contam.Sed.	1998
					PCBs	Industr, Contam.Sed.	1998
SL (portion 3)	St.Lawrence River (0901-0015) [88]	St.Lawrence	River	A	Dioxin	Industr, Contam.Sed.	2010
					Mirex	Industr, Contam.Sed.	2010
					PCBs	Industr, Contam.Sed.	2010
SL (portion 4)	St.Lawrence River (0901-0004) [88]	St.Lawrence	River	A	Dioxin	Industr, Contam.Sed.	2010
					Mirex	Industr, Contam.Sed.	2010
					PCBs	Industr, Contam.Sed.	2010
SL- 2	Grass River (0904-0009)	St.Lawrence	River	B	PCBs	Industr, Contam.Sed.	1998
SL- 2-	Massena Power Canal (0904-0012)	St.Lawrence	River	D	PCBs	Industr, Contam.Sed.	1998
	Lake Champlain Drainage Basin						
C (portion 1)	Lake Champlain, Main Lake, North (1000-0001)	Clinton	Lake	A	PCBs	Contam. Sed., Atm.	1998
C (portion 2)	Lake Champlain, Main Lake, Middle (1000-0002)	Clinton	Lake	A	PCBs	Contam. Sed., Atm.	1998
C (portion 2a)	Cumberland Bay (1001-0001)	Clinton	Bay	B	PCBs	Contam. Sed., Atm.	1998
C (portion 2b)	Willsboro Bay (1001-0015) [89]	Essex	Bay	B	PCBs	Contam. Sed., Atm.	2010
C (portion 3)	Lake Champlain, Main Lake, South (1000-0003)	Essex	Lake	A	PCBs	Contam. Sed., Atm.	1998
C (portion 4)	Lake Champlain, South Lake (1000-0004)	Essex	Lake	B	PCBs	Contam. Sed., Atm.	1998
	Upper Hudson River Drainage Basin						
H (portion 6)	Upper Hudson River, Main Stem (1101-0045) [90]	Saratoga	River	C	Mercury	Contaminated Sed.	2002
H (portion 7)	Upper Hudson River, Main Stem (1101-0046) [91]	Saratoga	River	C	Mercury	Contaminated Sed.	2010
H-264 (portion 1)	Hoosic River, Lower, Main Stem (1102-0002)	Rensselaer	River	C	PCBs	Contaminated Sed.	1998
H-264 (portion 1b)/P1115	Schaghticoke Reservoir (1102-0015)	Rensselaer	Lake (R)	C	PCBs	Contaminated Sed.	2006
H-264 (portion 2)	Hoosic River, Middle, Main Stem (1102-0003)	Rensselaer	River	B	PCBs	Contaminated Sed.	1998
H-264 (portion 3)	Hoosic River, Middle, Main Stem (1102-0016)	Rensselaer	River	C(T)	PCBs	Contaminated Sed.	2008
H-264 (portion 4)	Hoosic River, Upper, and tribs (1102-0017)	Rensselaer	River	B(T)	PCBs	Contaminated Sed.	2008
H-264 (portion 5)	Hoosic River, Upper, and minor tribs (1102-0018)	Rensselaer	River	C(T)	PCBs	Contaminated Sed.	2008
H-391 (portion 3)/P374	Schroon Lake (1104-0002)	Essex	Lake	AA	PCBs	Atmosph, Unknown	1998

[88] These new listings are the result of the re-segmenting of the Saint Lawrence River into four (4) segments; previously there were only two (2) Saint Lawrence segments (0901-0001, 0901-0002).

[89] This new listing is the result of the recognition that the Lake Champlain health advisory for PCBs extends into this bay of the lake.

[90] This segment was mis-identified as segment 1104-0045 in the 2008 Section 303(d) List.

[91] This new listing is the result of the re-segmenting of the Upper Hudson into an additional segment.

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Mohawk River Drainage Basin						
H-240 (portion 11)	Mohawk R/NYS Barge Canal, Main Stem (1201-0092)	Herkimer	River	B	PCBs	Contam. Sediment	1998
H-240 (portion 12)	Mohawk River, Main Stem (1201-0093)	Herkimer	River	C	PCBs	Contam. Sediment	1998
H-240 (portion 12b)	Utica Harbor (1201-0228)	Oneida	Bay	C	PCBs	Contam. Sediment	1998
H-240 (portion 13)	Mohawk River, Main Stem (1201-0010)	Oneida	River	B	PCBs	Unknown	1998
H-240-219	Sauquoit Creek, Lower, and tribs (1201-0069)	Oneida	River	C(T)	PCBs	Industrial, Leak/Spill	2002
H-240-219	Sauquoit Creek, Middle, and tribs (1201-0207)	Oneida	River	C(T)	PCBs	Contam. Sediment	2002
H-240-234	Threemile Creek and tribs (1201-0223)	Oneida	River	C	PCBs	Contam. Sediment	1998
	Lower Hudson River Drainage Basin						
H (portion 1)	Hudson River, Class I, (1301-0006)	New York	Estuary	I	PCBs, other toxics [92]	Contaminated Sed.	1998
H (portion 2a)	Hudson River, Class SB, portion (1301-0005)	Bronx	Estuary	SB	PCBs, other toxics [92]	Contaminated Sed.	1998
H (portion 2b)	Hudson River, Class SB, portion (1301-0094)	Westchester	Estuary	SB	PCBs, other toxics [92]	Contaminated Sed.	1998
H (portion 3)	Hudson River, Class B, (1301-0003)	Orange	Estuary	B	PCBs	Contaminated Sed.	1998
H (portion 4a)	Hudson River, Class A, (1301-0001)	Orange	Estuary	A	PCBs	Contaminated Sed.	1998
H (portion 4b)	Hudson River, Class A, (1301-0276)	Ulster	Estuary	A	PCBs	Contaminated Sed.	1998
H (portion 5)	Hudson River, Class C, (1301-0002)	Albany	Estuary	C	PCBs	Contaminated Sed.	1998
H- 4	Saw Mill River, Lower, and tribs (1301-0007)	Westchester	River	various	Chlordane	Contaminated Sed.	1998
H- 4	Saw Mill River, Middle, and tribs (1301-0100) [93]	Westchester	River	various	Chlordane	Contaminated Sed.	2010
H- 4	Saw Mill River, Upper, and tribs (1301-0101) [93]	Westchester	River	various	Chlordane	Contaminated Sed.	2010
H-204- 2- 7-P24	Kinderhook Lake (1310-0002)	Columbia	Lake	B	PCBs	Cont.Sed., Land Disp	1998
H-204- 2- 7	Valatie Kill, Middle, and Tribs (1310-0003)	Rensselaer	River	C(T)	PCBs	Cont.Sed. ,Land Disp	1998
H-204- 2- 7-P34	Nassau Lake (1310-0001)	Rensselaer	Lake	B	PCBs	Cont.Sed., Land Disp	1998
H-204- 2- 7	Valatie Kill, Upper, and Tribs (1310-0024) [94]	Rensselaer	River	C(T)	PCBs	Cont.Sed. ,Land Disp	2010
	Delaware River Drainage Basin						
D-71-20-	Trout Creek, Upper, and tribs (1404-0050) [95]	Delaware	River	C(TS)	PCBs	Cont.Sed, Land.Disp.	2002

[92] In addition to the contaminants for which there are specific Health Advisories for the consumption of fish, other contaminants have also been identified as contributing to the fish consumption impairment. These substances may include mercury, dioxins/furans, PAHs, pesticides and other heavy metals.

[93] These new listings are the result of the re-segmenting of the Saw Mill River into three (3) segments; previously there was only one Saw Mill River segment (1301-0007).

[94] This new listing is the result of the re-segmenting of the Valatie Kill into three (3) segments; previously there was only one Valatie Kill segment (1310-0003). The Health Advisory for the consumption of fish from the Valatie Kill does not extend to the lower segment.

[95] Includes Herrick Hollow Creek for which a fish consumption advisory is in place.

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Atlantic Ocean/Long Island Sound Drainage Basin						
(MW1.1) LB	Lower New York Bay (1701-0004)	Kings	Estuary	SB	PCBs, other toxics [92]	Contam.Sediment, Urban	1998
(MW1.1) LB/GB	Lower New York Bay/Gravesend Bay (1701-0179)	Kings	Estuary	I	PCBs, other toxics [92]	Contam.Sediment, Urban	2002
(MW1.2) RB (portion 1)	Raritan Bay, Class SA (1701-0002)	Richmond	Estuary	SA	PCBs, other toxics [92]	Contam.Sediment, Urban	2002
(MW1.2) RB (portion 2)	Raritan Bay, Class SB (1701-0180)	Richmond	Estuary	SB	PCBs, other toxics [92]	Contam.Sediment, Urban	2002
(MW1.2) RB (portion 3)	Raritan Bay, Class I (1701-0181)	Richmond	Estuary	I	PCBs, other toxics [92]	Contam.Sediment, Urban	2002
(MW1.2) SI (portion 1)	Arthur Kill, Class I and minor tribs (1701-0010)	Richmond	Estuary	I	PCBs, other toxics [92]	Contaminated Sed.	1998
					Cadmium	Contaminated Sed.	2002
					Dioxin	Contaminated Sed.	2002
(MW1.2) SI (portion 2)	Arthur Kill, Class SD and minor tribs (1701-0182)	Richmond	Estuary	SD	PCBs, other toxics [92]	Contaminated Sed.	2002
					Cadmium	Contaminated Sed.	2002
					Dioxin	Contaminated Sed.	2002
(MW1.2) SI (portion 3)	Newark Bay (1701-0183)	Richmond	Estuary	SD	PCBs, other toxics [92]	Contaminated Sed.	2002
					Cadmium	Contaminated Sed.	2002
					Dioxin	Contaminated Sed.	2002
(MW1.2) SI (portion 4)	Kill Van Kull (1701-0184)	Richmond	Estuary	SD	PCBs, other toxics [92]	Contaminated Sed.	2002
					Cadmium	Contaminated Sed.	2002
					Dioxin	Contaminated Sed.	2002
(MW1.3) UB	Upper New York Bay (1701-0022)	Kings	Estuary	I	PCBs, other toxics [92]	Contaminated Sed.	1998
					Cadmium	Contaminated Sed.	2002
(MW1.3) UB-EB	Erie Basin (1701-0185)	Kings	Estuary	SD	PCBs, other toxics [92]	Contaminated Sed.	2002
					Cadmium	Contaminated Sed.	2002
(MW2.1) ER (portion 1)	East River, Lower (1702-0011)	New York	Estuary	I	PCBs, other toxics [92]	Contaminated Sed.	1998
(MW2.3) ER (portion 2)	East River, Upper (1702-0010)	Queens	Estuary	I	PCBs, other toxics [92]	Contaminated Sed.	1998
(MW2.3) ER (portion 3)	East River, Upper (1702-0032)	Queens	Estuary	SB	PCBs, other toxics [92]	Contaminated Sed.	1998
(MW2.3) ER-1	Harlem River (1702-0004)	New York	Estuary	I	PCBs, other toxics [92]	Contaminated Sed.	2002
(MW3.3) LIS- 8- 1	Sheldrake River (1702-0069)	Westchester	River	C	Chlordane	Contaminated Sed.	1998
					Dieldrin	Contaminated Sed.	1998
- - -	Ridders Pond (1701-0176) [96]	Nassau	Lake	C	Chlordane	Contaminated Sed.	1998
(MW4.2b) LIS-MB-25-P122	Whitney Lake (1702-0101)	Nassau	Lake	C	Chlordane	Contaminated Sed.	1998
- - -	Saint James Pond (1702-0049) [96]	Suffolk	Lake	C	Chlordane/DDT	Contaminated Sed.	1998
- - -	Spring Pond/Lake (1701-0022) [96]	Suffolk	Lake	B	Chlordane	Contaminated Sed.	1998
(MW7.8) AO-GSB-205-P934	Lake Capri (1701-0175)	Suffolk	Lake	C	Cadmium	Cont.Sed, Land.Disp.	1998
					Chlordane	Cont.Sed, Land.Disp.	2002
(MW8.1a) SOB-220-P969	Massapequa Reservoir (1701-0157)	Nassau	Lake(R)	A	Chlordane	Contaminated Sed.	1998
(MW8.3a) MDB-228-P989	Freeport Reservoir/East Meadow Pond (1701-0025)	Nassau	Lake(R)	A	Chlordane	Contaminated Sed.	2002
(MW8.3a) MDB-228-P989-P991	Smith Pond/Roosevelt Pond (1701-0136)	Nassau	Lake	C	Chlordane	Contaminated Sed.	1998
(MW8.3a) MDB-231-P996	Lofts Pond (1701-0029)	Nassau	Lake	C	Chlordane	Contaminated Sed.	1998

[96] Because development of a comprehensive monitoring strategy required limiting the WI/PWL database to lakes 6.4 acres or larger, these smaller lakes are no longer tracked as individual waterbodies in the WI/PWL database.

Part 2b - Multiple Segment/Categorical Impaired Waterbody Segments (fish consumption) (con't)

Atlantic Ocean/Long Island Sound Drainage Basin (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
(MW8.4a) HB-233-P1005	Smith Pond (1701-0028)	Nassau	Lake	C	Chlordane	Contaminated Sed.	2002
(MW8.4a) HB-233-P1005..P1008	Halls Pond (1701-0027)	Nassau	Lake	C	Chlordane	Contaminated Sed.	1998
(MW8.4a) HB-235-P1017a	Grant Park Pond (1701-0054)	Nassau	Lake	C	PCBs	Contaminated Sed.	1998

More Information Regarding Fish Consumption

Waters impaired for fish consumption are based on New York State Department of Health advisories contained in its annual *Chemicals in Sportfish and Game* publications. Because the specific extent and conditions of the advisories are reported more precisely and more frequently than can be reported through the Section 303(d) List, this advisory information regarding the support of fish consumption in New York is more timely and the extent of the advisory more precisely delineated than the information provided in the Section 303(d) List. For the most up-to-date fish consumption advisory information, refer to http://www.health.state.ny.us/environmental/outdoors/fish/fish.htm

A general health advisory to eat no more than one meal per week of fish from any freshwaters and some marine waters of the state is also in place. NYSDOH has issued this advisory because 1) some chemicals (mercury and PCBs, for example) are commonly found in New York State fish, 2) fish from all waters have not been tested, and 3) fish may contain unidentified contaminants. The general advisory is less restrictive than the waterbody-specific advisories. Because the general advisory is less restrictive, is largely precautionary, and applies to almost all waters of the state, these waters are not listed individually on the Section 303(d) List.

Part 2c - Multiple Segment/Categorical Impaired Waterbody Segments (shellfishing)

(Might be addressed by a waterbody specific TMDL or a pollutant/source specific TMDL or other strategy to attain water quality standards)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Atlantic Ocean/Long Island Sound Drainage Basin						
(MW1.2) RB (portion 1)	Raritan Bay, Class SA (1701-0002)	Richmond	Estuary	SA	Pathogens	Urban/Storm/CSO	1998
(MW3.1) LIS (portion 1b)	New Rochelle Harbor (1702-0259)	Westchester	Estuary	SA	Pathogens	Urb/Storm, Municipal	2002
(MW3.1) LIS (portion 2)	Long Island Sound, Westchester Co Waters(1702-0001)	Westchester	Estuary	SA	Pathogens	Urban/CSO, Municipl	1998
(MW4.1) LIS (portion 3)	Long Island Sound, Nassau County Waters (1702-0028)	Nassau	Estuary	SA	Pathogens	Urban/CSO, Municipl	1998
(MW4.2b) LIS-MB (portion 1)	Manhasset Bay, and tidal tribs (1702-0021)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	1998
(MW4.3b) LIS-41-P145	Dosoris Pond (1702-0024)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW5.4g) LIS-FI-P1101,P1102	Beach/Island Ponds, Fishers Island (1701-0283)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW6.3b) GB..GPB-122a-P652	Scallop Pond (1701-0354)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW6.3g) BIS..P764	Oyster Pond/Lake Munchogue (1701-0169)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	1998
(MW6.3i) AO-SB-155	Phillips Creek, Lower, and tidal tribs (1701-0299)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW6.3i) AO-SB-QgC	Quogue Canal (1701-0301)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW7.2a) AO-MB (portion 4)	Forge River, Lower and Cove (1701-0316)	Suffolk	Estuary	SA	Pathogens	Urban/Storm, Agric.	2002
(MW7.6) AO-GSB (portion 6)	Nicoll Bay (1701-0375)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW7.8) AO-GSB (portion 7)	Great Cove (1701-0376)	Suffolk	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW8.1) SOB	South Oyster Bay (1701-0041)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	1998
(MW8.2) EB	East Bay (1701-0202)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW8.3) MDB	Middle Bay (1701-0208)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW8.3) MDB-ERI	East Rockaway Inlet (1701-0217)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW8.3) MDB-RC	Reynolds Channel, east (1701-0215)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	2002
(MW8.4) HB	Hempstead Bay (1701-0032)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	1998
(MW8.4a) HB-236	Woodmere Channel (1701-0219)	Nassau	Estuary	SA	Pathogens	Urban/Storm Runoff	2002

More Information Regarding Shellfishing

Waters impaired for shellfishing use are based on shellfishing closures issues by New York State Department of Environmental Conservation Shellfisheries Program and the National Shellfish Sanitation Program. Because the specific extent and conditions of the closures are reported more precisely and more frequently through these programs than through the Section 303(d) List, this shellfish closure information provides better delineated and more timely information regarding the support of shellfishing use in the waters of New York than does the Section 303(d) List. For the most current shellfishing closure information, refer to http://www.dec.state.ny.us/website/dfwmr/marine/shellfish/sfntsh/index.htm.

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Part 3a - Waterbodies for which TMDL Development May be Deferred (Requiring Verification of Impairment)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Niagara River/Lake Erie Drainage Basin						
Ont 158 (portion 1)		Niagara River, Lower, Main Stem (0101-0027) [97]	Niagara	River	A(S)	Org.Chlor.Pest/HCB	Cont.Sed, Land Disposal	2006
						PAHs	Cont.Sed, Land Disposal	2002
Ont 158 (portion 2)		Niagara River, Upper, Main Stem (0101-0006) [97]	Niagara	River	A(S)	Org.Chlor.Pest/HCB	Cont.Sed, Land Disposal	2006
						PAHs	Cont.Sed, Land Disposal	2002
Ont 158-12 (portion 2)		**Tonawanda Cr, Middle, Main Stem (0102-0006)**	**Genesee**	**River**	**B**	**Pathogens**	**Agriculture, Urb Runoff**	**2010**
Ont 158-12 (portion 3)		Tonawanda Cr, Middle, Main Stem (0102-0002)	Genesee	River	C	Phosphorus	Urban/Storm, Str Erosion	2004
						Silt/Sediment	Urban/Storm, Str Erosion	2004
Ont 158-12 (portion 4)		Tonawanda Cr, Upp, & minor tribs (0102-0003)	Genesee	River	A	Silt/Sediment	Agric, Streambank Erosion	2004
Ont 158-12- 1		Ellicott Creek, Lower, and tribs (0102-0018)	Erie	River	B	Phosphorus	Urban Runoff	2004
						Silt/Sediment	Urban Runoff	2004
Ont 158-12-32		Little Tonawanda Cr, Low, and tribs (0102-0001)	Genesee	River	A	Silt/Sediment	Agric, Streambank Erosion	2004
Ont 158..E-22		**Muddy Creek, Lower, and tribs (0104-0051)**	**Erie**	**River**	**B**	**Pathogens**	**Unknown**	**2010**
		Allegheny River Drainage Basin						
Pa-63-13-P133		Lower Cassadaga Lake (0202-0003)	Chautauqua	Lake	B	Nutrients (phosphorus)	Agriculture	1998
Pa-63-13-P133-3-P134		Middle Cassadaga Lake (0202-0002)	Chautauqua	Lake	C	Nutrients (phosphorus)	Agriculture	1998
		Lake Ontario (Minor Tribs) Drainage Basin						
Ont 100	*	Mill Creek and tribs (0302-0025)	Monroe	River	B	D.O./Oxygen Demand	Municipal, Onsite WTS	2008
						Phosphorus	Municipal, Onsite WTS	2008
						Pathogens	Municipal, Onsite WTS	2008
Ont 107	*	Shipbuilders Creek and tribs (0302-0026)	Monroe	River	C*	D.O./Oxygen Demand	Municipal, Onsite WTS	2008
						Phosphorus	Municipal, Onsite WTS	2008
						Pathogens	Municipal, Onsite WTS	2008
Ont 138	*	Oak Orchard Creek (0301-0014)	Genesee	River	C	Nutrients (phosphorus)	Agriculture	1998
		Genesee River Drainage Basin						
Ont 117- 27-34		Hemlock Lake Outlet and minor tribs (0402-0013)	Ontario	River	C	Phosphorus	Onsite WTS	2004
						Pathogens	Onsite WTS	2004

[97] Due to analytic limitations, the treatment of non-detect results in the data evaluation, and other data evaluation and quality assurance/quality control issues, additional monitoring and verification of PAHs and some Organochlorine Pesticides loadings in the river are necessary to develop a TMDL.

Part 3a - Waterbodies for which TMDL Development May be Deferred (Requiring Verification of Impairment) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Oswego River (Finger Lakes) Drainage Basin						
Ont 66-12 (portion 2)		Seneca River, Lower, Main Stem (0701-0008)	Onondaga	River	C	Pathogens	Onsite WTS	1998
Ont 66-12-12-P154- 4		**Onondaga Creek, Lower, and tribs (0702-0023)**	**Onondaga**	**River**	**C**	**Turbidity**	**Streambank Erosion**	**2010**
Ont 66-12-12-P154- 4		Onondaga Creek, Middle, and tribs (0702-0004)	Onondaga	River	B	Turbidity	Streambank Erosion	2008
Ont 66-12-12-P154- 4		Onondaga Creek, Upper, and tribs (0702-0024)	Onondaga	River	C	Turbidity	Streambank Erosion	2008
Ont 66-12-52-18		Pond Brook and tribs (0704-0004)	Seneca	River	C	D.O./Oxygen Demand	Agriculture	1998
Ont 66-12-52-23- 1		Marbletown Creek (0704-0003)	Wayne	River	C(T)	Pesticides	Agriculture	1998
Ont 66-12-52-23-43		Great Brook and minor tribs (0704-0034)	Ontario	River	C	D.O./Oxygen Demand	Municipal, Urban/Storm	2008
						Phosphorus	Municipal, Urban/Storm	2008
						Silt/Sediment	Municipal, Urban/Storm	2008
Ont 66-12-52-23..(Barge Canal)		NYS Barge Canal (portion 5) (0704-0020)	Wayne	River	C	D.O./Oxygen Demand	Municipal	2008
		Upper Hudson River Drainage Basin						
H-299-P27-13- 1-P30	*	Lake Lonely (1101-0034)	Saratoga	Lake	B	Phosphorus	Urban/Storm Runoff	2002

Other (Selected) Statewide Waters

Waters with pH between 6.0 and 6.5 or between 8.5 and 9.0.

Although New York State water quality standards state that pH shall not be less than 6.5 nor more than 8.5, there is considerable evidence that a wider range of pH is supportive of aquatic life and other uses. The NYSDEC Assessment Methodology reflects this fact by indicating that for waters with pH between 6.0 and 6.5 or between 8.5 and 9.0, waters are considered to be "stressed" but supporting of uses (i.e., not "impaired") unless there are other indications of biological impact. As the triennial water quality standards rule-making effort moves forward, NYSDEC will evaluate the current pH standards for freshwater in light of available research and adopt a criterion that better reflects the natural range of pH in freshwaters and the resulting impact on use support. Pending the development of revised standards/criteria for pH, waters between 6.0 and 6.5 and 8.5 and 9.0 may be assessed as waters with Insufficient Data to make a determination regarding listing (Integrated Reporting Category 3).

Part 3b - Waterbodies for which TMDL Development May be Deferred (Requiring Verification of Cause/Pollutant)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Niagara River/Lake Erie Drainage Basin						
Ont 158-12- 3		**Bull Creek and tribs (0102-0026)**	**Niagara**	**River**	**C**	**Aquatic Toxicity**	**Unknown**	**2010**
Ont 158-12- 9		Beeman Creek and tribs (0102-0030)	Erie	River	C	D.O./Oxygen Demand	Onsite WTS	2004
						Phosphorus	Onsite WTS	2004
						Pathogens	Onsite WTS	2004
Ont 158-12-11-1		Murder Creek, Lower, and tribs (0102-0031)	Erie	River	C	D.O./Oxygen Demand	Onsite WTS	2004
						Phosphorus	Onsite WTS	2004
						Pathogens	Onsite WTS	2004
Ont 158-12-28		Bowen Brook and tribs (0102-0036)	Genesee	River	C	D.O./Oxygen Demand	Onsite WTS	2004
						Phosphorus	Onsite WTS	2004
Ont 158..E- 1- 6- 6		**Plumb Bottom Creek and tribs (0103-0019)**	**Erie**	**River**	**C**	**Aquatic Toxicity**	**Unknown**	**2010**
Ont 158..E- 2- 1		South Branch Smoke Cr, Lower, and tribs (0101-0036)	Erie	River	C	Phosphorus	Urban Runoff	2004
						Silt/Sediment	Urban Runoff, Erosion	2004
Ont 158..E-19		Little Sister Creek, Lower, and tribs (0104-0045)	Erie	River	B	Phosphorus	Onsite WTS	2004
						Pathogens	Onsite WTS	2004
Ont 158..E-32		**Scott Creek and tribs (0105-0017)**	**Chautauqua**	**River**	**C**	**Aquatic Toxicity**	**Unknown**	**2010**
Ont 158..E-36		**Crooked Brook and tribs (0105-0019)**	**Chautauqua**	**River**	**C**	**Aquatic Toxicity**	**Unknown**	**2010**
		Allegheny River Drainage Basin						
Pa-63-13- 4		Chadakoin River and tribs (0202-0018)	Chautauqua	River	C	Aquatic Toxicity	Industrial, Urban Runoff	2008
Pa-63-13-23-P131	*	Bear Lake (0201-0003)	Chautauqua	Lake	A	Nutrients (phosphorus)	Agriculture	1998
		Lake Ontario (Minor Tribs) Drainage Basin						
Ont (portion 16)		**Rochester Embayment - East (0302-0002)** [98]	**Monroe**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont (portion 17)		**Rochester Embayment - West (0301-0068)** [98]	**Monroe**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont (portion 18)		**Lake Ontario Shoreline, Western (0301-0069)** [98]	**Monroe**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont (portion 19)		**Lake Ontario Shoreline, Western (0301-0070)** [98]	**Orleans**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont (portion 20)		**Lake Ontario Shoreline, Western (0301-0071)** [98]	**Orleans**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont (portion 21)		**Lake Ontario Shoreline, Western (0301-0072)** [98]	**Niagara**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont (portion 22)		**Lake Ontario Shoreline, Western (0301-0053)** [98]	**Niagara**	**G.Lakes**	**A**	**Phosphorus**	**Agric, Municipal, other**	**2010**
Ont 99		**Fourmile Creek and tribs (0302-0006)**	**Monroe**	**River**	**C**	**Aquatic Toxicity**	**Unknown**	**2010**

[98] This listing is a result of impairments due to extensive algal blooms (Cladophora) that are thought to be the result of multiple factors, including elevated phosphorus levels. Further study is necessary to determine the relative contribution of these multiple factors, the role of phosphorus loading to the Lake, whether a TMDL is the most appropriate management response, and if so, what is the appropriate TMDL target/endpoint. Until issues regarding the causes and pollutants and degree of impact, as well as an appropriate water quality standard are clarified, a Part 3b listing for the most significantly affected shoreline waters is considered to be the most appropriate way to recognize these water quality issues on the Section 303(d) List. Other additional Lake Ontario shoreline, embayment and tributary waterbodies were also considered for listing due to elevated phosphorus levels. NYSDEC believes decisions regarding these additional listings are more appropriately deferred pending the outcome of the NYSDEC effort, currently underway, to develop more appropriate numerical nutrient water quality criteria to replace the existing narrative standards and criteria for ponded waters. However USEPA requested that four specific waterbodies be added to the Section 303(d) List; these waterbodies are: Irondequoit Bay (0302-0001), Sodus Bay (0302-0020), East Bay (0302-0011) and North Pond (0303-0002). As noted above, TMDL development for Part 3b waterbodies may be deferred pending verification of the cause/pollutant.

Part 3b - Waterbodies for which TMDL Development May be Deferred (Requiring Verification of Cause/Pollutant) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Lake Ontario (Minor Tribs) Drainage Basin (con't)						
Ont 108/P113- 1 thru 6 (selected)		Minor Tribs to Irondequoit Bay (0302-0038) [99]	Monroe	River	C	D.O./Oxygen Demand	Municipal, Urban Runoff	2008
						Phosphorus	Municipal, Urban Runoff	2008
						Pathogens	Municipal, Urban Runoff	2008
Ont 108/P113- 3-12		Thomas Creek/White Brook and tribs (0302-0023)	Monroe	River	B	Phosphorus	Municipal, Urban Runoff	2008
Ont 120		Slater Creek and tribs (0301-0020)	Monroe	River	C	D.O./Oxygen Demand	Onsite WTS	2004
Ont 144		Golden Hill Creek and tribs (0301-0050)	Niagara	River	C	Aquatic Toxicity	Unknown	2008
Ont 148		Eighteenmile Creek, Upp, and minor tribs (0301-0055)	Niagara	River	D	Aquatic Toxicity	Unknown	2008
Ont 149		Hopkins Creek and tribs (0301-0060)	Niagara	River	C	Aquatic Toxicity	Unknown	2008
Ont 156		Fourmile Creek, Lower, and tribs (0301-0066)	Niagara	River	B	Aquatic Toxicity	Unknown	2008
		Genesee River Drainage Basin						
Ont 117- 14		**Red Creek and Tribs (0402-0024)**	**Monroe**	**River**	**C**	**Aquatic Toxicity**	**Urban Runoff**	**2010**
Ont 117- 18		Little Black Creek, Lower, and tribs (0402-0047)	Monroe	River	C	Aquatic Toxicity	Urban Runoff	2004
Ont 117- 19-28		**Spring Creek and tribs (0402-0036)**	**Genesee**	**River**	**C**	**Aquatic Toxicity**	**Urban Runoff**	**2010**
Ont 117- 19-30		Bigelow Creek and tribs (0402-0016)	Genesee	River	C	Phosphorus	Agriculture	2004
Ont 117- 27-13		**Unnamed Trib to Honeoye Cr, and tribs (0402-0081)**	**Monroe**	**River**	**C**	**Nutrients**	**Agriculture**	**2010**
Ont 117- 57		Jaycox Creek and tribs (0402-0064)	Livingston	River	C	Phosphorus	Agriculture	2004
						Silt/Sediment	Agriculture	2004
Ont 117- 66-22		Mill Creek and minor tribs (0404-0011)	Livingston	River	C(TS)	Silt/Sediment	Streambank Erosion	2004
Ont 117- 70		Silver Lake Outlet, Upper, and tribs (0403-0034)	Wyoming	River	C	Unknown	Unknown	2004
		Chemung River Drainage Basin						
Pa 3-57- 5 (portion 4)		Canisteo River, Middle, and minor tribs (0503-0001)	Steuben	River	C	Aquatic Toxicity	Unknown	2008
		Susquehanna River Drainage Basin						
SR- 31 thru 37 (selected)		**Minor Tribs to Lower Susquehanna (0603-0044) [100]**	**Broome**	**River**	**C**	**Phosphorus**	**Agric, Urban Runoff**	**2010**
		Oswego River (Finger Lakes) Drainage Basin						
Ont 66-12 (portion 1)	*	Seneca River, Lower, Main Stem (0701-0001)	Onondaga	River	C	D.O./Oxygen Demand	Invasive Species, Agric	1998
Ont 66-12 (portion 2)		Seneca River, Lower, Main Stem (0701-0008)	Onondaga	River	C	D.O./Oxygen Demand	Invasive Species, Agric	1998
Ont 66-12-12-P154- 2		**Bloody Brook and tribs (0702-0006)**	**Onondaga**	**River**	**C***	**Aquatic Toxicity**	**Unknown**	**2010**
Ont 66-12-51		Crane Brook and tribs (0704-0024)	Cayuga	River	C	Salinity	Unknown	2008

[99] The specifically identified impaired water(s) in this segment include Densmore Creek (-5).

[100] The specifically identified impaired water(s) in this segment include Patterson Creek (-36).

Part 3b - Waterbodies for which TMDL Development May be Deferred (Requiring Verification of Cause/Pollutant) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
		Mohawk River Drainage Basin						
H-240 (portion 14)	*	Mohawk River, Main Stem (1201-0094)	Oneida	River	C	Floatables	Urban Runoff	2004
						Copper	Urban Runoff	2004
						D.O./Oxygen Demand	Urban Runoff	2004
						Pathogens	Urban Runoff	2004
H-240- 21 thru 28		**Minor Tribs to Mohawk River (1201-0040)** [101]	**Schnectady**	**River**	**C**	**Aquatic Toxicity**	**Industrial/Urban Runoff**	**2010**
		Lower Hudson River Drainage Basin						
H- 95-14-P354		**Sylvan Lake (1304-0029)**	**Dutchess**	**Lake**	**B(T)**	**D.O./Oxygen Demand**	**Onsite WTS**	**2010**
H-139-13-59		Quaker Creek (1306-0025)	Orange	River	D>C	D.O./Oxygen Demand	Agriculture	2004
		Delaware River Drainage Basin						
D- 1- 1 thru 11 (selected)		**Minor Tribs to Lower Neversink River (1402-0023)** [102]	**Orange**	**River**	**C**	**Aquatic Toxicity**	**Municipal/Urban**	**2010**
		Ramapo/Hackensack River Basin						
NJ- 1 (portion 2)		**Hackensack River, Low, and mnr tribs (1501-0026)**	**Rockland**	**River**	**A**	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
NJ- 1- 4		**Nauraushaun Brook, Lower, and tribs (1501-0010)**	**Rockland**	**River**	**A**	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
NJ- 1/P977a-		**Minor Tribs to DeForest Lake (1501-0029)** [103]	**Rockland**	**River**	**A**	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
NJ- 1/P977a-12		**West Br.Hackensack, Upper, and tribs (1501-0009)**	**Rockland**	**River**	**C(T)**	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
NJ- 5		**Pascack Brook and tribs, within NYS (1501-0015)**	**Rockland**	**River**	**C***	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
		Atlantic Ocean/Long Island Sound Drainage Basin						
(MW1.2) SI- 8-1-1		**Springville Creek, Upper, and tribs (1701-0186)**	**Richmond**	**River**	**B**	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
(MW3.2) LIS- 4		**Burling Brook and tribs (1702-0120)**	**Westchester**	**River**	**C**	**Aquatic Toxicity**	**Urban/Storm Runoff**	**2010**
(MW3.6) LIS-13		Byram River, Lower (1702-0132)	Westchester	Estuary	SC	Pathogens	Onsite WTS, Urb Runoff	2004
(MW7.1b) AO-SB		**Shinnecock Bay and Inlet (1701-0033)** [104]	**Suffolk**	**Estuary**	**SA**	**Nitrogen**	**Onsite WTS, Urb Runoff**	**2010**
(MW7.1c) AO-QB		**Quantuck Bay (1701-0042)** [104]	**Suffolk**	**Estuary**	**SA**	**Nitrogen**	**Onsite WTS, Urb Runoff**	**2010**

101 The specifically identified impaired water(s) in this segment include College Creek (-23), Cowhorn Creek (24), Schemerhorn Creek (-25), Brandywine Creek (-25-1) and other tribs to Schemerhorn Creek.

102 The specifically identified impaired water(s) in this segment include Gold Creek (-2-1).

103 The specifically identified impaired water(s) in this segment include the West Branch Hackensack River, Lower (-12).

104 These listings are a result of impairments due to extensive algal blooms (Brown Tide) that are thought to be the result of multiple factors, including elevated nitrogen levels. Further study is necessary to determine the relative contribution of these multiple factors, the role of nitrogen loading in the Bay, whether a TMDL is the more appropriate management response (and if so, what is the appropriate TMDL target/endpoint). Until these issues regarding causes and pollutants are clarified, Part 3b is the most appropriate place to list the waters of the Bay. Other tributary embayments to these waters were also considered for listing, however decisions regarding these additional listings have been deferred pending further study regarding Brown Tide algal blooms.

Part 3b - Waterbodies for which TMDL Development May be Deferred (Requiring Verification of Cause/Pollutant) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Atlantic Ocean/Long Island Sound Drainage Basin (con't)						
(MW7.2a) AO-MB (portion 1)	Moriches Bay, East (1701-0305) [104]	Suffolk	Estuary	SA	Nitrogen	Onsite WTS, Urb Runoff	2010
(MW7.2a) AO-MB (portion 2)	Moriches Bay, West (1701-0038) [104]	Suffolk	Estuary	SA	Nitrogen	Onsite WTS, Urb Runoff	2010
(MW7.2a) AO-MB-170	Terrell River, Upper, and tribs (1701-0103) [105]	Suffolk	River	C(TS)	Aquatic Toxicity	Urban/Storm Runoff	2010
(MW7.3) AO-GSB (portion 1)	Great South Bay, East (1701-0039) [104]	Suffolk	Estuary	SA	Nitrogen	Onsite WTS, Urb Runoff	2010
(MW7.3) AO-GSB (portion 2)	Great South Bay, Middle (1701-0040) [104]	Suffolk	Estuary	SA	Nitrogen	Onsite WTS, Urb Runoff	2010
(MW7.3) AO-GSB (portion 3)	Great South Bay, West (1701-0173) [104]	Suffolk	Estuary	SA	Nitrogen	Onsite WTS, Urb Runoff	2010
(MW7.5) AO-GSB-178	Beaverdam Creek and tribs (1701-0104)	Suffolk	River	C(TS)	Ammonia	Urban/Storm Runoff	2010
(MW7.5) AO-GSB-179	Motts Creek, Upper, and tribs (1701-0325) [105]	Suffolk	River	C	Aquatic Toxicity	Urban/Storm Runoff	2010
(MW7.8) AO-GSB-197	Awixa Creek, Upper, and tribs (1701-0093)	Suffolk	River	C	Aquatic Toxicity	Urban/Storm Runoff	2010
(MW7.8) AO-GSB-198	Penataquit Creek, Upper, and tribs (1701-0092) [105]	Suffolk	River	C	Aquatic Toxicity	Urban/Storm Runoff	2010
(MW8.3a) MDB-230,231	Milburn/Parsonage Cr, Upp, and tribs (1701-0212)	Nassau	River	C	Aquatic Toxicity	Urban/Storm Runoff	2010
(MW8.5a) JB-241	Valley Stream, Upper, and tribs (1701-0225) [105]	Nassau	River	C	Aquatic Toxicity	Urban/Storm Runoff	2010

[105] Although this water is considered to be impaired, poor sampling habitat also influences the biological sampling results that indicate moderately impacted conditions.

Part 3c - Waterbodies for which TMDL Development May be Deferred (Pending Implementation/Evaluation of Other Restoration Measures)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Oswego River (Finger Lakes) Drainage Basin						
Ont 66-12-12	Onondaga Lake Outlet (0702-0020) [106]	Onondaga	River	B	D.O./Oxygen Demand	Municpal,Urban Runoff	2008
Ont 66-12-12-P154 (portion 2)	Onondaga Lake, southern end (0702-0021) [106]	Onondaga	Lake	C	Pathogens	CSOs,Municpl,Urb	2008
Ont 66-12-12-P154-	Minor Tribs to Onondaga Lake (0702-0022) [106]	Onondaga	River	C	Pathogens	CSOs,Municpl,Urb	2008
					Nutrients (phosphorus)	CSOs,Municpl,Urb	2008
					Nitrogen (NH_3, NO_2)	CSOs,Municpl,Urb	2008
					Cyanide	CSOs,Municpl,Urb	2008
Ont 66-12-12-P154- 2	Bloody Brook and tribs (0702-0006) [106]	Onondaga	River	C*	Pathogens	Municpal,Urban Runoff	2008
Ont 66-12-12-P154- 3	Ley Creek and tribs (0702-0001) [106]	Onondaga	River	C*	Pathogens	Municpal,Urban Runoff	2008
					Nutrients (phosphorus)	CSOs,Municpl,Urb	1998
					Ammonia (NH_3)	CSOs,Municpl,Urb	1998
					Cyanide	Municpal,Urban Runoff	2008
Ont 66-12-12-P154- 4	Onondaga Creek, Lower (0702-0023) [106]	Onondaga	River	C	Pathogens	CSOs,Municpl,Urb	2008
					Nutrients (phosphorus)	CSOs,Municpl,Urb	1998
					Ammonia (NH_3)	CSOs,Municpl,Urb	1998
Ont 66-12-12-P154- 4	Onondaga Creek, Middle, and tribs (0702-0004) [106]	Onondaga	River	B	Pathogens	CSOs,Municpl,Urb	2008
					Nutrients (phosphorus)	CSOs,Municpl,Urb	2008
					Ammonia (NH_3)	CSOs,Municpl,Urb	2008
Ont 66-12-12-P154- 5	Harbor Brook, Lower, and tribs (0702-0002) [106]	Onondaga	River	B	Pathogens	CSOs,Municpl,Urb	2008
					Nutrients (phosphorus)	CSOs,Municpl,Urb	1998
					Ammonia (NH_3)	CSOs,Municpl,Urb	1998
Ont 66-12-12-P154- 6	Ninemile Creek, Lower, and tribs (0702-0005) [106]	Onondaga	River	C	Pathogens	Municpal,Urban Runoff	2008
					Nutrients (phosphorus)	Municpal,Urban Runoff	1998
Ont 66-12-12-P154- 6- 2	Geddes Brook and tribs (0702-0007) [106]	Onondaga	River	C	Ammonia (NH_3)	Municpal,Urban Runoff	1998
Ont 66-12-29	Skaneateles Creek (0707-0003) [107]	Onondaga	River	C(T)	PCBs	Industrial/Land Disp.	1998
	Black River Drainage Basin						
Ont 19- 6 (-1)	Kelsey Creek (0801-0191) [108]	Jefferson	River	C	PCBs	Industr, Contam.Sed.	1998

[106] Many impairments to these waters are being addressed through the efforts of the Onondaga Lake Partnership. Onondaga Lake and some of its tribs (Ley Creek, Onondaga Creek, Harbor Brook) have or will also benefit from actions related to the Onondaga Lake Amended Consent Judgement.

[107] Impairments to Skaneateles Creek have been verified, but the impairment is thought to have been addressed through completed environmental (hazardous waste) remediation actions.

[108] Impairments to Kelsey Creek have been verified, but the impairment is being addressed through on-going environmental (hazardous waste) remediation actions.

Part 3c - Waterbodies for which TMDL Development May be Deferred (Pending Implementation/Evaluation of Other Restoration Measures)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Class	Cause/Pollutant	Source	Year
	Upper Hudson River Basin						
H (portion 1)	Hudson River, Main Stem (1101-0002) [109]	Saratoga	River	A	PCBs	Contaminated Sed.	1998
H (portion 2)	Hudson River, Main Stem (1101-0042) [109]	Saratoga	River	C	PCBs	Contaminated Sed.	1998
H (portion 3)	Hudson River, Main Stem (1101-0043) [109]	Saratoga	River	B	PCBs	Contaminated Sed.	1998
H (portion 4)	Hudson River, Main Stem (1101-0044) [109]	Saratoga	River	C	PCBs	Contaminated Sed.	1998
H (portion 5)	Hudson River, Main Stem (1101-0005) [109]	Saratoga	River	B	PCBs	Contaminated Sed.	1998
	Atlantic Ocean/Long Island Sound Drainage Basin						
(MW1.1) LB/GB-253	Coney Island Creek (1701-0008) [110]	Kings	Estuary	I	D.O./Oxygen Demand	Urban/CSO, OWTS	1998
					Pathogens	Urban/CSO, OWTS	2002
(MW1.3) UB-EB- 1	Gowanus Canal (1701-0011) [110]	Kings	Estuary	SD	D.O./Oxygen Demand	Urban/Storm/CSO	1998
(MW2.1) ER-LI- 4	Newtown Creek and tidal tribs (1702-0002) [110]	Queens	Estuary	SD	D.O./Oxygen Demand	Urban/Storm/CSO	2004
(MW2.4) ER-3	Bronx River, Lower (1702-0006) [110]	Bronx	Estuary	I	Pathogens	Urban/Storm/CSO	1998
					Oxygen Demand	Urban/Storm/CSO	2004
(MW2.4) ER-3	Bronx River, Middle, and tribs (1702-0106) [110]	Bronx	River	B	Pathogens	Urban/Storm/CSO	2002
(MW2.4) ER-4	Westchester Creek (1702-0012) [110]	Bronx	Estuary	I	D.O./Oxygen Demand	Urban/Storm/CSO	2004
(MW2.5) ER-LI-12	Flushing Creek/Bay (1702-0005) [110]	Queens	Estuary	I	D.O./Oxygen Demand	Urban/Storm/CSO	2004
(MW2.5) ER/LIS-LNB-19 thru 20	Alley Creek/Little Neck Bay Trib (1702-0009) [110]	Queens	Estuary	I>SC	Oxygen Demand	Urban/Storm/CSO	2004
(MW3.2) LIS- 2	Hutchinson River, Lower, and tribs (1702-0003) [110]	Bronx	Estuary	SB	D.O./Oxygen Demand	Urban/Storm/CSO	2004
(MW8.5b) JB	Jamaica Bay, Eastern, and tribs, Queens (1701-0005) [110]	Queens	Estuary	SB	Pathogens	Urban/CSO,Municipl	1998
(MW8.5b) JB-241a	Thurston Basin (1701-0152) [110]	Queens	Estuary	I	D.O./Oxygen Demand	Urban/Storm/CSO	2002
(MW8.5b) JB-247	Bergen Basin (1701-0009) [110]	Queens	Estuary	I	Pathogens	Urban/CSO,Municipl	1998
(MW8.5b) JB-248a	Shellbank Basin (1701-0001) [110]	Queens	Estuary	I	Nitrogen	Urban/Storm/CSO	1998
					D.O./Oxygen Demand	Urban/Storm/CSO	2002
(MW8.5b) JB-249	Spring Creek (1701-0361) [110]	Queens	Estuary	I	D.O./Oxygen Demand	Urban/CSO,Municipl	2002
					Pathogens	Urban/CSO,Municipl	2002
(MW8.6) JB-249a	Hendrix Creek (1701-0006) [110]	Kings	Estuary	I	Pathogens	Urban/Storm/CSO	2002
(MW8.6) JB-250a	Paerdegat Basin (1701-0363) [110]	Kings	Estuary	I	D.O./Oxygen Demand	Urban/Storm/CSO	1998
(MW8.6) JB-250b	Mill Basin and tidal tribs (1701-0178) [110]	Kings	Estuary	SB	D.O./Oxygen Demand	Urb/Storm Runoff	1998

[109] Impairments to these waters are being addressed by a Record of Decision and the on-going remediation of the River.

[110] Impairments to these waters are being addressed by a 2005 Order on Consent with NYC directing the city to develop and implement watershed and facility plans to address CSO discharges and bring New York City waters into compliance with the Clean Water Act. This may include a revision of water quality standards based on a Use Attainability Analysis if fishable/swimmable goals of the CWA are not attainable. NYSDEC remains committed to the development of harbor-wide TMDLs for nutrients, pathogens and toxics. However, it is appropriate to defer development of separate TMDLs for these individual CSO-impacted waterbodies in light of the enforceable requirements of the NYC CSO Consent Order.

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain)

NOTE: Waters listed here ARE included in the 2010 Section 303(d) List

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
		Black River Drainage Basin							
Ont 19-104-P981-1-P982..P984	*	Bloodsucker Pond (0801-0135) [111]	Herkimer	Lake	4.0 A	C	pH	Acid Rain	1998
		Cat Pond (0801-0036)	Herkimer	Lake	6.0 A	C(T)	pH	Acid Rain	1998
Ont 19- 94-1-P918		Doe Pond (0801-0161) [112]	Herkimer	Lake	3.0 A	D	pH	Acid Rain	1998
Ont 19- 40-P449-2-P450..P453		Mirror Pond (0801-0146) [113]	Lewis	Lake	1.0 A	C	pH	Acid Rain	1998
Ont 19- 90-5-P909		Poplar Pond (0801-0078) [114]	Herkimer	Lake	3.0 A	C	pH	Acid Rain	1998
Ont 19- 40- 3-P409		Unnamed P #4-409 (0801-0142) [115]	Lewis	Lake	2.0 A	C	pH	Acid Rain	1998
Ont 19- 40-17-P437		Unnamed P #4-437 (0801-0143) [116]	Lewis	Lake	4.0 A	C(T)	pH	Acid Rain	1998
		Saint Lawrence River Drainage Basin [117]							
SLC-29-13-P31		Owlshead Pond (0902-0016) [118]	Essex	Lake	1.0 A	AA	pH	Acid Rain	1998
SLC-29-13..P32		Childs Pond (0902-0013) [119]	Franklin	Lake	2.0 A	?	pH	Acid Rain	1998
SLC-29-21-7-...P40a		Razorback Pond (0902-0017) [120]	Essex	Lake	1.0 A	D	pH	Acid Rain	1998
SLC-29-P050-3-1-P57		South Duck Pond (0902-0018) [121]	Essex	Lake	2.0 A	D	pH	Acid Rain	1998

[111] This small lake is included in the Woodhull Lake segment (0801-0441).

[112] This small lake is included in the Long Lake Outlet/Cummings Creek, and tribs segment (0801-0415).

[113] This small lake is included in the Francis Lake segment (0801-0192).

[114] This small lake is included in the Mile Brook and tribs segment (0801-0408).

[115] This small lake is included in the Murmur Creek and tribs segment (0801-0219).

[116] This small lake is included in the Beaver River, Middle, and tribs segment (0801-0278).

[117] Waters in the Saint Lawrence River Drainage Basin portion of Appendix A have been re-ordered by hydrology (previously, these waters were listed alphabetically).

[118] This small lake is included in the Roaring Brook, Salmon River Trib segment (0902-0077). It was previously mis-identified as Owls Head Pond SLC-29-22-P47 in the Owls Head Pond segment (0902-0083).

[119] This small lake is included in the Roaring Brook, Salmon River Trib segment (0902-0077).

[120] This small lake is included in the Duck Pond segment (0902-0081).

[121] This small lake is included in the Mountain View Lake, Indian Lake segment (0902-0030).

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
	Saint Lawrence River Drainage Basin (con't)							
SLC-32- 6-31-P87	Mountain Pond (0902-0019) [122]	Essex	Lake	4.0 A	B	pH	Acid Rain	1998
SLC-32-P170a	Unnamed P #3-170 (0902-0009) [123]	Franklin	Lake	3.0 A	AA(T)	pH	Acid Rain	1998
SLC-32-52-15-P179a-5-7-P186	Ward Pond (0902-0020) [124]	Essex	Lake	3.0 A	D	pH	Acid Rain	1998
SLC-32-69- 6-P226	Hidden Pond (0902-0022) [125]	Essex	Lake	5.0 A	D	pH	Acid Rain	1998
SLC-32-86-P252	Unnamed P #3-252 (0902-0023) [126]	Essex	Lake	2.0 A	C	pH	Acid Rain	1998
SLC-32-P257a-P264-P265..P268a	Mikes Pond (0902-0024) [127]	Essex	Lake	1.0 A	D	pH	Acid Rain	1998
SL- 1- 58-1-P37	Unnamed P #6-037 (0903-0034) [128]	St.Lawrence	Lake	1.0 A	D	pH	Acid Rain	1998
SL- 1- 65-26-2-P52	Spring Pond (0903-0035) [129]	Essex	Lake	3.0 A	D	pH	Acid Rain	1998
SL- 1- 65-26-3-P55	Unnamed P #6-055 (0903-0036) [130]	Essex	Lake	3.0 A	D	pH	Acid Rain	1998
SL- 1- 65-P60	Roberts Pond (0903-0030) [131]	St.Lawrence	Lake	1.0 A	D	pH	Acid Rain	1998
SL- 1- 74-1-P063-P64	Preston Pond (0903-0031) [132]	St.Lawrence	Lake	4.0 A	D	pH	Acid Rain	1998
SL- 1- 77-P67	Unnamed P #6-067 (0903-0026) [133]	St.Lawrence	Lake	1.0 A	C(T)	pH	Acid Rain	1998

[122] This small lake is included in the Mountain Ponds segment (0902-0108).

[123] This small lake is included in the Mud Pd, Long Pd, Little Clear Pd segment (0902-0005).

[124] This small lake is included in the South Star Mountain, Baker, McColloms Ponds segment (0902-0145).

[125] This small lake is included in the Madawaska Pond, Quebec Pond segment (0902-0153).

[126] This small lake is included in the Black Pond, Long Pond segment (0905-0156).

[127] This small lake is included in the Rolley, Little Long, Bear, Bickford Ponds segment (0902-0007).

[128] This small lake is included in the McCuen Pond, Buck Pond segment (0903-0102).

[129] This small lake is included in the Minor Lakes Trib to Jordan River segment (0903-0107).

[130] This small lake is included in the Minor Lakes Trib to Jordan River segment (0903-0107).

[131] This small lake is included in the Leonard Pond, Crooked Lake segment (0903-0109).

[132] This small lake is included in the Leonard Pond, Crooked Lake segment (0903-0109).

[133] This small lake is included in the Chandler Pond segment (0903-0110).

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
	Saint Lawrence River Drainage Basin (con't)							
SL- 1-109- 4-1-P80-2-P81	Buck Pond (0903-0037) [134]	St.Lawrence	Lake	2.0 A	D	pH	Acid Rain	1998
SL- 1-P089- 1-2-P94	Unnamed P #6-094 (0903-0023) [135]	Franklin	Lake	5.0 A	D	pH	Acid Rain	1998
SL- 1-P089- 1...P107	Unnamed P #6-107 (0903-0038) [136]	Essex	Lake	1.0 A	D	pH	Acid Rain	1998
SL- 1-P109-11-2-P118-3-P121	Hedgehog Pond (0903-0020) [137]	Hamilton	Lake	5.0 A	?	pH	Acid Rain	1998
SL- 1-P109-11-2-P118-P122	Unnamed P #6-122 (0903-0039) [138]	Hamilton	Lake	2.0 A	D	pH	Acid Rain	1998
SL- 1-P109-11-2-P118-P125a	Unnamed P #6-125a (0903-0040) [139]	Hamilton	Lake	1.0 A	D	pH	Acid Rain	1998
SL- 1-P109-11-2...P141	Unnamed P #6-141 (0903-0018) [140]	Hamilton	Lake	4.0 A	D	pH	Acid Rain	1998
SL- 1-162-28-P231	Rock Pond (0903-0013) [141]	Essex	Lake	5.0 A	C	pH	Acid Rain	1998
SL- 1-162-P235-2-P238..P240	Hunter Pond (0903-0042) [142]	Essex	Lake	1.0 A	C(T)	pH	Acid Rain	1998
SL- 2-59-32-1-P353	Egg Pond (0904-0003) [143]	St.Lawrence	Lake	1.0 A	D	pH	Acid Rain	1998
SL- 2-59-32-2-1-P355	Cartridge Hills P (0904-0004) [144]	St.Lawrence	Lake	1.0 A	C(T)	pH	Acid Rain	1998
SL-25-73-40-P235	Unnamed P #4-235 (0905-0076) [145]	Jefferson	Lake	2.0 A	C(T)	pH	Acid Rain	1998

[134] This small lake is included in the Eagle Crag Lake segment (0903-0114).

[135] This small lake is included in the Lead Pond segment (0903-0118).

[136] This small lake is included in the Heavens Pond segment (0903-0121).

[137] This small lake is included in the Bog Stream and tribs segment (0903-0215).

[138] This small lake is included in the Bog Stream and tribs segment (0903-0215).

[139] This small lake is included in the Bog Stream and tribs segment (0903-0215).

[140] This small lake is included in the Otter Pond, Loon Ponds segment (0903-0141).

[141] This small lake is included in the Mountain Pond segment (0903-0176).

[142] This small lake is included in the Lower, Upper Preston Ponds segment (0903-0178).

[143] This small lake is included in the Sampson Pond segment (0904-0060).

[144] This small lake is included in the Jocks Pond segment (0904-0064).

[145] This small lake is included in the Little Deer Pond segment (0905-0167).

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
	Saint Lawrence River Drainage Basin (con't)							
SL-25-101-P279	Readway Pond (0905-0043) [146]	St.Lawrence	Lake	2.0 A	D	pH	Acid Rain	1998
SL-25-101-24-P282	Unnamed P #4-282 (0905-0077) [147]	St.Lawrence	Lake	1.0 A	D	pH	Acid Rain	1998
SL-25-101-34-2-P297	Unnamed P #4-297 (0905-0079) [148]	St.Lawrence	Lake	3.0 A	C(T)	pH	Acid Rain	1998
SL-25-115-P307	Lost Pond (0905-0040) [149]	St.Lawrence	Lake	6.0 A	C(T)	pH	Acid Rain	1998
SL-25-P309- 9-P317	Little Dog Pond (0905-0039) [150]	St.Lawrence	Lake	6.0 A	C	pH	Acid Rain	1998
SL-25-P309-11...P324	Unnamed P #4-324 (0905-0070) [151]	St.Lawrence	Lake	4.0 A	C(T)	pH	Acid Rain	1998
	Lake Champlain Drainage Basin [152]							
C- 15-18..P34	Dow Pond (1003-0022) [153]	Franklin	Lake	1.0 A	C(T)	pH	Acid Rain	1998
C- 15-18..P36	Unnamed P #2-036 (1003-0023) [154]	Franklin	Lake	3.0 A	C(T)	pH	Acid Rain	1998
C- 15-22-24-P46	Mountain Pond (1003-0024) [155]	Essex	Lake	5.0 A	C(T)	pH	Acid Rain	1998
C- 15-22..P46a	Line Pond (1003-0025) [156]	Essex	Lake	5.0 A	C(T)	pH	Acid Rain	1998
C- 15-22-24-P48..P51	Bass Lake (1003-0011) [157]	Franklin	Lake	6.0 A	B	pH	Acid Rain	1998

[146] This small lake is included in the Star Lake segment (0905-0180).

[147] This small lake is included in the Shingle Pond segment (0905-0175).

[148] This small lake is included in the Heath Pond, Muskrat Pond segment (0905-0182).

[149] This small lake is included in the Dillon Pond segment (0905-0186).

[150] This small lake is included in the Curtis Pond, Dog Pond segment (0905-0004).

[151] This small lake is included in the John Pond, Scott Pond, Colvin Pond segment (0905-0190).

[152] Waters in the Lake Champlain Drainage Basin portion of Appendix A have been re-ordered by hydrology (previously, these waters were listed alphabetically).

[153] This small lake is included in the True Brook and tribs segment (1003-0055). It was previously mis-identified as Dow Pond (P35).

[154] This small lake is included in the True Brook and tribs segment (1003-0055).

[155] This small lake is included in the Loon Lake segment (1003-0060).

[156] This small lake is included in the Loon Lake segment (1003-0060).

[157] This small lake is included in the Loon Lake segment (1003-0060).

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain) (con't)

Water Index Number		Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
		Lake Champlain Drainage Basin (con't)							
C- 15-22..P67		Unnamed P #2-067 (1003-0026) [158]	Essex	Lake	2.0 A	B(T)	pH	Acid Rain	1998
C- 15-22..P68		Unnamed P #2-068 (1003-0017) [159]	Franklin	Lake	3.0 A	B(T)	pH	Acid Rain	1998
C- 15-51- 2..P79		Unnamed P #2-079 (1003-0027) [160]	Essex	Lake	1.0 A	C(T)	pH	Acid Rain	1998
C- 15-51- 2..P80		Unnamed P #2-080 (1003-0028) [161]	Essex	Lake	2.5 A	C(T)	pH	Acid Rain	1998
C- 15-51- 2..P81		Marsh Pond (1003-0020) [162]	Franklin	Lake	4.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P120..P122		West Polliwog Pond (1003-0016) [163]	Essex	Lake	3.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P125..P127a		Little Egg Pond (1003-0031) [164]	Essex	Lake	1.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P125..P132		SW Amphitheatre Pond (1003-0015) [165]	Franklin	Lake	1.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P125..P139	*	East Copperas Pond (1003-0004) [166]	Essex	Lake	6.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P140..P141		North Whey Pond (1003-0013) [167]	Franklin	Lake	3.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P142..P145		Marsh Pond (1003-0029) [168]	Essex	Lake	4.0 A	C(T)	pH	Acid Rain	1998
C- 15-P114..P142..P166		Unnamed P #2-166 (1003-0032) [169]	Essex	Lake	2.0 A	AA	pH	Acid Rain	1998

158 This small lake is included in the Minor Lakes Trib to Upper North Branch segment (1003-0064).

159 This small lake is included in the Minor Lakes Trib to Upper North Branch segment (1003-0064).

160 This small lake is included in the Trowbridge Brook and tribs segment (1003-0070).

161 This small lake is included in the Trowbridge Brook and tribs segment (1003-0070).

162 This small lake is included in the Towbridge Brook and tribs segment (1003-0070). It was previously mis-identified as Marsh Pond (P145) and was listed with the Floodwood Pond segment (1003-0095).

163 This small lake is included in the Polliwog Pond segment (1003-0090).

164 This small lake is included in the Square Pond segment (1003-0093).

165 This small lake is included in the Square Pond segment (1003-0093).

166 This small lake is included in the Square Pond segment (1003-0093). It was previously mis-identified as Copperas Pond (P234) and included within the Minor Lakes Trib to W.Br. Ausable River, Middle segment (1004-0065).

167 This small lake is included in the Little Square Pond segment (1003-0094).

168 This small lake is included in the Rock Pond segment (1003-0101).

169 This small lake is included in the Floodwood Pond segment (1003-0095).

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
	Lake Champlain Drainage Basin (con't)							
C- 15-P114..P189	Unnamed P #2-189 (1003-0033) [170]	Essex	Lake	3.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P191..P191a	McCaffery Pond (1003-0034) [171]	Essex	Lake	2.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P191..P196	Unnamed P #2-196 (1003-0035) [172]	Essex	Lake	1.0 A	AA	pH	Acid Rain	1998
C- 15-P114..P191..P197	Sochia Pond (1003-0014) [173]	Franklin	Lake	4.0 A	AA(T)	pH	Acid Rain	1998
C- 15-P114..P199..P200	Lindsey Pond (1003-0036) [174]	Essex	Lake	6.0 A	AA	pH	Acid Rain	1998
C- 25-26- 4-P222..P223	Unnamed P #2-223 (1004-0011) [175]	Essex	Lake	5.0 A	C(T)	pH	Acid Rain	1998
C- 25-26-39..P261	Scott Pond (1004-0008) [176]	Essex	Lake	3.0 A	C(T)	pH	Acid Rain	1998
C- 25-26-39..P263	Unnamed P #2-263 (1004-0009) [177]	Essex	Lake	2.0 A	C(T)	pH	Acid Rain	1998
C- 25-27-25..P269	Unnamed P #2-269 (1004-0010) [178]	Essex	Lake	2.0 A	AA(T)	pH	Acid Rain	1998
C- 25-27..P272	Lost Pond (1004-0007) [179]	Essex	Lake	3.0 A	AA(T)	pH	Acid Rain	1998
C- 48-67-P327	Bullet Pond (1004-0017) [180]	Essex	Lake	1.0 A	C(T)	pH	Acid Rain	1998
C- 48..P332	Cranberry Pond (1004-0006) [181]	Essex	Lake	2.0 A	D	pH	Acid Rain	1998

[170] This small lake is included in the Minor Lakes Trib to Upper Saranac Lake segment (1003-0086).

[171] This small lake is included in the Little Clear Pond segment (1003-0107).

[172] This small lake is included in the Little Clear Pond segment (1003-0107).

[173] This small lake is included in the Little Clear Pond segment (1003-0107).

[174] This small lake is included in the Lake Clear segment (1003-0109).

[175] This small lake is included in the Fern Lake segment (1004-0060).

[176] This small lake is included in the Minor Lakes Trib to West Branch Ausable River, Upper segment (1004-0070).

[177] This small lake is included in the Minor Lakes Trib to West Branch Ausable River, Upper segment (1004-0070).

[178] This small lake is included in the Lower Cascade, Upper Cascade, Mud Lakes segment (1004-0075).

[179] This small lake is included in the East Branch Ausable River, Middle, and tribs segment (1004-0071).

[180] This small lake is included in the Boquet River, Upper, and tribs segment (1004-0081).

[181] This small lake is included in the Boquet River, Upper, and tribs segment (1004-0081).

Appendix A - Smaller Lakes Impaired by Atmospheric Deposition (Acid Rain) (con't)

Water Index Number	Waterbody Name (WI/PWL ID)	County	Type	Size	Class	Cause/Pollutant	Source	Year
	Lake Champlain Drainage Basin (con't)							
C- 96- 4- 4-P350	Snake Pond(1005-0001) [182]	Essex	Lake	4.0 A	C(T)	pH	Acid Rain	1998
C- 96-P355..P359	Mud Pond (1004-0016) [183]	Essex	Lake	3.0 A	AA	pH	Acid Rain	1998

[182] This small lake is included in the Sherman Lake (Goosepuddle/Burris Pond) segment (1005-0016).

[183] This small lake is included in the Putnam/North Ponds segment (1005-0018).

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Appendix B - Listed Waterbodies Not Meeting Dissolved Oxygen Standards, Pending Verification of Use Impairments/Pollutants/Sources

It is widely accepted that morphology and other natural conditions may contribute to periodic dissolved oxygen depletion at lower depths in significant numbers of thermally stratified waters. However bottom water conditions are not necessarily representative of the waterbody as a whole and aquatic life and other uses are often fully supported in these waters. Although NYS water quality standards may not be met at times in these waters, the USEPA policy of independent applicability allows for resolving differences in assessment results by weighing the higher quality or more representative data set more favorably in the attainment decision.

NYSDEC acknowledges that available monitoring data shows water quality standards for dissolved oxygen in many waterbodies, including 45 specific waterbodies identified by USEPA, are not met at all times/seasons or depths. However NYSDEC has not verified that specific uses of these waters are actually impaired or determined that the violation of the water quality standard is a result of factors other than natural conditions (e.g., natural lake stratification versus excess nutrient loading from human activity). While it is not practical to include a listing of all the waters that correspond to the USEPA interpretation and application of the dissolved oxygen standard for listing making decisions, the 45 waterbodies specifically identified by USEPA are listed below. [184]

Prior to the next listing cycle NYSDEC will include in its established monitoring and assessment program a schedule for the evaluation of whether these 46 waters are impaired in any significant manner by pollutant loadings that are from other than natural conditions. Upon verification of impairment to these waters from other than natural sources or conditions, NYSDEC will undertake the preparation of a TMDL to address the impairment, unless a TMDL or other restoration strategy plan to address the impairment is already in place or a TMDL is not needed because a single entity is the source of a significant majority of the pollutant loading that is causing the impairment - obviating the need for a load allocation among various sources.

NYSDEC will continue to evaluate its dissolved oxygen standards language in order to more appropriately reflect the impact of natural conditions and occurrence of periodic low dissolved oxygen in waters of the state. In the meantime, NYSDEC will review dissolved oxygen data in conjunction with other available data (particularly biological assessments that are more directly reflective of aquatic life use) to determine the actual level of impacts and specific causes in order to reach the most appropriate water quality assessment decisions. This approach is discussed in more detail in the *Assessment of Naturally Occurring Low Dissolved Oxygen Waters* section of the *Assessment Methodology*.

[184] Specific waterbodies with low dissolved oxygen from undetermined causes (natural or other) that USEPA requested be added to the Section 303(d) List: Clear Lake (0104-0057), Crystal Lake (0104-0070), Case Lake (0201-0020), Cuba Lake (0201-0016), Upper Cassadaga Lake (0202-0001), Hyde Lake (0303-0043), Lamoka Lake and Mill Pond (0502-0001), Waneta Lake (0502-0002), Lower/Upper Little York Lakes (0602-0017), Tully Lake (0602-0018), Norwich Reservoirs (0602-0010), Lake Moraine (0602-0007), Lebanon Reservoir (0602-0109), Eaton Brook Reservoir (0602-0041), Afton Lake (0601-0010), Chenango Lake (0601-0013), Weaver Lake (Maumee Swamp) (0601-0025), Otisco Lake (0702-0011), Upper Saranac Lake (1003-0048), Taylor Pond (and Mud Pond) (1004-0063), Lower Cascade/Upper Cascade/Mud Lakes (1004-0075), Putnam/North Pond (1005-0018), Lake Lauderdale, Schoolhouse Lake (1102-0011), Lake Gilead (1302-0024), Lake Gleneida (1302-0025), Lake Tonetta (1302-0014), Barger Pond (1301-0091), Copake Lake (1310-0014), Watervliet Reservoir (1311-0001), Burden Lake (1301-0025), White/Amber Lakes (1401-0018), Swan Lake (1401-0063), Big Mohican Lake (1401-0007), Lake Huntington (1401-0008), Silver Lake Reservoir (1701-0359), Whitney Lake (1702-0101), Laurel Pond (1701-0128), Fort Pond (1701-0122), Wainscott Pond/Fairfield Pond (1701-0144), Old Town Pond (1701-0118), Agawam Lake (1701-0117), West and East Mill Ponds (1701-0026), Massapequa Lake (1701-0156), Camaans Pond (1701-0052), Milburn Pond (1701-0053).

ATTACHMENT H

QUESTION C – FISH PASSAGE AND PROTECTION:

FEBRUARY 8, 2006 ORDER APPROVING PLANS AND DRAWINGS FOR DOWNSTREAM FISH MOVEMENT FACILITIES

20060208-3026 Issued by FERC OSEC 02/08/2006 in Docket#: P-7000-033

114 FERC ¶ 62,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Brascan Power St. Lawrence River LLC Project No. 7000-033

ORDER APPROVING PLANS AND DRAWINGS FOR DOWNSTREAM FISH MOVEMENT FACILITIES AND SCHEDULES FOR FACILITIES COMPLETION

(Issued February 08, 2006)

On December 15, 2005, Brascan Power St. Lawrence River LLC (licensee) filed plans, drawings, and schedules for completion of downstream fish movement facilities at the Upper and Lower Developments of the Newton Falls Project. The filing was made pursuant to article 404 of the Newton Falls Project license.[1] The project is located on the Oswegatchie River in St. Lawrence County, New York.

LICENSE REQUIREMENTS AND BACKGROUND

Article 404 requires that the licensee provide downstream fish movement facilities at the project's Upper and Lower Developments, as described in Section 3.4 of the Settlement Agreement filed with the Commission on July 16, 2002. The facilities are to consist of plunge pools, smooth transitions, channel modifications, etc. Passage routes are to consist of spillways, sluiceways, and gates. Fish known to occur in the project vicinity include largemouth and smallmouth bass, pike, sucker, several species of minnows, and brook, brown, and rainbow trout.

Article 404 requires that the licensee file, for Commission approval, functional design drawings of the facilities at least six months before constructing the facilities. The licensee is also to provide a schedule for the facilities' completion. Facilities at the Upper Development are to be completed by January 31, 2006, and facilities at the Lower Development are to be completed by January 31, 2008. The article requires that minimum flows of 20 cubic feet per second (cfs) or inflow, whichever is less, be provided to each development's bypass reach by the same dates.

[1] 104 FERC ¶ 62,118 (2003).

The drawings are to be prepared in consultation with the New York State Department of Environmental Conservation (NYSDEC) and the U.S. Fish and Wildlife Service (FWS), and the filing with the Commission is to include the agencies' comments on the completed drawings, and descriptions of how the comments are accommodated. Through article 404, the Commission reserves the right to require changes to the drawings. Upon Commission approval, the licensee shall construct the downstream fish movement facilities, including any changes required by the Commission.

LICENSEE'S PLANS, DESIGN DRAWINGS AND SCHEDULING

The licensee's December 15, 2005 filing contains plans and design drawings for the downstream fish movement facilities, copies of resource agency comments and a discussion of those comments, a proposal for further agency consultation to determine any modifications that may be necessary, and scheduling information.

The fish movement facility at the Upper Development would involve replacing an existing wooden stoplog structure with a steel bulkhead notched to release the required 20 cfs fish movement flow. Water would flow through the notch and down the spillway face, then drop into a plunge pool at the toe of the spillway. It may be necessary to install some type of curbing to deflect flow away from the battered exterior surface of an adjacent intake structure. Modifications to the downstream channel would be made if necessary to ensure safe passage of fish from the area.

The facility proposed for the Lower Development would utilize an existing sluice gate in a flume wall, which would be notched at the bottom to release the required 20 cfs fish movement flow. Water would flow through the notch and down the development's forebay wall, across a forebay footing, and then drop into an existing pool. It may be necessary to install curbing to control flows and ensure adequate depth for fish passage. As in the proposal for the Upper Development, modifications to the downstream channel would be made if necessary to ensure safe passage of fish from the area.

Regarding plunge pools, the licensee noted that the FWS generally recommends at least 1 foot of water depth for every 4 feet of drop. At the Upper Development, a vertical drop of approximately 14.3 feet would exist, into a water depth at the spillway toe of 3.5 feet. At the Lower Development, a drop of approximately 6.5 feet would exist, into a water depth of about 2.8 feet. The licensee noted that the water depth at the Upper Development is comparable to the FWS recommendation. However, the water depth at the Lower Development would need to be assessed once minimum flow releases begin.

Scheduling

The licensee proposed to coordinate site visits with the NYSDEC and the FWS to observe the fish passage facilities and flow releases, and discuss resolution of any requirements regarding such issues as smooth transitions, plunge pools, and channel modifications immediately following the installation of the release structures. The licensee indicated that the agency visits to the Upper Development may be scheduled for the second quarter of 2006, and visits to the Lower Development would be scheduled for fall 2007. Following the site visits, any necessary modifications to ensure safe downstream fish movement could be made, upon the procurement of any needed permits for the work.

The licensee requested, as part of its plan, an extension of time regarding the completion date of the Upper Development's fish movement facility and initiation of releases of the facility's minimum flows. The licensee requested that, due to the time of year in which the installation would occur and the need for approvals, the completion date be extended from January 31, 2006 to June 30, 2006.

RESOURCE AGENCY COMMENTS

The licensee included in the filing copies of consultation letters from the FWS and the NYSDEC, dated November 10 and November 23, 2005, respectively. Both agencies indicated that the flow opening planned for the Lower Development would be adequate. (Both agencies had indicated in earlier letters that the opening planned for the Upper Development was also sufficient.) Both agencies also agreed that site visits, following the initiation of flow releases, would be necessary to determine the need for any modifications to the facilities to ensure safe fish movement downriver. The FWS indicated that the site visits would need to be scheduled to include their regional fishway engineer. The NYSDEC also indicated the need for streamflow gaging at the facilities immediately after they become operational, to ensure compliance with the 20-cfs release requirements.

DISCUSSION AND CONCLUSIONS

In its December 15, 2005 filing with the Commission, the licensee provided most of the material required by license article 404, indicating that it is working to ensure safe downstream fish movement at the project's Upper and Lower Developments. The licensee's filing sufficiently describes methods for supplying the required 20-cfs flow releases at both locations.

The plunge pool areas described in the filing meet or nearly meet FWS criteria, and both the NYSDEC and the FWS agree that the facilities as planned may be sufficient. However, both agencies will need to visit the sites to determine if modifications are necessary to pass fish downstream safely. These site visits should be scheduled by the licensee as soon after the flow structures are operable as possible.

The licensee indicated that the agency consultation visits to the Upper Development may be scheduled for the second quarter of 2006, and requested an extension of time for the completion of the facility and the release of minimum flows from January 31, 2006, to June 30, 2006. Approval of this request should be granted to allow completion of the necessary work. The licensee's plan to have the Lower Development release facility installed and have agency consultation visits in fall 2007, is reasonable and would allow for completion of the facility and initiation of minimum flow release by January 31, 2008, as required by article 404.

At least 45 days before the extended due date for the completion of facilities at the Upper Development (*i.e.*, May 15, 2006), and at least 45 days before the completion date identified in article 404 regarding the Lower Development (*i.e.*, December 15, 2007), the licensee should file, for Commission approval, final plans for any fish passage modification work that needs to be done. The filings should include copies of letters from the NYSDEC and the FWS, or meeting summaries approved by the agencies. The plans should show the recently installed flow release structures, approved in this order, and identify fish passage routes past project structures, plunge pools and exit channels, and any planned modifications mutually agreed to with the agencies. The plans should include schedules for completion of any work agreed to with the agencies to allow safe downstream fish movement. If no modifications at a development are planned, a filing should be made by the specified date, for Commission approval, containing evidence that the development was inspected by the agencies and it was mutually determined that no improvements were needed.

When the licensee completes the construction of the release facilities approved in this order, it should gage the flow releases from each facility to ensure that the required minimum flows are being released. When the plans discussed in the paragraph above are filed, they should include copies of flow measurements verifying that the required flow releases are being passed.

Pursuant to paragraphs 12.4, 12.11, and 12.40 of the Commission's regulations, a plans and specifications package and a quality control and inspection program should be submitted to the Regional Director at least 60 days prior to any construction.

Authorization to start construction activities will be given by the Regional Director after all preconstruction requirements are satisfied.

Within 90 days of completion of any changes to project features associated with downstream fish movement required under license article 404, the licensee should file, for Commission approval, revised exhibit drawings describing and showing the modifications, as built.

The Director Orders:

(A) The licensee's plans, drawings, and schedules for completion of downstream fish movement facilities at the Upper and Lower Developments of the Newton Falls Project, filed December 15, 2005, as modified in paragraphs B through F, are approved.

(B) The licensee's requested extension of time for completion of fish movement facilities at the Upper Development, and implementation of minimum flow release at that location, from January 31, 2006 to June 30, 2006, is approved.

(C) By May 15, 2006, the licensee shall file, for Commission approval, final plans for any fish passage modification work that needs to be done at the project's Upper Development. The filing shall include copies of letters from the New York State Department of Environmental Conservation (NYSDEC) and the U.S. Fish and Wildlife Service (FWS) or meeting summaries approved by those agencies. The plans shall show the recently installed flow release structures, approved in this order, and clearly identify fish passage routes over and past project structures, existing and planned modifications to plunge pools and exit channels, and any other planned modifications mutually agreed to with the agencies. The plans shall include schedules for completion of the work agreed to with the agencies to allow safe downstream fish movement. If no modifications at the Upper Development are planned, a filing shall be made by the same date, for Commission approval, containing evidence that the development was inspected by the agencies and it was mutually determined that no improvements were needed. When the filing required by this paragraph is made, it shall include copies of flow measurements verifying that the 20-cfs flow release required by article 404 is being passed.

(D) By December 15, 2007, the licensee shall file, for Commission approval, final plans for any fish passage modification work that needs to be done at the project's Lower Development. With the exception of the specified dates, the requirements of this paragraph, regarding the Lower Development, mirror the requirements for those regarding the Upper Development, in paragraph (C), above.

(E) Pursuant to paragraphs 12.4, 12.11, and 12.40 of the Commission's regulations, a plans and specifications package and a quality control and inspection program shall be submitted to the Regional Director at least 60 days prior to any construction. Authorization to start construction activities will be given by the Regional Director after all preconstruction requirements are satisfied.

(F) Within 90 days of completion of any changes to project features associated with downstream fish movement required under license article 404, the licensee shall file, for Commission approval, revised exhibit drawings describing and showing the modifications, as built.

(G) 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.

George H. Taylor
Chief, Biological Resources Branch
Division of Hydropower Administration
and Compliance

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

June 21, 2012

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

Subject: **Newton Falls Hydroelectric Project (FERC No. 7000)**
Threatened and Endangered Species Consultation

Dear Mr. Stillwell:

Erie Boulevard Hydropower, L.P. (Erie) is the owner, operator, and licensee of the Newton Falls Project (FERC No. 7000). This project is comprised of two hydroelectric developments located at two dams along the Oswegatchie River in St. Lawrence County. From upstream to downstream, these are the Upper Newton Falls (River Mile [RM] 99.6) and Lower Newton Falls (RM 99.1) developments.

As a matter of background, a license from the Federal Energy Regulatory Commission (FERC) was issued for this Project on August 13, 2003. Project operations and environmental protection measures at this Project 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 2002. The licensing processes for this Project included consultation with resource agencies regarding threatened and endangered species.

Erie is presently working with the Low Impact Hydropower Institute (LIHI) to recertify the Newton Falls Project as a low impact project. 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 two 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 Project. The project location coordinates have been provided below, as well as on the enclosed aerial maps.

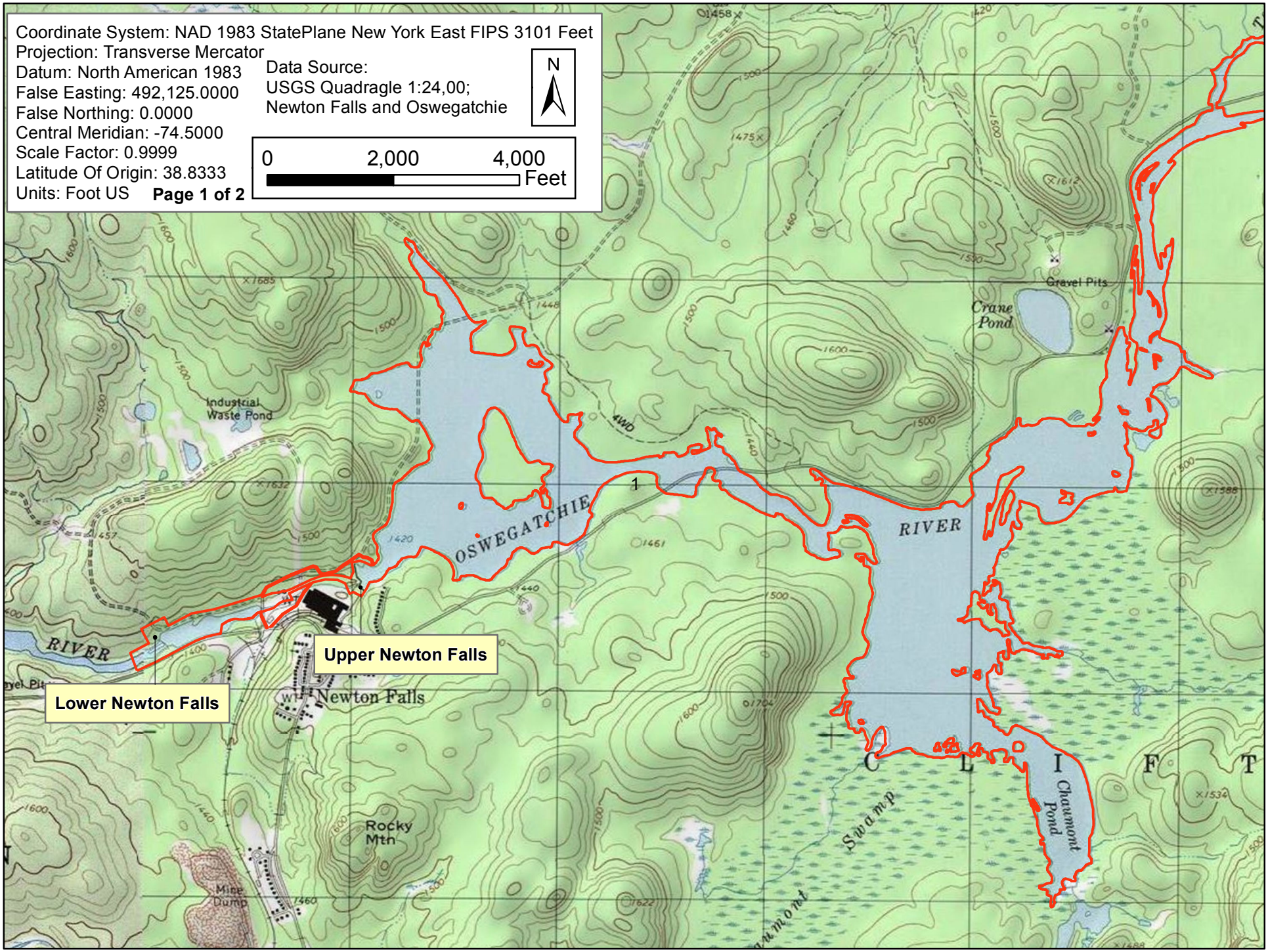
- Upper Newton Falls .... Latitude: 44.215; Longitude: -74.9867
- Lower Newton Falls.... Latitude: 44.2117; Longitude: -74.9983

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) 598-6131.

Sincerely,

Daniel Daoust
New York West Operations

Enclosure



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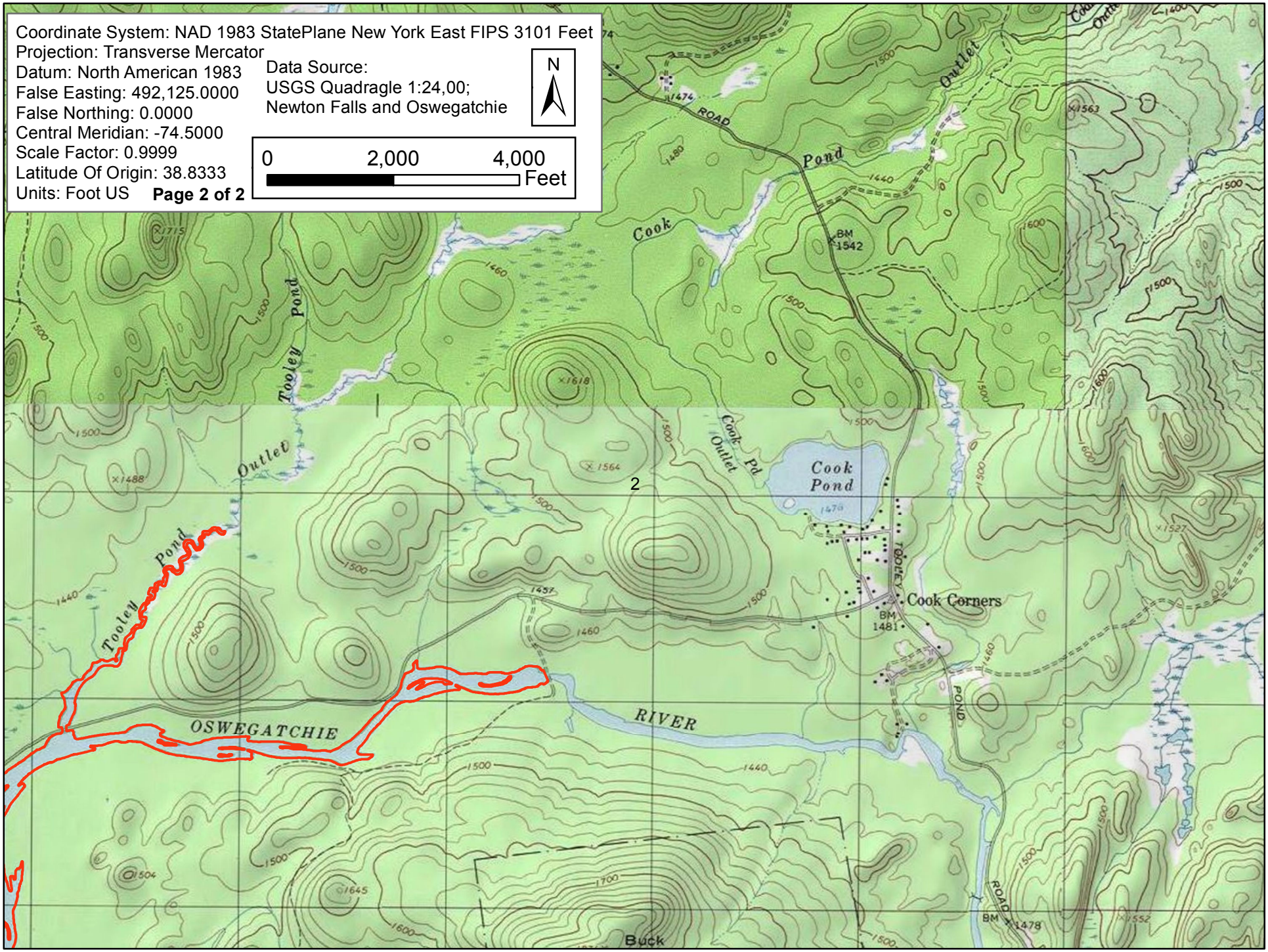

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United States Department of the Interior

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: 120411

To: Daniel Daoust Date: Jul 5, 2012

Regarding: Newton Falls Hydroelectric Project, FERC No. 7000

Town/County: St. Lawrence 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: Sandie Doran Sandie Doran

*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.

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

June 21, 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: **Newton Falls Hydroelectric Project (FERC No. 7000)**
Threatened and Endangered Species Consultation

Dear Ms. Pietrusiak:

Erie Boulevard Hydropower, L.P. (Erie) is the owner, operator, and licensee of the Newton Falls Project (FERC No. 7000). This project is comprised of two hydroelectric developments located at two dams along the Oswegatchie River in St. Lawrence County. From upstream to downstream, these are the Upper Newton Falls (River Mile [RM] 99.6) and Lower Newton Falls (RM 99.1) developments.

As a matter of background, a license from the Federal Energy Regulatory Commission (FERC) was issued for this project on August 13, 2003. Project operations and environmental protection measures at this project 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 2002. The licensing processes for this project included consultation with resource agencies regarding threatened and endangered species.

Erie is presently working with the Low Impact Hydropower Institute (LIHI) to recertify the Newton Falls Project as a low impact project. 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 two 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 project. The project location coordinates have been provided below, as well as on the enclosed aerial maps.

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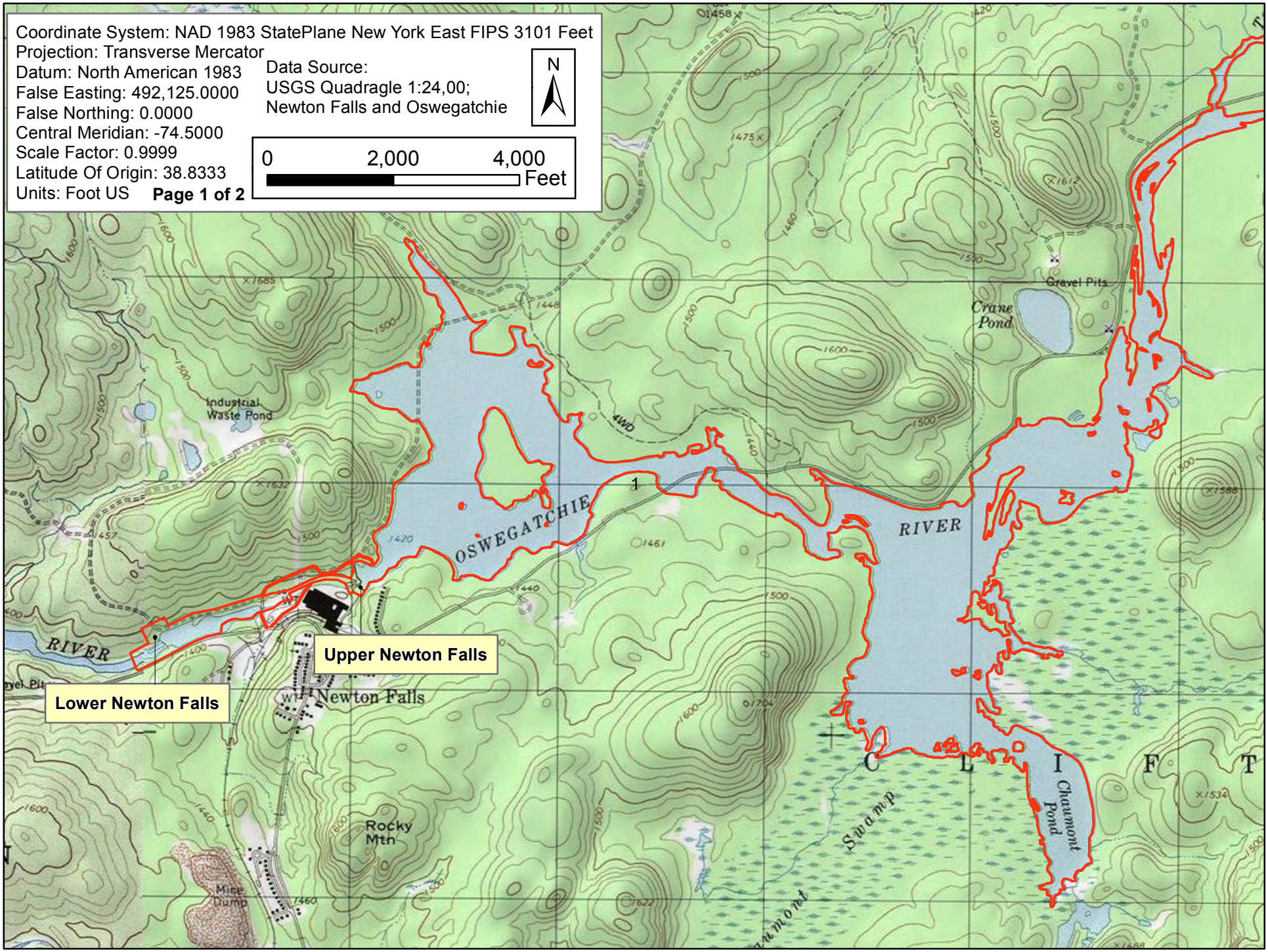
Erie would appreciate a response within 30 days of the date of this letter. Thank you in advance for your assistance, and if you have any questions, please do not hesitate to contact me at (315) 598-6131.

Sincerely,

Daniel Daoust
New York West Operations

Enclosure



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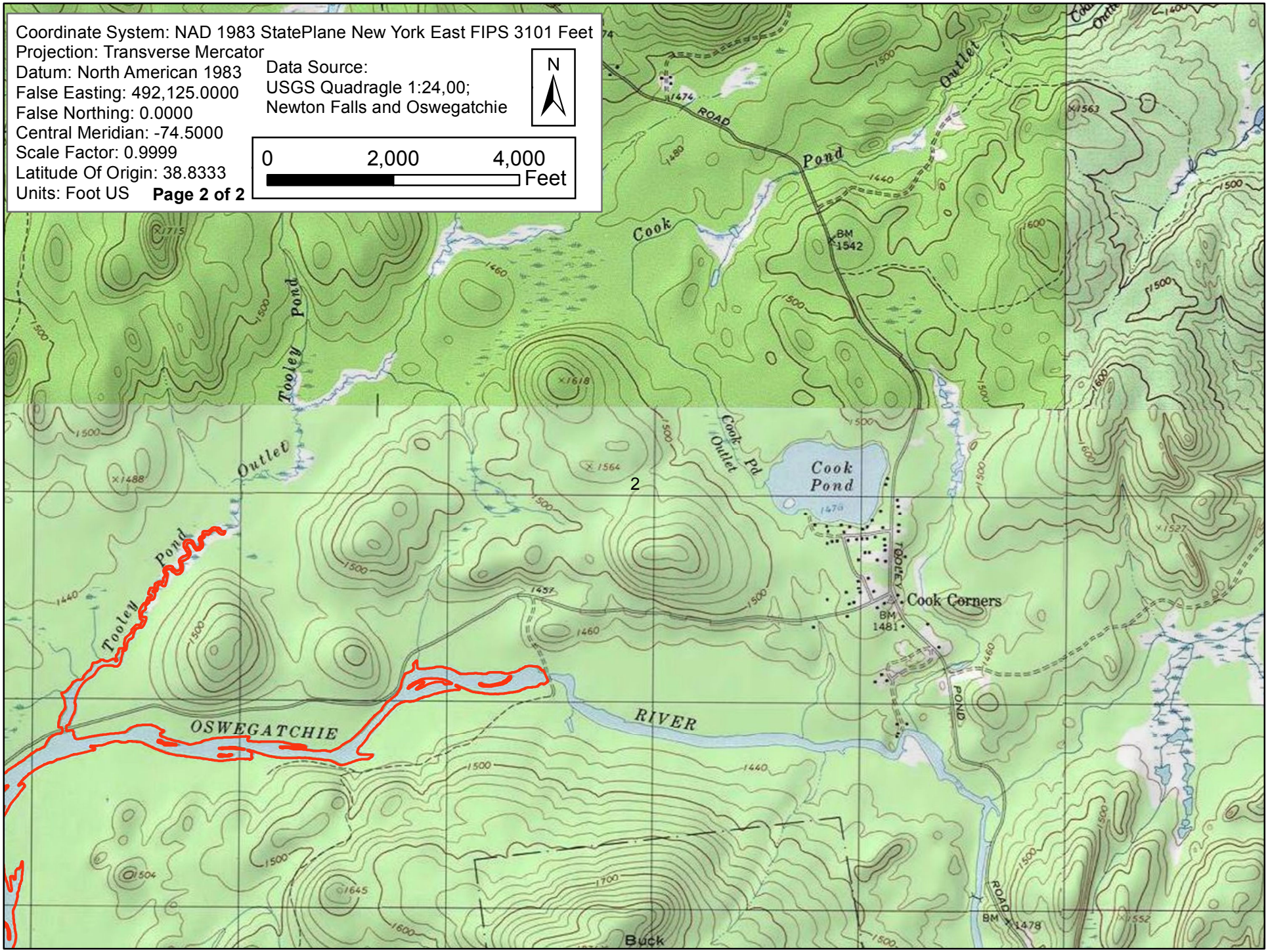

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

July 11, 2012

Daniel Daoust
Brookfield
33 West 1st Street South
Fulton, NY 13069

Dear Mr. Daoust:

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 Certification for the Newton Falls Hydroelectric Project – FERC 7000, TWO Developments at two dams along Oswegatchie River, sites as indicated on the maps you provided, located in St. Lawrence 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.
632
cc: Reg. 6, Wildlife Mgr.

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

BIRDS

Gavia immer

Office Use 5294

Common Loon
Breeding

NY Legal Status: Special Concern
Federal Listing:
Last Report: 1985-07-29
County: St. Lawrence
Town: Clifton
Location: Oswegatchie River Reservoir
General Quality and Habitat: The loons were observed on two large water bodies connected by a narrow section approximately 0.7 mi long. A dam is at the west end.

NYS Rank: S4 - Apparently secure
Global Rank: G5 - Secure
EO Rank: Poor

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.

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

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Natural Heritage Report on Rare Species and Ecological Communities

VASCULAR PLANTS

Calamagrostis stricta ssp. inexpansa

Office Use 11946

New England Northern Reedgrass

NY Legal Status: Threatened
Federal Listing:
Last Report: 2004-08-24
County: St. Lawrence
Town: Clifton
Location: Oswegatchie River Islands
General Quality and Habitat: There are over 100 clumps in excellent habitat. A wetland among islands in a river.

NYS Rank: S2 - Imperiled
Global Rank: G5T5 - Secure
EO Rank: Excellent or Good

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).

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ATTACHMENT J

QUESTION F – CULTURAL RESOURCES PROTECTION:

2005 SHORELINE EROSION MONITORING PLAN

MAY 19, 2005 ORDER APPROVING SHORELINE EROSION MONITORING PLAN

BRASCAN
POWER - NEW YORK

ORIGINAL

Express Mail

January 31, 2005

Honorable Magalie Roman Salas
Secretary
FEDERAL ENERGY REGULATORY COMMISSION
888 First Street, NE
Washington, DC 20426

SUBJECT: Newton Falls Project
LP 7000-015 NY
License Article 408 – Shoreline Erosion Monitoring Plan

Dear Secretary Salas:

In accordance with the ORDER ON OFFER OF SETTLEMENT AND ISSUING NEW LICENSE issued on August 13, 2003, with an effective date of February 1, 2004, Brascan Power St. Lawrence River, LLC, the Licensee, is herein filing an original and eight copies of its final Shoreline Erosion Monitoring Plan. The Licensee submitted a draft plan for consultation purposes with New York State Office of Parks, Recreation and Historic Preservation (SHPO) on December 8, 2004. Correspondence addressing article 408 is included herein. Following is a summary of SHPO's comments on the draft plan and the Licensee's response to SHPO's comments:

ARTICLE 408
SHORELINE EROSION MONITORING PLAN

SHPO comment letter of January 18, 2005:

SHPO Comments: The SHPO has reviewed the Draft Plan and we concur that it addresses the basis concerns that we expressed regarding the potential of the project to lead to future erosional episodes that may impact historic properties. Therefore, the SHPO concurs with the steps outlined in this plan.

Licensee Response: The Licensee accepts SHPO's comments.

If you have any questions, please contact the undersigned at 315-413-2789.

Very truly yours,

Thomas M. Skutnik

Thomas M. Skutnik, PE
St. Lawrence Production Center

Enclosure:
xc: T. L. Smith
D. P. Mackey, SHPO
A. J. Sidoti, FERC-NYRO

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Brascan Power New York
225 Greenfield Parkway, Suite 201, Liverpool, NY 13088 • Tel.: 315.413.2700 • Fax: 315.461.8577
www.brascanpower.com

NEWTON FALLS PROJECT
FERC PROJECT NO. 7000-015 NY

LICENSE ARTICLE 408
FINAL SHORELINE EROSION MONITORING PLAN

JANUARY 2005

NEWTON FALLS PROJECT
LP 7000 NY

LICENSE ARTICLE 408
SHORELINE EROSION MONITORING PLAN

Introduction

The Federal Energy Regulatory Commission (FERC) issued the Order Issuing New License on August 13, 2003 for the Newton Falls Project, with an effective date of February 1, 2004. Included in the license is Article 408 requiring preparation and filing of a Shoreline Erosion and Monitoring Plan. Article 408 is as follows:

Article 408: The licensee; before starting any land-clearing or land-disturbing activities within the project boundaries, other than those specifically authorized in this license, shall consult with the New York State Historic Preservation Officer (SHPO). If the licensee discovers previously unidentified archeological or historic properties during project operation, during the course of constructing or developing project works or other facilities at the project, or during the course of shoreline erosion monitoring, the licensee shall consult with SHPO.

Moreover, within 6 months after the effective date of the license, the licensee shall consult with the SHPO and file for Commission approval, a shoreline erosion monitoring plan. With the filing, the licensee shall include the SHPO's comments and recommendations on the shoreline erosion monitoring plan, and specific descriptions of how the SHPO's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the SHPO to comment and to make recommendations prior to filing the plan with the Commission for approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The shoreline erosion monitoring plan, at a minimum, shall include the following provisions:

(1) initial reconnaissance of portions of the Upper Development's reservoir shoreline to establish a baseline to compare future erosion conditions in areas of concern identified by the SHPO, which are the flat areas adjacent to the upper end of the Upper Development reservoir;

(2) follow-up comparative reconnaissance monitoring of the Upper Development's reservoir shoreline area following the occurrence of an extreme flow event (Upper Development's reservoir elevations greater than 1,424 feet NGVD); and

(3) reconnaissance and monitoring of the area of concern by responsible personnel of the licensee as defined by the SHPO.

In the event significant signs of erosion are discovered, the licensee shall, within 30 days of the discovery, consult further with the SHPO to determine what further actions and/or investigations, if any, are needed, and file the results of this consultation (e.g., any supplemental plan developed in consultation with the SHPO, the SHPO's comments on any such plan, the licensee's response to the SHPO's comments). The licensee shall take no further action that may foreclose the Commission's opportunity to direct changes to the filing until notified by the Commission that the filing is approved.

NEWTON FALLS PROJECT
LP 7000 NY

LICENSE ARTICLE 408
SHORELINE EROSION MONITORING PLAN

1) Initial Reconnaissance

The initial reconnaissance of portions of the Upper Development's reservoir shoreline to establish a baseline for comparison with future erosion conditions was completed on October 12, 2002. The initial reconnaissance emphasized the areas of concern identified by the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP/SHPO), essentially the upstream section of the Upper Reservoir where a stretch of flat land exists adjacent to the river that could be sensitive to archaeology issues. This reconnaissance was included in a filing with the Commission dated November 15, 2002 in response to the Commission's Additional Information Request dated July 23, 2002.

Appended to this Shoreline Erosion Monitoring Plan, are 19 photographs taken along the south shore and 19 photographs taken along the north shore highlighting the areas of concern identified by the SHPO. These photographs document existing baseline conditions for future comparison purposes. A photo location map depicting the location of each individual photograph is also included as part of this plan.

2) Follow-up Comparative Reconnaissance Monitoring

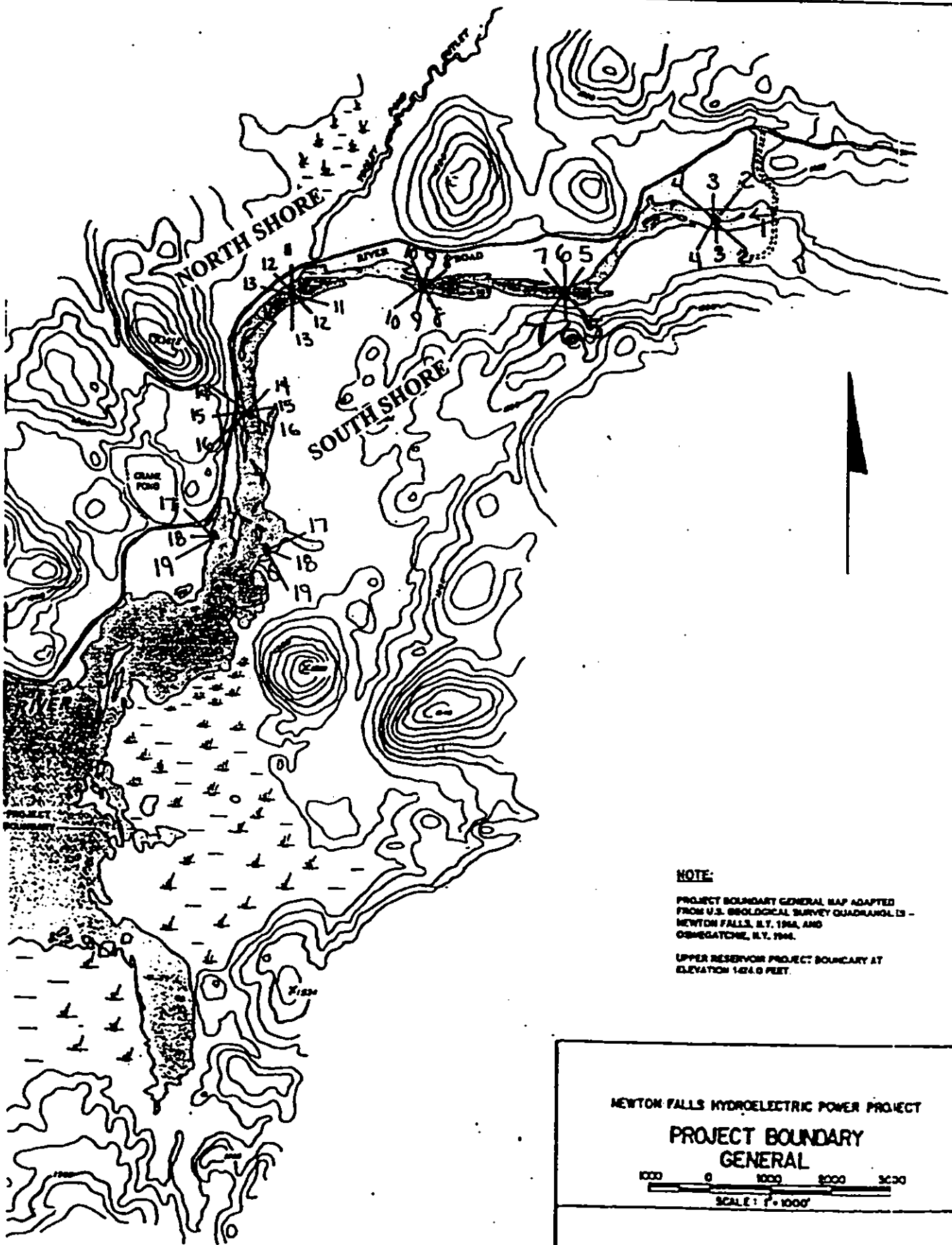
Follow-up comparative reconnaissance monitoring of the shoreline will be completed following the occurrence of an extreme event, essentially when the Upper Reservoir water surface elevation exceeds elevation 1424 feet NGVD.

The Licensee has a monitoring system in place that continually monitors the reservoir elevation. This monitoring system will provide the necessary information to determine when the follow-up comparative reconnaissance monitoring of the shoreline needs to be performed. The follow-up monitoring will be completed by the Licensee during favorable weather and reservoir conditions as soon as possible, following the extreme event.

3) Reconnaissance and monitoring of the area of concern by responsible personnel of the licensee as defined by the SHPO.

The Licensee is proposing to use management personnel in its employ to perform the follow-up shoreline monitoring. The Licensee will use the baseline photographs for comparison purposes during the follow-up reconnaissance.

In the event significant signs of erosion are found during the follow-up reconnaissance monitoring, the Licensee will document the significant changes with detailed photographs. The Licensee will consult with the SHPO within 30 days of the discovery to determine what further actions and/or investigations, if any, are needed, and file the results of this consultation with the Commission.



NOTE:

PROJECT BOUNDARY GENERAL MAP ADAPTED FROM U.S. GEOLOGICAL SURVEY QUADRANGLES – NEWTON FALLS, N.Y. 1966, AND OSWEGATCHIE, N.Y. 1966.

UPPER RESERVOIR PROJECT BOUNDARY AT ELEVATION 1424.0 FEET.

NEWTON FALLS HYDROELECTRIC POWER PROJECT

PROJECT BOUNDARY GENERAL

1000 0 1000 2000 3000

SCALE: 1" = 1000'

Photo Location Map

North Shore Photo #1

North Shore Photo #2

North Shore Photo #3

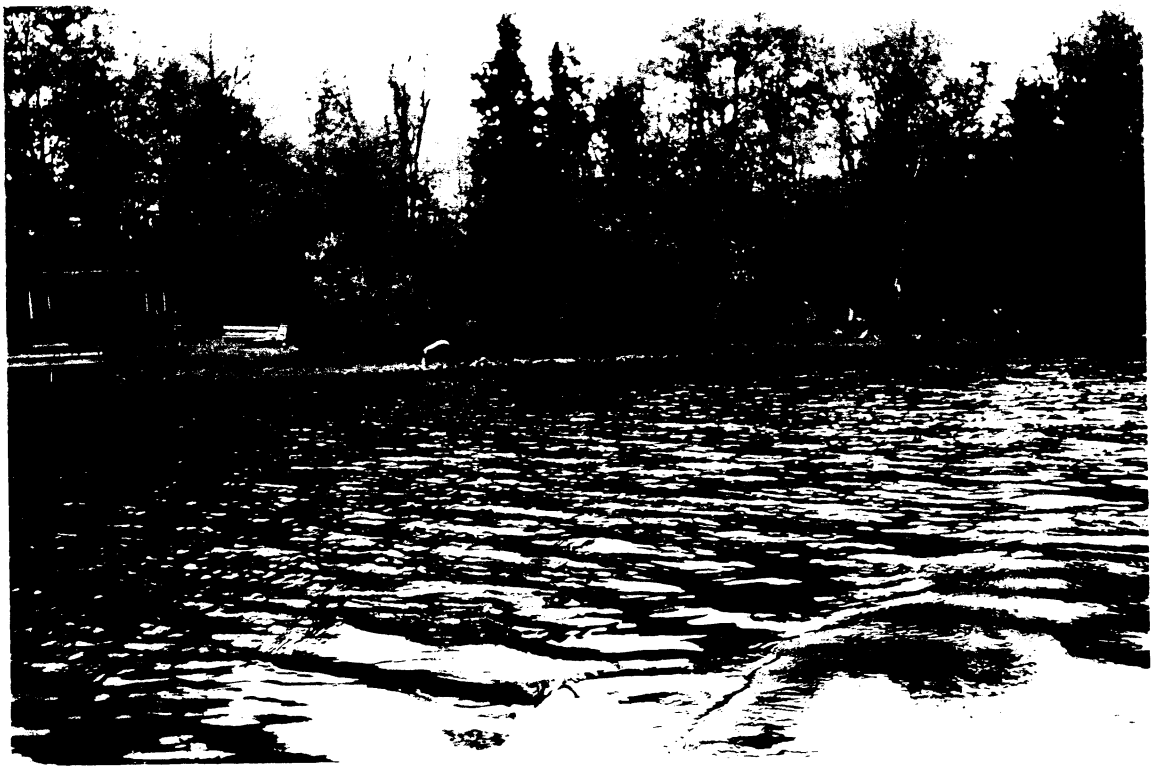
North Shore Photo #4

North Shore Photo #5

North Shore Photo #6

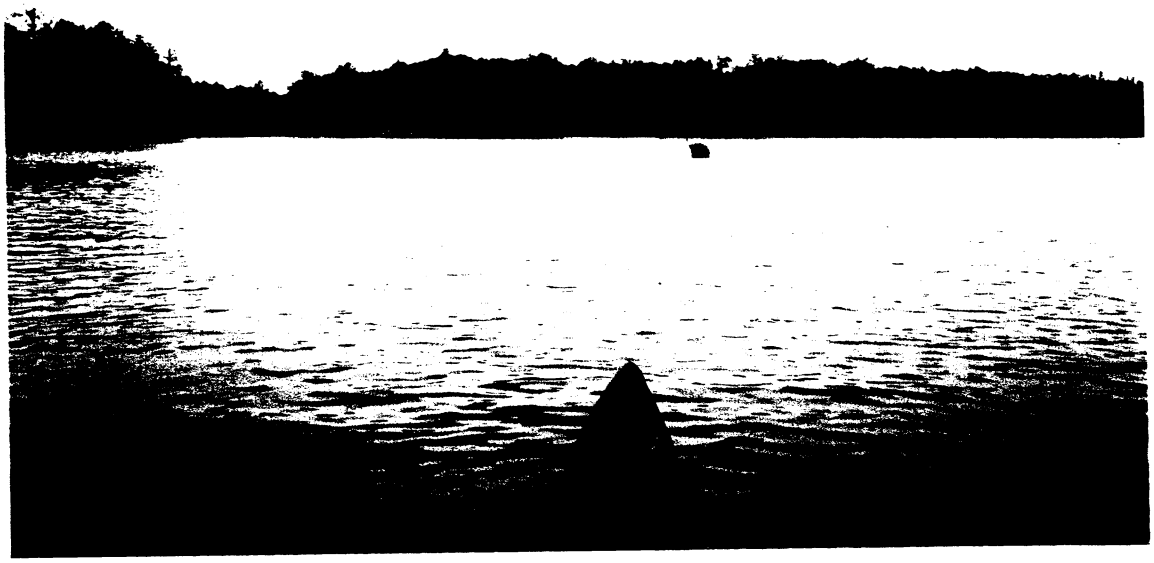
North Shore Photo #7

North Shore Photo #8



North Shore Photo #9

North Shore Photo #10



North Shore Photo #11

North Shore Photo #12

North Shore Photo #13

North Shore Photo #14

North Shore Photo #15

North Shore Photo #16

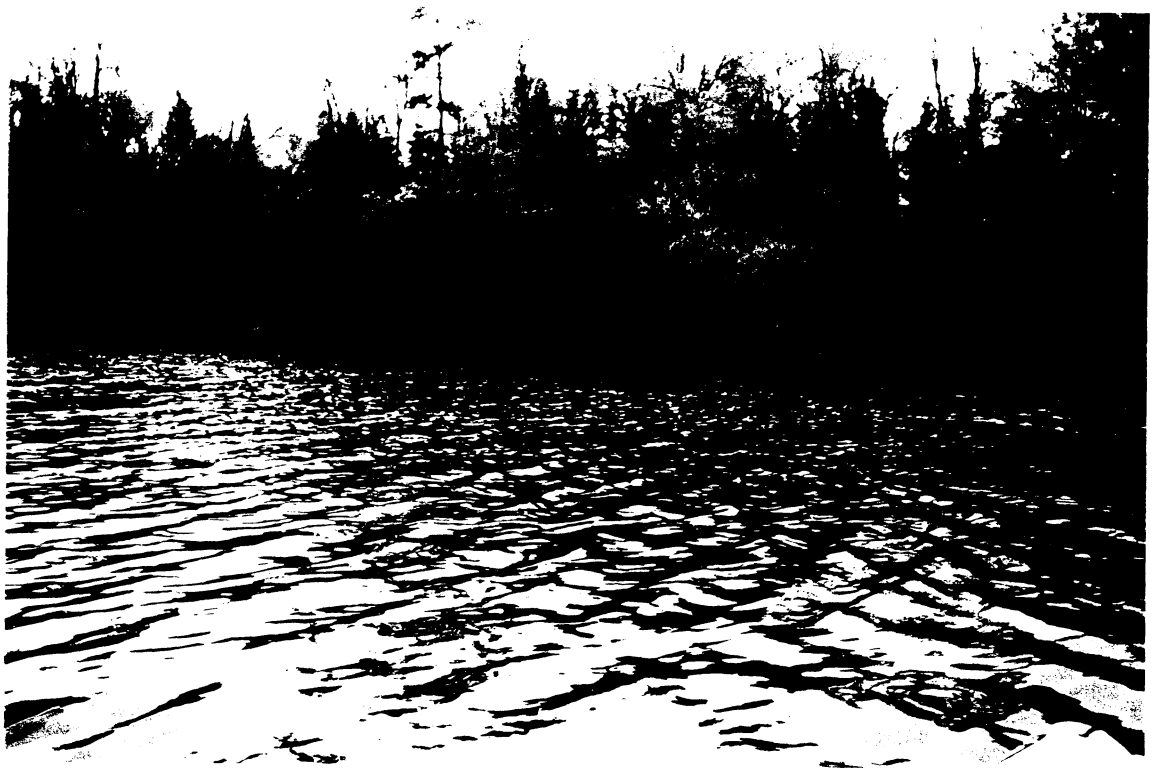
North Shore Photo #17

North Shore Photo #18

North Shore Photo #19

South Shore Photo #1

South Shore Photo #2



South Shore Photo #3

South Shore Photo #4

South Shore Photo #5

South Shore Photo #6

South Shore Photo #7

South Shore Photo #8

South Shore Photo #9

South Shore Photo #10

South Shore Photo #11

South Shore Photo #12

South Shore Photo #13

South Shore Photo #14

South Shore Photo #15

South Shore Photo #16

South Shore Photo #17

South Shore Photo #18

South Shore Photo #19

NEWTON FALLS PROJECT
FERC PROJECT NO. 7000-015 NY

LICENSE ARTICLE 408
DRAFT SHORELINE EROSION MONITORING PLAN

DECEMBER 2004

DRAFT

NEWTON FALLS PROJECT
LP 7000 NY

LICENSE ARTICLE 408
SHORELINE EROSION MONITORING PLAN

Introduction

The Federal Energy Regulatory Commission (FERC) issued the Order Issuing New License on August 13, 2003 for the Newton Falls Project, with an effective date of February 1, 2004. Included in the license is Article 408 requiring preparation and filing of a Shoreline Erosion and Monitoring Plan. Article 408 is as follows:

Article 408: The licensee; before starting any land-clearing or land-disturbing activities within the project boundaries, other than those specifically authorized in this license, shall consult with the New York State Historic Preservation Officer (SHPO). If the licensee discovers previously unidentified archeological or historic properties during project operation, during the course of constructing or developing project works or other facilities at the project, or during the course of shoreline erosion monitoring, the licensee shall consult with SHPO.

Moreover, within 6 months after the effective date of the license, the licensee shall consult with the SHPO and file for Commission approval, a shoreline erosion monitoring plan. With the filing, the licensee shall include the SHPO's comments and recommendations on the shoreline erosion monitoring plan, and specific descriptions of how the SHPO's comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the SHPO to comment and to make recommendations prior to filing the plan with the Commission for approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The shoreline erosion monitoring plan, at a minimum, shall include the following provisions:

(1) initial reconnaissance of portions of the Upper Development's reservoir shoreline to establish a baseline to compare future erosion conditions in areas of concern identified by the SHPO, which are the flat areas adjacent to the upper end of the Upper Development reservoir;

(2) follow-up comparative reconnaissance monitoring of the Upper Development's reservoir shoreline area following the occurrence of an extreme flow event (Upper Development's reservoir elevations greater than 1,424 feet NGVD); and

(3) reconnaissance and monitoring of the area of concern by responsible personnel of the licensee as defined by the SHPO.

In the event significant signs of erosion are discovered, the licensee shall, within 30 days of the discovery, consult further with the SHPO to determine what further actions and/or investigations, if any, are needed, and file the results of this consultation (e.g., any supplemental plan developed in consultation with the SHPO, the SHPO's comments on any such plan, the licensee's response to the SHPO's comments). The licensee shall take no further action that may foreclose the Commission's opportunity to direct changes to the filing until notified by the Commission that the filing is approved.

DRAFT

NEWTON FALLS PROJECT
LP 7000 NY

LICENSE ARTICLE 408
SHORELINE EROSION MONITORING PLAN

1) Initial Reconnaissance

The initial reconnaissance of portions of the Upper Development's reservoir shoreline to establish a baseline for comparison with future erosion conditions was completed on October 12, 2002. The initial reconnaissance emphasized the areas of concern identified by the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP/SHPO), essentially the upstream section of the Upper Reservoir where a stretch of flat land exists adjacent to the river that could be sensitive to archaeology issues. This reconnaissance was included in a filing with the Commission dated November 15, 2002 in response to the Commission's Additional Information Request dated July 23, 2002.

Appended to this Shoreline Erosion Monitoring Plan, are 19 photographs taken along the south shore and 19 photographs taken along the north shore highlighting the areas of concern identified by the SHPO. These photographs document existing baseline conditions for future comparison purposes. A photo location map depicting the location of each individual photograph is also included as part of this plan.

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Follow-up comparative reconnaissance monitoring of the shoreline will be completed following the occurrence of an extreme event, essentially when the Upper Reservoir water surface elevation exceeds elevation 1424 feet NGVD.

The Licensee has a monitoring system in place that continually monitors the reservoir elevation. This monitoring system will provide the necessary information to determine when the follow-up comparative reconnaissance monitoring of the shoreline needs to be performed. The follow-up monitoring will be completed by the Licensee during favorable weather and reservoir conditions as soon as possible, following the extreme event.

3) Reconnaissance and monitoring of the area of concern by responsible personnel of the licensee as defined by the SHPO.

The Licensee is proposing to use management personnel in its employ to perform the follow-up shoreline monitoring. The Licensee will use the baseline photographs for comparison purposes during the follow-up reconnaissance.

In the event significant signs of erosion are found during the follow-up reconnaissance monitoring, the Licensee will document the significant changes with detailed photographs. The Licensee will consult with the SHPO within 30 days of the discovery to determine what further actions and/or investigations, if any, are needed, and file the results of this consultation with the Commission.

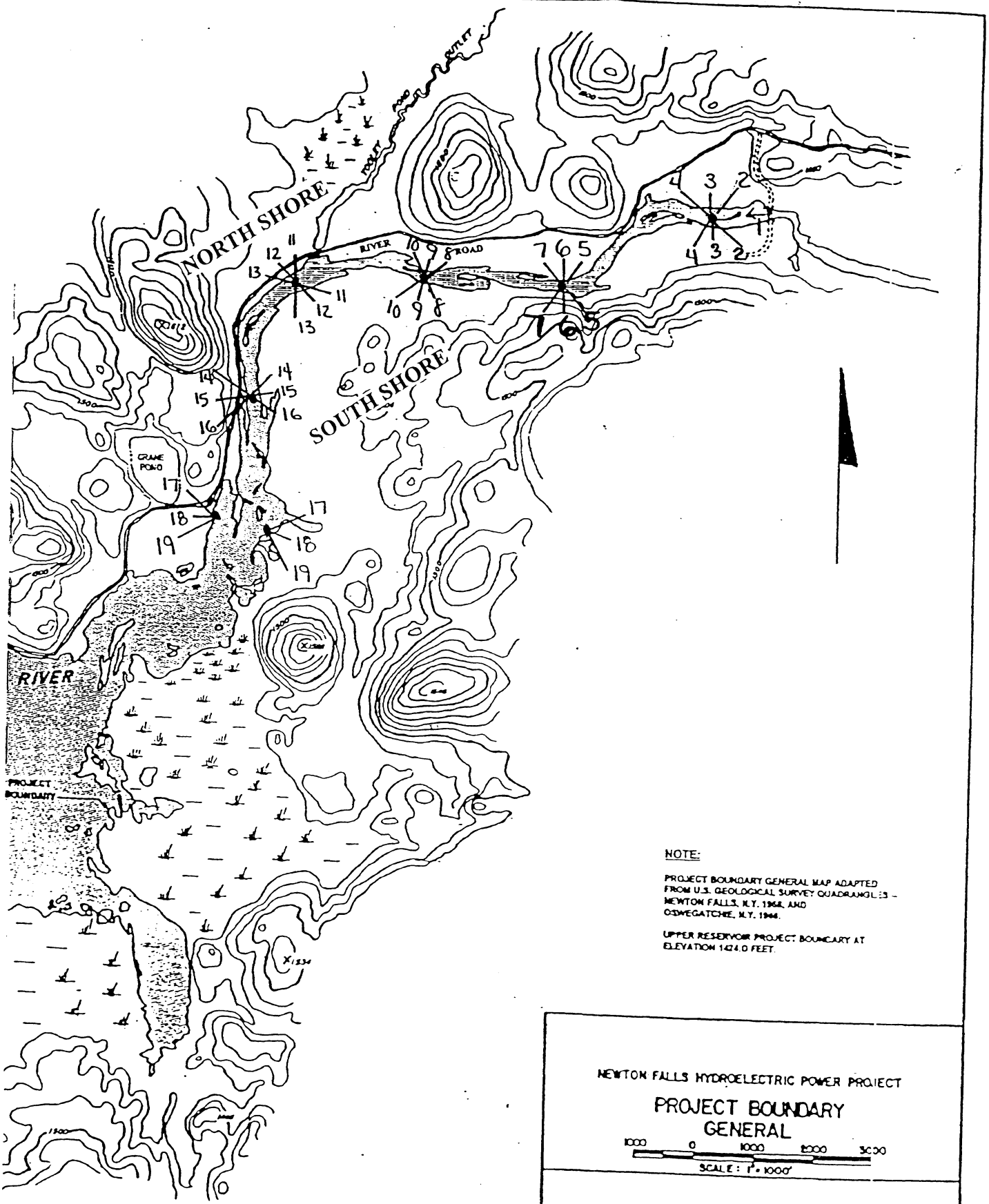


Photo Location Map

North Shore Photo #1

North Shore Photo #2

North Shore Photo #3

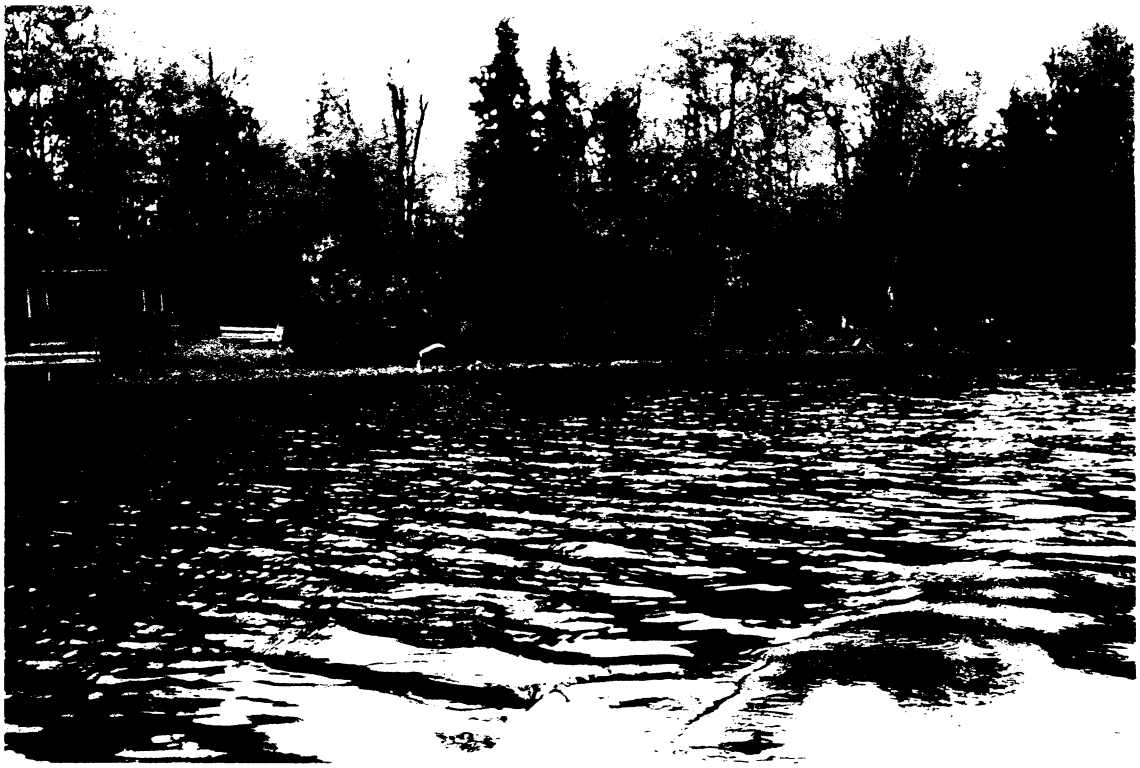
North Shore Photo #4

North Shore Photo #5

North Shore Photo #6

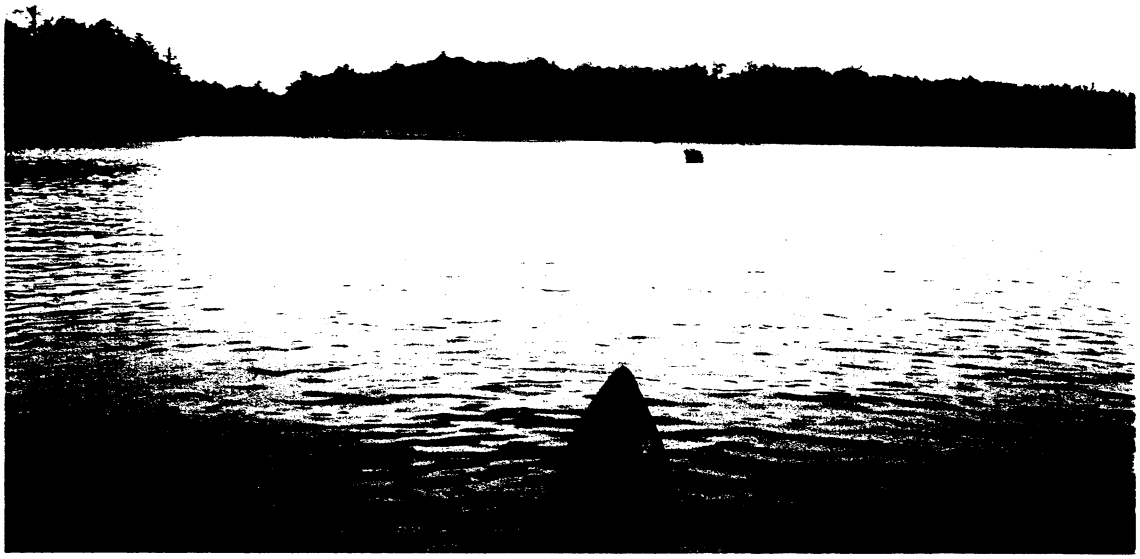
North Shore Photo #7

North Shore Photo #8



North Shore Photo #9

North Shore Photo #10



North Shore Photo #11

North Shore Photo #12

North Shore Photo #13

North Shore Photo #14

North Shore Photo #15

North Shore Photo #16

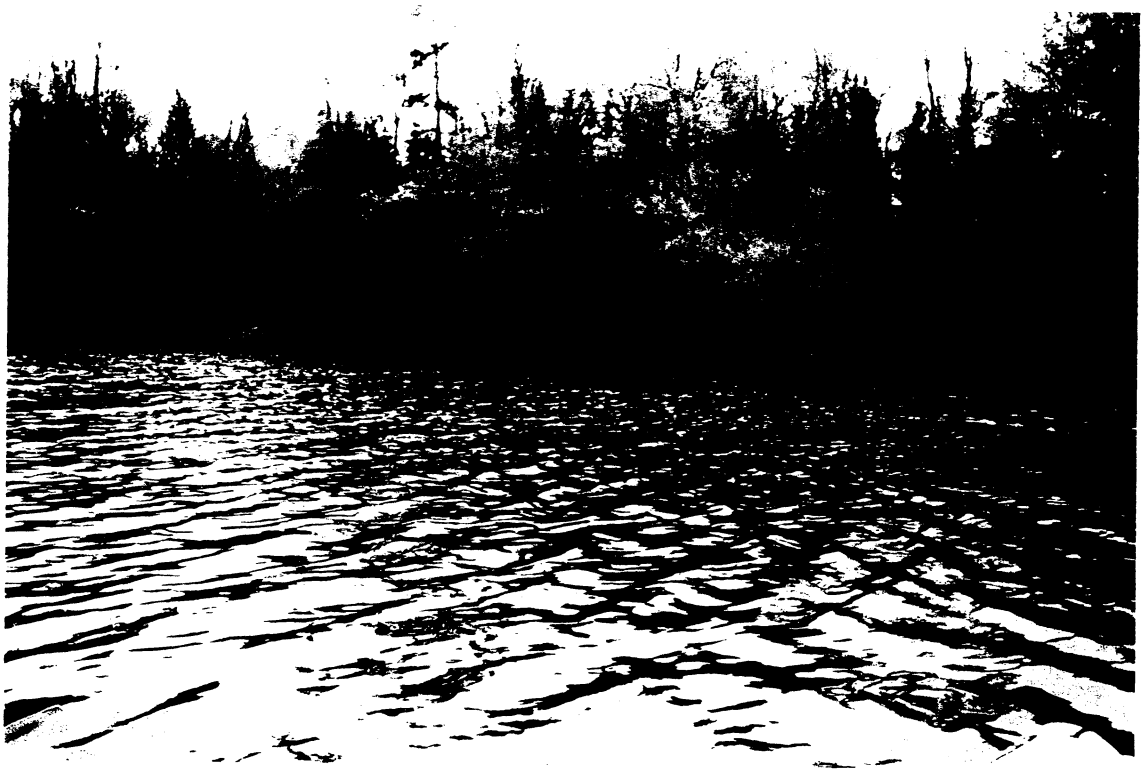
North Shore Photo #17

North Shore Photo #18

North Shore Photo #19

South Shore Photo #1

South Shore Photo #2



South Shore Photo #3

South Shore Photo #4

South Shore Photo #5

South Shore Photo #6

South Shore Photo #7

South Shore Photo #8

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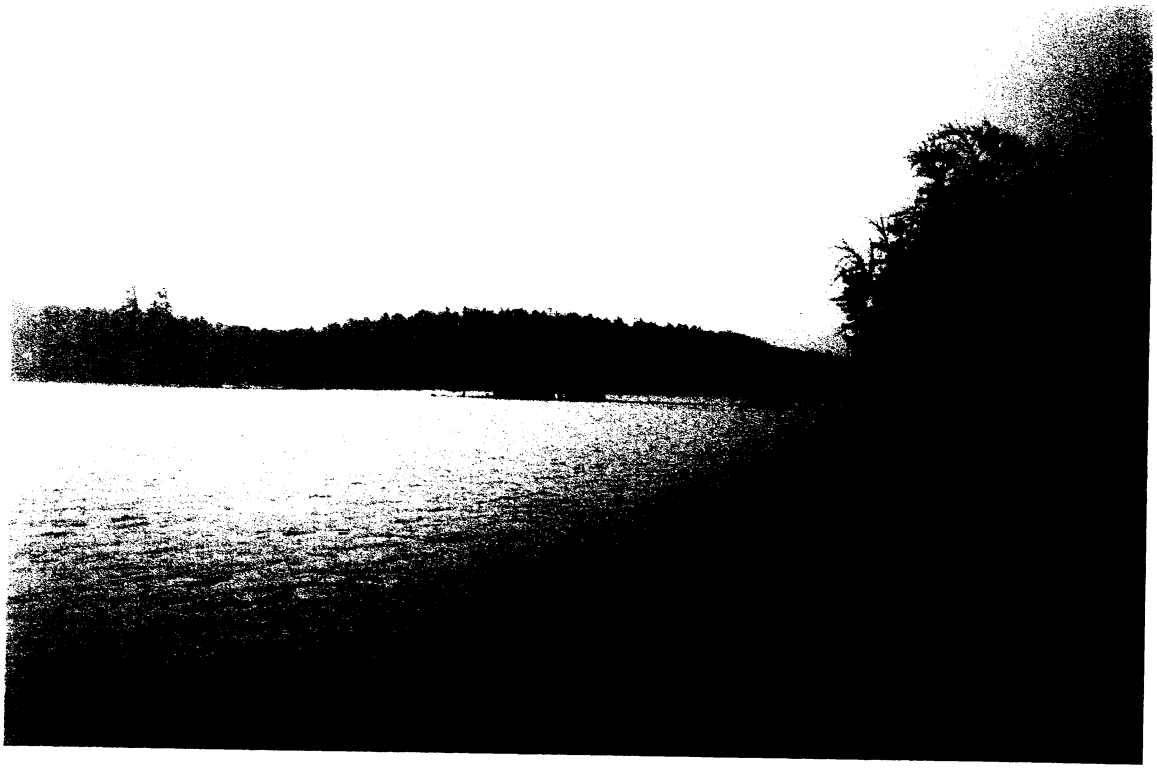
South Shore Photo #17

South Shore Photo #18



South Shore Photo #19

NEWTON FALLS PROJECT
FERC PROJECT NO. 7000-015 NY

LICENSE ARTICLE 408

CORRESPONDENCE

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 18, 2005

Thomas Skutnick
Brascan Power-New York
225 Greenfield Parkway
Suite 201
Liverpool, NY 13088

Dear Mr. Skutnik

Re: FERC
Newton Falls Project LP 7000 NY
License Article 408 –
Shoreline Erosion Monitoring Plan
St. Lawrence County, NY
00PR00265

Thank your for requesting the comments of the New York State Historic Preservation Office (SHPO) with regard to the potential for this project to affect significant historical/cultural resources. SHPO has received your correspondence of December 8, 2004 which included the Draft Shoreline Erosion Monitoring Plan prepared in accordance with Article 408 of the License issued for the Newton Falls Project in August 2003. The SHPO has reviewed this Draft Plan and we concur that it addresses the basic concerns that we expressed regarding the potential for your project to lead to future erosional episodes that may impact historic properties. Therefore, the SHPO concurs with the steps outlined in this plan.

Please contact me at extension 3291, or by e-mail at douglas.mackey@oprhp.state.ny.us, if you have any questions regarding these comments.

Sincerely

Douglas P. Mackey
Historic Preservation Program Analyst
Archaeology

BRASCAN
POWER - NEW YORK

December 8, 2004

Ms. Ruth Pierpont
Director
New York State Office of Parks,
Recreation and Historic Preservation
P. O. Box 189
Waterford, NY 12188-0189

SUBJECT: Newton Falls Project LP 7000 NY
License Article 408 – Shoreline Erosion Monitoring Plan

Dear Ms. Pierpont:

In accordance with the ORDER ISSUING NEW LICENSE, issued on August 13, 2003 with an effective date of February 1, 2004, enclosed is Brascan Power St. Lawrence River, LLC's (Licensee) draft plan for the following license article:

Article 408 Shoreline Erosion Monitoring Plan (Draft Plan)

The Licensee would appreciate receiving your comments within 30 days from the date of this letter. Upon receipt of your comments, Erie will revise as appropriate the above-referenced plan and submit to the Commission.

If you have any questions about this submittal, please feel free to contact the undersigned at (315) 413-2789.

Very truly yours,

Thomas M. Skutnik

Thomas M. Skutnik, PE
St. Lawrence Production Center

Enclosure:

xc: T. L. Smith

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Brascan Power New York
225 Greenfield Parkway, Suite 201, Liverpool, NY 13088 • Tel.: 315.413.2700 • Fax: 315.461.8577
www.brascanpower.com

UNITED STATES OF AMERICA 111 FERC ¶62,183
FEDERAL ENERGY REGULATORY COMMISSION

Brascan Power St. Lawrence River, LLC Project No. 7000-026

ORDER APPROVING SHORELINE EROSION MONITORING PLAN

(Issued May 19, 2005)

On February 1, 2005, Brascan Power St. Lawrence River, LLC, licensee for the Newton Falls Project, FERC No. 7000, filed a Shoreline Erosion Monitoring Plan (SEMP). The filing of the plan is in compliance with Article 408 of the license.[1] The project is located on the Oswegatchie River, in the town of Clifton, St. Lawrence County, New York.

REQUIREMENTS

Article 408 of the license requires the licensee, before starting any land-clearing or land-disturbing activities within the project boundary to consult with the New York State Historic Preservation Officer (SHPO) and file a shoreline erosion monitoring plan for Commission approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information. Article 408 also states that if the licensee discovers previously unidentified archeological or historic properties during operation, construction, and development of the project, or during the course of shoreline erosion monitoring, the licensee shall consult with SHPO.

LICENSEE'S PLAN

The licensee's SEMP consists of:

(1) Initial reconnaissance of the Upper Development's reservoir shoreline to establish a baseline for comparison with future erosion conditions. Appended to SEMP are 19 photographs taken along the south shore and 19 photographs taken along the north shore highlighting the areas of concern identified by SHPO. Those photographs document existing baseline conditions for future comparison purposes.

(2) Follow-up comparative reconnaissance monitoring of the shoreline following the occurrence of an extreme event, when the Upper Reservoir water surface elevation exceeds 1,424 ft. The licensee operates a monitoring system that continually monitors the reservoir elevation, which is necessary to determine when the follow-up comparative

[1] 104 FERC 62,118 (2003).

reconnaissance monitoring of the shoreline needs to be performed.

(3) Reconnaissance and monitoring of the area of concern, as defined by SHPO, by responsible personnel of the licensee. In the event significant signs of erosion are found during the follow-up reconnaissance monitoring, the licensee will document the significant changes with detailed photographs and consult with SHPO within 30 days of the discovery to determine what further actions and/or investigations, if any, are needed, and file the results of this consultation with the Commission.

On December 8, 2004, the licensee submitted a draft plan to New York State Office of Parks, Recreation and SHPO for review. On January 18, 2005, SHPO concurred with the steps taken in the plan that address the potential future erosion that may impact historic properties.

REVIEW

The licensee prepared SEMP in accordance with the requirements of Article 408, and consultation with SHPO. SHPO concurred with the plan addressing the potential future erosion impacting historic properties. We find the licensee's SEMP meets the requirements of Article 408 of the license, and is approved in this order.

The Director orders:

(A) The licensee's shoreline erosion monitoring plan for its Newton Falls Project, filed on February 1, 2005, 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 this order, pursuant to 18 C.F.R. §385.713.

Mohamad Fayyad
Engineering Team Lead
Division of Hydropower Administration
and Compliance

ATTACHMENT K

QUESTION G – RECREATION:

2005 RECREATION PLAN FOR P-7000

FEBRUARY 9, 2006 ORDER APPROVING RECREATION PLAN

BRASCAN
POWER-NEW YORK

Express Mail

March 7, 2005

Honorable Magalie Roman Salas
Secretary
FEDERAL ENERGY REGULATORY COMMISSION
888 First Street, NE
Washington, DC 20426

SUBJECT: Newton Falls Project
LP 7000-015 NY
License Article 406 – Recreation Plan

Dear Secretary Salas:

In accordance with the ORDER ON OFFER OF SETTLEMENT AND ISSUING NEW LICENSE issued on August 13, 2003, with an effective date of February 1, 2004, Brascan Power St. Lawrence River, LLC, the Licensee, is herein filing an original and eight copies of its final Recreation Plan. The Licensee submitted a draft plan for consultation purposes with New York State Department of Environmental Conservation (DEC), US Fish & Wildlife Service (Service), Adirondack Mountain Club (ADK) and the Adirondack Park Agency (APA) on January 4, 2005. Correspondence addressing article 406 is included herein. Following is a summary of agency/entity comments on the draft plan and the Licensee's response to those comments:

ARTICLE 406
RECREATION PLAN

Service comment letter of January 7, 2005:

Service Comments:

The Service has reviewed the Draft Plan and states the plan adequately addresses the license requirements.

Licensee Response:

The Licensee appreciates the Service's comments.

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Brascan Power New York
225 Greenfield Parkway, Suite 201, Liverpool, NY 13088 • Tel.: 315.413.2700 • Fax: 315.461.8577
www.brascanpower.com

DEC comment letter of January 24, 2005:

DEC comments:

1. A 10 hp motor limitation sign should be posted at each boat launch site.
2. The plan should clearly show the parking area constructed for the boat launch just west of the town beach will accommodate parking for 5-6 cars.

Licensee Response:

1. The Licensee included the 10 hp motor limitation sign at each boat launch in the final plan.
2. The plan has been revised to denote parking for 5-6 vehicles at the boat launch just west of the town beach.

ADK comment letter of January 26, 2005:

ADK comment:

Recreation Season:

"On page 3, item (1) (a) proposes that the picnic table be present "from start of Memorial Day weekend thru Labor Day weekend." This seems to be very brief to us, so ADK suggests May 1 thru Columbus Day weekend instead."

Licensee Response:

The Licensee's policy is to place and remove certain recreation facilities coincident with the placement and removal of safety devices required during the recreation season, which is generally defined as Memorial Day weekend through Labor Day weekend. Crews with the necessary equipment are utilized to place and remove picnic tables at the various sites, site after site. Deviations from this procedure require rescheduling and cost implications.

ADK comment:

Overlap with Town Beach:

"On your sheet 3, it shows "Boat Launch No.1" with an enlarged view, but does not include the town beach. I checked the town beach location by going to the license application, Fig. E (5)-1. Thus it seems that the planned location per the draft recreation plan would put the car-top boat launch mostly on top of the west side of the town beach rather than just west of the town beach as per the settlement and license. In all likelihood, since the survey work was done in January 2002 (per general note 5 on the drawing), it may have been hard to identify the town beach location due to snow cover."

Licensee Response:

The final placement of the boat launch and parking area with respect to the town beach will need to be finalized during a site visit between the Licensee and the interested agencies/entities. The Licensee will schedule the necessary field visit.

ADK comment:

Put-in on Lower Impoundment:

"The canoe put-in shown on the left side of SH 2 is in the correct general location. However, the arrowhead is pointing to a section of bank that sticks out into the stream where the current is stronger. If you think like a canoeist, the arrowhead would go to the indentation in the bank where the current is less. This then involves only a tiny (1/16 inch) movement of the arrowhead to the right."

Licensee Response:

The final location of the put-in can be finalized during a site visit which the Licensee will schedule and the as-built drawing will denote the location of the put-in.

The Adirondack Park Agency did not provide any comments on the draft Recreation Plan.

If you have any questions, please contact the undersigned at 315-413-2789.

Very truly yours,

Thomas M. Skutnik

Thomas M. Skutnik, PE
St. Lawrence Production Center

Enclosure:

xc: T. L. Smith
Attached Distribution List
A. J. Sidoti, FERC-NYRO

DISTRIBUTION LIST

NEWTON FALLS RECREATION PLAN
FERC PROJECT NUMBER 7000 NY

Ms. Alice Richardson
New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
317 Washington Street
Watertown, NY 13601

Mr. David Stilwell
U.S. Fish & Wildlife Service
3817 Luker Road
Cortland, NY 13045

Ms. Betty Lou Bailey
Adirondack Mountain Club
4029 Georgetown Square
Schenectady, NY 12303-5300

George Outcalt
Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977

NEWTON FALLS PROJECT
FERC PROJECT NO. 7000-015 NY

LICENSE ARTICLE 406
FINAL RECREATION PLAN

MARCH 2005

Revision 0:
March 7, 2005

NEWTON FALLS PROJECT
FERC PROJECT NUMBER 7000 NY

LICENSE ARTICLE 406
RECREATION PLAN

Article 406. Within one year after the effective date of the license, the licensee shall file for Commission approval a recreation plan to implement the requirements of Section 3.5.1 of Appendix B to this order. The plan, at a minimum, shall include the requirements of Section 3.5.1 and the following:

(1) Description of measures, including final design drawings and construction schedule, to: (a) construct one new car-top boat launch just west of the town beach, including a gravel parking area, a picnic table, and appropriate signage; (b) improve with gravel and provide appropriate signage at the existing car-top boat launch located about 1 mile east of the town beach; and (c) provide a canoe portage route, designed in consultation with Adirondack Mountain Club (ADK), including a take-out on the right side of the Upper Development's reservoir about 300 feet upstream of the dam, the use of existing roadways improved for the portage, a put-in at the Lower development's reservoir about 150 feet downstream of the bridge, and a take-out on the left side of the Lower Development's reservoir just upstream of the Lower Development dam with a put-in about 450 feet downstream of the Lower Development dam;

(2) measures for soil erosion and sedimentation control during the construction of the recreational facilities;

(3) measures to provide permanent recreational easements for the duration of the project's license to ensure recreational access for the two boat launches and canoe take-out and portage from the upper reservoir;

(4) provisions to allow public access to all licensee-owned lands within the project boundary at the Upper and Lower Developments. The licensee shall limit public access to lands and facilities specifically related to hydroelectric generation including, but not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities;

(5) measures to monitor the use of project recreational facilities consistent with the requirements of the FERC Form 80 reporting;

(6) measures to manage the facilities over the term of any new license issued;

(7) a schedule for consulting with the parties of the Settlement to examine further opportunities to develop access to project lands. The licensee shall file the summary of the consultation and any proposed action with the Commission; and

(8) a discussion of how the needs of the disabled were considered in the planning and design of each recreation facility.

The licensee shall prepare the recreation plan after consultation with the New York State Department of Environmental Conservation (NYSDEC) and the ADK to ensure that the facilities provided best meet recreation needs and are coordinated with other initiatives in the region. 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 NYSDEC and ADK, and specific descriptions of how the NYSDEC and ADK comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the NYSDEC and ADK to comment and make recommendations prior to filing the plan with the Commission for approval. 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. No ground-disturbing or land-clearing activities for new recreation facilities shall begin until the licensee is notified by the Commission that the recreational plan is approved. Upon approval, the licensee shall implement the plan, including any changes required by the Commission.

The licensee may temporarily modify the recreation measures if required by operating emergencies beyond its control, or for short periods upon mutual agreement between the licensee and the NYSDEC. If the recreation measures are so modified, the licensee shall notify the Commission and the NYSDEC as soon as possible, but no later than 10 days after each such incident.

NEWTON FALLS PROJECT
FERC PROJECT NUMBER 7000 NY

LICENSE ARTICLE 406
RECREATION PLAN

(1) Description of measures, including final design drawings and construction schedule, to: (a) construct one new car-top boat launch just west of the town beach, including a gravel parking area, a picnic table, and appropriate signage; (b) improve with gravel and provide appropriate signage at the existing car-top boat launch located about 1 mile east of the town beach; and (c) provide a canoe portage route, designed in consultation with Adirondack Mountain Club (ADK), including a take-out on the right side of the Upper Development's reservoir about 300 feet upstream of the dam, the use of existing roadways improved for the portage, a put-in at the Lower development's reservoir about 150 feet downstream of the bridge, and a take-out on the left side of the Lower Development's reservoir just upstream of the Lower Development dam with a put-in about 450 feet downstream of the Lower Development dam;

(a) The Licensee will construct a new car-top boat launch just west of the town beach, including gravel parking area, a picnic table, and appropriate signage. The Licensee will grade the existing area within the limits of the recreation easement, provide fill material as needed, and compact the material placed to construct the parking area and car-top boat launch. The parking area will accommodate 5-6 vehicles. The Licensee will provide a picnic table at the site from the start of Memorial Day weekend through Labor Day weekend. The Licensee will install a sign at the parking area/car-top boat launch in accordance with § 8 of the Code of Federal Regulations. Additionally, the Licensee will install a 10 hp motor limitation sign near the boat launch. See the attached Exhibit G drawing, Sheet 3 of 3 for location and details of the parking area and car-top boat launch.

(b) The Licensee will grade and place additional gravel and compact as needed, the existing car-top boat launch located about 1 mile east of the town beach. The Licensee will install a sign denoting the car-top boat launch. Additionally, the Licensee will install a 10 hp motor limitation sign near the boat launch. See the attached Exhibit G drawing, Sheet 3 of 3 for location and details of the parking area.

(c) The Licensee will provide a canoe portage route, designed in consultation with Adirondack Mountain Club (ADK), including a take-out on the right side of the Upper Development's reservoir about 300 feet upstream of the dam, the use of existing roadways improved for the portage, a put-in at the Lower Development's reservoir about 150 feet downstream of the bridge, and a take-out on the left side of the Lower Development's reservoir just upstream of the Lower Development dam, with a put-in about 450 feet downstream of the Lower Development dam, on river left. A portion of the Lower Development portage will utilize the shoulder of the county road. See the attached Exhibit G drawings, Sheets 1 and 2, of 3 for location of the canoe access areas and the canoe portages.

(d) The schedule for constructing the recreational enhancements identified above is to have these measures in place by January 2006.

(2) measures for soil erosion and sedimentation control during the construction of the recreational facilities;

The enclosed drawing entitled "Standard Details - Erosion Control System" will be utilized in the construction of the recreational facilities.

(3) measures to provide permanent recreational easements for the duration of the project's license to ensure recreational access for the two boat launches and canoe take-out and portage from the upper reservoir;

The attached Exhibit G drawing, Sheet 3 of 3, denotes the project boundary of the Upper Reservoir and shows the permanent recreational easements within the project boundary, which ensures the recreational access for the two boat launches and canoe take-out and portage from the upper reservoir, for the duration of the project's license. This drawing was submitted to the Commission on December 20, 2004 in accordance with License Article 407.

(4) provisions to allow public access to all licensee-owned lands within the project boundary at the Upper and Lower Developments. The licensee shall limit public access to lands and facilities specifically related to hydroelectric generation including, but not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities;

The Licensee will allow public access to all lands within the project boundary of the Upper and Lower Developments with the exception of those lands and facilities specifically related to hydroelectric generation where public safety and security issues are a concern. Lands and facilities where public access will be precluded include, but are not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities.

(5) measures to monitor the use of project recreational facilities consistent with the requirements of the FERC Form 80 reporting;

The FERC Form 80 assembles information on public use of the recreational facilities which consists of the two car-top boat launches and canoe access areas and portages for the Newton Falls Project. The Licensee's employees will be instructed to observe the usage of the facilities and periodically note the numbers of the public using these facilities. Once every six years, the completed FERC Form 80, identifying the amount of public usage, will be filed with the Commission.

(6) measures to manage the facilities over the term of any new license issued;

The Licensee will operate, maintain and manage the recreational enhancements identified within the context of this plan. At least annually, the Licensee will inspect the recreational facilities and schedule any needed maintenance work before the onset of the recreational season. Additionally, periodic inspections will also occur during the recreation season and any needed maintenance identified will be performed.

(7) a schedule for consulting with the parties of the Settlement to examine further opportunities to develop access to project lands. The licensee shall file the summary of the consultation and any proposed action with the Commission;

Five (5) years after Commission approval of the recreation plan and every six (6) years thereafter, the Licensee will consult with the parties of the Settlement to examine further any reasonable opportunities to develop access to project lands and waters. The FERC Form 80 will serve as a basis for any further development of public access to project lands and waters. The FERC Form 80 assembles information on public use of the recreational facilities and is filed with the Commission every six years.

(8) a discussion of how the needs of the disabled were considered in the planning and design of each recreation facility.

The Licensee will provide one designated handicapped accessible parking space in the parking area just west of the town beach. A sign displaying the International Symbol of Accessibility will be installed at the designated parking area. Additionally, the picnic table to be placed in this area will conform to the requirements of the American with Disabilities Act Standards for Accessible Design.

LARGE-FORMAT IMAGES

One or more large-format images (over 8½" X 11") go here. These images are available in E-Library at:

For Large-Format(s):
Accession No.: 20050311-0245

Security/Availability:

- [X] PUBLIC
- [ ] NIP
- [ ] CEII
- [ ] NON-PUBLIC/PRIVILEGED

File Date: 3/8/05 Docket No.: P 7000-015

Parent Accession No.: 20050311-0244

Set No.: 1 of 1

Number of page(s) in set: 4

NEWTON FALLS PROJECT
FERC PROJECT NO. 7000-015 NY

LICENSE ARTICLE 406
DRAFT RECREATION PLAN

JANUARY 2005

DRAFT

NEWTON FALLS PROJECT
FERC PROJECT NUMBER 7000 NY

LICENSE ARTICLE 406
DRAFT RECREATION PLAN

JANUARY 2005

DRAFT

NEWTON FALLS PROJECT
FERC PROJECT NUMBER 7000 NY

LICENSE ARTICLE 406
RECREATION PLAN

Article 406. Within one year after the effective date of the license, the licensee shall file for Commission approval a recreation plan to implement the requirements of Section 3.5.1 of Appendix B to this order. The plan, at a minimum, shall include the requirements of Section 3.5.1 and the following:

(1) Description of measures, including final design drawings and construction schedule, to: (a) construct one new car-top boat launch just west of the town beach, including a gravel parking area, a picnic table, and appropriate signage; (b) improve with gravel and provide appropriate signage at the existing car-top boat launch located about 1 mile east of the town beach; and (c) provide a canoe portage route, designed in consultation with Adirondack Mountain Club (ADK), including a take-out on the right side of the Upper Development's reservoir about 300 feet upstream of the dam, the use of existing roadways improved for the portage, a put-in at the Lower development's reservoir about 150 feet downstream of the bridge, and a take-out on the left side of the Lower Development's reservoir just upstream of the Lower Development dam with a put-in about 450 feet downstream of the Lower Development dam;

(2) measures for soil erosion and sedimentation control during the construction of the recreational facilities;

(3) measures to provide permanent recreational easements for the duration of the project's license to ensure recreational access for the two boat launches and canoe take-out and portage from the upper reservoir;

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NEWTON FALLS PROJECT
FERC PROJECT NUMBER 7000 NY

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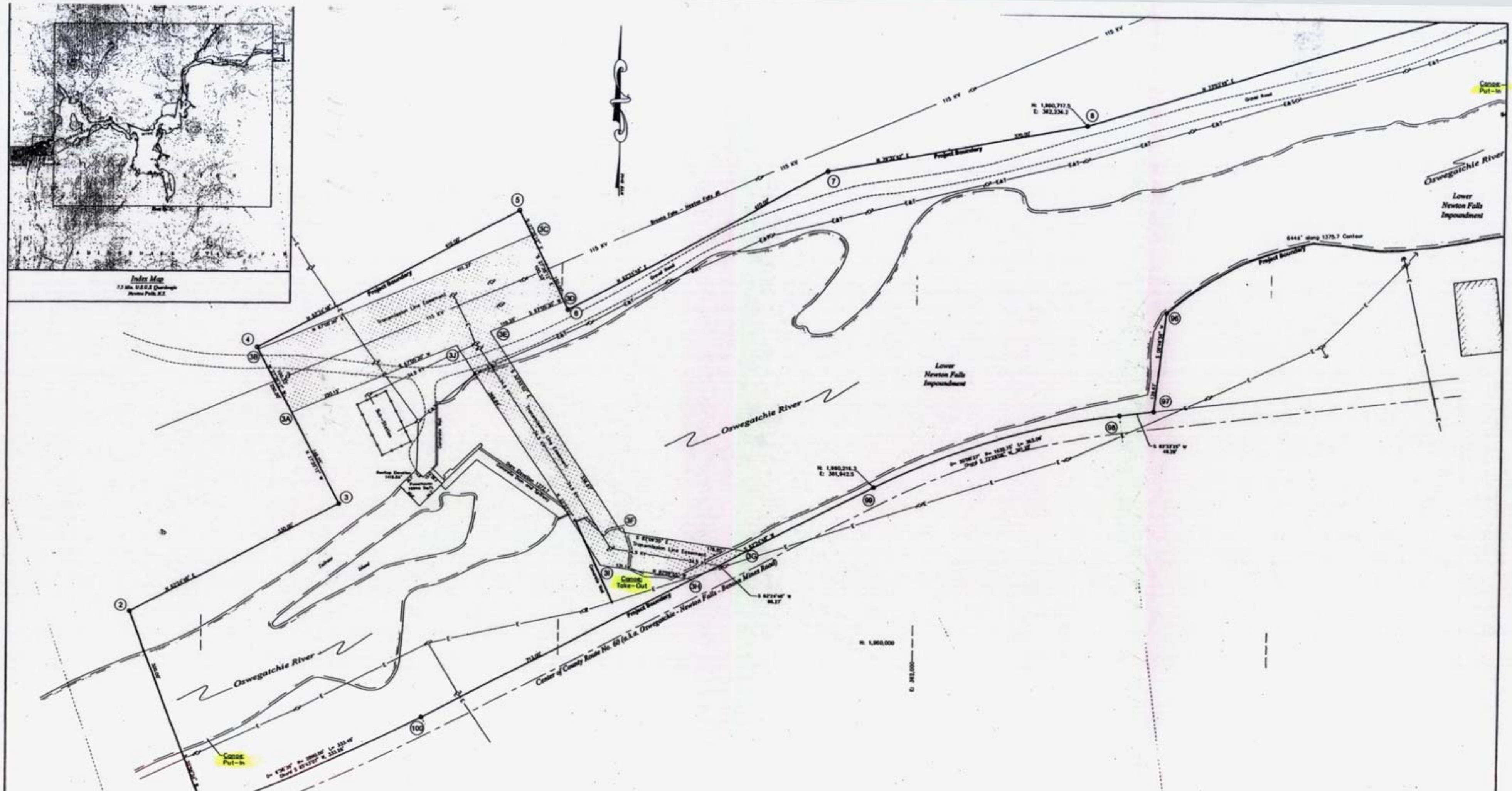


General Notes:

1. This survey is referenced horizontally to the North American Datum of 1983 (NAD83) and projected on the New York State Plane Coordinate System (East Zone) and vertically to the North American Vertical Datum of 1988 (NAVD88).
2. North arrow as shown indicates Grid North referenced to NAD83 and projected on the New York State Plane coordinate System (East Zone).
3. The referenced horizontal and vertical station is a New York State Department of Transportation (NYSDOT) monument stamped "RANGER". RANGER is an Order B Horizontal and a First Order Class I Ellipsoidal Height Station, established by NYSDOT in 1995.
4. Static GPS surveying techniques were utilized to establish horizontal and vertical control of the project site.
5. This site plan is based on an instrument survey completed by Thew Associates, P.L.L.C. (315/386-2776) on January 14, 2003.

Legend:

- Set 5/8-inch Rebar
- Utility Pole
- Guy Anchor
- Guy Pole
- Pole With Camera
- Pole With Intercom
- Light Pole
- Hydrant
- Well
- Guardrail
- Chain Link Fence

NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	11/22/04	Per Article 407 Requirements		TMS	TMS
2	02/01/04	License Effective Date			
1	08/13/03	Order Issuing New License			

ORIGINAL ISSUE DATE 08/13/2003

FILE NAME

FERC NO. 7000

EXHIBIT G

Brascan Power St. Lawrence River, LLC
LIVERPOOL, N.Y.

SHEET 1 of 3

NEWTON FALLS HYDROELECTRIC PROJECT

Recreation Plan

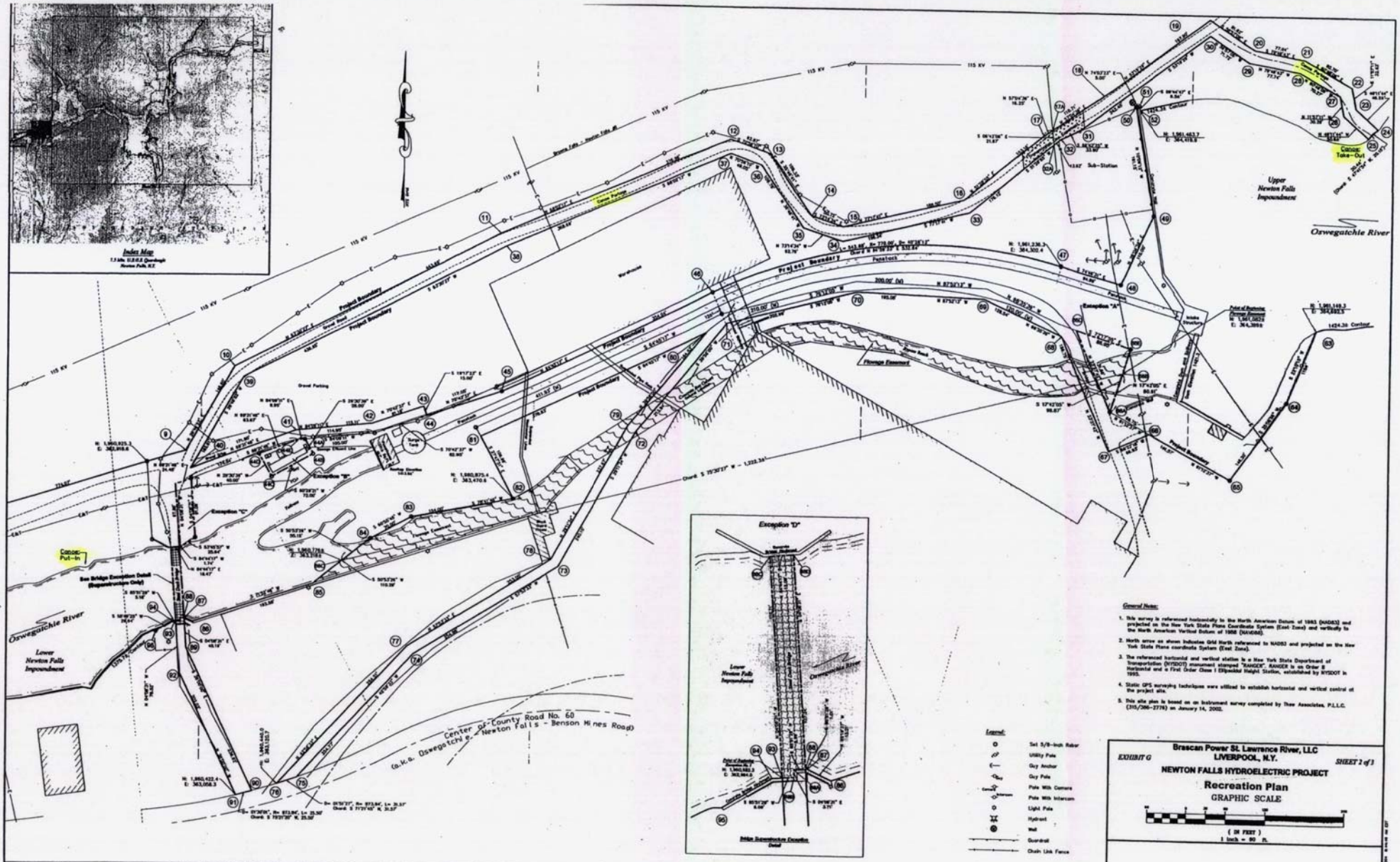
GRAPHIC SCALE

(IN FEET)
1 inch = 80 ft.

FERC NO. 7000

Public

05031102446.01-c01



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4. Static GPS surveying techniques were utilized to establish horizontal and vertical control at the project site.
5. This site plan is based on an instrument survey completed by Thee Associates, P.L.L.C. (315/266-2776) on January 14, 2002.

Brascan Power St. Lawrence River, LLC
LIVERPOOL, N.Y.

EXHIBIT G — SHEET 2 of 3

NEWTON FALLS HYDROELECTRIC PROJECT

Recreation Plan

GRAPHIC SCALE

(IN FEET)
1 inch = 80 ft.

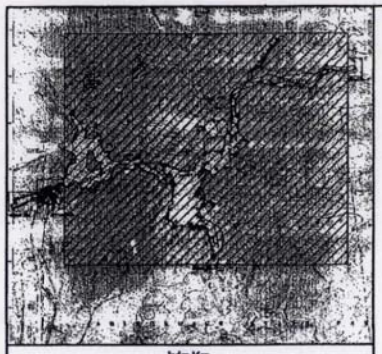
NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	11/22/04	Per Article 407 Requirements	TMS	TMS	
2	02/01/04	License Effective Date			
1	08/13/03	Order Issuing New License			

ORIGINAL ISSUE DATE: 08/13/2003

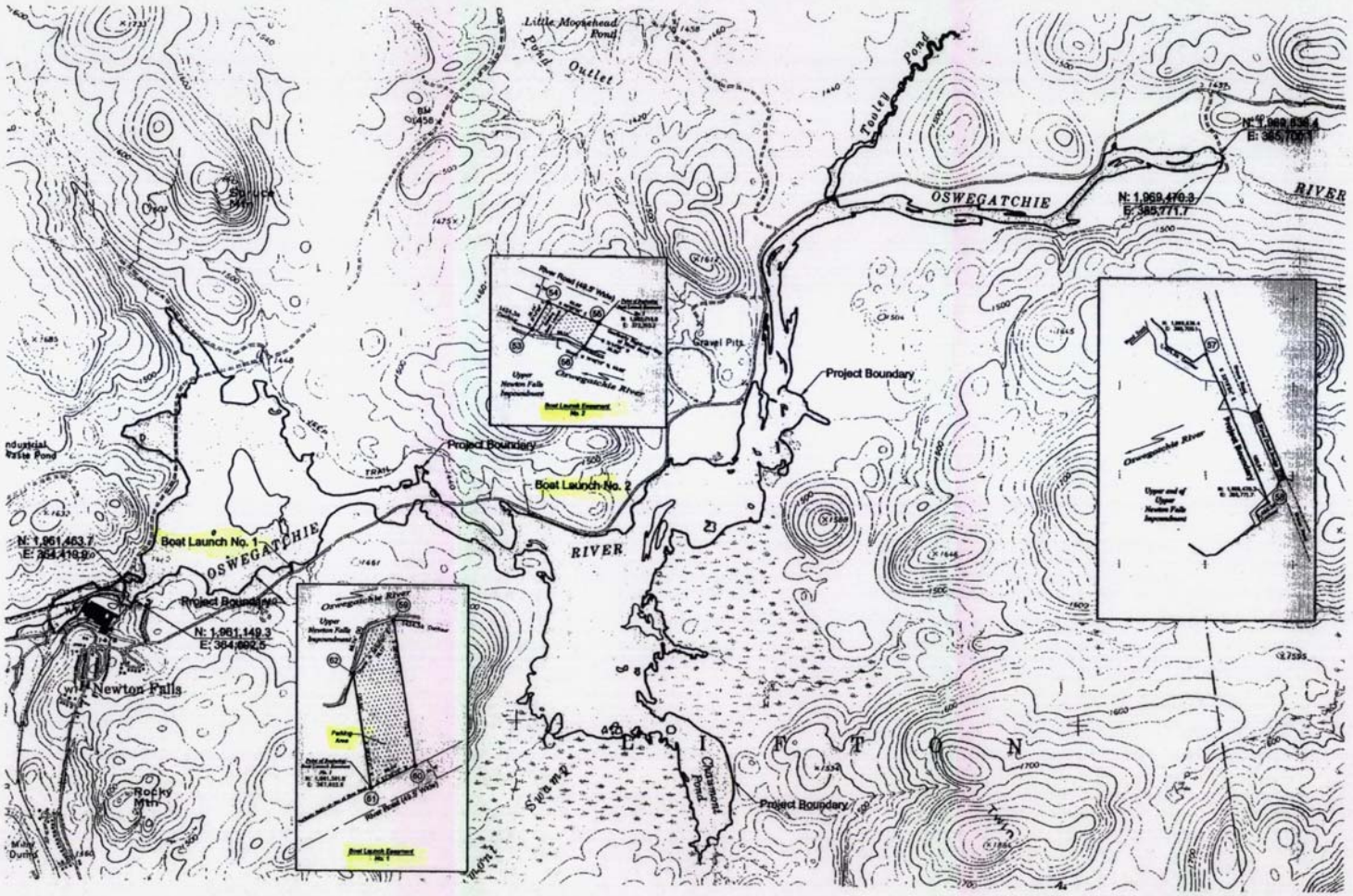
FILE NAME:

FERC NO. 7000

0303110246-01-002



Index Map
7.5 Min. U.S.G.S. Quadrangle
Newton Falls, N.Y.



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4. Static GPS surveying techniques were utilized to establish horizontal and vertical control at the project site.
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The property lines portrayed hereon were digitized from the underlying U.S.G.S. Quadrangle and are approximate only. The actual property lines are intended to follow the 1,424.3 foot contour and may include additional areas.

All islands above the 1,424.3 foot contour within the Upper Newton Falls Impoundment are excluded from the conveyance from Newton Falls Holdings, LLC to Erie Boulevard Hydropower, LP.

Brascan Power St. Lawrence River, LLC
LIVERPOOL, N.Y.

EXHIBIT G — SHEET 3 of 3

NEWTON FALLS HYDROELECTRIC PROJECT

Recreation Plan

GRAPHIC SCALE

(IN FEET)
1 inch = 1000 ft.

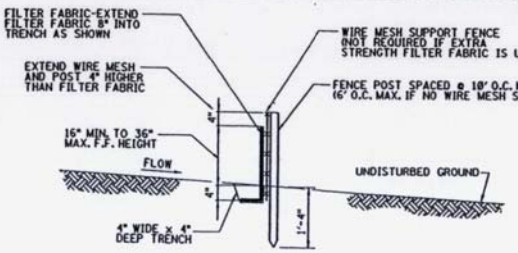
NO.	DATE	DESCRIPTION OF ISSUE OR REVISION	DR.	CK.	APP.
3	11/22/04	Per Article 407 Requirements		TMS	TMS
2	02/01/04	License Effective Date			
1	06/13/03	Order Issuing New License			

ORIGINAL ISSUE DATE 06/13/2003

FILE NAME

FERC NO. 7000

05031102 46-01-003



WOVEN FENCE DETAIL

SCALE: NONE

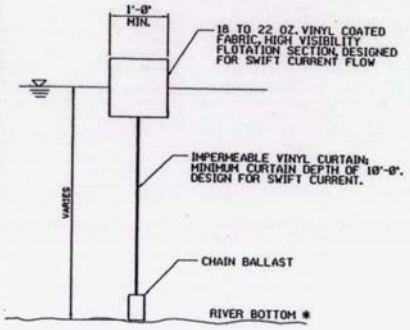
NOTES:

1. WIRE MESH SUPPORT FENCE SHALL BE FASTENED SECURELY TO THE UPSLOPE SIDE OF THE FENCE POSTS USING HEAVY DUTY WIRE STAPLES AT LEAST 1" LONG, TIE WIRES, OR HOG RINGS.
2. STANDARD STRENGTH AND EXTRA STRENGTH FILTER FABRIC SHALL BE STAPLED, WITH A MINIMUM OF FOUR (4) STAPLES PER POST, OR WIRED WITH A MINIMUM OF THREE (3) PIECES OF WIRE PER POST.
3. WHERE JOINTS ARE NECESSARY, FILTER FABRIC SHALL BE SPLICED TOGETHER ONLY AT SUPPORT POSTS, WITH A MINIMUM 6" OVERLAP AND FABRIC SECURELY SEALED.
4. IF DOUBLE ROWS OF SILT FENCE ARE INSTALLED, THEY SHALL BE SPACED APPROXIMATELY 10 FEET APART.
5. SILT FENCES ARE TO REMAIN IN PLACE UNTIL THE UPSLOPE AREAS HAVE BEEN PERMANENTLY STABILIZED AND UPON APPROVAL BY OWNER'S REPRESENTATIVE.
6. MAINTENANCE SHALL BE PERFORMED AS NEEDED AND MATERIAL REMOVED WHEN 'BULGES' DEVELOP IN THE SILT FENCE.

POSTS: STEEL, EITHER "T" OR "U" TYPE WITH MIN WGT. 1.00 LB/LF OR 2"x2" HARDWOOD

FENCE: WIRE FENCE REINFORCEMENT SHALL BE A MINIMUM OF 14 GAUGE AND HAVE A MAXIMUM MESH SPACING OF SIX (6) INCHES.

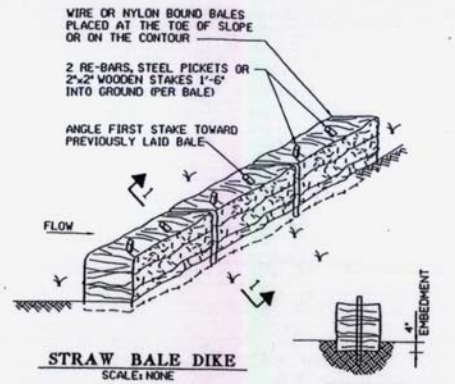
FILTER CLOTH: SYNTHETIC FILTER FABRIC SHALL BE A PERVIOUS SHEET OF PROPYLENE, NYLON, POLYESTER, OR ETHYLENE YARN, CERTIFIED BY THE MANUFACTURER AND MEET MINIMUM REQUIREMENTS FOR FILTERING EFFICIENCY AND TENSILE STRENGTH. IT MUST ALSO CONTAIN ULTRAVIOLET RAY INHIBITORS AND WITHSTAND A TEMPERATURE RANGE BETWEEN 0° F AND 120° F. (EX.: FILTER X, MIRAFI 100X, STABILINKA T140N OR APPROVED EQUAL)



TURBIDITY CURTAIN DETAIL

SCALE: NONE

NOTE: CONTRACTOR TO SUBMIT PROPOSED TURBIDITY CURTAIN SHOP DRAWINGS TO THE OWNER FOR REVIEW AND ACCEPTANCE PRIOR TO INSTALLATION.



STRAW BALE DIKE

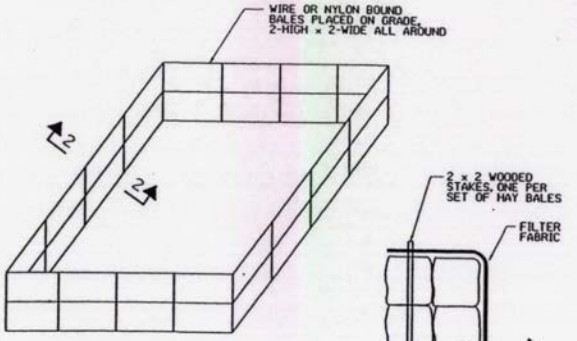
SCALE: NONE

NOTES:

1. BALES SHALL BE PLACED IN A ROW WITH ENDS TIGHTLY ABUTTING THE ADJACENT BALES.
2. INSPECTION SHALL BE FREQUENT AND REPAIR SHALL BE MADE PROMPTLY AS NEEDED.
3. BALES SHALL BE REMOVED WHEN THEY HAVE SERVED THEIR USEFULNESS.

SECTION 1-1

SCALE: NONE



SEDIMENTATION BASIN

SCALE: NONE

NOTES:
1. SIZE INTERIOR OF BASIN TO ACCOMMODATE VOLUME OF INFLOW WITHOUT OVERTOPPING.
2. BASIN IS TO BE CLEANED OF SEDIMENT AND/OR FABRIC CHANGED PERIODICALLY TO KEEP BASIN WORKING PROPERLY.

SECTION 2-2

SCALE: NONE

GENERAL NOTES

LANDSCAPING

THE AREAS TO BE LANDSCAPED SHALL INCLUDE ALL AREAS DISTURBED DURING CONSTRUCTION.

GRADING

AT THE COMPLETION OF THE WORK, THE VENDOR SHALL REGRADE THE WORK AREAS, AND ALL OTHER AREAS DISTURBED DURING CONSTRUCTION TO PROVIDE EVEN FREE-DRAINING SURFACES.

SEEDING

SEEDING SHALL BE APPLIED TO ALL SLOPES OF 15 PERCENT OR LESS.

AFTER ROUGH GRADING IS COMPLETE, ALL GROUND NOT LOOSE SHALL BE SCARIFIED TO A DEPTH OF AT LEAST 2" BEFORE SEEDING OR MULCHING, WITH ALL STONES AND DEBRIS IN EXCESS OF 2" TO BE REMOVED AND DISPOSED OF.

APPLICATION RATES SHALL BE AS FOLLOWS :
- FERTILIZER - 30 POUNDS OF 10-10-10 FERTILIZER PER 1,000 SUARE FEET
- LIMESTONE - 30 POUNDS PER 1,000 SQUARE FEET
- PERMANENT SEED - 4 POUNDS PER 1,000 SQUARE FEET (INCLUDING CROWN VETCH)
- TEMPORARY SEED - 3 POUNDS PER 1,000 SQUARE FEET
- MULCH - 100 POUNDS PER 1,000 SQUARE FEET

SEEDING MATERIAL

GRANULAR FERTILIZER SHALL CONTAIN THE FOLLOWING PERCENTAGES BY WEIGHT:

NITROGEN	10 PERCENT
PHOSPHORIC ACID	10 PERCENT
POTASH	10 PERCENT

WATER SOLUBLE FERTILIZER SHALL CONTAIN THE FOLLOWING PERCENTAGES BY WEIGHT:

NITROGEN	16 PERCENT
PHOSPHORIC ACID	32 PERCENT
POTASH	16 PERCENT

LIMESTONE SHALL HAVE THE FOLLOWING ANALYSIS : AT LEAST 50 PERCENT PASSING A NO. 100 SIEVE, 90 PERCENT PASSING A NO. 20 SIEVE, AND 100 PERCENT PASSING A NO. 10 SIEVE.

PERMANENT SEED SHALL BE PROPORTIONED BY WEIGHT AS FOLLOWS:

CREEPING RED FESCUE	50 PERCENT
ANNUAL RYEGRASS	20 PERCENT
PERENNIAL RYEGRASS	20 PERCENT
WHITE CLOVER	10 PERCENT

TEMPORARY SEED SHALL BE WINTER RYEGRASS OR ANNUAL RYEGRASS 100 PERCENT.

MULCH : HAY OR STRAW SHALL CONSIST OF LONG FIBERED HAY OR STRAW, REASONABLY FREE FROM NOXIOUS WEEDS AND OTHER UNDESIRABLE MATERIAL. WOOD FIBER MULCH SHALL CONTAIN NO GROWTH OR GERMINATION INHIBITING FACTORS, AND SHALL BE DYED GREEN.

EROSION CONTROL BLANKET

EROSION CONTROL BLANKETS SHALL BE PLACED OVER ALL DISTURBED AREAS WHICH REQUIRE LOAM AND WITH SLOPES OF 15 PERCENT OR GREATER.

ANCHOR BLANKETS AT THE TOP OF SLOPES WITH A 6" DEEP BY 6" WIDE TRENCH AND STAPLE WITH GROUND ANCHORS IN TO THE TRENCH. BACKFILL AND COMPACT TRENCH PRIOR TO ROLLING BLANKETS DOWN OR ACROSS THE SLOPE.

STAPLE ADJACENT BLANKETS WITH GROUND ANCHORS AT OVERLAPS AT A MAXIMUM SPACING OF 12". OVERLAPS SHALL BE AT LEAST 6".

THE BLANKETS SHALL BE FASTENED TO THE SOIL FOR SLOPES 2H:1V OR FLATTER WITH HEAVY DUTY STEEL, PLASTIC STAPLES, OR PINS WITH A MINIMUM LENGTH OF 18". WOOD STAPLES CAPABLE OF PENETRATING THE GROUND A MINIMUM OF 18" MAY ALSO BE USED. ANCHORS SHALL BE SPACED AT 36" ON CENTER MAXIMUM.

BLANKETS PLACED ON SLOPES STEEPER THAN 2H:1V BUT FLATTER THAN 1.5H:1V SHALL BE FASTENED TO THE SOIL WITH HEAVY DUTY STEEL PINS (NO. 3 REBAR) WITH A MINIMUM LENGTH OF 18". THE TOP OF EACH PIN WILL CONSIST OF A 2" LONG LEG BENT 90° TO THE PIN AXIS. ANCHORS SHALL BE SPACED AT 24" ON CENTER MAXIMUM.

SLOPES STEEPER THAN 1.5:1V SHALL BE PROTECTED WITH 2 FEET OF RIPRAP. RIPRAP SHALL RUN PERPENDICULAR TO THE SLOPE.

STANDARD DETAILS
EROSION CONTROL SYSTEM
HAY BALES, SILT FENCING & TURBIDITY CURTAIN
DETAILS AND GENERAL NOTES

ERIE BOULEVARD HYDROPOWER, L.P.

NONE | STD-ECS-1

NO.	DATE	ISSUED FOR CONSTRUCTION	P.J. MERRY	J.L. VIAU	J.L. VIAU	J.M. AUSER
0	3/19/02					

05031U246-01-004

NEWTON FALLS PROJECT
FERC PROJECT NO. 7000-015 NY

LICENSE ARTICLE 406
RECREATION PLAN

CORRESPONDENCE

BRASCAN
POWER-NEW YORK

January 4, 2005

TO: Attached Distribution List

SUBJECT: **Newton Falls Recreation Plan - Draft**
LP 7000 NY
License Article 406 - Draft Recreation Plan

Dear Mr. /Ms.:

In accordance with the ORDER ISSUING NEW LICENSE, issued on August 13, 2003 with an effective date of February 1, 2004, enclosed is Brascan Power St. Lawrence River, LLC's (Licensee) draft plan for the following license article:

Article 406 Recreation Plan (Draft Plan)

The Licensee would appreciate receiving your comments within 30 days from the date of this letter. Upon receipt of your comments, the Licensee will revise as appropriate the above-referenced plan and submit to the Commission.

If you have any questions about this submittal, please feel free to contact the undersigned at (315) 413-2789.

Very truly yours,

Thomas M. Skutnik

Thomas M. Skutnik, PE
St. Lawrence Production Center

Enclosure:

xc: Distribution List
T. L. Smith

Brascan Power New York
225 Greenfield Parkway, Suite 201, Liverpool, NY 13088 • Tel.: 315.413.2700 • Fax: 315.461.8577
www.brascanpower.com

DISTRIBUTION LIST

NEWTON FALLS RECREATION PLAN
FERC PROJECT NUMBER 7000 NY

Ms. Alice Richardson
New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
317 Washington Street
Watertown, NY 13601

Mr. David Stilwell
U.S. Fish & Wildlife Service
3817 Luker Road
Cortland, NY 13045

Ms. Betty Lou Bailey
Adirondack Mountain Club
4029 Georgetown Square
Schenectady, NY 12303-5300

George Outcalt
Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977

United States Department of the Interior

FISH AND WILDLIFE SERVICE
3817 Luker Road
Cortland, NY 13045

January 7, 2005

Mr. Tom Skutnik, PE
St. Lawrence Production Center
Brascan Power New York
225 Greenfield Parkway -- Suite 201
Liverpool, NY 13088

RE: Newton Falls Hydroelectric Project (FERC #7000)
Draft Recreation Plan

Dear Mr. Skutnik:

The U.S. Fish and Wildlife Service has reviewed the January 4, 2005, Draft Recreation Plan for the Newton Falls Hydroelectric Project. The plan adequately addresses the license requirements.

If you have any questions or need additional information, contact Steve Patch at 607-753-9334.

Sincerely,

David A. Stilwell
Field Supervisor

cc: NYSDEC, Watertown, NY (A. Richardson)
NPS, Boston, MA (D. Hay)

New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources
Bureau of Habitat, Instream Habitat Protection Unit
Dulles State Office Building, 317 Washington Street, Watertown, New York 13601-3787
Phone: (315) 785-2267 • FAX: (315) 785-2242
Website: www.dec.state.ny.us

Erin M. Crotty
Commissioner

January 24, 2005

Mr. Thomas Skutnik, PE
St. Lawrence Production Center
Brascan Power New York
227 Greenfield Parkway, Suite 201
Liverpool, NY 13088

RE: Newton Falls Hydroelectric Project
FERC # 7000
License Article 406 - Draft Recreation Plan

Dear Mr. Skutnik:

The Department of Environmental Conservation (the Department) has reviewed the January 4, 2005, Draft Recreation Plan for the Newton Falls Hydroelectric Project. The plan appears consistent with the license requirements, however the plan doesn't incorporate all the requirements stated in the Offer of Settlement dated May 2002.

Section 3.5.1 item "(a) Car-top Boat Launches:" states,

> "The Licensee shall construct a small, gravel car-top boat launch just west of the town beach along with a gravel parking area to accommodate 5-6 cars adjacent to the boat launch with appropriate signage, including a 10 HP motor limitation sign. A picnic table will be provided at this access area. Additionally, an informal car-top boat launch, currently existing about one mile east of the town beach, shall be improved with gravel and the Licensee shall install appropriate signage, including a 10 HP motor limitation sign. Roadside parking immediately east of the boat launch currently exists."

The Department requests the following additions are made to the recreation plan to make it consistent with conditions agreed to in the Offer of Settlement:

1. A 10 hp motor limitation sign is posted at each boat launch site.
2. That the plan clearly shows the parking area constructed for the boat launch just west of the town beach will accommodate parking for 5-6 cars.

Thank you for the opportunity to make comments on the recreation plan. If you have any questions I can be contacted at (315) 785-2267.

Sincerely,

Alice P.M. Richardson
Biologist 1 (ecology)
Instream Habitat Protection Unit

cc: S. Patch (USFWS)
A. Schiavone (NYSDEC)
F. Flack (NYSDEC)
B. Fenlon (NYSDEC)
B. Little (NYSDEC)
D. Hay (NPS)
G. Outcalt (APA)
B. Bailey (ADK)

Adirondack
ADK
Mountain Club

4029 Georgetown Square
Schenectady, NY 12303-5300
518-355-0604
January 26, 2005

Conservation
◆
Education
◆
Recreation
Since 1922

Thomas M. Skutnik
Brascan Power - New York
225 Greenfield Parkway - Suite 201
Liverpool, NY 13088-6656

Re: Draft Recreation Plan for Newton Falls
FERC #7000

Reacreation Season

On page 3, item (1)(a) proposes that the picnic table be present "from the start of Memorial Day weekend thru Labor Day weekend". This seems to be very brief to us, so ADK suggests May 1 thru Columbus Day weekend instead.

Overlap with Town Beach

On your sheet 3, it shows "Boat Launch No. 1" with an enlarged view, but does not include the town beach. I checked the town beach location by going to the license application, Fig. E(5)-1. Thus it seems that the planned location per the draft recreation plan would put the car-top boat launch mostly on top of the west side of the town beach rather than just west of the town beach as per the settlement and license. In all likelihood, since the survey work was done in January 2002 (per general note 5 on the drawing), it may have been hard to identify the town beach location due to snow cover.

Member Services Center
814 Goggins Road
Lake George, NY 12845-4117
Phone: 518-668-4447
Fax: 518-668-3746
E-mail: adkinfo@adk.org
Web site: www.adk.org

Heart Lake Program Center
P.O. Box 867
Lake Placid, NY 12946-0867
Reservations: 518-523-3441
Office: 518-523-3480
Fax: 518-523-3518

Public Affairs Office
301 Hamilton Street
Albany, NY 12210-1736
Phone: 518-449-3870
Fax: 518-449-3875

Put-in on Lower Impoundment

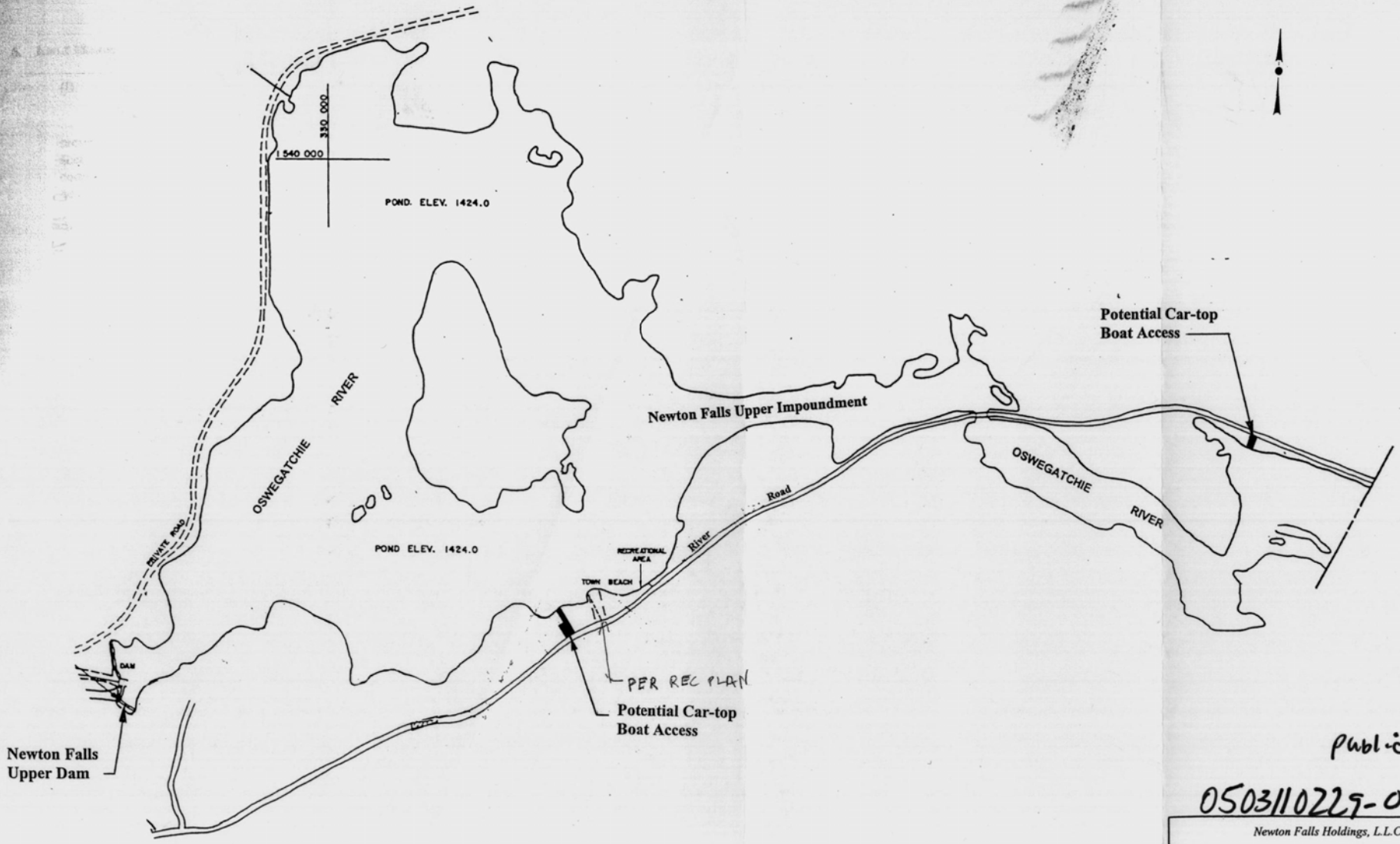
The canoe put-in shown on the left side of SH 2 is in the correct general location. However, the arrowhead is pointing to a section of bank that sticks out into the stream where the current is stronger. If you think like a canoeist, the arrowhead would go to the indentation in the bank where the current is less. This then involves only a tiny (1/16 inch) movement of the arrowhead to the right.

Thanks for highlighting the recreation features of these three "busy" sheets so we could readily find the features of interest. Susan Omohundro and I are pleased to have had this opportunity to comment. We expect that ADK members and others will enjoy these recreation features.

Betty Lou Bailey

Betty Lou Bailey, Chrm
Canoe Route Subcommitee

cc: R. Ringlee, T. McGuire, S. Omohundro, ADK
A. Richardson-DEC, G. Outcalt-AP
D. Hay-NPS, S. Patch, F&WS



SCALE: 1"= approx. 640'

Public

0503110229-01-C01

Newton Falls Holdings, L.L.C.

Newton Falls Hydroelectric Project

Potential Boat Access Locations

FIGURE E(5)-1

114 FERC ¶ 62,140
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Brascan Power St. Lawrence River, LLC Project No. 7000-027

ORDER APPROVING RECREATION PLAN UNDER ARTICLE 406

(Issued February 09, 2006)

On March 8, 2005, Brascan Power St. Lawrence River, LLC (licensee) filed a Recreation Plan (plan) pursuant to article 406 of the license for the Newton Falls Project (FERC No. 7000).[1] The project is located on the Oswegatchie River in St. Lawrence County, New York.

BACKGROUND

Article 406 of the project license requires that within one year after the effective date of the license, the licensee shall file for Commission approval a Recreation Plan consistent with the Offer of Settlement.[2] The plan, at a minimum, shall include the requirements of Section 3.5.1 and the following:

> (1) Description of proposals, including final design drawings and construction schedule, to: (a) construct one new car-top boat launch just west of the town beach, including a gravel parking area, a picnic table, and appropriate signage; (b) improve with gravel and provide appropriate signage at the existing car-top boat launch located about 1 mile east of the town beach; and (c) provide a canoe portage route, designed in consultation with Adirondack Mountain Club (ADK), including a take-out on the right side of the Upper Development's reservoir about 300 feet upstream of the dam, the use of existing roadways improved for the portage, a put-in at the Lower development's reservoir about 150 feet downstream of the bridge, and a take-out on the left side of the Lower Development's reservoir just upstream of the Lower Development dam with a put-in about 450 feet downstream of the Lower Development dam;
>
> (2) measures for soil erosion and sedimentation control during the construction

[1] 100 FERC ¶ 62,171 (2002)

[2] 104 FERC ¶ 62,118 (2003)

of the recreational facilities;

(3) measures to provide permanent recreational easements for the duration of the project's license to ensure recreational access for the two boat launches and canoe take-out and portage from the upper reservoir;

(4) provisions to allow public access to all licensee owned lands within the project boundary at the Upper and Lower Developments. The licensee shall limit public access to lands and facilities specifically related to hydroelectric generation including, but not necessarily limited to, dams, dikes, gates, intake structures, water conveyance structures, powerhouses, substations, transmission lines, and certain access roads leading to such facilities;

(5) measures to monitor the use of project recreational facilities consistent with the requirements of the FERC Form 80 reporting;

(6) measures to manage the facilities over the term of the license;

(7) a schedule for consulting with the parties of the Settlement to examine further opportunities to develop access to project lands. The licensee shall file the summary of the consultation and any proposed action with the Commission; and

(8) a discussion of how the needs of the disabled were considered in the planning and design of each recreation facility.

The licensee is to file the revised plan after consulting with the U.S. Fish and Wildlife Service (USFWS), New York State Department of Environmental Conservation (NYDEC), Adirondack Park Agency (APA), and the ADK.

DESCRIPTION OF PLAN

Pursuant to the requirements outlined in article 406, the licensee identified the eight major parts of its plan. Further, the plan contains a series of site maps as well as diagrams of the new structures to be built as part of the facility improvements.

Description of Improvements

The licensee will: (a) construct a new car-top boat launch just west of the town beach; (b) improve with gravel and provide appropriate signage at the existing car-top boat launch; and (c) provide a canoe portage route by improving existing roadways, and providing a new take-out just upstream of the Lower Development's dam and take-out downstream of the dam.

Erosion

The licensee proposes measures for soil erosion and sedimentation control during construction of the recreational facilities by utilizing an Erosion Control System.

Permanent Recreational Easements

The licensee will provide permanent recreational easements within the project boundary to ensure recreational access for the two boat launches and canoe take-out and portage from the upper reservoir for the duration of the project's license.

Public Access

The licensee will allow public access to all lands within the project boundary of the Upper and Lower Developments with the exception of those lands and facilities specifically related to hydroelectric generation where public safety and security issues are a concern. Lands and facilities where public access will be precluded include, but are not limited to, dams, dikes, gates, intake structures, water conveyance structures powerhouses, substations, transmission lines, and certain access roads leading to such facilities.

FERC Form 80

The licensee will monitor the use of the facilities and periodically note the amount of public use at these facilities. The licensee states that once every six years they will complete and file the FERC Form 80 with the Commission.

Managing Facilities over License Term

The licensee will operate, maintain, and manage the recreational enhancements identified within the context of the plan. Annually, before the onset of the recreational season, the licensee will inspect the recreational facilities and schedule any needed maintenance work. Additionally, during the recreational season, periodic inspections will occur and needed maintenance will be identified and completed.

Consulting with Parties

Five years after the Commission approves the recreation plan and every six years thereafter, the licensee will consult with the parties of the Settlement to examine further opportunities to develop the access project lands and waters. The FERC

Form 80 will serve as a basis for any further development of public access to project lands and water, and to assemble information on public use and facilities.

Americans with Disabilities Act

The licensee will provide one designated handicapped accessible parking space in the parking area just west of the town beach. A sign displaying the International Symbol of Accessibility will be installed at the designated parking area. Additionally, a picnic table will be placed in this area to conform to the requirements of the Americans with Disabilities Act Standards for Accessible Design.

AGENCY CONSULTATION

The plan was distributed to the appropriate agencies and comments regarding the revised recreation plan were received from the USFWS, NYDEC, and ADK. On January 7, 2005 the USFWS stated the plan adequately addresses the license requirements. The NYDEC commented on January 24, 2005, that the plan is consistent with the license requirements. The NYDEC notes that a 10 horsepower (hp) motor limitation sign should be posted at each boat launch. Additionally, the plan should clearly show the parking area constructed for the boat launch just west of the town beach will accommodate parking for 5-6 vehicles. The licensee notes that the sign at each boat launch is included in the final plan and the plan has been revised to denote the parking for 5 to 6 vehicles in the appropriate location.

On January 26, 2005, the ADK commented that the plan was acceptable but offered several suggestions. The ADK suggested extending the recreation season from May 1 to Columbus Day weekend. The ADK also suggested that the boat launch and parking area be relocated just west of the town beach, and that the canoe put-in location be moved just slightly to the right to go with the indentation in the bank where the current is less. The licensee responded by stating the final placement of the boat launch, parking area, and put-in will be finalized during a site visit between the licensee and interested parties. The visit will be scheduled by the licensee and the as-built drawing will denote the location.

DISCUSSION AND CONCLUSION

The recreation plan incorporates all the agency recommendations and adequately addresses the requirements of article 406. The licensee should file as-built drawings for all recreational facilities constructed.

The licensee’s recreation plan, as modified by Commission staff, provides for the maintenance and improvement of recreation facilities at the Newton Falls project. With the changes and conditions discussed above, the plan should be approved.

The Director's orders:

(A) The recreation plan filed March 8, 2005, pursuant to article 406 of the Newton Falls Project license is approved.

(B) On or before December 31, 2006, the licensee shall file for Commission approval, as-built drawings showing the location and layout of the completed facilities in relation to the project boundary.

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

John E. Estep
Chief, Land Resources Branch
Division of Hydropower
Administration and Compliance