

**New York State Department of Environmental Conservation
Division of Environmental Permits, Region 5**

232 Hudson Street - P. O. Box 220, Warrensburg, New York 12885-0720
Phone: (518) 623-1281 • FAX: (518) 623-3603
Website: www.dec.state.ny.us



Erin M. Crotty
Commissioner

P-2554

February 5, 2002

Samuel S. Hirschey, Manager
Hydro Licensing & Regulatory Compliance
Erie Boulevard Hydropower, L.P.
225 Greenfield Parkway, Suite 201
Liverpool, New York 13088

Re: Feeder Dam Hydroelectric Project
DEC Project #5-5234-00467/00001
FERC Project # 2554
Queensbury and Moreau (T), Warren and Saratoga (Co.)

**FERC - NYRO
RECEIVED**

FEB 12 2002

NEW YORK, NY

Dear Mr. Hirschey:

Enclosed is the Water Quality Certificate for the Feeder Dam 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's regulations pertaining to the Use and Protection of Waters (6 NYCRR Part 608).

Should you have any questions regarding the Water Quality Certificate, please contact me.

Sincerely,

Thomas W. Hall
Acting Regional Permit Administrator

TWH:jd

Enclosure (1)

cc: Service List
Signatories List
Magalie R. Salas, Secretary-FERC
Thomas DeWitt, FERC
J. Sabattis, Orion
L. Kuwik, NYS DEC
W. Sarbello, NYS DEC
A. Richardson, NYS DEC
W. Little, NYS DEC
File

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DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



WATER QUALITY
Certificate

DEC APPLICATION NUMBER 5-5234-00467/00001		EFFECTIVE DATE February 5, 2002	
FACILITY/PROGRAM NUMBER(S) FERC Project # 2554		EXPIRATION DATE(S) COINCIDENT WITH EXPIRATION DATE OF THE LICENSE ISSUED BY THE FEDERAL ENERGY REGULATORY COMMISSION (FERC) FOR FERC PROJECT #2554	
CERTIFICATE ISSUED TO Erie Boulevard Hydropower, L.P.		TELEPHONE NUMBER (315) 413-2790	
ADDRESS OF RECIPIENT 225 Greenfield Parkway, Suite 201, Liverpool, New York 13088			
CONTACT PERSON FOR RECIPIENT Samuel S. Hirschey, Manager - Hydro Licensing & Regulatory Compliance		TELEPHONE NUMBER (315) 413-2790	
NAME AND ADDRESS OF PROJECT/FACILITY Feeder Dam Project			
LOCATION OF PROJECT/FACILITY The Feeder Dam Project (FERC Project # 2554) is located approximately at river mile 203 of the Hudson River.			
COUNTY Warren and Saratoga	TOWN Queensbury and Moreau	WATERCOURSE Hudson River	NYTM COORDINATES E: 608.2 N: 4793.9
DESCRIPTION: Operation and maintenance of a 6 MW hydroelectric facility on the Hudson River in accordance with the applicable provisions of the Upper Hudson/Sacandaga River Offer of Settlement dated March, 2000 and the attached Conditions.			

By acceptance of this certificate, the certificate holder agrees that it will act in strict compliance with the applicable water quality sections of the Environmental Conservation Law (ECL), all applicable water quality regulations, the conditions included as part of this certificate and the provisions of the Upper Hudson/Sacandaga River 'Offer of Settlement' dated March 27, 2000 and filed with the Federal Energy Regulatory Commission (FERC).

DEPUTY REGIONAL PERMIT ADMINISTRATOR Thomas W. Hall	ADDRESS 232 Hudson Street, Warrensburg, NY 12885-0220	
AUTHORIZED SIGNATURE <i>Thomas W. Hall</i>	DATE 2/5/02	PAGE 1 OF 6

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WATER QUALITY CERTIFICATION

CERTIFICATION

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", dated December 20, 1991 and the "Amendment for New License Application and Request for Waiver of Deadline for Final Amendments", (hereafter collectively referred to as "**the Application**") and all other available pertinent information, including studies submitted in support of the Application and the Offer of Settlement filed with the Federal Energy Regulatory Commission (FERC) in March, 2000 which includes "Technical Corrections" filed with the FERC on July 30, 2001 (hereafter collectively referred to as "**the Settlement**");
- 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.

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
232 Hudson Street, P.O. Box 220
Warrensburg, NY 12885

Note: 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 Upper Hudson/Sacandaga River 'Offer of Settlement' ("**Settlement**") dated March 27, 2000.

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 March 27, 2000, 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 subsection 2.8), the following procedures shall apply to activities conducted at the Project in response to an emergency:

Prior to commencement of emergency activities, the NYS DEC 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 NYS DEC is not possible, then the NYS DEC 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 permitted 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. **Base Flow:** The certificate holder shall maintain a Base Flow, as this term is defined at subsection 1.14 of the **Settlement**, in the Hudson River in accordance with the entirety of subsection 7.3 of the **Settlement**.

6. Flow Monitoring: The certificate holder shall develop a stream flow and water level monitoring plan for the Feeder Dam Project that is consistent with the **Settlement**, in particular, subsection 2.12 of the **Settlement**.
7. Impoundment Fluctuations: The Feeder Dam impoundment shall be operated in accordance with the **Settlement**, in particular subsection 7.1. In addition, wooden flashboards will be maintained and partial pneumatic flashboards will be installed in accordance with the provisions of subsection 7.1.1 of the **Settlement**.
8. Fish Protection and Downstream Fish Movement: Fish protection provisions and downstream fish movement provisions shall be provided in accordance with the **Settlement**. (See subsections 2.8, 2.11 and 7.2).

C. PROJECT MAINTENANCE AND CONSTRUCTION

Note #1: The following conditions pertaining to "Project Maintenance and Construction" are applicable only to the structures and lands owned or controlled by the Certificate Holder. Such structures include the powerhouse, the forebay, the tailrace, the partial pneumatic flashboards (see subsection 7.1.1 of the **Settlement**) and appurtenant facilities and equipment. The following conditions are NOT applicable to the Feeder Dam or the Feeder Canal control gate as neither is owned by the Certificate Holder.

Note #2: All matters pertaining to "Project Maintenance and Construction" shall be addressed to:

Regional Permit Administrator
New York State Department of Environmental Conservation
232 Hudson Street, P.O. Box 220
Warrensburg, NY 12885

9. Maintenance Dredging: The certificate holder shall curtail generation and install stoplogs or otherwise shut off flow through the turbines prior to commencing any maintenance dredging activities in the intake/forebay areas 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 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 controls measures, at minimum, are adhered to during routine maintenance and construction that may result in sediments and/or contaminants entering the Hudson River.

- a. 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 Hudson River.
 - b. Prohibit heavy construction equipment from operating below the mean high water level of the Hudson River until the work area is protected by a watertight structure and de-watered.
 - c. Minimize soil disturbance, grade so as to prevent or minimize erosion and provide temporary and permanent stabilization of all disturbed areas and stockpiles to minimize the potential for erosion and subsequent sedimentation within the Hudson River.
 - d. 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.
 - e. Install and maintain erosion control structures on the down slope of all disturbed areas to prevent eroded material from entering the Hudson 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.
 - f. Ensure complete removal of all dredged/excavated material and construction debris from the bed and banks of the Hudson River in the vicinity of the Project.
 - g. Ensure that all temporary fill and other materials placed in the waters of the Hudson 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 Hudson River: The design of all such structures must be approved by the Department prior to installation.
 13. Construction Drawdowns: Whenever construction and/or maintenance activities requires lowering the water level of the Project's impoundments below normal operating limits, the water level 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.
 14. River Flow: During any period of maintenance and/or construction activity, the certificate holder shall continuously maintain adequate flows immediately downstream of work sites as provided for in this certificate.

15. Turbidity Monitoring: During maintenance or construction-related activities in or near the Hudson River, the certificate holder will monitor the turbidity of 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 remediated such that turbidity is returned to a pre-construction condition.
16. Notifications: The Regional Permit Administrator must be notified in writing at least two weeks prior to commencing any work performed under the authority of this certificate.

D. PUBLIC ACCESS

17. Public access and recreational opportunities at the Feeder Dam Project shall be provided in conformance with the **Settlement**.

cc: Settlement Participants
Magalie R. Salas, FERC