

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

April 12, 2004

Mr. Jerry Sabattis
Erie Boulevard Hydropower LP
225 Greenfield Parkway, Suite 201
Liverpool NY 13088

RE: Piercefield Hydroelectric Project
DEC ID #6-4068-00013/00003
FERC Project #7387
Piercefield (T), St. Lawrence County

FILED
OFFICE OF THE
SECRETARY
2004 APR 19 P 4: 29
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Mr. Sabattis:

Enclosed is the Water Quality Certification for the Piercefield Hydroelectric Project. The certificate is being issued pursuant to Section 401 of the Federal Water Pollution Control Act (33USC1341) and Section 608.9 of the New York Department of Environmental Conservation's regulations pertaining to the Use and Protection of Waters (6NYCRR, Part 608).

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

Sincerely,

Brian D. Fenlon

Brian D. Fenlon, Supervisor
Environmental Permits
Region 6

BDF:LA:mjw

cc: Magalie R. Salas, Secretary FERC
Service List
Settlement Participants
Mark Woythal, DEC

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



WATER QUALITY
Certificate

DEC APPLICATION NUMBER 6-4068-00013/00003		EFFECTIVE DATE 4/7/2004	
FACILITY/PROGRAM NUMBER(S) FERC Project # 7387		EXPIRATION DATE(S) COINCIDENT WITH EXPIRATION DATE OF THE LICENSE ISSUED BY THE FEDERAL ENERGY REGULATORY COMMISSION (FERC) FOR FERC PROJECT #7387	
CERTIFICATE ISSUED TO Erie Boulevard Hydropower LLC.		TELEPHONE NUMBER 315-413-2700	
ADDRESS OF RECIPIENT 225 Greenfield Parkway, Suite 201, Liverpool, New York 13088			
CONTACT PERSON FOR RECIPIENT Jerry Sabattis, Hydro Licensing Coordinator		TELEPHONE NUMBER 315-413-2787	
NAME AND ADDRESS OF PROJECT/FACILITY Piercefield Hydroelectric Project, Piercefield, NY			
LOCATION OF PROJECT/FACILITY On the Raquette River, at the Hamlet of Piercefield			
COUNTY St Lawrence/Franklin	TOWN Piercefield/Altamont	WATERCOURSE Raquette River	NYTM COORDINATES E:534.675 N: 4897.884
DESCRIPTION: Operation and Maintenance of the Piercefield Hydroelectric Project in accordance with the attached Conditions and the applicable provisions of the Piercefield Hydroelectric Settlement Agreement dated August 19, 2003.			

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 water quality regulations, the conditions included as part of this certificate and the provisions of the Piercefield Hydroelectric Project Settlement Agreement dated August 19, 2003, and filed with the Federal Energy Regulatory Commission (FERC).

REGIONAL PERMIT ADMINISTRATOR Brian D. Fenlon	ADDRESS 317 Washington Street, Watertown, NY 13601	
AUTHORIZED SIGNATURE <i>Brian D Fenlon</i>	DATE 4/7/2004	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.

WATER QUALITY CERTIFICATION**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 Settlement Agreement filed with the Federal Energy Regulatory Commission (FERC) in October, 2003;
 - 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 Piercefield Hydroelectric Project Settlement Agreement ("Settlement") dated August 19, 2003.
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 August 19, 2003, 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 and 3.4), 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:

DEC PERMIT NUMBER	6-4068-00013/00003	PAGE 3 OF 5
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- 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 Raquette River.
 - b) Prohibit heavy construction equipment from operating below the mean high water level of the project reservoir and the Raquette River until the work area is protected by a watertight structure and dewatered.
 - c) 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 the project reservoir or the Raquette 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 project reservoir or the Raquette 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 project reservoir and the Raquette River in the vicinity of the Project.
 - g) 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 Raquette River or the project reservoir: 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 Raquette River or the project reservoir, 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 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, (see Section 3.5).

cc: Settlement Participants
M. Salas, FERC
Service List, FERC Project #7387

DEC PERMIT NUMBER	6-4068-00013/00003	PAGE 5 OF 5
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Document Content(s)

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