

ORIGINAL

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REGULATORY ENERGY
REGULATORY
COMMISSION



Michael D. Zagata
Commissioner

August 24, 1995

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

Re: Beaver River Project
DEC No. ~~6-5906-00004~~/00001-9
FERC No. 2645-029
Water Quality Certificate

Dear Mr. Murphy:

The Department of Environmental Conservation (the Department) hereby certifies that, based on our review of all pertinent information presented by Niagara Mohawk Power Corporation (NMPC) in its application for a federal license for the Beaver River Hydroelectric Project and the Settlement Agreement dated February 7, 1995 as amended on March 8, 1995 and on May 19, 1995, NMPC has provided reasonable assurance that the subject Project will comply with all applicable effluent standards, standards of performance and other state statutes, regulations and criteria applicable to the affected waterbody as required by the State regulatory provisions implementing Section 401 of the Federal Water Pollution Control Act.

This certification is issued pursuant to Section 401 of the Federal Water Pollution Control Act, 33 U.S.C. 1341. The Department makes this certification provided that the attached standard conditions as well as the terms and conditions of the attached Settlement Agreement, signed by the Department, NMPC, the Adirondack Park Agency, New York Rivers United, The National Park Service, the Adirondack Mountain Club, the Adirondack Council, the Association for the Protection of the Adirondacks, the National Audubon Society, the American White Water Affiliation, the American Canoe Association, American Rivers, the New York State Conservation Council, the New York State Council of Trout Unlimited, and the United States Fish and Wildlife Service are met. The terms and conditions of this Settlement describe the operations of the eight developments comprising the Beaver River Project located in the towns of Croghan and Watson in Lewis County and in the town of Webb in Herkimer County.

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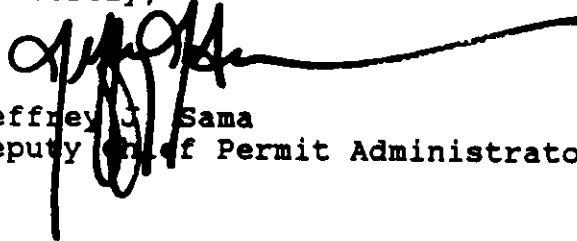
FERC DOCUMENT

FEB 28 1996

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey J. Sama', with a long horizontal flourish extending to the right.

Jeffrey J. Sama
Deputy Chief Permit Administrator

JJS/gk
Enclosures
cc: Service List

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
STANDARD WATER QUALITY CONDITIONS**

A. OVERSIGHT AND ADMINISTRATION

1. **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 certificate holder is complying with this certification. A copy of this certification, including all referenced maps, drawings, and special conditions, must be available for inspection by the Department during such inspections at the project.

B. PROJECT MAINTENANCE AND CONSTRUCTION

2. **Maintenance Dredging:** The certificate holder shall curtail generation and install stoplogs or otherwise shut off flow through the turbine(s) prior to commencing any maintenance dredging activities in the intake/forebay area.
3. **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 beforehand. Prior to dredging or other excavation, the certificate holder must secure Department approval for all disposal locations for any contaminated sediments to be removed from the project waters.
4. **Erosion and Sediment Control:** Prior to commencing activities which could adversely affect water quality, the certificate holder must receive Department approval of an Erosion and Sediment Control Plan. This plan must be submitted at least 60 days before the intended date for commencing work. Actions undertaken in response to an emergency and governed by the procedures contained in 6 NYCRR Section 621.12 are exempt from this condition. At minimum, the certificate holder must:
 - a. isolate instream work from the flow of water and prevent discolored (turbid) discharges and sediments from entering the waters of the river due to excavation, dewatering and construction activities.
 - b. avoid using heavy construction equipment below the mean high water line of the river until the work area is protected by an approved structure and dewatered.
 - c. stabilize any disturbed banks by grading to an appropriate slope, followed by armoring or vegetating as appropriate, to prevent erosion and sedimentation into the waterbody.

- d. minimize soil disturbance, provide appropriate grading and temporary and permanent revegetation of stockpiles and other disturbed areas to minimize erosion/sedimentation potential.
 - e. install and maintain, in a fully functional condition, effective erosion control measures on the downslope of all disturbed areas before commencing any other soil disturbing activities.
 - f. protect all waters from contamination by deleterious materials such as wet concrete, gasoline, solvents, epoxy resins or other materials used in construction, maintenance and operation of the project.
 - g. ensure complete removal of all dredged and excavated material, debris, or excess materials from construction from the bed and banks of all water areas to an approved upland disposal site.
 - h. ensure that all temporary fill and other materials placed in the waters of the river are completely removed promptly upon completion of construction unless otherwise directed by the Department.
5. Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the river: The design of all such structures will be developed in accordance with Condition #4 (above).
6. Maintenance of River Flow: During all periods of construction, the certificate holder shall maintain adequate flows immediately downstream of worksites to ensure that the water quality standards established for the water body are met.
7. Turbidity Monitoring: During all periods of construction, the certificate holder will monitor the waters of the river at a point immediately upstream of project activities and at a point no more than 100 feet downstream from any discharge point or other potential source of turbidity, to the extent practicable; and if not practicable, then at the nearest point beyond 100 feet downstream, but in no event beyond 200 feet downstream from the turbidity source. If at any time, turbidity measurements from the downstream locations exceed the measurements from the locations upstream of the work areas, certificate holder specifically agrees to immediately take all action necessary to identify the activities causing the turbidity and to correct the situation.
8. Notifications: The Department contact specified in this certificate must be notified in writing at least two (2) weeks prior to commencing any work subject to conditions 2 through 7 of this certificate.

BEAVER RIVER PROJECT FERC NO. 2645

Settlement Offer

February 7, 1995

Amended March 8, 1995
Amended May 19, 1995

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I. INTRODUCTION

The purpose of this document is to highlight, summarize and document the areas of agreement that exist as the result of comprehensive settlement discussions between the signatories with regard to the operation and maintenance of the Beaver River Project (Federal Energy Regulatory Commission (FERC) Project No. 2645). This document is intended as a Settlement Offer. As such, it is a summary of all areas of agreement and is not meant to replace the detailed license application exhibits, studies, reports, meeting minutes and other consultation records that have been and will be developed for the project and submitted to the consulted resource agencies and FERC.

Recreational facilities, as described in Niagara Mohawk Power Company's FERC license application and Additional Information Request (AIR) responses filed with FERC, will be provided at each applicable development according to any applicable schedules provided in those documents. Any exceptions or additions are described under the Recreation section for each development listed in this Settlement Offer. Existing recreational facilities, as described in the application, will be maintained.

The Beaver River Project consists of the Moshier, Eagle, Soft Maple, Effley, Elmer, Taylorville, Belfort and High Falls Developments. The eight developments are located on the Beaver River between Stillwater Reservoir and the confluence with the Black River (in New York State). The Moshier Development is located 29 miles from the confluence with the Black River and the High Falls Development is located 11 miles from the confluence. The Moshier Development is in the Town of Webb, Herkimer County and the Eagle Development is in the Town of Watson, Lewis County. The remaining developments are in the Town of Croghan, Lewis County, New York.

The Adirondack Park boundary (blue line) includes the Moshier Development, Eagle Development and most of the Soft Maple impoundment.

Niagara Mohawk's proposals to construct a minimum flow generating unit at Eagle and to upgrade the Belfort development by construction of a new powerhouse are withdrawn.

II. MOSHIER DEVELOPMENT

A. Reservoir Fluctuations

From July 1 to April 30, the maximum daily reservoir fluctuation will be limited to 1.5 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1639.5 and 1641.0 feet with flashboards and elevations 1637.5 and 1639.0 without flashboards.

From May 1 to June 30, in order to protect nests of reservoir spawning fish and of nesting birds, the maximum daily reservoir fluctuation will be limited to 1.0 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1640.0 and 1641.0 with flashboards and elevations 1638.0 and 1639.0 without flashboards. If flashboards are down or fail during this period, the flashboards will not be replaced until July 1 or later.

As described in Niagara Mohawk's Beaver River license application to FERC, dated November 25, 1991 (FERC license application), the normal maximum headwater elevation corresponds to the elevation at the top of the flashboards. In the case where flashboards do not exist, the normal maximum headwater elevation corresponds to the top of the spillway crest. Regulation along the Beaver River usually prevents the flashboards from failing due to high water or ice conditions. However, flashboards are usually replaced every three to five years as part of Niagara Mohawk's maintenance program.

Maximum seasonal reservoir fluctuation will be limited to 3.0 feet from the normal maximum headwater elevation. Further, during periods when the daily average inflow below High Falls (Beaver River inflow to Moshier Development plus all intervening tributary flow between Moshier Development and High Falls Development) is less than 250 cfs ("low flow periods"), additional storage at the Moshier Development may be used, in conjunction with storage at the downstream Soft Maple, Effley and High Falls Developments (see sections IV. A, V. A, and IX. A), to supplement the base flow requirements below High Falls (see Section IX.C). During low flow periods, the daily maximum reservoir fluctuation will be limited to 3.0 feet, corresponding to fluctuations between elevations 1638.0 and 1641.0 feet with flashboards. Upon observing the low flow condition described above, Niagara Mohawk will initiate the following:

1. Contact the Hudson River Black River Regulating District (HRBRRD) and seek HRBRRD assistance in increasing flows, if possible, to address the low flow condition;
2. Document the response from the HRBRRD; and
3. Notify the New York State Department of Environmental Conservation (NYSDEC) and advise of the situation and steps to be taken.

B. Minimum Flows

A year-round minimum flow of 45 cfs will be provided in the bypassed reach and will be provided through a combination of a) the existing minimum flow discharge pipe and orifice plate, and b) a slide gate structure which will also accommodate whitewater releases and downstream fish passage.

A route for downstream fish passage for the Moshier Development will be provided through a new gate structure. Final details of the design, including final location and the potential need for fish protection and conveyance measures (e.g., distribution of flows between release structures and minor channel modifications), if any, and installation will be undertaken by Niagara Mohawk based on 1995 field inspections and professional judgment of the USFWS and NYSDEC within 2 years of FERC license acceptance.

C. Fish Passage and Protection

Upstream fish passage will not be required at the Moshier Development at this time.

In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within two years of license acceptance.

D. Recreation

The following will be provided:

1. Whitewater Releases - One 4-hour release of 400 cfs will be provided in September or October (prior to October 15) of each year, the exact timing of which is to be determined by Niagara Mohawk and American Whitewater Affiliation (AWA), in consultation with the Beaver River Advisory Council. Additionally, ramping flows not to exceed 200 cfs will be made two hours before the boating flow release and two hours after the release. The total volume of each release, including ramping flows, shall not exceed 2400 cfs-hrs. The releases at the Moshier Development will be coordinated, to the extent feasible, with the releases at the Eagle and Taylorville Developments.

Notwithstanding the above provisions and those specified for whitewater releases at Taylorville and Eagle elsewhere in this Settlement Offer, the schedule and flows for releases at all three developments may be modified by Niagara Mohawk and AWA, based on the recommendations of the Beaver River Advisory Council, to the extent that any modifications do not exceed the equivalent of 96,600 kilowatt-hours in lost energy generation represented by the specified whitewater release provisions of this Settlement Offer. This, however, does not limit any newly created opportunities for additional whitewater releases that may arise from future mutually agreed changes to the terms of this Settlement Offer by its signatories.

2. Canoe/Boat Take-out on Moshier Impoundment - Niagara Mohawk will provide a canoe take-out at the downstream end of the Moshier impoundment. The canoe take-out will be located on the southwest corner of the impoundment near the end of the existing access road. The portage trail from this takeout will use this access road and connect to the existing canoe portage trail near the powerhouse.

Vehicular access along the pipeline will not be provided except by special permit for handicapped access and scheduled whitewater releases. The caretaker at the Soft Maple campsite will provide access on an as-needed basis.

3. Canoe Put-in at Moshier Tailrace - Niagara Mohawk will consult with the Adirondack Mountain Club (ADK) to make minor improvements to the canoe portage facilities. Specifically, the width of the foot bridge along the portage trail may need to be improved.
4. Bypassed Reach Access Trail - Niagara Mohawk has agreed to keep the existing bypassed reach access trail (south side only - the trail crosses the bypassed reach approximately three quarters of the way up the bypassed reach) and the canoe route access trail brushed. Other than the installation of trail markers, the trail will remain primitive and unimproved. The existing trail markers will be replaced with new trail markers designed and placed in consultation with ADK.
5. Pepperbox Wilderness Access Trail - This trail will be brushed by Niagara Mohawk.
6. Other - A kiosk will be installed near the existing Niagara Mohawk/NYSDEC parking lot located near the Moshier powerhouse. The kiosk will provide a map and a description of the Beaver River canoe route, portage and foot trails.

E. Land Transfers and Conservation Easements

The sand and gravel rights along the south side of the bypassed reach and the fee title for the acreage between the sand and gravel rights and the pipeline parcel's northerly FERC project boundary will be provided to NYSDEC (see Attachment 1). Furthermore, a 25 foot wide conservation easement (see Attachment 1) around the reservoir will be provided to NYSDEC to maintain the wilderness characteristics of the area. Fair market value will be paid for the land and easements through the upfront money provided by Niagara Mohawk to the river fund, as described in Attachment 2.

III. **EAGLE DEVELOPMENT**

A. Reservoir Fluctuations

The maximum daily and seasonal reservoir fluctuation will be limited to 1.0 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1425.2 and 1426.2 feet with flashboards and elevations 1424.2 and 1425.2 without flashboards. Flashboards will not be erected or replaced during the period May 1 to June 30 so as to protect the nests of reservoir spawning fish and of nesting birds.

B. Minimum Flows

A year-round minimum flow of 45 cfs will be provided in the bypassed reach via the existing minimum flow slide gate. As indicated in Item 3 of Attachment 2, the minimum flow could be reduced down to as low as 30 cfs seasonally based on the results of two bypassed reach site inspections tentatively scheduled for July 1995 and in the winter of 1995/1996 and with the mutual agreement of NYSDEC and USFWS after consultation with the Beaver River Advisory Council and within 2 years of license acceptance. The seasonal minimum flow reduction would occur from October 1 to the end of spring runoff when uncontrolled spillage ceases or May 31, whichever comes first.

Instream flow releases from the existing gate structure will provide a downstream fish passage route. Minor channel modifications below the release gate will be undertaken by Niagara Mohawk based on 1995 field inspections and the professional judgment of USFWS and the NYSDEC within 2 years of FERC license acceptance.

C. Fish Passage and Protection

Upstream fish passage will not be required at this time. In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks at the entrance to the power canal with new trashracks (or equivalent) with 1-inch clear bar spacing within 10 years of FERC license acceptance.

D. Recreation

The following will be provided:

1. Whitewater Releases - Five four-hour releases of at least 200 cfs will be provided in September and October of each year, the exact timing of which is to be determined by Niagara Mohawk and AWA, in consultation with the Beaver River Advisory Council. Additionally, ramping flows not to exceed 100 cfs will be made for one hour before the boating flow release and one hour after the release. The total volume of each release, including ramping flows, shall not exceed 1000 cfs-hrs. The releases at the Eagle Development will be coordinated, to the extent feasible, with the releases at the Taylorville Development.
2. Rock Climbing - When the section of the bypassed reach that contains the cliffs and rock ledges (halfway down the northerly side of the bypass reach and known as "Eagle Canyon") is acquired, NYSDEC will provide access for rock climbing and other associated recreational activities. Niagara Mohawk will provide access to this area via the existing canoe portage trail located along the lower section of the south side of the bypassed reach.

3. Bypassed Reach Access Trail - Niagara Mohawk will keep the existing access trail along the south side of the bypassed reach brushed. Other than the installation and maintenance of trail markers, the trail will remain primitive and unimproved.
4. Other - The Niagara Mohawk access road along the pipeline will be open to the public. Niagara Mohawk will work with the ADK to make minor improvements to the canoe put-in located near the tailrace of the powerhouse and to design and place the trail markers.

E. Land Transfers

A section of the bypassed reach in the area of the cliffs and rock ledges halfway down the northerly side of the bypass reach on both the north and south side, as depicted in Attachment 1, will be provided to the NYSDEC. Fair market value will be paid for the land through the upfront money provided by Niagara Mohawk to the river fund, as described in Attachment 2.

IV. **SOFT MAPLE DEVELOPMENT**

A. Reservoir Fluctuations

The maximum daily reservoir fluctuation will be limited to 1.5 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1288.4 and 1289.9 feet with flashboards and elevations 1286.9 and 1288.4 without flashboards.

From May 1 to June 30, in order to protect nests of reservoir spawning fish and of nesting birds, the maximum daily reservoir fluctuation will be limited to 1.0 feet from the normal maximum headwater elevation. If flashboards are down or fail during this period, the flashboards will not be replaced until July 1 or later.

During periods when the daily average inflow at High Falls is less than 250 cfs ("low flow periods"), additional storage at the Soft Maple Development may be used to supplement the base flow requirements below High Falls (see Section II. A, V. A, IX. A. & C.). During such low flow periods, the daily maximum reservoir fluctuation will be limited to 3.0 feet, corresponding to fluctuations between elevations 1286.9 and 1289.9 feet with flashboards.

B. Minimum Flows

A year-round minimum flow of 35 cfs will be provided in the bypassed reach. Both existing slide gates located at the spillway will be used to release 15 cfs; 20 cfs will be provided through a diversion tunnel. The release device for the diversion tunnel remains to be designed.

C. Fish Passage and Protection

Neither upstream nor downstream fish passage will be required for the Soft Maple Development at this time.

After three full years of the above referenced minimum flows being provided, NYSDEC will conduct a fisheries investigation on resident brook trout. If the investigation reveals the need to supplement the existing brook trout population, then NYSDEC will commence a four year program of transplanting native brook trout from local heritage streams to enhance prospects for a sustainable brook trout fishery. Niagara Mohawk will provide two fisheries biologists for three days in each year of the transplant program and equipment necessary for safe transport of fish during this effort.

In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within 2 years of FERC license acceptance. Furthermore, to prevent reservoir fish from entering the bypassed reaches, Niagara Mohawk will install within the same 2 years a fish screen (or equivalent) with no greater than ½-inch clear space openings at the upstream end of the diversion tunnel, and, equally open the two existing release gates to the minimum opening necessary to release the required minimum flow; it is anticipated that the gate openings will be approximately ½-inch.

D. Recreation

The following will be provided:

1. Boat Launch at Proposed Campground - The boat launch at the proposed campground will be a car-top launch and not a ramped/trailer launch as proposed in Niagara Mohawk's FERC license application.
2. Island Campgrounds - The campgrounds on the islands will be primitive.
3. Canoe Put-in at Soft Maple Tailrace - Niagara Mohawk will consult with the ADK to make minor improvements to the canoe portage facilities.
4. Bypassed Reach Access Trail - Niagara Mohawk will keep the access trail along the south side of the bypassed reach brushed. Other than the installation of trail markers, the trail will remain primitive and unimproved.

V. **EFFLEY DEVELOPMENT**

A. Reservoir Fluctuations

The maximum daily reservoir fluctuation will be limited to 1.5 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1161.5 and 1163.0 feet without flashboards as there are no flashboards.

During the period from May 1 to June 30, fluctuations will be limited to 1.0 feet in order to protect nests of reservoir spawning fish and of nesting birds. This 1.0 foot fluctuation corresponds to fluctuations between elevations 1162.0 and 1163.0.

During periods when the daily average inflow at High Falls is less than 250 cfs ("low flow periods"), additional storage at the Effley Development may be used to supplement the base flow requirements below High Falls (see Sections II. A, IV. A, IX. A, C). During low flow periods, the daily maximum reservoir fluctuation will be limited to 3.0 feet, corresponding to fluctuations between elevations 1160.0 and 1163.0 feet.

B. Minimum Flows

A year-round nominal flow of 20 cfs will be provided in the bypassed reach via a new gate structure located on the north side of the spillway.

A route for downstream fish passage for the Effley Development will be provided through the new gate structure. This structure will be a gated orifice through the dam, approximately 2 SF in area, with its invert located approximately 5.0 feet below normal maximum headwater elevation without flashboards. It will be designed to pass a nominal 20 cfs (ranging from 18 cfs to 22 cfs as controlled by pond level). Final details of the design, including final location and the potential need for fish protection and conveyance measures (e.g., plunge pools, piping, etc.), if any, and installation will be undertaken by Niagara Mohawk based on 1995 field inspections and professional judgment of the USFWS and NYSDEC within 2 years of FERC license acceptance.

C. Fish Passage and Protection

Upstream fish passage will not be required at this time.

In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within 6 years of FERC license acceptance.

D. Recreation

No additional recreational facilities will be required beyond those already provided in the FERC license application and AIR responses filed with FERC.

VI. ELMER DEVELOPMENT

A. Reservoir Fluctuations

The maximum daily reservoir fluctuation will be limited to 1.0 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1107.0 and 1108.0 feet without flashboards as there are no flashboards.

B. Minimum Flows

A year-round nominal flow of 20 cfs will be provided in the bypassed reach and will be provided through the existing needle beam structure located in the middle of the spillway, the release structure for which remains to be designed. Furthermore, it is agreed that the minimum flow may be reduced by USFWS after consultation with the Beaver River Advisory Council, to no less than 10 cfs within 1 year of license acceptance.

A downstream fish passage route for the Elmer Development will be provided through the new release structure. This structure will be approximately 2 SF in area, with its invert located approximately 5.0 feet below normal maximum headwater elevation without flashboards. It will be designed to pass a nominal 20 cfs (ranging from 18 cfs to 22 cfs as controlled by pond level). Final details of the design, in consideration of reduced flows to 10 cfs, including the potential need for fish protection and conveyance measures (e.g., plunge pools, piping, etc.), if any, and installation will be undertaken by Niagara Mohawk based on 1995 field inspections and professional judgment of the USFWS and NYSDEC within 2 years of license acceptance.

C. Fish Passage and Protection

Upstream passage will not be required at this time. In order to effectively exclude adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within 14 years of FERC license acceptance.

D. Recreation

No additional recreational facilities will be required beyond those already provided in the license application and AIR responses filed with FERC.

VII. TAYLORVILLE DEVELOPMENT

A. Reservoir Fluctuations

The maximum daily and seasonal reservoir fluctuation will be limited to 1.0 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 1069.6 and 1070.6 feet with flashboards and elevations 1068.8 and 1069.8 without flashboards. In order to protect nests of reservoir spawning fish and of nesting birds, flashboards will not be replaced during the May 1 through June 30 period.

B. Minimum Flows

A year-round minimum flow of 60 cfs will be provided in the bypassed reach via the existing minimum flow slide gate. It is further agreed that the minimum flow may be reduced to between 45 and 60 cfs based on the results of a bypassed reach site inspection tentatively scheduled for July 1995 and with the mutual agreement of NYSDEC and USFWS after consultation with the Beaver River Advisory Council and within 1 year of license acceptance.

Instream flow releases from the existing gate structure will provide a downstream fish passage route. Minor channel modifications below the release gate will be undertaken by Niagara Mohawk based on 1995 field inspections and the professional judgment of the USFWS and NYSDEC within 2 years of license acceptance.

C. Fish Passage and Protection

Upstream fish passage will not be required at this time. In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within 10 years of FERC license acceptance.

D. Recreation

The following will be provided:

1. Whitewater Releases - Five four-hour releases not-to-exceed 400 cfs will be provided in September and October of each year, the exact timing of which is to be determined by Niagara Mohawk and AWA, in consultation with the Beaver River Advisory Council. Additionally, ramping flows not-to-exceed 200 cfs will be made before and after the boating flow release for a total duration not-to-exceed three hours. The total volume of each release, including ramping flows, shall not exceed 2200 cfs-hrs. The releases at the Taylorville Development will be coordinated, to the extent feasible, with the releases at the Eagle Development.

2. Other - A kiosk will be installed at the existing Taylorville parking lot that describes the Beaver River canoe route.

VIII. BELFORT DEVELOPMENT

A. Reservoir Fluctuations

The maximum daily reservoir fluctuation will be limited to 1.0 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 965.0 and 966.0 feet with flashboards and 964.0 and 965.0 without flashboards. Flashboards will not be replaced during the May 1 through June 30 period.

B. Minimum Flows

A year-round nominal flow of 20 cfs will be provided in the bypassed reach via a new gate structure located on the south side of the spillway.

This structure will be a gated orifice through the dam, approximately 2 SF in area, with its invert located approximately 5.0 feet below normal maximum headwater elevation without flashboards. It will be designed to pass a nominal 20 cfs (ranging from 18 cfs to 22 cfs as controlled by pond level).

Final details of the design for the above referenced structure, including final location and the potential need for fish protection and conveyance measures (e.g., plunge pools, piping, etc.), if any, and installation will be undertaken by Niagara Mohawk based on 1995 field inspections and the professional judgment of the USFWS and the NYSDEC within 2 years of license acceptance. Instream flow releases through the new release structure will provide a downstream fish passage route.

C. Fish Passage and Protection

Upstream fish passage will not be required at this time. In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within 14 years of FERC license acceptance.

D. Recreation

The following will be provided:

1. Canoe Route - Niagara Mohawk will consult with the ADK to design the canoe route portages.

IX. HIGH FALLS DEVELOPMENT

A. Reservoir Fluctuations

The maximum daily reservoir fluctuation will be limited to 1.5 feet from the normal maximum headwater elevation. This corresponds to fluctuations between elevations 913.5 and 915.0 feet without flashboards as there are no flashboards.

During periods when the daily average inflow at High Falls is less than 250 cfs ("low flow periods"), additional storage at the High Falls Development may be used to supplement the base flow requirement below. (See Section II. A, IV. A, V. A.) During low flow periods, the daily maximum reservoir fluctuation will be limited to 3.0 feet, corresponding to fluctuations between elevations 912.0 and 915.0 feet.

B. Minimum Flows

A year-round nominal flow of 30 cfs \pm 3 cfs, depending on head, will be provided in the bypassed reach. Ten cfs (\pm 1 cfs, depending on head) will be provided through the existing low-level slide gate structure located in the middle of the spillway and 20 cfs (\pm 2 cfs, depending on head) will be provided through a new gate structure located at the north side of the spillway. This structure will be a gated orifice through the dam, approximately 2 SF in area, with its invert located approximately 5.0 feet below normal maximum headwater elevation without flashboards. It will be designed to pass a nominal 20 cfs (ranging from 18 cfs to 22 cfs as controlled by pond level). Final details of the design for the above referenced new structure, including final location and the potential need for fish protection and conveyance measures (e.g., plunge pools, piping, etc.), if any, and installation will be undertaken by Niagara Mohawk based on 1995 field inspections and the professional judgment of the USFWS and NYSDEC within 2 years of license acceptance. Instream flow releases through this orifice will provide a downstream passage route.

C. Fish Passage and Protection

Upstream fish passage will not be required at this time. In order to effectively exclude many adult fish from being entrained into the intake, Niagara Mohawk will replace the existing trashracks with new trashracks (or equivalent) with 1-inch clear bar spacing within 6 years of FERC license acceptance.

D. Base Flows

A year-round base flow of at least 250 cfs will be provided through the existing units and the new minimum flow release structure at the High Falls Development. The target base flow will be measured and monitored by Niagara Mohawk preferably using the United States Geological Survey-(USGS) streamflow gage in Croghan. Niagara Mohawk will be responsible for measuring and monitoring base flows.

E. Recreation

No additional recreational facilities will be required beyond those described in the FERC license application and AIR responses filed with FERC.

X. MISCELLANEOUS

A. Beaver River Advisory Committee

In order to keep abreast of changing conditions that may affect river flows and management objectives, an Advisory Committee representative of the various interests in the Beaver River corridor will be formed as more specifically detailed in Attachment 2.

B. Beaver River Fund

A river fund, contributed by Niagara Mohawk, will be established as described in Attachment 2.

C. Enforceability

This Settlement Offer shall be considered a Memorandum of Understanding between the signatories, which shall be enforceable by any party to the extent that this Settlement Offer is accepted and approved by the NYSDEC and/or FERC and incorporated into the terms and conditions of any 401 water quality certificate issued by NYSDEC or any new license issued by FERC for the Beaver River Project No. 2645.

D. Cooperation

Each and all signatories will abide by and support the agreements and understandings commemorated herein in the context of their participation in the Beaver River Project No. 2645 licensing proceeding before the FERC, the 401 water quality certification proceeding before NYSDEC and any other forum, as appropriate.

E. Streamflow Monitoring

Niagara Mohawk shall submit a flow monitoring plan for NYSDEC approval within three (3) months of FERC license acceptance. This flow monitoring plan will provide for the installation and maintenance of a USGS gaging station, unless justification for an alternative gaging system is provided. The flow monitoring plan shall include all gages and/or equipment for the purposes of:

- a. determining the stage and/or flow of the stream on which the project is located;

- b. determining all other project flows including flow through the turbine(s) and any other bypass/diversion flows; and,
- c. determining project headpond and tailwater elevation.

Niagara Mohawk shall keep accurate and sufficient records of the foregoing flow/stage data to the satisfaction of the NYSDEC and shall provide such data in a format and interval as the NYSDEC may prescribe. All records will be made available within 5 business days of Niagara Mohawk's receipt of a written request for the same by any of the signatories to this settlement offer.

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

A gage calibration plan shall be submitted to the NYSDEC for review and approval. Ongoing calibration of all gaging equipment shall be performed to the satisfaction of the NYSDEC and/or its authorized representative.

Permanent staff gages shall be installed to allow independent verification of headpond and tailwater elevations. Stage v. discharge ratings shall be calibrated when rating changes occur, and maintained for these sites. Access to staff gages shall be provided to the NYSDEC and/or its authorized representative.

Headpond and tailwater elevations shall be gaged and recorded to the nearest 0.1 ft.

F. Compliance With The Law

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

G. Binding Effect

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

H. Conditions For Stillwater Reservoir

The signatories reserve for future consideration how any prospective modifications in the current operations of the upstream HRBRRD's Stillwater Reservoir or the Stillwater Hydro Project (FERC Project No. 6743), thereon, might affect the purposes for which the Stillwater Reservoir was created and is operated, as well as the eight downstream hydroelectric facilities of Niagara Mohawk and the natural resources of the environs of those facilities that are the subject of this Settlement Offer.

The signatories may amend this Settlement Offer on the basis of such further consideration as may be mutually agreed upon.

With or without such amendment of this Settlement Offer by mutual assent, any signatory may seek such further relief from the FERC to enhance the power resources, the flood control and low flow augmentation purposes of the HRBRRD's operation of the Stillwater Reservoir and/or the environmental benefits (including the flow schedule) provided herein for the downstream hydro developments of Niagara Mohawk's Beaver River Hydro Project (FERC Project No. 2645) through such modification in the current operation of the Stillwater Reservoir as the HRBRRD may determine or the FERC may appropriately order for the Stillwater Project No. 6743.

I. Coverage

This Settlement Offer provides the terms and conditions for the resolution of the fisheries, fish entrainment and passage, wildlife, water quality, lands management and ownership, recreation and aesthetics issues raised by the signatories regarding the issuance of a new license for the Beaver River Project, these being all the issues presently addressed.

J. General Provisions

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

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

2. The signatories agree that this Settlement Offer fairly and appropriately balances the environmental, recreational, fishery, energy and other uses and interests served by the Beaver River. The signatories further agree that this balance is specific to the Beaver River Project. No signatory shall be deemed, by virtue of execution of this Settlement Offer, to have established precedent, or admitted or consented to any approach, methodology, or principle except as expressly provided for herein. In the event that this Settlement Offer is approved by the NYSDEC and/or FERC, such approval shall not be deemed precedential or controlling regarding any particular issue or contention in any other proceeding.
3. This Settlement Offer shall become effective upon the later of: (1) final 401 water quality certificate issuance by NYSDEC, or (2) issuance of a new license, consistent with this Settlement, by FERC and acceptance of same by Niagara Mohawk. If a 401 water quality certification or FERC license is issued that results in certificate or FERC license terms inconsistent with the terms of the Settlement Offer, any signatory may withdraw pursuant to Section M.1 of this Settlement Offer. The Settlement Offer, including all mitigative measures and annual contributions to the Beaver River fund, shall remain in effect for the term of the new license and for any annual license issued subsequent thereto, subject to authority reserved by FERC in the new license to require modifications.
4. The signatories have entered into the negotiations and discussions leading to this Settlement Offer with the explicit understanding that all offers of settlement and the discussions relating thereto are privileged, shall not prejudice the position of any signatory participant taking part in such discussions and negotiations, and are not to be otherwise used in any manner in connection with these or any other proceedings.
5. The Settlement Offer shall apply to, and be binding on, the signatories and their successors and assigns, but only with regard to the above-captioned proceeding and then only if the Settlement Offer is made effective as provided herein. No change in corporate status of Niagara Mohawk shall in any way alter Niagara Mohawk's responsibilities under the Settlement Offer. Each signatory to the Settlement Offer certifies that he or she is authorized to execute the Settlement and legally bind the party he or she represents.

K. Approval of Settlement

1. The signatories have entered into and jointly submit this Settlement Offer with the express conditions that NYSDEC approves and accepts all provisions herein and either issues or waives a 401 water quality certification and that FERC approves and accepts all provisions herein and issues a new project license for the Beaver River Project consistent with the terms of the Settlement Offer. In the event that either NYSDEC and/or FERC changes, conditions or modifies any provision contained herein in any NYSDEC issued 401 water quality certification or FERC order issuing a new license, whether through its own action or through incorporation of conditions of a 401 water quality certification, the Settlement Offer shall be considered modified to conform to the FERC order unless any signatory to the Settlement Offer within 60 days of NYSDEC's or FERC's action provides written notice by certified mail to the other signatories that it objects to the modification, change or condition. The signatories shall then commence negotiations for a period of up to 60 days to resolve the issue and modify the Settlement Offer, as needed. If agreement cannot be reached, then the objecting party may withdraw from the Settlement Offer, without incurring any obligations or benefitting from rights associated with the Settlement Offer. In the event that the Settlement Offer is withdrawn, it shall not constitute a part of the record of ongoing proceedings.
2. In the event that FERC issues a final order that does not include conditions consistent with Paragraphs X.A, X.B and Attachment 2 of this Settlement Offer and regardless of whether this Settlement is withdrawn from by a party other than Niagara Mohawk, NYSDEC or USFWS, Niagara Mohawk agrees that it will comply with and implement the terms of Paragraphs X.A and X.B and Attachment 2 as long as the Beaver River Project receives a new license with operational terms and conditions and financial impacts consistent with the Settlement Offer as filed.
3. In the event that FERC rejects or modifies any of the provisions of this Settlement Offer, then the rest of the agreement shall remain in effect.

L. Dispute Resolution

In the event that any dispute arises over compliance with the terms and conditions of this Settlement Offer, the signatories agree to engage in good faith negotiations for a period of at least 60 days, if necessary, in an effort to resolve the dispute, said negotiations to be initiated and facilitated by NYSDEC. A minimum of two meetings shall be held to attempt to resolve the dispute during the 60-day period, if necessary. In the event that resolution cannot be reached within the 60-day negotiating period, the dispute may be referred to FERC pursuant to FERC's Rules of Practice and Procedure (18 CFR 385, et seq.).

Notwithstanding any other provision of this Settlement Offer, any signatory may seek relief in any appropriate forum for noncompliance with this Settlement Offer by any signatory hereto.

M. Project Decommissioning

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

N. Use of Reopener Clauses in the New License

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

O. Effectiveness Studies

Effectiveness Studies will not be required for minimum flows, fish exclusion, protection or passage.

Beaver River Project FERC No. 2645
Settlement Offer

XI. SIGNATORS

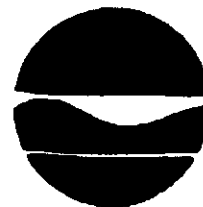
NIAGARA MOHAWK POWER CORPORATION

By: T. H. Baron
T. H. Baron

Title: Vice President -
Fossil & Hydro Generation

Date: 2/23/95

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spielmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

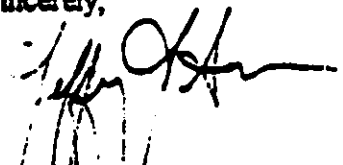
Dear Beaver River Party:

Enclosed is an errata list and corrected pages dated March 8, 1995 to the February 7, 1995 Beaver River Settlement Offer which was transmitted to you previously. These changes reflect corrections and clarifications which do not substantially alter the terms of the agreement.

If you have already returned an authorized signature for the agreement, please sign the bottom of this letter and return it as an affirmation that the original signature remains valid and your organization accepts these errata as an update to the agreement. If you have not yet returned a signed signature page, please do so. We need all signatures by Friday, March 17, 1995.

When all signatures have been received, we will provide a copy of the fully executed agreement with all signatures to all parties. Thank you.

Sincerely,



Jeffrey J. Sarna
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.

Sam Hirschey 3/16/95
Please sign here as noted above and return to the address shown

Beaver River Project FERC No. 2645
Settlement Offer

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: London Ward

Title: Supervisor

Date: Feb 13, 1995

Beaver River Project FERC No. 2645
Settlement Offer

ORGANIZATION: NYSDEC

BY: *Alan Keller*

Title: *Assistant Counsel*

Date: *April 12, 1995*

Beaver River Project FERC No. 2645
Settlement Offer

ADIRONDACK COUNCIL

By: Fernand C. McLaughlin

Title: Council

Date: March 17, 1995

Beaver River Project FERC No. 2645
Settlement Offer

UNITED STATES FISH AND WILDLIFE SERVICE

By: Donald E. Landwehr

Title: Regional Director

Date: 3-20-95

Beaver River Project FERC No. 2645
Settlement Offer

AMERICAN WHITEWATER AFFILIATION

By: Pete H. J.

Title: Director

Date: March 17, 1995

Beaver River Project FERC No. 2645

Settlement Offer dated February 7, 1995
amended March 8, 1995

ADIRONDACK PARK AGENCY

By: Barbara A. Pether

Title: Associate Counsel

Date: March 14, 1995

Beaver River Project FERC No. 2645
Settlement Offer

TROUT UNLIMITED, NEW YORK STATE COUNCIL

By: Thomas R. Matias

Title: Committee on Hydro Relicensing

Date: March 14, 1995

Beaver River Project FERC No. 2645
Settlement Offer

NEW YORK RIVERS UNITED

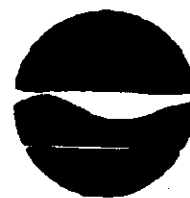
By: 
Bruce R. Carpenter

Title: Executive Director, New York Rivers United

Date: 02 / 13 / 95

RECEIVED
FEB 17 11 2:32

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12243-1550
Room 514



Gary Spitzmann
Acting Executive Deputy
Commissioner

Post-It® brand fax transmittal memo 7571		# of pages • 1
To	From J. Spina	
cc.	cc.	
Dept.	Phone •	
Fax # 315 336 6028		Ext # 518-457-5965

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

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Sincerely,

Jeffrey J. Spina
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.

3/17/95

Please sign here as noted above and return to the address shown

Beaver River Project FERC No. 2645
Settlement Offer

ORGANIZATION: National Audubon Society

BY: John Echeverria

TITLE: General Counsel

DATE: 3/24/95

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spielmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

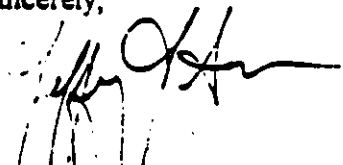
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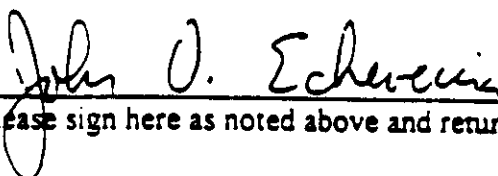
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Jeffrey J. Spina
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.



Please sign here as noted above and return to the address shown

RECEIVED
REGULATORY AFFAIRS
95 MAR 27 PM 4:33

Beaver River Project FERC No. 2645
Settlement Offer

NEW YORK STATE CONSERVATION COUNCIL

By: Henry Cosselman

Title: President

Date: March 6, 1995

RECEIVED
REGULATORY AFFAIRS
95 MAR -8 PM 1:09

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spielmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

Dear Beaver River Party:

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Sincerely,

Jeffrey J. Sarna
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.

Please sign here as noted above and return to the address shown

Beaver River Project FERC No. 2645
Settlement Offer

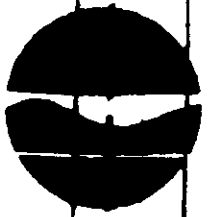
American Canoe Association

By: 

Title: Director of Conservation and Public Policy

Date: February 17, 1995

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spitzmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

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Sincerely,


Jeffrey J. Sarna
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.

Please sign here as noted above and return to the address shown

Beaver River Project FERC No. 2645
Settlement Offer

ORGANIZATION: The Association for the Protection of the Adirondacks

BY: David H. Gibson, Executive Director 

Title: Executive Director

Date: March 17, 1995

RECEIVED
REGULATORY AFFAIRS
95 MAR 21 PM 11:12

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spielmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

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Sincerely,

Jeffrey J. Sarna
Deputy Chief Permit Administrator
Division of Regulatory Affairs

RECEIVED
REGULATORY AFFAIRS
95 MAR 17 AM 11:20

Enc.

David H. Gilson, EXECUTIVE DIRECTOR
Please sign here as noted above and return to the address shown

The Association of the Protection of the Adirondacks

Beaver River Project FERC No. 2645
Settlement Offer

ADIRONDACK MOUNTAIN CLUB

By: Betty Lou Bailey

Title: Cham. Canoe Route Subcommittee

Date: Feb. 16 1995

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spielmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

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Sincerely,

Jeffrey J. Sarna
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.

Betty Lou Bailey 3/17/95

Please sign here as noted above and return to the address shown

Beaver River Project FERC No. 2645
Settlement Offer

ORGANIZATION: American Rivers

BY: Margaret Bowman
Margaret Bowman

TITLE: Director of Hydropower Programs

DATE: February 17, 1995

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-1550
Room 514



Gary Spielmann
Acting Executive Deputy
Commissioner

March 9, 1995

Re: BEAVER RIVER PROJECT FERC NO. 2645

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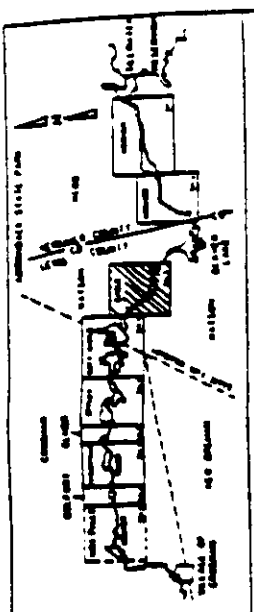
Jeffrey J. Sarna
Deputy Chief Permit Administrator
Division of Regulatory Affairs

Enc.

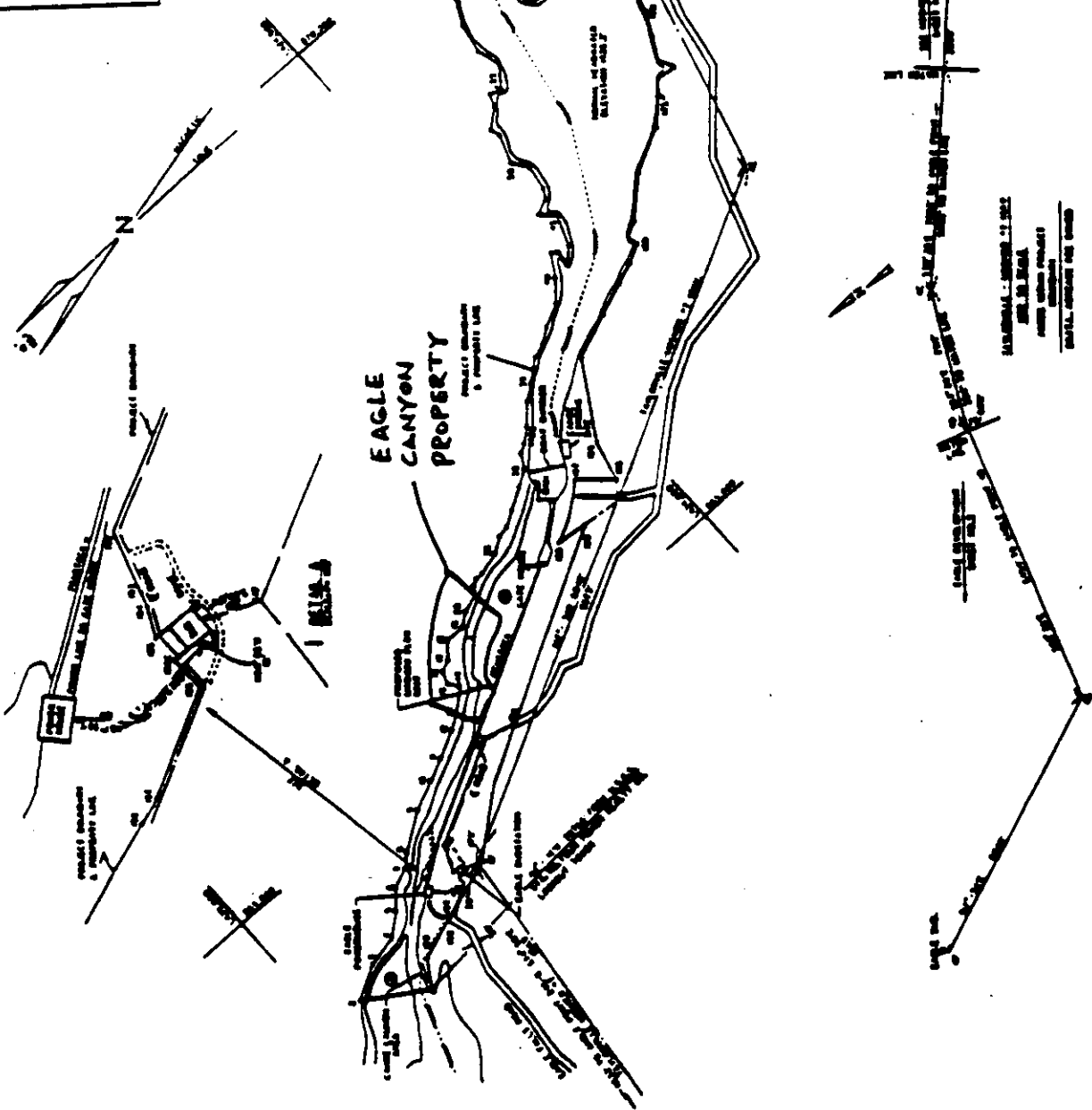
Please sign here as noted above and return to the address shown

ATTACHMENT 1

**LANDS AND INTERESTS
TO BE CONVEYED**



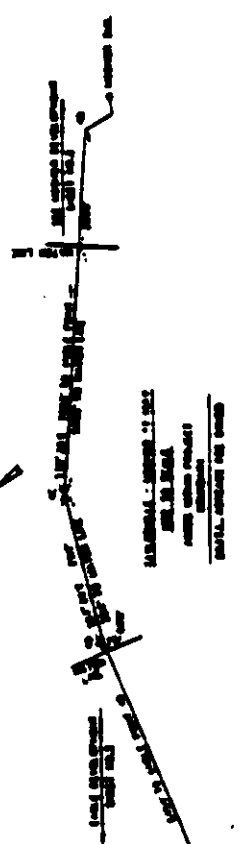
INDEX MAP
 SITE LOCATED ON THIS MAP



NOTICE:
 THIS MAP IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A CONTRACT. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

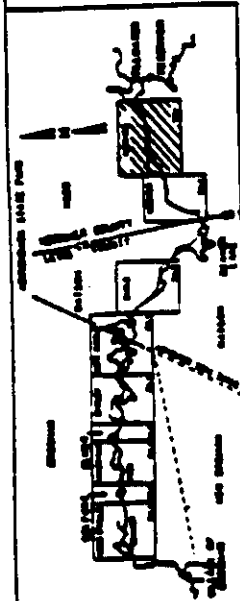
LEGEND

- BOUNDARY OF PROJECT DEVELOPMENT
 - PROPERTY BOUNDARY
 - PROPERTY BOUNDARY
 - PROPERTY BOUNDARY
 - BOUNDARY OF ROAD AS SHOWN ON U.S.G.S. MAPS
- THESE MAPS ARE FOR INFORMATION ONLY AND DO NOT CONSTITUTE A CONTRACT. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

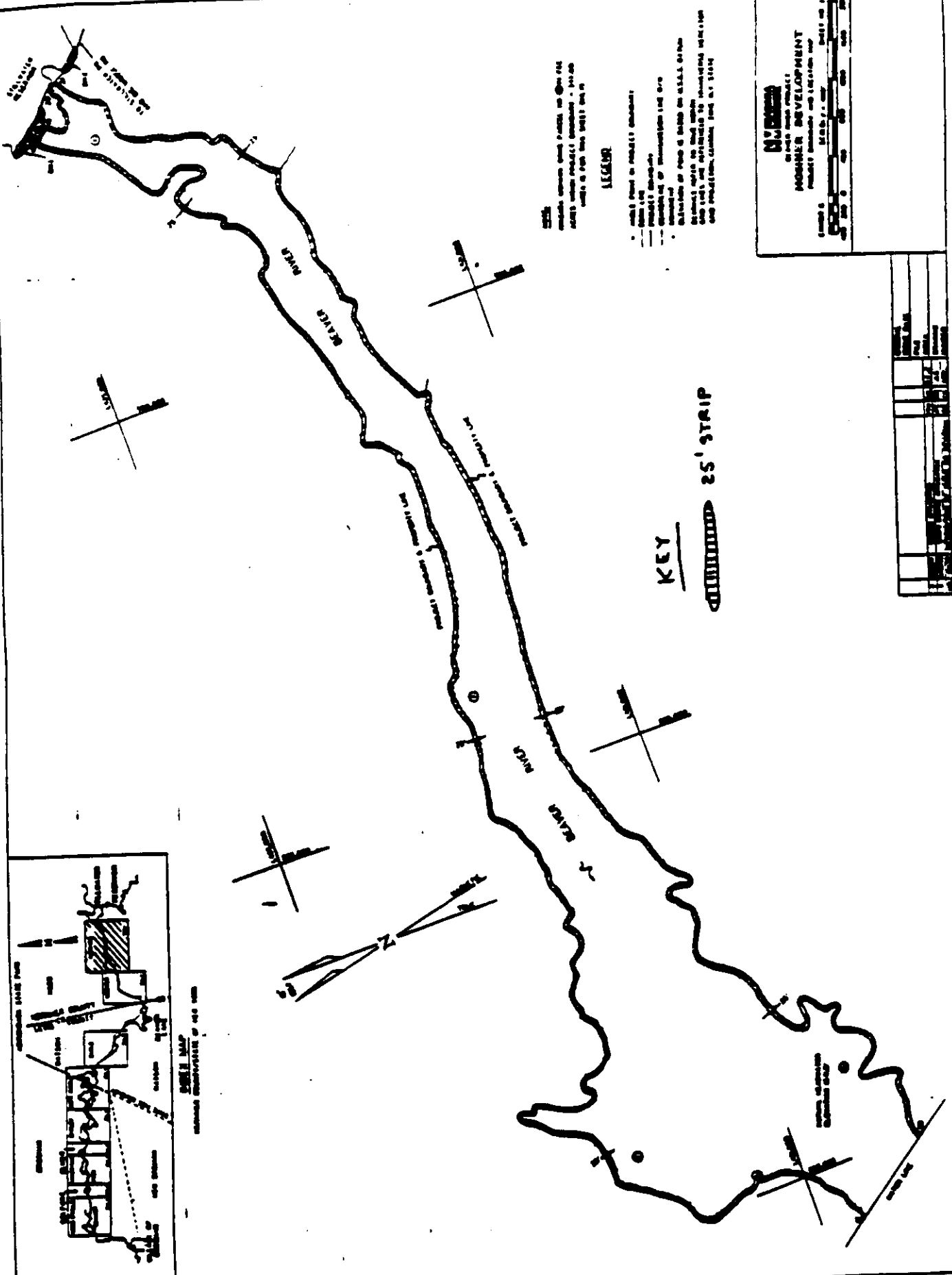


SCALE BAR: 1" = 100'
 NORTH ARROW

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY PLAN	11/15/58	J. W. HALL
2	REVISED PLAN	11/15/58	J. W. HALL
3	FINAL DESIGN FOR CONSTRUCTION	11/15/58	J. W. HALL



SITE MAP
GENERAL DEVELOPMENT OF THE SITE



KEY
25' STRIP

NOTE
BUILDINGS SHALL BE LOCATED ON THE 25' STRIP WITHIN THE PROJECT BOUNDARY - 25' STRIP - WITHIN THE 25' STRIP BOUNDARY

LEGEND

- BUILDINGS
- PARKING
- LANDSCAPING
- 25' STRIP
- COASTLINE
- BUILDING FOOTPRINT
- BUILDING HEIGHT
- BUILDING AREA
- BUILDING PERMITS
- BUILDING TYPE
- BUILDING COLOR
- BUILDING MATERIAL
- BUILDING FINISH
- BUILDING EQUIPMENT
- BUILDING ACCESS
- BUILDING EGRESS
- BUILDING VENTILATION
- BUILDING LIGHTING
- BUILDING SOUND
- BUILDING SECURITY
- BUILDING SAFETY
- BUILDING HEALTH
- BUILDING WELL-BEING
- BUILDING QUALITY
- BUILDING VALUE
- BUILDING LIFE
- BUILDING CARE
- BUILDING MAINTENANCE
- BUILDING REPAIR
- BUILDING REPLACEMENT
- BUILDING DEMOLITION
- BUILDING CONSTRUCTION
- BUILDING OPERATION
- BUILDING OCCUPANCY
- BUILDING PERFORMANCE
- BUILDING SUSTAINABILITY
- BUILDING RESILIENCE
- BUILDING ADAPTABILITY
- BUILDING FLEXIBILITY
- BUILDING INNOVATION
- BUILDING LEADERSHIP
- BUILDING EXCELLENCE
- BUILDING SUCCESS

GENERAL DEVELOPMENT
PROJECT BOUNDARY AND LOCATION MAP

Scale bar showing distances from 0 to 100 feet. A north arrow is also present.

ATTACHMENT 2

BEAVER RIVER FUND AND ADVISORY COUNCIL

THE BEAVER RIVER FUND AND ADVISORY COUNCIL

1. Niagara Mohawk will provide \$80,000 within one year of FERC license acceptance ("upfront money") to be deposited into the Beaver River Fund. As indicated in Attachment 1, all or part of the upfront money will be used to facilitate the State's acquisition of the following from Niagara Mohawk within eighteen months of Niagara Mohawk's FERC license acceptance for Beaver River Project No. 2645: (a) a conservation easement, 25 feet in width, around the Moshier impoundment, (b) reserved sand and gravel rights along Moshier bypassed reach and the fee title to the abutting acreage to the south, and (c) fee title to "Eagle Canyon", all with appropriate reservations for Niagara Mohawk access, operation and maintenance purposes, d) any other Niagara Mohawk lands, easements and mineral rights not essential to project operation and not otherwise identified herein. Any money not used to purchase the land will remain in the fund for other uses. The State will prepare the title documents, appraisal, surveys and all other documents necessary to transfer title of the property at no cost to the Beaver River Fund or Niagara Mohawk.
2. Niagara Mohawk will contribute no less than \$14,000 (fixed contribution) annually to the Beaver River Fund for the years 1-15 following acceptance of the FERC license and \$20,000 annually for the following 15 years for the purposes described herein.
3. The base minimum flows at Moshier, Eagle, Elmer and Taylorville will be 45, 45, 20, and 60 cfs, respectively. If downward adjustments to any or all of these base minimum flows are made, Niagara Mohawk will supplement the Beaver River Fund annually by an amount equivalent to 50 percent of the annual hydropower generating value associated with the difference between the flows selected and the base minimum flows using the energy values prevailing in that year. For the purposes of this evaluation, the Public Service Commission (PSC) Service Classification No. 6 (SC6) for transmission Voltage, blended on peak/off peak "energy only" rates will be used for the value of energy.
4. The Beaver River Fund will be administratively managed by Niagara Mohawk and distributed according to the recommendation of a Beaver River Advisory Council. The NYSDEC will chair the council. At a minimum the following entities shall be invited to serve on the Council.
 - New York State Department of Environmental Conservation (NYSDEC)
 - Niagara Mohawk Power Corporation (NMPC)
 - United States Fish & Wildlife Service (USFWS)
 - New York Rivers United (NYRU)
 - Board of Hudson River-Black River Regulating District (HRBRRD)
 - New York State Conservation Council (NYSCC)
 - Adirondack Park Agency (APA)
 - Adirondack Mountain Club (ADK)
 - Lewis County
 - Trout Unlimited (TU)

- American Whitewater Affiliation (AWA)
- Adirondack Council (AC)
- National Park Service (NPS)

Each member will have one vote with regards to the distribution of funds based on majority vote.

The Council will also make recommendations which must be considered by the regulatory agencies and Niagara Mohawk regarding management of the Beaver River and hydropower project operations, in accordance with other provisions of this agreement.

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