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OFFICE OF THE
SECRETARY

225 Greenfield Parkway, Suite 201
Liverpool, NY 13088

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FEDERAL ENERGY REGULATORY COMMISSION
February 18, 2004

ORIGINAL

Honorable, Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
Mail Code DLC, HL-11.1
888 First Street, NE
Washington, DC 20426

RE: Erie Boulevard Hydropower, L.P.'s Oswego River Project No. 2474 and Oswego Falls Project No. 5984 Offer of Settlement

Dear Secretary Salas:

Pursuant to 18 CFR §385.602, enclosed for filing please find an original and eight (8) copies of a document entitled Oswego River Offer of Settlement (Settlement Offer) that was recently executed by inter alia, Erie Boulevard Hydropower, L.P. (Erie) the New York State Department of Environmental Conservation (NYSDEC), the United States Fish and Wildlife Service (USFWS), the National Park Service (NPS), New York Rivers United (NYRU), the Adirondack Mountain Club, and several other non-governmental organizations (NGO's) as regards to the licensing of the Oswego Falls Project (FERC No. 2474 and amendment of the license pertaining to the Oswego River Project No. 5984 .

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

EXPLANATORY STATEMENT

I INTRODUCTION

Erie and the parties to this Settlement Offer entered into settlement negotiations as a result of denial of Erie's application for Section 401 water quality certifications by the NYSDEC on November 19, 1992 and the applicant's subsequent request for administrative rehearing. Execution of this Settlement Offer resolves all pertinent issues pertaining to the 401 and FERC licensing proceedings a paves the way for the NYSDEC to henceforth issue the water quality certification for the Oswego River Project adopting the provisions of this Settlement Offer.

Moreover, this Settlement Offer sets forth the terms and conditions that the signatories have agreed should be included in the new license for the Oswego River Project and it establishes agreement among the parties to modify the terms and conditions of the Oswego Falls Project license so that it will be compatible with the various protection, mitigation and enhancement (PM&E) measures in this Settlement Offer pertaining to the Oswego River Project. Accordingly, pursuant to this agreement, Erie will henceforth file an application to amend the Oswego Falls Project No. 5984 license comporting to the pertinent terms and conditions set forth in this Settlement Offer.

Upon approval by the Commission and through agreement by all of the signatories, this Settlement Offer will attain a new license term of 40 years according to the terms and conditions that the signatories have agreed upon. These terms and conditions include PM&E measures which will result in enhanced aquatic habitat, enhanced fish movement and fishing opportunities, increased habitat for riparian vegetation, wetland and wildlife resources, increased recreational access and safety, and adaptive management of future aquatic resources.

II. OFFER OF SETTLEMENT COMPOSITION

The enclosed settlement offer includes the following significant features:

- Section 1 is composed of a number of ancillary points and considerations pertaining to the Settlement Offer including a description (subsection 1.2) of what provisions of the Settlement Offer are intended to be included in the ensuing FERC license;
- Section 2 covers a number of general agreements among the parties that pertain to the new license affected by the Settlement Offer. In addition Subsection 2.13 provides for cooperative consultation among the parties in connection with potential future amendment to the license to add a new unit at the Fulton Development powerhouse to facilitate more efficient generation control while providing the base flow enhancement stipulated in the Settlement Offer. Subsection 2.14 also includes those provisions that are withdrawn from the original license application in lieu of this Settlement Offer.
- Section 3 covers the development-specific PM&E measures for the Oswego River Project and the Oswego Falls Project. These enhancements including a recreational enhancements not to be included in the ensuing FERC license (Subsection 3.7.1(a)) are listed below:
 - Impoundment fluctuation limitations (including a partial pneumatic flashboard system at the Oswego Falls Project) coupled with new operating procedures will benefit the littoral zone of the impoundments,
 - Base flows below the Fulton and Varick Developments that will increase the aquatic habitat below the developments on a year round basis,
 - Bypass minimum flows at the Oswego Falls Project and the Fulton and Varick Developments which will wet the bypass reaches and increase the available habitat,

- Habitat improvements to the Varick bypass reach that will increase habitat and recreation opportunities,
- Fish protection measures at all of the developments to reduce or eliminate fish entrainment and mortality,
- Downstream fish passage at all of the developments to promote the downstream movement of resident and catadromous species.
- Upstream fish passage at all of the developments to promote the upstream migration of the catadromous American eel, and
- An alternative route for canoe portage at the Minetto development that will enhance canoeing opportunities at this development.

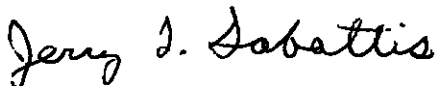
III. CONCLUSION

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

The execution of this Settlement Offer will also yield the ancillary benefit of facilitating the NYSDEC's issuance of a 401 water quality certificate, thus allowing positive FERC action, on a licensing proceeding that has been pending since December of 1991.

If you should have any questions pertaining to this submittal, please contact the undersigned at (315) 413-2787.

Very truly yours,



Jerry L. Sabattis
Licensing, Compliance & Project Properties

Enclosures: Settlement Offer
Attached Service List

xc w/encl: S.S. Hirschey
W.J. Madden
Service List
Settlement Offer Signatories

Oswego River Settlement Signatory List
Oswego River Project No. 2747

Betty Lou Bailey
Adirondack Mountain Club
4029 Georgetown Square
Schenectady, NY 12303-5300

Peter Duncan
NYSDEC
625 Broadway
Albany, NY 12233-1012

David J. Youlen
Managing Director Hydro
Erie Boulevard Hydropower, L.P.
225 Greenfield Parkway, Suite 201
Liverpool, NY 13088

Thomas Matias
Trout Unlimited
37 Douglas Road
Delmar, NY 12054

Les Monostory
Vice President
Izaak Walton League
125 Euclid Drive
Fayetteville, NY 13066

Dr. Mamie Parker
Regional Director
USFWS Regional Office
300 Westgate Center Drive
Hadley, NY 01035-9589

Bruce R. Carpenter
New York Rivers United
PO Box 1460
Market Street in Griffis Technology Park
Rome, NY 13442-1460

Marie Rust
Regional Director
National Park Service, NE Region
200 Chestnut Street, 5th Floor
Philadelphia, PA 19106

Howard Cushing, Jr.
President
NYS Conservation Council
96 Jones Road
Poestenkill, NY 12140

CERTIFICATE OF SERVICE

PROJECT: Oswego River Hydroelectric Project No. 2474

The preceding correspondence has been provided by Erie Boulevard Hydropower, L.P. by first class mail, to the following individuals, at the following addresses.

SERVICE LIST

Mr. Dave Clark
Chief of Environmental Compliance
National Park Service
15 State Street
Boston, MA 12109

Attn: Mr. Larry J. Sherman, FERC Coord.
U.S. Department of the Army
Buffalo District
Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207-3199

Mr. A. S. Vetter
NYS Department of Transportation
Syracuse State Office Building
333 E. Washington Street
Syracuse, NY 13202

Mr. Robert Hargrove, Chief
Environmental Impacts Branch
Region II
U.S. Environmental Protection Agency
290 Broadway
New York, NY 10007-1866

Mr. Mike Ludwig
Habitat & Protection Resource Division
National Marine Fisheries Service
212 Rogers Avenue
Milford, CT 06460

Mr. Anton Sidoti, Regional Director
Federal Energy Regulatory Commission
19 West 34th Street, Suite 400

New York, NY 10001

Mr. David L. Stilwell
Field Supervisor
Attention: Steve Patch
U.S. Fish & Wildlife Service
3817 Luker Road
Cortland, NY 13045

Hon. John C. Crary, Secretary
NYS Department of Public Service
Public Service Commission
Three Empire State Plaza
Albany, NY 12223

Hon. Gale Norton
U.S. Department of the Interior
Secretary of the Interior
1849 C Street, N.W.
Washington, DC 20240 (6 copies)

Hon. Bernadette Castro, Commissioner
**NYS Office of Parks, Recreation &
Historic Preservation**
Agency Building I
Empire State Plaza
Albany, NY 12238 (2 copies)

Director
Bureau of Land Management, USDO
Interior Building
1849 C Street, N.W.
Washington, D.C. 20240

SERVICE LIST

Mr. John Zmarthie
Canal Division Engineer-Syracuse
New York State Thruway Authority
Office of Canals
P. O. Box 308
East Syracuse, NY 13057-0308

Mr. John Gangemi
Conservation Director
American Whitewater Affiliation
482 Electric Avenue
Bigfork, MT 59911

Mr. Andrew Fahland
Director of Hydropower Programs
American Rivers, Inc.
1025 Vermont Ave., NW
Suite 720
Washington, D.C. 20005-3516

Mr. Richard Roos-Collins
Attorney
Natural Heritage Institute
2140 Shattuck Avenue, Fifth Floor
Berkeley, CA 94704

Mr. David J. Miller
Regional Vice President
National Audubon Society
200 Trillium Lane
Albany, NY 12203

Mr. Charles Gauvin, President
Trout Unlimited
1500 Wilson Blvd.
Arlington, VA 22209

Mr. Bruce Carpenter, Executive Director
New York Rivers United
P.O. Box 1460
Rome, NY 13442-1460

Ms. Betty Lou Bailey, Chairman
Canoe Route Subcommittee
Conservation Committee
Adirondack Mountain Club
4029 Georgetown Square
Schenectady, NY 12303

Mr. Neil F. Woodworth
Counsel
Adirondack Mountain Club
RR 3, Box 3055
Lake George, NY 12845-9523

Susan Adair/M. A. Koeneke
Onondaga Audubon Society, Inc.
P. O. Box 620
Syracuse, NY 13201

Mr. Thomas R. Matias
Counsel
New York Council Trout Unlimited
37 Douglas Road
Delmar, NY 12054

Mr. John Leto
John Leto Associates
P.O. Box 1013
Oswego, NY 13126

Honorable John J. Gosek
Mayor
City of Oswego
City Hall
West First & Oneida Streets
Oswego, NY 13126

Mr. Troy Naramore
Supervisor
Town of Minetto
P. O. Box 220
Minetto, NY 13115

SERVICE LIST

Mr. Ralph Manna
**New York State Department
of Environmental Conservation**
Division of Environmental Permits
615 Erie Boulevard West
Syracuse, NY 13204-2400

Mr. Kevin Vienneau
Department of State
Coastal Management Program
162 Washington Avenue
Albany, NY 12231

Mr. Mark Sanza
**New York State Department
of Environmental Conservation**
Division of Legal Affairs
625 Broadway
Albany, NY 12233

Michael Stankiewicz
**New York State Department
of Environmental Conservation**
Dam Safety Unit, Div. of Water
625 Broadway
Albany, NY 12233-4756

Date: _____

RELIANT ENERGY

LIVERPOOL, NY

**OSWEGO RIVER
OFFER OF SETTLEMENT
IN CONNECTION WITH THE NEW LICENSE APPLICATION
FOR THE
OSWEGO RIVER PROJECT (FERC NO. 2474)
FULTON DEVELOPMENT
MINETTO DEVELOPMENT
VARICK DEVELOPMENT**

**IN CONNECTION WITH AN AMENDMENT OF
LICENSE FOR THE
OSWEGO FALLS PROJECT (FERC NO. 5984)**

NOVEMBER 2003

Prepared by:

Kleinschmidt
Energy & Water Resource Consultants

RELIANT ENERGY
LIVERPOOL, NY

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OFFER OF SETTLEMENT

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FULTON DEVELOPMENT
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VARICK DEVELOPMENT**

OSWEGO FALLS PROJECT (FERC NO. 5984)

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**OSWEGO RIVER
OFFER OF SETTLEMENT**

**OSWEGO RIVER PROJECT (FERC NO. 2474)
FULTON DEVELOPMENT
MINETTO DEVELOPMENT
VARICK DEVELOPMENT**

OSWEGO FALLS PROJECT (FERC NO. 5984)

1.0 INTRODUCTION

The Agreement and The Parties

This agreement (the Settlement Offer) dated as of April 7, 2003, is made and entered into pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC) (18 C.F.R. § 385.602) by and among the following entities who shall, except as otherwise noted, be referred hereafter to as a Party and collectively as "Parties":

- Adirondack Mountain Club (ADK)
- Erie Boulevard Hydropower, L.P. (Erie) acting through its General Partner, Reliant Energy (Reliant)
- Izaak Walton League
- New York Rivers United (NYRU)
- New York State Conservation Council (NYSCC)
- New York State Department of Environmental Conservation (NYSDEC)
- Trout Unlimited (TU)
- U.S. Department of the Interior (DOI), U.S. Fish and Wildlife Service (USFWS)
- U.S. Department of the Interior (DOI), National Park Service (NPS)

1.1 Term of the Settlement Offer

This Settlement Offer shall become effective when it has been executed by the above-referenced Parties and shall remain in effect, in accordance with its terms, throughout the terms of the respective licenses for the Oswego River Project and the Oswego Falls Project including any annual licenses.

1.2 Agreements to Be Incorporated As License Conditions

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

1.3 Purpose, Goals and Geographic Scope

The purpose of this Settlement Offer is to document the agreements that have been reached as the result of comprehensive discussions among the Parties with regard to the referenced hydroelectric developments with a pending license application before the FERC and a pending application for a 401 Water Quality Certification (401 WQC) before the NYSDEC for the Oswego River Project exclusively.

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

The geographic scope of the agreements includes the Oswego River from immediately below the Phoenix Hydroelectric Development (FERC No. 4113) to the mouth of the Oswego River at its entrance to Lake Ontario.

The Parties, having given careful and equal consideration to non-power and power values, provide in this Settlement Offer the terms and conditions for the resolution of operational, fisheries, wildlife, water quality, and recreational issues raised by and analyzed by the Parties as they are applicable to the issuance of a license and 401 WQC for the subject project.

1.4 Project Decommissioning

This Settlement Offer does not include any provisions relating to decommissioning or dam removal of the subject project in whole or part. With or without amendment of this Settlement Offer, any Party may seek such further relief from the FERC regarding such decommissioning as the FERC may order, recognizing that no Party to this Settlement Offer has, or is advocating decommissioning of any project facilities at this time, nor does evidence currently exist which would suggest the need to advocate for decommissioning during the term of the license. If and when the subject project is decommissioned or retired during the term of any new license, the disposition of any enhancements associated with said project pursuant to this Settlement Offer will be determined in decommissioning proceedings at that time.

1.5 Successors and Assigns

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

1.6 Parties To Support Regulatory Approvals

The Parties agree to support the issuance of a license and 401 WQC that is consistent with the terms of this Settlement Offer. This support shall include reasonable efforts to expedite the National Environmental Policy Act (NEPA) process to be

undertaken by the FERC, as well as any regulatory approvals that may be needed to implement provisions of the Settlement Offer. For those issues addressed herein, the Parties agree not to propose or otherwise communicate to the FERC or to any other federal or state resource agency with jurisdiction directly related to the relicensing process any comments, certification, or license conditions other than those consistent with the terms of this Settlement Offer. However, this Settlement Offer shall not be interpreted to restrict any Party's participation or comments in future relicensing of the subject developments.

1.7 Agency Appropriations

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

1.8 Establishes No Precedents

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

1.9 Conventions and Definitions

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

Base Flow: The required minimum instantaneous instream flow, measured in cfs, to be continuously released into the river channel below the powerhouse, including, where applicable, dam leakage where an accurate measurement exists, and bypass flows.

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

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

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

Execution of the Offer of Settlement: For purposes of this Settlement Offer "Execution of the Offer of Settlement" means the date on which the Licensee files the final signed version of the Settlement Offer with the FERC.

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

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

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

Licensee: Erie Boulevard Hydropower, L.P., and limited partner of Reliant Energy.

Normal Operation: The daily operation of the Oswego River Project and the Oswego Falls Project that may involve utilization of allowable impoundment fluctuations as needed to produce energy.

Thalweg Depth: The deepest part of the river channel in a cross-section of the river profile.

2.0 GENERAL AGREEMENTS OF THE PARTIES

2.1 License Term

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

2.2 Enforceability and Withdrawal Rights

The Parties agree that it is their intent, and this Settlement Offer is based upon, and in consideration of their expectation that Sections 3.1, 3.2, 3.3, 3.4, 3.5. and 3.6 will be included in any license issued as numbered license articles and that the Commission will enforce these provisions. If, in making its licensing decision, the Commission determines that any of the sections identified herein are not within its jurisdiction to enforce, it will so expressly and clearly notify the Parties in the licensing order. If the Commission does not so expressly identify any of the provisions of the sections identified herein, then the Parties will, in reliance thereon, proceed as though each of the sections identified herein are enforceable by the FERC.

In the event that the FERC should, contrary to the integrated and indivisible nature of this Settlement Offer described herein in Section 1.2, issue a new license that omits or reduces any of the commitments identified in Sections 3.1, 3.2, 3.3, 3.4, 3.5 and 3.6 which the Licensee has agreed to undertake as part of this Settlement Offer and in the event that the new license is not thereafter satisfactorily modified as the result of the filing of a request for rehearing as provided in Section 2.5, and in the event any Party thereafter determines that its interests will be materially and adversely affected by the change or changes so made by the FERC, it may after first providing written notice of its intention to do so to the other Parties together with a written explanation of its reasons for doing so, withdraw from this Settlement Offer and thereafter the Settlement Offer shall have no force and effect and the Parties shall in any subsequent administrative and

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

2.3 Water-Quality Certification — Withdrawal Rights

The Parties agree that they will support the issuance by the NYSDEC of a Section 401-WQC that is consistent with the provisions of this Settlement Offer for the Oswego River Project. If the NYSDEC should issue a 401-WQC certification for the project that is materially inconsistent with the provisions of this Settlement Offer, any Party can withdraw from this Settlement Offer by providing written notice of its intention to do so to the other Parties within 60 days from the date of issuance of any such certification or, in the event any Party seeks judicial or agency review, 60 days from the date of the denial of such review. The NYSDEC will distribute to the Parties copies of the 401 -WQC that is issued.

2.4 New York State Canal Corporation Permits

The Parties understand that certain modifications to structures and/or lands under the jurisdiction of the New York State Canal Corporation (Canal Corp) will be necessary for the Licensee to complete the settlement measures described in Sections 3.1, 3.3, 3.4, 3.5 and 3.7 of this Settlement Offer and that the Canal Corp must issue appropriate Canal Work Permits to the Licensee, pursuant to the Canal Work Permit Application form shown in Appendix A, before the Licensee can proceed with such modifications. The Licensee agrees to apply for the requisite permits in a timely manner so as to not impact the implementation schedules identified in Tables 3-1, 3-2, 3-3, 3-4, and 3-5. The Canal Corp agrees to cooperate in issuing the requisite permits and to not unreasonably withhold issuance of the requisite permits to proceed with the modifications and subsequent operations of the settlement measures pertaining to those modifications.

The Parties understand that the execution and implementation of this Settlement Offer is not intended to give the FERC jurisdiction over the Canal Corp's canal and lock operations in the vicinity of the Oswego River Project and the Oswego Falls Project.

The issuance of such permits to the Licensee to proceed with implementation of the settlement measures described in Sections 3.1, 3.3, 3.4, 3.5, and 3.7 will be without prejudice to any issue regarding the acquisition of any property rights that the Licensee may need to obtain from the Canal Corp pursuant to FERC Standard License Article 5.

2.5 Rehearings

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

2.6 Reopeners

The Parties agree that, except as provided herein, this Settlement Offer is not intended to limit or restrict the ability of any Party to petition the FERC pursuant to any reopener condition contained in the new license, including any exercise by the Secretary of DOI relating to the Secretary's fishway prescription authority under § 18 of the FPA. No such petition, including the exercise of § 18 authority, may be filed which would, if

granted, be materially inconsistent with this Settlement Offer, or cause other portions of the Settlement Offer to be reopened, unless the Party who files the petition has substantial evidence that a change in circumstances has occurred including any material change made by the Commission to the terms of this Settlement Offer which provides good cause for the filing of the petition. Before any Party files such a petition with the FERC, it shall provide at least 60 days written notice of its intention to do so to all other Parties and, promptly following the giving of notice, has consulted with the other Parties regarding the need for and the purpose of the petition. In the event such a petition is filed, the filing Party shall include with its filing documentation of its consultation with the other Parties and a summary of their recommendations and its response to those recommendations. The filing Party shall also serve a copy of its petition on all the other Parties.

2.7 License Amendments

The Parties agree that, except as provided herein, nothing in this Settlement Offer is intended to limit or restrict the ability of the Licensee to seek amendments of any new license. The Licensee may only seek a license amendment which would be materially inconsistent with the provisions of this Settlement Offer if it has substantial evidence that a change in circumstances has occurred which provides good cause for the filing of the amendment and has provided the Parties at least 60 days written notice of its intention to do so and, promptly following the giving of notice, has consulted with the Parties regarding the need for and the purpose of the amendment. For other license amendments which just relate to the license terms set forth in this Settlement Offer, the Licensee shall provide all Parties at least 30 days notice of the proposed amendment and, if requested to do so by any Party, shall consult with the Parties regarding the amendment and defer the filing for another 30 days. In any application for an amendment which relates to any of the terms and conditions of this Settlement Offer, the Licensee shall document its consultation, summarize the positions and recommendations of the Parties, and provide its response to those positions and recommendations. The Licensee shall serve a copy of any application for amendment upon the Parties at the time of the filing. The Licensee will not oppose an intervention request filed in a timely manner by any Party in an amendment proceeding involving the license.

2.8 Oswego Falls License Amendment

Within ninety (90) days of the execution of this Offer of Settlement the Licensee agrees to prepare and file with the FERC an application to amend the existing Oswego Falls Project license (FERC Project No. 5984) which incorporates the proposed changes in the existing Oswego Falls License conditions affected by Subsections 3.1.2, 3.1.3, 3.3, and 3.5 of this agreement. The Parties agree that the discussions and meetings which have been held in connection with the negotiation of this Settlement Offer have afforded sufficient pre-filing consultation in connection with the aforementioned amendments of the license for the Oswego Falls Project and the Parties agree to support those amendment requests by the Licensee.

2.9 Fish Passage and Section 18

The Parties agree that fish passage measures as described in Section 3.5 will be implemented, but the new FERC license for the Oswego River Project should include the standard license article reserving the ability of the FERC to require fish passage in the future and should include the full reservation of the Secretary of the Interior's § 18 authority, by reserving the Secretary's authority to prescribe the construction, operation, and maintenance of such fishways as deemed necessary. The existing § 18 prescription submitted for the Oswego River Project will be modified to be consistent with this Settlement Offer.

2.10 Settlement Offer Amendments

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

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

2.11 Compliance With the National Historic Preservation Act

The Licensee agrees to develop a Cultural Resources Management Plan, as needed, in consultation with the New York State Office of Parks, Recreation and Historic Preservation, and Federally-recognized Indian tribes.

2.12 Compliance With the Endangered Species Act

Consultation with the NYSDEC and the USFWS has established that, except for some transient individuals, there are no federally- or state-listed threatened or endangered species in the area of the Oswego River Projects at this time.

2.13 Fulton Unit Addition

The Parties agree to cooperate with the Licensee in any future amendment the Licensee may pursue in installing any additional generating unit(s) to the Fulton Development of the Oswego River Project (FERC No. 2474) during the term of any new license provided such an amendment is consistent with the terms and conditions of this Settlement Offer and includes the installation of seasonal 1-inch clear-spaced trashrack overlays or seasonal 1.5-inch diameter punchplates to be placed seasonally from May 1 or when flows permit safe installation (whichever is later) through November 30 or when

the temperature of the river decreases to 7° C or less (whichever is sooner) as a fish protection measure.

2.14 License Application Proposals Withdrawn

The Parties agree that all license application proposals preceding this Settlement Offer are withdrawn and superceded by those specified in this Offer of Settlement. The withdrawn proposals include:

2.14.1 Proposals Withdrawn

- Operate all three developments in ROR mode with the impoundment water level at or near the top of flashboards or dam crest, as superceded by Section 3.1;
- Release a minimum flow of 475-cfs to the upper Varick development bypassed reach during the walleye spawning season, 300-cfs during the fall upstream salmonid migration period; and 200-cfs for the remainder of the year, as superceded by Section 3.3;
- Release a minimum flow of 200-cfs to the lower Varick development bypassed reach during the walleye spawning season, 150-cfs during the fall upstream migration period, and 75-cfs for the remainder of the year, as superceded by Section 3.3;
- Install low-cost, 1-inch, clear-spaced trashrack fish protection systems with downstream passage at all three developments by 2010(contingent on finalizing Atlantic salmon restoration goals), as superceded by Section 3.5;
- Conduct downstream fish passage effectiveness studies for installed passage facilities at all three developments, as superceded by Section 3.5

- Provide upstream passage for Atlantic salmon by constructing an interim trap and truck facility at the Varick development, as superceded by Section 2.8;
- Implement aesthetic improvements at all three developments;
- Provide pedestrian and angler access to the Canal Lock No. 3 island downstream of the Fulton development by establishing a woodchip trail and installing fences and signs;
- Assist NYSTA(Canal Corp) in improving shoreline fishing at the Canal Lock No. 2 island, upstream of the Fulton development;
- Assist with the city of Fulton's Granby Trail from the Granby Project to the Oswego Falls Project ;
- Assist with the development of the city of Oswego's planned Varick Impoundment Trail

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

3.1 Operations

3.1.1 Mode of Operation

Within eighteen (18) months of license issuance and acceptance, the Licensee will begin to operate the Oswego River Project in a Modified Run-of-River (MROR) mode. The Licensee will also continue to operate the Oswego Falls Project in the same MROR mode according to the existing license for the Oswego Falls Project, which is consistent with Sections 3.1.1 and 3.1.2 of this Settlement Offer. This MROR mode more closely matches the outflow from the projects with the inflow to the projects by limiting the impoundment fluctuations as described in Section 3.1.2 below while allowing a minimum buffer to compensate for changes in inflow to the project.

This MROR mode may be curtailed or suspended if required by operating emergencies beyond the control of the Licensee, including security, and for short periods upon mutual agreement between the Licensee and the NYSDEC. If the MROR mode is so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten (10) business days after each such incident.

3.1.2 Impoundment Fluctuations

Within eighteen (18) months of license issuance and acceptance, the Licensee shall limit impoundment fluctuations in the Fulton, Minetto, and Varick developments as specified in Table 3-1. The Licensee will also limit impoundment fluctuations at the Oswego Falls Project to 0.5 feet as described in FERC's "Order Modifying and Approving Run-Of-River Monitoring Plan" for the Oswego Falls Project and specified in Table 3-1.

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

Development	Permanent Crest of Dam (feet, USGS)	Flashboards	Normal Impoundment Fluctuation
Oswego Falls	351.8	18"	0.5 feet (year-round) measured in a downward direction from the permanent crest of dam or the top of flashboards when in place.
Fulton	334.0	6"	
Minetto	307.0	10"	
Varick	267.5	30"*	1.0-foot (year-round) measured in a downward direction from the permanent crest of dam or the top of flashboards when in place.
		32"*	
		34"*	
		36"*	
	268.5	10"*	

** The Varick dam is currently fitted with a system of stepped flashboards with a maximum height of 36" from permanent crest elevation of the dam and may be adjusted as needed by the Licensee. The current system is designed to fail at approximately 15" of overtopping. Under normal operating conditions, the water level is maintained at 30" above crest (Elev. 270.0).*

These impoundment fluctuation limitations may be curtailed or suspended if required by operating emergencies beyond the control of the Licensee, including security, and for short periods upon mutual agreement between the Licensee and the NYSDEC. If the limitations are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten (10) business days after each such incident.

3.1.3 Pneumatic Flashboards

The Licensee will install partial pneumatic flashboards as described in the Oswego Falls "Order Issuing License", on the sections of the spillway from near the non-overflow section to the first taintor gate (Taintor Gate No. 6) support wall of the Oswego Falls Dam to facilitate pond level control. As the pneumatic flashboards were required in the license for the Oswego Falls Project, no license amendment is necessary for the implementation of this protective measure. Installation of the pneumatic flashboards will be completed by December 31, 2003.

3.1.4 Justification

The Party's agreement to operate the Oswego River Projects in a MROR mode significantly reduces the normal daily impoundment fluctuations associated with normal project operations. Review of pertinent historical USGS stream flow data indicates river flow periodically exceeds the total hydraulic capacity of each development's turbines. Furthermore, impoundment fluctuations are currently limited during the navigation season (approximately mid-May through November) as required by the Canal Corp. As such, normal daily impoundment fluctuations due to hydropower operations are limited to those periods when river flow is less than the hydraulic capacity (including any base flows or bypass flows) of each development and/or during the navigation season.

The normal daily impoundment fluctuations coalesced with the MROR operation agreed upon for the Oswego Falls Project and the Fulton and Minetto developments allows for a subtle buffer needed to approximate outflow in response to the dynamics of river inflow. This creates a smoothing effect to the flow regime while at the same time decreases the amount of area impacted by the impoundment fluctuations as described in Table 3-1.

The MROR operations and the normal daily impoundment fluctuations for the Varick development will provide this same buffering capacity as well as providing an additional safety buffer for recreational users of the river. The impoundment fluctuation at the Varick Development as described in Table 3-1 is greater than for the other developments of the Oswego River Project due to the small size and steep-sided slopes of the impoundment and surrounding shoreline. This operating regime will also enhance the existing shallow water littoral zone and adjacent wetland habitat by decreasing the amount of impacted area.

At each of the Oswego River developments, the normal daily impoundment fluctuations and MROR operations described above will reduce the size of the fluctuation zone, potentially resulting in improved primary production. This improvement in primary production should result in improved benthic invertebrate production and improvements to fish diet, growth, and reproduction.

3.2 Base-flows

Within eighteen (18) months of license issuance and acceptance, the Licensee shall begin to release the base-flow as specified in Table 3-2. The base-flow(s) as described in Table 3-2 shall be maintained in the river immediately downstream of the development's powerhouse. No base-flow is provided at the Minetto Development due to the back watering effect created by the dam at Lock # 6. The base flow at the Varick Development is provided for via the bypass flow as described in Table 3-3.

These base-flow requirements may be curtailed or suspended if required by operating emergencies beyond the control of the Licensee, including security, and for limited periods upon mutual agreement between the Licensee and the NYSDEC. If the flows are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten (10) business days after each such incident.

Site	Flow Magnitude	Location	Season		Implementation Schedule
			From	To	
Fulton	800-cfs or inflow‡ (whichever is less) for walleye spawning	Below powerhouse through generation or over the spillway during non-generation periods.	The beginning of Walleye spawning season which begins when water temperature $\geq 4^{\circ}\text{C}$ for 4 consecutive days after March 15 th of each year.	The end of Walleye spawning season which ends 30 days after the water temperature $\geq 10^{\circ}\text{C}$ for 4 consecutive days.	Within 18 months of license issuance and acceptance.
	300-cfs or inflow‡ (whichever is less)		At the end of the walleye spawning season.	To cease at the beginning of walleye spawning season.	

‡Inflow is approximately equal to the gross river inflow less the flow volume used for canal lockage operations.

3.2.1 Justification

The agreed upon base-flows below the Fulton development as described above in Table 3-2 will be maintained for the protection of: fish habitat, benthic invertebrate production, sustained riparian wetland vegetation, walleye spawning, fishing opportunities, and water quality considerations. These base flows for the Fulton development will increase the amount of wetted area in the tailrace below the Fulton powerhouse, in the bypass reach, and that portion of the Oswego River downstream of the Fulton Development.

The base-flow below the Fulton development during the walleye-spawning season creates over 9,000 ft.² of relatively high-quality walleye spawning habitat. In addition, this flow provides at least 90% of the Weighted Usable Area (WUA) for the invertebrate Hydropsychid species and results in a high proportion of the bypass reach providing high quality habitat for certain life stages of this species.

The base-flow below the Fulton development during that portion of the year not covered by the walleye spawning season offers approximately 90% of the maximum possible WUA for juvenile longnose-dace, an important forage species.

In addition, it provides riverine habitat for other forage fish, several life stages of sport fish, and benthic invertebrates.

The provision of these base flows for the Fulton development as evident by multiple site visits will allow the upper bypass reach to be backwatered by discharge from the turbines. This backwatering effect, in combination with a 75-cfs fish friendly flow for downstream fish movement (as described in Section 3.3 below), substantially increases the amount of available wetted area in the upper bypass reach and creates habitat for resident and migratory fish species while providing enhanced fishing opportunities.

3.3 Bypass Flows

Within eighteen (18) months of license issuance and acceptance, the Licensee shall begin to release the bypass flows as specified in Table 3-3.

These bypass flows are considered to be nominal flows. That is, it is recognized that the actual release at any given time may be slightly above or slightly below the agreed-upon value. The degree to which a flow will be greater than or less than the nominal value indicated is a function of impoundment surface elevation as a result of normal daily impoundment fluctuations (see Section 3.1) as shown in parenthesis in Table 3-3. The Licensee shall derive appropriate structural designs for the provision of the bypass flows at the Oswego River and Oswego Falls projects.

The Parties have agreed upon the bypass flows for the Varick development as described in Table 3-3 with the understanding that these flows will achieve agency management goals when coupled with the addition of low-level flow diversion structures to the lower bypass reach as described in Section 3.4 below. The Parties further agree that at a minimum of (5) five years after license issuance and acceptance, at the request of the Licensee, that the Licensee and the resource agencies will reevaluate the 400-cfs seasonal flow from September 16 through the beginning of walleye spawning season in

an attempt to decrease this bypass flow while continuing to meet the agencies management objectives.

Site	Flow Magnitude		Location	Season	Timing of Implementation
Oswego Falls	236-cfs or inflow, ‡ whichever is less	70-cfs (61-79) fish friendly flow	release at the east-side sluice gate	Year-round	Within 6 months of FERC's approval of an amendment to the Oswego Falls License
		166-cfs (164- 168) fish friendly flow	through tainter gate 6		
Fulton	75-cfs (65-86) fish friendly flow		Release from the sluice gate adjacent to the Fulton powerhouse		
Varick	800-cfs (782-818) or inflow ‡, whichever is less*		Existing sluice gate(s) adjacent to the State head gate	Walleye spawning season (see Conventions & Definitions Section).	Within 18 months of license issuance and acceptance
	400-cfs (389-410) or inflow ‡, whichever is less*			End of walleye spawning season through May 31	
	200-cfs (192-207) or inflow ‡, whichever is less*			June 1 through September 15	
	400-cfs (389-410) or inflow ‡, whichever is less*†			September 16 through the beginning of walleye spawning season	

* Note: Throughout the entire year the first 200-cfs released at the Varick development will be made fish friendly as described in Section 3.5.
 † The Parties agree that the Licensee and the resource agencies will reevaluate this seasonal flow if so requested by the Licensee at a minimum of 5 years after license issuance and acceptance with the intention of determining if implementing decreased bypass flows will meet agency management objectives.
 ‡ Inflow is approximately equal to the gross river inflow less the flow volume used for canal lockage operations.

3.3.1 Justification

The Parties have carefully reviewed alternative flows to the bypass reaches of the Oswego River and Oswego Falls projects. The bypass flows agreed upon by the Parties result in an increase in wetted area in the Oswego Falls, Fulton, and Varick bypass reaches. The agreed upon bypass flows, including low-level flow diversion devices, will maintain and increase aquatic habitat for many species and life stages of forage, pan, and game fish and benthic invertebrates which are an important source of forage for many aquatic species. These flows will also benefit wildlife (raccoon, waterfowl, wading birds) and associated riparian vegetation. Bypass flows allocated to the Varick development

will also provide large salmonids, walleye, and other species that migrate into the bypass reach from Lake Ontario with sufficient depth for movement, added protection from predation and excessive illegal harvest, and will enhance opportunities for fishing, including safe recreational ingress and egress to the bypass reach.

The agreed upon bypass flow releases to the Oswego Falls Project will result in an increase of wetted area in the bypass reach immediately downstream of the dam. Riffle areas will provide habitat for various life stages of smallmouth bass, riffle dwelling species, darters, and aquatic insects and spawning habitat for white sucker and walleye.

The agreed upon bypass flow at the Fulton development will wet the upper portion of the bypass reach immediately downstream of the Fulton Dam. Additional flow to the lower portion of this reach will be provided by the base flow through the Fulton Powerhouse (see Table 3.2). The bypass and base flows will increase wetted area and habitat for aquatic organisms similar to that described for the Oswego Falls bypass reach. In addition, higher spring base flow in the lower portion of the reach will provide habitat for walleye spawning.

The agreed upon bypass flows at the Varick development will increase habitat for juvenile, adult and spawning life stages of riffle dwelling species and white sucker, walleye spawning, and juvenile and spawning smallmouth bass. The bypass flow will enhance the use of riffle habitats by larger game fish and will provide thalweg depths that allow larger adult fish species to traverse the bypass reach relatively unimpeded, thus decreasing stranding or harassment of fish by illegal fishing practices. The bypass flow will afford the fishing public ample opportunity to harvest fish legally and promote safe recreational ingress and egress to and from the bypassed reach via access to Linear Park.

3.4 Low-level Flow Diversion Structures

Within eighteen (18) months of license issuance and acceptance the Licensee will install low-level flow diversion structures along a portion of the western side of the bypass reach near the tailrace of the Varick powerhouse. The Licensee agrees to consult with the NYSDEC and the USFWS prior to the design and installation of these low-level flow diversion structures.

These structures will be field located just upstream of the existing tailrace training wall. The licensee will construct these low level flow diversion structures with minimal height and length to avoid any unnecessary impact to the river or fish. These modifications will attempt to divert approximately 70% of the upper bypass reach flow, during the 200-cfs bypass flow release period from June 1 through September 16, to the lower bypass reach. Minor reductions agreed upon by the Parties for the bypass flows released into the bypass reach of the Varick development are in consideration of the implementation of these low-level flow diversion structures.

3.4.1 Justification

These modifications will augment the agreed upon bypass flows by providing increased levels of habitat for invertebrates; spawning for riffle dwelling species, walleye, white sucker, and smallmouth bass; juvenile habitat for longnose dace, white sucker and smallmouth bass; and adult habitat for longnose dace and white sucker. The low-level flow diversion structures will provide adult salmonids migrating upstream to the powerhouse a location to ascend the bypass reach in order to reach areas for sport harvest, increase the prevention of illegal harvesting of large adult fish by providing relatively deep and fast moving water, and assist in providing additional flows to the east side of the bypass reach to maintain waterfowl habitat and to improve the aesthetics of the bypassed reach.

3.5 Fish Protection, Passage, and Movement

The Licensee shall implement the fish-protection, passage, and movement measures as specified in Table 3-4 and 3-5. The Licensee shall be required to provide the following measures and structures to facilitate fish movement at the respective Oswego River Projects.

Table 3-4: Oswego River Hydroelectric Projects Fish Movement				
Development	Downstream Movement Routes		Upstream Eel Conveyance System	
	Location	Implementation Schedule	Upstream Eel Conveyance System	Implementation Schedule
Oswego Falls	70-cfs fish friendly release from an existing sluice gate adjacent to the east side powerhouse, 166-cfs through a tainter gate near the west side powerhouse.	Within 18 months of license issuance and acceptance	An upstream eel conveyance system will be field located in consultation with the USFWS, the NYSDEC and the Canal Corp. Each conveyance system will be installed seasonally from June 15 through September 15.	Within two (2) years of the scheduled Fulton upstream eel ramp installation
Fulton	75-cfs fish friendly release through the existing sluice gate adjacent to the Fulton powerhouse			Within six (6) years of license issuance and acceptance.
Minetto	25-cfs fish passage release through an existing unused bay within the Minetto powerhouse			Within four (4) years of license issuance and acceptance.
Varick	200-cfs fish friendly release through a location adjacent to the newly installed trashrack overlays			Within two (2) years of license issuance and acceptance.

At the Oswego Falls Project, the Licensee shall be required to install protective measures within two (2) years of the execution of this "Offer of Settlement". Should the FERC fail to approve the amendment to the Oswego Falls license (as described in Section 2.7) within eighteen (18) months of this execution, the Licensee shall be required to install protective measures within one (1) year of FERC's approval of this amendment(whichever is later). These protective measures include 1.0-inch clear-spaced

trashrack overlays or 1.5-inch diameter perforated plates to be placed seasonally from May 1 or when flows permit safe installation (whichever is later) through November 30 or when the temperature of the river decreases to 7° C or less (whichever is sooner) as described in Table 3-5. Within six (6) months of the Commission’s approval of the amendment to the Oswego Falls license, the Licensee shall provide a year-round 70-cfs minimum “fish friendly” flow release located at a sluice gate adjacent to the east-side powerhouse and a 166-cfs “fish friendly” release through taintor gate six (6). The Licensee shall also install an upstream eel conveyance system at the Oswego Falls Project to be placed seasonally from June 15 through September 15 within two (2) years of the scheduled installation date for an upstream eel conveyance system at the Fulton development as described in Table 3-4.

Development	Protection Measure	Implementation Schedule	Location	Seasonality
Oswego Falls	Seasonal overlays in the form of 1" clear-spaced trashracks or 1.5" diameter perforated plates	Within 2 years of execution of this "Offer of Settlement" or within 1 year of FERC's approval of the amendment for the Oswego Falls Project (whichever is later).	At the same location as the existing trashracks	To be placed seasonally from May 1 or when flows permit safe installation through November 30 or when the water temperature reaches 7 degrees C or less (whichever is sooner)
Fulton		Within 2 years of license issuance and acceptance for the Oswego River Project.		
Minetto		Within 4 years of license issuance and acceptance for the Oswego River Project		
Varick		Within 6 years of license issuance and acceptance for the Oswego River Project.	To be located at the "State Head Gates" adjacent to the dam.	

At the Fulton Development, the Licensee shall be required to install protective measures within two (2) years of license issuance and acceptance that includes 1.0-inch clear-spaced trashrack overlays or 1.5-inch diameter perforated plates to be placed seasonally from May 1 or when flows permit safe installation (whichever is later) through November 30 or when the temperature of the river decreases to 7° C or less (whichever is

sooner) as described in Table 3-5. The Licensee shall provide a year-round 75-cfs minimum “fish friendly” flow release located at a sluice gate adjacent to the powerhouse, and shall install an upstream eel conveyance system at the Fulton Development to be placed seasonally from June 15 through September 15 within six (6) years of license issuance and acceptance as described in Table 3-4.

At the Minetto Development, the Licensee shall be required to install protective measures within four (4) years of license issuance and acceptance that include 1.0-inch clear-spaced trashrack overlays or 1.5-inch diameter perforated plates to be placed seasonally from May 1 or when flows permit safe installation (whichever is later) through November 30 or when the temperature of the river decreases to 7° C or less (whichever is sooner) as described in Table 3-5. The Licensee shall provide a year-round 25-cfs minimum “fish friendly” flow release located within one of the existing unused bays at the Minetto powerhouse, and install an upstream eel conveyance system at the Minetto development to be placed seasonally from June 15 through September 15 within four (4) years of license issuance and acceptance as described in Table 3-4.

At the Varick Development, the Licensee shall be required to install protective measures within six (6) years of license issuance and acceptance that include 1.0-inch clear-spaced trashrack overlays or 1.5-inch diameter perforated plates to be placed seasonally from May 1 or when flows permit safe installation (whichever is later) through November 30 or when the temperature of the river decreases to 7° C or less (whichever is sooner) as described in Table 3-5. This measure will be located at the “State Head Gate” structure adjacent to the dam. The Licensee shall provide a year-round 200-cfs minimum “fish friendly” flow release located at the Varick dam. The Licensee shall also install an upstream eel conveyance system at the Varick development to be placed seasonally from June 15 through September 15 within two (2) years of license issuance and acceptance as described in Table 3-4.

The Licensee shall not be required to test the effectiveness of any, or all, components of existing and future protection or passage measures and/or structures, make

qualitative or quantitative determinations of fish entrainment and/or mortality, or provide compensation for any fish entrainment and/or mortality.

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

The Licensee may curtail or suspend the requirements of this commitment if required by operating emergencies beyond the control of the Licensee, including security, and for limited periods upon mutual agreement between the Licensee, the USFWS, and the NYSDEC. If the requirements of this commitment are so modified, the Licensee shall notify the FERC as soon as possible, but no later than ten (10) business days after each such incident.

3.5.1 Justification

The fish protection measures and fish friendly minimum flow release structures agreed upon by the parties and described above will provide riverine and migratory species with additional routes to freely move downstream and seasonal protection from turbine entrainment. Fish movement currently is accomplished through turbine generation, canal lockages during the navigation season, and flow over the spillway. The protection measures and movement flows will both physically deter larger fish and behaviorally deter smaller fish from entering the turbine intakes while simultaneously enhancing downstream fish friendly movement by providing an escape route adjacent to the turbine intakes near each of the Oswego River Projects. The upstream eel conveyance systems will aid in the upstream migration of American eels to enable them to utilize additional habitat.

3.6 Flow and Water Level Monitoring

The Licensee shall develop a stream-flow and water-level monitoring plan in consultation with the NYSDEC and the USFWS within fifteen (15) months of the FERC's license issuance and acceptance. The monitoring plan shall include all gages and/or equipment to:

- Measure the base-flow releases at the Fulton development of the Oswego River Project at appropriate locations.
- Measure the bypass flow releases at the Fulton and Varick developments of the Oswego River Project at the appropriate locations.
- Measure headpond and tailwater elevations as needed.
- Provide an appropriate means of on-site visual verification of water levels.
- At the Oswego Falls Project, perform monitoring as outlined in the Oswego Falls "Order Modifying and Approving Run-of-River Monitoring Plan".

All gaging and ancillary equipment required by the monitoring plan, including headpond and tailwater gages, shall be made operational and fully calibrated within eighteen (18) months of license issuance and acceptance.

The monitoring plan will contain provisions for the installation of binary staff gages at selected locations to permit on-site visual verification of headpond, tailwater, and/or bypass reach water levels to the nearest 0.1-foot. Binary staff gages will be visible to the general public. Access to staff gages shall be provided to the NYSDEC, the USFWS, and/or their authorized representatives.

The Licensee shall keep accurate and sufficient records of the impoundment elevations and all project flows to the satisfaction of the NYSDEC and shall provide such data in a format and at intervals as required by the NYSDEC. All records will be made available for inspection at the Licensee's principal business office in New York State within five (5) business days or will be provided in written form within 30 days of the

Licensee's receipt of a written request for such records by the NYSDEC. Furthermore, the Licensee will provide to the NYSDEC a seven-day-per-week contact person to provide immediate verification of monitored flows and responses to questions about abnormal or emergency conditions.

The Licensee shall keep accurate and sufficient records of any uncontrollable station outage that may cause a reduction in the required baseflow at or below the Fulton powerhouse and bypass flow at or below the Fulton and Varick dams. The Licensee will consult with the NYSDEC to include a plan for reporting these types of incidents within the stream flow and water level monitoring plan.

3.7 Recreation

The recreational opportunities provided by this Settlement Offer supplement the existing recreational opportunities on the Oswego River which provide public access to, and use of, the impoundments, bypass reaches, and adjacent lands associated with the Fulton, Minetto, and Varick developments.

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

3.7.1 Recreation Enhancements (NOT TO BE INCLUDED IN THE LICENSE)

Within eighteen (18) months of license issuance and acceptance, the Licensee shall implement the recreation enhancement commitments specified below.

- (a) **Canoe Portage around Minetto Dam.** Canoe navigation around the dams and hydro facilities at each development will continue to be primarily provided through the adjacent canal lock facilities. At the Minetto Development alternative canoe portage accommodations have been requested for use during high flow periods when canoe navigation can be difficult due to river currents near the upstream entrance to the lock. Alternative canoe portage will be accommodated as follows: upstream canoe take-out is available at the existing public boat launch on the west side of the Oswego River upstream of the Minetto Bridge; the portage trail will be situated between the western edge of the Oswego River and Route 48; and the downstream canoe put-in access will be located on Canal Corp owned land downstream of the powerhouse. (See attached Figure 1 showing these facilities). Within eighteen (18) months of license issuance and acceptance the Licensee will construct a canoe portage put-in facility and appropriate portage trail signage on the west side of the Oswego River downstream of the Minetto Development on land owned by the Canal Corp. Prior to constructing these facilities, the Licensee will consult with the Canal Corp concerning final design and location. The Canal Corp agrees to dedicate the use of its land in question for the development and maintenance of these canoe portage facilities by the Licensee.
- (b) **Dispute Resolution:** In the event that a dispute arises relative to the canoe portage enhancement at Minetto Development specified in this Section 3.7.2, signatories agree to engage in good faith negotiations for a period of at least 90 days, if necessary, in an effort to resolve the dispute, with said negotiations to be initiated by the aggrieved party. A minimum of two meetings, scheduled and organized by the objecting party, shall be held to attempt to

resolve the dispute during the 90-day period, if necessary. In the event that resolution cannot be reached within the 90-day negotiating period, any signatory may seek relief in an alternate forum with jurisdiction and authority to address recreational enhancement commitments not included in the license.

J:\826-001\91-15\Oswego RIVER OFFER OF SETTLEMENT.doc

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: Adirondack Mountain Club

By: Betty Lou Bailey
Betty Lou Bailey

Title: Chairman, Canoe Route Subcommittee
Conservation Committee

Date: June 13, 2003

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: Erie Boulevard Hydropower, L.P
Acting through its General Partner,
Reliant Energy

Note: Erie's execution of this Offer of Settlement is premised on the Canal Corp.'s October 20, 2003 letter (filed with the FERC on November 11, 2003) advising that it does not object to the obligations imposed on Erie by this Offer of Settlement which provides reasonable assurances that the Canal Corp will cooperate in issuing requisite Canal Work Permits consistent with Section 2.4 of this Offer of Settlement.

By: David J. Youlen
David J. Youlen

Title: Managing Director, Hydro Generation

Date: 1/29/04

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: Izaak Walton League

By: Leslie G. Monostory
Leslie Monostory

Title: Vice President, CNY Chapter

Date: April 14, 2003

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: New York Rivers United

By: _____



Bruce R. Carpenter

Title: Executive Director

Date: _____

4/10/03

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: New York State Department of Environmental
Conservation

By: _____

Lynette M Stark
Lynette Stark

Title: Deputy Commissioner

Date: _____

4/29/03

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: New York State Conservation Council

By: Howard Cushing Jr.
Howard Cushing Jr.

Title: President

Date: 8/26/03

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: Trout Unlimited


By: Thomas R. Matias
Thomas R. Matias

Title: Counsel to the Committee on Hydro Relicensing
New York State Council, Trout Unlimited

Date: 4/17/03

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: United States Department of the Interior
U. S. Fish and Wildlife Service

By: 
Dr. Mamie Parker

Title: Regional Director

Date: 4-18-03

OSWEGO RIVER OFFER OF SETTLEMENT

Organization: U. S. Department of the Interior,
National Park Service

By: 
for Marie Rust

Title: Regional Director, Northeast Region

Date: 4/29/03

ORIGINAL



John L. Buono
Chairman

**New York State Thruway Authority
New York State Canal Corporation**

200 Southern Blvd., P.O. Box 189, Albany, NY 12201-0189

www.thruway.state.ny.us



Michael R. Fleischer
Executive Director
TELEPHONE 518-485-4244

RECEIVED
OCT 21 11 51 19
FILED

October 20, 2003

Mr. Jerry L. Sabattis
Hydro License Coordinator
Reliant Energy
225 Greenfield Parkway, Suite 201
Liverpool, New York 13088

Re: Oswego River Settlement Agreement
FERC License Nos. 2474 and 5984

Dear Mr. Sabattis:

This is to inform you that the New York State Canal Corporation does not object to the terms and conditions imposed upon the licensee under the above described FERC licenses, as described in the Oswego River Offer of Settlement and Appendices. Also, the Canal Corporation will not oppose nor object to the NYSDEC 401 Water Quality Certification. On the advice of counsel, the Canal Corporation will not be a signatory to the Settlement Agreement.

As stated in our letter dated October 10, 2003 to Mr. Jeffrey M. Auser, P. E., (copy enclosed), we will be directly negotiating with Reliant for the hydropower easements and operating & maintenance agreements which are necessary at the Licensed sites.

Sincerely,

Lawrence J. Frame, P.E.
Deputy Director

123 Main Street
White Plains, New York 10601

814 390-8090



Gerald C. Goldstein
Assistant General Counsel

July 8, 2003

Mr. Jerry Sabattis
Hydro Licensing Coordinator
Reliant Energy
225 Greenfield Parkway, Suite 201
Liverpool, NY 13088

Subject: Erle Boulevard Hydropower
Oswego River Project Settlement Offer
FERC Project No. 2474

Dear Mr. Sabattis:

The Power Authority has received the final settlement offer dated April 2003 for the Oswego River Project. As a party to these proceedings and though not opposed to the Project, the Power Authority has not executed the final settlement agreement.

The Authority's interest in these proceedings is focused principally on the School Street Project, located on the Mohawk River, downstream from two of the Authority's projects.

Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads 'Gerald C. Goldstein'.

Cc: Hon. Kevin J. Casutto
W. Little, NYSDEC
J. Osinski, NYPA
J. Suloway, NYPA

APPENDIX A
NEW YORK CANAL CORPORATION WORK PERMIT APPLICATION



NEW YORK STATE CANAL CORPORATION

INSTRUCTIONS TO APPLICANTS FOR COMMERCIAL CANAL WORK PERMITS

An applicant requesting a Canal Work Permit must complete those forms and/or follow the instructions, which have been checked below or otherwise provide the following information.

- Canal Work Permit Application.
- Proof of Liability Insurance Coverage:
- Certificate of Insurance for Occupancy Permits (FORM TA-951333).
The Canal Corporation requires liability insurance coverage in the amount of \$2,000,000 on all commercial permits. Please submit proof of this amount of insurance coverage with your permit application form. Please have your insurance company complete the enclosed form and return it to us along with your permit application.
- New York State Thruway Authority/Canal Corporation Statement of Self-Insurance form to be filled out if Self-Insured.

The New York State Canal Corporation reserves the right to specify the amount of insurance coverage required on all permits that it issues.
- Deed to the Property adjacent to New York State Canal Lands to be permitted.
- Maps, plans and specifications pertaining to the proposed work.
Please provide _____ sets of plans and specifications.
- Permit Fee:

A non-refundable application fee of \$ 25.00 must be submitted by check or money order.

An additional charge of \$250 per day shall be imposed for any approved work on the Canal system requiring an onsite inspection by Corporation staff of one-half day or more.

Checks or money orders must be made out to the New York State Canal Corporation and submitted with your application form to:
NEW YORK STATE CANAL CORPORATION
ATTENTION: CREDITS & COLLECTIONS
P.O. BOX 22058
ALBANY, NEW YORK 12201-2058
- Appendix C - State Environmental Quality Review - Short Environmental Assessment form Part I-Project Information. Please fill out and return with your Canal Work Permit application.

NO WORK PURSUANT THIS APPLICATION SHALL COMMENCE UNTIL A CANAL WORK PERMIT IS ISSUED BY THE NEW YORK STATE CANAL CORPORATION.

12/00



New York State Canal Corporation
CANAL PERMIT APPLICATION

FOR CANAL USE ONLY

Please enclose non-refundable fee of
\$25.00

WORK PERMIT
 LEASE

NAME	WORK PHONE NUMBER	HOME PHONE NUMBER
------	-------------------	-------------------

ADDRESS

TOWN/VILLAGE/CITY	STATE	ZIP CODE
-------------------	-------	----------

USE AND OCCUPANCY PERMIT NO. (if pre-existing)	CANAL PLATE NO. (if pre-existing)
--	-----------------------------------

PERMISSION REQUESTED TO:

DURATION OF WORK (if applicable) FROM _____ THROUGH _____

DESCRIPTION OF CANAL PROPERTY (including existing structures and map or sketch showing adjacent owners, streets, etc.)

LOCATION OF CANAL PROPERTY

APPLICANT'S SIGNATURE	DATE
SECOND APPLICANT'S SIGNATURE (if joint application)	DATE

APPLICANT WAIVES THEIR RIGHT TO DENY A CREDIT HISTORY CHECK.

FOR OFFICIAL USE ONLY

PARCEL NUMBER	TAX MAP PARCEL NUMBER
CPM/BLM NUMBER	CENTER LINE STATION

APPROVAL RECOMMENDED:

_____ Division Canal Permit Engineer _____ Date

DIVISION APPROVAL:

_____ Division Canal Maintenance Engineer _____ Date

COMMENTS:

**CERTIFICATE OF INSURANCE
FOR OCCUPANCY PERMITS**



(NAME OF INSURANCE COMPANY)

NAME OF INSURED: ADDITIONAL INSURED: People of the State of New York New York State Canal Corporation New York State Thruway Authority	AGENCY NAME & ADDRESS: PERMIT NO.: DATE OF CERTIFICATE:
--	---

TYPE OF INSURANCE	BODILY INJURY LIABILITY		PROPERTY DAMAGE LIABILITY	
	Each Occurrence	Aggregate	Each Occurrence	Aggregate
Comprehensive General Liability				
OR	Combined Single Limit of \$ 2,000,000			

The subscribing insurance company, licensed to do business in the State of New York, certifies that insurance of the kinds and types and for the limits of liability herein stated, has been procured by and furnished on behalf of the insured and is in full force and effect for the period listed below. The insurance company further agrees to furnish the New York State Canal Corporation a complete copy of the policy upon request.

KIND OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS OF LIABILITY (in thousands)	
				Each Occurrence	Aggregate
Comprehensive General Liability				B.I.	
Excess Liability				P.D.	

The policy described above contains the following endorsement(s):

1. An endorsement naming, the "People of the State of New York, the New York State Canal Corporation and the New York State Thruway Authority" as additional insureds and covering the liability of the Permittee, the People of the State of New York, the Canal Corporation, the Authority and their officers, employees and agents, with respect to all acts or omissions under the permit whether or not authorized thereby, including any entry upon or use of Canal Corporation lands, as well as the maintenance of any facility by the permittee or anyone acting in its behalf, and including omissions and supervisory acts of the Canal Corporation, the Authority, their officers, employees or agents.
2. An endorsement with the following description of policy coverage:
 "The naming of the People of the State of New York, the New York State Canal Corporation, and the New York State Thruway Authority as additional insureds does not exclude the liability of the permittee, and does not exclude the liability of any one acting by, through or for the permittee, for damages to the property or facilities of the New York State Canal Corporation or the New York State Thruway Authority."
3. An endorsement providing for 30 days advance notice before cancellation or material change of coverage provided will be mailed to the New York State Canal Corporation, P.O. Box 22058, Albany, New York 12201-2058.

• See Reverse

NAME OF
INSURANCE COMPANY _____

BY _____

CORPORATE TITLE _____

** Signature must be that of an officer or an authorized individual employed by the insurance company. An agent's signature is not acceptable. This signature also warrants that the certificate fairly describes the coverage of the policy and that there are not material or substantial limitations to either the limits of coverage or the object to be covered.*

STATE OF _____

CITY OR
COUNTY OF _____

} ss:

On this _____ day of _____, 19____, before me personally came _____, to me known, who being duly sworn, did depose and say that he/she resides in _____, that he/she is the _____ of the _____,

the corporation described in and which executed the foregoing instrument; that he/she knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the authority of the Board of Directors of said corporation, and that he/she signed his/her name thereto by like order.

(Notary Public)

PROJECT I.D. NUMBER

Appendix C

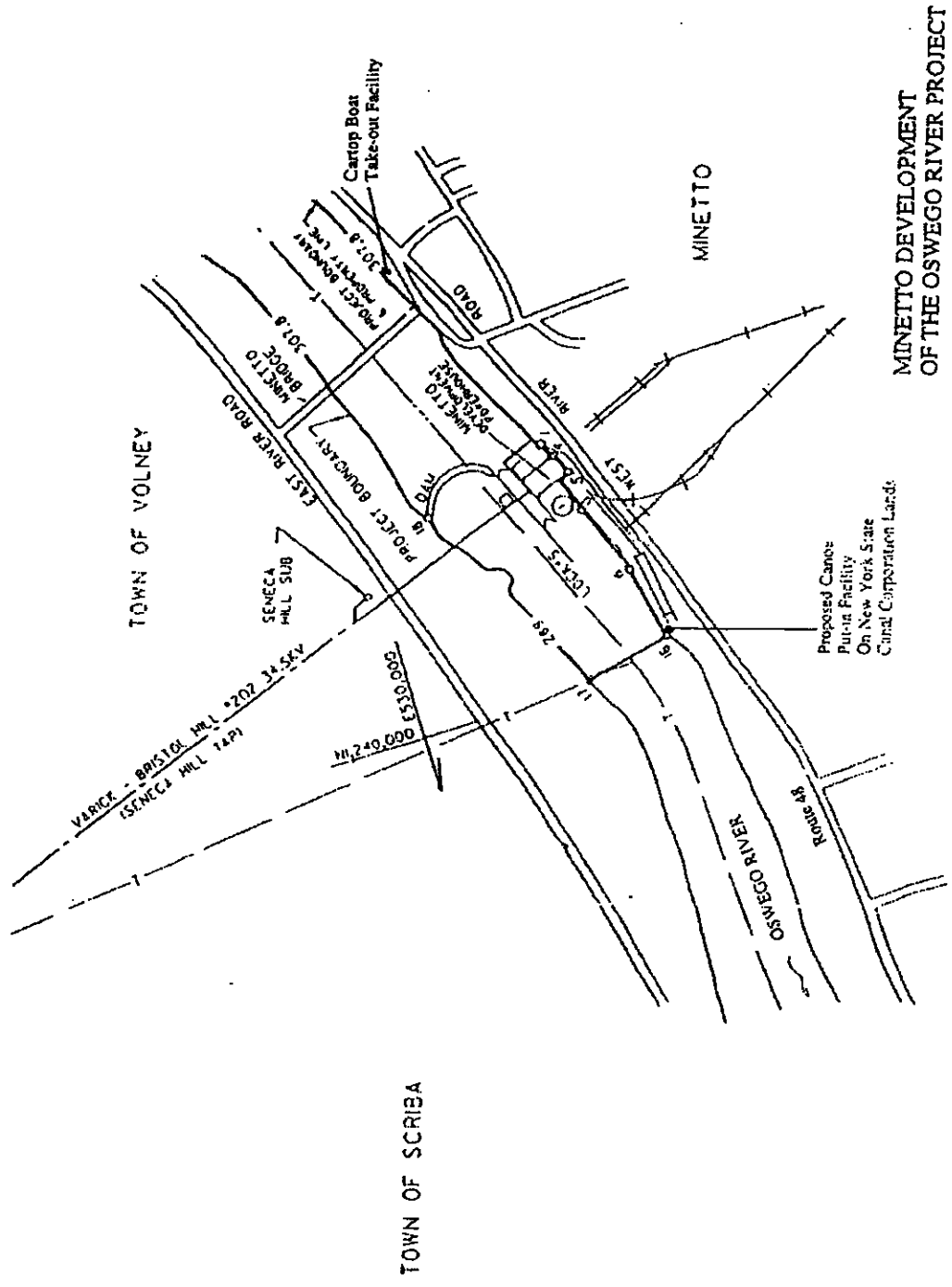
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT / SPONSOR		2. PROJECT NAME	
3. PROJECT LOCATION: Municipality _____ County _____			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)			
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY:			
7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approval			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval			
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE			
Applicant/sponsor name _____		Date: _____	
Signature: _____			

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

FIGURE 1
MINETTO CANOE PORTAGE FACILITIES



MINNETTO DEVELOPMENT OF THE OSWEGO RIVER PROJECT

FIGURE 1