

Niagara Mohawk

NIAGARA MOHAWK POWER CORPORATION/300 ERIE BOULEVARD WEST, SYRACUSE, N.Y. 13202/TELEPHONE (315) 474-1511

ORIGINAL

June 23, 1998

Hon. David P. Boergers
Acting Secretary
Federal Energy Regulatory Commission
Mail Code: DLC, HL-11.2
888 First Street, N.E.
Washington, D.C. 20426

Subject: **Pending New License Application
of Niagara Mohawk Power Corporation for
(Lower) Raquette River Project No. 2330-NY**

FILED
OFFICE OF THE SECRETARY
98 JUN 24 AM 11:27
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Secretary Boergers:

Pursuant to the Commission's regulations at 18 CFR §16.8(f)(7), enclosed herein are an original and eight copies of a "401" water quality certification ("401 WQC") issued to Niagara Mohawk Power Corporation for the above-referenced "Class of 1993 Project" by attached June 11, 1998 correspondence from the New York State Department of Environmental Conservation ("NYSDEC"). With NYSDEC's issuance of same:

- 1) the administrative litigation between NYSDEC and Niagara Mohawk that has been pending before the NYSDEC as regards the NYSDEC Staff's November 19, 1992 denial of a water quality certification for the above-referenced project is settled and rendered moot as to the above-referenced project; and
- 2) the Commission is now free to complete its environmental analysis and proceed with new license issuance for the above-referenced project; and
- 3) Niagara Mohawk and the NYSDEC continue their advocacy and support for Commission approval of the Offer of Settlement, which Offer covers this project and three other projects of Niagara Mohawk's in the Raquette River Basin of St. Lawrence County, New York. Same was submitted to the Commission, together with a separate explanatory statement, by Niagara Mohawk's correspondence dated April 22, 1998; and
- 4) the parties in New York State that are closest to and most familiar with the Raquette River have indicated their desires as regards the terms and conditions of a Commission-issued new license for this project; and
- 5) a monumental milestone of river basin significance has been achieved.

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FERC - DOCKETED

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June 23, 1998

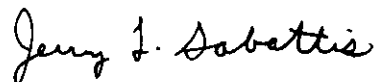
Page 2

As NYSDEC's distribution of same was made to a very expansive list of copy recipients, inclusive of the Offer of Settlement attachment thereto, Niagara Mohawk's service of this filing on copy recipients will not duplicate the Offer of Settlement document that parties have already received from NYSDEC's June 11, 1998 401 WQC mailing and/or in conjunction with Niagara Mohawk's Offer of Settlement filing with the Commission (circa April 23, 1998).

Also note that while the NYSDEC provided a single certification for both this project and Niagara Mohawk's (Middle) Raquette River Project No. 2320-NY, Niagara Mohawk has chosen to separately file the 401 WQC in each project docket.

If you have any questions as regards this filing, please contact me at 315/428-5582.

Very truly yours,



Jerry L. Sabattis
Hydro Licensing Coordinator

/rs

Encl.

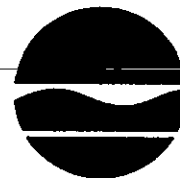
cc: FERC NYRO
Attached FERC Service List
R. Vaas, NYSDEC-Watertown
L. Olivett, NYSDEC-Watertown
W. Sarbello, NYSDEC-BEP, Albany
B.A. Hughes, NYSDEC-Env. Permits, Albany
W. Little, NYSDEC-Law, Albany
Offer of Settlement Signators

New York State Department of Environmental Conservation

Division of Environmental Permits, Room 538

50 Wolf Road, Albany, New York 12233-1750

Phone: (518) 457-2224 FAX: (518) 457-7759



John P. Cahill
Commissioner

June 11, 1998

Mr. Michael W. Murphy, Esq.
Law Department
Niagara Mohawk Power Corporation
300 Erie Boulevard West, A-3
Syracuse, New York 13202

RE: Lower Raquette River Project, FERC #2330 / DEC # 4099-00006/00001
Middle Raquette River Project, FERC #2320 / DEC # 4099-00007/00001
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 federal licenses for the Lower Raquette River and Middle Raquette River Hydroelectric Projects and the Settlement Agreement dated March 13, 1998, NMPC has provided reasonable assurance that the subject Projects 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 are met, as well as the terms and conditions of the attached Settlement Agreement signed by the Department, NMPC, the U.S. Fish and Wildlife Service, the National Park Service, New York Rivers United, the Adirondack Mountain Club, the Adirondack Park Agency, the National Audubon Society, the American Whitewater Affiliation, American Rivers, the New York State Conservation Council, the Adirondack Council, American Canoe Association, the Jordan Club, the Association for the Protection of the Adirondacks, North Country Raquette River Advocates and St. Lawrence County insofar as those terms and conditions relate to 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

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

A. OVERSIGHT AND ADMINISTRATION

1. Inspections

The projects, including relevant records, are 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

1. 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 any intake/forebay area.

2. Sediment Analysis and Disposal

The certificate holder must sample any sediments to be disturbed or removed from the projects' 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 sediments to be removed from the project waters.

3. 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 upon completion of construction unless otherwise directed by the Department.

4. 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 #3 (above).

5. Maintenance of River Flow

During all periods of construction, the certificate holder shall maintain adequate flows immediately downstream of work sites to ensure that the water quality standards established for the water body are met.

6. 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. 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.

7. Notifications

At least two (2) weeks prior to commencing any work subject to conditions 2 through 6 of this certificate, the certificate holder shall provide written notification to:

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