

March 5, 2021

**VIA ELECTRONIC FILING**

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20246

Re: Town of Rollinsford, New Hampshire  
Rollinsford Hydroelectric Project, FERC Docket No. P-3777  
**Re-Submittal** of Offer of Settlement

Dear Secretary Bose:

On February 22, 2021, on behalf of the Town of Rollinsford, New Hampshire, Licensee of the Rollinsford Hydroelectric Project No. 3777, Green Mountain Power Corporation (“GMP”) submitted for filing an Offer of Settlement consisting of the Settlement Agreement for Modified Prescription for Fishways (“Settlement Agreement”) and accompanying Explanatory Statement. GMP is re-submitting the Offer of Settlement to include an attachment that was inadvertently left out of the submission. This filing should replace the version designated as Accession No. 20210222-5235.

With this updated letter, GMP notifies all participants that unless otherwise provided by the Commission, comments on the Settlement Agreement must be filed on or before March 25, 2021, and any reply comments must be filed on or before April 5, 2021.<sup>1</sup>

If you have any questions regarding this filing or require additional information, please contact me.

Respectfully submitted,



Julia S. Wood  
Counsel for Green Mountain Power Corporation

Enclosure

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<sup>1</sup> Because the deadline for reply comments falls on Sunday, April 4, the deadline rolls to the next business day pursuant to 18 C.F.R. § 385.2007(a)(2) (2020).

February 22, 2021

**VIA ELECTRONIC FILING**

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20246

Re: Town of Rollinsford, New Hampshire  
Rollinsford Hydroelectric Project, FERC Docket No. P-3777  
Offer of Settlement

Dear Secretary Bose:

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),<sup>1</sup> and on behalf of the Town of Rollinsford, New Hampshire, Licensee of the Rollinsford Hydroelectric Project No. 3777 (“Project”), Green Mountain Power Corporation (“GMP”) hereby files this Offer of Settlement consisting of the Settlement Agreement for Modified Prescription for Fishways (“Settlement Agreement”), executed by and between the Licensee, GMP, and the U.S. Department of the Interior (“Interior”) Fish and Wildlife Service (“USFWS”), and the accompanying Explanatory Statement. As set forth in the Explanatory Statement, the purpose of the Settlement Agreement is to resolve among the Parties their disagreements over the appropriate terms of a prescription for fishways for American shad and river herring to be included in the subsequent license for the Project pursuant to Section 18 of the Federal Power Act (“FPA”).<sup>2</sup>

The execution of the Settlement Agreement alleviated the need for a trial-type hearing on disputed issues of material fact with respect to Interior’s preliminary prescription filed with the Commission on June 25, 2020. As a result, on February 8, 2021, on behalf of the Licensee, GMP withdrew the July 24, 2020 request for trial-type hearing.

The Settlement Agreement is in the public interest<sup>3</sup> and is supported by substantial evidence in the record, as required by Section 313(b) of the FPA.<sup>4</sup>

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<sup>1</sup> 18 C.F.R. § 385.602(b)(2) (2020).

<sup>2</sup> 16 U.S.C. § 811 (2018).

<sup>3</sup> *Policy Statement on Hydropower Licensing Settlements*, Docket No. PL06-5-000, PP 3-5 (2006).

<sup>4</sup> 16 U.S.C. § 825I(b).

With this letter, GMP notifies all participants that unless otherwise provided by the Commission, comments on the Settlement Agreement must be filed on or before March 14, 2021, and any reply comments must be filed on or before March 24, 2021.

If you have any questions regarding this filing or require additional information, please contact me.

Respectfully submitted,



Julia S. Wood  
Counsel for Green Mountain Power Corporation

Enclosure

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

**Town of Rollinsford,  
New Hampshire**

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**Project No. 3777-011**

**OFFER OF SETTLEMENT EXPLANATORY STATEMENT**

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), Green Mountain Power Corporation (“GMP”), on behalf of the Town of Rollinsford, New Hampshire, Licensee of the Rollinsford Hydroelectric Project No. 3777 (the “Project” or the “Rollinsford Project”),<sup>1</sup> hereby files this Offer of Settlement in the Project relicensing. The Offer of Settlement consists of: (1) the Settlement Agreement for Modified Prescription for Fishways (“Settlement Agreement”) executed by and between the Licensee, GMP, and the U.S. Department of the Interior (“Interior”) Fish and Wildlife Service (“USFWS”) attached hereto; and (2) this Explanatory Statement. As described herein, the Settlement Agreement resolves among the Parties their disagreements over the appropriate terms of a prescription for fishways for American shad and river herring to be included in the subsequent license for the Project pursuant to Section 18 of the Federal Power Act (“FPA”),<sup>2</sup> and is fully supported by the record in this proceeding.<sup>3</sup> Accordingly, the Settlement Agreement is in the public interest and the Commission should evaluate the terms of the Settlement Agreement in its environmental analysis of the Project relicensing and issue a subsequent license for the Project consistent with the provisions for

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<sup>1</sup> GMP operates and manages the Project pursuant to an agreement with the Town of Rollinsford which has authorized GMP to act on its behalf in the relicensing process.

<sup>2</sup> 16 U.S.C. § 811 (2018).

<sup>3</sup> *Id.* § 825l(b).

passage of American shad and river herring set forth therein. The Settlement Agreement itself does not require, and the Licensee is not requesting, formal Commission approval.

## **I. BACKGROUND**

The Project is located on the Salmon Falls River, which serves as the border between the States of New Hampshire and Maine. The Rollinsford Dam is the second dam on the mainstem of the Salmon Falls River, after the South Berwick Dam which is part of GMP's South Berwick Project (FERC Project No. 11163). The next dam located upstream of the Project is the Lower Great Falls Dam (FERC Project No. 4451), which is licensed to GMP and the City of Somersworth as co-licensees and which also is undergoing relicensing. Fish passage for American shad and river herring is currently provided at the South Berwick Dam through a combined upstream Denil fish ladder and downstream bypass facility that was installed in 2002. There are no fish passage facilities for American shad and river herring installed at dams on the Salmon Falls River upstream of the South Berwick Project.

FERC issued a license for the Project in 1981 for a term of 40 years, which expires on August 31, 2021.<sup>4</sup> The Licensee commenced the relicensing process by filing a Notice of Intent to Relicense the Project and Pre-Application Document with the Commission on August 31, 2016.<sup>5</sup> After completing pre-filing consultation with federal and state resource agencies and conducting a number of environmental studies, on August 29, 2019, the Licensee filed an application for a subsequent license to operate the Project.<sup>6</sup> Based on its study results and Project conditions, the Licensee did not propose to construct upstream and downstream

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<sup>4</sup> *Town of Rollinsford, N.H.*, 16 FERC ¶ 62,474 (1981).

<sup>5</sup> Notification of Intent to File License Application, Pre-Application Document, and Request to Use the Traditional Licensing Process, Project No. 3777-010 (filed Aug. 31, 2016).

<sup>6</sup> Application for a Subsequent License for Minor Waterpower Project for the Rollinsford Hydroelectric Project, Project No. 3777-011 (filed Aug. 29, 2019).

fishways for American shad or river herring, but rather would rely on the results of a post-licensing tagging study to determine if these fish species could successfully reach a passage facility to be located at the dam.

On April 29, 2020, FERC issued a “Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions.”<sup>7</sup> Interior filed its preliminary fishway prescription pursuant to FPA Section 18 on June 25, 2020 (“Preliminary Prescription”) requiring the construction of permanent upstream and downstream facilities for American shad and river herring within three years of license issuance.<sup>8</sup> On July 24, 2020, GMP, on behalf of the Licensee, submitted to Interior an alternative prescription for fishways (“Alternative Prescription”) and a request for a trial-type hearing on disputed issues of material fact with respect to the Preliminary Prescription.<sup>9</sup>

Subsequently, the Parties entered into an agreement to stay the hearing process to allow for settlement discussions.<sup>10</sup> Those discussions were successful and lead to the execution of the Settlement Agreement, which became effective January 31, 2021. Because the Settlement

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<sup>7</sup> Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions, Project No. 3777-011 (issued Apr. 29, 2020).

<sup>8</sup> U.S. Department of the Interior Comments, Recommendations, and Preliminary Prescriptions, Project No. 3777-011 (filed June 25, 2020). Interior’s Preliminary Prescription also required the Licensee to construct new upstream and downstream fishpassage facilities for American eel. *Id.* at 22. The parties did not disagree about the appropriate terms of a fishway prescription for American eel.

<sup>9</sup> Request for Trial-Type Hearing on Disputed Issues of Material Fact and Alternative Prescription, Project No. 3777-011 (filed July 24, 2020). The Alternative Prescription would have had the Licensee conduct the post-licensing tagging study discussed above to determine the passibility of the falls at Rollinsford for American shad and river herring and if it demonstrated that the falls at Rollinsford are not passible, no fish passage facilities would be required. If the study concluded that the Rollinsford falls were naturally passible, it would require implementation of a trap and transport program. *See id.*

<sup>10</sup> U.S. Department of the Interior Notice of Stay of Trial-Type Hearing Process, Project No. 3777-011 (filed Sept. 9, 2020); GMP Filing of Agreement to Stay Hearing Process, Project No. 3777-011 (filed Sept. 10, 2020).

Agreement resolves among the Parties their disagreements over the appropriate terms of a modified prescription for fishways for American shad and river herring to be included in the subsequent license for the Project (“Modified Prescription”), GMP, on behalf of the Licensee, withdrew the request for trial-type hearing.<sup>11</sup>

## II. OVERVIEW OF SETTLEMENT AGREEMENT

The Settlement Agreement sets forth the terms of a Modified Prescription for American shad and river herring to be submitted by Interior within 60 days after the deadline for filing comments on the Commission’s draft environmental document under 18 C.F.R. § 5.25(c).<sup>12</sup> The Modified Prescription will require the Licensee to construct and begin operation of a Denil Fishway at the Project to pass American shad and river herring, prior to the fourth full passage season after license issuance, unless within two years of license issuance GMP has submitted a request to the Commission for approval of plans to construct facilities necessary to support a trap and truck operation from the South Berwick Project.<sup>13</sup> The facility would be substantially as described in the Licensee’s Alternative Prescription, designed such that the capacity is adequate, fish are moved within 24 hours of reaching the facility to the extent practicable, fish may pass volitionally into the South Berwick Project impoundment when trapping operations for the trap and truck program are not in progress, and shall include facilities for counting fish that pass through the facility, whether directly into the impoundment or upstream via trap and truck.<sup>14</sup>

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<sup>11</sup> Withdrawal of Request for Trial-Type Hearing on Disputed Issues of Material Fact, Project No. 3777-000 (filed Feb. 8, 2021).

<sup>12</sup> Settlement Agreement § 1.9; 18 C.F.R. §§ 5.25(c), (d).

<sup>13</sup> Settlement Agreement §§ 2.0, 2.1(A).

<sup>14</sup> *Id.* § 2.1(A); Alternative Prescription App. A §§ 1.7, 1.10.

The plans must be approved by USFWS during the conceptual, 30 percent, and 90 percent design stages, prior to submission to the Commission of the 90 percent drawings.<sup>15</sup>

The Settlement Agreement also provides for GMP to submit for USFWS approval, and Commission approval as necessary, an operations and maintenance plan for the trucking operation, as described in the Licensee’s Alternative Prescription, to begin in the third year after license issuance.<sup>16</sup> The draft operations and maintenance plan will be provided to USFWS one year before trapping and trucking operations begin, and be revised, as needed, upon completion of trap construction, and include details regarding stocking—specifically where fish will be released into the Rollinsford Project, and the upstream impoundments.<sup>17</sup> The plan also will include provisions for counting fish using the South Berwick Project fishway, with data reported both on a daily basis and annually.<sup>18</sup>

If GMP begins trap and truck operations from the South Berwick Project in the third full passage season following the Commission’s issuance of the subsequent license for the Rollinsford Project, the Settlement Agreement provides that the Licensee’s obligation to have the Denil Fishway operational at the Project will be delayed.<sup>19</sup> In 2032, the Licensee and GMP will consult with USFWS to determine whether continued trap and truck operations are appropriate in light of factors relevant at that time, including data on resulting population growth of American shad and river herring in the Salmon Falls River over the period of the trap and truck program, and fish passage efficiency rates at the South Berwick Project.<sup>20</sup> If the Licensee, GMP, and

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<sup>15</sup> Alternative Prescription App. A § 1.5.1.

<sup>16</sup> Settlement Agreement § 2.1(B).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* § 2.3.

<sup>20</sup> *Id.*



USFWS agree that continued trap and truck of American shad and river herring is appropriate, then the obligation to implement permanent fish passage facilities at the Project will continue to be delayed.<sup>21</sup>

The Licensee, GMP, and USFWS shall meet for further discussion every two years thereafter, and trap and truck operations may continue as long as, at each successive two-year meeting, the Parties agree that trap and truck continues to be appropriate in light of the data and factors relevant at that time.<sup>22</sup> The Settlement Agreement addresses the possibility that USFWS determines at a two-year meeting that the trap and truck operations no longer provide for American shad and/or river herring population growth at expected levels, in which case the Licensee would construct a Denil Fishway at the Rollinsford Project.<sup>23</sup> Alternatively, the Settlement Agreement contemplates the potential discontinuation of the trap and truck operation in the event that American shad and river herring populations decline due to factors unrelated to fish passage efforts.<sup>24</sup>

The Settlement Agreement provides immediate and potential long-term benefits of trap and truck operations in distributing American shad and river herring throughout the Salmon Falls River Basin. It also provides the parties with flexibility to revisit the overall approach to fish passage for American shad and river herring on the Salmon Falls River in light of data and factors relevant at the time of examination, following several life cycles of the target species.

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

### III. CONCLUSION

The Settlement Agreement successfully resolves the parties' disagreements over the appropriate terms of a prescription for fishways for American shad and river herring at the Rollinsford Project. The resulting provisions of the Settlement Agreement are supported by the record and in the public interest. GMP, on behalf of the Licensee, therefore respectfully requests that the Commission evaluate the terms of the Settlement Agreement in its environmental analysis for the Project relicensing and issue a subsequent license for the Project consistent with the provisions for passage of American shad and river herring set forth therein.

Respectfully submitted,



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Counsel for Green Mountain Power Corporation

## CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in Docket No. P-3777.

Dated at Washington, DC, this 22<sup>nd</sup> day of February, 2021.

/s/ Stephanie Jones  
Stephanie Jones  
Rock Creek Energy Group, LLP  
1 Thomas Circle, NW  
Suite 700  
Washington, DC 20005  
(202) 998-2781  
[sjones@rockcreekenergygroup.com](mailto:sjones@rockcreekenergygroup.com)

**BEFORE THE  
UNITED STATES OF AMERICA  
UNITES STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS  
AND  
FEDERAL ENERGY REGULATORY COMMISSION**

**Town of Rollinsford** )  
 )  
 ) **Project No. 3777**  
**Rollinsford Hydroelectric Project** )  

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**SETTLEMENT AGREEMENT  
FOR  
MODIFIED PRESCRIPTION FOR FISHWAYS**

## **INTRODUCTION**

This Agreement (the “Settlement Agreement”), effective as of the date of the last signature affixed hereto (the “Effective Date”), is made and entered into by and between Green Mountain Power (“GMP”), the Town of Rollinsford, New Hampshire (“Licensee”), and the United States Department of the Interior (“Department”) Fish & Wildlife Service (“USFWS” or “Service”) (each, a “Party” and collectively, the “Parties”). This Settlement Agreement relates to the Rollinsford Hydroelectric Project, FERC Project No. 3777 (“Rollinsford Project” or “Project”), which is the subject of an ongoing relicensing proceeding before the Federal Energy Regulatory Commission (“FERC” or “Commission”) for a subsequent license (“Subsequent License”), and specifically to the terms of a Modified Prescription for Fishways for the Project with respect to American shad and river herring. The Town of Rollinsford owns and holds the license for the Project, but has delegated GMP to operate it, including managing the application for the Subsequent License. Additionally, this Settlement Agreement contemplates GMP making certain changes at the South Berwick Project (FERC Project No. 11163), located downstream of the Rollinsford Project, for which it holds the license.

### **1.0 GENERAL TERMS**

#### **1.1 Term of the Settlement Agreement**

This Settlement Agreement shall remain in effect, in accordance with its terms, throughout the term of the Subsequent License, including any annual licenses thereafter.

#### **1.2 Purpose and Goals**

The purpose of this Settlement Agreement is to resolve among the Parties their disagreements over the appropriate terms of a Prescription for Fishways for American shad and river herring to be included in the Subsequent License for the Project (“Prescription”) pursuant to section 18 of the Federal Power Act (16 U.S.C. § 811). The Parties do not disagree over the appropriate terms of a Prescription for American eel.

#### **1.3 Parties to Support Settlement Terms**

The Parties agree to support the issuance of a Subsequent License by FERC that is consistent with the terms of this Settlement Agreement. For those issues addressed herein, namely passage of American shad and river herring, the Parties agree not to propose or otherwise communicate

any comments, certification, or license conditions inconsistent with, or additive to, the terms of this Settlement Agreement to FERC or any other Federal or state resource agency with jurisdiction over fish passage at the Project.

#### **1.4 Successors and Assigns**

This Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

#### **1.5 Agency Appropriations**

Nothing in this Settlement Agreement shall be construed as: (i) obligating any Federal agency to expend in any fiscal year any sum in excess of appropriations made by Congress, or administratively allocated for the purpose of this Settlement Agreement for the fiscal year; or (ii) involving the USFWS in any contract or obligation for the future expenditure of money in excess of such appropriations or allocations.

#### **1.6 Establishes No Precedents**

This Settlement Agreement is made with the express understanding that it constitutes a negotiated resolution of issues specific to the Project. Accordingly, nothing in this Settlement Agreement will be construed as a legal precedent that may be cited by the Parties to FERC or any court or administrative hearing process with regard to any other proceeding. This Section 1.6 shall survive any termination of this Settlement Agreement. Any Party withdrawing from this Settlement Agreement pursuant to Section 1.10 will continue to be bound by this Section 1.6.

#### **1.7 Filing of Settlement Agreement**

The Parties agree that within 21 days of the Effective Date, the Licensee shall file this Settlement Agreement with the Commission pursuant to 18 C.F.R. § 385.602 in the docket for the Rollinsford Project relicensing.

#### **1.8 Withdrawal of Trial-Type Hearing request**

Within 7 days of the Effective Date, the Licensee shall withdraw its Request for Trial-Type Hearing in the Rollinsford Project relicensing, filed with the U.S. Department of the Interior.

#### **1.9 Filing of Modified Prescription for Rollinsford Project**

The USFWS shall file a Modified Prescription for the Rollinsford Project that is fully consistent with the terms of this Settlement Agreement within 60 days after the deadline for filing comments on FERC's draft NEPA document under 18 C.F.R. § 5.25(c), consistent with 43 C.F.R. § 45.73(a). The Service will make every effort to make a copy available to GMP and the Town of Rollinsford at least 30 days ahead of the deadline for filing comments and work in good faith to resolve any concerns expressed by these other Parties that the proposed Modified Prescription may deviate in any way from this Settlement Agreement. GMP and the Licensee shall notify the Service of any concerns within ten days after the draft Modified Prescription is transmitted to them for review.

### **1.10 Withdrawal Rights**

No Party may withdraw from this Settlement Agreement without the prior written consent of the other Parties, which consent may be withheld in another Party's sole discretion; provided, however, a Party may unilaterally withdraw from this Settlement Agreement if: (i) USFWS issues a Modified Prescription that deviates in any material fashion from this Settlement Agreement; or (ii) FERC issues a Subsequent License that contains conditions which are materially additive to, or materially inconsistent with, the terms of this Settlement Agreement as reflected in Section 2, or a state agency issues a water quality certification that contains fish passage conditions that are materially additive to, or materially inconsistent with, the terms of this Settlement Agreement, and the Subsequent License is not thereafter satisfactorily modified as a result of the filing of a request for rehearing as provided in Section 1.11 or the water quality certification issued by said state agency is not thereafter satisfactorily modified after administrative and judicial appeals are pursued by the Licensee. A Party withdrawing from this Settlement Agreement shall provide twenty (20) days' prior written notice, which notice shall include a written explanation of the reasons for withdrawing from this Settlement Agreement. In the event that a Party withdraws from this Settlement Agreement pursuant to this Section 1.10, this Settlement Agreement shall thereafter be null and void, and any Party may take the position that this Settlement Agreement is not available to support FERC's public interest determination.

### **1.11 Rehearing and Judicial Review**

The Parties agree not to file a request with FERC for rehearing of the Subsequent License concerning matters addressed in this Settlement Agreement unless: (i) the Subsequent License

contains conditions which are materially inconsistent with the terms of this Settlement Agreement; or (ii) the Subsequent License contains fish passage conditions that are materially additive to the terms of the Settlement Agreement. In the event a Party decides to file a request for rehearing in accordance with the terms of this provision, it will provide the other Parties written notice of its intention to file a request for rehearing at the earliest practicable time. Any Party, following the issuance of a FERC order on rehearing, may elect to file a petition for judicial review with respect to the matters covered by this provision, and the other Parties will not oppose such petition.

### **1.12 Counterparts**

This Settlement Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

## **2.0 Modified Prescription for Fishway Terms**

The Service agrees to file a Modified Prescription as set forth Section 1.9 above reflecting the following terms.

### **2.1 Initial Requirement to Construct, with Exception for Trap and Truck Operations**

The Licensee shall construct and begin operation of a Denil Fishway at the Rollinsford Project, as described in the USFWS June 25, 2020 Preliminary Prescription filed with FERC, prior to the fourth full passage season<sup>1</sup> after license issuance UNLESS, within two years of license issuance, GMP has submitted

- A. A request to the Commission for approval of plans to construct facilities necessary to support a trap and truck operation from the South Berwick Project. This facility shall be substantially as described in the Alternative Fishway Prescription filed July 24, 2020 (“Alternative Prescription”), but must be designed such that the capacity is adequate, fish are moved within 24 hours of reaching the facilities to the extent practicable, fish may pass volitionally into the

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<sup>1</sup> Upstream migration season for alosines is generally defined as the period April 15 to July 15.



South Berwick Project impoundment when trapping operations for the trap and truck program are not in progress, and shall include facilities for counting fish that pass through the fishway, whether directly into the impoundment or upstream via trap and truck. Such plans shall be approved by the Service during the conceptual, 30 percent, and 90 percent design stages, prior to submission to the Commission of the 90 percent drawings, with approval not to be unreasonably withheld.

- B. For Service approval (with such approval not to be unreasonably withheld), and Commission approval as necessary, a draft operations and maintenance plan for a trucking operation substantially as described in its Alternative Prescription, to begin in the third year after license issuance at the Project. The draft operations and maintenance plan should be provided to the Service one year before trapping and trucking operations begin, and be revised, as needed, upon completion of trap construction, and include: details regarding stocking (i.e., GMP will stock over the course of the run), specifically where fish will be released into the Rollinsford Project, and the upstream Lower Great Falls Project (FERC Project No. 4451) and Somersworth Project (FERC Project No. 3820) impoundments. It will also include provisions for counting fish using the South Berwick Project fishway, with data reported both on a daily basis (real time, daily counts) and annually (annual count), both total and by destination.

## **2.2 Contingency if Permission Denied to Begin Trap and Truck from South Berwick Project**

If GMP submits a request for approval for construction of the trap and truck operation at the South Berwick Project, but the Commission denies the request, the Licensee's obligation to construct and operate the Denil Fishway at the Project must be fulfilled by the fourth full passage season after such denial.

## **2.3 Delay of Denil Fishway Construction Obligation During Trap and Truck Operations**

If GMP begins trap and truck operations from the South Berwick Project in the third full passage season from Rollinsford Project license issuance, the obligation to have the Denil Fishway

functional and operational at Rollinsford will be delayed. In 2032, the Licensee and GMP will consult with the Service to determine whether continued trap and truck operations are appropriate in light of data on the resulting population growth of American shad and river herring in the Salmon Falls River over the period of the interim trap and truck program, the status of the Somersworth Project dams, and fish passage efficiency rates at the South Berwick Project, as well as any other factors relevant at that time. If the Licensee, GMP, and the Service agree that continued trap and truck operation is appropriate, then the obligation to implement fish passage facilities at the Rollinsford Project will be delayed for two more years. The Licensee, GMP, and the Service shall meet for further discussion every two years thereafter. GMP may continue trap and truck operation as long as GMP and the Service agree, at each successive two-year meeting, that trap and truck continues to be appropriate in light of the data and factors relevant at that time. If at any point a determination is made that GMP is to discontinue trapping and trucking, or the Service determines, at a two-year meeting, that trap and truck operations will no longer provide for shad and/or herring population growth at the levels to be expected by volitional passage or better, the Licensee shall construct a Denil Fishway, as set forth in the Modified Prescription, and begin operations four years after the cessation of the trap and truck operation. GMP will continue trap and truck operations until the Denil Fishway is operational. If the river herring and shad populations decline, due to factors unrelated to fish passage efforts on the Salmon Falls River, to a level that causes the Service to determine that further trapping and trucking is unwarranted, the Licensee, GMP and the Service will consult to discuss appropriate next steps, including potential discontinuation of the trap and truck operation.

#### **2.4 Meeting Obligation During Duration of Trap and Truck**

The Licensee will meet with the Service and GMP annually to discuss the trap and truck operations. This meeting will occur no later than January 31 each year unless the Licensee, GMP, and the Service agree on a different date. The purpose of the meeting will be to discuss the trap and truck operation results from the previous year, and discuss logistics and planning for the upcoming fish passage season. Every two years after 2032, the continuation of trap and truck (and therefore the potential delay of volitional fish passage installation at the Rollinsford Project and Lower Great Falls Project) will also be discussed.

ACKNOWLEDGED AND AGREED TO

Town of Rollinsford, New Hampshire

BY Denise Knowles


NAME Denise M. Knowles

Title Board of Select Board Chairperson

Date 1/31/21

ACKNOWLEDGED AND AGREED TO

Green Mountain Power Corporation

BY John Greenan  Digitally signed by John Greenan  
DN: cn=John Greenan, o=Green  
Mountain Power, ou=  
email=john.greenan@greenmountainp  
ower.com, c=US  
Date: 2021.01.28 09:55:04 -05'00'

NAME John C. Greenan

Title Engineer

Date 28 Jan 21

ACKNOWLEDGED AND AGREED TO

United States Fish and Wildlife Service

BY **DAVID**  
**SIMMONS** Digitally signed by  
DAVID SIMMONS  
Date: 2021.01.29  
14:03:06 -05'00'

NAME: David Simmons

Title: Acting Field Supervisor

Date: 29 January 2021

## CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in Docket No. P-3777.

Dated at Seattle, Washington, this 5th day of March, 2021.

/s/ Cara Tomlinson

Cara Tomlinson  
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Washington, DC 20005  
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