



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
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FERC e-File

**RE: Tannery Island Hydroelectric Project (Project No. 4908)  
Low Impact Hydropower Institute Application**

Dear Maryalice Fischer:

The U.S. Fish and Wildlife Service (Service) has reviewed the November 26, 2025, Low Impact Hydropower Institute (LIHI) Application (Application) by Tannery Island Hydro LLC (Exemptee), a wholly owned subsidiary for Relevate Power LLC, for the Tannery Island Hydroelectric Project (Project No. 4908) (Project) located on the Black River, Jefferson County, New York. We submit the following comments on the Project under review for LIHI regarding upstream and downstream fish passage, the provision of minimum flows, Project operations, and potential impacts to endangered species at the site.

*Project Background*

The Project is located on the Black River in Carthage, New York, immediately upstream of the Carthage Mill Hydroelectric Project (Project No. 5800) and the Long Falls Hydroelectric Project (Project No. 4636), and downstream of the Carthage Paper Makers Mill Hydroelectric Project (Project No. 10881). The Project tailrace is the impoundment of the Carthage Mill Project and the Long Falls Project. The 1.875-megawatt Project consists of the following: 1) three dams,

including the Tannery Dam A,<sup>1</sup> Little Spicer Dam B,<sup>2</sup> and Big Spicer Dam C;<sup>3</sup> 2) an impoundment covering 8.5 acres with a minimum elevation of 718.6 feet NGVD with 1-foot flashboards and a storage capacity of 68 acre-feet; 3) a forebay with 2-inch-clear-spaced trashracks; 4) an open-flume powerhouse containing five Flygt submersible-type turbine generators,<sup>4</sup> each unit producing approximately 375 kilowatts and a maximum hydraulic capacity of 373 cubic feet per second (cfs) for a total plant hydraulic capacity of 1,865 cfs; and 5) appurtenant facilities. The Project has three flashboard notches on Little Spicer Dam B and five flashboard notches on Big Spicer Dam C that provide a minimum flow of 106 cfs.<sup>5</sup> There are no upstream fish passage facilities at the Project.

The Project was issued an exemption from licensing by the Federal Energy Regulatory Commission (Commission) on June 7, 1982, reinstated on July 11, 1983,<sup>6</sup> amended May 13, 1997.<sup>7</sup> Standard Article 2 requires the Exemptee to comply with all conditions set by the Service. The Department of the Interior provided the Service's conditions in a letter dated April 9, 1982. The Project was issued its exemption prior to the regulations contained with the 1986 Electric Consumers Protection Act that required the Commission to give equal consideration to power and non-power values of a waterway. As such, and due to the nearly 40-year advancement in hydropower-related mitigation measures and science, there are several impacts to natural environment at the Project that, to our knowledge, were not adequately studied, do not reflect our current guidance, and are not protective of the natural resources or management goals in the Black River. Other hydroelectric projects in the Black River are currently undergoing relicensing, where the Service is working to address similar issues; however, the Project's exempt status has not afforded the public and resource agencies this opportunity.

### Fisheries

The Black River is managed by the New York State Department of Environmental Conservation (NYSDEC) as a mixed warmwater and coolwater fishery. Common species in the vicinity of the Project include Walleye (*Sander vitreus*), Smallmouth Bass (*Micropterus dolomieu*), Northern Pike (*Esox lucius*), Rock Bass (*Ambloplites rupestris*), Yellow Perch (*Perca flavescens*), and Chain Pickerel (*Esox niger*). The NYSDEC manages the lower Black River for lake-run salmonids including: Steelhead (*Oncorhynchus mykiss*), Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*Oncorhynchus kisutch*), and Brown Trout (*Salmo trutta*). Sea Lamprey (*Petromyzon marinus*) occur in Lake Ontario, and the lower Black River is treated to

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<sup>1</sup> The Tannery Dam A is a 117-foot-long concrete gravity structure spillway with a crest elevation of 719.0 feet National Geodetic Vertical Datum (NGVD) integrated to the forebay via an open flume with a 63-foot-long gravity wingwall at elevation 721.0 feet NGVD forming the powerhouse's forebay wall and a 50-foot-long gravity wingwall at elevation 721.0 feet NGVD which functions as the dam's east abutment.

<sup>2</sup> The Little Spicer Dam B spans Tannery and Wind Islands and is approximately 106 feet in length with a minimum crest elevation of 717.6 feet NGVD seasonally topped with 1-foot flashboards with three minimum flow openings of varying widths.

<sup>3</sup> The Big Spicer Dam C spans approximately 279 feet between Wind and Devil Islands and has a maximum crest elevation of 719.7 feet NGVD seasonally topped with 1-foot flashboards with five minimum flow openings of varying widths, and includes a 98-foot-long wingwall angled toward the upstream Carthage Paper Makers Mill Dam which has a crest elevation of 720.0 feet NGVD.

<sup>4</sup> Of the five turbines, three are fixed propellers and two have adjustable blades.

<sup>5</sup> The minimum flows are provided through notches in the flashboards, spill, or Project operations.

<sup>6</sup> 24 FERC ¶61,021.

<sup>7</sup> 79 FERC ¶62,108.

control this species. The catadromous American Eel (*Anguilla rostrata*) is native to the Black River and is a primary species of concern. Eels have been documented near and above the Project,<sup>8</sup> although due to the lack of eel-specific passage at the dams in the lower river, these collections are infrequent. The Project is located 20 river miles upstream of the Beebee Island Hydroelectric Project (Project No. 2538), which is located at the natural upstream barrier for most fish species, except American Eel.

### Comments

1. The Service is engaged in a long-term, basin-wide effort, in collaboration with the NYSDEC, to restore the American Eel to its historic range on the Black River through eel passage and protection at hydroelectric projects. The best available science indicates that the American Eel population at the Project is currently small. However, the Service reasonably expects an increased occurrence of American Eel in the vicinity of the Project as the Service continues to address American Eel passage and protection in the lower Black River.<sup>9,10</sup> Upstream, the Carthage Paper Makers Mill Project is currently undergoing the Commission's surrender process and has a breached dam. Since efforts are underway to improve eel passage at downstream hydroelectric projects and the upstream dam is breached, the Service believes it is appropriate to begin planning eel passage and protection facilities at the Project and the Carthage Mill Project.
2. The Project currently does not provide upstream passage for American Eel that may be attempting to move upstream of the Project. Based on the limited records upstream of the Project, we expect upstream passage occurs infrequently. The Service generally recommends that well-sited, eel-specific, upstream passage facilities be provided at hydroelectric projects.
3. The Service understands that downstream fish passage is possible through the notches on the spillways. However, the Project was constructed before the Service's Fish Passage Engineering Design Criteria<sup>11</sup> were developed, which contain our science-based recommendations for the provision of downstream fish passage and protection for fishways at hydroelectric projects. It is unclear whether the notches on the spillways provide safe, timely, and effective downstream passage for fish in accordance with our criteria. The Service generally recommends a downstream passage facility in the vicinity of the intake to provide a safe route around the intakes that meet a variety of criteria including a safe plunge pool with at least one foot of depth for every four feet of drop and an attraction flow of five percent of the hydraulic capacity of the intake.
4. The Project currently has trashracks with 2-inch clear spacing, which do not provide protection for most fish species, particularly American Eel. The Service generally

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<sup>8</sup> FERC Accession No: 20240808-5092, page 9.

<sup>9</sup> The Service is addressing eel passage and protection at the Beebee Island Project and five hydroelectric developments of the Black River Hydroelectric Project (Project No. 2569), which are both currently relicensing.

<sup>10</sup> The Service has requested an American Eel siting study at the Dexter Hydroelectric Project (Project No. 2695), the first dam on the Black River (FERC Accession No. 20251222-5073). The Service plans to submit draft modified terms and conditions for eel passage and protection at the Dexter Project by the first quarter of 2027.

<sup>11</sup> U.S. Fish and Wildlife Service. 2019. Fish Passage Engineering Design Criteria. Please contact our office for this document.

recommends a trashrack with a clear spacing of 0.75 inches to exclude American Eels from entrainment, which would also be protective of the adult fish of most other fish species in the vicinity of the Project. American Eel predominantly follow bulk flow during out-migration, and currently any fish species that manage to migrate upstream of the Project can be entrained and subject to an unknown degree of injury and mortality.

5. The Application indicates that the approach velocities at the intakes are 2.48 feet per second (fps). The Service generally recommends that hydroelectric projects have intake velocities below 2 fps in order to limit impingement and entrainment.
6. Article 2 of the Project's Exemption Order does not require a minimum flow over the dams. However, in an agreement with the NYSDEC, the Exemptee releases 106 cfs over the dams, inflow permitting. Because the 106-cfs minimum flow is not required by the Commission's Exemption Order nor a NYSDEC Water Quality Certification, there is no compliance requirement for ensuring this flow is consistently and continuously provided throughout the year at the Project.
7. The Application describes Project operations as run-of-river; however, the methods utilized to achieve run-of-river are not defined, and we are not aware of any data to support the degree to which the Project operates in a run-of-river mode. Additionally, we are not aware of any plans or guidance documents at the Project where these measures would be required.
8. It is our understanding that the Project currently does not have any mitigation measures for the federally endangered Indiana Bat (*Myotis sodalis*) or federally endangered Northern Long-eared Bat (*Myotis septentrionalis*). The Service generally recommends the development of a species protection plan to limit the impacts of tree clearing or other Project-related construction and maintenance activities to these species during feeding, breeding, and roosting periods.

### Recommendations

As described above, there are several issues with fish passage, the provision of minimum flows, available operations data, and endangered species protection at the Project that should be addressed prior to LIHI considering this Project for certification. It is our understanding that LIHI processes applications for certification based on "meeting the latest and most stringent science-based recommendation of the relevant state or federal resource agencies whose mandates are to protect the resources relevant to a criterion." We do not believe that the Project meets Standard 1 "Not Applicable/De Minimis Effect" for the Upstream Fish Passage, Downstream Fish Passage, or Threatened and Endangered Species Criteria. Additionally, although the Exemptee provides a minimum flow in an agreement with the NYSDEC, we do not believe that the Project meets Standard 2 "Resource Agency and Tribal Government Recommendation" for the Ecological Flow Regime Criterion since it is not currently required on a continuous basis or formalized within an Operations and Compliance Monitoring Plan. Therefore, we recommend that LIHI require Exemptee to carry out the following recommendations prior to certification:

1. Develop a plan and schedule to implement upstream American Eel passage at the Project in consultation with and approved by the Service and the NYSDEC. The plan should include a reasonable timeline to carry out the following at the Project: a two-year American Eel siting

study plan to determine a suitable location(s) for eel ladders, the installation and operation of eel ladder(s), the provision of engineering design drawings for any approved eel ladder(s), the development of a Fishway Operations and Maintenance Plan (FOMP),<sup>12</sup> and an effectiveness testing study plan for the eel ladder(s).

2. Evaluate the downstream fish passage and protection facilities at the Project (i.e., the notches on the spillways and the trashracks) and provide a report to the Service and the NYSDEC regarding whether the Project currently meets the Service's 2019 Fish Passage Engineering Design Criteria for providing safe, timely, and effective downstream passage for American Eel and other resident fish. Any additional engineering designs or studies would be recommended based on the results of this report.
3. Require the provision of a continuous, year-round 106-cfs minimum flow at the Project.
4. Provide a summary of operational data including generation, headpond and tailwater elevations, and release discharge data. The data should cover the last 5 years and be provided in electronic format at 15-minute intervals. The Service will utilize these data to evaluate compliance with run-of-river operating requirements at the Project.
5. Develop an Operations and Compliance Monitoring Plan in consultation with and approved by the Service and the NYSDEC in order to determine the measures necessary to provide run-of-river operation and consistent downstream and minimum flows.
6. Develop a Bat Protection Plan in consultation and approved by the Service and the NYSDEC.

#### Regulatory Authority

We are aware that our recommendations and any requirements from LIHI may necessitate the Exemptee to request the Commission to amend the exemption for the Project. The Service reserved our rights to require the Exemptee to implement modifications to environmental measures, including fish passage, in our Article 2 requirements for the Project. Specifically, the Department of the Interior submitted the following Article 2 requirements for the Project in the April 9, 1982, letter:

1. The Exemptee shall, for the conservation and development of existing fish and wildlife resources, operate the Project in a run-of-the-river mode such that the instantaneous downstream flow from the Project, including spillage, is equal to the inflow to the Project impoundment.
2. When adequate flows for power generation are not available, then all flow should be passed over the spillway. When river flows exceed the maximum hydraulic capacity of the Project, then all excess flow should be passed over the spillway.

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<sup>12</sup> The FOMP should be developed in consultation and approved by the Service and NYSDEC, which would include annual reporting in a Fishway Operations and Maintenance Report in order to ensure that the upstream fishway is well-operated and repaired as necessary to provide safe, timely, and effective passage.

3. The Exemptee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the Project structures and operations, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any state in which the Project or a part thereof is located, after notice and opportunity for hearing.
4. Whenever the United States shall desire, in connection with the Project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Exemptee shall permit the United States or its designated agency to use, free of cost, such of the Exemptee's lands and interests in lands, reservoirs, waterways, and Project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Exemptee shall modify the Project operations as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under provisions of this condition. This condition shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Exemptee of any obligation under this license.
5. So far as is consistent with proper operation of the Project, the Exemptee shall allow the public free access, to a reasonable extent, to Project waters and adjacent Project lands owned by the Exemptee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: provided, that the Exemptee may reserve from public access such portions of the Project waters, adjacent lands, and Project facilities as may be necessary for the protection of life, health, and property.

Summary

Herein, we have identified specific recommendations for consideration by the LIHI, under our existing authorities, and also pertinent to the evaluation criteria utilized by the LIHI in determining whether the Project meets the criteria for certification. We respectfully request that certification not be issued without these requirements included. We are also available to the Exemptee to further discuss these recommendations as they pursue their LIHI certification and continue to operate the Project. This letter has been filed with the Commission in order to provide documentation of our recommendations and current concerns with the Project for their awareness and action, as appropriate.

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Thank you for the opportunity to provide our comments and recommendations on the Application for LIHI certification at the Project. If you have any questions or desire additional information, please contact Arianna Ramirez at [arianna\\_ramirez@fws.gov](mailto:arianna_ramirez@fws.gov) or John Wiley at [john\\_wiley@fws.gov](mailto:john_wiley@fws.gov) or 607-753-9334.

Sincerely,

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