194 FERC ¶ 61,057
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;
David Rosner, Lindsay S. See,
Judy W. Chang, and David LaCerte.

Rumford Falls Hydro LLC Project No. 2333-094

ORDER ISSUING NEW LICENSE

(Issued January 22, 2026)

Introduction

1. On September 29, 2022, Rumford Falls Hydro LLC (Rumford Hydro) filed, pursuant to sections 4(e) and 15 of the Federal Power Act (FPA),[1] an application for a new license to continue operating and maintaining the 44.5-megawatt (MW) Rumford Falls Hydroelectric Project No. 2333 (Rumford Falls Project or project). The project is located on the Androscoggin River in the Town of Rumford, in Oxford County, Maine.[2] The project does not occupy federal land. As discussed below, this order issues a new license for the project.

Background

2. The Federal Power Commission, predecessor to the Federal Energy Regulatory Commission (FERC or Commission), issued an original license for the project on May 14, 1965, with an expiration date of December 31, 1993.[3] On October 18, 1994, the Commission issued a new license for the project with an effective date of October 1,

[1] 16 U.S.C. §§ 797(e), 808.

[2] The Androscoggin River is a navigable waterway of the United States. *N.H. Water Res. Bd.*, 20 FPC 99, 100 (1958); *Pub. Serv. Co. of N.H.,* 27 FPC 826, 827 (1962). Therefore, section 23(b)(1) of the FPA, 16 U.S.C. § 817(1), requires the project to be licensed.

[3] The license was issued to Rumford Falls Power Company. *Rumford Falls Power Co.*, 33 FPC 1016 (1965).

1994, and an expiration date of September 30, 2024.[4] Since the expiration date, Rumford Hydro has operated the project under an annual license pending the disposition of its new license application.[5]

3. On June 26, 2023, the Commission issued a public notice that was published in the *Federal Register*, accepting the application for filing, indicating the application was ready for environmental analysis, and setting August 25, 2023, as the deadline for filing motions to intervene, protests, comments, recommendations, terms and conditions, and fishway prescriptions.[6] On August 18, 2023, the U.S. Department of the Interior (Interior) filed a reservation of authority to prescribe fishways. Maine Council of Trout Unlimited (Maine TU), ND Paper Inc. (ND Paper), Maine Rivers, Friends of Richardson Lake, American Whitewater, and the Conservation Law Foundation filed timely motions to intervene.[7] Maine TU opposes relicensing of the Rumford Falls Project because of the desire to restore aquatic habitat, improve water quality, and increase recreational opportunities within the Androscoggin River watershed, and Conservation Law Foundation joins Maine TU's opposition.[8] These issues are discussed below.

4. Pursuant to the National Environmental Policy Act of 1969 (NEPA),[9] Commission staff issued a draft environmental assessment (EA) on February 22, 2024, analyzing the effects of the proposed project and alternatives to it, and setting a deadline for filing comments of March 25, 2024.[10] Comments on the draft EA were filed by: Rumford

---

[4] *Rumford Falls Power Co.*, 69 FERC ¶ 61,063 (1994). On May 24, 2006, the license was transferred to Rumford Falls Hydro LLC. *Rumford Falls Power Co.*, 115 FERC ¶ 62,210 (2006).

[5] *See* 16 U.S.C. § 808(a)(1); *see also* October 1, 2024 Notice of Authorization for Continued Project Operation.

[6] 88 Fed. Reg. 42705 (July 3, 2023).

[7] Timely, unopposed motions to intervene are granted by operation of Rule 214(c)(1) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c)(1) (2025).

[8] Maine TU August 4, 2023 Motion to Intervene and Protest at 7; Conservation Law Foundation August 25, 2023 Motion to Intervene at 1.

[9] 42 U.S.C. §§ 4321 *et seq.*; *see also* 18 C.F.R. pt. 380 (2025) (Commission's regulations implementing NEPA).

[10] The Commission's Rules of Practice and Procedure provide that if a filing deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is

Hydro; Maine Department of Inland Fisheries and Wildlife (Maine DIFW); American Whitewater, Maine Rivers, Friends of Richardson Lake, Conservation Law Foundation, Appalachian Mountain Club, and Maine TU (collectively, NGO); Adrian Erdman; Robert D. McChesney; Nicoli Botti; Robert Fleagle; and Richard Bates. Commission staff issued a final EA on August 13, 2024. The interventions, comments, and recommendations have been fully considered in determining whether, and under what conditions, to issue this license.

Project Description

A. Project Area

5. The Rumford Falls Project is located on the Androscoggin River in the town of Rumford, in Oxford County, Maine. The Androscoggin River originates at the outlet of Umbagog Lake in northern New Hampshire and flows south and east through New Hampshire and Maine for about 177 miles to Merrymeeting Bay on the coast of Maine. The watershed has a total drainage area of about 3,500 square miles.

6. The project is located at river mile (RM) 80 on the Androscoggin River in the Lower Androscoggin Basin. The Androscoggin River basin contains over 200 dams, most of which are located on various tributaries to the mainstem. There are 18 Commission-licensed hydroelectric projects on the Androscoggin River. The Rumford Falls Project is the eighth Commission-regulated hydroelectric project upstream from Merrymeeting Bay.

B. Project Facilities

7. The Rumford Falls Project consists of two developments, Upper Station and Lower Station, which are located less than a mile apart on the Androscoggin River. The total nameplate capacity of the project is 44.5 MW. A detailed project description is contained in ordering paragraph (B)(2).

1. Upper Station Development

8. The Upper Station development consists of a dam, forebay, impoundment, gatehouse, penstocks, powerhouse, transmission lines, and appurtenant facilities. The concrete gravity Upper Dam consists of an ogee-type spillway section with a crest

---

closed for business, the filing deadline does not end until the close of business on the next business day. 18 C.F.R. § 385.2007(a)(2) (2025). Because the 30-day filing deadline fell on a Saturday (i.e., March 23, 2024), the filing deadline was extended until the close of business on Monday, March 25, 2024.

elevation of 598.74 feet.[11] The spillway section is topped with pin-supported wooden flashboards and a rubber Obermeyer spillway system.

9. When the flashboards are engaged, the dam impounds a reservoir that has a surface area of approximately 419 acres at a maximum pond elevation of 601.24 feet and provides approximately 2,900 acre-feet of gross storage. The dam forms one side of the forebay; the other side of the forebay consists of a masonry and concrete wall along the shoreline.

10. A gatehouse containing eight gates, two for each penstock, regulates the flow from the forebay to four penstocks. The gates are screened by open-spaced coarse trashracks. The powerhouse, located on the western bank of the Androscoggin River, consists of two adjacent stations—Old Station and New Station. The Old Station contains one horizontal Francis turbine (Unit 4) with a capacity of 4.3 MW and the New Station contains three vertical Francis turbines, two with a capacity of 8.1 MW (Units 1 and 2) and one with a capacity of 8.8 MW (Unit 3). The total installed capacity of the Upper Station development is 29.3 MW. The minimum and maximum hydraulic capacities of the Upper Station development are 1,475 and 4,550 cubic feet per second (cfs), respectively.

11. A concrete-lined tailrace conveys flow from the powerhouse back to the Androscoggin River, creating a 650-foot-long bypassed reach. Power from the powerhouse is transmitted to a generation step-up unit (GSU) substation through two 11.5-kilovolt (kV) transmission lines.[12] From the GSU substation, power is transmitted to the project's 8-MW battery storage system or to the regional grid via Central Maine Power's transmission line.[13]

12. The Upper Station development does not include any licensed recreation facilities.

---

[11] All elevations referenced herein are based on a local datum referred to as U.S. Geological Survey (USGS) datum. In comparison to the more widely used North American Vertical Datum of 1988 (NAVD88), USGS datum equals NAVD88 minus 0.11 foot.

[12] There are two other transmission lines extending from the Upper Station to the GSU substation. Line 1 is deenergized and Line 4 is owned by Catalyst Paper and abandoned.

[13] *See Rumford Falls Hydro LLC*, 175 FERC ¶ 62,137 (2021) (Order Amending License to Include Battery System); *Rumford Falls Hydro LLC*, 184 FERC ¶ 62,113 (2023) (Order Approving As-built Exhibit F and G Drawings).

2. Lower Station Development

13. The Lower Station development consists of a dam (Middle Dam), canal headgate structure, canal, impoundment, intake gatehouse, penstocks, powerhouse, transmission line, and appurtenant facilities. The rock-filled, wood-crib, gravity Middle Dam is capped and reinforced with concrete and includes a spillway. The crest of the dam is fitted with pin-type flashboards and the elevation at the top of the installed flashboards is 502.74 feet. Two pipes installed in the center of the dam are used to provide a 21-cfs minimum flow to the bypassed reach.

14. When the flashboards are engaged, the Middle Dam impounds a reservoir that has a surface area of approximately 21 acres at a normal maximum pond elevation of 502.74 feet and provides approximately 141 acre-feet of gross storage. The Middle Dam diverts flow from the Androscoggin River through a canal headgate structure into the Middle Canal. The headgate structure contains ten headgates, six of which are operated manually and four of which can be operated manually or remotely. A waste weir, topped with flashboards, located within the Middle Canal and perpendicular to the headgate structure, diverts floating debris back into the Androscoggin River.

15. The Lower Station intake gatehouse regulates flow from the Middle Canal to the two project penstocks. The gatehouse contains two (with provisions for a third) motorized gate hoists and headgates. An open-spaced trashrack that spans the length of the gatehouse screens debris from the flow that passes through the gates. The gatehouse also houses the transmitter responsible for controlling the water level in the canal. Two steel penstocks convey flow from the gatehouse to two steel surge tanks. From the surge tanks, the penstocks convey flow to the powerhouse.

16. The Lower Station powerhouse is located on the eastern bank of the Androscoggin River. The powerhouse contains two 7.6-MW vertical Francis turbines (Units 1 and 2). The total installed capacity of the Lower Station development is 15.2 MW. Flow from the powerhouse is returned directly to the Androscoggin River after crossing a concrete-lined tailrace apron creating a 2,865-foot-long bypassed reach. Power from the powerhouse is transmitted to the GSU substation by two 11.5-kV lines (5A and B).[14]

17. The Lower Station development has one project recreation facility: a carry-in-boat launch located at Carlton Bridge on the Swift River near the confluence of the Androscoggin and Swift rivers. It provides river and angling access to the project's tail waters, as well as access to an all-terrain vehicle (ATV) trail for motorized vehicle use and walking/hiking. The facility, consisting of a concrete carry-in boat launch, ATV trail

[14] *See supra* P 11.

access, signage, eight delineated standard size parking spaces, and one Americans with Disabilities Act (ADA) parking space, is unstaffed and open to the public year-round.

C. Project Boundary

22. The project boundary encloses about 608.48 acres and includes the project facilities and the Carlton Bridge boat launch.[15] The project boundary generally follows the normal maximum water surface elevation of the impoundments, except along the western and eastern shores of the Upper Dam impoundment where the boundary extends above the normal maximum water surface elevation, enclosing 82 acres of land. In addition, the project boundary includes about 0.3 acre of land located between the Middle Canal and Route 108.

23. Rumford Hydro proposes a project boundary that follows the normal maximum water surface elevation of the impoundments. As a result, the 82 acres of land along the western and eastern shore of the Upper Dam impoundment that extends above the normal maximum water surface elevation would no longer be included in the boundary.[16] This proposal to follow the impoundment's normal maximum surface elevation contour would also result in 0.6 acre of water within Logan Brook to be included within the project boundary under a new license. Additionally, Rumford Hydro proposes that the project boundary under a new license not include the 0.3 acre of land located between the Middle Canal and Route 108 because the land is not necessary for project purposes.[17] Overall, the amount of land enclosed by the project boundary under a new license would be reduced by 81.7 acres.

---

[15] *See* Order Approving As-built Exhibit F and G Drawings, 184 FERC ¶ 62,113. There are several non-project recreation facilities within the project boundary. Non-project recreation facilities within the project boundary that are owned and maintained by Rumford Hydro include the West Viewing Area, the Rumford Falls Trail, and the Logan Brook boat access. As further discussed in the *Recreation Resources* section below, Rumford Hydro proposes to operate and maintain these as project recreation facilities. *See infra* PP 76-87. Rumford Hydro also owns Veteran's Park, but the park is maintained by the Town of Rumford. Other non-project recreation facilities located within the project boundary that are owned and maintained by the Town of Rumford include J. Eugene Boivin Park and the Town of Rumford Information Center.

[16] Rumford Hydro March 6, 2023 Response to Additional Information Request at app. C.

[17] *Id.*

D. Current Project Operation

24. Rumford Hydro operates the project in a run-of-river mode, such that outflow from the tailraces of each development approximates inflow, by maintaining the impoundments within 1 foot of full pond elevation of 601.24 feet at the Upper Dam and 502.74 feet at the Middle Dam. Rumford Hydro releases a required minimum flow of 1 cfs into the Upper Dam bypassed reach via leakage from the flashboards and 21 cfs into the Middle Dam bypassed reach via two pipes in the Middle Dam. Total average annual energy production is approximately 270,800 megawatt-hours (MWh).

25. The Upper and Lower stations are monitored and controlled remotely via the Supervisory Control and Data Acquisition system 24 hours per day, seven days a week. In addition, three local technicians provide operation and maintenance support.

E. Proposed Operation and Environmental Measures

26. To protect aquatic resources and water quality, Rumford Hydro proposes to continue to operate the project in a run-of-river mode, such that outflow from each development approximates inflow, by maintaining the impoundments within 1 foot of full pool.

27. To protect aquatic resources, Rumford Hydro proposes to continue to release a minimum flow of 1 cfs into the Upper Dam bypassed reach and to increase the minimum flow in the Middle Dam bypassed reach from a year-round 21 cfs to a seasonal minimum flow of 95 cfs from May 1 to October 31 and 54 cfs from November 1 to April 30. Rumford Hydro would release a minimum flow of 21 cfs during flashboard maintenance or other work that requires the Middle Dam impoundment to be drawn down temporarily below the dam crest.

28. To document compliance with the operating requirements of a new license, Rumford Hydro proposes to develop an operation compliance management plan.

29. To protect recreation resources, Rumford Hydro proposes to develop a recreation plan that includes provisions to: (1) continue to maintain the Carlton Bridge boat launch; (2) build a new whitewater boating and angler access and/or steps from behind the Rumford Public Library to the river in consultation with the Town of Rumford; (3) provide flood lighting of the falls at the Upper Dam Station between 8 p.m. and 12 a.m. when flows are greater than 6,000 cfs; (4) if sufficient inflow is available, provide aesthetic flow releases in the Upper Dam bypassed reach ranging from 1,200 – 1,500 cfs for three days (total) from June through August from 10:00 a.m. to 4:00 p.m.; (5) if sufficient inflow is available, provide scheduled whitewater flow releases in the range of 1,200 to 1,500 cfs for three days (total) from June through August from 10:00 a.m. to 3:00 p.m.; (6) provide public information regarding whitewater and aesthetic flow

releases in the Upper Dam bypassed reach via SafeWaters or a comparable system;[18] (7) reopen the West Viewing Area and operate the recreation site from dawn to dusk from April 15 to October 31, patch and repair concrete surfaces at the facility, relocate security fencing, add a public gravel parking area for four cars, relocate the flood lights used to light the falls from the top of the banister to below the banister to improve public safety and viewing opportunities, and install a project history kiosk, two picnic tables, and a bench; and (8) provide year-round daytime access to the Rumford Falls Trail and improve the trail by: firming the trail bed and adding wood crib steps where appropriate, installing a removable bollard or swing gate to prohibit unauthorized vehicle access, installing a bench and kiosk at the falls overlook, adding signage at the trail entrances with maps of the trail, and obtaining an easement from ND Paper for a portion of the trail that crosses its land.

30. To protect cultural resources within the project boundary, Rumford Hydro proposes to develop a historic properties management plan (HPMP) that includes a framework for consultation if work is proposed within the National Register of Historic Places (National Register)-eligible Rumford Falls Hydro and Canal District; a provision to consult with the Mi'kmaq Nation if human remains, artifacts, or any other evidence of Native American presence is discovered; and continue biennial monitoring for erosion of the National Register-eligible archaeological sites in the Upper Dam impoundment.

Summary of License Requirements

31. This license, which authorizes 44.5 MW of renewable energy generation capacity, requires the proposed measures described above, except as modified by the conditions required by the Maine Department of Environmental Protection's (Maine DEP) water quality certification (certification) (Appendix A), and the Commission staff-recommended measures described below. Combined, these measures will protect and enhance water quality, aquatic resources, wildlife, federally listed species, recreation, and cultural resources at the project.

32. To protect the northern long-eared bat and tricolored bat, the license requires Rumford Hydro to avoid, among other things, removing, destroying, or trimming any trees on project land from April 15 through October 31 unless the trees represent a safety hazard.

33. To enhance whitewater boating and aesthetic flows over the falls, this license requires Rumford Hydro to develop a whitewater boating and aesthetic flow plan, that includes: (a) the protocols and a schedule for determining which days boating and

[18] SafeWaters is a publicly accessible website and toll-free phone line operated by Brookfield Renewable U.S., the parent company of Rumford Hydro,: https://www.safewaters.com/.

aesthetic flows would be released and for communicating the flows to the public; (b) a provision to light the falls from the Upper Station between evening civil twilight (i.e., sunset) and 12 a.m. when flows exceed 6,000 cfs; and (c) releasing the required aesthetic and boating flows on 10 weekend days.

34. To enhance recreation at the project, this license requires Rumford Hydro to develop a recreation management plan that includes Rumford Hydro's proposed enhancements but also includes provisions to: (1) install a grade-separated sidewalk along the Upper Station powerhouse driveway within two years of license issuance; (2) include a plan and schedule for improving river access to the Middle Dam bypassed reach at the Rumford Falls Public Library and Rumford Town Hall; (3) include a plan and schedule to develop a new Upper Dam impoundment access and portage near the boat barrier and the Rumford Falls Trail within two years of license issuance; (4) include a recreation monitoring plan to determine if recreation needs are changing over time; and (5) include a plan and schedule for ongoing maintenance of project recreation facilities (e.g., weekly trash removal, mowing, and snow removal). The license also requires the West Viewing Area, the Rumford Falls Trail, the access to the Middle Dam bypassed reach, and the new Upper Dam impoundment access and portage be brought into the project boundary and maintained by Rumford Hydro as licensed project recreation facilities.

35. To protect historic properties, the license requires Rumford Hydro to develop an HPMP that conforms to current guidelines in consultation with the Maine Historic Preservation Commission (Maine HPC)[19] within 6 months of license issuance.[20]

Water Quality Certification

36. Under section 401(a)(1) of the Clean Water Act (CWA),[21] the Commission may not issue a license authorizing the construction or operation of a hydroelectric project unless the water quality certifying authority has either issued a certification for the project, has expressly waived certification, or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA provides that the certification must become a condition of

[19] Maine HPC serves as the State Historic Preservation Office (SHPO) for the State of Maine.

[20] *See* FERC and Advisory Council on Historic Preservation (Advisory Council), *Guidelines for the Development of Historic Properties Management Plans for FERC Hydroelectric Projects*, (May 20, 2002), https://www.ferc.gov/sites/default/files/2020-07/hpmp.pdf.

[21] 33 U.S.C. § 1341(a)(1).

any federal license that authorizes construction or operation of the project.[22]

37. On August 22, 2023, Rumford Hydro applied to Maine DEP for a certification for the Rumford Falls Project, which Maine DEP received on the same day.[23] On August 16, 2024, Maine DEP issued a certification for the project with nine conditions.[24]

38. Six of the certification conditions (conditions 4 through 9) are general or administrative in nature and are not discussed further.

39. Conditions 1 through 3 require Rumford Hydro to:

a. Maintain the Middle Dam impoundment water levels within 1 foot of full pond elevation, 502.74 feet, and maintain the Upper Dam impoundment water levels within 1 foot of full pond elevation, 601.24 feet, except as temporarily modified by: (1) approved maintenance activities; (2) extreme hydrologic conditions; (3) emergency electrical system conditions; or (4) agreement between Rumford Hydro, Maine DEP, and appropriate state and federal agencies (Condition 1).

b. Provide a year-round minimum flow of 1 cfs or leakage from the Upper Dam into Upper Dam bypassed reach and 200 cfs from the Middle Dam into the Middle Dam bypassed reach, except as temporarily modified by: (1) approved maintenance activities; (2) extreme hydrological conditions; (3) emergency electrical system conditions; or (4) agreement among Rumford Hydro, Maine DEP, and appropriate state and federal agencies (Condition 2).

---

[22] *Id.* § 1341(d). *See also Am. Rivers v. FERC*, 129 F.3d 99, at 107-09 (2d Cir. 1997). The Commission lacks authority to review or reject conditions contained in a state's water quality certification. *Id.*

[23] Rumford Hydro filed a copy of the receipt of delivery of the application to Maine DEP on August 22, 2023.

[24] Maine TU, American Whitewater, Maine Rivers, the Friends of Richardson Lake, Conservation Law Foundation, and American Rivers appealed the certification on September 12, 2024. Maine TU, et al., September 12, 2024 Filing. On July 17, 2025, the Maine Board of Environmental Protection affirmed Maine DEP's August 16, 2024 order approving the application for water quality certification of the Rumford Falls Project. *See* Maine Board of Environmental Protection, *July 17, 2025 Meeting Minutes* at 6, https://www.maine.gov/dep/bep/calendar.html (last visited Oct. 2025).

c. Provide formal and informal access to the project waters upstream and downstream of the project dam for the purpose of recreation in and on the water, for fishing, and for navigation to the extent possible (Condition 3A).

d. If sufficient flow is available, provide whitewater boating flow releases into the Middle Dam bypassed reach with a target flow ranging from 1,200 to 1,500 cfs for ten days (total), June through August, 10 a.m. to 3 p.m., to be determined based on consultation with the Town of Rumford and American Whitewater (Condition 3B).

e. If sufficient flow is available, provide aesthetic flow releases into the Upper Dam bypassed reach with a target flow ranging from 1,200 to 1,500 cfs for ten days (total), June through August, 10 a.m. to 4 p.m., to be determined based on consultation with the Town of Rumford (Condition 3C).

40. The nine conditions of the certification are set forth in Appendix A of this order and incorporated into the license by ordering paragraph (D).

Coastal Zone Management Act

41. Under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA),[25] the Commission cannot issue a license for a project within or affecting a state's coastal zone unless the state's coastal zone management agency concurs with the license applicant's certification of consistency with the state's CZMA program, or the agency's concurrence is conclusively presumed by its failure to act within 6 months of its receipt of the applicant's certification.

42. In an email dated August 16, 2019, Maine Department of Marine Resources indicated that the project is not located within Maine's CZMA-designated coastal zone.[26] Therefore, no consistency certification is required.

Section 18 Fishway Prescriptions

43. Section 18 of the FPA[27] provides that the Commission must require the construction, maintenance, and operation by a licensee of such fishways as may be

[25] 16 U.S.C. § 1456(c)(3)(A).

[26] Rumford Hydro September 27, 2019 Pre-Application Document, Appendix A at A-57.

[27] 16 U.S.C. § 811.

prescribed by the Secretary of Commerce (Commerce) or the Secretary of the Interior, as appropriate.

44. On August 18, 2023, Interior filed a letter requesting that the Commission reserve authority to prescribe fishways. Consistent with Commission policy, Article 403 of this license reserves the Commission's authority to require fishways that may be prescribed by Interior for the Rumford Falls Project.

Threatened and Endangered Species

45. Section 7(a)(2) of the Endangered Species Act of 1973 (ESA)[28] requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species or result in the destruction or adverse modification of their designated critical habitat.

46. The U.S. Fish and Wildlife Service's (FWS) Information for Planning and Consultation (IPaC) system shows that the federally listed endangered Atlantic salmon, the federally listed endangered northern long-eared bat, the proposed endangered tricolored bat, and the proposed threatened monarch butterfly have the potential to occur in the project area.[29] There is no proposed or designated critical habitat for Atlantic salmon, either bat species, or monarch butterfly in the project area.

A. Atlantic Salmon

47. In the final EA, staff concluded that relicensing the project may affect, but is not likely to adversely affect the Gulf of Maine (GOM) distinct population segment (DPS) of Atlantic salmon because no Atlantic salmon have been documented upstream of Lewiston Falls since 1815.[30] On March 1, 2024, Commission staff requested the National Marine Fisheries Service's (NMFS) concurrence with its determination for Atlantic salmon. By letter filed with the Commission on July 14, 2025, NMFS concurred with staff's determination.

---

[28] 16 U.S.C. § 1536(a).

[29] Commission staff October 28, 2025 Memorandum Forwarding FWS's List of Threatened, Endangered, Proposed, and Candidate Species; *see also* FWS, IPaC, https://ipac.ecosphere.fws.gov/ (last visited October 28, 2025). The monarch butterfly was a candidate species when the final EA was issued, but it was subsequently proposed for listing on December 12, 2024. 89 Fed. Reg. 100662.

[30] Final EA at D-5. Lewiston Falls is located about 50 river miles downstream of the Rumford Falls Project.

B. Northern Long-Eared Bat and Tricolored Bat

48. Although northern long-eared bat or tricolored bat are not known to use habitat at or near the project, upland forests near the project boundary may provide suitable habitat for summer roosting and foraging activities.[31] Routine maintenance may require the trimming or removal of trees during the license term that could affect summer habitat for the northern long-eared bat and tricolored bat.[32] To protect the northern long-eared bat and tricolored bat, Commission staff recommended in the final EA including a requirement in the new license that prohibits any tree cutting and trimming at the project from April 15 through October 31, unless the trees represent a public or project safety hazard. With such a restriction in place, Commission staff concluded that relicensing the project may affect, but is not likely to adversely affect, the northern long-eared bat, and would not jeopardize the continued existence of the tricolored bat.[33] By letter filed with the Commission on September 18, 2024, FWS concurred with staff's determination.

49. Article 404 of this license prohibits any tree removal or trimming in the project boundary from April 15 through October 31 unless necessary for public or project safety. If emergency tree removal or trimming is necessary during this period, the licensee must notify FWS as soon as practical after conducting the tree trimming or removal. No further action under the ESA is required for these species.

C. Monarch Butterfly

50. The monarch butterfly is not known to overwinter near the project area. Common milkweed (a widespread species of milkweed throughout Maine) is present in plant communities along the river but has not be documented within the project boundary.[34] In the final EA, Commission staff found that current maintenance activities at the project are minor and there is no information demonstrating that these activities would potentially remove or degrade monarch butterfly habitat or impact individual butterflies.[35] Therefore, Commission staff concluded that any project effects on the monarch butterfly

---

[31] *Id.* at D-3 to D-4.

[32] *Id.* at D-5 to D-6.

[33] For species proposed for listing, a federal agency must confer with FWS only when the agency determines that its action would likely jeopardize the continued existence of the proposed species or destroy or adversely modify proposed critical habitat. 16 U.S.C. § 1536(a)(4).

[34] Final EA at D-4 to D-5.

[35] *Id.* at D-6.

and its habitat would be minimal and would not jeopardize the continued existence of this species.[36] No further action under the ESA is required.

Historic and Cultural Resources

A. National Historic Preservation Act

51. Under section 106 of the National Historic Preservation Act (NHPA),[37] and its implementing regulations,[38] federal agencies must consider the effect of any proposed undertaking on properties listed or eligible for listing in the National Register, defined as historic properties, and afford the Advisory Council a reasonable opportunity to comment on the undertaking. This process generally requires the Commission to consult with the SHPO to determine whether and how a proposed action may affect historic properties, and to seek ways to avoid or minimize any adverse effects.

52. On November 19, 2019, Commission staff designated Rumford Hydro as its non-federal representative for carrying out informal consultation under section 106. Pursuant to section 106, and as the Commission's designated non-federal representative, Rumford Hydro initiated consultation with the Maine HPC to identify historic properties, determine National Register eligibility, and assess potential adverse effects on historic properties within the project's area of potential effects (APE). The project's APE is all land within the project boundary.

53. Rumford Hydro identified 17 historic resources within the project's APE that have either been determined to be individually eligible or are recommended as eligible (individually or as contributing resources of a district). Commission staff and Maine HPC concluded that the proposed undertaking will have no adverse effect on historic properties contingent on the development of an HPMP for the project.[39]

54. Previous archaeological studies identified eight sites along the Upper Development impoundment that are National Register-eligible and potentially susceptible to erosion. Over the last decade, Rumford Hydro has monitored these sites to determine whether erosion was affecting the sites. Rumford Hydro proposes to develop an HPMP that includes provisions to consult with the Maine HPC on future work in the National Register-eligible Rumford Falls Hydro and Canal District that has the potential to affect

[36] *Id.* at 26, A-2, & D-6.

[37] 54 U.S.C. § 306108.

[38] 36 C.F.R. pt. 800 (2025).

[39] Final EA at A-3.

historic properties; consult with the Mi'kmaq Nation if human remains, artifacts, or any other evidence of Native American presence is discovered; and continue its biennial monitoring for erosion of the National Register-eligible sites in the Upper Dam impoundment. In the final EA, Commission staff recommended Rumford Hydro continue biennial erosion monitoring of these sites to determine if protection measures may be warranted in the future.[40]

55. In the final EA, Commission staff concluded that developing an HPMP as proposed by Rumford Hydro in consultation with the Maine HPC would ensure that measures are in place to protect known historic properties and any previously undiscovered archaeological resources within the APE from project operation and maintenance.[41]

56. To satisfy its responsibilities under section 106 of the NHPA, the Commission executed a Programmatic Agreement (PA) with the Maine HPC and invited the Penobscot Nation, Mi'kmaq Nation, and Rumford Hydro to concur with the stipulations of the PA.[42] Rumford Hydro concurred with the PA.[43] Article 409 of this license requires Rumford Hydro to implement the PA. The PA requires Rumford Hydro to develop an HPMP within one year of license issuance.[44] Execution of the PA demonstrates the Commission's compliance with section 106 of the NHPA.

57. After the issuance of the final EA, Rumford Hydro filed a biennial cultural resources report on December 3, 2024, indicating significant erosion occurred over the last two years that impacted one of the archaeological sites (i.e., Town of Rumford site 49.20), and that mitigation measures beyond continued monitoring may now be warranted. Following consultation with the Maine HPC, Rumford Hydro prepared a Phase 1 plan to determine if significant site deposits were impacted by recent flooding events.[45]

---

[40] *Id.* at 47.

[41] *Id.*

[42] Commission staff October 9, 2024 Executed Programmatic Agreement.

[43] Rumford Hydro September 5, 2024 Filing.

[44] Commission staff October 9, 2024 Executed Programmatic Agreement at 2.

[45] *See Rumford Falls Hydro LLC*, 190 FERC ¶ 62,115, at P 7 (2025).

58. On February 25, 2025, Commission staff approved the plan to conduct the Phase I work at site 49.20.[46] Because the proposal did not include procedures for mitigating adverse effects, the order required the licensee to develop plans for data recovery or alternative mitigation measures, if the results of the Phase I archaeological investigations indicate the site is experiencing adverse effects.[47]

59. On October 7, 2025, Rumford Hydro requested an extension of time to complete the Phase I work at site 49.20. On October 10, 2025, Commission staff granted the extension of time request requiring Rumford Hydro to file its final report with the Commission by April 30, 2027.[48] As the Phase 1 investigation is ongoing, Article 408 of this license requires Rumford Hydro to complete the work at site 49.20 and file the final report with the Commission by April 30, 2027.

B. Tribal Consultation

60. Commission staff invited consultation with the Penobscot Nation on October 3, 2019, and the Mi'kmaq Nation on November 7, 2023. The Penobscot Nation did not respond to the initial consultation letter or follow up calls, nor did it file any comments on the record in this proceeding.

61. On December 11, 2023, the Mi'kmaq Nation filed a letter requesting the following: (1) if during the course of excavation/construction activities, human remains, artifacts, or any other evidence of Native American presence is discovered, that site activities in the vicinity of the discovery immediately cease, pending notification to the Mi'kmaq Nation; (2) if human remains, artifacts, or any other evidence of Native American presence is discovered, that the (a) human remains be reburied with the appropriate respect for the remains that is required at a distinctive and respectable site; (b) artifacts and other evidence of Native American discovery will be documented with appropriate detail; and (c) items will be analyzed for the precise period of the items' distinctive period and will be documented by the Tribal Historic Preservation Officer for the Mi'kmaq Nation; and (3) if the project results in wetland disturbances requiring mitigation, that Rumford Hydro utilize black ash trees as the principal wetland species for wetland restoration activities.[49]

---

[46] *Rumford Falls Hydro LLC*, 190 FERC ¶ 62,115.

[47] *Id.* at ordering para (c).

[48] *Rumford Falls Hydro LLC*, Project No. 2333-097 (Oct. 10, 2025) (delegated order).

[49] As discussed in the final EA, Commission staff found no evidence that project

62. Rumford Hydro included the Mi'kmaq Nation's request for continued consultation in their proposed measures for the HPMP and Commission staff agreed that the Mi'kmaq Nation should be consulted if human remains or artifacts are discovered.[50] Article 409 of this license requires Rumford Hydro to develop an HPMP that includes provisions to consult with the Mi'kmaq Nation if Native American artifacts or human remains are discovered.

Recommendations of Federal and State Fish and Wildlife Agencies Pursuant to Section 10(j) of the FPA

63. Section 10(j)(1) of the FPA[51] requires the Commission, when issuing a license, to include conditions based on recommendations submitted by federal and state fish and wildlife agencies pursuant to the Fish and Wildlife Coordination Act,[52] to "adequately and equitably protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" affected by the project. No section 10(j) recommendations were filed.

Section 10(a)(1) of the FPA

64. Section 10(a)(1) of the FPA[53] requires that any project for which the Commission issues a license be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce; for the improvement and utilization of waterpower development; for the adequate protection, mitigation, and enhancement of fish and wildlife; and for other beneficial public uses, including irrigation, flood control, water supply, recreation, and other purposes.

---

operation adversely affects wetlands, and continuing to operate the project in a run-of-river mode would maintain existing habitat. No wetland mitigation measures were proposed or recommended for this licensing proceeding. Therefore, staff did not recommend requiring the use of black ash (*Fraxinus nigra*) as a principal wetland species for wetland restoration activities. Final EA at 24.

[50] *Id.* at 54.

[51] 16 U.S.C. § 803(j)(1).

[52] *Id.* §§ 661 *et seq*.

[53] *Id.* § 803(a)(1).

A. Project Operation

65. Under the current license, Rumford Hydro is required to operate its project in a run-of-river mode, where outflow from the project approximates inflow, by maintaining the Upper Dam and Middle Dam impoundments within 1 foot of full pond elevation (elevation 601.24 feet at the Upper Dam impoundment and elevation 502.74 feet at the Middle Dam impoundment). Rumford Hydro proposes and Commission staff recommends continued project operation in a run-of-river mode.[54] We agree with staff's recommendation. Accordingly, Article 401 and certification condition 1 of this license require Rumford Hydro to continue operating the project in a run-of-river mode.

66. Certification condition 1 also allows for temporary modifications to the specified impoundment levels under certain conditions but does not require notification or reporting of those deviations. Therefore, Article 401 of this license defines when and how Rumford Hydro should report deviations from the operation requirements of this license.

B. Operation Compliance Monitoring Plan

67. Operation compliance monitoring and reporting measures assist the Commission with verifying that a licensee is complying with the environmental requirements of a license. Rumford Hydro proposes to develop an operations compliance management plan to confirm that the project is operated in compliance with any new license.

68. In the final EA, Commission staff recommended, and this license requires, that Rumford Hydro develop an operation compliance monitoring plan that includes the following: (1) a description of the mechanisms and equipment that will be used to document compliance with the minimum bypassed reach flows, whitewater boating and aesthetic flow releases (Appendix A, condition 3), and run-of-river operation (Article 401); (2) a daily log of project operation; (3) standard operating procedures to be implemented outside of normal operating conditions; and (4) a schedule for installing any monitoring equipment needed to document compliance with the operation requirements of the license.[55] Staff concluded in the final EA that the benefits of an operation compliance monitoring plan with these provisions would be worth the levelized annual cost of $2,994.[56] We agree with staff's recommendations and conclusion. Therefore,

[54] Final EA at 18.

[55] *Id.* at 24-25, & G-2.

[56] *Id.* at C-27.

Article 402 of this license requires the development of an operation compliance monitoring plan that includes the staff-recommended provisions.

C. Minimum Flows in the Upper Dam Bypassed Reach

69. Rumford Hydro proposes to continue to release a minimum flow of 1 cfs into the Upper Dam bypassed reach via leakage from the flashboards. Maine TU recommended that Rumford Hydro release a minimum flow ranging from 250 to 500 cfs from the Upper Dam to the bypassed reach all times to: (1) re-establish a sustainable fisheries and aquatic habitat; (2) reduce aquatic species mortality by providing oxygenating, constant flows through several dewatered pools; and (3) create a downstream spawning path for American eels and other indigenous aquatic organisms.[57]

70. In the final EA, staff found that increasing the minimum flow from 1 cfs to between 250 to 500 cfs year-round would increase the wetted area within the bypassed reach, provide a more consistent and higher flow to the pools, may improve water temperatures and dissolved oxygen levels within the pools, and increase habitat connectivity between the pools and downstream habitats.[58] But staff also found that habitat conditions within the bypassed reach are poor for fish and most aquatic invertebrates at any flow, and increasing minimum flows would not substantially improve habitat conditions for fish because of the high gradient, rapid velocities, turbulence, shallow depths, and limited refuge areas within the bedrock substrate.[59] Specifically, contrary to Maine TU's comments and analysis, staff found that the only fish that are expected to inhabit the pools within the bypassed reach would be those passing over the dam during spill events, because the pools are located upstream from a large cascade (with an average gradient of about 9% near the dam and increasing to a gradient of over 50% present in the falls) and are unreachable to most fish and other aquatic organisms when swimming upstream.[60] Releasing 250 to 500 cfs minimum flows in the Upper Dam

[57] Maine TU August 4, 2023 Motion to Intervene and Protest at 12-13.

[58] Final EA at 19.

[59] *Id.* at 20. Commission staff noted in the final EA that Maine DIFW stated in its February 17, 2023 comments on the license application that "there is limited aquatic habitat potential in the Upper Dam bypass; therefore, from the perspective of aquatic habitat only, MDIFW has no objections to the current and proposed minimum flow of 1 cfs." *Id.* at 19.

[60] *Id.* at 20. Appendix K of the final EA addresses Maine TU's comments that while portions of the Upper Dam bypassed reach do not exhibit severe gradient, access to and use of the habitat is largely controlled by the presence of Rumford Falls, which consists of a gradient near 50%. Thus, increasing minimum flows would not

bypassed reach would reduce generation between 3,163 to 6,327 MWh/year respectively.[61] Staff concluded that the limited benefit to aquatic habitat from an increased minimum flow of 250 to 500 cfs in the Upper Dam bypassed reach was not worth the reduced generation.[62] Therefore, Commission staff recommended Rumford Hydro's proposed minimum flow of 1 cfs. We agree. Accordingly, certification condition 2 of the license requires the same minimum flow.

D. Minimum Flows Downstream of Middle Dam

71. Rumford Hydro proposes to increase the minimum flow into the Middle Dam bypassed reach to 95 cfs from May 1 to October 31 and to 54 cfs from November 1 to April 30. Maine TU recommended increasing the year-round minimum flow to 250 to 500 cfs to protect and enhance the habitat for fish and other aquatic organisms, remain reasonably wadable, and improve recreational use and aesthetics.[63] Certification condition 2 requires Rumford Hydro to provide a year-round minimum flow of 200 cfs from the Middle Dam into the Middle Dam bypassed reach.

72. In the final EA, Commission staff evaluated the benefits and costs of the downstream minimum flow alternatives, but not certification condition 2, which was issued after the final EA. Staff found that Rumford Hydro's proposal to increase the minimum flow to 95 cfs from May 1 to October 31 and 54 cfs from November 1 to April 30, would increase the amount of aquatic habitat for stocked trout, smallmouth bass, and benthic macroinvertebrates from about 15% of the habitat modeled to 55% from May 1 to October 31 and 35% from November 1 to April 30.[64] The increased and seasonal minimum flow would represent a 20% to 40% increase in available habitat relative to current conditions, but would reduce generation by 1,540 MWh per year. Staff found that Maine TU's proposed year-round minimum flows of 250 to 500 cfs would result in an additional 20% to 45% more habitat than the flows proposed by Rumford

---

significantly improve habitat conditions for fish. *Id.* at K-2.

[61] We note that in the final EA, staff estimated the combined reduction in annual generation for Maine TU's recommended 250 to 500 cfs minimum flow in the Upper Dam and Middle Dam bypassed reaches, but the reduction in annual generation here is reported for only the Upper Dam bypassed reach. *See* Final EA at C-37.

[62] *Id.* at F-10.

[63] Maine TU August 4, 2023 Motion to Intervene and Protest at 12-13.

[64] Final EA at F-11.

Hydro.[65] But the habitat gain would result in a generation reduction of between 6,236 and 12,473 MWh per year. Based on Rumford Hydro's hydraulic habitat modeling results summarized in the final EA, increasing the minimum flow in the Middle Dam bypassed reach to 200 cfs year-round as required by certification condition 2 would increase the amount of aquatic habitat for stocked trout, smallmouth bass, and benthic macroinvertebrates from about 15% of the habitat to about 85% but would reduce generation by 4,990 MWh per year.

73. Staff concluded in the final EA that in consideration of the benefits and costs of Rumford Hydro's proposed minimum flows of 95 cfs from May 1 to October 31 and to 54 cfs from November 1 to April 30 in the Middle Dam bypassed reach, compared to alternatives for higher minimum flows, Rumford Hydro's proposed seasonal minimum flows would strike the appropriate balance between flow used for aquatic habitat improvement and flow used for project generation.[66] Nevertheless, Maine DEP's higher year-round minimum flow release of 200 cfs to the Middle Dam bypassed reach is required by certification condition 2.[67]

E. Water Quality and Benthic Macroinvertebrate Sampling

74. Maine TU recommended that Rumford Hydro conduct additional water quality and macroinvertebrate sampling in the Upper Dam bypassed reach, the power canal, and downstream from the project outflow because the water quality and benthic macroinvertebrate sampling conducted by Rumford Hydro was "incomplete and inadequate."[68]

75. In the final EA, Commission staff found that the water quality and benthic macroinvertebrate study required by the Commission-approved study plan and conducted by Rumford Hydro adequately characterized the water quality in the project area and

[65] *Id*.

[66] *Id.* at F-12.

[67] We note that Rumford Hydro also proposes to maintain a minimum flow of 21 cfs in the bypassed reach when flashboard maintenance or other work requires the Middle Dam impoundment to be drawn down for short periods below dam crest. Certification condition 2 requires Rumford Hydro to provide a year-round minimum flow of 200 cfs except as temporarily modified by approved maintenance activities in consultation with the resource agencies but does not specify what minimum flows would be released during these maintenance activities.

[68] Final EA at 25.

provided sufficient information to make a licensing recommendation.[69] Specifically, in the study modification determination, staff found that aquatic habitat within the bypassed reach is poor to non-existent, with only a few small, intermittent, shallow, bedrock-dominated pools that provide poor temporary habitat for fish that spill over the dam during high flows and a few macroinvertebrates.[70] Staff also indicated that no entity, including Maine DEP, recommended water quality sampling in the bypassed reach during study plan development or following the reporting of the water quality results in the initial study report.[71] Thus, staff concluded that there would be no benefit of requiring Rumford Hydro to conduct additional water quality and benthic macroinvertebrate sampling in these areas at an annual cost of $1,376.[72] We agree. In addition, Maine DEP determined in its analysis for issuing its water quality certification that a minimum flow of 1 cfs into the Upper Dam bypassed reach would not cause adverse impacts to aquatic life.[73] Therefore, this license does not require Rumford Hydro to conduct additional water quality and macroinvertebrate sampling.

F. Recreation Resources

76. Rumford Hydro proposes to develop: (1) a recreation management plan (Recreation Plan) that includes provisions to operate and maintain new and upgraded recreation facilities, and (2) a whitewater boating and aesthetic flow plan. Article 405 of this license requires the operation and maintenance of five project recreation facilities. Article 406 requires the development of a recreation management plan with provisions for implementing recreation enhancements at the following project recreation facilities: the West Viewing Area, the Rumford Falls Trail, access to the Middle Dam bypassed reach, and the Upper Dam impoundment access and portage. Article 407 requires the development of a whitewater boating and aesthetic flow plan that requires flow releases to benefit recreation boating and viewing of the falls. The details of these measures and plans are discussed below.

---

[69] *Id.* at F-12.

[70] Commission staff November 21, 2022 Study Modification Determination at B-4.

[71] *Id.* at B-5.

[72] Final EA at F-12.

[73] Maine DEP August 16, 2024 Water Quality Certification at 18.

1. Carlton Bridge Boat Launch

77. Rumford Hydro proposes to continue maintaining the Carlton Bridge boat launch, which is used for angling and carry-in boat access on the eastern edge of the Swift River just upstream of its confluence with the Androscoggin River. The Swift River enters the Androscoggin River downstream of the Middle Dam tailrace. By floating from the boat launch downstream to its confluence with the Androscoggin River and then paddling upstream, boaters can access the Middle Dam tailwaters for fishing.

78. In the final EA, Commission staff found that the facility has low use and, due to low flows in the Swift River, those who desire to access the Middle Dam tailwaters by boat tend to launch their boats at the Maine DACF boat launch in Mexico, Maine instead of the Carlton Bridge boat launch.[74] Maine TU recommends that the Carlton Bridge carry-in launch and parking be improved, but provides no specific measures. Given the consistent low use of the Carlton Bridge boat launch and the availability and popularity of the nearby Maine DACF launch, Commission staff did not recommend improvements.[75] But staff concluded, and we agree, that the continued maintenance of the boat launch would maintain public access to project waters and is worth the levelized annual cost of $2,000.[76] Therefore, Article 406 of this license requires that Rumford Hydro continue to operate and maintain the Carlton Bridge boat launch.

2. West Viewing Area

79. The West Viewing Area is an overlook located at the Upper Station powerhouse that provides views of the falls, Middle Dam impoundment, downtown Rumford, and Black Mountain. Rumford Hydro closed the site in 2014 for security reasons. Rumford Hydro proposes to re-open the West Viewing Area from April 15 to October 31, dawn to dusk, and to: (1) remove the existing chain link fencing and gates from the perimeter of the viewing area; (2) repair the concrete deck and railing; (3) provide a dedicated gravel parking area for four vehicles with an ADA parking space; (4) install an ADA-compliant, approximately 4-foot-wide and 195-foot-long path of crushed shale or other comparable material from the parking area to the overlook; (5) install a project/history kiosk, two picnic tables, and a bench;[77] (6) move the flood lights that illuminate the falls from the

[74] *Id.* at 36.

[75] *Id.*; *see also* Maine TU August 4, 2023 Motion to Intervene and Protest at Exhibit 2 (recommending generally that improvements be made to the Carlton Bridge boat launch and the parking area near the facility).

[76] Final EA at C-33.

[77] We note that Commission staff considered in the EA a recommendation to

top of the concrete banister to below the banister; (7) install chain link security fencing below the West Viewing Area deck below the line of site from the viewing area to the falls and Middle Dam impoundment; (8) install ornate 8-foot-high black aluminum fencing at an area adjacent to the West Viewing Area along the top of the steep river embankment; (9) install wooded guardrails in front of the public parking and employee parking areas; and (10) provide a painted pedestrian walkway along the Upper Station powerhouse driveway from the public sidewalk on Route 2 to the viewing area, with signage to create one-lane traffic flow.

80. In the final EA, staff concluded that Rumford Hydro's upgrades to the West Viewing Area would improve recreation access and is worth the levelized annual cost of $17,545.[78] But Rumford Hydro did not include in its proposed recreation plan a schedule for completing the proposed improvements or for maintaining the site. Therefore, Article 406 requires Rumford Hydro to include in the recreation plan a schedule to install and maintain its proposed enhancement measures in the West Viewing Area.

81. The Town of Rumford recommended that Rumford Hydro install a grade-separated concrete sidewalk along the existing Upper Station powerhouse driveway that connects to the Town sidewalk, instead of the proposed painted walking zone.[79] In the final EA, Commission staff found that installing a 4-foot-wide grade-separated concrete sidewalk that connects to the existing Town of Rumford sidewalk would provide safer access for pedestrians and drivers than the painted walkway.[80] Commission staff estimated that installing a concrete sidewalk would have a capital cost of about $30,000 ($2,665 annualized) and that the additional public safety benefits would be worth the cost. Therefore, Article 406 of this license requires Rumford Hydro to include a plan and schedule for installing the concrete sidewalk in the recreation plan.

3. Rumford Falls Trail

82. The Rumford Falls Trail is a popular 1.6-mile loop trail through the project that offers views of the falls. The trail begins at the visitors center off Bridge Street and follows the sidewalk along U.S. Route 2 south until South Rumford Road where it

---

install a pergola at this site, but staff did not recommend it and this license does not require it because Rumford Hydro's proposal would install two picnic tables and a bench at the West Viewing Area, which would serve the same purpose. Final EA at F-12; *see also* Brie Weisman July 7, 2023 Comments at 1.

[78] Final EA at 31 & C-31.

[79] Town of Rumford July 14, 2023 Filing at 1.

[80] Final EA at 31-31 & F-2.

crosses the Androscoggin River. It continues north (downstream) for about 0.7 miles until the intersection with Bridge Street/ME Route 108. Due to public safety concerns, Rumford Hydro closed a portion of the Rumford Falls Trail in 2021 and constructed an alternate route higher up on the hillside that provided an overlook and views of the falls to ensure that visitors can complete the looped trail. Rumford Hydro proposes to maintain the portion of the Rumford Falls Trail from South Rumford Road to Route 108 and to improve this trail segment by: (1) making the trail bed firmer and adding wood crib steps to steep portions where appropriate; (2) installing a removable bollard or swing gate to prohibit unauthorized vehicles from driving on the elevated trail segment; (3) installing a bench and kiosk with information about the history of the project at the falls overlook; and (4) adding signage at both entrances that includes a trail map. In the final EA, Commission staff concluded that Rumford Hydro's proposed enhancements to the trail would improve recreation access and experience and is worth the levelized annual cost of $9,774.[81] Article 406 requires these improvements.

83. Rumford Hydro proposes to provide year-round access to the Rumford Falls Trail from dawn to dusk. To ensure access, Rumford Hydro proposes obtaining a new easement from ND Paper for the section of the trail that crosses ND Paper property before the expiration of the current agreement expires in 2026. Because the impending expiration of the access agreement with ND Paper may limit Rumford Hydro's ability to maintain the trail for the term of the license,[82] Article 406 of this license requires Rumford Hydro to obtain the necessary rights to operate and maintain the trail prior to the agreement expiration date of November 2026.

4. River Access Enhancements to the Middle Dam Bypassed Reach

84. The Middle Dam bypassed reach features a variety of whitewater opportunities ranging from Class I to Class V, but access is currently limited to informal locations that are not maintained for public safety. To enhance access for boating, Rumford Hydro proposes to build and maintain "access and/or steps" from behind the Rumford Public Library to the ledges and cascades near the middle of the bypassed reach. Rumford Hydro would develop the details of the improvements in consultation with the Town of Rumford because the access improvements would be on Town land.

85. In the final EA, Commission staff recommended that Rumford Hydro install its proposed improvements from the library lower parking lot to the river in consultation with the Town.[83] Commission staff also recommended improving access on the east side

[81] *Id.* at 32 & C-31.

[82] The access agreement expires in 2026.

[83] Final EA at 34-35.

of the river by installing stairs and railings across from the Town Hall also in consultation with the Town.[84] Commission staff estimated that providing stairs and railings from the Rumford Public Library and the Rumford Town Hall would each have a capital cost of about $75,000 ($9,162 annualized) and found the benefits to be worth the cost.

86. Therefore, Article 406 requires Rumford Hydro to file a plan and schedule for installing the access improvements at the proposed Rumford Public Library and Rumford Town Hall locations within two years of license issuance. The plan must be developed in consultation with the Town of Rumford.

5. Upper Dam Impoundment Access and Portage

87. In the final EA, Commission staff recommended, in response to comments, that Rumford Hydro provide a shorter portage option by developing a new boat access in the Upper Dam impoundment near the boat barrier on lands which Rumford Hydro already owns or has access.[85] By developing an access location near the Upper Dam boat barrier, the portage route distance would be significantly reduced from the current formal option at the Maine DACF boat launch in Rumford,[86] while also enhancing public safety and the

[84] *Id.* at 33; *see also* Maine BPL August 28, 2023 Filing at 3 (recommending adding stairways and/or safety railings to enhance river access to existing fisheries in these areas, although not specifying where such improvements should be located).

[85] Final EA at 35-36; *see also* Maine TU August 4, 2023 Motion to Intervene and Protest at Exhibit 2 (recommending the relocation of the Logan Brook boat access to the impoundment above the Upper Falls); Maine BPL August 28, 2023 Filing at 2-3 (recommending that the informal access be formalized and relocated closer to the boat barrier or further upstream on the inlet on the same Rumford Hydro owned parcel as the current launch because it would shorten the canoe portage by over a mile and recommending signage for the portage route).

[86] Currently, boaters who enter the Upper Dam impoundment from upstream and who wish to continue downstream past the Upper and Middle Dams typically exit the Upper Dam impoundment at the Maine DACF boat launch in Rumford and carry their boats over 3.6 miles of roads and public sidewalks to the river downstream of the Middle Dam, where they put in either at the Carlton Bridge boat launch or the Maine DACF boat launch in Mexico, Maine. Final EA at 36. Much of the 3.6 miles of the river bypassed by the portage is boatable but not used because the Maine DACF boat launch in Rumford is the last formal boat launch location to take-out before reaching the Upper Dam impoundment boat barrier. The only other option is the Logan Brook boat access, which is located on a tributary to the Androscoggin that enters the Upper Dam impoundment about 0.2 miles above the Upper Development boat barrier. But this access is an informal, unmaintained carry-in launch and was the least used of all the recreation

user experience. Staff concluded that the recreation and public safety benefits relocating the boat access and adding signage directing boaters to the portage trail is worth the levelized annual cost of $4,665.[87] We agree. Therefore, Article 406 of this license requires that Rumford Hydro include a plan and schedule for developing a new Upper Dam impoundment access and portage and requires Rumford Hydro to file revised Exhibit G drawings as needed.

6. Whitewater Boating Flows

88. To enhance whitewater boating opportunities in the Middle Dam bypassed reach, Rumford Hydro proposes to provide scheduled flow releases in the range of 1,200 to 1,500 cfs for three days from June through August from 10:00 a.m. to 3:00 p.m. The release schedule would be determined in consultation with the Town of Rumford and American Whitewater. Maine BPL also recommended 1,200- to 1,500-cfs flow releases, but for a total of 10 days from June through August, from 10:00 a.m. to 3:00 p.m., and specified that the 10 days should be weekend days only,[88] similar to the Town of Rumford's recommendation.[89]

89. In the final EA, Commission staff found that increased flow in the Middle Dam bypassed reach could attract boaters,[90] but staff explained that Rumford Hydro cannot provide boating flows without reducing flow available for generation.[91] Staff explained that Rumford Hydro's proposal would ensure that three days of acceptable to optimal boating flows are provided sometime between June and August but that the scheduled boating flow would reduce generation by 64 MWh per year.[92] The schedule proposed by Maine BPL and the Town of Rumford would also ensure that acceptable to optimal flows are provided, but by doing so over ten weekend days in June, July, and August, it would ensure that the whitewater flow releases would occur when the public is most able to

---

facilities inventoried because of its informal nature with no amenities and unsafe roadside parking.

[87] Final EA at C-29.

[88] Maine BPL August 28, 2023 Filing at 1.

[89] Town of Rumford July 14, 2023 Filing at 2 (recommending Rumford Hydro to provide release flows of 1,200 cfs, but for ten total release days on weekends only).

[90] Final EA at 36-37.

[91] *Id.* at 37-38.

[92] *Id.* at F-6.

enjoy the flows and would reduce generation by 213 MWh per year.[93] Conversely, providing 1,200- to 1,500-cfs boating flows would create less desirable angling opportunities in the Middle Dam bypassed reach, with the greatest effects occurring at the higher flows and over the weekends when fishing demand is the greatest.

90. In the final EA, staff recommended that Rumford Hydro provide whitewater boating flows of 1,200 to 1,500 cfs over ten weekend days in June, July, and August finding that this alternative would be a reasonable balance between lost generation and ensuring that acceptable whitewater boating flows are provided at a time most beneficial to the public.[94] Staff concluded that the benefit is worth the loss of 213 MWh of generation per year.[95]

91. Certification condition 3(B) requires that if sufficient inflow is available, Rumford Hydro must provide whitewater boating flow releases into the Middle Dam bypassed reach with a target flow ranging from 1,200 to 1,500 cfs for 10 days total from June through August, 10:00 a.m. to 3:00 p.m, to be determined based on consultation with the Town of Rumford and American Whitewater. Certification condition 3(B) provides that the releases could occur on any day, regardless of whether that day is a weekday or weekend day. Therefore, consistent with staff's recommendation in the final EA, Article 407 is included in this license to require that the flows be released on 10 weekend days.

7. Aesthetic Flows

92. Based on historic flow data, the monthly average flows in the Androscoggin River, except in the spring, have been near or below the hydraulic capacity of the Upper Station (i.e., 4,550 cfs), which affects the aesthetic characteristics of flow over the falls. Rumford Hydro proposes to provide aesthetic flow releases in the Upper Dam bypassed reach ranging from 1,200 to 1,500 cfs for three days (total), June through August from 10:00 a.m. to 4:00 p.m. The timing and the flow would be determined in consultation with the Town of Rumford.

---

[93] *Id.* We note that while Maine TU recommended a minimum flow of 1,500 cfs to the Middle Dam bypassed reach from 10:00 a.m. to 5:00 p.m. Friday through Sunday during the months of July, August, and September for whitewater boating, the final EA did not recommend this measure, as it would reduce generation by 1,075 MWh per year. *Id.* at F-7; *see also* Maine TU August 4, 2023 Motion to Intervene and Protest at Ex. 2.

[94] Final EA at 41.

[95] *Id.* at C-37.

93. The Town of Rumford recommended a 1,200-cfs flow release for a total of 9 weekend days and 1 holiday (July 4).[96] Maine BPL did not specify a flow range, but supported the Town's request for a total of 10 total release days.[97] Maine TU recommended an aesthetic flow of 1,000 cfs to both the upper and lower falls from 10:00 a.m. to 8:00 p.m. Friday through Sunday during the months of July, August, and September; during the Rumford Pumpkinfest Event held annually in mid-October; and up to two additional events not to exceed three days if/when determined by the Town of Rumford.[98]

94. In the final EA, Commission staff found that aesthetically acceptable flows in the Upper Dam bypassed reach (i.e., greater than 1,000 cfs) are rare during the summer and that providing a specified aesthetic flow would require Rumford Hydro to prioritize aesthetic flows over power generation.[99] Staff determined that Rumford Hydro's proposal would provide three days of 1,200-cfs aesthetic flows during the summer and would reduce generation by 165 MWh per year. The Town of Rumford and Maine BPL's recommended 1,200-cfs aesthetic flow release would provide 10 days of the same aesthetic benefits when most beneficial (i.e., 9 weekend days and a holiday) and would reduce generation by 550 MWh per year. Providing a 1,000-cfs aesthetic flow as recommended by Maine TU would provide less aesthetic benefit; however, the 1,000-cfs aesthetic flow would be provided every Friday and weekend in the months of July through September and for at least one public event in October. The additional days would reduce generation by 2,425 MWh per year, substantially more than the reduction that would result from the proposed and alternative flow releases.[100] Staff considered the tradeoffs among the proposed and alternative flow release benefits and reduced

[96] Town of Rumford May 16, 2023 Filing at 2 and July 14, 2023 Filing at 2.

[97] Maine BPL August 28, 2023 Filing at 1.

[98] Maine TU August 4, 2023 Motion to Intervene and Protest at Ex. 2.

[99] Final EA at 41.

[100] The final EA noted that Maine TU's recommended aesthetic flow of 1,000 cfs in the lower falls (e.g., Middle Dam bypassed reach) conflicts with its request for whitewater boating flows of 1,500 cfs from 10:00 a.m. to 5:00 p.m. Friday through Sunday during the months of July, August, and September. *Id.* at 41. Rumford Hydro's aesthetic flow study did not consider the Middle Dam bypassed reach because no one requested an aesthetic evaluation of this reach. Therefore, the final EA found that there is no information on aesthetic preferences for the lower bypassed reach, but regardless, the boating flows required by this license are likely to enhance the aesthetic qualities of the reach. *Id.*

generation and concluded that releasing 1,200 cfs over 10 weekend days would provide the most appropriate balance.[101]

95. Certification condition 3(C) requires that if sufficient inflow is available, Rumford Hydro must provide aesthetic flow releases into the Upper Dam bypassed reach with a target flow ranging from 1,200 to 1,500 cfs for 10 days (total), June through August, 10:00 a.m. to 4:00 p.m., to be determined based on consultation with the Town of Rumford. Certification condition 3(C) provides that the release could occur on any day, regardless of whether that day is a weekday or weekend day. Therefore, consistent with staff's recommendation in the final EA, Article 407 is included in this license to require that the flows be released on 10 weekend days.

8. Aesthetic Flow Lighting

96. Illuminating the falls at the Upper Station development would enhance the aesthetic appeal of the falls at night, especially in the winter. Currently, Rumford Hydro turns on the flood lights when flows are 7,500 cfs and greater between 8:00 p.m. and 12:00 a.m. Rumford Hydro proposes to turn on the floodlights when flow reaches 6,000 cfs between 8:00 p.m. and 12:00 a.m. year-round. The Town of Rumford recommended that the timing of the lighting be modified to begin at sunset and end at 12:00 a.m.[102]

97. Commission staff explained in the final EA, that an inflow of 7,500 cfs results in a spill over the falls of 2,950 cfs if the project is operating at its maximum hydraulic capacity, and while high flow events can occur throughout the year, a flow of 7,500 cfs is typically only available in April.[103] Staff concluded that turning the flood lights on when inflow exceeds 6,000 cfs would increase the frequency that Rumford Hydro would need to operate the flood lights, but it would still mostly be operated during April (at 6,000 cfs, the spill would be 1,450 cfs).[104]

98. In the final EA, staff explained that because 8:00 p.m. does not necessarily correspond to sunset year-round Rumford Hydro's proposal to illuminate the falls from 8:00 p.m. to 12:00 a.m. year-round may cause floodlights to be on unnecessarily during daylight hours during parts of the year, or otherwise stay off until long after dark during

[101] Final EA at 41 & F-7−F-9.

[102] Maine BPL May 16, 2023 Filing at 2.

[103] Final EA at 42.

[104] *Id.*

other parts of the year.[105] So staff recommended that Rumford Hydro illuminate the falls from sunset until 12:00 a.m., as recommended by the Town of Rumford. Staff found that doing so would account for seasonal fluctuations in daylight hours and ensure that the falls are illuminated at night when they would be most likely enjoyed by the public.[106] Staff concluded that the benefit of illuminating the falls to account for seasonal fluctuations of daylight hours would improve recreation experiences and is worth the levelized annual cost of $272.[107] Therefore, Article 407 requires that the staff-recommended flow lighting requirements be provided in the whitewater and aesthetics flows plan.

9. Public Flow Information

99. Rumford Hydro proposes to provide public information regarding whitewater flow releases in the Middle Dam bypassed reach via SafeWaters (or a comparable system), which is a publicly accessible website and toll-free phone line that is operated by Rumford Hydro's parent company, Brookfield Renewable U.S.[108] Rumford Hydro also proposes to provide public information regarding aesthetic flow releases in the Upper Dam bypassed reach via SafeWaters or comparable system. American Whitewater supports Rumford Hydro's proposal to provide real-time public whitewater flow information but adds that Rumford Hydro should provide a weekly schedule of whitewater boating flows in the bypassed reach during the recreational boating season whenever sufficient inflows are present.[109]

100. In the final EA, staff recommended that Rumford Hydro schedule the flows in consultation with the Town of Rumford and post notice of the flows to SafeWaters, or a comparable system.[110] But Commission staff found that the aesthetic flow information plan proposed by Rumford Hydro did not explain how often or how far in advance it would update the flow information and did not specify if it would include whitewater flow releases.[111] Therefore, staff recommended that Rumford Hydro provide real-time

[105] *Id.*

[106] *Id.*

[107] *Id.* at C-35.

[108] *See supra* note 18.

[109] American Whitewater August 22, 2023 Motion to Intervene at 3.

[110] Final EA at F-9.

[111] *Id.* at 42; *see also* American Whitewater August 22, 2023 Motion to Intervene

and advance flow notifications for whitewater and aesthetic flows to ensure the utility of the notifications for public enjoyment and found that the benefit of real-time and advanced notifications to be worth the levelized annual cost of $2,033.[112] Article 407 requires that Rumford Hydro develop a whitewater and aesthetic flow plan in consultation with Maine DEP, Town of Rumford, Maine Bureau of Parks and Lands, American Whitewater, and Maine Council of Trout Unlimited that includes a scheduled flow release communication strategy, including how far in advance and how often communication would occur.

10. Recreation Monitoring

101. With the recreation enhancements recommended by Commission staff and the demand for recreation in the region increasing, staff concluded in the final EA that new opportunities for recreation in the project area will likely be created over the term of the license.[113] Therefore, staff recommended that Rumford Hydro develop a plan to monitor recreation every 10 years to ensure that project recreation needs continue to be met.[114] Staff concluded that the benefits of developing and implementing the monitoring plan would be worth the levelized annual cost of $5,444.[115] We agree with staff's recommendation. Therefore, Article 406 of this license requires that Rumford Hydro develop a recreation management plan that includes a provision and schedule for monitoring recreation at the project and updating the recreation management plan as needed and based on the monitoring results every 10 years for the term of the license.

Project Boundary

102. Project boundaries enclose the project works that are to be licensed and are to include "only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources."[116]

---

at 3 (recommending that Rumford Hydro provide real-time and advance whitewater flow notifications of flows into the project bypassed reach).

[112] Final EA at C-35.

[113] *Id.* at F-5.

[114] *Id.* at C-34.

[115] *Id.*

[116] 18 C.F.R. § 4.41(h)(2) (2025).

103. The current project boundary encloses 608.48 acres. Rumford Hydro proposes to no longer include 82.3 acres that are in the current project boundary, including: (1) 82 acres of land along the western and eastern shore of the Upper Dam impoundment and the Logan Brook tributary that extends above the normal maximum surface elevation of the impoundment (i.e., 601.24 feet), and (2) a 0.3-acre parcel of land located between the Middle Canal and Route 108.[117] All these parcels of land are primarily undeveloped and forested, but the western shoreline parcel includes a portion of Route 2 and some non-project buildings. The proposed modification of the project boundary to follow the normal maximum water surface elevation of the Upper Dam impoundment would also add 0.6-acre of water in Logan Brook to the project boundary.[118]

104. The 82-acres of land along the western and eastern shore of the Upper Dam impoundment that extend above the normal maximum surface elevation of the impoundment (i.e., 601.24 feet) and the 0.3-acre parcel of land located between the Middle Canal and Route 108 are not necessary for project operation or maintenance, or other project purposes. Therefore, they should not be included in the project boundary.

105. The 0.6 acre of water within Logan Brook that follows the contour elevation of 601.24 feet, corresponding to the normal maximum water surface elevation of the impoundment, is necessary for operation and maintenance of the project, and should be included in the project boundary as proposed.

106. Article 207 requires the licensee to file revised Exhibit G drawings that show a project boundary that encloses the 0.6 acre of water within Logan Brook that follows the contour elevation of 601.24 feet and does not enclose the following: (1) the 82-acres of land along the western and the eastern shore of the Upper Dam impoundment that extends above the normal maximum water surface elevation of the impoundment (i.e., 601.24 feet), and (2) a 0.3-acre parcel of land located between the Middle Canal and Route 108.

---

[117] Rumford Hydro March 6, 2023 Response to Additional Information Request, Appendix C at G-1.

[118] We note that Rumford Hydro did not specify the project boundary modifications in its final license application. Therefore, to identify the proposed changes, staff compared the proposed project boundary changes shown on the revised Exhibit G drawing filed on March 6, 2023, with the approved project boundary included in the Exhibit G drawings filed on September 19, 2023, and the georeferenced shapefiles.

Administrative Provisions

A. Annual Charges

107. The Commission collects annual charges from licensees for administration of the FPA. Article 201 provides for the collection of funds for administration of the FPA.

B. Reservation of Authority to Require Financial Assurance Measures

108. To confirm the importance of licensees maintaining sufficient financial reserves, Article 202 reserves the Commission's authority to require future measures to ensure that the licensee maintains sufficient financial reserves to carry out the terms of the license and Commission orders pertaining thereto.

C. Amortization Reserve

109. The Commission requires that for new major licenses, non-municipal licensees must set up and maintain an amortization reserve account upon license issuance. Article 203 requires the establishment of the account.

D. Headwater Benefits

110. Some projects directly benefit from headwater improvements that were constructed by other licensees, the United States, or permittees. Article 204 requires the licensee to reimburse such entities for these benefits if they were not previously assessed and reimbursed.

E. Exhibit A Project Description

111. Commission regulations require that licensees file an Exhibit A that describes the project. The Exhibit A project description, filed on March 6, 2023, does not include: (1) as-built specification of the battery system; and (2) a single-line drawing depicting the battery system interconnection. Article 205 requires the licensee to file a revised Exhibit A that includes this information.

112. To assist Commission staff in the review of the revised Exhibit A, Article 205 requires the revised Exhibit A to be filed, in its entirety, in two forms: (1) a strikethrough format (i.e., strikethrough items to be removed and underline or **bold** items to be added to the exhibit), and (2) a final, clean copy incorporating the changes (i.e., without the strikethrough, underline, and bold notations).

F. Exhibit F and G Drawings

113. The Exhibit F drawings filed on September 19, 2023, are approved and made a part of the license (Ordering Paragraph C). The Commission requires licensees to file

sets of approved project drawings in electronic file format. Article 206 requires the filing of Exhibit F drawings.

114. The Exhibit G drawings filed on September 19, 2023, do not conform to section 4.41(h)(2) of the Commission's regulations, which requires licensees to file an Exhibit G map showing a project boundary that encloses all project works and other features necessary for the operation and maintenance of the project, or for other project purposes, such as recreation, shoreline control, or protection of environmental resources. As discussed above, the project boundary shown on the Exhibit G drawings does not include the 0.6 acre of water within Logan Brook that follows the contour elevation of 601.24 feet, but includes the following lands and water that are not necessary for project operation and maintenance: (1) the 82-acre parcel of land along the eastern and western shore of the Upper Dam impoundment that extends above the normal maximum surface elevation of the impoundment (i.e., 601.24 feet), and (2) a 0.3-acre parcel of land located between the Middle Canal and Route 108. Article 207 requires the licensee to file revised Exhibit G drawings that only include land and water necessary for project purposes in the project boundary.

G. Review of Final Plans and Specifications

115. Article 301 requires the licensee to consult with the Commission's Division of Dam Safety and Inspections (D2SI) – New York Regional Engineer on any project modifications resulting from environmental requirements that would affect project works, dam safety, or project operation.

H. Use and Occupancy of Project Lands and Waters

116. Requiring a licensee to obtain prior Commission approval for every use or occupancy of project land would be unduly burdensome. Therefore, Article 410 allows the licensee to grant permission, without prior Commission approval, for the use and occupancy of project lands for such minor activities as landscape planting. Such uses must be consistent with the purposes of protecting and enhancing the scenic, recreational, and environmental values of the project.

State and Federal Comprehensive Plans

117. Section 10(a)(2)(A) of the FPA[119] requires the Commission to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project.[120] Under

[119] 16 U.S.C. § 803(a)(2)(A).

[120] Comprehensive plans for this purpose are defined at 18 C.F.R. § 2.19 (2025).

section 10(a)(2)(A), Commission staff identified and reviewed 19 comprehensive plans relevant to this project.[121] No conflicts were found.

Applicant's Plans and Capabilities

118. Pursuant to sections 10(a)(2)(C) and 15(a) of the FPA,[122] Commission staff evaluated Rumford Hydro's record as a licensee with respect to the following: (A) compliance history and ability to comply with a new license; (B) safe management, operation, and maintenance of the project; (C) ability to provide efficient and reliable electric service; (D) need for power; (E) transmission services; (F) cost effectiveness; (G) actions affecting the public; and (H) conservation efforts. This order accepts staff's findings in each of the following areas.

A. Compliance History and Ability to Comply with the New License

119. Based on a review of Rumford Hydro's compliance with the terms and conditions of the existing license, Rumford Hydro's overall record of making timely filings and complying with its license is satisfactory. Therefore, Rumford Hydro can satisfy the conditions of a new license.

B. Safe Management, Operation, and Maintenance of the Project

120. Commission staff reviewed Rumford Hydro's record of management, operation, and maintenance of the Rumford Falls Project pursuant to the requirements of 18 C.F.R. pt. 12 (2025) and the Commission's Engineering Guidelines. Staff concludes that the dam and other project works are safe, and there is no reason to believe that Rumford Hydro cannot continue to safely manage, operate, and maintain these facilities under a new license.

C. Ability to Provide Efficient and Reliable Electric Service

121. Commission staff reviewed Rumford Hydro's plans and its ability to operate and maintain the project in a manner most likely to provide efficient and reliable electric service. Staff's review indicates that Rumford Hydro regularly inspects the project turbine-generator units to ensure they continue to perform in an optimal manner, schedules maintenance to minimize effects on energy production, and maintains formal procedures for assuring satisfactory operation of the generating units and associated equipment to ensure they continue to perform in an optimal manner and to minimize

[121] The list of applicable plans can be found in Appendix H of the final EA.

[122] 16 U.S.C. §§ 803(a)(2)(C), 808(a).

effects on energy production. Therefore, Rumford Hydro is capable of operating the project to provide efficient and reliable electric service in the future.

D. Need for Power

122. To assess the need for power from the project, Commission staff looked at the needs in the operating region in which the project is located. The Rumford Falls Project is in the Northeast Power Coordinating Council's New England region of the North American Electric Reliability Corporation (NERC). NERC annually forecasts electrical supply and demand in the nation and the region for a 10-year period. NERC's 2023 long-term reliability assessment report indicates the net internal demand for this region is projected to increase annually by about 1.32% from 2024 to 2033. Therefore, the project's power will continue to help meet the regional need for power.

E. Transmission Services

123. The project's transmission lines deliver electricity from both the Upper Station powerhouse and the Lower Station powerhouse to Rumford Hydro's GSU substation. The power generated from the Upper Station powerhouse is transmitted to the GSU substation via two 115-kV transmission lines: Line 2 is 3,250 feet long and Line 3 is 3,410 feet long. The power generated from the Lower Station powerhouse is transmitted to the GSU substation by two 1,820-foot-long 11.5-kV lines (5A and B). The substation serves as the point of interconnection to the Central Maine Power's transmission line or the project's 8-MW battery storage system.[123] Rumford Hydro is not proposing any changes that would affect its own or other transmission services in the region.

F. Cost Effectiveness

124. Rumford Hydro proposes environmental measures for the protection of fish and wildlife at the project. Based on Rumford Hydro's record as the existing licensee, Commission staff conclude that these plans are likely to be carried out in a cost-effective manner.

G. Actions Affecting the Public

125. Rumford Hydro provided opportunities for public involvement in the development of its application for a new license. In addition, during the previous license period, it

[123] Separate from this relicensing, Rumford Hydro requested a non-capacity amendment for the project's license to construct and maintain a battery storage system at the project, which was approved by Commission staff on June 3, 2021. The battery storage system was built along the transmission line adjacent to the project's substation, on the east bank of the canal in 2023. *Supra* note 13.

operated the project in a manner that provided public recreation opportunities, including boating and fishing in the Androscoggin River upstream and downstream of the project. Rumford Hydro also uses the project to help meet regional power needs as noted above.

H. Conservation Efforts

126. Section 10(a)(2)(C) of the FPA[124] requires the Commission to consider the electricity consumption improvement program of the applicant, including its plans, performance, and capabilities for encouraging or assisting its customers in conserving electricity cost-effectively, and taking into account the published policies, restrictions, and requirements of state regulatory authorities. Currently, generation from the project is sold on the open market through bidding into the New England Power Pool (NEPOOL) market administered by ISO New England, the non-profit independent system operator for New England. ISO New England administers all significant aspects of the NEPOOL power market. Given the limits of Rumford Hydro's ability to influence users of the electricity generated by the project, Rumford Hydro will operate the project in a manner that is consistent with section 10(a)(2)(C) of the FPA.

Project Economics

127. In determining whether to issue a new license for an existing hydroelectric project, the Commission considers a number of public interest factors, including the economic benefits of project power. Under the Commission's approach to evaluating the economics of hydropower projects, as articulated in *Mead Corporation, Publishing Paper Division*,[125] the Commission uses current costs to compare the costs of the project with the costs of the likely alternative source of power with no forecasts concerning potential future inflation, escalation, or deflation beyond the license issuance date. The basic purpose of the Commission's economic analysis is to provide a general estimate of the potential power benefits and the costs of a project, and of reasonable alternatives to project power. The estimate helps to support an informed decision concerning what is in the public interest with respect to a proposed license.

128. In applying this analysis to the Rumford Falls Project, Commission staff considered: a no-action alternative, Rumford Hydro's proposal, staff's alternative, and the project as licensed herein.[126] Under the no-action alternative, the project would

[124] 16 U.S.C. § 803(a)(2)(C).

[125] 72 FERC ¶ 61,027 (1995).

[126] Details of Commission staff's economic analysis for the project as licensed herein, and for the other two alternatives, are included in section 4 of the final EA. The costs in the final EA have been revised to account for an updated alternative source of

continue to operate as it does now. The project has an installed capacity of 44.5 MW, a capacity benefit of 37.1 MW, and generates an average of 270,800 MWh of electricity annually.[127] The average annual project cost is $33,480,602. The alternative source of power's annual cost to produce the same amount of energy and provide the same capacity benefit is $25,979,295.[128] To determine whether the proposed project is currently economically beneficial, the project's cost is subtracted from the alternative source of power's cost. Therefore, the project would cost $7,501,307 more than the alternative source of power's cost.

129. As proposed by Rumford Hydro, the project would have an installed capacity of 44.5 MW, generate an average of 269,031 MWh of energy annually, and have a capacity benefit of 36.9 MW. The alternative source of power's annual cost to produce the same amount of energy and provide the same capacity benefit is $25,830,416. The total annual project cost is about $33,538,430. Subtracting the project's total annual cost from the alternative source of power's cost, the project would cost $7,708,014 more than the alternative source of power's cost.

130. As proposed by staff, the project would have an installed capacity of 44.5 MW, generate an average of 270,037 MWh of energy annually, and have a capacity benefit of 36.7 MW. The alternative source of power's cost to produce the same amount of energy and provide the same capacity benefit is $25,855,727. The total annual project cost is about $33,563,454. Subtracting the project's total annual cost from the alternative source of power's cost, the project would cost $7,707,727 more than the alternative source of power's cost.

131. As licensed herein, with mandatory conditions and Commission staff's recommended measures, the project would have an installed capacity of 44.5 MW,

---

power's cost and include the mandatory conditions under section 401 of the CWA that were not accounted for in the final EA. All costs presented below are in 2023 dollars.

[127] The term "capacity benefit" is used to describe the benefit a project receives for providing capacity to the grid, which may be in the form of a dependable capacity credit or credit for monthly capacity provided.

[128] The alternative source of power's cost is based on the current cost of providing the same amount of generation and capacity benefit from a natural gas-fired combined cycle plant, as reported by the most recent publication of The U.S. Energy Information Administration (EIA), *Annual Energy Outlook*. This analysis is based on EIA, *Annual Energy Outlook 2023*, for Division 1, New England Region. As reported in Section 4 and Appendix F of the final EA, the alternative source of power's cost is a combination of the cost of energy, $71.42/MWh, and a capacity benefit which staff estimated to be about $179.08/kilowatt-year.

generate an average of 263,278 MWh of energy annually, and have a capacity benefit of 36.6 MW. The alternative source of power's cost to produce the same amount of energy and provide the same capacity benefit is $25,357,643. The total annual project cost is about $33,563,454. Subtracting the project's total annual cost from the alternative source of power's cost, the project would cost $8,205,811 more than the alternative source of power's cost.

132. In considering public interest factors, the Commission takes into account that hydroelectric projects offer unique operational benefits to the electric utility system (ancillary service benefits). These benefits include the ability to help maintain the stability of a power system, such as by quickly adjusting power output to respond to rapid changes in system load; and to respond rapidly to a major utility system or regional blackout by providing a source of power to help restart fossil fuel-based generating stations and put them back online.

133. Although our analysis shows that the project as licensed herein would cost more to operate than our estimated cost of alternative power, it is the applicant who must decide whether to accept this license and any financial risk that entails.

134. Additionally, although the Commission's approach to evaluating the economics of hydropower projects does not explicitly account for fluctuations in the cost of electricity, the fact that hydropower generation's operating costs are relatively insensitive to fuel costs compared to fossil-fueled generators is an important economic consideration for power producers and the consumers they serve. This is one reason project economics is only one of the many public interest factors the Commission considers in determining whether, and under what conditions, to issue a license.

Comprehensive Development

135. Sections 4(e) and 10(a)(1) of the FPA[129] require the Commission to give equal consideration to the power development purposes and to the purposes of energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife; the protection of recreational opportunities; and the preservation of other aspects of environmental quality. Any license issued must be such as in the Commission's judgment will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses. The decision to license this project, and the terms and conditions included herein, reflect such consideration.

136. The final EA for the project contains background information, analysis of effects, and support for related license articles. Based on the record of this proceeding, including the final EA and the comments thereon, licensing the Rumford Falls Project as described

[129] 16 U.S.C. §§ 797(e), 803(a)(1).

in this order will not constitute a major federal action significantly affecting the quality of the human environment. The project will be safe if operated and maintained in accordance with the requirements of the license.

137. Based on our independent review and evaluation of the licensee's relicense application for the Rumford Falls Project, recommendations from the resource agencies and other stakeholders, and the no-action alternative, as documented in the final EA, the project as licensed herein is selected and is best adapted to a comprehensive plan for improving or developing the Androscoggin River.

138. This alternative is selected because: (1) issuance of a new license will serve to maintain a beneficial and dependable source of electric energy; (2) the required environmental measures will protect and enhance aquatic resources, water quality, federally listed species, recreational resources, and cultural resources; and (3) the project's 44.5 MW of electric capacity comes from a renewable resource that does not contribute to atmospheric pollution.

License Term

139. On October 19, 2017, the Commission established a 40-year default license term policy for licenses, effective as of October 26, 2017.[130] The Policy Statement provides for exceptions to the 40-year default license term under certain circumstances: (1) establishing a shorter or longer license term if necessary to coordinate license terms for projects located in the same river basin; (2) deferring to a shorter or longer license term explicitly agreed to in a generally-supported comprehensive settlement agreement; and (3) establishing a longer license term upon a showing by the license applicant that substantial voluntary measures were either previously implemented during the prior license term, or substantial new measures are expected to be implemented under the subsequent license. Because none of the above exceptions apply in this case, a 40-year license for the Rumford Falls Project is appropriate.

The Commission orders:

(A) The license is issued to Rumford Falls Hydro LLC (licensee) to operate and maintain the Rumford Falls Hydroelectric Project for a period of 40 years, effective the first day of the month in which this order is issued. The license is subject to the terms and conditions of the Federal Power Act (FPA), which is incorporated by reference as

[130] *Pol'y Statement on Establishing License Terms for Hydroelectric Projects*, 161 FERC ¶ 61,078 (2017) (Policy Statement).

part of this license, and subject to the regulations the Commission issues under the provisions of the FPA.

(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, described in the project description and the project boundary discussion of this order.

(2) Project works that include the following two hydropower developments:

Upper Station Development

The Upper Station development consists of: (1) a concrete gravity Upper Dam, having a 464-foot-long, 37-foot-high, 10-foot-wide ogee-type spillway with a crest elevation of 598.74 feet U.S. Geological Survey (USGS) datum,[131] topped with 30-inch-high, pin-supported wooden flashboards and a rubber Obermeyer spillway system; (2) an impoundment, with a gross storage capacity of 2,900 acre-feet, surface area of approximately 419 acres, normal maximum headwater elevation of 601.24 feet USGS datum, and tailwater elevation of 502.74 feet USGS datum; (3) a 2,300-foot-long, 150-foot-wide forebay formed by the dam and a 160-foot-long masonry and concrete wall along the shoreline; (4) a masonry gatehouse containing eight head gates (two head gates for each of the four penstocks), trash racks, and other appurtenant equipment; (5) four underground steel-plate penstocks, each approximately 110 feet long, three of which are 12 feet in diameter, and one 13 feet in diameter; (6) a masonry powerhouse integral with the dam and consisting of two adjacent stations: (a) a 110-foot-long, 30-foot-wide, 92-foot-high Old Station containing one horizontal Francis turbine with a capacity of 4.3 megawatts (MW), and (b) a 140-foot-long, 60-foot-wide, 76-foot-high New Station containing three vertical Francis turbines, two of which have a capacity of 8.1 MW (Units 1 and 2) and one of which has a capacity of 8.8 MW (Unit 3); (7) a concrete-lined tailrace; (8) two 11.5-kilovolt (kV) transmission lines extending from the Upper Station to the generation step-up unit (GSU) substation, varying in length from 3,250 feet long and 3,410 feet long; and (9) appurtenant facilities.

Lower Station Development

The Lower Station development consists of: (1) a rock-filled, wooden-cribbed, and concrete-capped Middle Dam, having a 328.6-foot-long, 20-foot-high spillway with a crest elevation of 501.74 feet USGS datum, topped with 16-inch-high pin-type flashboards; (2) an impoundment, with a gross storage capacity of 141 acre-feet, surface

[131] Elevations are based on a local datum referred to as U.S. Geological Survey (USGS) datum. To convert the elevations to the North American Vertical Datum of 1988, subtract 0.11 foot.

area of approximately 21 acres, normal maximum headwater elevation of 502.74 feet USGS datum, and tailwater elevation of 423.24 feet USGS datum; (3) a 120-foot-wide concrete masonry headgate structure containing 10 steel headgates; (4) a 2,400-foot-long, 75 to 175-foot-wide, 8 to 16-foot-deep Middle Canal; (5) a 120-foot-long waste weir, topped with 1-foot-high flashboards, located within the Middle Canal and perpendicular to the headgate structure; (6) two 12-foot-diameter, steel-plate penstocks, each extending approximately 815 feet to two cylindrical surge tanks, each approximately 36 feet in diameter by 50.5 feet high, and the penstocks continuing 77 feet to the powerhouse; (7) a 78-foot-long, 40-foot-wide masonry powerhouse containing two vertical Francis turbines, each with a 7.6-MW capacity; (8) a 25-foot-wide concrete tailrace apron; (9) two 1,820-foot-long, 11.5-kV transmission lines extending from the Lower Station to GSU substation; and (10) appurtenant facilities.

The project works generally described above are more specifically shown and described by those portions of Exhibit F shown below:

Exhibit F: The following Exhibit F drawings filed on September 19, 2023:

Exhibit No.	FERC Drawing No.	Drawing Title
F-1	P-2333-1001	Detail Map Upper Dam and Upper Station
F-2	P-2333-1002	Sections Through Upper Dam, Powerhouse and Gatehouse
F-3	P-2333-1003	Elevations of Upper Station and Gatehouse
F-4	P-2333-1004	Detail Map Lower Station Grounds and Headworks
F-5	P-2333-1005	Sections and Profile Lower Station Development
F-6	P-2333-1006	Elevations of Lower Station and Gatehouse
F-7	P-2333-1007	Detail Map Middle Dam & Middle Canal Headworks
F-8	P-2333-1008	Sections of Middle Dam, Middle Canal & Headworks
F-9	P-2333-1009	Power Distribution Layout
F-10	P-2333-1010	Obermeyer Inflatable Flashboards and Blower House Plan View
F-11	P-2333-1011	Battery Storage Plan

(3) All of the structures, fixtures, equipment, or facilities used to operate or maintain the project, all portable property that may be employed in connection with the

project, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) Exhibit F described above is approved and made part of the license. Exhibit A filed on March 6, 2023, and Exhibit G filed on September 19, 2023, do not conform to Commission regulations and are not approved.

(D) This license is subject to the conditions submitted by the Maine Department of Environmental Protection under section 401(a)(1) of the Clean Water Act, 33 U.S.C. § 1341(a)(1), as those conditions are set forth in Appendix A to this order.

(E) The license is also subject to the articles set forth in Form L-3 (Oct. 1975), entitled, "Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters of the United States" (*see* 54 F.P.C. 1792, *et seq.*), as reproduced at the end of this order, and the following additional articles:

Article 201. *Administrative Annual Charges*. The licensee must pay the United States annual charges, effective the first day of the month in which the license is issued, and as determined in accordance with the provisions of the Commission's regulations in effect from time to time, for the purposes of reimbursing the United States for the cost of administration of Part I of the Federal Power Act. The authorized installed capacity for that purpose is 44.5 megawatts.

Article 202. *Reservation of Authority to Require Financial Assurance Measures.* The Commission reserves the right to require future measures to ensure that the licensees maintain sufficient financial reserves to carry out the terms of the license and Commission orders pertaining thereto.

Article 203. *Amortization Reserve.* Pursuant to section 10(d) of the Federal Power Act, a specified reasonable rate of return upon the net investment in the project must be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. The licensee must set aside in a project amortization reserve account at the end of each fiscal year one half of the project surplus earnings, if any, in excess of the specified rate of return per annum on the net investment. To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year, the licensee must deduct the amount of that deficiency from the amount of any surplus earnings subsequently accumulated, until absorbed. The licensee must set aside one-half of the remaining surplus earnings, if any, cumulatively computed, in the project amortization reserve account. The licensee must maintain the amounts established in the project amortization reserve account until further order of the Commission.

The specified reasonable rate of return used in computing amortization reserves must be calculated annually based on current capital ratios developed from an average of

13 monthly balances of amounts properly included in the licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rate for such ratios must be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity must be the interest rate on 10-year government bonds (reported as the Treasury Department's 10-year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 204. *Headwater Benefits.* If the licensee's project was directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement during the term of the original license (including extensions of that term by annual licenses), and if those headwater benefits were not previously assessed and reimbursed to the owner of the headwater improvement, the licensee must reimburse the owner of the headwater improvement for those benefits, at such time as they are assessed, in the same manner as for benefits received during the term of this new license. The benefits will be assessed in accordance with Part 11, Subpart B, of the Commission's regulations.

Article 205. *Exhibit A Project Description.* Within 90 days of the issuance date of this license, the licensee must file for Commission approval a revised Exhibit A describing all principal project works necessary for operation and maintenance of the project. The revised Exhibit A must include the following information: (1) as-built specification of the battery system; and (2) a single-line drawing depicting the battery system interconnection.

To assist Commission staff in the review of the revised Exhibit A, the licensee must file the revised Exhibit A in its entirety, in two forms, using the example below:

(1) a strikethrough format (i.e., ~~strikethrough~~ items to be removed and underline or **bold** items to be added to the exhibit), and

(2) a final, clean copy incorporating the changes (i.e., without the strikethrough, underline, and bold notations).

Article 206. *Exhibit F Drawings*. Within 45 days of the issuance date of this license, as directed below, the licensee must file the approved Exhibit F drawings in electronic file format.

The licensee must prepare digital images of the approved exhibit drawings in electronic format. Prior to preparing each digital image, the licensee must add the FERC Project-Drawing Number (i.e., P-2333-1001 through P-2333-1011) in the margin below the title block of the corresponding approved drawing. The licensee must **label and file the Exhibit F drawings as Critical Energy Infrastructure Information (CEII) material under 18 C.F.R. §388.113**. The submission should consist of: (1) a public

portion consisting of a cover letter; and (2) a CEII portion containing only the Exhibit F drawings. Each drawing must be a separate electronic file, and the file name must include: FERC Project-Drawing Number, FERC Exhibit Number, Filename Title, date of this order, and file extension in the following format [P-2333-1001, F-1, Detail Map Upper Dam and Upper Station, MM-DD-YYYY.TIFF]. All digital images of the exhibit drawings must meet the following format specification:

IMAGERY:	black and white raster file
FILE TYPE:	Tagged Image File Format (TIFF), CCITT Group 4 (also known as T.6 coding scheme)
RESOLUTION:	300 dots per inch (dpi) desired, (200 dpi minimum)
DRAWING SIZE:	22" x 34" (minimum), 24" x 36" (maximum)
FILE SIZE:	less than 1 megabyte desired

Article 207. *Exhibit G Drawings*. Within 90 days of the issuance date of this license, the licensee must file for Commission approval revised Exhibit G map showing a project boundary that encloses all project works and other features necessary for the operation and maintenance of the project, or for other project purposes, such as recreation, shoreline control, or protection of environmental resources. The Exhibit G drawings should show a project boundary that encloses the 0.6 acre of water within Logan Brook that follows the contour elevation of 601.24 feet and does not enclose the following: (1) the 82-acres of land along the western and the eastern shore of the Upper Dam impoundment that extends above the normal maximum surface elevation of the impoundment (i.e., 601.24 feet), and (2) a 0.3-acre parcel of land located between the Middle Canal and Route 108. The exhibit G drawings must comply with section 4.41(h)(2) of the Commission's regulations.

Article 301. *Project Modification Resulting from Environmental Requirements.* If environmental requirements under this license require modification that may affect the project works or operations, the licensee must consult with the Division of Dam Safety and Inspections – New York Regional Engineer. Consultation must allow sufficient review time for the Commission to ensure that the proposed work does not adversely affect the project works, dam safety, or project operation.

Article 401. *Project Operation and Impoundment Levels*. In addition to the impoundment level limits and minimum flow release requirements set forth in the Maine Department of Environmental Protection's (Maine DEP) water quality certification (certification) conditions 1, 2, and 3 (Appendix A), the license must operate the project in a run-of-river mode such that, at any point in time, the sum of all outflows from the project approximates the sum of all inflows to the project.

Reporting of Planned Deviations

Requirements regarding impoundment levels, minimum flows, and run-of-river operation may be temporarily modified for short periods, of up to 3 weeks, after mutual agreement among the licensee and the Maine DEP, Maine Department of Inland Fisheries and Wildlife, and U.S. Fish and Wildlife Service (collectively, resource agencies). After concurrence from the resource agencies, the licensee must file a report with the Secretary of the Commission as soon as possible, but no later than 14 days after the onset of the planned deviation. Each report must include: (1) the reasons for the deviation and how project operations were modified; (2) the duration and magnitude of the deviation; (3) any observed or reported environmental effects and how potential effects were evaluated; and (4) documentation of consultation with the resource agencies. For planned deviations exceeding 3 weeks, the licensee must file an application for a temporary amendment of the operational requirements and receive Commission approval prior to implementation.

Reporting of Unplanned Deviations

Impoundment level, minimum flow, and run-of-river operation requirements may be temporarily modified if required by operating emergencies beyond the control of the licensee (i.e., unplanned deviations). For any unplanned deviation from impoundment level and minimum flow or run-of-river operation requirements that lasts longer than 3 hours or results in visible environmental effects such as a fish kill, the licensee must notify the resource agencies within 24 hours, and the Commission within 14 days, and file a report as soon as possible, but no later than 30 days after each such incident. The report must include: (1) the cause of the deviation; (2) the duration and magnitude of the deviation; (3) any pertinent operational and/or monitoring data; (4) a timeline of the incident and the licensee's response; (5) any comments or correspondence received from the resource agencies, or confirmation that no comments were received from the resource agencies; (6) documentation of any observed or reported environmental effects and how potential effects were evaluated; and (7) a description of measures implemented to prevent similar deviations in the future.

For unplanned deviations from impoundment level and minimum flow or run-of-river operation requirements lasting 3 hours or less that do not result in visible environmental effects, the licensee must file an annual report, by March 1, describing each incident that occurred during the prior January 1 through December 31 time period. The report must include for each 3 hours or less deviation: (1) the cause of the deviation; (2) the duration and magnitude of the deviation; (3) any pertinent operational and/or monitoring data; (4) a timeline of the incident and the licensee's response to each deviation; (5) any comments or correspondence received from the resource agencies, or confirmation that no comments were received from the resource agencies; and (6) a description of measures implemented to prevent similar deviations in the future.

Article 402. *Operation Compliance Monitoring Plan*. Within 6 months of license

issuance, the licensee must file, for Commission approval, an operation compliance monitoring plan for the project that incorporates the impoundment level limits and minimum flow release requirements set forth in the Maine Department of Environmental Protection's (Maine DEP) water quality certification conditions 1, 2, and 3 (Appendix A), and the following additional provisions:

(1) a detailed description of how the licensee will document compliance with the impoundment water levels (Appendix A, condition 1), minimum bypassed reach flows (Appendix A, condition 2), whitewater boating and aesthetic flow releases (Appendix A, condition 3), and run-of-river operation (Article 401).

(2) a description of the gages and other measuring devices or techniques that will be used to monitor compliance with license requirements, including the locations of all gages and measuring devices;

(3) a provision to maintain a daily log of project operation;

(4) standard operating procedures to be implemented outside of normal operating conditions, including during: (a) scheduled facility shutdowns and maintenance; and (b) emergency conditions, including those that require unscheduled facility shutdowns and maintenance; and

(5) a schedule for installing any monitoring equipment needed to document compliance with the operation requirements of the license.

The licensee must prepare the plan after consultation with the Maine DEP, Maine Department of Inland Fisheries and Wildlife, and U.S. Fish and Wildlife Service (collectively, agencies). The licensee must include with the plan documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee must allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the plan. The licensee must not begin implementing the plan until the Commission notifies the licensee that the plan is approved. Upon Commission approval the licensee must implement the plan, including any changes required by the Commission.

Article 403. *Reservation of Authority to Prescribe Fishways*. Authority is reserved to the Commission to require the licensee to construct, operate, and maintain, or to provide for the construction, operation, and maintenance of such fishways as may be prescribed by the Secretary of the Interior pursuant to section 18 of the Federal Power Act.

Article 404. *Protection of Northern Long-Eared Bat and Tricolored Bat*. To protect northern long-eared bats and tricolored bats, the licensee must avoid removing trees of any size on project land from April 15 through October 31. Tree removal includes cutting, harvesting, destroying, trimming, or any other form of manipulation of non-hazardous trees, saplings, snags, or woody vegetation. Tree removal is not prohibited if it is needed to ensure public or project safety. If emergency tree removal is necessary, the licensee must notify the U.S. Fish and Wildlife Service as soon as practical after conducting the trimming or removal.

Article 405. *Recreation Sites*. The licensee must operate and maintain, or provide for the operation and maintenance of, the following recreation facilities for the term of the license:

(1) the Carlton Bridge boat launch;

(2) the West Viewing Area, including operating the area from dawn to dusk from April 15 to October 31 once reopened;

(3) the Rumford Falls Trail, including the alternate route and existing trail segments that lead to the alternate route from Route 108 and from South Rumford Road, and the trail overlook;

(4) the Rumford Public Library access and the Rumford Town Hall access to the Middle Dam bypassed reach; and

(5) the Upper Dam impoundment boat access and portage (required by Article 406).

Article 406. *Recreation Management Plan.* Within 6 months of license issuance, the licensee must file, for Commission approval, a Recreation Management Plan that includes the following measures:

(1) A plan and schedule for completing the following measures at the West Viewing Area within two years of license issuance: (a) reopening the West Viewing Area; (b) patching and repairing concrete surfaces at the facility; (c) relocating security fencing; (d) adding a public gravel parking area for four cars; (e) relocating the flood lights used to light the falls from the top of the banister to below the banister to improve public safety and viewing opportunities; (f) installing a project/history kiosk, two picnic tables, and a bench; and (g) installing a separated concrete walkway along the powerhouse driveway to the West Viewing Area.

(2) A plan and schedule for completing the following improvements to the Rumford Falls Trail within two years of license issuance: (a) firming the trail

bed and adding wood crib steps where appropriate; (b) installing a removable bollard or swing gate at the elevated segment of the alternate trail to prohibit unauthorized vehicle access; (c) installing a bench and kiosk at the falls overlook; (d) adding signage at the trail entrances with maps of the trail; and (e) securing the necessary easements with ND Paper before the expiration of the current agreement and for the license term.

(3) A plan and schedule for: (a) constructing the Rumford Public Library access and the Rumford Town Hall access; (b) a detailed description of all improvements, including stairs and railings, that will be installed; (c) a schedule for installing the improvements within two years of license issuance; and (d) conceptual drawings and maps identifying parking, signage, and locations of amenities.

(4) A plan and schedule for developing an Upper Dam impoundment boat access and portage, near the Upper Dam boat barrier and the Rumford Falls Trail, including: (a) a detailed description of the proposed new location and improvements; (b) a schedule for installing the new access and improvements within two years of license issuance; and (c) conceptual drawings and maps identifying the new location, parking, and signage. Signage should include directional signage for boaters to access the new project portage route.

(5) A plan and schedule for maintaining the project recreation sites identified in Article 405.

(6) A schedule for monitoring recreation at the project and updating the Recreation Plan every 10 years as needed and based on the monitoring results.

The licensee must prepare the plan after consultation with the Town of Rumford, Maine Bureau of Parks and Lands, Maine Department of Inland Fisheries and Wildlife, American Whitewater, and Maine Council of Trout Unlimited. The licensee must include with the plan documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the stakeholder, and specific descriptions of how the stakeholders' comments are accommodated by the plan. The licensee must allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee's reasons based on project specific information.

The Commission reserves the right to require changes to the plan. Implementation of the plan must not begin until the licensee is notified by the Commission that the plan is approved. Upon Commission approval, the licensee must implement the plan, including any changes required by the Commission.

Within 90 days of completing the construction of the approved recreation sites, Rumford Hydro must file with the Commission a report documenting the completed recreation sites approved in this order. The documentation may include photographs, aerial photographs, drawings that reflect the as-built condition, or other methods, provided that the documentation clearly demonstrates that the recreation sites have been constructed in substantial conformity as approved. The report must also include revised Exhibit G drawings incorporating the approved recreation sites and facilities into the project boundary, which must also be filed for Commission approval.

Article 407. *Whitewater Boating and Aesthetic Flow Plan.* Within 6 months of license issuance, the licensee must file, for Commission approval, a whitewater boating and aesthetic flow plan that incorporates the whitewater boating flow release and aesthetic flow release requirements set forth in the Maine Department of Environmental Protection's (Maine DEP) water quality certification condition 3 (Appendix A), and the following additional provisions:

(1) lighting the falls from the Upper Station between evening civil twilight (i.e., sunset) and 12 a.m. when flows exceed 6,000 cubic feet per second;

(2) protocols and schedule for determining which days boating and aesthetic flows will be released and for communicating the flows to the public via SafeWaters or other comparable system; and

(3) releasing the required aesthetic and boating flows on 10 weekend days.

The licensee must prepare the plan after consultation with Maine DEP, Town of Rumford, Maine Bureau of Parks and Lands, American Whitewater, and Maine Council of Trout Unlimited. The licensee must include with the plan documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the consulted entities, and specific descriptions of how the entities' comments are accommodated by the plan. The licensee must allow a minimum of 30 days for the consulted entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee's reasons based on project-specific information.

The Commission reserves the right to require changes to the plan. Implementation of the plan must not begin until the licensee is notified by the Commission that the plan is approved. Upon Commission approval, the licensee must implement the plan, including any changes required by the Commission.

Article 408. *Phase I Field Work and Report (Site 49.20).* By April 30, 2027, the licensee must file with the Commission, a final report on the Phase I archaeological field work for Site 49.20, as approved by the Maine Historic Preservation Commission (Maine HPC) on January 21, 2025, and Commission staff on February 25, 2025. The report,

developed in consultation with the Maine HPC, must include plans for data recovery or alternative mitigation measures, should the results of the Phase I archaeological investigations indicate the site is experiencing adverse effects from continued project operation.

The Commission reserves the right to require changes to the archaeological field work and report at any time during the term of the license.

Article 409. *Programmatic Agreement and Historic Properties Management Plan*. The licensee must implement the "Final Programmatic Agreement between the Federal Energy Regulatory Commission and the Maine State Historic Preservation Office for Managing Historic Properties that May be Affected by Issuing a Subsequent License to Rumford Falls Hydro LLC for the Continued Operation of the Rumford Falls Hydroelectric Project in Oxford County, Maine (FERC No. 2333-094)," which includes, in part, the development of a Historic Properties Management Plan (HPMP) for the project. Pursuant to the requirements of this Programmatic Agreement, the licensee must file, for Commission approval, the HPMP within one year of issuance of this order.

In developing the HPMP, the licensee must use the Advisory Council on Historic Preservation and the Commission's *Guidelines for the Development of Historic Properties Management Plans for FERC Hydroelectric Projects*, dated May 20, 2002. The HPMP must include the following items: (1) a description of each historic property; (2) a description of the potential effect on each historic property; (3) proposed measures for avoiding or mitigating adverse effects; (4) documentation of the nature and extent of consultation; (5) a schedule for implementing mitigation; (6) a protocol for consulting the Mi'kmaq Nation if human remains, artifacts, or any other evidence of Native American presence is discovered; (7) consultation protocol with the Maine Historic Preservation Commission (Maine HPC) if and when additional work is proposed within the eligible historic district that has potential to affect historic properties; and (8) a description and protocol for conducting biennial monitoring for project-induced erosion of the archaeological sites, in consultation with Maine HPC.

The Commission reserves the right to require changes to the HPMP at any time during the term of the license, including in response to the findings of the report required by Article 408. If the Programmatic Agreement is terminated prior to Commission approval of the HPMP, the licensee must obtain approval from the Commission and the Maine HPC before engaging in any ground-disturbing activities or taking any other action that may affect any historic properties within the project's area of potential effects.

Article 410. *Use and Occupancy*. (a) In accordance with the provisions of this article, the licensee must have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval.

The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee must also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee must take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 water craft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee must require multiple use and occupancy of facilities for access to project lands or waters. The licensee must also ensure that, to the satisfaction of the Commission's authorized representative, the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee must: (1) inspect the site of the proposed construction; (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site; and (3) determine that the proposed construction is needed and would not change the basic contour of the impoundment shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or rights-of-way across, or leases of project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor

access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kilovolts or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project impoundment. No later than January 31 of each year, the licensee must file with the Commission a copy of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed. No report filing is required if no conveyances were made under paragraph (c) during the previous calendar year.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 water craft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 60 days before conveying any interest in project lands under this paragraph (d), the licensee must file a letter with the Commission, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Commission's authorized representative, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee must consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee must determine that the proposed use of the lands to be conveyed is not inconsistent with any approved report on recreational resources of an Exhibit E; or, if the project does not have an approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed must not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee must take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee must not unduly restrict public access to project lands and waters.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project must be consolidated for consideration when revised Exhibit G drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article must not apply to any part of the public lands and reservations of the United States included within the project boundary.

(F) The licensee must serve copies of any Commission filing required by this order on any entity specified in the order to be consulted on matters relating to that filing. Proof of service on these entities must accompany the filing with the Commission.

(G) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 825*l*, and section 385.713 of the Commission's regulations, 18 C.F.R. § 385.713 (2025). The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order. The licensee's failure to file a request for rehearing constitutes acceptance of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

Form L-3
(October, 1975)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED MAJOR PROJECT AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work

incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Energy Regulatory Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights or occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the

termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a nonpower licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to

incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee 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 operation, 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.

Article 16. 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 Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee'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 Licensee shall modify the project operation 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 the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities,

including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee 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 Licensee 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.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. Material may be dredged or excavated from, or placed as fill in, project lands and/or waters only in the prosecution of work specifically authorized under the license; in the maintenance of the project; or after obtaining Commission approval, as appropriate. Any such material shall be removed and/or deposited in such manner as to reasonably preserve the environmental values of the project and so as not to interfere with traffic on land or water. Dredging and filling in a navigable water of the United States shall also be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 22. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and rights-of-way and such rights of passage through its dams or other structures, and shall permit such control of its pools, as may be required to complete and maintain such navigation facilities.

Article 23. The operation of any navigation facilities which may be constructed as a part of, or in connection with, any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

Article 24. The Licensee shall furnish power free of cost to the United States for the operation and maintenance of navigation facilities in the vicinity of the project at the voltage and frequency required by such facilities and at a point adjacent thereto, whether said facilities are constructed by the Licensee or by the United States.

Article 25. The Licensee shall construct, maintain, and operate at its own expense such lights and other signals for the protection of navigation as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Article 26. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 27. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new

license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 28. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

APPENDIX A

Water Quality Certificate Conditions

Issued by the Maine Department of Environmental Protection

Filed August 16, 2024

DECISION AND ORDER

THEREFORE, the Department APPROVES the water quality certification of RUMFORD FALLS HYDRO LLC and GRANTS certification pursuant to Section 401(a) of the Clean Water Act that there is a reasonable assurance that the continued operation of the RUMFORD FALLS HYDROELECTRIC PROJECT, as described above, will not violate applicable water quality standards, SUBJECT TO THE FOLLOWING CONDITIONS:

1) WATER LEVELS

A. Except as temporarily modified by 1) approved maintenance activities, 2) extreme hydrologic conditions,[30] 3) emergency electrical system conditions,[31] or 4) agreement between the Applicant, the Department, and appropriate state and/or federal agencies, Middle Dam impoundment water levels must be maintained within 1 foot of full pond elevation, 502.74 feet. Upper Dam impoundment water levels must be maintained within 1 foot of full pond elevation, 601.24 feet.

B. These conditions regarding water levels are necessary to ensure that the discharge from the Project will comply with water quality requirements, including those

[30] For the purpose of the certification and Order, extreme hydrologic conditions mean the occurrence of events beyond the Licensee's control such as, but not limited to, abnormal precipitation, extreme runoff, flood conditions, ice conditions, drought, or other hydrologic conditions such that operational restrictions and requirements contained herein are impossible to achieve or are inconsistent with the safe operation of the Project.

[31] For the purpose of this certification and Order, emergency electrical system conditions mean operating emergencies beyond the Licensee's control which require changes in flow regimes to eliminate such emergencies which may in some circumstances include, but are not limited to, equipment failure or other temporary abnormal operating conditions, generating unit operations or third-party mandated interruptions under power supply emergencies, and orders from local, state, or federal law enforcement or public safety authorities.

found at 38 M.R.S. § 465(4)(A) and as discussed above at Section 4(A) and (C). The water levels of the impoundment, which are determined by the discharge, affect, among other things, the water quality requirements of the designated uses of fishing; recreation in and on the water; navigation; and habitat for fish and other aquatic life.

2) MINIMUM FLOWS

A. Except as temporarily modified by 1) approved maintenance activities, 2) extreme hydrological conditions (see footnote 30), 3) emergency electrical system conditions (see footnote 31), or 4) agreement between the Applicant, the Department and appropriate state and/or federal agencies, the Applicant must provide a year-round minimum flow of 1 cfs or leakage from the Upper Dam into the Upper Dam bypass reach and 200 cfs from the Middle Dam into the Middle Dam bypass reach.

B. These conditions regarding minimum flows are necessary to ensure that the discharge from the Project will comply with water quality requirements, including 38 M.R.S. § 465(4)(A) as discussed above at Section 4(A) and (C). The flow of the discharge from the Project affects, among other things, whether the receiving waters are of sufficient quality to support the designated uses of fishing; recreation in and on the water; navigation; and habitat for fish and other aquatic life.

3) RECREATIONAL ACCESS AND USE

A. The Applicant must continue to provide formal and informal access to the Project waters upstream and downstream of the Project dam for the purpose of recreation in and on the water, for fishing, and for navigation to the extent possible, for the term of a New License.

B. If sufficient inflow is available, the Applicant must provide whitewater boating flow releases into the Middle Dam bypass reach with a target flow ranging from 1,200 to 1,500 cfs for ten days (total), June through August, 10 am to 3pm, to be determined based on consultation with the Town of Rumford and American Whitewater.

C. If sufficient inflow is available, the Applicant must provide aesthetic flow releases into the Upper Dam bypass reach with a target flow ranging from 1,200 to 1,500 cfs for ten days (total), June through August, 10 am to 4pm, to be determined based on consultation with the Town of Rumford.

D. These conditions are necessary to ensure that the discharge from the Project will comply with water quality requirements, including 38 M.R.S. § 465(4)(A), as discussed above at Section 4(A) and (C). Because the discharge affects, among other things, the water level of the impoundment and the flow downstream of the dam, it necessarily affects the water quality requirements of the designated uses of fishing, recreation in and on the water, and navigation, among others.

4) WATER QUALITY

Upon any future determination by the Department that operation of the Rumford Falls Project, as approved by the certification and as conditioned by FERC for the Project, may be causing or contributing to a decline in water quality or non-attainment of water quality standards, the Department reserves the right to, in its discretion and upon notice to the Applicant and opportunity for hearing in accordance with its regulations, reopen this certification to consider requiring modifications to the certification or additional conditions as may be deemed necessary by the Department to ensure that the Project does not cause or contribute to any decline in water quality or non-attainment of water quality standards.

5) STANDARD CONDITIONS

The Applicant must comply with all Standard Conditions attached to the certification, with such compliance to be determined by the Department.

6) LIMITS OF APPROVAL

This approval is limited to and includes the proposals and plans contained in the application and supporting documents submitted and affirmed to the Department by the Applicant. Any variations from the plans and proposals contained in said documents are subject to the review and approval of the Department prior to implementation.

7) COMPLIANCE WITH ALL APPLICABLE LAWS

The Applicant must secure and appropriately comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and Orders required for the operation of the Project, in accordance with the terms and conditions of the certification, as determined by the Department.

8) EFFECTIVE DATE

This water quality certification will be effective concurrent with the effective date of the New License issued by FERC for the Project.

9) SEVERABILITY

In the event any provision, or part thereof, of this certification is declared to be unlawful by a reviewing court, the remainder of the certification will remain in full force and effect, and will be construed and enforced in all respects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

STANDARD CONDITIONS

1. Noncompliance. Should the project be found, at any time, not to be in compliance with any of the conditions of this approval or should the permittee construct or operate this project in any way other than specified in the application or supporting documents, as modified by the conditions of this approval, then the terms of this approval will be considered to have been violated.

2. Inspection and Compliance. Authorized representatives of the Commissioner or the Attorney General must be granted access to the premises of the permittee at any reasonable time for the purpose of inspecting the operation of the project and assuring compliance with the conditions of this approval.

3. Assignment of Transfer of Approval. This approval will expire upon the assignment or transfer of the property covered by this approval unless written consent to transfer this approval is obtained from the Commissioner. To obtain approval of transfer, the permittee must notify the Commissioner 30 days prior to assignment or transfer of property which is subject to this approval. Pending Commissioner determination on the application for a transfer or assignment of ownership of this approval, the person(s) to whom such property is assigned or transferred must abide by all of the terms and conditions of this approval. To obtain the or Commissioner's approval of transfer, the proposed assignee or transferee must demonstrate the financial capacity and technical ability to (1) comply with all terms and conditions of this approval and (2) satisfy all other applicable statutory criteria.

   A "transfer" is defined as the sale or lease of property which is the subject of this approval or the sale of 50 percent or more of the stock of or interest in a corporation or a change in a general partner of a partnership which owns the property subject to this approval.