



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

July 25, 2023

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426

RE: MOTION TO INTERVENE, COMMENTS ON APPLICATION FOR SURRENDER OF LICENSE, AND REQUEST FOR EXPEDITED REVIEW AND APPROVAL; KELLEY'S FALLS HYDROELECTRIC PROJECT (FERC NO. 3025-029, -032)

Dear Secretary Bose:

On March 22, 2023, Green Mountain Power Corporation (GMP), filed an Application for Surrender of License (Application), for the Kelley's Falls Hydroelectric Project (Project; FERC No. 3025).¹ The Project is located on the Piscataquog River in Hillsborough County, New Hampshire. The National Marine Fisheries Service (NMFS) has reviewed GMP's Application and supports the surrender of the Project's license as proposed by GMP. On June 29, 2023, you provided your Notice of Application for Surrender of License Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests.²

The Piscataquog River and other major tributaries of the Merrimack River support several NOAA trust resources including alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), American shad (*Alosa sapidissima*), American eel (*Anguilla rostrata*), and sea lamprey (*Petromyzon marinus*). Populations of these diadromous species are in decline throughout their range. In cooperation with federal and interstate management, we are actively working to maintain and enhance species stock levels. As such, we have a vested interest in this project and any potential impacts the project may have on our trust resources.

We hereby intervene in this proceeding pursuant to 18 C.F.R. §385.214(a), as amended. We intervene for the purposes of becoming a party, and to ensure that its interests and those of the Department and the public are represented in this proceeding. Service of process and other communications concerning this proceeding should be made to:

Michael Pentony
Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

¹ Accession Number: 20230322-5181

² Accession Number: 20230629-3012



Benjamin German
Marine Habitat Resource Specialist
Habitat Conservation Division
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

As discussed in the Application, GMP does not propose to remove the Project dam or any of the power generating and appurtenant equipment from the powerhouse. Upon surrender, the New Hampshire Department of Environmental Service's (NHDES) will assume jurisdiction over the Kelley's Falls Dam and provide for its routine and dam safety maintenance. As such, GMP's proposal would not result in any (1) ground disturbing activities; (2) alteration to reservoir elevations, water quality, or water quantity; or (3) alteration to the Piscataquog River's flow regime. Therefore, no adverse environmental effects to geology and soil, water, fish and wildlife, wetland and terrestrial, recreational, or historic resources are expected if the Federal Energy Regulatory Commission (Commission) were to approve the Application as proposed by GMP.

The NMFS's comments³⁴ on GMP's draft license application (DLA) and final license application (FLA), noted that our principal interests at this Project are to provide and support conditions suitable for sustained runs of diadromous fish, including alewife, blueback herring, American shad, American eel, and sea lamprey in the Piscataquog River. This objective is supported by the 2021 Merrimack River Watershed Comprehensive Plan for Diadromous Fishes (Merrimack Comprehensive Plan) as filed with the Commission on June 17, 2021.⁵ The goals outlined in the Merrimack Comprehensive Plan are designed to guide future fisheries management actions. These include recommendations for new upstream and downstream fish passage facilities to provide safe, timely, and effective passage for target species, and escapement targets to support the diadromous fish production potential of the habitats throughout the Merrimack River watershed. The Merrimack Comprehensive Plan classifies the Piscataquog River as Type I focus watershed (highest priority) for diadromous fish restoration.

For Projects where license surrender and decommissioning are pursued, dam removal is NMFS's preferred alternative. Dam removal is the most effective fish passage strategy for NMFS's trust species and typically results in the greatest ecological lift. We understand that Namaske Lake is a valued public resource, and in this case, removal is not being pursued. Additionally, we anticipate a commitment by the State of New Hampshire to construct effective upstream and downstream fish passage through a collaborative partnership that addresses the public desire to preserve the impoundment and addresses our fish passage concerns.

The Infrastructure Investment and Jobs Act and the Inflation Reduction Act provide substantial funding to support fish passage and aquatic connectivity projects throughout the country. These federal grant opportunities are imminent, with solicitations expected in late summer and the fall of 2023. There is interest among the New Hampshire state resource agencies (i.e. NHFGD and NHDES) to apply for such funding to implement fish passage. However, much of this funding may not be applied to hydroelectric projects under the Commission's jurisdiction. Once the surrender proceeding is complete, by definition, the site will no longer be under the Commission's jurisdiction, and will become eligible for these funding opportunities. For this reason, and in support of the state's interest

³ Accession Number: 20220114-5091

⁴ Accession Number: 20220805-5078

⁵ Accession Number: 20210617-5016

in fish passage at the Kelley's Falls Dam, we respectfully requests the Commission expedite the review and approval of GMP's application to surrender its license for the Kelley's Falls Hydroelectric Project.

We appreciate the Commission's consideration of this request. If you have any questions or need additional information, please contact Ben German (978-281-9353 or benjamin.german@noaa.gov).

Sincerely,

A handwritten signature in blue ink that reads "Louis A. Chiarella". The signature is fluid and cursive, with the first name being the most prominent.

Louis A Chiarella
Assistant Regional Administrator
for Habitat and Ecosystem Services

cc: Service List

Document Content(s)

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