



March 22, 2023

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

***Via Electronic Filing***

Re: Kelley's Falls Hydroelectric Project (P-3025), Application for Surrender of License.

Dear Secretary Bose:

Pursuant to Section 6 of the Federal Power Act (FPA), 16 U.S.C. § 799 (2018), and 18 C.F.R. § 6.1 (2022), Green Mountain Power Corporation (GMP), licensee of the Kelley's Falls Hydroelectric Project (P-3025) (Project), encloses for filing its Application for Surrender of License.

As described herein, GMP determined that the Project will not be financially viable following issuance of a subsequent license due to the anticipated capital-intensive Protection, Mitigation, and Enhancement (PME) measures related to upstream and downstream fish passage. Therefore, GMP previously withdrew its March 30, 2022, Application for Subsequent License and is now seeking to surrender the current license at the conclusion of the license term on March 31, 2024.

Please contact me at (802) 655-8723, via email at [jason.lisai@greenmountainpower.com](mailto:jason.lisai@greenmountainpower.com), or at the address below, if you have any questions or concerns related to this matter.

Sincerely,



Jason L. Lisai  
Director, Generation Operations  
Green Mountain Power  
163 Acorn Lane  
Colchester, VT 05446-6611  
(802) 655-8723  
[jason.lisai@greenmountainpower.com](mailto:jason.lisai@greenmountainpower.com)

Enc.

cc: Distribution List

Kelley's Falls Distribution List  
March 2022

**Federal Agencies**

John T. Eddins  
Office of Project Review, Advisory Council on  
Historic Preservation  
The Old Post Office  
1100 Pennsylvania Ave NW Ste 809  
Washington, DC 20004-2501  
jeddins@achp.gov

Director  
Bureau of Indian Affairs, U.S. Department of the  
Interior  
1849 C Street NW  
MS 6557  
Washington, DC 20240

Keith S. Bluecloud  
Bureau of Indian Affairs, U.S. Department of the  
Interior, Natural Resources Branch  
545 Marriott Dr.  
Ste 700  
Nashville, TN 32714  
keith.bluecloud@bia.gov

Timothy L. Timmerman  
Director  
U.S. Environmental Protection Agency  
EPA New England-Region 1  
5 Post Office Square, Suite 100, Mail Code 06-03  
Boston, MA 02109-3912  
timmermann.timothy@epa.gov

Director  
Federal Emergency Management Agency  
500 C Street SW  
Washington, DC 20472

Regional Administrator  
Federal Emergency Management Agency  
99 High Street  
6th Floor  
Boston, MA 2110  
fema-r1-info@fema.dhs.gov

John Baummer  
Project Manager  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426  
John.Baummer@ferc.gov

John Spain  
Regional Engineer  
Federal Energy Regulatory Commission, Division  
of Dam Safety and Inspections  
New York Regional Office 19  
West 34th Street Suite 400  
New York, NY 10001-3006  
john.spain@ferc.gov

John Sinclair  
Forest Supervisor  
Green Mountain & Finger Lakes National Forests  
231 North Main Street  
Rutland, VT 5701  
jsinclair@fs.fed.us

Michael Pentony  
Regional Administrator  
National Oceanic and Atmospheric  
Administration, Fisheries Regional Office  
55 Great Republic Drive  
Gloucester, MA 01930-2298  
michael.pentony@noaa.gov

Kevin Mendik  
Hydro Program Manager  
Northeast Region, National Park Service  
15 State Street  
10th Floor  
Boston, MA 02109  
kevin\_mendik@nps.gov

Jennifer L. Mccarthy  
U.S. Army Corps of Engineers  
696 Virginia Road  
Concord, MA 01742-2751

Kelley's Falls Distribution List  
March 2022

Stephen Dermody  
U.S. Army Corps of Engineers  
2097 Maple Street  
Hopkinton Everett Lakes Project Office  
Contoocook, NH 03229  
stephen.p.dermody@usace.army.mil

Bradley Clark  
U.S. Army Corps of Engineers  
2097 Maple Street  
Hopkinton Everett Lakes Project Office  
Contoocook, NH 03229  
Bradley.J.Clark@usace.army.mil

Jennifer Samela  
U.S. Army Corps of Engineers  
2097 Maple Street  
Hopkinton Everett Lakes Project Office  
Contoocook, NH 03229  
Jennifer.M.Samela@usace.army.mil

Kenneth Hogan  
Hydropower Program  
U.S. Fish and Wildlife Service, New England Field  
Office  
70 Commercial Street  
Suite 300  
Concord, NH 03301  
kenneth\_hogan@fws.gov

Bryan Sojkowski  
Regional Fish Passage Engineer  
U.S. Fish and Wildlife Service, New England Field  
Office  
bryan\_sojkowski@fws.gov

Douglas Smithwood  
Fisheries Biologist  
U.S. Fish and Wildlife Service, New England Field  
Office  
doug\_smithwood@fws.gov

Richard Kiah  
Chief, Hydrologic Network Operations  
U.S. Geological Survey, New Hampshire-Vermont  
Office  
331 Commerce Way  
Suite 2  
Pembroke, NH 03275-3718  
rkiah@usgs.gov

Christopher Boelke  
New England Field Office Supervisor for Habitat  
Conservation  
National Oceanic and Atmospheric  
Administration - National Marine Fisheries  
Service  
55 Great Republic Drive  
Gloucester, MA 01930  
christopher.boelke@noaa.gov

Margaret Wood-Hassan  
Senator  
U.S. Senate  
330 Hart Senate Office Building  
Washington, DC 20510

Andrew Tittler  
U.S. Department of the Interior  
15 State St, 8th Floor  
Boston, MA 02109-3502

Virginia Reddick  
Secretary  
U.S. Department of the Interior - Office of  
Environmental Affairs  
1849 C Street NW  
Room 2340 MIB  
Washington, DC 20240

Andrew Raddant  
U.S. Department of the Interior - Office of  
Environmental Policy and Compliance  
15 State Street  
Ste. 400  
Boston, MA 02109

Kelley's Falls Distribution List  
March 2022

Jean Brochi  
U.S. Environmental Protection Agency  
5 Post Office Square  
06-1  
Boston, MA 02109-3913  
Brochi.Jean@epa.gov

Dan Mattaini  
Administrator, Operation & Maintenance Section  
New Hampshire Department of Environmental  
Services, Dam Bureau  
PO Box 95  
Concord, NH 03302-0095  
Daniel.Mattaini@des.nh.gov

**New Hampshire State Agencies**

Ted Walsh  
New Hampshire Department of Environmental  
Services, Volunteer River Assessment Program  
6 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
ted.walsh@des.nh.gov

Amy Smagula  
Limnologist/Exotic Species Program Coordinator  
New Hampshire Department of Environmental  
Services  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
Amy.Smagula@des.nh.gov

Gregg Comstock  
Supervisor, Water Quality Planning Section  
New Hampshire Department of Environmental  
Services  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
gregg.comstock@des.nh.gov

Rivers and Lakes Coordinator  
New Hampshire Department of Environmental  
Services  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
riversprogram@des.nh.gov

Steve Doyon  
Administrator, Dam Safety & Inspection Section  
New Hampshire Department of Environmental  
Services, Dam Bureau  
PO Box 95  
Concord, NH 03302-0095  
Steve.Doyon@des.nh.gov;  
DES.damsafety@des.nh.gov

Rick Chormann  
State Geologist and Director  
New Hampshire Department of Environmental  
Services, New Hampshire Geological Survey  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
frederick.chormann@des.nh.gov

Jim Gallagher  
Chief Water Resources Engineer  
New Hampshire Department of Environmental  
Services, Dam Bureau  
PO Box 95  
Concord, NH 03302-0095  
James.Gallagher@des.nh.gov

Nadine Miller  
Deputy State Historic Preservation Officer  
New Hampshire Division of Historical Resources  
19 Pillsbury St  
Concord, NH 03301-3570  
Nadine.Miller@dncr.nh.gov

David Trubey  
Archaeologist, Review & Compliance  
Coordinator  
New Hampshire Division of Historical Resources  
19 Pillsbury St  
Concord, NH 03301-3570  
David.Trubey@dncr.nh.gov

Kelley's Falls Distribution List  
March 2022

Tanya Krajcik  
Deputy State Archaeologist, Records & GIS  
Coordinator  
New Hampshire Division of Historical Resources  
19 Pillsbury St  
Concord, NH 03301-3570  
Tanya.Krajcik@dncr.nh.gov

Marika Labash  
R&C Program Specialist  
New Hampshire Division of Historical Resources  
19 Pillsbury St  
Concord, NH 03301  
Marika.S.Labash@dncr.nh.gov

Carol Henderson  
Environmental Review Coordinator  
New Hampshire Fish and Game Department  
11 Hazen Drive  
Concord, NH 03301-6397  
Carol.Henderson@wildlife.nh.gov

Andrew Chapman  
Biomonitoring Program  
New Hampshire Department of Environmental  
Services  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
andrew.chapman@des.nh.gov

Phil Bryce  
Director  
New Hampshire Department of Resources and  
Economic Development - Division of Parks and  
Recreation  
172 Pembroke Road  
Concord, NH 03301  
philip.bryce@dred.nh.gov ;  
nhparks@dncr.nh.gov

Steve Couture  
Coastal Program Administrator  
New Hampshire Department of Environmental  
Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
steven.couture@des.nh.gov

Matt Carpenter  
Fisheries Biologist  
New Hampshire Fish and Game Department  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
matthew.carpenter@wildlife.nh.gov

New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429  
puc@puc.nh.gov

Amy Lamb  
Ecological Information Specialist  
New Hampshire Natural Heritage Bureau  
172 Pembroke Road  
Concord, NH 03301  
amy.lamb@dncr.nh.gov

Melanie Cofrin  
New Hampshire Department of Environmental  
Services - Watershed Management Bureau  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
Melanie.Cofrin@des.nh.gov;  
watershed@des.nh.gov

Matthew Wood  
Water Quality Assessment Program Coordinator  
New Hampshire Department of Environmental  
Services  
29 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095  
matthew.wood@des.nh.gov

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Gabriel Gries  
New Hampshire Fish and Game Department  
300 Westgate Center Dr.  
Hadley, MA 01035

Mark Gomez  
Chief of Parks  
City of Manchester, Dept of Public Works  
475 Valley Street  
Manchester, NH 03103  
mgomez@manchesternh.gov

**Municipal Government**

Chad Monier  
Administrator  
Hillsborough County  
329 Mast Road  
Suite 114  
Goffstown, NH 03045

Owen Friend-Gray  
Highway Chief Engineer  
City of Manchester, Dept of Public Works  
475 Valley Street  
Manchester, NH 03103  
ofriend@manchesternh.gov

Hillsborough County Conservation District  
Chappell Professional Center  
468 Route 13 South  
Milford, NH 03055

Thomas Mattson  
Manager of Operations  
City of Manchester, Dept of Public Works  
475 Valley Street  
Manchester, NH 03103  
TMATTSON@manchesternh.gov

Matthew Normand, CMC  
City Clerk  
City of Manchester  
1 City Hall Plaza  
Manchester, NH 03101

**Non-Governmental Organizations**

Don Pinard  
Director  
City of Manchester Department of Public Works,  
Parks, Recreation, and Cemeteries Division  
475 Valley Street  
Manchester, NH 03103

Wildlife Heritage Foundation of New Hampshire  
54 Portsmouth Street  
Concord, NH 03301  
admin@nhwildlifeheritage.org

Cathy Ball  
Town Clerk  
Goffstown  
16 Main Street  
Goffstown, NH 043045

American Canoe Association  
503 Sophia St  
Suite 100  
Fredericksburg, VA 22401

Rick Wilhelmi  
Director  
Goffstown Parks and Recreation Department  
155 So. Mast Street  
Goffstown, NH 04305  
wilhelmi@goffstownnh.gov

Brian Graber  
Director, River Restoration  
American Rivers  
516 West Hampton Road  
Southampton, MA 01062  
bgraber@americanrivers.org

Bob Nasdor  
Northeast Stewardship & Legal Director  
American Whitewater  
365 Boston Post Road  
Suite 250  
Sudbury, MA 01776  
bob@americanwhitewater.org

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New Hampshire Audubon Society  
84 Silk Farm Road  
Concord, NH 03301  
nha@nhaudubon.org

New Hampshire Wildlife Federation  
54 Portsmouth Street  
Concord, NH 03301

Mark Zankel  
State Director  
The Nature Conservancy  
22 Bridge Street  
Concord, NH 03301  
mzankel@tnc.org

Joel Kasper  
President  
Merrimack River Valley Chapter Trout Unlimited  
Manchester, NH 03103  
flyfishjoel@yahoo.com

New Hampshire Council Trout Unlimited  
reelnhfishing@aol.com ; info@nhtucouncil.org

David Packard  
Vice President  
New Hampshire Rivers Council  
52-207 Portsmouth Street  
Concord, NH 03301  
appliedforce52@gmail.com;  
ContactUs@NHRivers.org

Dick Ludders  
Chair  
Piscataquog River Local Advisory Committee  
388 Western Ave., Unit D-1  
Henniker, NH 03242  
rludds45@gmail.com

Andrea LaMoreaux  
President  
New Hampshire Lakes  
17 Chenell Drive  
Suite One  
Concord, NH 03301  
info@nhlakes.org ; tobrien@nhlakes.org

Tom Jones  
Land Protection Specialist  
Piscataquog Land Conservancy  
5A Mill Street  
New Boston, NH 03070  
tjones@plcnh.org

**Tribes and Intertribal Organizations**

Rhonda Besaw  
Speaker  
Abenaki Nation of New Hampshire  
262 Lancaster Rd  
Whitefield, NH 03598  
Kcicasco@aol.com

Paul Pouliot  
Council Chief and Speaker  
Cowasuck Band – Pennacook/Abenaki People  
COWASS North America, Inc.  
P.O. Box 52  
Alton, NH 03809-0052  
cowasuck@cowasuck.org

Nathan Pero  
Chief  
Koasek (Cowasuck) Traditional Band of the  
Sovereign Abenaki Nation  
PO Box 147  
Post Mills, VT 05058  
n.pero@aol.com

Amy Therrian, Carrie Gendreau, Shirly Hook  
Council of Chiefs  
Koasek of the Koas of the Abenaki Nation  
188 Allen Bent Road  
W. Braintree  
Roxbury, VT 05669  
KoasekKoas@gmail.com

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Paul "Gwilawato" Bunnell  
Chief  
Koasek (Cowsuck) Traditional Band of the  
Abenaki Nation  
32 Hoit Mill Rd. #202  
Weare, NH 03281  
bunnelloyalist@aol.com

Don Stevens  
Chief  
Nulhegan Band of the Coosuk - Abenaki Nation  
156 Bacon Drive  
Shelburne, VT 05482  
chiefdonstevens@comcast.net

Brian Chenevert  
THPO  
Nulhegan Band of the Coosuk - Abenaki Nation  
brialcay@yahoo.com

Tina Daniels  
Appointed Representative  
Nulhegan Coosuk Abenaki Nation  
grasmerewater@comcast.net

Eugene Rich  
Chief  
Sovereign Abenaki Nation of Missisquoi, St.  
Francis/Sokoki Band  
PO Box 276  
100 Grand Avenue  
Swanton, VT 05488  
SOGOMO@COMCAST.NET

Moonface Bear  
Leader  
Golden Hill Indian Reservation, Golden Hill  
Paugussett 3 Chief Government  
427 Shelton Rd  
Trumbull, CT 06611

Roy Sebastian  
Chief  
Paucatuck Eastern Pequot Tribe, Eastern Area  
Office  
391 Eastern Area Office  
391 Norwich-Westerly Rd  
North Stonington, CT 06359

Richard Velky  
Chief  
Schaghticoke Tribal Nation  
101 Elizabeth Street, 2nd Floor  
Derby, CT 06418

Francis Howes  
President  
Laconia Indian Historical Association  
LIHA, Inc.  
109 Osgood Rd.  
Sanbornton, NH 03269

Peter Newell  
Council Chief  
NH Intertribal Native American Council  
215 Raymond Road  
Candia, NH 03034

**GMP Contacts**

Jason Lisai  
Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446  
jason.lisai@greenmountainpower.com

John Greenan, P.E.  
Green Mountain Power Corporation  
2152 Post Road  
Rutland, VT 05701  
john.greenan@greenmountainpower.com

John Tedesco  
Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446  
john.tedesco@greenmountainpower.com

Penny Collins  
Green Mountain Power Corporation  
2152 Post Road  
Rutland, VT 05701  
Penny.Collins@greenmountainpower.com

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Simon Ryan  
Bancroft Contracting Corp.  
23 Phillips Rd  
South Paris, ME 04281  
sryan@bancroftcontracting.com

Deb Bouffard  
Sheehey Furlong & Behm  
30 Main Street, 6th Floor  
PO Box 66  
Burlington, VT 05402-0066  
dbouffard@sheeheyvt.com



confluence of the Piscataquog River with the Merrimack River and 8.0 RM downstream of the confluence of the North and South Branches with the main stem Piscataquog River.

The Project consists of (1) a concrete and stone masonry dam approximately 31-feet-high by 504-feet-long that includes a concrete river right abutment, a 42-inch-diameter low level outlet pipe in the river right abutment with an invert elevation of 154 feet mean sea level (msl), a 192-foot-long concrete ogee spillway inclusive of a 6-foot-wide slide gate and topped with 33-inch-high timber flashboards, a blocked 36-inch diameter pipe that is non-operational through the spillway, intake structure, and river left stone masonry non-overflow wall with concrete cap; (2) an impoundment with a surface area of 129-acres at a normal water surface elevation of 158.0 feet msl (dam crest) and surface area of 154-acres at elevation 160.75 feet msl (when flashboards are up); (3) an intake structure; (4) a 65-foot-long underground steel and concrete penstock; (5) a powerhouse containing a single turbine-generator unit rated at 0.450 MW; (6) an 80-foot long ledge terrace and backwater pool “bypass reach”; (7) a tailrace; (8) a 2,400 Volt (V), approximately 275-foot-long underground transmission line that connects to a 12-kilovolt (kV) transformer situated in a GMP owned substation located outside of the Project boundary; (9) appurtenant facilities. The current license term expires on March 31, 2024 ([Appendix A](#))

GMP owns the hydroelectric generating equipment and leases the Kelley’s Falls dam and associated land from the New Hampshire Department of Environmental Services (NHDES).

### **III. REASON FOR SURRENDER**

As explained in GMP’s November 18, 2022, letter to the Commission<sup>2</sup>, during the relicensing effort for the Project, GMP engaged in discussions with resource agencies regarding potential licensing protection, mitigation, and enhancement (PME) measures at the Project. After reviewing multiple alternatives to address resource agency concerns related to Project impacts, GMP determined that the Project will not be financially viable following issuance of a subsequent license due to the anticipated capital-intensive PME measures related to providing upstream and downstream fish passage. Accordingly, on December 29, 2022<sup>3</sup>, GMP opted to withdraw its March 30, 2022, Application for Subsequent License and to surrender the current license at the conclusion of the license term on March 31, 2024.

### **IV. PLAN OF SURRENDER AND DECOMMISSIONING PLAN**

The State of New Hampshire (NHDES-Dam Bureau) owns the Kelley’s Falls dam and property parcel that encompasses the Kelley’s Falls dam and powerhouse. GMP holds a lease to operate and maintain the Project, which was previously filed with the Commission on December 17, 2019.<sup>4</sup> The lease expires upon license expiration (i.e., March 31, 2024). GMP has the option to extend this lease on an annual basis, or longer term, so long as it does not exceed the original term of lease. GMP must exercise the option to extend the lease at least 120 days prior to its expiration (no later than December 2, 2023). Extension of the lease, if necessary, will allow GMP to retain sufficient control over the Project, until such time that an Order Approving Surrender of License is received from the Commission.

The proposed action is to surrender the license for the Project. Under the proposed action, generation of electricity would permanently cease, and the generating facilities would be decommissioned. The total

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<sup>2</sup> FERC Accession No. 20221118-5274: [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20221118-5274](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20221118-5274).

<sup>3</sup> FERC Accession No. 20221229-5350: [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20221229-5350](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20221229-5350).

<sup>4</sup> FERC Accession No. 20191217-5054: [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20191217-5054](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20191217-5054).

installed capacity of the Project would be reduced from 0.450 MW to 0 MW. Per the conditions of lease agreement, ownership and associated responsibilities with the property would revert to the State of New Hampshire. Continued safety of the dam and future modifications would be regulated by the NHDES-Dam Bureau.

To ensure that the Project is formally and safely retired, GMP developed the following Decommissioning Plan. The Plan is intended to outline the steps that the GMP proposes to take to cease operation of the Project and secure the facilities for possible hydropower redevelopment (by NHDES or others) if it becomes economically viable to do so in the future.

- Intake: The 11-foot square headgate that is positioned behind the trash rack and controls flow to the penstock, will be left in the closed position to prevent water flow through the turbine generator unit. The gate has an electric operator with a manual override. The intake will be secured against unauthorized access with the existing security fence and gates.
- Powerhouse: The Project's powerhouse will be locked and secured. The turbine-generator will be disconnected from the grid. All ancillary mechanical and electrical equipment associated with generation will be left in place and ownership of the equipment transferred to NHDES.
- Security: The Project dam and powerhouse building will be secured with the existing fencing and security system.
- Dam: Following successful completion of the surrender process, the NHDES-Dam Bureau will operate the dam in accordance with applicable New Hampshire dam safety laws and regulations. All inflow to the impoundment will be passed primarily over the spillway and through the 42-inch diameter low level outlet, and/or through the 6-foot-wide by 33-inch-high slide gate, as needed.

There would be no modifications to the existing dam, buildings, or structures other than those described above. As discussed below, due to the nature of the Project, including the existing facilities and operation, the proposed action of surrendering the Project license is not anticipated to have any adverse environmental effects.

- The proposed action would have no adverse effect on the geology and soils of the Project or the immediate vicinity. There would be no ground disturbance associated with the proposed action and, therefore, no erosion or other effects on geology and soils.
- The proposed action would have no adverse effect on Project water quality. With most of the inflow being passed over the spillway, the increased aeration would be beneficial to downstream dissolved oxygen levels. The Project dam will continue its current run-of-the-river mode of operation and maintain a pool elevation of approximately 160.75 feet msl, subject to inflow conditions.
- The proposed action would have no adverse effect on fish and aquatic habitat at the Project. With all inflow being passed at the dam, the increased flow to the bypass reach would be beneficial to any existing fish or aquatic life that utilize the bypass reach. There is no expected impact to any existing fish or aquatic life use in the downstream reach because the proposed action of decommissioning the generation station will not alter flow conditions.
- The proposed action would have no effect on wetlands, wildlife, or botanical resources at the Project. The Project dam will continue to be operated in a run-of-river mode. There will be no ground disturbance associated with the proposed action or the decommissioning of the generating station, and, therefore, no resulting impacts to wetlands, wildlife, or botanical resources.

- The United States Fish and Wildlife Service (USFWS)<sup>5</sup> identified one mammal and one flowering plant species listed on the federally endangered/threatened species list, the Northern Long-eared Bat (NLEB) and the Small Whorled Pogonia (SWP), which may occur in the Project area or may be affected by the Project. However, the proposed action will not involve any tree or vegetation removal. Therefore, the proposed action will have no effect on protected species or designated critical habitat.
- There are no recreational facilities associated with the Project. The lands surrounding the Project are leased from the State of New Hampshire. The land within the Project boundary surrounding the dam and powerhouse is fenced and locked with a gate for public safety. Most of the impoundment shoreline is privately owned. Public access to the Project impoundment (Namaske Lake) is available from the West Side Boat Landing, which is located just upstream of the Project dam and is operated by the City of Manchester, New Hampshire. The currently available recreation access will not be altered as part of the proposed action, therefore, there will be no adverse impacts on recreation.
- There are no known archaeological or architectural resources within the Project area. Both the dam and powerhouse are eligible for National Register of Historic Places (NRHP) listing but are not currently listed on either the NRHP or on the New Hampshire State Register of Historic Places. The proposed action will not involve any ground disturbing activities or structural modifications to Project facilities, therefore, the proposed action will have no adverse effect on archaeological or architectural resources.

#### V. PUBLIC INTEREST CONSIDERATIONS

Following surrender, the NHDES-Dam Bureau will be responsible for regulating the dam in accordance with applicable New Hampshire dam safety laws and regulations. The Project is located on land leased from the State of New Hampshire and does not have formal recreational access. Access to the impoundment will remain available via the West Side Boat Landing located just upstream of the Project dam, which is open to the public.

#### VI. AGENCY CONSULTATION

On November 18, 2022, GMP filed a letter<sup>6</sup> advising the Commission of its plan to surrender the Project. Potentially interested federal, state, and local agencies were also provided a copy of this letter.

In accordance with FERC's regulations, GMP consulted with applicable resource agencies and stakeholders on the surrender application ([Appendix B](#)). On February 13, 2023, GMP circulated a draft of the surrender application to interested parties (i.e., Project Distribution List) and requested that comments be provided to GMP within 30 days (March 15, 2023). GMP did not receive any comments on the draft surrender application from resource agencies or stakeholders. A copy of the consultation record is included in [Appendix B](#).

#### VII. CONCLUSION

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<sup>5</sup> U.S. Department of the Interior, Fish and Wildlife Service (USFWS). 2021. List of Threatened and Endangered Species that may occur in your proposed project location or may be affected by your proposed project. Kelley's Falls Hydroelectric Project (P-3025). July 27, 2021.

<sup>6</sup> FERC Accession No. 20221118-5274: [https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20221118-5274](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20221118-5274).

Based on all the considerations above, GMP respectfully requests that the Commission issue an order authorizing it to surrender the license for Project No. 3025, consistent with GMP's plan for surrender described herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JL Lisai', written in a cursive style.

Jason L. Lisai  
Director, Generation Operations  
Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446-6611  
(802) 655-8723  
[jason.lisai@greenmountainpower.com](mailto:jason.lisai@greenmountainpower.com)

Dated: March 22, 2023

## Appendix A: License Order, License Amendments, and Transfer of License

27 FERC 162, 082

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Hydro Resources Corporation )

Project No. 3025-001

## ORDER ISSUING LICENSE (MINOR)

( Issued April 24, 1984 )

Hydro Resources Corporation (Applicant) has filed an application for a license under Part I of the Federal Power Act (Act) to construct, operate, and maintain the Kelley's Falls Project No. 3025. 1/ The project would be located on the Piscataquog River in Hillsborough County, New Hampshire, and would affect the interests of interstate or foreign commerce.

Notice of the application has been published and comments have been received from interested Federal, State, and local agencies. No protests or motions to intervene have been received, and none of the agencies objected to issuance of the license.

Description of Project

The Applicant proposes to rehabilitate the existing Kelley's Falls Dam, a concrete gravity structure 31 feet high and 250 feet long, and an existing penstock and powerhouse. The Applicant will install one new 450-kW generating unit and other appurtenant facilities. The project will operate run-of-river utilizing a reservoir with a surface area of 129 acres and a storage capacity of 1,350 acre-feet. A more detailed project description is contained in ordering paragraph (B).

1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1983). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. §385.1902 (1983). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

DC-A-6

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Safety and Adequacy

The stability of the Kelley's Falls Dam and the spillway were analyzed under normal and maximum hydrostatic loading; the safety factors under normal loading and loading from the maximum flood of record (21,300 cfs) are within acceptable limits.

The project was inspected by the New Hampshire Water Resources Board, by the U.S. Army Corps of Engineers, and by the Commission's staff and it was found that the dam and other structures are in fair to poor condition. The dam shows loss of concrete on the spillway section, five major and a number of minor leaks through the concrete of the spillway, cracks on the right abutment, and erosion of the right bank upstream from the dam. The foundation of the powerhouse building is badly spalled and reinforcing is exposed. The left retaining wall has an area of missing stones and the concrete facing the wall is deteriorated at the normal water level. There is also a substantial seepage coming out around the downstream end of the right concrete retaining wall.

If the structures are satisfactorily repaired, the dam and other existing structures would be considered structurally and hydraulically safe and adequate. Article 24 requires the Licensee to file a plan and schedule for restoring the integrity of the dam.

The Piscataquog River above the Kelley's Falls Dam drains an area of 214 square miles. The flow of the Piscataquog River is recorded by the U.S.G.S. streamflow gage at Goffstown located about 4 miles upstream from the dam. The gage subtends a 202-square-mile drainage area. The peak flood of record at the dam was 6,840 cfs on April 5, 1960, however, the flood marks dated September 21, 1938, indicate a flood of 21,900 cfs. Streamflow in excess of the water diverted for power production (324 cfs) would flow over the 192-foot-long ogee spillway. The spillway capacity, with the pool at elevation 168.00 feet, the top of the non-overflow section, is 21,300 cfs. The 100-year flood is estimated to be 13,000 cfs.

The Probable Maximum Flood (PMF) at the dam site has been estimated by the U.S. Army Corps of Engineers to be 111,800 cfs. The 1/2 PMF would raise the reservoir elevation to 174.80 feet and overtop the left wall by 6.8 feet. Due to the relatively small amount of storage of Piscataquog Reservoir, failure during extreme floods would not be a hazard to dwellings, parkland facilities, and life downstream from the dam.

The spillway capacity at the Kelley's Falls Dam is considered adequate.

*Kelley's Falls  
F.R.C.*

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Economic Feasibility

The run-of-river project would generate 2,400,000 kWh of energy annually. 2/ The project is economically feasible based on a power sales contract between the Applicant and the Public Service Company of New Hampshire which stipulates a price of 9 cents per kWh for project power.

Minimum Flow Releases

The Piscataquog River supports a warmwater fishery in the vicinity of the project. Trout planted upstream from the project, however, may occasionally be found in the Kelley's Falls area. The 125-acre Piscataquog Park, operated by the City of Manchester is located immediately downstream from the project, and provides public access to the river for fishing, canoeing, and other recreational activities.

To sustain the aquatic habitat and recreational uses of the river downstream from the project, the Applicant proposed to release a continuous minimum flow of 15 cfs from the powerhouse during the summer, and a flow equal to reservoir inflow during the spring. The specific effective dates for the spring and summer minimum flow releases were not stated by the Applicant.

The U.S. Fish and Wildlife Service (FWS) and the New Hampshire Fish and Game Department (NHFGD) recommended that a continuous minimum flow of 45 cfs or the inflow to the reservoir, whichever is less, be released from the project year-round. Since the tailrace discharge is only 65 feet downstream from the dam and the bypassed reach has only marginal biological productivity, the agencies did not recommend a minimum flow release from the dam.

A study of the minimum flow necessary at the Kelley's Falls Project is needed to determine the long-term flow regime appropriate for the project site. An interim minimum flow release of 45 cfs will protect the present water quality, fishery resources, and recreational uses of the Piscataquog River downstream from the project. Article 25 requires an instream flow study and an interim minimum flow release of 45 cfs. 3/

2/ The proposed project, with its average annual generation of 2.4 million kWh, will utilize a renewable resource that will save the equivalent of approximately 3,940 barrels of oil or 1,110 tons of coal per year.

3/ The State of New Hampshire Water Supply and Pollution Control Commission issued a water quality certificate on August 19, 1983, for the project in accordance with Section 401 of the Clean Water Act.

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Restoration of Anadromous Fish Runs

The Anadromous Fish Act of 1965, Public Law 89-305, instigated a program for conservation, development, and enhancement of the Nation's anadromous fish. A cooperative Fishery Restoration Program for the Merrimack River, of which the Piscataquog River is a tributary, was formulated by the Policy and Technical Committees for Anadromous Fishery Management of the Merrimack River, which consists of representatives from the FWS, the National Marine Fisheries Service, and fishery agencies from the New England states. In January 1981, the Policy and Technical Committees finalized a Fish Passage Action Plan that scheduled construction of fish passage facilities at Kelley's Falls by 1985, and at the downstream Lowell Dam (FERC Project No. 2790), located on the Merrimack River, by 1984.

FWS and NHFGD, commenting on the license application, referred to the Fish Passage Action Plan and recommended that upstream and downstream fish passage facilities be completed at the Kelley's Falls Dam 1 year following completion of such facilities at the Lowell Dam. Fish passage may not be achieved at the Lowell Dam until 1986, according to FWS, which would make 1987 the recommended date for the Kelley's Falls Project. The Applicant stated that it would install fish passage facilities at the Kelley's Falls Dam as recommended by FWS. Article 26 is included to ensure that fish passage facilities are constructed at the Kelley's Falls Project.

Cultural Resources

Construction of the Kelley's Falls Dam was completed in 1916, and there is no record of any major modification to the dam or intake structures since then. The present powerhouse was completed in 1926/27. The New Hampshire State Historic Preservation Officer (SHPO) noted that the dam and related structures may qualify for the National Register of Historic Places. The SHPO recommended that the Applicant cooperate with his office to identify significant cultural resources, mitigate any adverse impacts of project construction or operation on significant resources, and ensure compliance with applicable laws and regulations. The Applicant stated that it intends to cooperate with the SHPO. Article 27 ensures cooperation and compliance with the SHPO's concerns.

Other Environmental Considerations

The project would result in minor short-term turbidity, noise, and visual impacts from renovation activities. No known Federally listed endangered or threatened species would be affected by the proposed project.

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On the basis of the record, and the Commission staff's independent analysis, it is concluded that issuance of a license for the project as conditioned does not constitute a major Federal action significantly affecting the quality of the human environment.

#### Other Aspects of Comprehensive Development

The Piscataquog Reservoir at normal maximum water surface elevation 160.75 feet would have 1,350 acre-feet of storage, would extend 2.0 miles upstream, and would have approximately 130 acres of surface area, assuming that the reconstructed 2.75-foot-high flashboards are in place.

The average flow of the Piscataquog River at Kelley's Falls Dam is estimated to be 324 cfs. The hydraulic capacity of the project with the proposed new generating facilities would be 320 cfs. A flow of 320 cfs would be exceeded about 34 percent of the time. The plant would operate approximately 75 percent of the time at full or reduced output under a rated head of 22.0 feet.

The Planning Status Report for the Merrimack River Basin has been reviewed, and based thereon it is concluded that the Kelley's Falls Project is not in conflict with any planned or potential development in the basin for beneficial uses. Upon compliance with the terms and conditions of this license, the proposed redevelopment will make good use of the flow and fall of the Piscataquog River and is therefore best adapted to the comprehensive development of the basin.

#### License Term

The proposed development of this project using an existing dam is similar to relicensing an existing licensed project at which a moderate amount of new development is proposed; therefore, consistent with the Commission's policy, a 40-year license term is reasonable in this instance. 4/

#### It is ordered that:

(A) This license is issued to Hydro Resources Corporation (Licensee), of Manchester, New Hampshire, under Part I of the Federal Power Act (Act), for a period of 40 years, effective the first day of the month in which this order is issued, for the construction, operation, and maintenance of the Kelley's Falls Project No. 3025, located in Hillsborough County, New Hampshire,

4/ See The Village of Lyndonville Electric Department, 7 PERC 161,324 (1979).

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on the Piscataquog River, and affecting the interests of interstate or foreign commerce. This license is subject to the terms and conditions of the Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the Act.

(B) The Kelley's Falls Project No. 3025 consists of:

(1) All lands, to the extent of the Licensee's interests in those lands, constituting the project area. The project area is shown and described by certain exhibits that form part of the application for license and that are designated and described as:

Exhibit A - Sections 3.1 through 3.7 of the application filed on October 9, 1980.

<u>Exhibit</u>	<u>PERC No. 3025-</u>	<u>Showing</u>
R-1	1	Site Plan & Location Plan
R-2	2	Site Location Plan
<p>(2) Project works consisting of: (1) a concrete gravity dam 250 feet long and 31 feet high, including an ogee spillway section 192 feet long and 21 feet high at a spillway crest elevation 158 feet m.s.l. with provisions for the addition of 2.75-foot-high flashboards; (2) a reservoir with surface area of 129 acres and a storage capacity of 1,350 acre-feet at a normal water surface elevation of 158 feet m.s.l.; (3) a headgate/intake structure 28 feet wide at the north abutment; (4) a composite steel and concrete penstock, 11 feet in diameter and 65 feet long; (5) a powerhouse containing one generating unit having an installed capacity of 450 kw; (6) a discharge basin; (7) generator leads; (8) transformer equipment; (9) an underground 12-kV transmission line 375 feet long; and (10) appurtenant facilities.</p>		

The location, nature, and character of these project works are generally shown and described by the exhibits cited above and more specifically shown and described by a certain other exhibit that also form a part of the application for license and that is designated and described as:

<u>Exhibit</u>	<u>PERC No. 3025-</u>	<u>Showing</u>
L-1	3	Plan, Section & Elevation
L-2	4	Existing Structure, Section & Elevation

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Exhibit	FERC No. 3025-	Showing
L-3	5	Existing Structure, Plan & Elevation
L-4	6	Proposed Installations, Sections

(3) All of the structures, fixtures, equipment, or facilities used or useful in the operation or maintenance of the project and all portable property that may be employed in connection with the project, as approved by the Commission, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) Exhibits A, K and L, designated in ordering paragraph (B) above, are approved and made a part of the license.

(D) Pursuant to Section 10(i) of the Act, it is in the public interest to waive the following Sections of Part I of the Act, and they are excluded from the license:

Section 4(b), except the second sentence; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act that are waived here; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 14, except insofar as the power of condemnation is reserved; 15; 16; 19; 20; and 22.

(E) This license is also subject to Articles 1 through 18 except Article 15, set forth in Form L-15 (revised October 1975), entitled "Terms and Conditions of License for Unconstructed Minor Project Affecting the Interests of Interstate or Foreign Commerce," attached to and made a part of this license. The license is also subject to the following additional articles:

Article 19. The Licensee shall clear and keep clear to an adequate width all 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 result from maintenance, operation, or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operation of the project shall be removed. All clearing of lands and disposal of unnecessary material shall be done with due diligence to the satisfaction of the authorized representatives of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

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Article 20. The Licensee shall commence construction of the proposed project within 2 years from the issuance date of the license and shall complete construction within 4 years from the issuance date of the license.

Article 21. The Licensee shall file with the Commission's Regional Engineer and the Director, Office of Electric Power Regulation, one copy each of the final contract drawings, specifications and final design report for pertinent features of the project, such as water retention structures, powerhouses, and water conveyance structures, at least 60 days prior to start of construction. The Director, Office of Electric Power Regulation may require changes in the plans and specifications to assure a safe and adequate project.

Article 22. The Licensee shall review and approve the design of contractor-designed cofferdams and deep excavations prior to the start of construction and shall ensure that construction of cofferdams and deep excavations are consistent with the approved design. At least 30 days prior to start of construction of the cofferdam, the Licensee shall file with the Commission's Regional Engineer and Director, Office of Electric Power Regulation, one copy of the approved cofferdam construction drawings and specifications and a copy of the letter(s) of approval.

Article 23. The Licensee shall within 90 days of completion of construction file for approval by the Director, Office of Electric Power Regulation, revised Exhibits A, F, and G to describe and show the project as-built.

Article 24. The Licensee shall investigate the conditions of the foundation of the spillway section of the dam and file a plan and schedule for repair of the dam and adjacent structures, utilizing the results of the foundation investigations, with the Commission's New York Regional Office and the Director, Office of Electric Power Regulation, 60 days prior to start of construction.

Article 25. The Licensee shall discharge from the Kelley's Falls Project an interim continuous minimum flow as measured immediately downstream from the project powerhouse, of 45 cubic feet per second, or the inflow to the reservoir, whichever is less, for the protection of fish, wildlife, and recreational resources during the minimum flow study described herein. Interim minimum flows shall be maintained by Licensee until alternative minimum flow requirements are approved by the Commission. Interim minimum flows may be temporarily modified if required by operating emergencies beyond the control of the Licensee, and for short periods for fishery management purposes or as required for instream flow study upon mutual agreement between Licensee and the New Hampshire Fish and Game Department.

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Licensee shall, after consultation with the Parks and Recreation Department of the City of Manchester, the New Hampshire Fish and Game Department, Water Supply and Pollution Control Commission, and Water Resources Board, and the U.S. Fish and Wildlife Service, develop an instream flow study plan to determine: (1) the relationship between project discharges and downstream aquatic and terrestrial habitat; (2) the habitat requirements by life history stage of important aquatic organisms currently found in the reach affected by project discharges, and aquatic organisms planned for introduction; and (3) the effects of project discharges on recreational uses of the Piscataquog River. Within 4 months from the date of issuance of this license, Licensee shall file, with copies to the agencies consulted, the instream flow study plan, and schedule for study completion, with the Commission for approval. Documentation of agency consultation on the study plan shall be included in the filing.

Licensee shall conduct the instream flow study as approved by the Commission. Within 3 years from the date of issuance of this license, Licensee shall file, with copies to the agencies consulted, both a report on the results of the study and, for Commission approval, recommendations for minimum flow releases from the project. Documentation of agency consultation on the report and recommendations shall be included in the filing.

Article 26. The Licensee shall, not later than 6 months after the date of issuance of this license, file for Commission approval functional design drawings of upstream and downstream fish passage facilities at the Kelley's Falls Dam, prepared in consultation with the U.S. Fish and Wildlife Service and the New Hampshire Fish and Game Department. Licensee shall provide upstream and downstream fish passage facilities within 1 year after completion of fish passage facilities at the downstream Lowell Project, FERC Project No. 2790. Further, Licensee shall file with the Commission within 6 months after construction of the Kelley's Falls Project fish passage facilities, as-built drawings.

Article 27. The Licensee shall, within 6 months from the date of issuance of this license, or prior to the commencement of renovation work at the project, whichever comes first, in cooperation with the New Hampshire State Historic Preservation Officer (SHPO) design and carry out a study to identify, describe, and assess the significance of cultural resources within the project boundary. This study shall be conducted by professional archeologists and historians in a manner satisfactory to the SHPO, and shall identify and evaluate sites or properties that may be eligible for the National Register of Historic Places. The Licensee shall provide funds in a reasonable amount for any such activities, and if the Licensee and the SHPO cannot agree

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on the amount of money to be expended, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary. Within 8 months from the date of issuance of the license, or prior to the commencement of renovation work at the project, whichever comes first, the Licensee shall file a report on the results of this study with the Commission and the SHPO describing the nature and extent of the work performed, summarizing the findings related to cultural resources, and recommending measures for the protection of any significant cultural resource properties.

Article 28. The Licensee shall continue to consult and cooperate with the New Hampshire Fish and Game Department, the Water Supply and Pollution Control Commission, the New Hampshire Water Resources Board, and the U.S. Fish and Wildlife Service for the protection and development of the environmental resources and values of the project area. The Commission reserves the right to require changes in the project works or operations that may be necessary to protect and enhance those resources and values.

Article 29. The Licensee shall pay the United States the following annual charges, effective the first day of the month in which this license is issued:

For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 600 horsepower.

Article 30. (a) In accordance with the provisions of this article, the Licensee shall 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 other 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 shall also have continuing responsibility to supervise and control the uses 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

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article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types 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 watercraft at a time where said facility is intended to serve single-family type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses 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 shall: (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 reservoir 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 and roads for which 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-kV or less); and (8) water intake or pumping

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facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies 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.

(d) The Licensee may convey fee titles 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 certificates 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 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or 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 the edge of the project reservoir at normal maximum 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 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Electric Power Regulation, 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 or K 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 Director, 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 paragraphs (c) or (d) of this article:

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

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall 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.

(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 or K 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 shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(F) The Licensee's failure to file a petition appealing this order to the Commission shall constitute acceptance of this license. In acknowledgment of acceptance of this order and its terms and conditions, it shall be signed by the Licensee and returned to the Commission within 60 days from the date this order is issued.

*Robert E. Anderson*  
for Lawrence R. Anderson  
Director, Office of Electric  
Power Regulation

Project No. 3025-001

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Hydro Resources Corporation, this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, has caused its corporate name to be signed hereto by \_\_\_\_\_ its \_\_\_\_\_ President, and its corporate seal to be affixed hereto and attested by \_\_\_\_\_ its Secretary, pursuant to a resolution of its Board of Director duly adopted on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, a certified copy of the record of which is attached hereto.

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

(Executed in quadruplicate)

*The State of New Hampshire*

## COMMISSIONERS

ROBERT J. HILL, Chairman  
 J. WILLCOX BROWN, Vice Chairman  
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 WAYNE L. PATENAUDE  
 RONALD F. POLTAK  
 ROBERT M. SNOW



## STAFF

WILLIAM A. HEALY, P.E.  
 Executive Director

RICHARD P. GROSSMAN, P.E.  
 Deputy Executive Director and  
 Chief Engineer

*Water Supply and Pollution Control Commission*  
*Hazen Drive — P.O. Box 95*  
*Concord, N.H. 03301*

August 21, 1980

Mr. Morgan R. Rees  
 Chief, Regulatory Branch  
 Operations Division  
 Department of the Army  
 New England Division  
 Corps of Engineers  
 424 Trapelo Road  
 Waltham, Massachusetts 02154

Attention: NEDOD

Dear Mr. Rees:

Subject: REQUEST BY EAST COAST ENGINEERING TO REPAIR DAM AND POWERHOUSE AT KELLEY'S FALLS FOR THE REACTIVATION OF THE HYDROELECTRIC FACILITY, ELECTRIC STREET, PISCATAQUOG RIVER, MANCHESTER, NEW HAMPSHIRE

This will certify that on review of the subject request, the Commission has determined that the project described in the request will be in conformance with applicable New Hampshire laws and that, to the best of its knowledge, no federal limitation applicable to the proposed project has been established under sections 301(b), 302, 306 or 307 of the Federal Water Pollution Control Act (P.L. 92-500), as amended to date. This certification is furnished pursuant to sections 401(a)(1) and 401(d) of the Act, and included herewith and made a part hereof are state permits issued pursuant to NHRSA 149:8-a (supp) and NHRSA 483-A (supp).

Very truly yours,

Terrence P. Frost, Director  
 Permits and Enforcement and  
 Chief Aquatic Biologist

TPF/csc

Enclosures

cc: Mr. W. J. Naulty, USCG  
 Mr. Russell A. Nylander, NHWS&PCC  
 Mr. Paul L. Heirtzler, NHWS&PCC  
 East Coast Engineering, Attention: George E. Sansoucy  
 Hydro Research Corporation

*The State of New Hampshire*

## COMMISSIONERS

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 J. WILLCOX BROWN, Vice Chairman  
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 PAUL T. DOHERTY  
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 MAYNARD H. MIRES, M.D., M.P.H.  
 WAYNE L. PATENAUDE  
 RONALD F. POLTAK  
 ROBERT M. SNOW



## STAFF

WILLIAM A. HEALY, P.E.  
 Executive Director

RICHARD P. GROSSMAN, P.E.  
 Deputy Executive Director and  
 Chief Engineer

*Water Supply and Pollution Control Commission*  
*Hazen Drive — P.O. Box 95*  
*Concord, N.H. 03301*

August 7, 1980

Hydro Resources Corporation  
 P.O. Box 240, 83 Bay Street  
 Manchester, New Hampshire 03105

Subject: REQUEST TO REPAIR DAM AND POWERHOUSE AT KELLEY'S FALLS FOR THE REACTIVATION OF THE HYDROELECTRIC FACILITY, ELECTRIC STREET, PISCATAQUOG RIVER, MANCHESTER, NEW HAMPSHIRE

Dear Sirs:

Subject request has been duly considered and is hereby approved pursuant to RSA 149:8-a.

This permit is valid for two years from the date of issue under the following conditions:

1. There shall be no interference with water supplies or fish and other aquatic life; and
2. There shall be no lowering of the Class B water quality classifications assigned by the legislature.

Very truly yours,

Terrence P. Frost  
 Chief Aquatic Biologist &  
 Director of Subsurface Systems

TPF/DSD/csc

cc: Mr. George McGee, Sr.  
 Mr. Dudley S. Dean  
 Mr. David J. Allain

**63,268**

Cited as "40 FERC ¶ . . . ."

353 10-22-87

the DFG, and the licensee, should be included in the filing requirements discussed below. With respect to calibration of fish ladder discharges, the staff believes that the use of elevational increments of 6 inches would provide for adequate discharge calibration. In regard to the DFG's recommendation for sample size of tagged fish, there is no substantive basis to support a target of 200 control-tagged fish. However, the staff concurs that the use of greater numbers of control-tagged fish is appropriate, and that a target of 200 is reasonable. The attainment of this target may be realized as the staff was informed that the DFG will provide a fish capture weir to assist in the capture of salmon and steelhead for these studies.

The licensee proposes to file the monitoring study results and appropriate recommendations as part of the article 39 filing requirements. This would provide for the integration of the fishway monitoring results and the results of the article 39 studies to monitor the effects of flow releases and of the temperature regime on the fishery resources.

The licensee should file with the Commission annual reports on the progress of its fishway monitoring studies, as proposed by the licensee.

*The Director orders:*

(A) The monitoring study plan filed on April 23, 1987, and supplemented on June 22, 1987, is approved.

(B) The results of the study to monitor the effectiveness of the modifications to the upstream fish passage facilities shall be filed pursuant to the filing requirements of article 39.

(C) The licensee shall file with the Commission, on or before April 30 of each year, an annual report, pursuant to article 39, that describes the progress of the fish passage facility monitoring studies that have occurred to date, including any changes in the study plan.

(D) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

[¶ 62,166]

**Citizens Utilities Company, Project No. 2306-004****Order Approving Change in Land Rights****(Issued August 13, 1987)****Dean L. Shumway, Director, Division of Environmental Analysis.**

Citizens Utilities Company, licensee for the Clyde River Project, FERC Project No. 2306, filed an application dated July 22, 1987, for approval to grant an easement to the City of Newport, Vermont. The easement includes a 335-square-foot parcel approximately 500 feet downstream of the Newport Dam.

The proposed easement would be used to accommodate the rebuilding and repair of the bridge located approximately 500 feet downstream of the Newport Dam. The bridge was recently condemned by the State of Vermont.

Staff has reviewed this application in consultation with the Vermont Division for Historic Preservation, Vermont Department of Fisheries, and U.S. Fish and Wildlife Service.

Granting of the easement will not affect operation of the project. Any adverse environmental impacts will be minor and of short duration.

*The Director orders:*

(A) Citizens Utilities Company is authorized to grant the easement described in the filing dated July 22, 1987.

(B) Citizens Utilities Company shall file with the Commission a copy of the easement agreement within 60 days of its execution.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

[¶ 62,167]

**Consolidated Hydro New Hampshire, Inc., Project No. 3025-006****Order Amending Article 26****(Issued August 13, 1987)****Dean L. Shumway, Director, Division of Environmental Analysis.****¶ 62,165****Federal Energy Guidelines**  
001-45

On June 29, 1987, Consolidated Hydro New Hampshire, Inc. (licensee) filed an application for amendment of the license, issued on April 24, 1984 [27 FERC ¶ 62,082], for the Kelley's Falls Project. Specifically, the licensee proposes to modify article 26, which currently requires the licensee to file functional design drawings of upstream and downstream fish passage facilities for the Kelley's Falls Dam. The proposed amendment to article 26 would require the licensee to do the following: (1) file functional design drawings of upstream and permanent downstream fish passage facilities within 18 months after the date of issuance of the amendment, for Commission approval, and to provide these facilities within 2 years of the passage of 15,000 American shad at Amoskeag Dam, FERC Project No. 1893; (2) provide interim downstream passage for juvenile clupeids and Atlantic salmon via a stoplog bay at the dam; and (3) develop and conduct a study to monitor the effectiveness of the permanent downstream fish passage facility for passing juvenile clupeids and Atlantic salmon.

Comment letters on the proposed amendment were received from several agencies. The Massachusetts Division of Fisheries and Wildlife (DFW), New Hampshire Fish and Game Department (FGD), U.S. Fish and Wildlife Service (FWS), and U.S. Forest Service (FS) generally concur with the proposed amendment in letters dated June 18, May 29, June 17, and June 2, 1987, respectively. The FWS requests that the revised license article require the licensee to file, no later than 1 year from the date of issuance of the amendment, functional design drawings of upstream and permanent downstream fish passage facilities for approval by the FWS and FGD; the licensee incorporated this recommendation into its amendment.

The proposed amendment to article 26 is consistent with the trigger number of 15,000 American shad passed at Amoskeag Dam on the Merrimack River identified in the June 10, 1986 agreement among Public Service of New Hampshire and the resource agencies, entitled, "A comprehensive plan for provision of anadromous fish passage measures and facilities at PSNH's Merrimack—Pemigewasset River Hydroelectric Dams, FERC Project Nos. 1893, 2456, and 2457." The proposed monitoring study, however, addresses only the downstream fish passage facilities and does not include a provision for Commission approval of the study plan. The study plan should address upstream facilities, as well, to ensure proper operation of these facilities. Further, the requirement for Commission approval of the monitoring study

plan would provide a mechanism to resolve differences between the licensee and agencies in development of the plan. In addition, consultation with the DFW, FS, Massachusetts Division of Marine Fisheries, and National Marine Fisheries Service should be included in consultation requirements to reflect these agencies' involvement in the restoration of anadromous fishes to the Merrimack River Basin.

With respect to the request of FWS to require approval of the functional design drawings of fish passage facilities by FWS and FGD, the Commission ultimately retains approval authority. However, opportunity for the appropriate agencies to consult with the licensee and to provide comments on the various filing requirements of the amended article is provided.

Implementation of the provisions of the amendment to article 26, approved herein, would adequately provide for the safe and efficient upstream and downstream passage of anadromous fish in the Piscataquog River, and would facilitate the anadromous fish restoration program for the Merrimack River Basin.

*The Director orders:*

(A) Article 26 of the license for the Kelley's Falls Project, FERC Project No. 3025, is amended as follows:

(1) The licensee shall file, within 1 year from the date of issuance of this order, functional design drawings of upstream and permanent downstream fish passage facilities for the Kelley's Falls Project for Commission approval. The drawings shall be prepared after consultation with the New Hampshire Fish and Game Department, Massachusetts Division of Fisheries and Wildlife, Massachusetts Division of Marine Fisheries, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and U.S. Forest Service. The filing shall include documentation of agency consultation and agency comments on the functional design drawings. The Commission reserves the right to require changes in the drawings. The licensee shall provide the approved upstream and permanent downstream fish passage facilities for the spring runs of the second year following the annual upstream passage of 15,000 American shad at the nearby Amoskeag Dam on the Merrimack River, FERC Project No. 1893. The licensee shall file as-built drawings with the Commission within 6 months after completion of construction of the fish passage facilities.

(2) The licensee shall provide a stoplog bay at the Kelley's Falls Dam for the

interim downstream passage of juvenile clupeids and Atlantic salmon until permanent downstream fish passage facilities are constructed. The interim downstream passage facility shall be operational for the fall of 1987 but shall be operated only during October through mid-November of any year when 200 or more American shad have been transported to the Kelley's Falls impoundment. In addition, the interim downstream passage facility shall be operated from mid-March through mid-June of each year for juvenile Atlantic salmon.

(3) The licensee shall develop, after consultation with the aforementioned agencies, a study plan to monitor the effectiveness of the upstream fish passage facilities for passing adult clupeids and Atlantic salmon and the effectiveness of the permanent downstream fish passage facilities for passing juvenile clupeids and Atlantic salmon, and a schedule for

conducting the study. Within 1 year of the annual upstream passage of 15,000 American shad at Amoskeag Dam, the licensee shall file the study plan and schedule. The Commission reserves the right to require changes in the study plan and schedule. The licensee shall conduct the monitoring study according to the approved schedule. Within 6 months after the completion of the study, the licensee shall file a report on the results of the study, and, for Commission approval, any recommendations for modifications to the upstream and downstream fish passage facilities or their operation. The filing shall include comments from the consulted agencies on the study results and on any recommended modifications.

(B) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

[¶ 62,168]

**Viking Energy of Lincoln Limited Partnership, Small Power Production and Cogeneration Facilities—Qualifying Status, Docket No. QF84-349-005**

**Order Granting Application for Recertification as a Qualifying Small Power Production Facility**

(Issued August 13, 1987)

**Edward J. Fowlkes, Director, Division of Interconnection and Systems Analysis.**

On May 14, 1987, Viking Energy of Lincoln Limited Partnership (Applicant) of Midland, Michigan, filed an application with the Federal Energy Regulatory Commission (Commission) for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.<sup>1</sup> Notice of the application was published in the *Federal Register* on June 9, 1987.<sup>2</sup> No protests or petitions to intervene have been filed.

The original application for certification as a qualifying small power production facility was filed on May 10, 1984 and noticed in the *Federal Register* on June 19, 1982.<sup>3</sup> No protests or petitions to intervene were filed and the application was granted on August 8, 1984 [28 FERC ¶ 62,201]. Through successive reorganizations, ownership of the facility was transferred to Viking Energy of Lincoln Limited Partnership.

Under the instant application, recertification is sought due to a decrease in the net electric power production capacity of the facility from 18.5 MW to 16.3 MW.

Natural gas will be used for start-up purposes; however, such use will not exceed 9% of the total annual energy input of the facility during any calendar year period. In addition, wood will be burned in a travelling grate steam generator instead of a two-stage burner. Installation of the facility is expected to begin during 1987. Applicant owns no other facility which is located within one mile of the proposed facility and which uses the same energy source. The facility thus meets the criteria set out in § 292.204 of the Commission's regulations.

No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility. The facility thus satisfies the criteria set forth in § 292.206 of the Commission's regulations.

*It is found that:*

The small power production facility, as described in the application submitted by Viking Energy of Lincoln Limited Partnership, meets the requirements established in § 292.203(a) of the Commission's regulations

¶ 62,167

TAYLOR  
File License

## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
ECOLOGICAL SERVICES  
P.O. BOX 1518  
CONCORD, NEW HAMPSHIRE 03301

REF: FERC No. 3025

DEC 28 1984

Ms. Pamela A. Holman  
Power Technics, Inc.  
P.O. Box 1469  
Dover, New Hampshire 03820

Dear Ms. Holman:

This responds to your November 15, 1984 letter regarding instream flow studies at the Kelley's Falls hydroelectric project, located on the Piscataquog River in Goffstown, New Hampshire.

We understand that the Licensee (Hydro Resources Corp.) is now proposing to permanently release an instantaneous instream flow from this project of at least 45 cfs or inflow to the project area, whichever is less. This flow would be equal to that which we and the New Hampshire Fish and Game Department recommended during earlier consultation. We still believe that 45 cfs will adequately protect downstream aquatic habitat. Therefore, we endorse your current proposal. Furthermore, we will not object to the FERC waiving the requirement for instream flow studies as a result of your acceptance of our previous recommendation.

If you have any questions, please contact Mr. Gordon Russell, of my staff, at (603) 224-2585.

Sincerely yours,

Gordon E. Beckett  
Supervisor  
New England Field Office

NOV 27 1987

*Kelley's Falls  
Licensing*

## State of New Hampshire

## WATER RESOURCES BOARD

37 Pleasant Street  
Concord, N.H. 03301  
TELEPHONE 271-3406



November 20, 1984

Ms Pamela A. Holman, Agent  
Power Technics, Inc.  
190 Charles Street  
Rochester, NH 03867

Re: Kelley Falls Hydro #150.02H, Instream Flow Study

Dear Ms Holman:

This correspondence is to acknowledge receipt of yours regarding the referenced topic. The engineering staff advises me that your proposal to accept the offer made by Gordon Russell of the U. S. Fish and Wildlife Service is acceptable based on the following two conditions.

1. The Service is to formally recommend the 45 cfs or inflow whichever is less stipulation to the Commission in lieu of requiring the instream flow study as itemized in Article 25 of the License.
2. That the Exempted project only 6 miles known as Gregg Falls (#3180) is required to pass minimum flow of 20 cfs or inflow whichever is less.

If you have any questions or need additional comments please contact us.

Sincerely yours,

A handwritten signature in cursive that reads "Delbert F. Downing".

Delbert F. Downing  
Chairman

GLK/bhl

JUN 12 1984

Tom HOSBY  
File License

## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
ECOLOGICAL SERVICES  
P.O. BOX 1518  
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If you have any questions, please contact Mr. Gordon Russell, of my staff, at (603) 224-2585.

Sincerely yours,

Gordon E. Beckett  
Supervisor  
New England Field Office

150 FERC ¶ 62,210  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Ada County, Idaho	Project Nos. 2416-027, 2428-006,
Aquenergy Systems, Inc.	2788-016, 2800-044, 2880-012, 2883-
Barnet Hydro Company	006, 3025-025, 3189-047, 3511-021,
Big Wood Canal Company	4114-056, 4428-007, 4881-025, 5261-
BP Hydro Associates	020, 5702-016, 6058-020, 6059-019,
Cherokee Falls Hydroelectric Project, LLC	6115-014, 7153-016, 7186-048, 8909-
Consolidated Hydro New York, Inc.	025, 10253-029, 10254-024,
Consolidated Hydro New Hampshire, Inc.	10898-014, and 11163-046
Consolidated Hydro Southeast, Inc.	
Dietrich Drop Hydro, LLC	
Essex Company	
Fowler Hydro, LLC	
Fulcrum, Inc.	
Goodyear Lake Hydro, LLC	
Hydro Development Group Inc.	
Hydro Development Group Acquisition, LLC	
Kelley's Falls, LLC	
Lawrence Hydroelectric Associates	
Lower Saranac Corporation	
Lower Saranac Hydro, LLC	
Lower Saranac Hydro Partners, L.P.	
Missisquoi Associates	
Newbury Hydro Company	
Pelzer Hydro Company, Inc.	
Pyrites Associates	
Pyrites Hydro, LLC	
Rock Creek L.P.	
Salmon Falls Hydro, LLC	
Sweetwater Hydroelectric, Inc.	
Walden Hydro, LLC	

ORDER APPROVING TRANSFER OF LICENSES

(Issued March 27, 2015)

1. On January 26, 2015, a joint application for transfer of licenses was filed to include the projects listed in the below table. The Applicants consist of the existing licensees for the Projects together with the proposed license transferees. Each Applicant

is an indirect subsidiary of Enel Green Power North America, Inc. (Enel Green Power)<sup>1</sup> with the exception of Ada County, Idaho (Ada County) and Big Wood Canal Company (Big Wood). Ada County is the co-licensee of Project No. 4881 with Fulcrum Inc., a subsidiary of Enel Green Power. Big Wood is the co-licensee of Project No 8909 with BP Hydro Associates, a subsidiary of Enel Green Power.<sup>2</sup>

CONVERSIONS OF LICENSEE TO A LIMITED LIABILITY COMPANY

PROJECT(S)	TRANSFEROR (Existing Licensee or Co-Licensee)	TRANSFeree (NEW LICENSEE OR CO-LICENSEE)	ACTION
Cherokee Falls P-2880 Fries P-2883 Piedmont P-2428	Aquenergy Systems, Inc.	Aquenergy Systems, LLC	Conversion to limited liability company
Barnet P-5702	Barnet Hydro Company	Barnet Hydro Company, LLC	Conversion to limited liability company
Kelley's Falls P-3025 South Berwick (Salmon Falls) P-11163	Consolidated Hydro New Hampshire, Inc.	Consolidated Hydro New Hampshire, LLC	Conversion to limited liability company
Walden P-4428 Victory Mills P-7153	Consolidated Hydro New York, Inc.	Consolidated Hydro New York, LLC	Conversion to limited liability company
Lower Pelzer P-10253 Upper Pelzer P-10254	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, LLC	Conversion to limited liability company
Lawrence P-2800	Essex Company	Essex Company, LLC	Conversion to limited liability company
Barber Dam P-4881	Fulcrum, Inc.	Fulcrum, LLC	Conversion to limited liability company
Lower Saranac P-4114	Lower Saranac Hydro Partners, L.P.	Lower Saranac Hydro Partners, LLC	Conversion to limited liability company

<sup>1</sup> Enel Green Power is a wholly owned subsidiary of Enel Green Power SpA. Enel Green Power is a well-capitalized, publicly traded company.

<sup>2</sup> Ada County and Big Wood joined in the transfer application for purposes of indicating their lack of objection to the applicable license transfers, with the understanding that Ada County and Big Wood retain their respective interests in their Project licenses.

Project Nos. 2416-027, *et al.*

- 3 -

Sheldon Springs P-7186	Missisquoi Associates	Missisquoi, LLC	Conversion to limited liability company
Newbury P-5261	Newbury Hydro Company	Newbury Hydro Company, LLC	Conversion to limited liability company
Lower Pelzer P-10253 Upper Pelzer P-10254	Pelzer Hydro Company, Inc.	Pelzer Hydro Company, LLC	Conversion to limited liability company
Rock Creek P-3189	Rock Creek L.P.	Rock Creek Hydro, LLC	Conversion to limited liability company
Sweetwater P-10898	Sweetwater Hydroelectric, Inc.	Sweetwater Hydroelectric, LLC	Conversion to limited liability company

MERGER OF TRANSFEROR INTO TRANSFEREE WITH TRANSFEREE SURVIVING

PROJECT(S)	TRANSFEROR (Existing Licensee or Co-Licensee)	TRANSFEREE (New Licensee or Co-Licensee)	ACTION
Fowler #7 P-6059 Colliersville P-2788 Hailesboro #4 P-6058	Hydro Development Group Inc.	Hydro Development Group Acquisition, LLC	Merger of Transferor into Transferee with Transferee surviving
Lawrence P-2800	Lawrence Hydroelectric Associates	Essex Company, LLC	Merger of Transferor into Transferee with Transferee surviving
Groveville P-3511	Lower Saranac Corporation	Lower Saranac Hydro, LLC	Merger of Transferor into Transferee with Transferee surviving

TRANSFER OF PROJECT ASSETS TO A NEWLY FORMED LIMITED LIABILITY COMPANY

PROJECT(S)	TRANSFEROR (Existing Licensee or Co-Licensee)	TRANSFeree (New Licensee or Co-Licensee)	ACTION
Cherokee Falls P-2880	Aquenergy Systems, LLC	Cherokee Falls Hydroelectric Project, LLC	Transfer of Project assets to Transferee
Dietrich Drop P-8909	BP Hydro Associates	Dietrich Drop Hydro, LLC	Transfer of Project assets to Transferee
Kelley's Falls P-3025	Consolidated Hydro New Hampshire, LLC	Kelley's Falls, LLC	Transfer of Project assets to Transferee
South Berwick (Salmon Falls) P-11163	Consolidated Hydro New Hampshire, LLC	Salmon Falls Hydro, LLC	Transfer of Project assets to Transferee
Walden P-4428	Consolidated Hydro New York, LLC	Walden Hydro, LLC	Transfer of Project assets to Transferee
Fowler #7 P-6059	Hydro Development Group Acquisition, LLC	Fowler Hydro, LLC	Transfer of Project assets to Transferee
Pyrites P-6115	Pyrites Associates	Pyrites Hydro, LLC	Transfer of Project assets to Transferee
Colliersville P-2788	Hydro Development Group Acquisition, LLC	Goodyear Lake Hydro, LLC	Transfer of Project assets to Transferee

**BACKGROUND**

2. For P-2416, Ware Shoals Plant Project (also known as Ware Shoals Hydroelectric Project), located on the Saluda River, Greenwood, Laurens, & Abbeville counties, SC.

The Commission issued a 25-year license to Riegel Textile Corporation on October 6, 1976.<sup>3</sup> By order dated October 3, 1988,<sup>4</sup> the Commission approved the

<sup>3</sup> 56 F.P.C. 2078, Order Issuing Major License.

<sup>4</sup> 45 FERC ¶ 62,001, Order Approving Transfer of License.

transfer of license to Aquenergy Systems, Inc. The Commission issued a 30-year license to Aquenergy Systems, Inc. on April 4, 2002.<sup>5</sup>

3. For P-2428, Piedmont Plant (also known as Piedmont Hydroelectric Project), located on the Saluda River, Anderson & Greenville counties, SC.

The Commission issued a license on September 23, 1970,<sup>6</sup> for a period effective January 1, 1938, and terminating on December 31, 1987, to J. P. Stevens & Company. By order dated January 20, 1983,<sup>7</sup> the Commission approved the transfer of license to Aquenergy Systems, Inc. The Commission issued a 30-year license Aquenergy Systems, Inc. on September 9, 1986.<sup>8</sup>

4. For P-2788, Colliersville Hydroelectric Project, located on the North Br. Susquehanna River, Otsego County, NY.

The Commission issued a 40-year license to F. W. E. Stapenhorst, Inc. on March 13, 1979.<sup>9</sup> By order issued May 31, 1991,<sup>10</sup> the Commission approved the transfer of license to Hydro Development Group, Inc.

5. For P-2800, Lawrence Hydroelectric Project, located on the Merrimack River, Essex County, MA.

The Commission issued a license on August 4, 1978,<sup>11</sup> to Lawrence Hydroelectric Associates and Essex Company effective December 1, 1978 and terminating November 20, 2028.

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<sup>5</sup> 99 FERC ¶ 62,019, Order Issuing New Major License.

<sup>6</sup> 44 F.P.C. 1041, Order Issuing License (Minor).

<sup>7</sup> 22 FERC ¶ 62,079, Order Approving Transfer of License (Minor).

<sup>8</sup> 36 FERC ¶ 62,284, Order Issuing New License (Minor Project).

<sup>9</sup> 6 FERC ¶ 61,223, Order Issuing License (Minor).

<sup>10</sup> 5 FERC ¶ 61,202, Order Issuing Major License and Authorizing Negotiations for Sale of Securities.

<sup>11</sup> 32 F.P.C. 584, Order Issuing License (Major).

6. For P-2880, Cherokee Falls Project, located on the Broad River, Cherokee County, SC.

The Commission issued a 40-year license to Broad River Electric Cooperative on August 3, 1981.<sup>12</sup> By order issued July 12, 1983,<sup>13</sup> the Commission approved the transfer of the license to add Cherokee Falls Associates as co-licensee. By order dated July 19, 2013,<sup>14</sup> the Commission approved the transfer of License to Aquenergy Systems, Inc.

7. For P-2883, Fries Hydroelectric Project, located on the New River, Grayson County, VA.

The Commission issued a 40-year license on June 10, 1980,<sup>15</sup> to Fries Textile Company. By order issued October 28, 1968,<sup>16</sup> the Commission approved the transfer of the license to Aquenergy Systems, Inc.

8. For P-3025, Kelley's Falls Project, located on the Piscataquog River, Hillsborough County, NH.

The Commission issued a 40-year license on April 24, 1984,<sup>17</sup> to Hydro Resources Corporation. By order dated June 23, 1987,<sup>18</sup> the Commission approved the transfer of license to Consolidated Hydro New Hampshire, Inc.

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<sup>12</sup> 16 FERC ¶ 62,168, Order Issuing License (Major).

<sup>13</sup> 89 FERC ¶ 62,188, Order Approving Transfers of License.

<sup>14</sup> 144 FERC ¶ 62,057, Order Approving Transfer of License.

<sup>15</sup> 11 FERC ¶ 62,197, Order Issuing License (Major) for Constructed Project and For Construction and Operation of Additional Project Works.

<sup>16</sup> 45 FERC ¶ 62,065, Order Approving Transfer of License.

<sup>17</sup> 27 FERC ¶ 62,082, Order Issuing License (Minor).

<sup>18</sup> 39 FERC ¶ 62,352, Order Approving Transfer of License.

9. For P-3189, Rock Creek Project, located on Rock Creek, South Fork American River, El Dorado County, CA.

The Commission issued a 50-year license on April 29, 1983,<sup>19</sup> to Joseph M. Keating. By order dated September 10, 1985,<sup>20</sup> the Commission approved the transfer of license to Rock Creek Limited Partnership.

10. For P-3511, Groveville Power Plant, located on Fishkill Creek and Hudson River, Dutchess County, NY.

The Commission issued a 40-year license on June 4, 1982,<sup>21</sup> to David Goodman and George R. Oligier. By order dated November 23, 1982,<sup>22</sup> the Commission approved the transfer of license to UAH-Groveville Hydro Associates. By order dated October 30, 2000,<sup>23</sup> the Commission approved the transfer of license to Central Hudson Gas & Electric Corporation. By order dated March 13, 2007,<sup>24</sup> the Commission approved the transfer of license to Lower Saranac Corporation.

11. For P-4114, Lower Saranac Project, located on the Saranac River, Clinton County, NY.

The Commission issued a 40-year license on June 26, 1987,<sup>25</sup> to Long Lake Energy Corporation. By order dated February 28, 1989,<sup>26</sup> the Commission approved the transfer of license to Lower Saranac Hydro Partners L.P.

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<sup>19</sup> 23 FERC ¶ 62,070, Order Issuing License (Major).

<sup>20</sup> 32 FERC ¶ 62,566, Order Approving Transfer of License.

<sup>21</sup> 19 FERC ¶ 62,405, Order Issuing License (Minor).

<sup>22</sup> 21 FERC ¶ 62,301, Order Approving Transfer of License.

<sup>23</sup> 45 FERC ¶ 62,211, Order Approving Transfer of License.

<sup>24</sup> 118 FERC ¶ 62,197, Order Approving Transfer of License.

<sup>25</sup> 39 FERC ¶ 61,362, Order Issuing Major License.

<sup>26</sup> 46 FERC ¶ 62,213, Order Approving Transfer of License.

12. For P-4428, Walden Power Project, located on the Walkill and Hudson Rivers, Orange County, NY.

The Commission issued a 40-year license on June 15, 1982,<sup>27</sup> to Walden Power Corporation. By order dated June 18, 1987,<sup>28</sup> the Commission approved the transfer of license to Victory Mills Hydro Company also the license name changed to Consolidated Hydro New York, Inc.

13. For P-4881, Barber Dam Project, located on the Boise, Snake, and Columbia Rivers, Ada County, ID.

The Commission issued a 40-year license on December 23, 1983,<sup>29</sup> to Ada County, City of Boise, and Arthur L. Bloom. By order dated March 24, 1987,<sup>30</sup> the Commission approved the transfer of license from Ada County, City of Boise, and Arthur L. Bloom to Ada County and Fulcrum, Inc.

14. For P-5261, Newbury Project, located on the Wells River, Orange County, VT.

The Commission issued a 40-year license to Newbury Hydro Company on September 8, 1983.<sup>31</sup>

15. For P-5702, Barnet Project, located on the Stevens River, Caledonia County, VT.

The Commission issued a 50-year license to Barnet Hydro Company on August 6, 1982.<sup>32</sup>

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<sup>27</sup> 19 FERC ¶ 62,466, Order Issuing Major License Under 5 MW and Denying Competing Preliminary Permit Application.

<sup>28</sup> 39 FERC ¶ 62,325, Order Approving Transfer of License.

<sup>29</sup> 25 FERC ¶ 62,399, Order Issuing License (Major) Denying Application for Preliminary Permit.

<sup>30</sup> 38 FERC ¶ 62,300, Order approving Transfer of License.

<sup>31</sup> 34 FERC ¶ 62,275, Order Issuing License (Minor) and Denying Competing Preliminary Permit Application.

<sup>32</sup> 20 FERC ¶ 62,229, Order Issuing License (Minor) and Denying Competing Applications for Preliminary Permit.

16. For P-6058, Hailesboro No. 4 Project, located on the Oswegatchie River, St. Lawrence County, NY.

The Commission issued a 50-year license to Hydro Development Group, Inc. on January 10, 1983,<sup>33</sup> effective January 1, 1953. The Commission issued a subsequent license to Hydro Development Group, Inc. on October 30, 2002<sup>34</sup> for a period of 30 years effective January 1, 2003.

17. For P-6059, Fowler No. 7 Project, located on the Oswegatchie River, St. Lawrence County, NY.

The Commission issued a 40-year license to Hydro Development Group, Inc. on November 29, 1982,<sup>35</sup> effective April 1, 1962. The Commission issued a subsequent license to Hydro Development Group, Inc. on October 30, 2002<sup>36</sup> for a period of 30 years.

18. For P-6115, Pyrites Project, located on the Grass River, St. Lawrence County, NY.

The Commission issued a 40-year license to Hydro Development Group, Inc. on September 23, 1983.<sup>37</sup> By order issued May 23, 1985,<sup>38</sup> the Commission approved the transfer of the license from Hydro Development Group, Inc. to Pyrites Associates, a partnership of Hydro Development Group, Inc. and Hydra-Co Enterprise, Inc. By order issued October 3, 2000,<sup>39</sup> the Commission approved the transfer of the license from Pyrites Associates, a partnership of Hydra-Co Enterprises, Inc. and Hydro Development Group, Inc. to Pyrites Associates, a partnership of CHI-Dexter, Inc. and Hydro Development Group, Inc.

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<sup>33</sup> 22 FERC ¶ 62,019, Order Issuing License (Minor).

<sup>34</sup> 101 FERC ¶ 61,097, Order Issuing Subsequent License (Minor Project).

<sup>35</sup> 21 FERC ¶ 62,338, Order Issuing License (Minor).

<sup>36</sup> 101 FERC ¶ 61,100, Order Issuing Subsequent License Minor Project.

<sup>37</sup> 24 FERC ¶ 62,350, Order Issuing License (Major).

<sup>38</sup> 31 FERC ¶ 61,198, Order Approving Transfer of License.

<sup>39</sup> 93 FERC ¶ 62,006, Order Approving Transfer of License.

19. For P-7153, Victory Mills Project, located on Fish Creek, Saratoga County, NY.

The Commission issued a 40-year license to SNC Hydro, Inc. on May 15, 1984.<sup>40</sup> On December 12, 1986, the project was transferred to Victory Mills Hydro Company, Inc. On June 4, 1987, the licensee changed its name to Consolidated Hydro New York, Inc.

20. For P-7186, Sheldon Springs Project, located on the Missisquoi River, Franklin County, VT.

The Commission issued a 50-year license to Missisquoi Associates on November 2, 1984<sup>41</sup> effective October 1, 1974.

21. For P-8909, Dietrich Drop Project, located on Milner Goody Canal, Lincoln County, ID.

The Commission issued a 50-year license to Idaho Renewable Resources, Bonneville Pacific Corporation, and Big Wood Canal Company on May 22, 1987.<sup>42</sup> By order issued May 23, 1989,<sup>43</sup> the Commission approved the transfer of the license from Idaho Renewable Resources, Bonneville Pacific Corporation, and Big Wood Canal Company to Bonneville Pacific Corporation and Big Wood Canal Company. By order issued July 9, 1990,<sup>44</sup> the Commission approved the transfer of the license from Bonneville Pacific Corporation and Big Wood Canal Company to Big Wood Canal Company and BP Hydro Associates.

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<sup>40</sup> 27 FERC ¶ 62,162, Order Issuing License (Minor).

<sup>41</sup> 29 FERC ¶ 61,132, Order Accepting Settlement Agreement and Issuing License (Major).

<sup>42</sup> 39 FERC ¶ 62,210, Order Issuing License (Major Project-5MW or Less).

<sup>43</sup> 47 FERC ¶ 62,189, Order Approving Transfer of License.

<sup>44</sup> 52 FERC ¶ 62,012, Order Approving Transfer of License.

22. For P-10253, Pelzer Mills Lower Project, located on the Saluda River, Anderson County, SC.

The Commission issued a 30-year license to Soft Care Apparel, Inc. on December 24, 1987.<sup>45</sup> By order issued October 24, 1989,<sup>46</sup> the Commission approved the transfer of the license from Soft Care Apparel Inc. to Consolidated Hydro Southeast, Inc. and Pelzer Hydro Company, Inc.

23. For P-10254, Pelzer Mills Upper Project, located on the Saluda River, Greenville and Anderson counties, SC

The Commission issued a 30-year license to Soft Care Apparel, Inc. on December 29, 1987.<sup>47</sup> By order issued October 26, 1989,<sup>48</sup> the Commission approved the transfer of the license from Soft Care Apparel Inc. to Consolidated Hydro Southeast, Inc. and Pelzer Hydro Company, Inc.

24. For P-10898, Sweetwater Project, located on the sugar River, Sullivan County, NH.

The Commission issued a 40-year license to Sweetwater Hydroelectric, Inc. on March 28, 1991.<sup>49</sup>

25. For P-11163, South Berwick Project, located on the Salmon Falls River, York County, ME and Stafford County, NH.

The Commission issued a 40-year license to Consolidated Hydro New Hampshire, Inc. on December 9, 1997.<sup>50</sup>

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<sup>45</sup> 41 FERC ¶ 62,298, Order Issuing License (Major Project-Existing Dam).

<sup>46</sup> 49 FERC ¶ 62,065, Order Approving Transfer of License.

<sup>47</sup> 41 FERC ¶ 62,310, Order Issuing License (Major Project-Existing Dam).

<sup>48</sup> 49 FERC ¶ 62,081, Order Approving Transfer of License.

<sup>49</sup> 54 FERC ¶ 62,211, Order Issuing License (Minor Project).

<sup>50</sup> 81 FERC ¶ 62,172, Order Issuing License (Minor Project).

## **PUBLIC NOTICE**

26. The Commission issued a public notice of the current application for transfer on February 13, 2015, that established March 16, 2015, as the deadline for filing comments and motions to intervene. On March 4, 2015, the U.S. Fish and Wildlife Service filed comments on the joint application for transfer of licenses.<sup>51</sup> The comments do not object to the transfers of the projects.

## **REVIEW**

27. In each license transfer, the licensee or co-licensee whose interests in a Project would be transferred as part of the internal reorganization of Enel Green Power (each a transferor) and the entity that would receive such interests and become the licensee or co-licensee of such Project (each a transferee) will be wholly-owned subsidiaries of Enel Green Power. Enel Green Power will indirectly own and solely control all of the transferors and will indirectly own and solely control all of the transferees.

28. The license transfers involve (i) the conversion of a licensee from a corporation or partnership to a limited liability company, (ii) the merger of a licensee into a limited liability company with the limited liability company as the surviving entity, (iii) in one case the merger of a subsidiary into its parent company with the parent surviving, and (iv) the transfer of Project assets from a licensee to a newly-formed limited liability company in instances where a licensee owns or operates multiple Projects, some of which are intended to be owned separately within Enel Green Power's new organizational structure.

29. In the application for transfers, the applicants provided information on the financial qualifications, technical qualifications and legal qualifications for the Transferees. Based on the application, I conclude that all the transferees will have the necessary qualifications to hold the licenses for the Projects as did the transferors.

30. Ordering paragraph (A) approves license transfers from the transferors to the transferees as shown in the tables above. The license transfers are grouped according to the transactional nature of the transfer.

31. Transferees have agreed to accept all of the terms and conditions of the licenses and to be bound by the licenses as if it were the original licensees.<sup>52</sup>

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<sup>51</sup> The U.S Fish and Wildlife Service comments are limited to the following projects: FERC Project Nos. 2880, 2428, 2416, 10253, 10254.

<sup>52</sup> On page 9 of the Joint Application for Approval of Licenses, the applicants stated that, contingent upon approval by the Commission of the transfer of the licenses, *(continued ...)*

32. Transferors have generally complied with the terms and conditions of the licenses and agrees to pay annual charges that have accrued to the date of the transfers.

33. Transferees will be required to comply with the requirements of the license as though it were the original licensee. Transfer of the license for this project is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfers of the licenses, as listed below, are approved.

PROJECTS	TRANSFEROR (Existing Licensee or Co-Licensee)	TRANSFeree (NEW LICENSEE OR CO-LICENSEE)
Cherokee Falls P-2880 Fries P-2883 Piedmont P-2428 Ware Shoals P-2416	Aquenergy Systems, Inc.	Aquenergy Systems, LLC
Barnet P-5702	Barnet Hydro Company	Barnet Hydro Company, LLC
Kelley's Falls P-3025 South Berwick (Salmon Falls) P-11163	Consolidated Hydro New Hampshire, Inc.	Consolidated Hydro New Hampshire, LLC
Walden P-4428 Victory Mills P-7153	Consolidated Hydro New York, Inc.	Consolidated Hydro New York, LLC
Lower Pelzer P-10253 Upper Pelzer P-10254	Consolidated Hydro Southeast, Inc.	Consolidated Hydro Southeast, LLC
Lawrence P-2800	Essex Company	Essex Company, LLC
Barber Dam P-4881	Fulcrum, Inc.	Fulcrum, LLC
Lower Saranac P-4114	Lower Saranac Hydro Partners, L.P.	Lower Saranac Hydro Partners, LLC

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each transferee (including each transferor that is to be converted to a limited liability company) accepts all terms and conditions of the applicable license as amended, and the FPA, and agrees to be bound thereby to the same extent as though it were the original licensee.

Sheldon Springs P-7186	Missisquoi Associates	Missisquoi, LLC
Newbury P-5261	Newbury Hydro Company	Newbury Hydro Company, LLC
Lower Pelzer P-10253 Upper Pelzer P-10254	Pelzer Hydro Company, Inc.	Pelzer Hydro Company, LLC
Rock Creek P-3189	Rock Creek L.P.	Rock Creek Hydro, LLC
Sweetwater P-10898	Sweetwater Hydroelectric, Inc.	Sweetwater Hydroelectric, LLC
Fowler #7 P-6059 Colliersville P-2788 Hailesboro #4 P-6058	Hydro Development Group Inc.	Hydro Development Group Acquisition, LLC
Lawrence P-2800	Lawrence Hydroelectric Associates	Essex Company, LLC
Groveville P-3511	Lower Saranac Corporation	Lower Saranac Hydro, LLC
Cherokee Falls P-2880	Aquenergy Systems, LLC	Cherokee Falls Hydroelectric Project, LLC
Dietrich Drop P-8909	BP Hydro Associates	Dietrich Drop Hydro, LLC
Kelley's Falls P-3025	Consolidated Hydro New Hampshire, LLC	Kelley's Falls, LLC
South Berwick (Salmon Fall) P-11163	Consolidated Hydro New Hampshire, LLC	Salmon Falls Hydro, LLC
Walden P-4428	Consolidated Hydro New York, LLC	Walden Hydro, LLC
Fowler #7 P-6059	Hydro Development Group Acquisition, LLC	Fowler Hydro, LLC
Pyrites P-6115	Pyrites Associates	Pyrites Hydro, LLC
Colliersville P-2788	Hydro Development Group Acquisition, LLC	Goodyear Lake Hydro, LLC

(B) The Transferors, as listed above, shall pay all annual charges that accrue up to the effective date of the transfer

Project Nos. 2416-027, *et al.*

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(C) Approval of the transfers is contingent upon: (1) transfers of title of the properties under license, transfers of all project files including all dam safety related documents, and delivery of all license instruments to the transferees, as listed above which shall be subject to the terms and conditions of the license as though it were the original licensee; and (2) the transferees acknowledging acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet. Within 60 days from the date of this order, the transferees shall submit certified copies of all instruments of conveyance or conversion and the signed acceptance sheets.

(D) 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 § 313(a) of the FPA, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2014). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Jennifer Hill, Director  
Division of Hydropower Administration  
and Compliance

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has caused its corporate name to be signed hereto by \_\_\_\_\_, its President (or other authorized representative), and its corporate seal to be affixed hereto and attested by \_\_\_\_\_ its Secretary (or other authorized representative), pursuant to a resolution of its Board of Directors (or other authorized representative(s)) duly adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a certified copy of the record of which is attached hereto.

By \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary (or other authorized representative)  
(Executed in triplicate)

157 FERC ¶ 62,133  
 UNITED STATES OF AMERICA  
 FEDERAL ENERGY REGULATORY COMMISSION

Littleville Power Company, Inc.  
 Kelley's Falls, LLC  
 Newbury Hydro Company, LLC  
 Hydro Energies Corporation  
 Barnet Hydro Company, LLC  
 Mascoma Hydro Corporation  
 Salmon Falls Hydro, LLC

Project Nos. 2801-039, 3025-027,  
 5261-021, 5313-015, 5702-017, 8405-  
 021 and 11163-048

Green Mountain Power Corporation

ORDER APPROVING TRANSFER OF LICENSES

(November 18, 2016)

1. By application filed September 14, 2016, the transferors and transferee seek Commission approval to transfer the licenses included in the following table<sup>1</sup>:

Project Number	Project Name	Location
P-2801-039	Glendale Project	Housatonic River, Berkshire County, MA
P-3025-027	Kelley's Falls Project	Piscataquog River, Hillsborough County, NH
P-5261-021	Newbury Project	Wells River, Orange County, VT
P-5313-015	Dewey's Mills Hydroelectric Project	Wells River, Orange County, VT
P-5702-017	Barnet Hydro Project	Stevens River, Caledonia County, VT
P-8405-021	Glen Hydro Project	Mascoma River, Grafton County, NH
P-11163-048	South Berwick Hydroelectric Project	Salmon Falls River, York County, ME; Rollinsford & Strafford, counties, NH

<sup>1</sup> The joint application for transfer of licenses filed by Enel Green Power, North America, Inc. (Enel Green Power) and Green Mountain Power Corporation included the Lower Great Falls Project No. 4451. Enel Green Power filed the application on behalf of Littleville Power Company, Inc., Kelley's Falls, LLC, Somersworth Hydro Company, Inc., Newbury Hydro Company, LLC, Hydro Energies Corporation, Barnet Hydro Company, LLC, Mascoma Hydro Corporation, and Salmon Falls Hydro, LLC. Somersworth Hydro Company, Inc. and the City of Somersworth, New Hampshire are co-licensees of the Lower Great Falls Project. On November 17, 2016, Enel Green Power and Green Mountain Corporation filed a request to withdraw the transfer application for the Lower Great Falls Project No. 4451 due to a deficiency in that application. The transfer application did not include the City of Somersworth as a party.

## Background

2. For P-2801, Glendale Project  
The Commission issued a 40-year license to Littleville Power Company on August 19, 2009.
3. For P-3025, Kelley's Falls Project  
The Commission issued a 40-year license on April 24, 1984,<sup>2</sup> to Hydro Resources Corporation. By order issued March 27, 2015,<sup>3</sup> the Commission approved the transfer of the license to Kelley's Falls, LLC.
4. For P-5261, Newberry Project  
The Commission issued a 40-year license on September 8, 1983,<sup>4</sup> to Newbury Hydro Company. By order dated March 27, 2015,<sup>5</sup> the Commission approved the transfer of license to Newbury Hydro Company, LLC.
5. For P-5313, Dewey's Mills Hydroelectric Project  
The Commission issued a 50-year license on January 20, 1983,<sup>6</sup> to Hydro Energies Corporation.
6. For P-5702, Barnet Hydro Project  
The Commission issued a 50-year license on August 6, 1982,<sup>7</sup> to Barnet Hydro Company. By order dated July 21, 2005,<sup>8</sup> the Commission approved the transfer of license to Barnet Hydro Company, LLC.

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<sup>2</sup> 32 F.P.C. 584, Order Issuing License (Major).

<sup>3</sup> 150 FERC ¶ 62,210, Order Approving Transfers of Licenses (2015).

<sup>4</sup> 24 FERC ¶ 62,275, Order Issuing License (Minor) and Denying Competing Preliminary Permit Application (1983).

<sup>5</sup> 150 FERC ¶ 62,210, Order Approving Transfer of Licenses (2015).

<sup>6</sup> 22 FERC ¶ 62,063, Order Issuing Major License Under 5MW and Denying Competing Preliminary Permit Applications (1983).

<sup>7</sup> 33 F.P.C. 340, Order Issuing License (Minor).

<sup>8</sup> 150 FERC ¶ 62,210, Order Approving Transfer of Licenses (2015).

7. For P-8405, Glen Hydro Project

The Commission issued a 40-year license on March 19, 1987,<sup>9</sup> to Glen Hydro, Inc. By order dated March 23, 1988,<sup>10</sup> the Commission approved the transfer of license to Mascoma Hydro Corporation.

8. For P-11163, South Berwick Hydroelectric Project

The Commission issued a 40-year license on December 9, 1997,<sup>11</sup> to Consolidated Hydro Maine, Inc. By order dated March 27, 2015,<sup>12</sup> the Commission approved the transfer of license to Salmon Falls Hydro, LLC.

Review

9. The Commission issued public notice of the current application for transfers of the aforementioned projects to Green Mountain Power Corporation on October 5, 2016, establishing November 4, 2016, as the deadline for filing comments, motions to intervene, and protests. No comments, motions to intervene, or protests were filed.

10. The transferee will be required to comply with the requirements of the license as though it were the original licensees. Transfer of the licenses for the projects are consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfers of the licenses for the projects listed in the table are approved.

(B) The transferors shall pay all annual charges that accrue up to the effective date of the transfers.

(C) Approval of the transfers are contingent upon: (1) transfer of title of the properties under the licenses, transfer of all project files including all dam safety related documents, and delivery of all license instruments to Green Mountain Power Corporation which shall be subject to the terms and conditions of the licenses as though it were the original licensees; and (2) the Green Mountain Power Corporation acknowledging acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet. Within 60 days from the date of this order, Green Mountain

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<sup>9</sup> 38 FERC ¶ 62,267, Order Issuing License (Minor Project) (1987).

<sup>10</sup> 42 FERC ¶ 62,222, Order Approving Transfer of License (1988).

<sup>11</sup> 81 FERC ¶ 62,172, Order Issuing License (Minor Project)(1997).

<sup>12</sup> 150 FERC ¶ 62,210, Order Approving Transfer of Licenses (2015).

Project No. 2801-039, *et al.*

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Power Corporation shall submit certified copies of all instruments of conveyance and the signed acceptance sheets.

(D) 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 § 313(a) of the FPA, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2016). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensees' failure to file a request for rehearing shall constitute acceptance of this order.

Jennifer Hill  
Director  
Division of Hydropower Administration  
and Compliance

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has caused its corporate name to be signed hereto by \_\_\_\_\_, its President, and its corporate seal to be affixed hereto and attested by \_\_\_\_\_ its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a certified copy of the record of which is attached hereto.

By \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary  
(Executed in triplicate)

## Appendix B: Record of Consultation

**From:** [Kirk Smith](#)  
**To:** [jeddins@achp.gov](mailto:jeddins@achp.gov); [John.Baummer@ferc.gov](mailto:John.Baummer@ferc.gov); [john.spain@ferc.gov](mailto:john.spain@ferc.gov); [keith.bluecloud@bia.gov](mailto:keith.bluecloud@bia.gov); [jsinclair@fs.fed.us](mailto:jsinclair@fs.fed.us); [timmermann.timothy@epa.gov](mailto:timmermann.timothy@epa.gov); [michael.pentony@noaa.gov](mailto:michael.pentony@noaa.gov); [Mendik, Kevin](#); [fema-r1-info@fema.dhs.gov](mailto:fema-r1-info@fema.dhs.gov); [stephen.p.dermody@usace.army.mil](mailto:stephen.p.dermody@usace.army.mil); [Bradley.J.Clark@usace.army.mil](mailto:Bradley.J.Clark@usace.army.mil); [Jennifer.M.Samela@usace.army.mil](mailto:Jennifer.M.Samela@usace.army.mil); [kenneth\\_hogan@fws.gov](mailto:kenneth_hogan@fws.gov); [bryan\\_sojkowski@fws.gov](mailto:bryan_sojkowski@fws.gov); [doug\\_smithwood@fws.gov](mailto:doug_smithwood@fws.gov); [rkiah@usgs.gov](mailto:rkiah@usgs.gov); [christopher.boelke@noaa.gov](mailto:christopher.boelke@noaa.gov); [andrew\\_raddant@ios.doi.gov](mailto:andrew_raddant@ios.doi.gov); [Mattaini, Daniel](mailto:Mattaini, Daniel); [ted.walsh@des.nh.gov](mailto:ted.walsh@des.nh.gov); [Doyon, Steve](#); [Gallagher, James](mailto:Gallagher, James); [Amy.Smagula@des.nh.gov](mailto:Amy.Smagula@des.nh.gov); [riversprogram@des.nh.gov](mailto:riversprogram@des.nh.gov); [Chormann, Rick](mailto:Chormann, Rick); [Nadine.Miller@dncr.nh.gov](mailto:Nadine.Miller@dncr.nh.gov); [David.Trubey@dncr.nh.gov](mailto:David.Trubey@dncr.nh.gov); [Tanya.Krajcik@dncr.nh.gov](mailto:Tanya.Krajcik@dncr.nh.gov); [Marika.S.Labash@dncr.nh.gov](mailto:Marika.S.Labash@dncr.nh.gov); [Carol.Henderson@wildlife.nh.gov](mailto:Carol.Henderson@wildlife.nh.gov); [andrew.chapman@des.nh.gov](mailto:andrew.chapman@des.nh.gov); [philip.bryce@dred.nh.gov](mailto:philip.bryce@dred.nh.gov); [steven.couture@des.nh.gov](mailto:steven.couture@des.nh.gov); [matthew.carpenter@wildlife.nh.gov](mailto:matthew.carpenter@wildlife.nh.gov); [puc@puc.nh.gov](mailto:puc@puc.nh.gov); [amy.lamb@dncr.nh.gov](mailto:amy.lamb@dncr.nh.gov); [Melanie.Cofrin@des.nh.gov](mailto:Melanie.Cofrin@des.nh.gov); [matthew.wood@des.nh.gov](mailto:matthew.wood@des.nh.gov); [mgomez@manchesternh.gov](mailto:mgomez@manchesternh.gov); [rwillhelmi@goffstownnh.gov](mailto:rwillhelmi@goffstownnh.gov); [ofriend@manchesternh.gov](mailto:ofriend@manchesternh.gov); [TMATTSON@manchesternh.gov](mailto:TMATTSON@manchesternh.gov); [admin@nhwildlifeheritage.org](mailto:admin@nhwildlifeheritage.org); [bgraber@americanrivers.org](mailto:bgraber@americanrivers.org); [Bob.Nasdor](mailto:Bob.Nasdor); [nha@nhaudubon.org](mailto:nha@nhaudubon.org); [mzankel@tnc.org](mailto:mzankel@tnc.org); [flyfishjoel@yahoo.com](mailto:flyfishjoel@yahoo.com); [reelnhfishing@aol.com](mailto:reelnhfishing@aol.com); [appliedforce52@gmail.com](mailto:appliedforce52@gmail.com); [rludds45@gmail.com](mailto:rludds45@gmail.com); [info@nhlakes.org](mailto:info@nhlakes.org); [tjones@plcnh.org](mailto:tjones@plcnh.org); [Kcicasco@aol.com](mailto:Kcicasco@aol.com); [cowasuck@cowasuck.org](mailto:cowasuck@cowasuck.org); [n.pero@aol.com](mailto:n.pero@aol.com); [KoasekKoas@gmail.com](mailto:KoasekKoas@gmail.com); [bunnelloyallist@aol.com](mailto:bunnelloyallist@aol.com); [chiefdonstevens@comcast.net](mailto:chiefdonstevens@comcast.net); [brialcay@yahoo.com](mailto:brialcay@yahoo.com); [grasmerewater@comcast.net](mailto:grasmerewater@comcast.net); [SOGOMO@COMCAST.NET](mailto:SOGOMO@COMCAST.NET); [Tilley, James](mailto:Tilley, James)  
**Cc:** [Lisai, Jason](#); [Tedesco, John](#); [dbouffard@sheehevvt.com](mailto:dbouffard@sheehevvt.com); [Simon Ryan](#); [Collins, Penny](mailto:Collins, Penny); [Grundhauser, Grace](mailto:Grundhauser, Grace)  
**Subject:** Kelly's Falls Hydroelectric Project (P-3025)  
**Date:** Monday, February 13, 2023 9:18:00 AM  
**Attachments:** [image002.png](#)  
[Kellys Falls Surrender Application \(Agency Consultation Draft\).pdf](#)

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Dear Kelly's Falls Hydroelectric Project Stakeholder,

For your review, attached is Green Mountain Power Corporation's (GMP's) **Agency Consultation Draft** of the Application for Surrender of License for the Kelly's Falls Hydroelectric Project (Project). On November 18, 2022, GMP filed a letter advising the Federal Energy Regulatory Commission (FERC or Commission) of its plan to surrender the Project. Potentially interested federal, state, and local agencies were provided a copy of this letter.

In accordance with FERC's regulations, GMP must consult with applicable resource agencies and stakeholders during the development of the Application for Surrender of License. Accordingly, please review the Application for Surrender of License and provide any comments by **March 15, 2023** to John Tedesco ([John.Tedesco@greenmountainpower.com](mailto:John.Tedesco@greenmountainpower.com)) and myself. Following the comment period, GMP will address comments and submit the Final Application for Surrender of License to FERC. Please let me know if you have any questions during your review. GMP is available to convene a virtual meeting to discuss any aspects of the Application for Surrender of License, if needed. Thanks.

**Kirk Smith**

Director of Regulatory & Environmental  
Gomez and Sullivan Engineers, DPC  
P.O. Box 2179 | Henniker, NH 03242  
O: (603) 428-4960 | D: (716) 402-6792 | C: (603) 340-7667  
[ksmith@gomezandsullivan.com](mailto:ksmith@gomezandsullivan.com)



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