

New Hampshire Department of Environmental Services
Substantive Changes To Water Quality Certification No. 2021-FERC-004
Campton Hydroelectric Project (FERC Project No. P-3253)
October 7, 2022

From September 2, 2022 to 4pm on October 3, 2022, the New Hampshire Department of Environmental Services (NHDES) posted for public comment draft Water Quality Certification No. 2021-FERC-004 (the Certification) for relicensing of the Campton Hydroelectric Project (the Project) by the Federal Energy Regulatory Commission (FERC). The Certification is required under section 401 of the federal Clean Water Act and NH RSA 485-A:12, III to provide assurance that discharges to surface waters that may result from the Project will comply with applicable surface water quality standards for a FERC license that may be issued to Mad River Power Associates L.P. (MRPA), who is the operator of the Project. On October 7, 2022, NHDES granted the Certification with conditions.

During the public comment period, NHDES did not receive comments from on the draft Certification. The following is a description of substantive and minor changes that NHDES made to the Certification since the draft certification was issued for public comment. If you have questions about these change or want to request a copy of a marked-up version of the draft Certification showing all changes to the Certification from NHDES, please contact James Tilley, Supervisor of the NHDES Water Quality Certification Program, at (603) 271-0699 or james.w.tilley@des.nh.gov.

Substantive Changes to the Certification

1. NHDES revised the facts in paragraph C-54 and findings in paragraph D-45 to recognize that MRPA submitted a request to NHDES to waive the requirements of NHDES' Water Conservation Program specified under Env-Wq 2101.05(f) and Env-Wq 2101.24(a)(5), and that the NHDES Water Conservation Program approved the waiver request in accordance with Env-Wq 2101.23 with certain conditions on September 13, 2022.
2. NHDES added paragraph C-64 and amended the findings in paragraphs D-5 and D-37 to include facts and findings about a memo that FERC filed on June 15, 2022 that summarized a conversation that FERC staff had with MRPA staff on June 15, 2022 about the MRPA's proposed use of a low-level outlet gate located in the dam of the Project to release sediment from the impoundment of the Project. NHDES also added findings in paragraph D-42 to provide FERC's description and analysis of the low-level out gate releases proposed by MRPA, and to support Condition E-11.f of the Certification, a condition that NHDES added to the Certification that requires MRPA to notify NHDES of a release from that outlet at least 14 days prior to release and to develop a low-level outlet gate release plan to describe procedures for conducting the release, monitoring of turbidity and benthic deposits during the release, and reporting of results of monitoring to NHDES.
3. NHDES revised and amended the facts and findings in paragraphs C-59, D-4, D-5, and D-26 that describe the existing and proposed Project facilities and operations to account for updates and amendments to the Final License Application that MRPA submitted to FERC for the Project on April 5, 2021; May 13, 2021; and February 7, 2022.
4. NHDES revised and amended facts and findings in paragraphs C-65 and D-38 to include additional references to FERC's August 10, 2022 environmental assessment for the Project and add references to a comment letter that U.S. Fish and Wildlife Services (USFWS) filed with FERC on September 1, 2022 to provide comments on FERC's environmental assessment on September 1, 2022. Based on the

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findings, NHDES changed condition E-11 to require MRPA to operate the Project as “run-of-release” instead of “run-of-river”.

5. NHDES revised and amended the findings in paragraphs D-4 and D-5 to include additional descriptions of the existing and proposed Project facilities and operations as reported by FERC in the environmental assessment that FERC prepared and filed for the Project on August 10, 2022.
6. NHDES added paragraph D-20 to include a description of fishery resources as reported by FERC in the environmental assessment that FERC prepared and filed for the Project on August 10, 2022.
7. NHDES amended condition E-11 to specify that MRPA shall operate the Project in accordance with flow and impoundment management requirements to the extent consistent with a Special Use Permit issued by the Forest Service for resources used by the Project and within control of MRPA; and that the requirements of condition do not apply during an “emergency condition” as defined under NH Code Administrative Rule Env-Wr 101.15: “(a) A situation has arisen at a dam which could jeopardize the integrity of the dam; or (b) Failure of the dam is imminent or has occurred.”
8. NHDES revised condition E-14 and findings in paragraph D-48 to clarify the requirements for developing and implementing a plan to monitor for eels migrating upstream at the Project every 10 years and to require MRPA to construct, operate, and maintain, or provide for the construction, operation, and maintenance, of such fishways as may be prescribed by USFWS under section 18 of the FPA during the term of a FERC license. In the draft Certification, NHDES had referenced conditions E-5 and E-6 in finding D-47 to assert that conditions the Certification may be revised to require the MRPA to provide for fish or eel passage at the Project.
9. NHDES revised condition E-15 to only require MRPA to develop and implement a water quality improvement plan if NHDES determines that the Project is causing or contributing to a violation of Surface Water Quality Standards at a magnitude, duration, and frequency that contributes to an impaired designated use in surface waters influenced by the Project. Findings in paragraph D-35 were revised to support condition E-15.
10. NHDES revised condition E-16 to only require MRPA to conduct monitoring and reporting of dissolved oxygen and temperature in surface waters influenced by the Project in the event that Condition E-15 is triggered by a violation of Surface Water Quality Standards at a magnitude, duration, and frequency that contributes to an impaired designated use related to dissolved oxygen or temperature. Findings in paragraph D-36 were revised to support condition E-16.

Minor Changes to the Certification

In addition to the changes noted in the above, NHDES made other minor changes not considered substantive to the final Certification since the draft Certification was issued for public notice. Examples include minor format revisions, grammatical and spelling corrections, removing the word “DRAFT” in the header and watermark, changing the “Decision” status on the first page from “Pending” to the date granted, adding a date granted and signature, updating cross-references to paragraphs due to substantive changes, replacing the term “Activity” with “Project” to reference the Project, etc.