

Appendix A

Comments Received

Comstock, Gregg

From: tom linell <tomlinell@yahoo.com>
Sent: Thursday, April 02, 2015 10:46 AM
To: David, Owen
Subject: Water Withdrawal and Redevelopment of the Balsalms Grand Resort/Wilderness Ski Area
WQC 2014-404P-001

Dear Mr. Owen :

I urge NH DES to reject this application . The claims made by the applicant are ludicrous . It is not possible to create a " world class " ski resort anywhere in Coos County . Banks which have refused to provide the millions needed for project start up attest to this fact. Mr. Otten has a record of having lost millions of dollars in the ski industry .His hiring reflects a serious absence of judgment by the project instigators .The claim has been made that the proposed ski area would provide the greatest vertical drop of any ski area in New Hampshire . This is false .

The application appears to allow Androscoggin River water to be used within the Mohawk River watershed, where the only existing ski terrain exists . this should not be allowed .If Androscoggin River water is to be allowed to be withdrawn ,it should not be allowed to be withdrawn based on the full build out of proposed ski area .The 404 permit should be allowed only for ski terrain which has received all other necessary permits such as alteration of terrain permits . Any 404 permit should be proportional to permitted ski terrain at a given point in time, in the Androscoggin River drainage . .It is extremely unlikely that funds will be available for the full build out , which at this time apparently is based on a sketch map .The sketch map appears to assume that the project area's wind turbine restrictions will be modified so that skiers can risk their lives dodging or ignorant of turbine blade thrown ice .

If you approve the application, you will be allowing the project to have a clear competitive advantage of any other New Hampshire ski area in the length of season for permitted snow making withdrawals . Loon Mountain ski area usually lays off their snowmaking employees towards the end of February .The applicants wish to withdraw Androscoggin River water till mid-March .

If NH DES approves a modified permit for the applicants, it should give serious thought to bonding requirements which would protect the public in the event of fiscal failure by the applicant . I would like to see The Balsalms reopen with its ski area. I have been skiing for sixty seven of my sixty nine years . The announced plans of the permit applicants appear to me to be extremely unlikely to be achieved on a profitable basis .

Sincerely, Thomas A. Linell
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603-667-0996
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Brookfield

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April 3, 2015

Attn: Mr. Owen David
401 Certification Program
NHDES Watershed Management Bureau
P.O. Box 95
Concord, NH 03301-0095

Re: Dixville Capital, LLC's Application for a 401 Water Quality Certification for the Balsams Snowmaking Water Withdrawal Project (Certification No. WQC 2014-404P-001)

Dear Mr. David:

I am writing to alert you that approval of the above-referenced application for a 401 Water Quality Certification for the Balsams Snowmaking Water Withdrawal project would adversely affect 15 federally-licensed hydroelectric facilities that Great Lakes Hydro America, LLC and its affiliates (collectively, "GLHA") own and/or manage on the Androscoggin River downstream of the proposed project.

Withdrawing water from the river as requested is projected to potentially displace as much as 3,000 MWh per year of clean renewable energy generation. In addition, the requested withdrawal could cause flows to drop below the GLHA facilities' minimum flow levels required by their respective Federal Energy Regulatory Commission licenses, particularly in dry years, unless the proposed project is required to coordinate its water withdrawal with GLHA's facilities on an ongoing basis and to install and monitor gages downstream of the withdrawal location. DES should account for such displacement and flow concerns in its review of environmental effects of the proposed project.

DES should also take into account the riparian rights Doctrine of Reasonable Use and the longstanding case law applying it, under which landowners cannot use water adjoining their property without due consideration of the usage rights of downstream landowners with rights to that water as it flows to their property. Approving Dixville Capital's application without conditioning such approval on entry by Dixville Capital and GLHA into an agreement by which Dixville Capital will compensate GLHA for lost revenues (with security to satisfy such payment by a credit-worthy entity) would negatively affect these downstream hydroelectric facilities. With such a condition, however, GLHA is willing to consent to the requested water withdrawal level of up to 2.94 million cubic feet of water per day intermittently for six months annually.

Very truly yours,


Todd Wynn

April 3, 2015

Efiling

401 Certification Program
NHDES Watershed Management Bureau
P.O. Box 95
Concord, NH 03301-0095
Attention: Owen David
owen.david@des.nh.gov

Re: Further comments of the Androscoggin River Committee on the draft WATER QUALITY CERTIFICATION In Fulfillment of Section 401 of the United States Clean Water Act (33 U.S.C 1341) and NH RSA 485-A:12, III and NH RSA 485-A:12, IV WQC # 2014-404P-001 Activity Name Water Withdrawal and development of the Balsams Grand Resort Wilderness Ski Area

To Whom It May Concern,

The Androscoggin River Committee submits the following as an update to our filing of March 27, 2015 regarding the Balsams 401 Water Quality Certificate review. That letter's content, which was originally sent to the Balsams development team in early March, includes questions intended to gather further information about the impact of the proposed pumping from the Androscoggin River for snowmaking purposes. Only yesterday did the Balsams team send a reply to our letter and questions (please see their answers embedded in the original letter, attached).

Unfortunately, their responses to our questions are so general in nature that they offer little additional insight into the permit application. Further, they offer no real evidence that the impact of the proposed pumping of water from the river, and eventual return of 85% of the snowmaking runoff pulse via Clear Stream to the Androscoggin during spring runoff/flood stage, will in fact be minimal. This area in Errol floods frequently. The Androscoggin River Committee members believe that significant questions remain about the potential impact of this project on the river's ecosystem and on local business and landowner interests that require additional and appropriate analysis.

Furthermore, the proposed pumping has the potential to jeopardize the Upper Androscoggin River Storage Projects Settlement Agreement (SA) negotiated in 1998 (please see attached) and

signed by then Commissioner of NH DES Robert Varney, Gorham Selectmen, the Mayor of Berlin, Maine State agencies, and many others. As described in the document, "This Settlement Agreement serves to strike a carefully considered balance between maintaining the energy, flood protection, wastewater assimilative capacity, ecological, and recreational values of the Upper Androscoggin River Storage and Aziscohos Projects...." It is a delicate balance between water levels in Aziscohos, Mooselookgumtic/Cupsuptic, and Lake Umbagog (the storage reservoirs), and water flows in the Rapid, Magalloway, and Androscoggin downstream of the Errol dam. The water management plan is sensitive to both the magnitude and timing of when water is delivered downstream. Without more detailed and quantitative information on how the Balsams proposed pumping plans may impact water storage management, our members are unable to fully understand how the project will impact the Settlement Agreement. The SA is complex and involves balancing the needs of seasonal water storage and release in the headwater storage reservoirs in order to meet required releases to the Magalloway and Rapid Rivers for recreational and ecological purposes, and below the Errol Dam into the Androscoggin River for flood control, hydropower generation, and assimilative waste capacity needs. Changes in winter water storage management and release can impact later seasons. The 1909 Androscoggin River Improvement Company (ARCO) agreement requires the river flow at Berlin be maintained at "as high a point above the minimum 1,550 cubic feet per second (cfs) as shall be consistent with proper and economical use of the stored water." The 1998 cooperative settlement agreement among the power company, state and federal agencies, and conservation groups as part of the FERC license was created and agreed to to further guide the water levels and flows specifically to protect fish and wildlife, recreation, and other needs, while maintaining the purpose of the ARCO agreement.

We request the NH DES, prior to issuing a final 401 WQC for a water withdrawal, properly analyze the potential impacts of this proposed water withdrawal on the upper storage projects water management plan and on downstream users. The current draft 401 WQC only narrowly addresses minimum flow levels. It fails to analyze or address how the magnitude of the proposed withdrawals and their timing will impact upper storage management or downstream hydrogenation and other uses dependent on such flows. In fact, it is not clear that the draft certificate takes into full account the requirements of the SA, despite NH DES being a signatory.

We also are not aware of a water conservation plan on file as we understand is required of the Applicant. In fact, Condition E.13 of the draft puts this submission in the future, rather than as part of the Application, which we believe is required by the following:

C-32. Env-Wq 2101.24 entitled Water Conservation Plan Required states that "(a) The applicants for approval of a source that would be a conservation source shall submit a water conservation plan that demonstrates compliance with the applicable provisions of Env-Wq 2101.05 through Env-Wq 2101.22 in accordance with the following:

(5) For a new withdrawal from a surface water associated with a project requiring a 401 Water Quality Certification, the water conservation plan shall be submitted prior to or in conjunction with the application for a 401 Water Quality Certification pursuant to Section 401 of the federal Clean Water Act;

(6) For a new withdrawal from a surface water that requires water quality certification pursuant to RSA 485-A:12, IV, the water conservation plan shall be submitted prior to or in conjunction with the certification request”

As an addendum to the questions filed previously, we would also like to submit:

1. If in fact 85% of the spring runoff is going to come back into the Androscoggin River, what is the control system that will be implemented to lessen the damage (impact?) that will now be imposed on the Clear Stream drainage system? The existing bridges and century old banks have been developed to withstand the present rate of runoff. It would seem that adding this considerable surplus of runoff would substantially stress this existing infrastructure.
2. How much water will be drawn from Lake Gloriette or other sources for snowmaking purposes?

Thank you for your consideration of our comments. As stated in our previous letter, we are supportive of the Balsam's reconstruction efforts overall. However, the project needs to be designed, scaled, and appropriately reviewed so that it does not negatively impact other legitimate interests in the area.

Respectfully,

Phoebe Backler, Northern Forest Canoe Trail
Sally Manikian, Appalachian Mountain Club
Ken Kimball, Appalachian Mountain Club
Dick Huot, former Berlin Mayor
Jim Cochran, ELC Outdoors
Mark Peabody, Mahoosuc Outdoors
Mel Thebault, Umbagog Guide Service
Becky Secrest, Androscoggin River Watershed Council

Androscoggin River Committee
P.O. Box 145
Milan, NH 03588
(603)449-2581
Attachments --

- Balsams response to the ARC information request
- 1998 Upper Androscoggin River Storage Projects Settlement Agreement

Timothy W. Drew
Administrator
Public Information and Permitting
Office of the Commissioner
NH Department of Environmental Services
P.O. Box 95
29 Hazen Drive
Concord, NH 03302-0095

March 27, 2015

Dear Mr. Drew,

I am writing on behalf of the Androscoggin River Committee (ARC), a community group comprised of land and business owners, non-profits and local residents from or working in the Androscoggin River watershed. ARC is dedicated to promoting tourism and outdoor recreation in the watershed while maintaining its natural and cultural integrity.

ARC members have followed the Balsams redevelopment plans with high hopes for the renovation of a beloved landmark and for its potential impact on the local economy. The group is also committed to fully understanding the proposed plans to pump water from the Androscoggin River for snow making purposes and the resulting impact on the watershed.

After reviewing the permit application submitted to NHDES by the Balsams team, ARC members developed a list of preliminary questions about the project. In early February, we sent a letter Mr. Otten and his redevelopment team outlining these questions. The Balsams' spokesperson, Scott Tranchemontagne, has promised that a response is forthcoming; however ARC members feel it is important to submit our questions directly to DES while the public comment period of the permit application review process is still open.

Our questions include:

1. What is the potential impact from proposed pumping on wintering fish populations and what is the evidence that fish entrainment (both juvenile and adult) would not be problematic at the proposed intake site in the pool downstream of the Errol Dam?
2. What are the projections for amount of snow and water needed for snow making operations specifically based on?
3. What are the projected minimum, mean, median and maximum volume of water these projections will require daily for the period requested for (as opposed to the simple daily maximum pumping rate quantity sited in the permit application)?
4. What will the impact of the reduced flow be on the multiple hydroelectric generation units downstream that are dependent on these flows throughout the winter? Will this require that the hydroelectric power companies increase upstream reservoir storage releases to compensate for the removed water losses as they bid into the electric markets?

5. What will be the cumulative impact be on the headwater storage reservoirs during the winter and spring refill period based on hydroelectric generation and snowmaking withdrawals?
6. During low flow periods when snowmaking demand maybe concurrently high, what if any impact will the withdrawals have on downstream water sewage treatment facilities that in part rely on dilution?
7. Where specifically are the proposed ski trails where snow making will occur and approximately what percentage of snow melt will return to the Androscoggin watershed versus the Connecticut River basin via the Mohawk River?
8. What kind of assurances exist that this will not be expanded into a future request for year round water withdrawals to serve other needs for water use (i.e. golf course maintenance, a water park), etc. ?
9. What, if any riparian rights, does the applicant have to this water withdrawal request?

Thank you in advance for your review to these questions. We hope that you will pursue answers to them in the review of the Balsams permit application and will forward any communication or responses to the questions from the Balsams redevelopment team to you.

Sincerely,

Phoebe Backler
Androscoggin River Committee
P.O. Box 145
Milan, NH 03588
(603)449-2581
phoebe@northernforestcanoetrail.org

February 4, 2015

Dear Mr. Otten and Partners,

I am writing on behalf of the Androscoggin River Committee (ARC), a community group comprised of land and business owners, non-profits and local residents from or working in the Androscoggin River watershed. ARC is dedicated to promoting tourism and outdoor recreation in the watershed while maintaining its natural and cultural integrity.

ARC members have followed the Balsams redevelopment plans with high hopes for the renovation of a beloved landmark and for its potential impact on the local economy. The group is also committed to fully understanding the proposed plans to pump water from the Androscoggin River for snow making purposes and the resulting impact on the watershed.

After reviewing your permit application submitted to NHDES, ARC members discussed preliminary questions about the project in a conference call. Not all ARC members were able to participate in the call and additional questions may arise based on your answers to the questions below. Scott Tranchemontagne encouraged me to pass along questions and concerns rather than wait for the DES permitting process to move into the public comment period to offer your group sufficient time to respond.

This list of preliminary questions is:

1. What is the potential impact from proposed pumping on wintering fish populations and what is the evidence that fish entrainment (both juvenile and adult) would not be problematic at the proposed intake site in the pool downstream of the Errol Dam?

Ans. The adherence to minimum stream flows dictated by NHDES WQC are an integral condition of the permit. Operations of the proposed pumping system will not be permitted without an operating regime and equipment that assures that it will maintain the minimum flow. The NHDES and NH F&G have strict requirements to prevent the entrainment of fish in inlet structures. We will need to satisfy those criteria through our design in order to get permission to install and operate the pump system and the intake structure. In addition, annual compliance reporting will be required as a condition of the WQC.

2. What are the projections for amount of snow and water needed for snow making operations specifically based on?

Ans. The rate of withdrawal applied for is 34CFS. This is the maximum withdrawal rate and does not represent normal operating conditions or the average withdrawal rate. Daily and seasonal use will be a function of total trail area covered by snowmaking, weather (temperature, wind and snowfall) and the cost of electricity.

3. What are the projected minimum, mean, median and maximum volume of water these projections will require daily for the period requested for (as opposed to the simple daily maximum pumping rate quantity sited in the permit application)?

Ans. It is estimated that approximately 600mm gallons would be the maximum withdrawal. This is highly speculative as the quantity and timing of natural snow could easily run this number down to a tenth of that. (or less) Conversely, precipitation in the form of rain (a typical nor'easter pattern) could require that more than usual amounts of snow be made.

4. What will the impact of the reduced flow be on the multiple hydroelectric generation units downstream that are dependent on these flows throughout the winter? Will this require that the hydroelectric power companies increase upstream reservoir storage releases to compensate for the removed water losses as they bid into the electric markets?

Ans. The NHDES has algorithms that can be used to calculate the impact of an existing or proposed water withdrawal. Using data, acquired continuously since 1909, from the USGS gauging station located a few feet from the withdrawal point, we have concluded that the proposed withdrawal poses no significant impact. The understanding is that the withdrawal is not measureable in terms of the river flow through the dam network. The withdrawal is well within the margin of error associated with river measurement and control.

5. What will be the cumulative impact be on the headwater storage reservoirs during the winter and spring refill period based on hydroelectric generation and snowmaking withdrawals?

Ans. The answer to this question is essentially the same as number 4. above – the requested withdrawal is too small to have a significant impact. The withdrawal will have no significant effect on storage protocol.

6. During low flow periods when snowmaking demand maybe concurrently high, what if any impact will the withdrawals have on downstream water sewage treatment facilities that in part rely on dilution?

Ans. The answer to this question is essentially the same as number 4. and 5. above – the requested withdrawal is too small to have a significant impact.

7. Where specifically are the proposed ski trails where snow making will occur and approximately what percentage of snow melt will return to the Androscoggin watershed versus the Connecticut River basin via the Mohawk River?

Ans. It is estimated that approximately 85% of the water returns to the Androscoggin watershed with the remainder flowing into the Connecticut River watershed. The snowmaking acreage distribution follows that percentage.

8. What kind of assurances exist that this will not be expanded into a future request for year round water withdrawals to serve other needs for water use (i.e. golf course maintenance, a water park), etc. ?

Ans. Our request is specifically limited to snowmaking requirements (including periodic maintenance) and fire prevention and suppression. The NHDES requires that any proposed change to the WQC requires an application to amend and a public comment period.

9. What, if any riparian rights, does the applicant have to this water withdrawal request?

Ans. These rights will be perfected through a purchase of land with access to the river.

Thank you in advance for your response to these questions. We look forward to maintaining a productive dialogue with you.

Sincerely,

Phoebe Backler
Androscoggin River Committee
P.O. Box 145
Milan, NH 03588
(603)449-2581
phoebe@northernforestcanoetrail.org



April 3, 2015

email filing

401 Certification Program
NHDES Watershed Management Bureau
P.O. Box 95
Concord, NH 03301-0095
Attention: Owen David
owen.david@des.nh.gov

Re: Comments of the Appalachian Mountain Club on the draft WATER QUALITY CERTIFICATION In Fulfillment of Section 401 of the United States Clean Water Act (33 U.S.C 1341) and NH RSA 485-A:12, III and NH RSA 485-A:12, IV WQC # 2014-404P-001 Activity Name Water Withdrawal and development of the Balsams Grand Resort Wilderness Ski Area

Dear Mr. Owen;

The Appalachian Mountain Club (AMC) submits the following comments on the *draft WATER QUALITY CERTIFICATION In Fulfillment of Section 401 of the United States Clean Water Act (33 U.S.C 1341) and NH RSA 485-A:12, III and NH RSA 485-A:12, IV WQC # 2014-404P-001 Activity Name Water Withdrawal and development of the Balsams Grand Resort Wilderness Ski Area*. The Androscoggin River Committee, of which AMC is a member, submitted earlier comments on March 27, 2015. That letter's content, which was originally sent to the Balsams development team in early March, included questions intended to gather further information about the impact of the proposed pumping from the Androscoggin River for snowmaking purposes. Only yesterday did the Balsams team send a reply to that letter and questions (please see their answers embedded in the original letter, attached).

Unfortunately, their responses are so general in nature that they offer little additional data or insight into the permit application. For example they offer insufficient evidence that the impact of the proposed pumping of water from the river, and the eventual return of 85% of the snowmaking runoff pulse via Clear Stream back to the Androscoggin during spring runoff/flood stage, will in fact be minimal. This area in Errol floods frequently. Major significant questions remain about the potential impact of this project on the river's ecosystem (possible winter fish mortality at the withdrawal pump) or other downstream uses.

The proposed pumping has the potential to jeopardize the Upper Androscoggin River Storage Projects Settlement Agreement (SA) negotiated in 1998 (please see attached) and signed by then Commissioner of NH DES Robert Varney, Gorham Selectmen, the Mayor of Berlin, Maine State agencies, and many others. AMC had a lead role in developing that SA. As described in the document, *“This Settlement Agreement serves to strike a carefully considered balance between maintaining the energy, flood protection, wastewater assimilative capacity, ecological, and recreational values of the Upper Androscoggin River Storage and Aziscohos Projects...”* The SA was a delicate balance between seasonal water levels in Aziscohos, Mooselookgumtic & Cupsuptic, and Lake Umbagog (the storage reservoirs), and water flows released into the Rapid, Magalloway, and Androscoggin downstream of the Errol dam. Changes in winter reservoir water storage management and release, to compensate downstream for the timing of the water withdrawn, can impact later seasons. The 1909 Androscoggin River Improvement Company (ARCO) agreement requires the river flow at Berlin be maintained at “as high a point above the minimum 1,550 cubic feet per second (cfs) as shall be consistent with proper and economical use of the stored water.” The 1998 cooperative settlement agreement among the power company, state and federal agencies, and conservation groups as part of the FERC license was created and agreed to based on reservoir water levels and flows to protect fish and wildlife, recreation, and other needs, while maintaining the purpose of the ARCO agreement for hydroelectric and other needs downstream. AMC understands that the magnitude and timing of the proposed water withdrawals could impact downstream generation at multiple hydroelectric stations.

AMC request that NH DES, prior to issuing a final 401 WQC for a water withdrawal, properly analyze the potential impacts of this proposed water withdrawal on the upper storage projects water management plan and on downstream users. The current draft 401 WQC only narrowly addresses minimum flow levels. It fails to analyze or address how the magnitude of the proposed withdrawals and their timing will impact upper storage management or downstream hydroelectric generation and other uses dependent on such flows. It is unclear that the draft certificate takes into full account the requirements of the SA, despite NH DES being a signatory.

It is also unclear why a water conservation plan is not available as we understand it is required Application submittal. e.g. Condition E.13 of the draft puts this submission in the future, rather than as part of the Application, which we believe was supposed to be filed with the Application.

C-32. Env-Wq 2101.24 entitled Water Conservation Plan Required states that “(a) The applicants for approval of a source that would be a conservation source shall submit a water

conservation plan that demonstrates compliance with the applicable provisions of Env-Wq 2101.05 through Env-Wq 2101.22 in accordance with the following:

(5) For a new withdrawal from a surface water associated with a project requiring a 401 Water Quality Certification, the water conservation plan shall be submitted prior to or in conjunction with the application for a 401 Water Quality Certification pursuant to Section 401 of the federal Clean Water Act;

(6) For a new withdrawal from a surface water that requires water quality certification pursuant to RSA 485-A:12, IV, the water conservation plan shall be submitted prior to or in conjunction with the certification request”

Thank you for your consideration of our comments. As stated in the Androscoggin River Committee filing, AMC is supportive of a Balsam’s reconstruction effort, however, the project (and certifications issued) need to be designed, scaled, and appropriately reviewed so that the project does not negatively impact other long standing and legitimate interests in the area.

Sincerely,

Dr. Kenneth Kimball

Director of Research

PO Box 298

Gorham, NH 03581

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Attachments –

- Balsams response to the ARC information request
- 1998 Upper Androscoggin River Storage Projects Settlement Agreement