

New Hampshire Department of Environmental Services
Response to Comments
for Section 401 Water Quality Certification WQC 2021-FERC-001
Rollinsford Hydroelectric Project (FERC Number 3777)
June 10, 2021

From April 23, 2021 to May 26, 2021, the draft Clean Water Act section 401 water quality certification (WQC or certification) for the Rollinsford Hydroelectric Project (Project), FERC Number 3777, was issued for public comment. On June 10, 2021, the New Hampshire Department of Environmental Services (NHDES) issued a final certification for the Project (WQC 2021-FERC-001). The following is a summary of the comments received, NHDES' response to each comment (in italics), and a list of other substantive changes made to the final certification since the draft certification was issued for comment.

COMMENTS AND NHDES' RESPONSE

The only comments received were from Green Mountain Power Corporation (GMP) on behalf of the Town of Rollinsford, New Hampshire (the Applicant).

GMP Comment 1:

"Section A. Introduction: Agent Filing Application on Behalf of Owner/Applicant
The correct address for the Owner/Applicant agent is 2152 Post Road, Rutland, VT 05701."

NHDES Response to Comment 1: Agree. Changes made.

GMP Comment 2:

"Condition E-10(b): Bypass Reach Conservation Flows

This condition requires that the Applicant during the upstream alosine migration period (April 15 through July 15), and when the Project is generating, to release a continuous conservation flow of 60 cfs or inflow, whichever is less, into the bypass reach to facilitate upstream passage and adult spawning and incubation. This condition also requires that from July 16 through April 14, a continuous conservation flow of at least 35 cfs or inflow, whichever is less, be released to the bypass reach whenever the Project is generating. The March 5, 2021 Settlement Agreement between the Applicant, GMP and the United States Fish and Wildlife Service (USFWS) requires the Applicant to construct and begin operation of a Denil Fishway at the Rollinsford Project to pass river herring and American Shad, prior to the fourth full passage season after license issuance, unless within two years of license issuance the Applicant has submitted a request to the Federal Energy Regulatory Commission (FERC) for approval of plans to construct facilities necessary to support a trap and truck operation from the downstream South Berwick Project. If the Applicant begins trap and truck operations from the South Berwick Project in the third full passage season following FERC's issuance of the license for the Rollinsford Project, the Settlement Agreement delays the Applicant's obligation to have the Denil Fishway operational at the Rollinsford Project.

In general, the proposed trap and transport plan would require the Applicant to capture river herring and American Shad at the downstream South Berwick Project fish ladder and transport them upstream of the Rollinsford dam. A portion of the river herring and American Shad ascending the fish ladder would still be allowed to pass volitionally into the South Berwick impoundment to continue their migration upstream to the Rollinsford Project. However, for any river herring or American Shad migrating to the Rollinsford Project, the Applicant's Instream Flow/Upstream Zone of Passage Study¹ indicated that the

¹ Gomez and Sullivan Engineers, P.C. 2019. Instream Flow/Upstream Zone of Passage Study.

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natural hydraulic conditions and ledge outcrops at the lower end of the Rollinsford bypass reach severely limit, and may entirely prevent, upstream movement of river herring and American Shad to the bypass reach and Project dam. This conclusion is supported by recent observations made in the field during studies conducted during the relicensing process². Moreover, the Instream Flow/Upstream Zone of Passage study results showed that higher bypass flows exacerbated this condition.

The institution of the trap and transport program along with the inability of many, if not all, of river herring and American Shad to ascend into the bypass reach and access habitat within it, would seem to alleviate the need for the higher minimum bypass flow (60 cfs) during the April 15 to July 15 period to facilitate upstream passage and spawning, until such time that a Denil Fishway and a nature like fishway are installed at the Project.

Accordingly, the Applicant respectfully requests that Condition E-10(b) be revised to only require the conservation flow of 60 cfs or inflow, whichever is less, into the bypass reach for the April 15 to July 15 period if, and when, a Denil Fishway and nature like fishway are eventually constructed at the Project and the trap and transport program has ended. When these facilities are in place, these species will be able to access habitats in the bypass reach. For the interim period, the Applicant respectfully request that a continuous conservation flow of 35 cfs or inflow, whichever is less, be released to the bypass reach year-round.”

NHDES Response to Comment 2: Agree. Condition E-10(b) has been revised to allow a minimum conservation flow in the bypass reach of 35 cfs or inflow, whichever is less, for the April 15 to July 15 period prior to implementation of volitional upstream fish passage. This condition was also reworked in an effort to make it clearer what bypass flow is required, and when, and that the flow and manner it is released to the bypass reach shall be acceptable to USFWS and in accordance with their 2019 USFWS fish passage guidelines. Reference to a specific minimum bypass conservation flow of 60 cfs, or inflow, whichever is less, during this period after volitional upstream fish passage is operational was deleted and replaced with a general statement that flow, and the manner it is released to the bypass reach, will be in accordance with the 2019 USFWS fish passage guidelines.

GMP Comment 3:

“This condition requires the Applicant to conduct water quality monitoring every five years beginning the fifth year after the FERC license for the Project is reissued and ending five years prior to the expiration of the reissued license. The Applicant would note that the Water Quality Mitigation and Enhancement Plan (WQMEP) required as part of Condition E-14 stipulates water quality monitoring as well in the 3 years following license issuance. Accordingly, the Applicant respectfully requests that the long-term water quality monitoring required as part of Condition E-15 be initiated beginning the tenth year after the FERC license is issued, rather than the fifth year.”

² Town of Rollinsford’s Submittal of an Alternative Fishway Prescription for the Rollinsford Hydroelectric Project at page 4. FERC Accession Number 20200724-5142.

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NHDES Response to Comment 3: Agree in concept. NHDES does not know with certainty the details of monitoring that will be conducted in the first five years after the FERC license is reissued. However, depending on the monitoring that is conducted, NHDES will consider extending the start date for the long term monitoring. To reflect this, the following sentence was added to this Condition E-14: "Should monitoring be conducted within the first five years after the FERC license for the Project is reissued, the Applicant may submit a written request to NHDES to delay the start date for long term monitoring under this Condition and shall comply with NHDES' written decision on the request."

In addition, the following was added to the second paragraph in Finding D-34: "Initiating long-term monitoring the fifth year after the license is reissued by FERC assumes little to no monitoring is conducted in the first five years. If monitoring is conducted in the first five years, and depending on what it entails, NHDES will consider extending the start date for long-term monitoring."

LIST OF OTHER SUBSTANTIVE DIFFERENCES BETWEEN THE FINAL AND DRAFT CERTIFICATION

In addition to the revisions noted in the above response to comments, the following is a list of other substantive changes made to the final certification since the draft certification was issued for public notice. Other revisions were made but were not considered substantive by NHDES, and, therefore, were not included below.

Finding D-33 – Water Quality Mitigation and Enhancement Plan

The following was added at the end of this Finding: "To address potential impingement / entrainment concerns associated with the proposed drawdowns (especially prior to implementation of downstream fish passage), a first step may be to conduct monitoring to determine if increasing the minimum bypass reach conservation flow from 10 cfs to 35 cfs (as proposed by the Applicant) will sufficiently improve water quality without having to lower the impoundment. Condition 0 addresses this Finding."

Finding D-34 – Long-Term Water Quality Monitoring and Reporting.

In the first paragraph, "and if New Hampshire surface water quality standards are met" was added to the third sentence from the end so that it now reads as follows: "To determine the impact of the Project and Project discharges on these parameters in the future, and if New Hampshire surface water quality standards are met, additional monitoring is needed."

In the first paragraph, the following was added at the end: "Inclusion of monitoring conditions is authorized by RSA 485-A:12,III (Fact **Error! Reference source not found.**) which states the following: "Certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide assurance that the proposed discharge complies with applicable surface water quality standards"."

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Condition E-10 – Flow / Impoundment Management

The following was added at the beginning of this condition: “The following requirements (items a. through e.) may be temporarily modified if required by operating emergencies beyond the control of the Applicant and/or as specified below.”

Condition E-14 – Water Quality Mitigation and Enhancement Plan

This condition was revised as follows: “Within 60 days of License issuance by FERC, the Applicant shall consult with NHDES regarding finalization of the draft Water Quality Mitigation and Enhancement Plan (WQMEP) received by NHDES on March 22, 2021 to implement and monitor the effectiveness of measures to improve water quality in the Salmon Falls River during low flow. The NHDES approved plan shall then be implemented.”