

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 6

Dulles State Office Building, 317 Washington Street, Watertown, NY 13601-3787

P: (315) 785-2245 | F: (315) 785-2242

www.dec.ny.gov

DECEMBER 9, 2015

NORTHBROOK LYONS FALLS LLC
37 ALFRED A PLOURDE PARKWAY
SUITE 2
LEWISTON, ME 04240

RE: DEC PERMIT NO. 6-2399-00022/00001 (FERC NO. 2548)

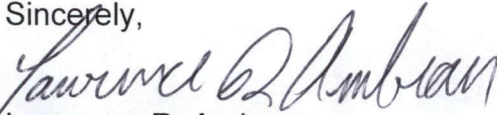
Dear Sir:

Enclosed is your permit for construction as proposed in the application for a permit under the Environmental Conservation Law, Section 401 – Water Quality Certification.

It is essential that you give particular attention to the **NOTICE** enclosed with your permit and to the **Special Conditions**.

You may also require a permit from the U.S. Army Corps of Engineers. You can reach them at the Buffalo District, 1776 Niagara Street, Buffalo, New York 14207, phone (716) 879-4330.

Sincerely,



Lawrence R. Ambeau
Regional Permit Administrator
Region 6

LRA:JH:dli

Enclosures

cc: Stephen Patch
William Little
Larry Eckhaus
Peter Kissel
Curtis Whittaker
Claude Carriere
Gabriel Durany
Guy Paquette
Lewis Loon
Lea Tyhach
Russell McCullough
Steve Botsford
Jim Gibson
Jessica Hart



Department of
Environmental
Conservation

Facility DEC ID 6-2399-00022/00001

PERMIT
Under the Environmental Conservation Law (ECL)

Permit Holder and Facility Information

Permit Issued To:

NORTHBROOK LYONS FALLS LLC
37 ALFRED A PLOURDE PARKWAY
SUITE 2
LEWISTON, ME 04240

Facility:

LYONS FALLS MILL
4010 CENTER STREET
LYONS FALLS, NY 13368

Facility Location: Village of Lyons Falls and the Towns of West Turin and Lyonsdale in Lewis County.

Facility Principal Reference Point: NYTM-E: 471.081 NYTM-N: 4,829.527
Latitude: 43°37'4.876"N Longitude: 75°21'26.469"W

Authorized Activity: Modification, operation, and maintenance of the Lyons Falls Mill Hydroelectric Plant (Facility), which is part of the Lyons Falls Hydroelectric Project (FERC No. 2548), on the Black River, just below the confluence with the Moose River, Lewis County, NY.

Modification: This Permit authorizes the modification, operation, and maintenance of this facility with an increased installed capacity of 11.2 megawatts in accordance with the attached conditions and the terms and conditions of the FERC license as modified.

Permit Authorizations – Water Quality Certification

Water Quality Certification – Under:

Section 401 - Clean Water Act (33 USC 1341); and 6 NYCRR § 608.9

Permit ID 6-2399-00022/00001 (FERC No. 2548)

Modification

Effective Date: This Permit shall only become effective upon the commencement of the work to increase the installed capacity of the Lyons Falls Mill facility to 11.2 MW (hereinafter, the Repowering Project). This Permit will nevertheless be void if the Repowering Project work has not commenced by March 31, 2020; the obligations under item 5 below, however, will still apply and Permit ID 6-2399-00022/00001 (hereinafter, the Existing License) will remain valid in accordance with its terms.

Expiration Date: Coincident with expiration date of the License issued by the Federal Energy Regulatory Commission (FERC) for FERC Project #2548.

Facility DEC ID 6-2399-00022/00001**NYSDEC Approval**

By acceptance of this Permit, the Permit Holder agrees that the Permit is contingent upon strict compliance with the ECL, all applicable regulations, all conditions included as part of this Permit and the FERC License as modified.

Permit Administrator: New York State Department of Environmental Conservation
Regional Permit Administrator

Address: 317 Washington St.
Watertown, NY 13601

Authorized Signature: _____

Date: 12/9/2015**Distribution List**

FERC Distribution List (FERC No. 2548)

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

OTHER PERMIT HOLDER OBLIGATIONS

Permit Attachments

Attachment 1. Section 401 Water Quality Certification Lyons Falls Hydroelectric Project on the Black and Moose Rivers, Lewis County, New York – FERC 2548-002 (3 pages) (February 12, 1985)

NATURAL RESOURCE PERMIT CONDITIONS

1. Conformance with Plans. All activities authorized by this Permit shall be in strict conformance with the approved plans, including any approved amendments thereto, submitted by the Permit Holder or his agent as part of the permit application.

2. State Not Liable for Damage. The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

Facility DEC ID 6-2399-00022/00001

3. Precautions Against Contamination of Waters. All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the Repowering Project.

4. No Interference with Navigation. There shall be no unreasonable interference with navigation by the work herein authorized.

5. State May Require Site Restoration. If any work, including, without limitation, the Repowering Project, authorized by this permit has not been completed upon expiration or revocation of this Permit or the FERC license, the applicant shall, without expense to the State, and to such extent and in such time and manner as the New York State Department of Environmental Conservation (NYSDEC) may with appropriate authority require, remove all or any portion of the uncompleted structure, stabilize the project area consistent with the approved Erosion and Sediment Control Plan (hereinafter, the approved ESCP) or fill and restore the site consistent with the approved ESCP. No claim shall be made against the State of New York on account of any such removal or alteration.

6. Notification Requirements for Emergencies. Prior to commencement of emergency activities, the Permit Holder shall notify NYSDEC and receive approval in advance of the work commencing. If circumstances require that emergency activities be taken immediately such that prior notice to NYSDEC is not possible, then NYSDEC shall be notified by the Permit Holder within 24 hours of commencement of the emergency activities. In either case, notification shall be by certified mail or other form of communication, e.g. Fax and electronic mail. This notification shall be followed within 24 hours by submission of the following information:

- a. a description of the action;
- b. location map and plan of the proposed action;
- c. reasons why the situation is an emergency.

All notifications, requests for emergency authorizations and information submitted to support such requests shall be sent to the contacts listed in General Condition #4.

OPERATING CONDITIONS

7. Project Operations and Impoundment Fluctuations. Upon issuance and acceptance of the amended FERC license (License), and completion of the Repowering Project the Permit Holder shall operate project reservoirs as run-of-river in accordance with Article 403 of the License. In support of defining compliance and reporting requirements associated with project operations and impoundment fluctuations, the following is applicable to project operations.

- a. Water Levels: Except as temporarily modified by (1) maintenance activities approved by NYSDEC, (2) extreme hydrological conditions, as defined below, (3) emergency electrical system conditions, as defined below, (4) flashboard failure, or (5) agreement between the applicant and appropriate state and/or federal agencies, beginning within 60 days of issuance of a FERC license for the project or upon such other schedule as established by FERC, water levels in the Mill impoundment shall be maintained within one foot of the full pond elevation of 806.5 feet (crest of flashboards) to the maximum extent possible. Maintenance drawdowns shall be limited to August and September, with attainment of full pond no later than October 15.

Facility DEC ID 6-2399-00022/00001

- b. Extreme Hydrologic Conditions: Means the occurrence of events beyond the Licensee's control, such as but not limited to, abnormal precipitation, extreme runoff, flood conditions, ice conditions or other hydrologic conditions such that the operational restrictions and requirements contained herein are impossible to achieve or are inconsistent with the safe operation of the Project.
- c. Emergency Electrical System Conditions: Means operating emergencies beyond the Licensee's control which requires changes in flow regimes to eliminate such emergencies which may in some circumstances include but are not limited to equipment failure or other abnormal temporary operating condition generating unit operation or third-party mandated interruptions under power supply emergencies; and orders from local, state or federal law enforcement or public safety authorities.

8. Bypassed Flows. Effective upon completion of the Re-powering Project, the Permit Holder shall provide at least 45 cfs or inflow whichever is less from March 15th through November 30th annually in the downstream fish passage structure. In addition, at least 25 cfs will be released for aesthetic flow from May 1st through October 31st annually through the flashboard notch allocated for aesthetic flow.

- a. Bypassed Flows: Except as temporarily modified by (1) maintenance activities approved by NYSDEC, (2) extreme hydrologic conditions, as defined below, or (3) emergency electrical system conditions, as defined below, or (4) agreement between the applicant and appropriate state and/or federal agencies, beginning within 60 days of issuance of a FERC license for the project or upon such other schedule as established by FERC, minimum flows shall be released from the Mill project in accordance with the agreed upon minimum flow.
- b. Extreme Hydrologic Conditions: Means the occurrence of events beyond the Licensee's control, such as but not limited to, abnormal precipitation, extreme runoff, flood conditions, ice conditions or other hydrologic conditions such that the operational restrictions and requirements contained herein are impossible to achieve or are inconsistent with the safe operation of the Project.
- c. Emergency Electrical System Conditions: Means operating emergencies beyond the Licensee's control which requires changes in flow regimes to eliminate such emergencies which may in some circumstances include but are not limited to equipment failure or other abnormal temporary operating condition generating unit operation or third-party mandated interruptions under power supply emergencies; and orders from local, state or federal law enforcement or public safety authorities.

Bypassed Flows:

March 15 th through November 30 th Downstream Fish Passage	45 cfs
May 1 st through October 31 st Additional Aesthetic Flow	25 cfs

9. Fish Protection. Effective upon completion of the Re-powering Project including the construction of the intake and trashrack structure, one-inch clear spaced trashrack overlays shall be installed annually and maintained on a seasonal basis from March 15th through November 30th in accordance with the Trashrack Management Plan as required by Permit Condition # 10.

10. Trashrack Management Plan. Within 12 months of date license issuance, the Permit Holder in consultation with USFWS and NYSDEC shall develop an approvable trashrack management plan

Facility DEC ID 6-2399-00022/00001

(TMP). The TMP will identify when and how the trashrack overlays will be installed and removed annually and what procedures will be followed when a time extension for trashrack overlay installation or removal is needed (e.g., when the overlays cannot be timely installed due to adverse ice conditions or other measures affecting safety).. Also, the Permit Holder will collect and maintain data regarding the timing and circumstances surrounding the annual installation and removal of the overlays for use in the future relicensing.

11. Fish Passage. Effective upon completion of the Re-powering Project, the Permit Holder shall provide a means for downstream fish movement from March 15th through November 30th as described in the application.

PROJECT MAINTENANCE AND CONSTRUCTION

12. In-Water Work Restriction. In-water maintenance activities (including but not limited to dredging, cofferdam construction or removal, etc.) involving the potential disturbance of the bed and/or banks of the Black River or facility reservoir, **shall not** occur from **March 15 to July 15** annually, unless otherwise authorized by the Department in writing, in order to minimize impacts to fish spawning activities.

13. Impoundment Drawdowns/Dewatering Activities. Impoundment drawdowns **shall not** occur from **October 1 to July 15 annually**, to protect hibernating amphibians and reptiles and fish spawning activities in the impoundment. Prior to any drawdown or dewatering activities, the Permit Holder shall consult with and receive NYSDEC's written approval regarding drawdown timing and refill rates. Impoundment drawdowns or dewatering activities shall not occur until the certificate holder has given proper prior notification to NYSDEC as per Natural Resource Permit Condition #22.

Impoundment drawdown/refill operations shall occur at a gradual rate (pursuant to the aforesaid consultation and approval) in order not to strand aquatic species. The Permit Holder shall monitor areas affected by the drawdown/refill operations or dewatering activities and return any stranded fish back to adequate water conditions.

14. Maintenance Dredging. The Permit Holder shall install and maintain appropriate turbidity control structures while conducting any maintenance dredging activities associated with the Project. Refer to Natural Resource Permit Condition #12 for in-water work restrictions.

Appropriate turbidity control structures (such as, but not limited to, filter fabric or turbidity curtains weighted across the bottom and suspended at the top by floats) shall be positioned to enclose the work site before commencing dredging. The containment method shall remain in place and in functional condition during all phases of dredging operations and remain in place until after dredging has terminated and turbidity inside the containment area no longer exceeds ambient levels. During any portion of the dredging operation or prior to containment removal, if noticeable turbidity occurs outside the containment area, and such level of turbidity is in breach of the approved ESCP, work shall cease until the containment method is repaired or reinforced and is functioning properly.

15. Sediment Analysis and Disposal. The Permit Holder shall sample any sediment which will be disturbed or removed from the project's waters and test them for contaminants. Sampling and testing shall be accomplished according to a protocol that is consistent with NYSDEC's Technical and Operations Guidance 5.1.9 or applicable guidelines/regulations. The sampling protocol shall include a

Facility DEC ID 6-2399-00022/00001

disposal protocol based on analytical sediment sampling results and current applicable regulations/guidelines. The sampling results are required to be submitted to NYSDEC at least 60 days prior to the commencement of dredging or work that will disturb sediment in the project waters. Dredging or other excavation shall not commence until the Permit Holder also secures NYSDEC's written approval for the disposal or interim holding locations for any sediments to be removed from the project waters.

16. Placement of cofferdams, construction of temporary access roads or ramps, or other temporary structures which encroach upon the bed or banks of the Black River or project reservoir. Before any cofferdam installation or other work commences which encroaches on the bed or banks of the Black River, the proposed design of all such structures as they pertain to water quality, to compliance with water quality standards, and to this Permit shall be approved, in writing, by NYSDEC prior to installation. NYSDEC will conduct its review of the proposed design within 60 days after receipt of all materials it determines are necessary for completing such review.

17. Erosion and Sediment Control Plan. At least 60 days prior to commencing any major construction or maintenance activities within the project boundary which could adversely affect water quality, the Permit Holder shall submit to NYSDEC for review and approval, an erosion and sediment control plan (ESCP). The ESCP and work proposed therein shall meet the erosion and sediment control goals and performance standards set forth in Natural Resource Permit Condition #18. Work shall not commence until the certificate holder receives NYSDEC's written approval of the ESCP.

18. Erosion and Sediment Control Goals and Performance Standards. At a minimum, the Permit Holder shall ensure that the ESCP provides for implementing the following erosion and sediment/contaminant control measures, are adhered to during operation, construction and/or maintenance that may result in sediments/contaminants entering any wetland or waterbody:

- a) All erosion and sediment controls measures shall be installed prior to work. Site preparation work shall not be undertaken until all required erosion control measures have been installed and are functioning properly. Siltation prevention measures (e.g. silt fencing, sediment traps or settling basins) shall be installed and maintained during the project to prevent movement of silt and turbid waters from the project site and into any watercourse, stream, water body or wetland.
- b) Effective erosion control measures shall be installed on the downslope of all disturbed areas (including, but not limited to construction/maintenance equipment staging areas, driveways, roads ramps or other areas where runoff would reach a waterbody) to prevent eroded material from entering any waterbody or wetland. Erosion control measures shall be maintained in a fully functional condition until the disturbed areas are fully stabilized. These erosion control measures are to be installed before commencing any other involving soil disturbance, equipment staging or major construction/maintenance activities commence.
- c) Isolate in-stream work from the flow of water and prevent discolored (turbid) discharges and sediments caused by excavation, dewatering and construction/maintenance activities from entering any waterbody or wetland.
- d) Exclude the use of heavy construction equipment below the mean high water line until the work area is protected by an approved structure and dewatered.

Facility DEC ID 6-2399-00022/00001

- e) Stabilize any disturbed banks by grading to an appropriate slope, followed by armoring or vegetating as appropriate, to prevent erosion and sedimentation into any waterbody or wetland.
- f) Minimize soil disturbance, provide appropriate grading and temporary and permanent re-vegetation of stockpiles and other disturbed areas to minimize erosion/ sedimentation potential.
- g) All areas of soil disturbance resulting from project operation, construction or maintenance shall be seeded with an appropriate perennial grass, and mulched with straw immediately upon completion of the activity. Mulch shall be maintained until suitable vegetation cover is established to NYSDEC's satisfaction.
- h) Protect all waters from contamination by deleterious materials such as wet concrete, gasoline, solvents, epoxy resins or other materials used in the construction, maintenance and operation of the project.
- i) Ensure the immediate and complete removal of all dredged and excavated material, debris or excess materials from operation, construction, or maintenance from the bed and banks of all water areas to a Department approved upland disposal site.
- j) Ensure that all temporary fill and other materials placed in the waters of the river are completely removed, immediately upon completion of construction, unless otherwise directed by NYSDEC.

19. Turbidity Monitoring. During activities related to maintenance or construction in or near the Black River or project reservoir, the Permit Holder shall monitor the waters of the river at a point immediately upstream of project activities and at a second point no more than 200 feet downstream from any discharge point or other potential source of turbidity. The Permit Holder specifically agrees that if, at any time, turbidity measurements from the downstream locations exceed the measurements from the locations upstream of the work areas, all related construction on the project will cease until the source of the turbidity is discovered and the cause is corrected. The certificate holder is required to report any events where turbidity measurements for the downstream locations exceed the measurements from the upstream locations to NYSDEC's Region 6 Natural Resources contact person (as specified in General Condition #4), within 24 hours of the incident.

20. Maintenance of River Flows. Until completion of the Repowering Project and associated construction activities, the Permit Holder shall maintain compliance with Article 403 of the Existing License. Following completion of the Repowering Project, the Permit Holder shall operate the Lyons Falls Mills facility in accordance with this Permit. If adequate river flows are not maintained, the Permit Holder is required to notify NYSDEC's Natural Resources Supervisor in the Region 6 office in Watertown (as specified in General Condition #4), within 24 hours of the incident.

21. Stormwater SPDES. All activities at the project requiring the disturbance of greater than one acre shall obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities (GP-00-15-002) (see <http://www.dec.ny.gov/chemical/8468.html>).

22. Notifications and Department Authorizations. The Regional Natural Resources Supervisor, or other appointed Natural Resources staff, shall be notified in writing at least 60 days prior to commencing any project maintenance or construction work pertaining to water quality, compliance with water quality standards or to this Permit. Additionally, the Permit Holder shall contact the assigned

Facility DEC ID 6-2399-00022/00001

Region 6 Natural Resources staff (as specified in General Condition #4) within 7 days prior to the activity commencing (including but not limited to all drawdowns, flashboard replacements requiring drawdowns or disruptions of flows, and all construction or maintenance activities pertaining to water quality, compliance with water quality standards or this Permit) and within 7 days after it is finished (start notification/end notification).

NYSDEC reserves the authority to temporarily prohibit the project operator from commencing impoundment releases or drawdowns, or conducting in-water maintenance work (including dredging) due to NYSDEC's determination that such actions will cause the project or facility to be out of compliance with applicable water quality standards or the water quality certificate issued for the hydropower license. The project operator shall contact NYSDEC Natural Resources staff contact person (as specified in General Condition #4) as soon as the project operator finds that water quality conditions permit the release, drawdown or in-water work to be conducted without being out of compliance with water quality standards or this certificate. NYSDEC Natural Resources staff person will then advise the project operator if conditions permit commencing releases or drawdowns.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification. The New York State Department of Environmental Conservation hereby certifies that:

- it has reviewed the Permit Holder's Application for Amendment of Federal Hydroelectric License (May 2015) and all other available pertinent information; and
- the project will comply with Sections 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act as amended and as implemented by the limitations, standards and criteria of the state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a); and
- the project will comply with applicable New York State effluent limitations, water quality standards and thermal discharge criteria set forth in 6 NYCRR Parts 700-706.

This Water Quality Certification is issued pursuant to Section 401 of the Federal Water Pollution Control Act (33 USC 1341) and 6 NYCRR §608.9

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by NYSDEC. The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of NYSDEC of Environmental Conservation (NYSDEC) to determine whether the Permit Holder is complying with this Permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The Permit Holder shall provide a person to accompany NYSDEC's representative during an inspection to the permit area when requested by NYSDEC.

A copy of this Permit, including management plans, as well as the FERC application, license and all

Facility DEC ID 6-2399-00022/00001

pertinent maps, drawings and special conditions shall be available for inspection by Department staff at all times during such inspections at the project site or facility. Failure to produce a copy of any of these documents upon request by a Department representative is a violation of this Permit.

2. Relationship of this Permit to Other Department Orders and Determinations. Unless expressly provided for by NYSDEC, issuance of this Permit does not modify, supersede or rescind any order or determination previously issued by NYSDEC or any of the terms, conditions or requirements contained in such order or determination. This Permit supplements and modifies the Section 401 Water Quality Certification for the project issued February 12, 1985 (see Attachment 1) only as it pertains to the Lyons Falls Mill facility.

3. Applications for Permit Renewals or Modifications. The Permit Holder shall submit a separate written application to NYSDEC for renewal, modification, or transfer of this Permit. Such application shall include any forms or supplemental information NYSDEC requires. Any renewal, modification or transfer granted by NYSDEC shall be in writing.

4. Department Contacts. All matters concerning this Permit, including, but not limited to: Water Quality Certification Specific Conditions, General Conditions, and Other Permit Holder Conditions, and all applications for permit modification or renewal are to be submitted to:

Regional Permit Administrator – DEC Region 6
New York State Department of Environmental Conservation
317 Washington Street
Watertown, NY 13601
Fax: (315) 785-2242
Phone: (315) 785-2245
Email: dec.sm.DEP.R6@dec.ny.gov

All matters concerning Natural Resource Permit Conditions, including, but not limited to: submission of the information required by the Natural Resource Permit Conditions, the reporting of possible violations, and requests to deviate from timing windows in the Natural Resource Permit Conditions are submitted to:

Regional Natural Resource Supervisor – DEC Region 6
New York State Department of Environmental Conservation
317 Washington Street
Watertown, NY 13601

Fax: (315) 785-2242
Phone: (315) 785-2263
Email: information.r6@dec.ny.gov

5. Permit Modifications, Suspensions and Revocations by NYSDEC. NYSDEC reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include, without limitation:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the Permit Holder to comply with any terms or conditions of the certificate;

Facility DEC ID 6-2399-00022/00001

- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the permit; and/or
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of NYSDEC related to the permitted activity, noncompliance with any license conditions.

6. Permit Transfers. Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer shall be submitted prior to actual transfer of ownership.

7. Adjudicatory Hearing/Acceptance. The Permit Holder has the right to object to conditions in this Permit through the adjudicatory hearing process. A hearing must be requested in writing within 30 calendar days of the date of the mailing of this Permit by writing to the Regional Permit Administrator (as specified in General Condition #4). Failure to object to the conditions in this Permit shall be deemed acceptance by the Permit Holder.

OTHER PERMIT HOLDER OBLIGATIONS

Item A: Permit Holder Accepts Legal Responsibility and Agrees to Indemnification. The Permit holder expressly agrees to indemnify and hold harmless the State of new York, NYSDEC, its representatives, employees, and agents for all claims, suits, actions, and damages, to the extent attributable to the Permit Holder's acts or omissions in connection with the certificate holder's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the Permit whether in compliance or not in compliance with the terms and conditions of the Permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permit Holder's Contractors to Comply with Permit. The Permit Holder is responsible for informing its independent contractors and subcontractors, employees, agents and assigns of their responsibility to comply with this Permit, including all conditions while performing any of the permitted activities on behalf of the Permit Holder, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the Permit Holder.

Item C: Permit Holder Responsible for Obtaining Other Required Permits. The Permit Holder is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this Permit.

Item D: No Right to Trespass or Interfere with Riparian Rights. This Permit does not convey to the Permit Holder any right to trespass upon the lands, or interfere with the riparian rights, of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to this Permit.

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233-0001



Henry G. Williams
Commissioner

February 12, 1985

Mr. Robert A. Schumacher
Executive Vice-President
Georgia-Pacific Corporation
320 Post Road
Darien, Connecticut 06820

Subj: Section 401 Water Quality Certification
Lyons Falls Hydroelectric Project on
the Black and Moose Rivers, Lewis County,
New York - FERC 2548-002

Dear Mr. Schumacher:

The New York State Department of Environmental Conservation (DEC) hereby certifies that the referenced hydroelectric development will comply with all applicable provisions of the Clean Water Act of 1977 (PL95-2117), provided that the following conditions are met:

- I. There can be no future changes in any of the following that will result in non-compliance with the intent of this certification:
 - a. the characteristics of the water into which the discharges are made,
 - b. the water quality applicable to such waters, or,
 - c. applicable effluent limitations or other requirements.
- II. The project is constructed in compliance with applicable provisions of state law and regulations.
- III. The following provisions shall become conditions to the Federal Energy Regulatory Commission (FERC) license issued to the Beaver Falls Power Company pursuant to Section 401 (d) of the Clean Water Act.
 - a. The applicant will operate the proposed development in a manner that will not contravene the established needs of other in-line consumptive and non-consumptive interests,
 - b. future modifications to the development of the proposed mode of operation as licensed shall not occur without the prior approval of the DEC,
 - c. the licensee shall consult with DEC prior to initiating any action that will result in the interruption to downstream flows, including, but not limited to turbine testing, the transition from generation to spillage and/or release, cofferdam installation and removal, and the rescheduling of impoundment drawdowns required to facilitate construction activities,

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- d. all sediments scheduled for removal from the Black River or Moose River shall be analyzed for the presence of heavy metals and toxic substances. All sediments shall be disposed of in a DEC approved manner,
- e. copies of all reports, studies, and notifications provided by the applicant pursuant to this certification and the FERC license shall also be submitted to the Director, Division of Regulatory Affairs at DEC, and,
- f. the DEC reserves the right to require the applicant to implement temporary modifications to the project or its mode of operation, if required by emergencies beyond the control of the licensee, to assure the protection of the quality of the water and its biota. The DEC also reserves the right to require the applicant to prepare studies and made whatever reasonable modifications that are deemed necessary to alleviate any unanticipated significant adverse impacts upon the aquatic resources that may not have been identified during the review process, but which can be directly attributed to the creation and operation of the project as licensed by the Commission.

- IV. The project is constructed and operated in compliance with the minimum impact abatement requirements identified in the federal license issued by the Commission and in the DEC comments submitted to Secretary Plumb on July 6, 1984 and December 18, 1984, and February 8, 1985.

This Water Quality Certification is issued by the Department of Environmental Conservation in accordance with the requirements of the NYS Environmental Quality Act, Article 8 of the Environmental Conservation Law and Part 617 of the Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The DEC has determined that the proposed action will not have a significant effect upon the environment provided that the proposed construction activities and the mode of operation are compatible or in compliance with:

- a. the conditions contained in this Certification,
- b. the environmental and resource management stipulations contained in the application submitted to the FERC.

This Certification is issued solely for the purpose of Section 401 of the Act. The DEC reserves the right to reconsider the entire Certification if any conditions contained herein is declared invalid, if there is significant change in the scope of the project as licensed, or in the event the referenced application is further amended.

Mr. Robert A. Schumacher

3.

A copy of this Certification is being forwarded to the Secretary of the Federal Energy Regulatory Commission.

Very truly yours,



Louis M. Concra, Jr.
Director
Division of Regulatory Affairs

RG/LMC/bv

cc: K. Plumb (FERC)
C.R. Anderson (FERC)
F. Springer (FERC)
Q. Edson (FERC)
J.T. Ferguson II (G-P)
J.D. Peterson (G-P)
R.A. Schumacher (G-P)
D. Crofoot (G-P Lyons Falls)
J. Dawson (Rist-Frost)
D. Pawlicki (Rist-Frost)
T. Smith (DOT)
M. Elkins (OPR)
A.N. Miller (EPA, NY)
R. Hardiman (COE-Buf)
Att: F.J. Henry

M. MacKenzie (DRA)
E. Miller (DRA)
~~W. Howell~~ (DRA)
R. Guthrie (DRA)
B. Zeisel (F&W)
L. Brown (End. Spec.)
A. Bromberg (Water Q.)
F. Dwyer (Flood Mgt.)
G. Koch (Dam Safety)
P. Hamilton (USF & WS)
T. Brown (Reg. 6)
R. Vaas (Reg. 6 (2))
J. McLean (PSC)
L. Kuwik (OPR/SHPO)