



DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3240-040, Project No. 6689-018, Project No. 3342-025]

Briar Hydro Associates, LLC; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric applications have been filed with the Commission and is available for public inspection.

- a. Type of Applications: New License
- b. Project Nos.: P-3240-040, P-6689-018, and P-3342-025
- c. Date Filed: November 30, 2022
- d. Applicant: Briar Hydro Associates, LLC
- e. Names of Projects: Rolfe Canal Hydroelectric Project, Penacook Upper Falls Hydroelectric Project, and Penacook Lower Falls Hydroelectric Project (the projects).
- f. Locations: The Rolfe Canal and the Penacook Upper Falls Projects are on the Contoocook River in the City of Concord in Merrimack County, New Hampshire. The Penacook Lower Falls Project is located on the on the Contoocook River in the Town of Boscawen in Merrimack County, New Hampshire.
- g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) – 825(r)
- h. Applicant Contact: Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357-0032; e-mail – alocke@essexhydro.com.
- i. FERC Contact: Jeanne Edwards at (202) 502-6181; or e-mail at jeanne.edwards@ferc.gov
- j. Deadline for filing scoping comments: **January 5, 2024**

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCOOnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the following on the first page: **Rolfe Canal Project No. 3240-040, and/or Penacook Upper Falls Project No. 6689-018, and/or the Penacook Lower Falls Project No. 3342-025.**

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

- k. The applications are not ready for environmental analysis at this time.
- l. Project Descriptions:

The Rolfe Canal Project diverts water at the York Dam into the Rolfe Canal and consists of the following existing facilities: (1) York impoundment with a surface area of 50-acres, at an elevation of 342.5 feet National Geodetic Vertical Datum 1929 (NGVD29); (2) a 300-foot-long, 10-foot-high diversion dam (York Dam); (3) a 50-foot-wide concrete gated intake structure; (4) a 7,000-foot-long, 75-foot-wide, and 9-foot-deep power canal; (5) an additional impoundment with a surface area of 3-acres, at an elevation of 342.5 feet NGVD29, and a negligible storage capacity, created by a 130-foot-long, 17-foot-high granite block intake dam at the end of the power canal; (6) a 950-foot-long underground penstock; (7) a 32-foot-wide by 90-foot-long, concrete powerhouse containing one Kaplan turbine-generating unit with a capacity of 4.285 megawatts; (8) a 1,200-foot-long tailrace; (9) transmission facilities consisting of a three-phase 4.16/34.5-kilovolt (kV) transformer; and a 34.5-kV, 650-foot-long transmission line; and (10) other appurtenances. The project has a 4,000-foot-long York Dam bypassed reach and a 2,400-foot-long Rolfe Canal bypassed reach.¹

The Rolfe Canal Project recreation facilities include: (1) a boat launch, located about 2,200 feet upstream of the York Dam; and (2) an unpaved parking area near the launch, which provides 7 parking spaces with additional parking space for vehicles with trailers situated along the boat launch access road.

The Penacook Upper Falls Project consists of the following existing facilities: (1) an impoundment with a surface area of 11.4-acres at an elevation of 306.0 feet NGVD29; (2) a 21-foot-high, 187-foot-long timber stoplog dam with a gated concrete spillway; (3) a 58-foot-

¹ In the Final License Application, Briar Hydro refers to the portion of the Rolfe Canal below the penstock intake dam as the “historic channel”. Staff refers to this reach as the Rolfe Canal bypassed reach.

wide, 15-foot-long forebay; (4) a 12.5-foot-wide, 39.3-foot-high trashrack, with 3.5-inch clear bar spacing; (5) a 44-foot-wide by 81-foot-long, concrete powerhouse, integral to the dam containing one Kaplan turbine generating unit with a capacity of 3.02 megawatts; (6) a 350-foot-long, 47-foot-wide tailrace; (7) transmission facilities consisting of a 4.16/34.5- kilovolt (kV) transformer and a 50-foot-long, 34.5-kV transmission line; and (8) other appurtenances.

The Upper Falls Project recreation facilities include a public park (Penacook Downtown River Park or Riverside Park) located 730 feet upstream from the dam on the east side of the impoundment. It was originally developed by Briar Hydro and the City of Concord. The park includes an amphitheater, which abuts and overlooks the impoundment. The park, which is operated and maintained by the City of Concord, is a non-project amenity.

The Penacook Lower Falls Project consists of the following existing facilities: (1) an impoundment with a surface area of 8.4-acres at an elevation of 278.6 feet NGVD29; (2) a concrete dam with a 15-foot-long, 70-foot-wide forebay; a 106-foot-long, gated spillway, a 316-foot-long auxiliary spillway; and a 140-foot-long, gated diversion structure; (3) a 23.3-foot-long, 46.1-foot-high trash rack with a 3.625-inch clear spacing; (4) a 35-foot-wide by 97.5-foot-long concrete powerhouse, integral with the spillway, containing one Kaplan style turbine-generator unit with a capacity of 4.6 megawatts; (5) a 700-foot-long, 45-foot wide tailrace; (6) transmission facilities consisting of a 4.16/34.5 kilovolt (kV) transformer and 200-foot-long, 34.5-kV transmission line; and (7) other appurtenances.

The Lower Falls Project recreation facilities include: (1) a boat launch, located about 1,000 feet downstream of the Lower Falls powerhouse on the southern bank of the Contoocook River; and (2) an unpaved parking area near the boat launch for up to 20 vehicles, with a vehicle turnaround area.

As required by their current licenses, the Rolfe Canal, Upper Penacook Falls, and Lower Penacook Falls Projects operate in run-of-river mode. When flows exceed the combined capacity of the projects' turbines, excess flows are passed over the dam spillways. To enhance downstream eel passage at the projects, Briar Hydro conducts nightly shutdowns of the generating facilities for three nights after any rain event of 0.25 inches or more within a 24-hour period: (1) during the downstream eel migrating season (August 15 through November 1); or (2) whenever the Contoocook River drops to a water temperature of 50 degrees Fahrenheit (°F), whichever occurs first.

At the Rolfe Canal Project, the current license requires the release of a continuous minimum flow of 5 cubic feet per second (cfs) below the penstock intake dam (Rolfe Canal bypassed reach), and a continuous minimum flow of 50 cfs to the York bypassed reach.

At the Upper Falls Project, the current license requires the project to operate the existing upstream passage eel lift, annually, from June 1 through September 15,² and operate the existing downstream salmon fish passage, annually, to pass Atlantic salmon through a converted spillway bay leading to a fish sluice discharged into the tailrace.³

² The existing upstream eel lift at the Upper Falls Project is located on the west side of the spillway. Migrant eels are lifted upstream in the bypassed reach to a tank where they are collected, weighed, counted, and measured before being transferred to the head pond.

³ Currently, the existing downstream fish passage for Atlantic salmon is not in use at the Upper Falls Project. In 2013, the FWS ended its participation in the Merrimack River Salmon Restoration Program and stocking efforts of Atlantic salmon in New Hampshire, as the Central New England District Populating Segment of Atlantic salmon is considered extirpated (65 FR 69,459-69,483 [November 17, 2000]). The existing downstream salmon fish passage at the Upper Falls Project is located a spillway bay west of the powerhouse.

At the Lower Falls Project, the current license requires the project to operate the existing downstream salmon fish passage, annually, to pass Atlantic salmon to a converted spillway bay leading to a series of plunge pools discharged into the tailrace.⁴

Briar Hydro proposes to operate the projects with the following environmental measures: (1) continue a run-of-river operation at the projects; (2) install a new 0.75-inch clear-space screen over the existing trash racks at the project turbine intakes (i) from August 15 through November 15,⁵ (ii) from May 15 through July 15, beginning after a trap-and-haul fish passage program is established at the Lower Falls Project, to prevent entrainment of outmigrating American shad, alewife, and blueback herring (alosesines, collectively), (iii) whenever water temperatures in the Contoocook River drop to 50°F, and (iv) from August 15 through November 15, discontinue night-time shutdowns at the projects once the new 0.75-inch overlays are installed; (3) operate the project intakes so the average approach velocity would not exceed 2 feet per second when the new 0.75-inch overlays are installed; (4) construct a new downstream fish passage at the Rolfe Canal and Lower Falls Projects; (5) provide a minimum flow of 100 cubic feet per second (cfs) to the York bypassed reach and 30 cfs to the Rolfe Canal bypassed reach; (6) conduct a feasibility and effectiveness flow study in the Rolfe Canal bypassed reach; (7) install a new roughed channel eel ladder, annually, from June 1 through September 15 for upstream eel passage at the Rolfe Canal and Lower Falls Projects; (8) continue operating the existing upstream passage eel lift at the Upper Falls Project; (9) develop a protection plan for brook floater mussels during planned drawdowns at York Dam;

⁴ The existing downstream fish passage for Atlantic salmon at the Lower Falls Project is located on the west end of the spillway in a modified spillway bay, adjacent to the powerhouse and is not in use as discussed.

⁵ Briar Hydro proposes to extend the downstream passage season for eels to end on November 15 or when water temperatures drop 50°F, whichever comes first.

(10) operate the existing downstream fish passage, annually at the Upper Falls Project, for outmigrating American eels and alosines from August 15 through November 15 and May 15 through July 15; (11) construct a trap and haul facility for upstream passage for diadromous fish,⁶ to operate at the Lower Falls Project from May 1 to June 30, beginning five years after any new license is issued, and a plan to transport fish from the Lower Falls Project to the boat ramp at the Rolfe Canal Project; (12) construct a new bar rack intake support structure for two 0.75-inch clear bar racks, a new wide-slot bar rack; (13) construct a new surface downstream bypass system at the Lower Falls Project; and (14) continue to maintain the boat launch, including the parking area and access road at the Rolfe Canal and Lower Falls Projects.

m. Copies of the applications can be viewed on the Commission's website at <https://www.ferc.gov> using the "eLibrary" link. Enter the project's docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

You may also register at <https://ferconline.ferc.gov/FERCOOnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support at FERCOOnlineSupport@ferc.gov.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions,

⁶ Diadromous fish include American shad, alewife, blueback herring and American eel.

comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

n. Scoping Process

Pursuant to the National Environmental Policy Act (NEPA), Commission staff intends to prepare either an environmental assessment (EA) or an environmental impact statement (EIS) (collectively referred to as the “NEPA document”) that describes and evaluates the probable effects, including an assessment of the site-specific and cumulative effects, if any, of the proposed action and alternatives. The Commission’s scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission issues an EA or an EIS.

At this time, we do not anticipate holding on-site scoping meetings. Instead, we are soliciting written comments and suggestions on the preliminary list of issues and alternatives to be addressed in the NEPA document, as described in scoping document 1 (SD1), issued December 6, 2023.

Copies of the SD1 outlining the proposed project and subject areas to be addressed in the NEPA document were distributed to the parties on the Commission’s mailing list and the applicant’s distribution list. Copies of SD1 may be viewed on the web at <http://www.ferc.gov> using the “eLibrary” link (see item m above).

Dated: December 6, 2023.

Kimberly D. Bose,

Secretary.