

KATHY HOCHUL Governor JOHN R. KOELMEL Chairman JUSTIN E. DRISCOLL
Interim President and Chief Executive Officer

March 11, 2022

Ms. Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street, N.E. Washington, DC 20426

Re: Hinckley (Gregory B. Jarvis) Hydroelectric Project, FERC Project No. 3211

Filing of Water Quality Certification Application under Section 401(a)(1) of the Clean

Water Act

Dear Secretary Bose:

On July 31, 2020, the Power Authority of the State of New York (Power Authority) filed a Final License Application for a New License from the Federal Energy Regulatory Commission (Commission or FERC) for the Gregory B. Jarvis Power Project, FERC Project No. 3211. On January 12, 2022, the Commission issued the Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions (REA Notice) in support of the ongoing relicensing process.

In accordance with the Commission's regulations under 18 C.F.R. § 5.23(b)(ii), the Power Authority hereby files a copy of its application for certification under Section 401 of the Clean Water Act, which it is concurrently submitting to the New York State Department of Environmental Conservation (NYDEC). An email receipt of the application is included as proof of filing.

The Power Authority requested a pre-filing meeting with the NYDEC on February 7, 2022, in accordance with the REA Notice which referenced the requirements of 40 C.F.R. § 121.5(b). On February 24, 2022, the NYDEC responded that because the Environmental Protection Agency's rule regarding Section 401 had been vacated, there was no requirement to hold a pre-filing meeting for the Power Authority's certification request, and the NYDEC would not require it. A copy of this correspondence is attached.

If you have any questions or need additional information, please do not hesitate to contact me at (914) 681-6564 or robert.daly@nypa.gov.

Sincerely,

Robert A. Daly Director, Licensing

Attachments: Water Quality Certification Application & Proof of Filing NYDEC Pre-Filing Meeting Email



March 11, 2022

Mr. Todd J. Phillips Environmental Analyst Division of Environmental Permits, Region 6 New York State Department of Environmental Conservation 207 Genesee Street, Utica, NY 13501-2885

Re: Project No. 3211 – Gregory B. Jarvis Power Project Application for Section 401 Water Quality Certification

Dear Todd:

The Power Authority of the State of New York (Power Authority or NYPA) is seeking a hydropower license from the Federal Energy Regulatory Commission (FERC or Commission) for the continued operation of the Gregory B. Jarvis Power Project (FERC Project No. 3211), located on the West Canada Creek at the Hinckley Reservoir Dam in Oneida and Herkimer Counties, NY. Please find the attached Joint Application for Permit requesting Water Quality Certification for the Project.

On January 12, 2022, the Commission issued the NOTICE OF APPLICATION READY FOR ENVIRONMENTAL ANALYSIS AND SOLICITING COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, AND PRESCRIPTIONS (REA) in support of the licensing process. As specified in FERC's REA, the Power Authority is required to file a request for Water Quality Certification under Section 401 of the Clean Water Act with the New York State Department of Environmental Conservation (NYSDEC) within 60 days from the issuance date of the REA.

Accordingly, the Power Authority is submitting the attached Joint Application for Permit Form. The supplemental information includes:

- Supplement WQC-1 Form
- The Final Application for FERC License (submitted to the Commission on July 31, 2020, available on the FERC eLibrary: https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20200731-5101
- The Dissolved Oxygen Enhancement Feasibility Final Report, available as Attachment B (page 14) in the Response to Request for Additional Information on the Project Relicensing website: https://www.nypa.gov/-/media/nypa/documents/document-library/re-licensing/jarvis/FERCAIRResponse21.pdf

In accordance with the FERC REA, the Power Authority is required to submit to FERC a copy of its request for certification, including proof of the date on which the certifying agency received the request. I will follow up with you to request proof that you received this application and submit that to the FERC. If you have any questions or comments regarding this submittal, please do not hesitate to contact me at (914) 681-6564 or robert.daly@nypa.gov.

Sincerely,

Robert A. Daly Director, Licensing

Attachments:

Joint Application for Permit Form Supplement WQC-1





JOINT APPLICATION FORM

For Permits for activities activities affecting streams, waterways, waterbodies, wetlands, coastal areas, sources of water, and endangered and threatened species.

You must separately apply for and obtain Permits from each involved agency before starting work. Please read all instructions.

4 Applications To:		
1. Applications To:		
>NYS Department of Environmental Conservation	Check here to confirm you sent this form to NYSDEC.	
Check all permits that apply: Dams and Impound-	Tidal Wetlands Water Withdrawal	
Stream Disturbance ment Structures	Wild, Scenic and Long Island Well	
Excavation and Fill in 401 Water Quality	Recreational Rivers	
Navigable Waters Certification *	Incidental Take of	
	Coastal Erosion Endangered /	
Docks, Moorings or Freshwater Wetlands	Management Threatened Species	
Platforms	* See Instructions Page 3	
>US Army Corps of Engineers	Check here to confirm you sent this form to USACE.	
Check all permits that apply: Section 404 Clean Wa	ter Act Section 10 Rivers and Harbors Act	
Is the project Federally funded? Yes ✓ No		
If yes, name of Federal Agency:		
General Permit Type(s), if known:		
Preconstruction Notification: Yes ✓ No		
>NYS Office of General Services	Check here to confirm you sent this form to NYSOGS.	
Check all permits that apply:		
State Owned Lands Under Water		
	blos etc.) Docks Moorings or Platforms	
Utility Easement (pipelines, conduits, cables, etc.) Docks, Moorings or Platforms		
>NYS Department of State	Check here to confirm you sent this form to NYSDOS.	
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>NYS Department of State	Check here to confirm you sent this form to NYSDOS.	
>NYS Department of State Check if this applies: Coastal Consistency Concur	Check here to confirm you sent this form to NYSDOS.	
>NYS Department of State	Check here to confirm you sent this form to NYSDOS.	
>NYS Department of State Check if this applies: Coastal Consistency Concur 2. Name of Applicant Power Authority of the State of New York	Check here to confirm you sent this form to NYSDOS. Tence Taxpayer ID (if applicant is NOT an individual) n/a	
>NYS Department of State Check if this applies: Coastal Consistency Concur 2. Name of Applicant Power Authority of the State of New York Mailing Address	Check here to confirm you sent this form to NYSDOS. Trence Taxpayer ID (if applicant is NOT an individual) n/a Post Office / City State Zip	
>NYS Department of State Check if this applies: Coastal Consistency Concur 2. Name of Applicant Power Authority of the State of New York	Check here to confirm you sent this form to NYSDOS. rence Taxpayer ID (if applicant is NOT an individual) n/a	
>NYS Department of State Check if this applies: Coastal Consistency Concur 2. Name of Applicant Power Authority of the State of New York Mailing Address 30 S. Pearl Street	Check here to confirm you sent this form to NYSDOS. Trence Taxpayer ID (if applicant is NOT an individual) n/a Post Office / City Albany State Zip NY 12207	
>NYS Department of State Check if this applies: Coastal Consistency Concur 2. Name of Applicant Power Authority of the State of New York Mailing Address 30 S. Pearl Street Telephone 914-681-6564 Email Robert.	Check here to confirm you sent this form to NYSDOS. Trence Taxpayer ID (if applicant is NOT an individual) n/a Post Office / City Albany Daly@nypa.gov	
>NYS Department of State Check if this applies: Coastal Consistency Concur 2. Name of Applicant Power Authority of the State of New York Mailing Address 30 S. Pearl Street	Check here to confirm you sent this form to NYSDOS. Trence Taxpayer ID (if applicant is NOT an individual) n/a Post Office / City Albany State Zip NY 12207	
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JOINT APPLICATION FORM – Continued. Submit this completed page as part of your Application.

4. Name of Contact / Agent		
Robert Daly		
Mailing Address	Post Office / City	State Zip
123 Main Street	White Plains	NY 10601
Telephone 914-681-6564 Email Robert.	Daly@nypa.gov	
		TO SECURITION OF THE RESERVE OF
5. Project / Facility Name Hinckley Hydroelectric Project/Gregory B. Jarvis Power Project	Property Tax Map Section	/ Block / Lot Number:
Project Street Address, if applicable	161.003-1-18 Post Office / City	State Zip
11604 State Route 365	Fost Office / City	NV .
	Remsen	13438
Provide directions and distances to roads, intersections, brid		
The existing project is located off NYS Route 365, on the West Canada Crapproximately 0.5 mile upstream of the Hamlet of Hinckley in the counties of		Hinkley Reservoir dam,
✓ Town Village City County	Stream/Waterbody Name	
Remsen	West Canada Creek/Hinckley	y Reservoir
Project Location Coordinates: Enter Latitude and Longitude		
Latitude: 43 ° 18 ' 43.25 "	Longitude: 75 ° 06	' 29.63 "
Project Description: Provide the following information a any additional information on other pages. <u>Attach plans on</u>		sponse and provide
Purpose of the proposed project:		
The Power Authority of the State of New York is seeking a new FERC operating license for the Hinckley Hydroelectric Project. The project is a 9 MW hydropower plant located on the West Canada Creek, a tributary of the Mohawk River, at the Hinckley Reservoir Dam. The Hinckley Reservoir Dam drainage area is 372 square miles.		
b. Description of current site conditions:		
The site is currently used for the operation and maintenance of the exist	sting project. See the FERC license applicati	on.
c. Proposed site changes:		
There are no changes to the current mode of operations. Completed site improvements include an extension of the boat launch	to operate between FL 1205 and FL 1225 an	nd portable toilet at the boat
launch. Additional proposed site changes include implementation meas (new signage and an informational kiosk).		
 Type of structures and fill materials to be installed, and coverage, cubic yards of fill material, structures below or 		., square feet of
None/Not applicable		
e. Area of excavation or dredging, volume of material to be	removed, location of dredged mate	erial placement:
None/Not applicable		
f. Is tree cutting or clearing proposed? Yes If Yes	es, explain below. ✓ No	
Timing of the proposed cutting or clearing (month/year)		
Number of trees to be cut: Acre	eage of trees to be cleared:	

JOINT APPLICATION FORM – Continued. Submit this completed page as part of your Application.

g. Work methods and type of equipment to be used:
None/Not applicable
h. Describe the planned sequence of activities:
None/Not applicable
. Pollution control methods and other actions proposed to mitigate environmental impacts:
None/Not applicable
i. Erosion and silt control methods that will be used to prevent water quality impacts:
None/Not applicable
 Alternatives considered to avoid regulated areas. If no feasible alternatives exist, explain how the project will minimize impacts:
None/Not applicable
l. Proposed use:
m. Proposed Start Date: FERC Issuance Date Estimated Completion Date:
n. Has work begun on project? Yes If Yes, explain below. ✓ No
Not applicable
o. Will project occupy Federal, State, or Municipal Land? ✓ Yes If Yes, explain below. No
Yes, the project resides on Power Authority of the State of New York (Power Authority) lands and is owned and operated by the Power
Authority. The Gregory B. Jarvis Power Project will continue to be owned and operated by the Power Authority.
o. List any previous DEC, USACE, OGS or DOS Permit / Application numbers for activities at this location:
FERC License No. 3211 and previous Water Quality Certification for license
q. Will this project require additional Federal, State, or Local authorizations, including zoning changes?
Yes If Yes, list below No
Yes, a FERC license will need to be acquired for continued operation of the Project. See the Final License Application filed with FERC on July
31, 2020.

7. Signatures.

Applicant and Owner (If different) must sign the application. If the applicant is the landowner, the **landowner attestation form** can be used as an electronic signature as an alternative to the signature below, if necessary. Append additional pages of this Signature section if there are multiple Applicants, Owners or Contact/Agents.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief.

Permission to Inspect - I hereby consent to Agency inspection of the project site and adjacent property areas. Agency staff may enter the property without notice between 7:00 am and 7:00 pm, Monday - Friday. Inspection may occur without the owner, applicant or agent present. If the property is posted with "keep out" signs or fenced with an unlocked gate, Agency staff may still enter the property. Agency staff may take measurements, analyze site physical characteristics, take soil and vegetation samples, sketch and photograph the site. I understand that failure to give this consent may result in denial of the permit(s) sought by this application.

False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the NYS Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C., Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both where an applicant knowingly and willingly falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.		
Signature/of Applicant /	Date	
fully	3/11/2022	
Applicant Must (check all that apply): V Owner Operat	or Lessee	
Printed Name	Γitle	
Robert A. Daly	Director, Licensing	
Signature of Owner (if different than Applicant)	Date	
Printed Name	Γitle	
Signature of Contact / Agent	Date	
Richele E. Stouler	3/11/2022	
Printed Name	Γitle	
Michele E. Stottler	/ice President, Director of Engineering	
For Agency Use Only DETERMINATION OF NO PERMIT		
Agency Application Numb	-	
required from this Agency for the project described in this application.	Name) has determined that No Permit is	
Agency Representative:		
	itle	
	ate	



APPLICATION FOR PERMIT FOR SECTION 401 STATE WATER QUALITY CERTIFICATION

Supplement WQC-1

	DEC ID (if known):		
Applicant Information:			
Name of Applicant (from Joint Application Form): Power Authority of the Sta	ate of New York	
Email: Robert.Daly@nypa.gov		Phone: 914-681-656	34
Mailing Address: Street: 30 S. Pearl Street	City: Albany	State: NY Zip:	12207
Project Location (from Joint Application Form): Hinckley Hydroelectric Project/Gregory B. Jarvis Power Project			
Town (where property taxes paid): Remsen, Russia	a, Ohio, and Trenton	County: Oneida/Her	kimer
Street Address: 11604 NYS Rte 365	City: Remsen	State: NY Zin:	13438

	oply for New York State Section 401 Water Quality Certification, all items below must be
com	pleted and the applicant must sign page 2 of this form.
1.	By signing this form, the applicant affirms that the project proponent(s) and a point of contact were
	accurately identified in the Joint Application for Permit provided with this supplement.
2.	By signing this form, the applicant affirms that the proposed project is accurately and completely
	identified in the Joint Application for Permit provided with this supplement, and in any supporting plans,
	photos, reports or other project information.
3.	Identify here the applicable federal license or permit for this request:
	Federal Energy Regulatory Commission License
	If this request relates to a Section 404 Nationwide Permit administered by the US Army Corps of
	Engineers, please identify the appropriate Nationwide Permit number(s): _{n/a}
4.	Please identify the location and nature of any potential discharge that may result from the proposed
	project and the location of receiving waters (attached additional information as needed):
	Water from Hinckley Reservoir is passed through turbines to generate hydropower. No Pollutant discharge is proposed.
5.	Please provide a description of any methods and means proposed to monitor the discharge and the
	equipment or measures planned to treat, control, or manage the discharge (attach additional
	information as needed):
	See attached information sheet.

6.	Please provide a list of all other federal, interstate, tribal, state, territorial, or local agency authorizations
	required for the proposed project, including all approvals or denials already received:
	None

Certification:

In addition to the Joint Application Form provided with this supplement, I hereby submit this form and the attachments indicated to request a Section 401 Water Quality Certification from DEC. The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief. The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.

<i>/</i>	Mutay	3/11/2022
	Project Applicant/Proponent Signature	Date

Supplemental Information

Supplement WQC-1

Question 5 - Please provide a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge (attach additional information as needed):

Regarding water quantity, the Power Authority proposes to continue existing operating conditions in the new license and is not proposing any changes. Hinckley Reservoir is operated by the NYSCC in accordance with the 2012 Hinckley Reservoir Operating Diagram for which the Project utilizes the reservoir releases to generate power. In addition, the current FERC license requires a continuous minimum flow in West Canada Creek of 160 cfs as measured at the NYSCC diversion structure at the Nine Mile Creek Feeder Dam, which is located approximately 5.1 miles downstream of the Project. Outflow from the Project which includes turbine flow, spillway flow, sluice gate no. 4 flow, and penstock bypass flow is calculated by the Power Authority based on reservoir water level, power generation, turbine efficiency, and gate openings.

Regarding water quality, the Power Authority prepared a Dissolved Oxygen Enhancement Feasibility Final Report to assess the feasibility, potential effectiveness, and costs of various dissolved oxygen enhancement measures for the Project. All DO enhancement technologies investigated require the installation of real-time dissolved oxygen monitoring equipment in close proximity to the intake and also the tailrace so that the degree of DO enhancement is appropriate to address the DO deficit at the intake. While details of the tailwater enhancement have yet to be finalized, NYPA plans on using Gate No. 4 releases to increase dissolved oxygen in the tailrace. Gate No. 4 would be opened to discharge the appropriate amount of flow to mix with turbine DO based on the mass balance relationship between the gate and turbine discharges and the real-time dissolved oxygen data.

The report can be found in Appendix B (page 14) of the NYPA's Response to Request for Additional Information:

https://www.nypa.gov/-/media/nypa/documents/document-library/re-licensing/jarvis/FERCAIRResponse21.pdf





Figure 1. Photograph of Hinckley Dam from West Canada Creek



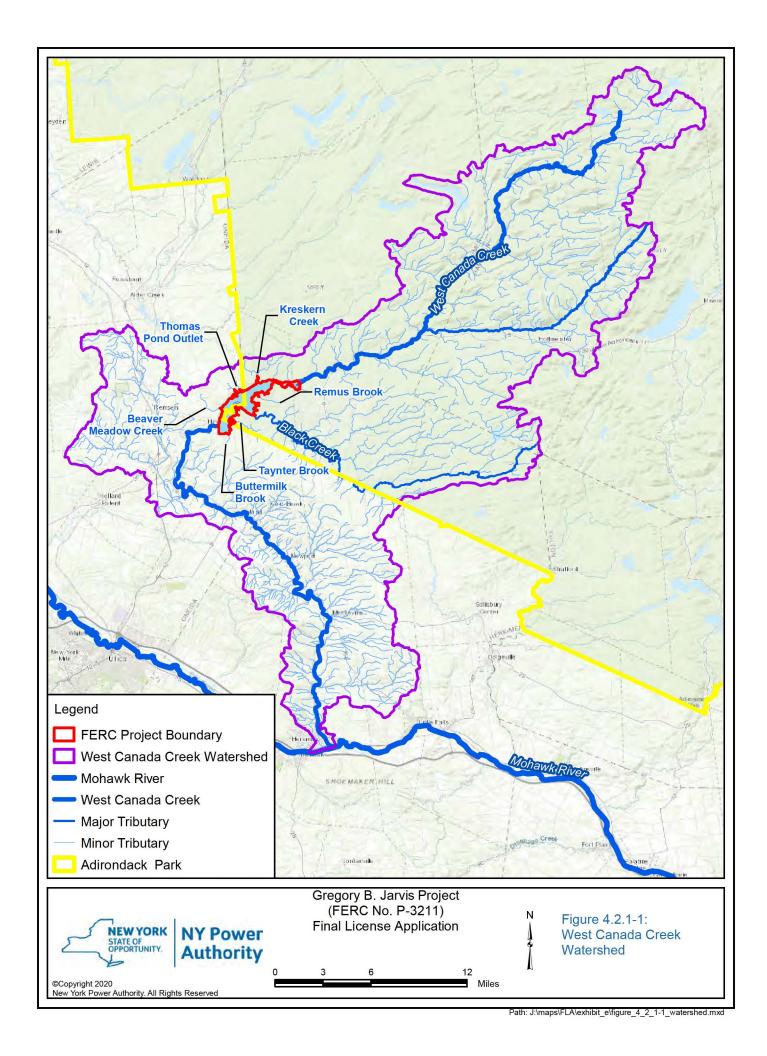
Figure 2. Downstream of Hinckley Dam from Visitor Outlook

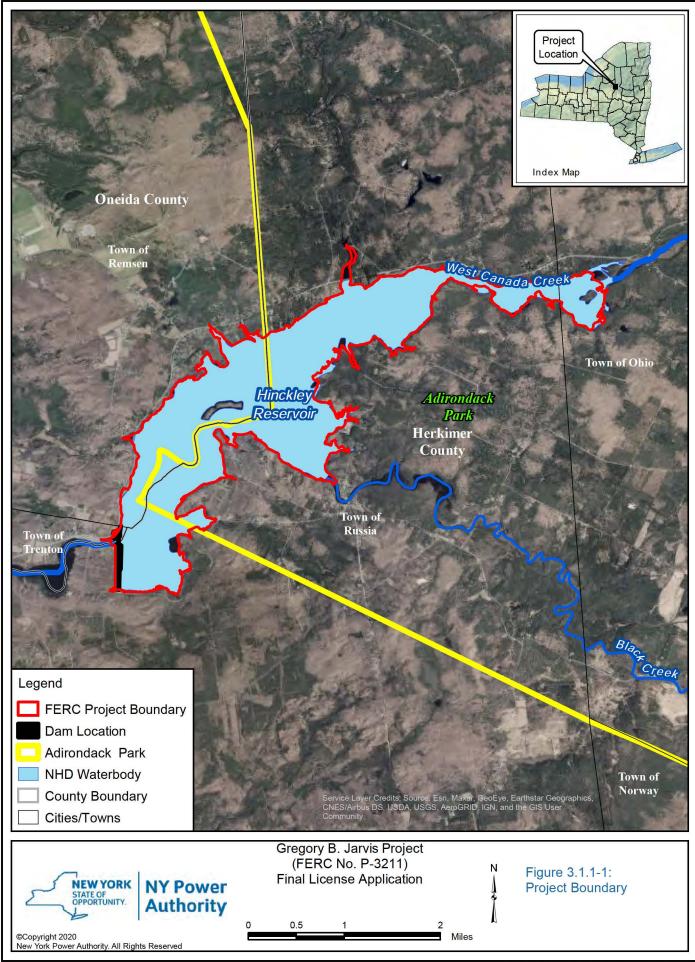


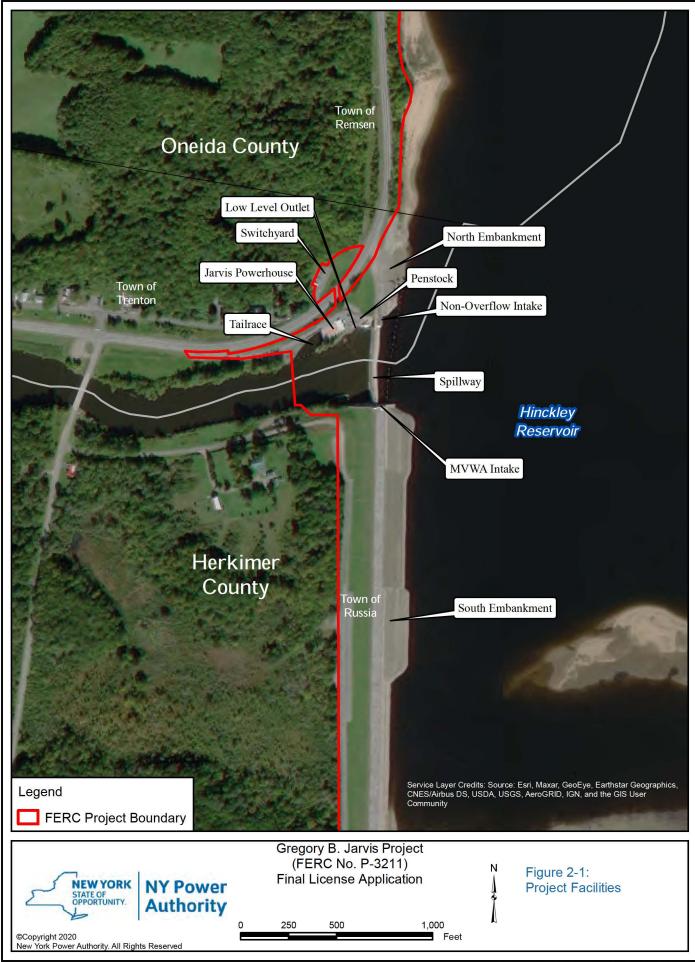
Figure 3. Hinckley Reservoir from Visitor Outlook



Figure 4. Photograph of Hinckley Dam from Hinckley Reservoir







Groom, Tara

From: Phillips, Todd J (DEC) <Todd.Phillips@dec.ny.gov>

Sent: Friday, March 11, 2022 11:17 AM

To: Groom, Tara

Cc: Daly, Rob; Michele Stottler; Ryden, Maria; jwood@rockcreekenergygroup.com; Paulsen, Kara E (DEC)

Subject: RE: Gregory B. Jarvis Power Project (FERC No. 3211); Application for Section 401 Water Quality

Certification

Good morning Tara,

The New York State Department of Environmental Conservation (DEC) is in receipt of the New York Power Authority's (NYPA) request for a Section 401 Water Quality Certification. The request was received electronically by e-mail on March 11, 2022 at 11:10M EDT.

Todd J. Phillips Environmental Analyst II Deputy Regional Permit Administrator 315-793-2740

From: Groom, Tara <Tara.Groom@nypa.gov> Sent: Friday, March 11, 2022 11:10 AM

To: Phillips, Todd J (DEC) <Todd.Phillips@dec.ny.gov>

Cc: Daly, Rob <Robert.Daly@nypa.gov>; Michele Stottler <mstottler@gomezandsullivan.com>; Ryden, Maria

<Maria.Ryden@nypa.gov>; jwood@rockcreekenergygroup.com

Subject: Gregory B. Jarvis Power Project (FERC No. 3211); Application for Section 401 Water Quality Certification

Importance: High

Good morning Todd,

The Power Authority of the State of New York (Power Authority or NYPA) respectively submits its request for Water Quality Certification under Section 401 of the Clean Water Act for the Gregory B. Jarvis Power Project (FERC No. 3211).

The attached file contains a cover letter, Joint Application for Permit, and supplemental information.

In accordance with the Commission's regulations 18 CFR § 5.23(b)(ii), the Power Authority is required to submit to FERC a copy of the request for Water Quality Certification, including proof of the date on which the certifying agency received the request. Please acknowledge that you have received this application and date it was received.

If you have any questions regarding this submittal, please contact Robert Daly at (914)681-6564 or Robert.Daly@nypa.gov.

Thank you, Tara

Tara Groom

Licensing Manager

New York Power Authority

30 S. Pearl Street Albany, NY 12207 518-433-6748 office | 518-431-9977 cell | <u>tara.groom@nypa.gov</u> <u>www.nypa.gov</u>

Groom, Tara

From: Paulsen, Kara E (DEC) < Kara.Paulsen@dec.ny.gov>

Sent: Thursday, February 24, 2022 1:02 PM

To: Groom, Tara; Daly, Rob; Watson, Susan; Ryden, Maria; Julia Wood

Cc: Phillips, Todd J (DEC); McDonald, Richard P (DEC)

Subject: [EXTERNAL] Jarvis Pre-filing Meeting Request

CAUTION — External Email

Suspicious? Click Report Phishing on Outlook toolbar. For Mobile forward to (abuse@nypa[.]gov)

Hi Tara,

This is in reference to your request for a pre-filing meeting for the Hinckley Hydroelectric Project (FERC No. P-3211) on February 7, 2022. Pursuant to *In Re Clean Water Act Rulemaking* Order, No. C 20-04636 WHA No. C 20-04869 WHA No. C 20-06137 WHA, (N.D. CA. Oct. 21, 2021)), EPA's 2020 CWA 401 WQC Rule is vacated and no longer applies. Thus, there is no requirement to hold a pre-filing meeting for a CWA 401 WQC application and the Department will not require it.

Kara E. Paulsen, Esq.

she/her/hers

Senior Attorney

New York State Department of Environmental Conservation Office of General Counsel, Bureau of Climate, Air, and Energy 625 Broadway, 14th Floor, Albany, NY 12233 -1500

P: (518) 402-9191 | F: (518) 402-9018 | kara.paulsen@dec.ny.gov



