



**KATHY HOCHUL**  
Governor

**JOHN R. KOELMEL**  
Chairman

**JUSTIN E. DRISCOLL**  
Interim President and Chief Executive Officer

March 1, 2022

**Via Electronic Filing**

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

RE: Hinckley (Gregory B. Jarvis) Hydroelectric Project, FERC No. 3211-010  
Request for Extension of Time for Responses to REA Notice

Dear Secretary Bose:

The Power Authority of the State of New York (Power Authority) filed its Final License Application for the Hinckley (Gregory B. Jarvis) Hydroelectric Project (Project) with the Federal Energy Regulatory Commission (FERC or Commission) on July 31, 2020. The Commission issued a notice that the application was ready for environmental analysis (REA Notice) on January 12, 2022, and established a deadline of March 13, 2022 for motions to intervene, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.

The Power Authority respectfully requests a 90-day extension of time for responses to the REA Notice, from March 13, 2022, to June 11, 2022. The Power Authority has been engaged in settlement negotiations with the U.S. Fish and Wildlife Service (USFWS) and New York State Department of Environmental Conservation (NYSDEC) regarding the appropriate long-term environmental and recreational protection, mitigation, and enhancement measures that will meet diverse objectives for maintaining a balance of non-power and power values at the Project. Those discussions have been productive, and the parties are very close to formalizing the terms and conditions that would resolve the operational, fisheries, wildlife, water quality, and recreational issues raised by the parties as applicable to the issuance of a new license and water quality certification for the Project. The parties need additional time, however, to finalize their agreement into an Offer of Settlement consistent with Rule 602 of the Commission's Rules of Practice and Procedure.

There is good cause for a 90-day extension of time of the REA Notice response deadline in this proceeding. It would provide the parties the time they need to formalize their agreement without the need to divert their attention to filing placeholder responses that may need to be subsequently withdrawn or challenged. The filing of an Offer of Settlement by an extended REA Notice response deadline will save all parties time and money, avoid the need for protracted litigation, promote the development of positive relationships among entities who will be working together during the course of the new license term, and give the Commission a clear sense as to the parties' views on the issues prior to the development of its environmental assessment—all

reasons consistent with the Commission's Policy Statement on Hydropower Licensing Settlements promoting settlements in licensing proceedings.<sup>1</sup>

To that end, the Commission granted an extension of the REA Notice response deadline in the relicensing of the Mongaup Projects in New York last year under similar circumstances.<sup>2</sup> The Commission noted in those proceedings that the extension would allow sufficient time for a decision on the applications prior to license expiration.<sup>3</sup> Because that is not a consideration in this proceeding, as the license for the Project expires on July 31, 2022, providing a modest extension of the deadline for responses to the REA Notice will not significantly shift the overall procedural schedule, and for the reasons stated above, may alleviate the need for further delays later in the relicensing process.

Importantly, the USFWS and NYSDEC support the Power Authority's requested extension, as demonstrated by the attached correspondence.

The Power Authority appreciates the Commission's expeditious consideration of this request. The Power Authority does not intend that the requested extension of the procedural schedule would extend its deadline to file a copy of its request for water quality certification by March 13, 2022 in compliance with Section 5.23 of the Commission's regulations and as set forth in the REA Notice.

If you have questions or need additional information, please contact me at (914) 681-6564 or robert.daly@nypa.gov.

Sincerely,



Robert A. Daly  
Director, Licensing

Attachments

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<sup>1</sup> *Settlements in Hydropower Licensing Proceedings under Part I of the Federal Power Act*, 116 FERC ¶ 61,270 (2006).

<sup>2</sup> Letter from Vince Yearick, FERC, to Jody Smet, Eagle Creek Renewable Energy, Project Nos. 9690-115, *et al.* (issued Mar. 19, 2021) (granting a 59-day extension of time for responses on the REA Notice).

<sup>3</sup> *See id.* at 2.

**From:** [Wiley, John](#)  
**To:** [Phillips, Todd J \(DEC\)](#); [Daly, Rob](#); [Tittler, Andrew](#); [Ramirez, Arianna D](#); [Paulsen, Kara E \(DEC\)](#); [McDonald, Richard P \(DEC\)](#)  
**Cc:** [Watson, Susan](#); [Ryden, Maria](#); [Julia Wood](#)  
**Subject:** Re: [EXTERNAL] RE: Jarvis REA  
**Date:** Tuesday, March 1, 2022 2:07:30 PM

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Rob,

We also have no concern with a 90-day extension.

Cheers,  
John

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**John Wiley (he/him)**  
Fish and Wildlife Biologist  
U.S. Fish & Wildlife Service  
Department of the Interior  
North Atlantic-Appalachian Region

New York Field Office  
3817 Luker Road  
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[www.fws.gov/northeast/nyfo/](http://www.fws.gov/northeast/nyfo/)

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**From:** Phillips, Todd J (DEC) <Todd.Phillips@dec.ny.gov>  
**Sent:** Tuesday, March 1, 2022 11:36 AM  
**To:** Daly, Rob <Robert.Daly@nypa.gov>; Wiley, John <John\_Wiley@fws.gov>; Tittler, Andrew <Andrew.Tittler@sol.doi.gov>; Ramirez, Arianna D <arianna\_ramirez@fws.gov>; Paulsen, Kara E (DEC) <kara.paulsen@dec.ny.gov>; McDonald, Richard P (DEC) <richard.mcdonald@dec.ny.gov>  
**Cc:** Watson, Susan <Susan.Watson@nypa.gov>; Ryden, Maria <Maria.Ryden@nypa.gov>; jwood@rockcreekenergygroup.com <jwood@rockcreekenergygroup.com>  
**Subject:** RE: [EXTERNAL] RE: Jarvis REA

Rob,

The DEC would have no issue with a 90-day extension given NYPA's good faith in negotiating to date.

Thanks,  
Todd

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

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**From:** Daly, Rob <Robert.Daly@nypa.gov>  
**Sent:** Tuesday, March 1, 2022 11:35 AM

**To:** Wiley, John <John\_Wiley@fws.gov>; Phillips, Todd J (DEC) <Todd.Phillips@dec.ny.gov>; Tittler, Andrew <Andrew.Tittler@sol.doi.gov>; Ramirez, Arianna D <arianna\_ramirez@fws.gov>; Paulsen, Kara E (DEC) <Kara.Paulsen@dec.ny.gov>; McDonald, Richard P (DEC) <richard.mcdonald@dec.ny.gov>

**Cc:** Watson, Susan <Susan.Watson@nypa.gov>; Ryden, Maria <Maria.Ryden@nypa.gov>; jwood@rockcreekenergygroup.com

**Subject:** RE: [EXTERNAL] RE: Jarvis REA

Thanks for getting back to me.

One additional question – would the agencies be supportive of a 90-day delay request.

Just trying to cover my bases.

Thanks.

## Robert A. Daly

Director, Licensing

### New York Power Authority

123 Main Street

White Plains, NY 10601

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[www.nypa.gov](http://www.nypa.gov)

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**From:** Wiley, John <[John\\_Wiley@fws.gov](mailto:John_Wiley@fws.gov)>

**Sent:** Tuesday, March 1, 2022 10:39 AM

**To:** Phillips, Todd J (DEC) <[Todd.Phillips@dec.ny.gov](mailto:Todd.Phillips@dec.ny.gov)>; Daly, Rob <[Robert.Daly@nypa.gov](mailto:Robert.Daly@nypa.gov)>; Tittler, Andrew <[Andrew.Tittler@sol.doi.gov](mailto:Andrew.Tittler@sol.doi.gov)>; Ramirez, Arianna D <[arianna\\_ramirez@fws.gov](mailto:arianna_ramirez@fws.gov)>; Paulsen, Kara E (DEC) <[kara.paulsen@dec.ny.gov](mailto:kara.paulsen@dec.ny.gov)>; McDonald, Richard P (DEC) <[richard.mcdonald@dec.ny.gov](mailto:richard.mcdonald@dec.ny.gov)>

**Cc:** Watson, Susan <[Susan.Watson@nypa.gov](mailto:Susan.Watson@nypa.gov)>; Ryden, Maria <[Maria.Ryden@nypa.gov](mailto:Maria.Ryden@nypa.gov)>; [jwood@rockcreekenergygroup.com](mailto:jwood@rockcreekenergygroup.com)

**Subject:** Re: [EXTERNAL] RE: Jarvis REA

Rob,

We also have no objection to your filing a request with FERC for an extension of the REA deadline to allow additional time to complete the settlement.

Cheers,  
John

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**John Wiley (he/him)**  
Fish and Wildlife Biologist  
U.S. Fish & Wildlife Service

Department of the Interior  
North Atlantic-Appalachian Region

New York Field Office  
3817 Luker Road  
Cortland, New York 13045  
Office: 607-753-9334  
[www.fws.gov/northeast/nyfo/](http://www.fws.gov/northeast/nyfo/)

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**From:** Phillips, Todd J (DEC) <[Todd.Phillips@dec.ny.gov](mailto:Todd.Phillips@dec.ny.gov)>  
**Sent:** Monday, February 28, 2022 8:20 AM  
**To:** Daly, Rob <[Robert.Daly@nypa.gov](mailto:Robert.Daly@nypa.gov)>; Wiley, John <[John\\_Wiley@fws.gov](mailto:John_Wiley@fws.gov)>; Tittler, Andrew <[Andrew.Tittler@sol.doi.gov](mailto:Andrew.Tittler@sol.doi.gov)>; Ramirez, Arianna D <[arianna\\_ramirez@fws.gov](mailto:arianna_ramirez@fws.gov)>; Paulsen, Kara E (DEC) <[kara.paulsen@dec.ny.gov](mailto:kara.paulsen@dec.ny.gov)>; McDonald, Richard P (DEC) <[richard.mcdonald@dec.ny.gov](mailto:richard.mcdonald@dec.ny.gov)>  
**Cc:** Watson, Susan <[Susan.Watson@nypa.gov](mailto:Susan.Watson@nypa.gov)>; Ryden, Maria <[Maria.Ryden@nypa.gov](mailto:Maria.Ryden@nypa.gov)>; [jwood@rockcreekenergygroup.com](mailto:jwood@rockcreekenergygroup.com) <[jwood@rockcreekenergygroup.com](mailto:jwood@rockcreekenergygroup.com)>  
**Subject:** [EXTERNAL] RE: Jarvis REA

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Rob,

DEC supports the idea of requesting a 60-day delay for comments on the REA given our status on the settlement agreement. Thank you for offering to request the delay.

Todd

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

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**From:** Daly, Rob <[Robert.Daly@nypa.gov](mailto:Robert.Daly@nypa.gov)>  
**Sent:** Friday, February 25, 2022 3:34 PM  
**To:** Wiley, John <[john\\_wiley@fws.gov](mailto:john_wiley@fws.gov)>; Andrew Tittler ([andrew.tittler@sol.doi.gov](mailto:andrew.tittler@sol.doi.gov)) <[andrew.tittler@sol.doi.gov](mailto:andrew.tittler@sol.doi.gov)>; Ramirez, Arianna D <[arianna\\_ramirez@fws.gov](mailto:arianna_ramirez@fws.gov)>; Phillips, Todd J (DEC) <[Todd.Phillips@dec.ny.gov](mailto:Todd.Phillips@dec.ny.gov)>; Paulsen, Kara E (DEC) <[Kara.Paulsen@dec.ny.gov](mailto:Kara.Paulsen@dec.ny.gov)>; McDonald, Richard P (DEC) <[richard.mcdonald@dec.ny.gov](mailto:richard.mcdonald@dec.ny.gov)>  
**Cc:** Watson, Susan <[Susan.Watson@nypa.gov](mailto:Susan.Watson@nypa.gov)>; Ryden, Maria <[Maria.Ryden@nypa.gov](mailto:Maria.Ryden@nypa.gov)>; [jwood@rockcreekenergygroup.com](mailto:jwood@rockcreekenergygroup.com)  
**Subject:** Jarvis REA  
**Importance:** High

Good afternoon all and Happy Friday,

With the progress we are making in our settlement discussions for the Jarvis project and the upcoming deadline for comments to FERC on the REA notice, we are considering a request to FERC for a 60-day delay in the comment deadline. The effort would provide us more time to finalize an agreement and reflects a level of confidence in the direction of our talks.

We would like to get your thoughts, if you think a call early next week would be productive we can arrange one, or we could add it to the agenda for the Thursday call.

Appreciate your feedback.

Have a great weekend.

Rob

**Robert A. Daly**

Director, Licensing

**New York Power Authority**

123 Main Street

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