

NEW YORK STATE COUNCIL OF TROUT UNLIMITED

1 June 2020
7 Helen Street
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Kimberly Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington DC 20426

RE: P-3211 Jarvis Hydroelectric Project

Dear Secretary Bose:

The New York State Council of Trout Unlimited has reviewed the New York Power Authority's (NYPA) Draft License Application dated 3 March 2020 and offers the following comments:

4.5.1.9 Benthic Macroinvertebrates

NYPA states that a minimum number of snails were observed in the 2018 during the 2018 Hinckley Reservoir Field Study. Earlier, however, it is stated that in 2007 DEC biologists found thousands of stranded and dehydrated snails that had died in Hinckley Reservoir due to low water levels. The obvious conclusion, not stated by NYPA, is that fluctuating water levels periodically kill thousands of snails, which might account for the fact that few were found in the 2018 Field Study. Snails are a significant food source for fish and birds.

4 .5.2. Environmental Effects

Effects Associated with Water Level Management:

Contrary to NYPA's analysis, peaking operations, along with periodic drawdowns of Hinckley Reservoir, do have significant impacts downstream. These impacts would be even more severe except for the mitigating influence of downstream Brookfield projects which temper these peaking operations to some extent. Despite Brookfield's role, it is obvious to impartial observers that Jarvis/Hinckley is the big dog in the West Canada kennel, and that it plays a major role in the totality of West Canada stream dynamics. It is unfortunate that FERC did not require the joint relicensing of these projects, as they share mutual responsibilities for downstream flows in the West Canada. Regardless, it is now FERC's responsibility to thoroughly examine the cumulative impacts of both of these projects on West Canada aquatic resources.

Downstream Minimum Flows

It was an unexpected, though pleasant surprise to find that NYPA, in its analysis of Downstream Minimum flows, is now making the case for the mandatory licensing of Hinckley Dam. NYPA portrays itself as an innocent and powerless bystander, wholly at the mercy of flows from Hinckley governed by the infamous Operating Diagram. As NYPA itself states, "if the Jarvis Project were not to exist, the same reservoir levels and water discharges would still occur in accordance with the Operating Diagram." It logically follows that if such is the case, then Hinckley, as the prime player in the control of downstream flows, cries out for licensing under all the standards previously applied by FERC in such matters. It should not be forgotten that Hinckley is owned by the New York State Canal Corporation, a creature completely within the corporate fold of NYPA, and that for real world purposes, they are one and the same. NYPA cannot hide behind the shield of the Operating Diagram to protect Hinckley from its urgent and obvious requirement to be licensed by FERC, nor can FERC any longer fail to take cognizance of the Operating Diagram and its impact on downstream flows, habitat, and power generation in the West Canada Corridor.

As noted in earlier correspondence and found throughout the proceeding, FERC has ample and indeed overwhelming evidence that Hinckley provides major headwater benefits to multiple users, is a principal player in downstream flows, and meets every standard for mandatory licensing. FERC has the complete regulatory and statutory power to do so and should do so forthwith.

The Council appreciates the opportunity to provide comments on the Draft License Application, as the West Canada Creek remains one New York's premier trout fisheries.

Sincerely,

/s/

William H. Wellman, Hydro Chairman, NYS Council of Trout unlimited

CCE: C. Brady, NYPA
M. Stottler, Gomez and Sullivan
T. Phillips DEC
S. Patch FWS
NYSCTU, Miller, Ziobro, Corr, Charette

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