



PAUL RICHARD LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
MAINE LAND USE PLANNING COMMISSION  
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WEST FARMINGTON, MAINE  
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WALTER E. WHITCOMB  
COMMISSIONER

# PERMIT

## AMENDMENT E TO HYDROPOWER PERMIT HP 0010

The Staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Kennebago Hydro Corporation for Amendment E to Hydropower Permit HP 0010, pursuant to 12 M.R.S.A., Section 681 et seq., and 38 M.R.S.A., Chapter 11 of the Land Use Planning Commission's Rules, finds the following facts:

1. Applicant: Kennebago Hydro Corporation  
Attn: James B. Marquis, President  
PO Box 298  
Oquossoc, ME 04964
2. Date of Completed Application: April 30, 2014
3. Project Location: Stetsontown Township, Franklin County
4. Zoning: (D-RS) Residential Development Subdistrict  
(P-WL) Wetland Protection Subdistrict

## PROJECT HISTORY

5. On March 1, 1979 Central Maine Power Company (CMP) conveyed the Kennebago Falls dam powerhouse, and Mahaney dam powerhouse (located approximately 700 feet upstream of the Kennebago Falls dam), and hydropower generating rights to Mechanic Falls Investment Company (MFIC). CMP conveyed flowage rights of the Mahaney Dam, from May 16 to September 30 each year, to the Kennebago Lake Camp Owners Association (KLCOA). CMP conveyed flowage rights of the Mahaney Dam, from October 1 to May 15 yearly, to MFIC. Both the Kennebago Falls dam and the Mahaney dam are located in the Kennebago River, and their operation and use date back to approximately 1915.
6. On July 23, 1979, the Mechanic Falls Investment Company conveyed its interest in the Kennebago dams to the Kennebago Redevelopment Corporation.

NICHOLAS LIVESAY, DIRECTOR

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7. The Maine Department of Environmental Protection issued Small Hydroelectric Facilities Permit and Water Quality Certification Order #02-6681-07823 to Kennebago Redevelopment Corporation on September 21, 1981. The Maine Land Use Regulation Commission (now Maine Land Use Planning Commission) concurrently issued Development Permit DP 3437 by Special Exception to Kennebago Redevelopment Corporation. Those approvals allowed redevelopment of the existing hydroelectric power generating stations at the dams, including reconstruction of a turbine and generator at the Kennebago Falls dam. Under regulations then in effect the Commission permit addressed only the in-stream alterations for these projects, such as dredging and coffer dams.
8. Kennebago Redevelopment Corporation was purchased on December 18, 1986 by James E. Taggart and Mildred F. Taggart, and registered as Kennebago Hydro Corporation (KHC). Hydropower Permit HP 0010 was issued to KHC on June 12, 1987 authorizing completion of the redevelopment activities approved under provisions of Development Permit DP 3437 by Special Exception and subsequent amendments.
9. Amendment A to Hydropower Permit HP 0010 was issued on October 28, 1987 authorizing partial transfer of 60 percent of KHC from James E. Taggart to Ernest Seavey. Mr. Seavey resigned from KHC on December 8, 1987 and redeemed his stock in the corporation.
10. On January 5, 1990, Lewis W. Stuart purchased 100 shares of Kennebago Hydro Corporation stock owned by Mr. Taggart, representing all of the issued and outstanding stock of Kennebago Hydro Corporation.
11. Amendment B was issued to KHC on August 6, 1991 reflecting the transfer of ownership of KHC to Lewis W. Stuart, and authorizing continuation of redevelopment activities authorized under provisions of Hydropower Permit HP 0010 and Amendment A. Amendment B also authorized installation of a safety fence around the Kennebago Falls Dam site in conformance with Federal Energy Regulatory Commission (FERC) requirements.
12. Amendment C to Hydropower Permit HP 0010 was approved by the Commission in April of 1993, granting after-the-fact approval for construction activities at the Kennebago Falls Dam, including a new 7 foot diameter, 50 foot long steel penstock between the dam and the power house rather than repair of the original penstock as previously approved; construction of a new 14 foot by 37 foot powerhouse; installation of a turbine/generator assembly, including an automatic wicket gate, of specifications other than as previously approved; excavation of bedrock between the dam and the powerhouse location and filling of the excavation with concrete; alterations to the powerhouse foundation and tailrace. Amendment C also authorized continued operation of the hydropower generating facility at the Kennebago Falls dam.
13. Amendment D was issued to KHC on April 4, 1994, authorizing the following activities:
  - A. Removal of fifteen cubic yards of bedrock from the tailrace downstream of the discharge outlet;
  - B. Construction of a 16 foot by 16 foot enclosed stairwell building at the east end of the dam, connected to the top of the dam by an 18 foot wide platform and to a proposed penstock enclosure below;

- C. Construction of a 12 foot wide by 60 foot long roof over the penstock and thrust block to enclose them and protect them from the weather;
  - D. Replacement of the logs inside and along the face of the dam with poured concrete and resurfacing of the eroded concrete support piers on the front of the dam;
  - E. Extension and widening of an existing catwalk on the top of the dam to accommodate trucks and other motorized equipment.
14. On June 3, 2009, James B. Marquis purchased all 100 shares of Kennebago Hydro Corporation stock previously owned by Mr. Stuart (now deceased), representing all of the issued and outstanding stock of Kennebago Hydro Corporation.

#### CURRENT APPLICATION

15. The applicant now seeks after-the-fact approval to amend Hydropower Permit 0010 to reflect the transfer of ownership of KHC to Mr. Marquis. No additional construction activities are proposed for the facility at this time.

#### REVIEW CRITERIA

16. A criterion for approval of hydropower projects under the Maine Waterway Development and Conservation Act, 38 M.R.S.A. section 636(1) is that the applicant must demonstrate that it has the financial capability and technical ability to undertake the hydropower project.
17. Under the provisions of Section 9.C(10) of Chapter 11 of the Commission's Rules, Administrative Regulations for Hydropower Projects, written consent from the Commission is required to transfer hydropower permits. To obtain the Commission's approval of the transfer, the assignee or transferee must demonstrate the financial capability and technical ability to (1) comply with all terms and conditions of the permit and (2) satisfy all other applicable statutory criteria. Under the provisions of this section, a "transfer" is defined as the sale or lease of property that is the subject of the permit, or the sale of 50 percent or more of the stock of or interest in a corporation or a change in a general partner of a partnership which owns the property subject to the permit

#### FINANCIAL CAPACITY

18. The applicant has submitted an annual operating budget for its hydropower facility, with a total annual operating cost of \$115,543.00. In addition, the applicant has submitted copies of its mortgage deed, with Mr. Stuart as the lender, and an amortization schedule for the mortgage indicating that the applicant has an obligation of monthly mortgage payments in the amount of \$8,016.64 until June 3, 2024. Accordingly, the cost of operations and mortgage payments currently totals approximately \$211,742.68 annually. Mr. Marquis has submitted a statement that as of April 3, 2014 he has made fifty-eight monthly mortgage payments, or a total of \$464,965.12.
19. The applicant has submitted a 2012 annual income statement of power sales from it to Central Maine Power Company of \$244,890. It has also submitted a letter from Bath Savings Institution stating that as of February 26, 2014 it has a line of credit of \$60,000 with that financial institution;

and a statement from that institution indicating that as of January 2, 2014 Mr. Marquis has available assets totaling \$32,422.55.

#### TECHNICAL CAPABILITY

20. The applicant states that Mr. Marquis has technical training and job experience in all facets of heavy construction, plumbing and piping, electrical work, and concrete work. The applicant further states that Mr. Marquis has nine years' experience working with Cianbro Corporation as a project estimator & superintendent including several hydropower projects; work experience with several other construction firms; and Mr. Marquis worked on the Kennebago Hydro reconstruction project as project foreman.
21. Mr. Marquis states that he has reviewed, and agrees to, all the terms and conditions as set forth under provisions of Hydropower Permit HP 0010 and Amendments A through D.
22. The applicant proposes no operational or physical changes to the Kennebago Hydro facility at this time.
23. The facts are otherwise as represented in Development Permit DP 3437 and subsequent amendments, and Hydropower Permit HP 0010 and subsequent amendments, Amendment Request E to Hydropower Permit HP 0010, and supporting documents.

Based upon the above findings, the staff concludes that:

1. The applicant has demonstrated that Mr. Marquis has the financial capacity and technical ability to maintain and operate the permitted hydropower facility. Specifically, the applicant has demonstrated that its income from sales of power combined with Mr. Marquis' assets is sufficient to cover its annual operating costs, including mortgage payments.
2. The applicant has demonstrated that Mr. Marquis has the technical capability to operate the facility based on his training and work experienced describe under Finding of Fact #20 above.
3. Accordingly, the transfer of ownership of KHC to Mr. Marquis meets the criteria for approval under the Maine Waterway Development and Conservation Act, 38 M.R.S.A. section 636(1) and Section 9.C(10) of Chapter 11 of the Commission's Rules, Administrative Regulations for Hydropower Projects.

Therefore the Commission approves the amendment request of Kennebago Hydro Corporation to transfer Hydropower Permit HP 0010 and subsequent amendments with the following conditions:

1. Standard Conditions of Approval for Projects under the Maine Waterway Development and Conservation Act (ver. 6/09).
2. All conditions, as previously amended, of Hydropower Permit HP 0010 and Amendments A through D, shall remain in effect.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with these conditions. Any person aggrieved by this decision of the Commission may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT WEST FARMINGTON, MAINE, THIS 25<sup>th</sup> DAY OF JUNE, 2014.

By: *Sara J. Brindle*  
For Nicholas Livesay, Director

## **Standard Conditions of Approval for Projects under the Maine Waterway Development and Conservation Act.**

Unless otherwise specifically stated in the approval, all Board, Commissioner, Commission, and Director approvals shall be subject to the following standard conditions:

- (1) **Limits of Approval.** This approval is limited to and includes the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. All variances from the plans and proposals contained in said documents are subject to the review and approval of the Board or Commission prior to implementation.
- (2) **Noncompliance.** Should the project be found, at any time, not to be in compliance with any of the conditions of this approval, or should the permittee construct or operate this project in any way other than specified in the application or supporting documents, as modified by the conditions of this approval, then the terms of this approval shall be considered to have been violated.
- (3) **Compliance with all Applicable Laws.** The permittee shall secure and appropriately comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation.
- (4) **Inspection and Compliance.** Authorized representatives of the Board, Commission or the Attorney General shall be granted access to the premises of the permittee at any reasonable time for the purpose of inspecting the construction or operation of the project and assuring compliance by the permittee with the conditions of this approval.
- (5) **Initiation and Completion of Construction.** If construction is not commenced within 3 years and completed within 7 years from the date of issuance of this permit, this approval shall lapse, unless a request for an extension of these deadlines has been approved by the Board or Commission.
- (6) **Construction Schedule.** Prior to construction, the permittee shall submit a final construction schedule for the project to the Commissioner or Director.
- (7) **Approval Included in Contract Bids.** A copy of this approval must be included in or attached to contract bid specifications for the project.
- (8) **Approval Shown to Contractor.** Work done by a contractor pursuant to this approval shall not begin before a copy of this approval has been shown to the contractor by the permittee.
- (9) **Notification of Project Operation.** The permittee shall notify the Commissioner or Director of the commencement of commercial operation of the project within 10 days prior to such commencement.
- (10) **Assignment or Transfer of Approval.** This approval shall expire upon the assignment or transfer of the property covered by this approval unless written consent to transfer this approval is obtained from the Board or Commission. To obtain approval of transfer, the permittee shall notify the Board or Commission 30 days prior to assignment or transfer of property which is subject to this approval. Pending Board or Commission determination on the application for a transfer or assignment of ownership of this approval, the person(s) to whom such property is assigned or transferred shall abide by all of the terms and conditions of this approval. To obtain the Board's or Commission's approval of transfer, the proposed assignee or transferee must demonstrate the financial capability and technical ability to (1) comply with all terms and conditions of this approval and (2) satisfy all other applicable statutory criteria.

A "transfer" is defined as the sale or lease of property which is the subject of this approval, or the sale of 50 percent or more of the stock of or interest in a corporation or a change in a general partner of a partnership which owns the property subject to this approval.