

Kimberly D. Bose, September 2, 2023
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Secretary Bose, Via Electronic filing

RE: Project No. 2572-136. Comments and requests: FERC's August 22, 2023 filing concerning the October 2021 to April 2022 Flow Deviations, and Allegations of June and October 2022 Flow Deviations and Stranding Effect

The above referenced FERC filing deals with low flows resulting from the 2020-2022 draught and violations of Article 402. FERC treated this as one event rather than two annual events and determined that there were no Article 402 violations. However, FERC requested that the Licensee consult with the agencies and develop measures at Ripogenus Dam to address emergency outages. Unfortunately, while FERC referenced the Holbrook Bypass Channel (Article 406), it was silent on the apparent violations. Those violations, often repeated at the Holbrook Bypass Channel (Holbrook Bypass), eliminated West Branch juvenile Landlocked salmon (salmon) production.

Article 402 contains references to "natural" and emergency low flow events.

Article 402 "... modify minimum and recreational flows temporarily if required by operating emergencies beyond your control, and for short periods upon agreement with the (agencies)...."

The key phrase of Article 402 is "*beyond your control*". In the computer age of modeling and remote USGS staff gages, long term storage management is, or should be, well within the Licensee control. The Licensee simply ignored the science.

FERC writes "from October 15, 2021 through April 18, 2022, due to severe drought in the watershed limiting inflows to the project." This statement ignores the 40 billion cubic feet of storage capacity available in the Ripogenus Impoundment and the upstream Storage Project (P-2634). The events in the earlier months of the 2020 draught may have been

unforeseen. By Spring of 2022 had conservation(s) measures that targeted fish and aquatic communities' goals been put in place, the combination of storage and inflow would have been more than adequate to meet late spring- early summer environmental flow needs. The 1996 FERC License is based on Great Northern Paper's historical Rule Curve operation. The Licensee processes this 60 year-old Rule Curve data that are based on storage and outflow targets. During the later stage of the 2020-2022 draught there were NO operational emergencies beyond the Licensee's control. The lack of storage in late 2021 and early 2022 was created by the Licensee who choose to disregard Rule Curve guidance. The Licensee, in a blatant disregard for environmental needs, choose market driven peaking operation rather than meeting fish and aquatic communities' requirements.

The FERC filing notes that the Licensee consulted with the agencies before implementing an 800 cfs flow in April of 2022. These consults are noted, but what is not presented were alternate flow options. The Licensee had drained the Ripogenus Impoundment, fait accompli. There were no flow alternatives. The agencies had no other choice but bow to the Licensee. "Agency consultation" simply informed the agencies that the Licensee was "out of water" and was meaningless.

The question of repeated violations of Article 406 remains. The FERC filing reviewed comments regarding the Holbrook Bypass and downstream reaches but failed to reach any conclusion. It is clear that the Holbrook Bypass, a stream reach critical to fisheries management, was frequently dewatered during the 2020-2022 period. Articles 402 and 406 are both intended to provide important environmental protection. Are all License Articles treated equally? Does Article 402 supersede Article 406; if so, why?

License Articles are intended to set project administrative and operational requirements and standards. It would be helpful if FERC explained why the willful and repeated low flow of the Holbrook Bypass Channel was not a violation of Article 406.

The FERC filing briefly discusses the October 15, 2021 through April 18, 2022 "agency approved" 800 cfs flow. As an administrative comment after my 25 years of on-site experience, it needs to be noted that at 800 cfs there is ZERO information regarding available salmon spawning habitat e.g., gravels, upwelling flows, and one to three feet of depth AND the subsequent survival of eggs and alevin (emerging fry) at this low flow. The

gravel upwellings used by spawning West Branch salmon are limited. There is no evidence that suitable spawning areas can be moved up or downstream at the Licensee's whims.

FERC suggested practical Ripogenus Dam gate alternatives that would be protective of the fish and aquatic communities during outages. Outage flows are equally important at the Holbrook Bypass, this is THE critical West Branch juvenile salmon production area. Without juvenile salmon recruits, West Branch salmon populations will decline. The last three years have witnessed low West Branch flows resulting from either draught or outages. These resulted in reduced spawning and incubation minimum flows. There are no current data to prove any juvenile salmon have been produced in the Holbrook Bypass in recent years. Therefore, I suggest that FERC request that the Licensee investigate Holbrook Bypass gate modifications that would be triggered by outage flows.

The Licensee touts the Holbrook Bypass Channel as an enhancement measure. Their job is to protect this enhancement and restore juvenile salmon production.

FERC's continued diligence in protecting the Ripogenus Project environmental resources is appreciated. Thank you for the opportunity to comment.

Ed Spear
307 Mt Hope Ave
Bangor, Me 04401
Email: edspear1@yahoo.com
Phone: 207-217-4288

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