

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Land and Water Quality
17 State House Station
Augusta, Maine 04333
Telephone: (207) 287-3901

FOR DEP USE

#L-_____
Fees Paid_____
Date Fees Received_____

**APPLICATION FOR PROJECT APPROVAL UNDER THE
MAINE WATERWAY DEVELOPMENT AND CONSERVATION ACT
AND
WATER QUALITY CERTIFICATION
(U.S. P.L. 92-500, SECTION 401)**

HYDROPOWER PROJECT CONSTRUCTION/RECONSTRUCTION

This form shall be used to request a state permit and Water Quality Certification for the proposed FERC licensing/relicensing and/or construction, reconstruction or structural alteration of a hydropower generating or storage project.

All required fees must be paid before application processing will begin. Please contact the Department for current fee schedule information. Fees are payable to Treasurer, State of Maine.

(Please Type or Print)

APPLICANT INFORMATION

Name of Applicant:_____

Mailing Address:_____

Name of Contact or Agent:_____

Telephone:_____

PROJECT INFORMATION

Name of Project:_____ FERC No._____

Address (use "911" address, if available):_____

Name of Waterbody Affected:_____

Municipality or Township:_____ County:_____

GPS Coordinates, if known:_____

REQUIRED INFORMATION

1. Provide all the information requested by this application form.
2. If applicant is a registered corporation, provide either a *Certificate of Good Standing* (available from the Secretary of State) or a statement signed by a corporate officer affirming that the corporation is in good standing.
3. A signed Certification of Publication and a completed Notice of Intent to File an application for Water Quality Certification.

NOTE: All supporting documents summarized above must be attached to this form and sent to the DEP Office listed below:

Department of Environmental Protection Bureau of Land and Water Quality 17 State House Station Augusta, ME 04333 Tel: (207) 287-3901
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"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

DATE: _____

(IF SIGNATURE IS OTHER THAN APPLICANT,
ATTACH LETTER OF AGENT AUTHORIZATION
SIGNED BY APPLICANT)

SIGNATURE OF APPLICANT

PRINTED NAME & TITLE

HYDROPOWER PROJECT CONSTRUCTION/RECONSTRUCTION

GENERAL INFORMATION

1. By submitting this application, an applicant requests approval under the Maine Waterway Development and Conservation Act (MWDCA) and the Federal Clean Water Act to undertake the construction, reconstruction, or structural alteration of a hydropower project.

The following types of activities, by way of example, are subject to the requirement for a permit:

- The construction of a new hydropower project, including a new water storage dam, or a new hydroelectric generating facility of any kind, whether utilizing a dam, a natural water feature, natural current velocities, or tidal action;
 - The reconstruction of a hydropower project;
 - The structural alteration of a hydropower project in ways which change water levels or flows above or below the dam, including, but not limited to:
 - The addition or alteration of flashboards; and
 - The installation of additional or enlarged turbines.
2. The purpose of this application form is to obtain from the applicant a thorough description of project facilities and operation and the impacts of the proposed construction, reconstruction or structural alteration on the environment.

The Department's Regulations provide that the applicant bears the burden of proof in the application process. This is the burden of presenting sufficient evidence for the Department to make the affirmative findings required by law regarding matters about which no questions are raised and the burden of presenting a preponderance of the evidence regarding matters about which questions are raised.

3. In order to grant an MWDCA permit, an applicant must demonstrate that seven specific criteria have been met (See Section 636 of the statute). These criteria address the following issues: financial capability and technical ability; public safety; public benefits; traffic movement; LURC zoning; environmental mitigation; and environmental and energy considerations.

In order to grant Water Quality Certification, the Department must conclude that there is a reasonable assurance that the continued operation of a hydropower generating or storage project will not violate applicable Water Quality Standards. These standards have been established in the State's Water Classification Program (Title 38 MRSA Sections 464-469). These standards designate the uses and related characteristics of those uses for each class of water and establish water quality criteria necessary to protect those uses and related characteristics.

4. Most proposals for the construction, reconstruction or structural alteration of a hydropower project will be subject to federal as well as state review and approval.

Any applicant for a FERC license must complete a three-stage consultation process with appropriate state and federal agencies. The purpose of this process is to identify and analyze the potential environmental and socioeconomic impacts of a project.

The consultation process requires an applicant to have either requested or obtained water quality certification at the time of filing with FERC. The process also requires that an applicant serve a copy of its FERC application, including any revisions, supplements or amendments thereto, on each of the agencies consulted.

Any applicant for a license, amendment of license, or exemption from the Federal Energy Regulatory Commission must complete a three-stage consultation process with appropriate state and federal agencies. The purpose of this process is to identify and analyze the potential environmental and socioeconomic impacts of a project.

FILING INSTRUCTIONS AND PROCEDURES

1. When filing, send an original plus one (1) copy of a completed Application for Project Approval to the Department, along with two (2) copies of any Application for Initial License or New License Amendment of License, or Exemption as has been or will be filed with FERC. The State filing can be made prior to or concurrent with the FERC filing.
2. The Department is required by law to assess fees for processing applications and for monitoring permit compliance. Application processing will not begin until all required fees have been paid. When filing, submit full fee payment (checks payable to: Treasurer of State) or request that a fee bill be sent.
3. A number of consulting agencies will be involved in the State review process of hydropower projects. Distribution of copies of the FERC application to these agencies may be coordinated by DEP or may be handled directly by the applicant. When filing, please notify the DEP staff to discuss distribution procedures.
4. Most information requested by this application form can be provided by making reference to the appropriate exhibit of the FERC license application. Space is provided on the form for such references.
5. Within 15 working days of receiving an application and all required fees, the DEP shall determine whether the application as filed is acceptable for processing.
6. Additional information may be required during the review process on any aspect of the project relating to compliance with applicable statutory criteria.

SECTION I
PROJECT INFORMATION

State law requires that a permit be issued for the construction, reconstruction, or structural alteration of any hydropower project. This section is designed to obtain a thorough description of the proposed physical project, including all existing and proposed physical structures, construction activities, and project operation.

1. **NATURE OF ACTIVITY.** Check appropriate item:

_____ Construction of new hydropower project.

_____ Reconstruction or structural alteration of existing hydropower project.

IF THE PROPOSED PROJECT IS SUBJECT TO FERC JURISDICTION, A COPY OF A COMPLETED FERC APPLICATION FOR LICENSE OR EXEMPTION (THIRD STAGE CONSULTATION) MUST ACCOMPANY THIS FORM.

NOTE: A copy of any document revising, supplementing, amending, or correcting deficiencies in the application as originally filed with FERC must also be filed with D.E.P.

2. **EXISTING ENVIRONMENT.** Provide a description of the physical environment of the project site and its immediate vicinity. The project site includes all land and water areas affected by the proposed activity.

REFERENCE: FERC EXHIBIT(S) _____

3. **PROJECT DESCRIPTION.** Provide a detailed description of the existing project. A hydropower project includes all powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures that are part of the development. This description must include:

- A. The physical composition, dimensions, and general configuration of all project structures, whether existing or proposed;
- B. The normal maximum surface area and elevation, gross storage capacity, and usable storage capacity of any project impoundments, whether existing or proposed;
- C. The number, type, and rated capacity of any project turbines or generators, whether existing or proposed; and
- D. The number, length, and voltage of any primary project transmission lines, whether existing or proposed.

REFERENCE: FERC EXHIBIT(S) _____

4. **CONSTRUCTION ACTIVITIES.** Provide a detailed construction schedule and a description of all proposed construction activities, to include:
- A. Location and physical dimensions of any areas proposed to be temporarily or permanently dredged, excavated or filled (including cofferdam areas, spoils disposal areas, and access roads);
 - B. Composition and quantity of any material proposed to be dredged, excavated, or placed as fill on a temporary or permanent basis (including cofferdam, dredged or excavated spoils, and access road materials); and
 - C. Proposed commencement and completion dates of any construction, reconstruction or structural alteration of project structures, including any associated dredging, excavation, or filling activities.

REFERENCE: FERC EXHIBIT(S)_____

5. **PROJECT OPERATION.** Provide a description of project operation, to include:
- A. The mode of project operation during low, mean, and high water years, including extent and duration of flow release and impoundment fluctuations;
 - B. An estimate of the dependable capacity and average annual energy production, in kilowatt hours, of the project;
 - C. An estimate of minimum, mean, and maximum flows, in cubic feet per second, at the project site, including a flow duration curve;
 - D. An estimate of the maximum and minimum hydraulic capacities, in cubic feet per second, of any power plant; and
 - E. A statement of the manner in which the power generated at the project is utilized.

REFERENCE: FERC EXHIBIT(S)_____

6. **PROJECT PLANS.** Provide general design drawings showing all major project structures, whether existing or proposed, in sufficient detail to provide a full understanding of the project, including:
- A. Plans (overhead view);
 - B. Elevations (front view);
 - C. Profiles (side view) and
 - D. Sections.

REFERENCE: FERC EXHIBIT(S)_____

7. **PROJECT MAPS.** Provide maps of the project showing:
- A. The location of the project structures and features, with reference to local geographic features; and
 - B. A project boundary enclosing all principal project structures and features.

REFERENCE: FERC EXHIBIT(S) _____

8. **TITLE, RIGHT OR INTEREST.** The Department's Regulations require that any applicant must possess sufficient title, right or interest in all project lands and waters in order to have standing to seek a permit, license or certification. Please complete the appropriate item(s) below establishing title, right or interest and attach a copy of the indicated document(s):

_____ Deed.

_____ Option to buy.

_____ Lease.

_____ Valid FERC Preliminary Permit.

_____ Valid FERC License (including all amendments/modifications).

_____ Exercise of flowage rights through operation of the Mill Act (12 M.R.S.A. Section 651).

_____ Exercise of eminent domain under FERC license.

Section II Review Criteria

The statute requires that seven criteria be satisfied before a permit will be issued. This section is designed to obtain information on these criteria, which require consideration of the following issues; financial capability and technical ability; public safety; public benefits; traffic movement; LURC zoning; environmental mitigation; and specified environmental and energy considerations.

9. **FINANCIAL CAPABILITY.**

- A. Provide a statement of the estimated total cost of the project, as proposed in this application, and itemize major categories of expenditures, including estimated costs of activities to be devoted to minimizing or preventing adverse effects on the environment during construction and/or operation of this project.
- B. Provide a statement that details plans for the financing of the project. If project costs involve more than normal legal and surveying fees, submit one of the following documents in support of the financing plan or indicate why such documents are unavailable at the present time:
- i. A letter from a financial institution, governmental agency, or other funding agency which states a funding commitment or an "intent to fund" specifying the amount of funds and the uses for which the funds may be utilized; or
 - ii. The most recent corporate annual financial report and any supporting material indicating the availability of sufficient funds to finance the project; or
 - iii. Copies of financial statements or other evidence indicating availability of funds when the developer will personally finance the project.

NOTE: The state hydro law provides that in the event that an applicant is unable to demonstrate financial capability at the time of filing an application, a conditional permit may be granted requiring a demonstration of financial capability prior to the start of project construction. 38 M.R.S.A. Section 636(1).

REFERENCE: FERC EXHIBIT(S)_____

10. TECHNICAL ABILITY.

- A. Provide a description of the applicant's prior experience and/or appropriate training related to the nature of the proposed activity.
- B. Provide a description of the qualifications of personnel to be employed to install and/or operate and/or maintain the project.

REFERENCE: FERC EXHIBIT(S)_____

11. PUBLIC SAFETY.

- A. Provide a description of the activities or physical environment anticipated during project construction and/or operation that may constitute a hazard to the safety of the general public.
- B. Provide a detailed description of any provisions proposed to protect the safety of the general public during project construction and/or operation.

REFERENCE: FERC EXHIBIT(S)_____

12. PUBLIC BENEFITS

Provide a description of the economic benefits and economic costs to the public anticipated as a result of the proposed project.

REFERENCE: FERC EXHIBIT(S)_____

NOTE 1: See the DEP's Administrative Regulations for Hydropower Projects, Chapter 450, Section 5 for an interpretation of the public benefits criteria of the state hydro law and a definition of economic benefits and costs.

NOTE 2: In the event that it is determined that a proposed project involving a new dam would result in substantial economic costs, then the applicant must also provide evidence comparing the benefits of the proposed project against the economic conditions that would otherwise result from any alternative source(s) of energy generation or conservation that might reasonably be pursued in the event that the project is not built. See Chapter 450 Regulations.

13. TRAFFIC MOVEMENT.

- A. Provide a description of the present condition of the existing condition of the existing public and private access routes to the proposed project area, including the type, condition, and width of road surfaces and number of travel lanes.
- B. Provide a description of the anticipated and other possible impacts, if any, of the proposed project on any existing access routes (e.g., location and lengths of any access routes to be flooded by the project).
- C. Provide a description of the traffic movement anticipated to be generated by the proposed project, including types and average daily number of vehicles, travel routes, and duration of traffic movement.

REFERENCE: FERC EXHIBIT(S)_____

14. LURC ZONING.

For any portion of the proposed project which is located within an unorganized territory or organized municipality subject to the jurisdiction of the Land Use Regulation Commission (LURC), provide a description of the applicable zoning designations and standards as adopted by LURC.

REFERENCE: FERC EXHIBIT(S)_____

NOTE: In those instances where the project, or portions of the project, are prohibited uses under the zoning designation and standards in effect at the time of consideration, the applicant must file and obtain favorable action from LURC on a rezoning petition or must amend the project to avoid conflicts with LURC's zoning. See Chapter 450 Regulations.

15. ENVIRONMENTAL MITIGATION.

Provide a description of any provisions proposed to realize the environmental benefits of the project or to mitigate the adverse environmental impacts of the project.

REFERENCE: FERC EXHIBIT(S)_____

NOTE: In-kind or on-site mitigation measures will be preferred. Off-site or out-of-kind mitigation measures may be acceptable where in-kind or on-site measures are demonstrated not to be feasible or desirable. See Chapter 450 Regulations.

16. WATER QUALITY.

- A. Provide a description of the applicable water quality standards and classification for the upstream and downstream waters which are affected or will be affected by the project.
- B. Provide a description of the existing water quality of the waters which are or will be affected by the project, including a description of existing in-stream water uses.
- C. Provide a description of the anticipated and other possible impacts the proposed project on existing water quality.

REFERENCE: FERC EXHIBIT(S)_____

NOTE: See Maine Water Classification Program, 38 M.R.S.A Sections 464-470.

17. SOIL STABILITY.

- A. Provide a description of the soils in the project area, including soil types and locations.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on soil stability.

REFERENCE: FERC EXHIBIT(S)_____

18. COASTAL/INLAND WETLANDS.

- A. Provide a description of any coastal or inland wetlands located within the project area.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on coastal or inland wetlands.

REFERENCE: FERC EXHIBIT(S)_____

19. NATURAL ENVIRONMENT.

- A. Provide a description of the natural environment within the project area, including a description of existing land uses, geological and topographic features, botanical resources, and aesthetic character.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on the existing natural environment, including but not limited to impacts on existing land uses, geological and topographic features, botanical resources, and aesthetic character.

REFERENCE: FERC EXHIBIT(S)_____

20. FISH AND WILDLIFE RESOURCES.

- A. Provide a description of the existing fish and wildlife resources within the project area.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on existing fish and wildlife resources.

REFERENCE: FERC EXHIBIT(S)_____

21. HISTORIC/ARCHAEOLOGICAL RESOURCES.

- A. Provide a description of the existing historic and archaeological resources within the project area.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on existing historic and archaeological resources.

REFERENCE: FERC EXHIBIT(S)_____

22. PUBLIC ACCESS AND USES.

- A. Provide a description of the existing public access to and use of the surface waters in the project area for navigation, fishing, fowling, recreation and other lawful public uses, including a description of any existing recreational resources and facilities.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on public rights of access to and use of the surface waters in the project area, including the impacts on recreational resources and facilities.

REFERENCE: FERC EXHIBIT(S)_____

23. **FLOOD CONTROL.**

- A. Provide a description of existing floodways and flood conditions within the project area.
- B. Provide a description of any existing flood control projects within the affected drainage basin.
- C. Provide a description of the anticipated and other possible flood control benefits or flood hazards of the proposed project.

REFERENCE: FERC EXHIBIT(S) _____

24. **ENERGY.** State the following:

	<u>Existing</u>	<u>Proposed</u>
A. Number of generating units:	_____	_____
B. Installed capacity, in kilowatts	_____	_____
C. Average annual energy output, in kilowatt hours	_____	_____
D. Annual plant factor, in percent	_____	_____
E. Identity of proposed purchaser or user of project power:		

F. Amount of nonrenewable fuels anticipated to be replaced by the project power:		

SECTION III
PUBLIC NOTICE

25. **PUBLIC NOTICE.** The Department requires that an applicant provide public notice describing the location and nature of the activity proposed for approval. The public notice requirements that apply to this application are described in the Certification of Publication below, which must be signed and dated by the applicant or authorized agent.

The following information must be submitted with this form:

- A copy of a completed Notice of Intent to File.
- A list of abutters to whom notice was provided. [For the purposes of public notice of this application, an “abutter” is any person who owns property that is both (1) adjoining and (2) within 1 mile of the delineated project boundary, including owners of property directly across a public or private right of way.]

For the purposes of this application, abutters also include:

- A. The owners of all property adjacent to the location of any activity associated with the construction, reconstruction, or structural alteration of a hydropower project as described in this application (including properties adjacent to any proposed dredging, excavating, filling, transmission lines, or access roads); and
- B. Where a new impoundment would be created or the full-pond elevation of an existing impoundment would be raised or lowered, abutters shall also include the owners of all property adjacent to the new or existing impoundment; and
- C. Where a new or increased diversion of by-pass of flows from their existing channel would be created, abutters shall also include the owners of all property adjacent to the new or existing diversion or by-pass channel.

CERTIFICATION OF PUBLICATION

By signing below, the applicant (or authorized agent) certifies that he or she has:

- 1. Published a Notice of Intent to File once in a newspaper circulated in the area where the project site is located, within 30 days prior to filing the application;
- 2. Sent a completed copy of the Notice of Intent to File by certified mail or Certificate of Mailing to abutters, as determined by local tax records or other means, within 30 days prior to filing the application; and
- 3. Sent a copy of the Notice of Intent to File by certified mail or Certificate of Mailing and filed a duplicate of this application with the town clerk of the municipality(ies) where the project is located, within 30 days prior to filing the application.

Signature of Applicant

Date

Name and title of applicant

If signature is other than that of the applicant, attach letter of agent authorization signed by the applicant.

NOTICE OF INTENT TO FILE

MAINE WATERWAY DEVELOPMENT AND CONSERVATION ACT APPLICATION

Please take notice that _____
(applicant)
of _____
(address and telephone number)

is intending to file an application with the Maine Department of Environmental Protection for a permit and Water Quality Certification pursuant to the provisions of the Maine Waterway Development and Conservation Act and the Federal Clean Water Act, Section 401. The application is for

_____ (summary of the activity)

in the town/city of _____
(municipality, tax map or numbers)

The application will be filed on or about _____ for public
(anticipated filing date)

inspection at the DEP's offices in Augusta during normal working hours. A copy of the application may also be seen at the municipal offices in _____, Maine.
(town/city)

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. Public comment on the application will be accepted throughout the processing of the application.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of this application shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act.

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, 17 State House Station, Augusta, Maine 04333.