

FEDERAL ENERGY REGULATORY COMMISSION
Office of Energy Projects
Division of Dam Safety and Inspections – New York Regional Office
Telephone No. (212) 273-5900

April 7, 2026

Via E-mail

Mr. Robert Thornton
Operations Manager
Essex Hydro Associates, LLC
E-mail: rthornton@essexhydro.com

RE: Letter to Essex Hydro Associates, LLC, regarding the 2025 Dam Safety Surveillance and Monitoring Reports submitted by letters dated March 20, 2026, for the Rolfe Canal Project, Penacook Lower Falls, and Penacook Upper Falls under P-3240, P-3342, and P-6689, respectively.

Dear Mr. Thornton:

We have reviewed the submitted Dam Safety Surveillance and Monitoring Reports and found that they generally follow the outline and requirements for continued project operation provided in Chapter 14, Appendix K of the FERC Engineering Guidelines and are acceptable to this office. However, FERC requests that future DSSMRs include inspection photographs.

Should you have any questions regarding this letter, please contact Dr. Thoma Beno by e-mail at Thoma.Beno@ferc.gov.

Sincerely,
**JOHN
SPAIN**
John Spain, P.E.
Regional Engineer

Digitally signed
by JOHN SPAIN
Date: 2026.04.07
11:25:53 -04'00'

FERC UPDATE April 13, 2026

Penacook Upper (p-6689), Lower(p-3342) and Rolfe Canal(p-3240)

- 3/24/2026 – National Marine Fisheries Service (NMFS) Response to Comments on Preliminary Fishway Prescriptions and Decisions Regarding Modifies Fishway Prescription for the above listed dams. NMFS is not modifying their prescriptions for the projects.
- 3/20/2026 – 2025 Dam Safety Surveillance and Monitoring Report submitted to FERC
- 3/26/2026- Penacook dams received Annual Spillway Gate Operations Cert.

Attachments

20260407-FERC Letter

20260326 – Spillway cert

20260324- NMFS response

20260220 – Annual fees

20260320 – FERC Surveillance response letter



BRIAR HYDRO ASSOCIATES

c/o ESSEX HYDRO ASSOCIATES, LLC
369 VILLAGE ST
PENACOOK, NH 03303

TELEPHONE:
FAX:

617-367-0032
617-367-3796

March 20, 2026

John Spain, Regional Engineer
Federal Energy Regulatory Commission
Division of Dam Safety and Inspections
New York Regional Office
19 West 34th Street, Suite 400
New York, New York 10001

**RE: Briar Hydro Associates-Penacook Upper Falls, P-6689-NH,
2025 Dam Safety Surveillance & Monitoring Report (DSSMR)**

Dear Mr. Spain:

Enclosed please find the 2025 Dam Safety and Surveillance Monitoring Report (DSSMR) for the Briar Hydro Associates – Penacook Upper Falls hydroelectric project.

The attachments are Critical Energy Infrastructure Information — Do Not Release.

If you have any questions, please contact me at (603) 753-6166 or rthornton@essexhydro.com.

Sincerely,

BRIAR HYDRO ASSOCIATES,

By: Essex Hydro Associates, L.L.C.
General Partner

Robert Thornton
Operations Manager



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

March 24, 2026

Debbie-Anne Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: NMFS Response to Comments on Preliminary Fishway Prescriptions and Decision Regarding Modified Fishway Prescriptions for the Penacook Lower Falls (P-3342-025), Penacook Upper Falls (P-6689-018), and Rolfe Canal (P-3240-040) Hydroelectric Projects

Dear Secretary Reese:

On August 19, 2024, the U.S. Department of Commerce, National Marine Fisheries Service (NMFS), filed with the Federal Energy Regulatory Commission (Commission) its Recommended Terms and Conditions and Preliminary Fishway Prescriptions pursuant to §§ 10 and 18 of the Federal Power Act for the Penacook Lower Falls (P-3342-025), Penacook Upper Falls (P-6689-018), and Rolfe Canal (P-3240-040) Hydroelectric Projects.¹²³

In response to NMFS's Preliminary Fishway Prescriptions, on September 19, 2024, Briar Hydro Associates, LLC, subsidiary of Essex Hydro Associates, LLC (Briar or Applicant), filed comments⁴ on our Preliminary Prescriptions. NMFS's responses to these comments are below.

We received no requests for a trial type hearing, or recommended alternatives, nor has NMFS received any information that would lead us to reconsider the preliminary prescriptions. Therefore, NMFS affirms the August 2024 Preliminary Prescriptions on file and will not be filing modified fishway prescriptions for the above-referenced Projects. Questions regarding this filing should be directed to Ben German (978-281-9353 or benjamin.german@noaa.gov).

Sincerely,

A handwritten signature in blue ink that reads "Louis A. Chiarella".

Louis A. Chiarella
Assistant Regional Administrator
for Habitat and Ecosystem Services

¹ FERC Accession #[20240819-5173](#)

² FERC Accession #[20240819-5175](#)

³ FERC Accession #[20240819-5176](#)

⁴ FERC Accession #[20240919-5016](#)



cc: Service List

NMFS Response to Briar's Comments on the Preliminary Fishway Prescriptions

On September 18, 2024, Briar Hydro Associates, LP (Briar), filed comments on NMFS Preliminary Fishway Prescriptions for the Penacook Lower Falls Hydroelectric Project (PLF; P-3342), Penacook Upper Falls Hydroelectric Project (PUF; P-6689), and Rolfe Canal Hydroelectric Project (Rolfe; P-3240), collectively, Contoocook Projects.⁵ We provide the following responses to those comments.⁶

Fish Passage Counts

Briar asserts that “requiring fish passage counts is not justified for three reasons. First it is beyond the scope of the Federal Power Act Section 18, second it is a needless expense following the completion of effectiveness testing and third it introduces a delay in upstream eel passage.”

1. Fish counts are a standard inclusion in NMFS fishway prescriptions nationwide and are well supported by the FPA definition as evidenced by their adoption in numerous licenses issued by FERC.⁷ Furthermore, congressional clarification comments from 1992 National Energy Policy Act, Section 1701(b) defines “... *the items which may constitute a “fishway” under section 18 for the safe and timely upstream and downstream passage of fish shall be limited to physical structures, facilities, or devices necessary to maintain all life stages of such fish, and **project operations and measures** related to such structures, facilities, or devices **which are necessary to ensure the effectiveness of such structures, facilities, or devices for such fish.***” The inclusion of the bold text clearly indicates that the definition of fishway extends beyond the infrastructure alone. Understanding the species and number of fish that pass a fishway annually is a fundamental metric to assess the initial and continued effectiveness of a fishway, and to diagnose potential issues that may arise throughout its functional life. Annual counts in many cases are the only data point available to assess compliance with fishway operations and passage requirements. Any additional resource management benefits provided by the annual fish counts are supplemental and irrelevant to the justification that they are a key provision to ensure safe, timely, and effective fish passage.
2. If Briar chooses to move forward with the trap and haul alternative contemplated in Section 6.3.2.2 of our Preliminary Prescription, identifying and counting the fish placed into holding or hauling tanks is a basic procedural component to avoid overcrowding, predation, and any potential associated mortality. We are requesting that these counts be shared with the resource agencies, which should carry minimal financial burden. In the case of a volitional fishway, obtaining fish counts does carry a modest cost, but it

⁵ FERC Accession # [20240919-5016](#)

⁶ We acknowledge that many of Briar's comments on the Preliminary Prescriptions were reiterated in their response to the Environmental Assessment for the Contoocook Projects, we were unable to file EA comments due to the lapse in federal appropriations and the resulting government shutdown that overlapped with the comment period.

⁷A few relevant examples include Clackamas (P-2195), Roanoke/Gaston (P-2009), Yadkin-PeeDee (P-2206), Santee Cooper (P-199), Columbia Diversion Dam (P-1895), and Toledo Bend (P-2305).

comprises a relatively small proportion of the overall cost of operating required fishways, and as mentioned in item #1, is considered integral to the definition of the fishway itself, not an optional component with a discrete expense.

3. NMFS commends Briar on their desire to reduce passage delay to the greatest extent possible. Notwithstanding, we also find the modest delay introduced through trapping eel before release to facilitate counts acceptable. We also note that while trapping eel prior to counting can be effective it is not the only way to obtain eel counts, if Briar prefers to implement video or electronic counting measures to further reduce delay, NMFS is amenable to that approach.

Seasonal Fish Migration Windows

Briar indicated their preference to administer fish passage start and end dates through the Fishway Operation and Maintenance Plan (FOMP) rather than defining specific operational dates in the license or prescription. We acknowledge that the seasonal migration windows outlined in our §18 fishway prescription terms and conditions are a starting point. We agree that the FOMP should provide the necessary flexibility to adjust these seasonal windows in response to biological and environmental factors. Nevertheless, in order to provide this flexibility, we must define the expected season for required fish passage measures to be in place. For this reason, we included defined dates in the prescription, with the understanding that the actual dates will be administered through the FOMP on an annual basis.

Effectiveness Testing

Briar has requested clarification regarding the need for effectiveness testing of 1) the Penacook Upper Falls (PUF) Upstream Eel Lift and 2) the PUF downstream fish passage, which were each included in studies during this relicensing.

1. Regarding the upstream eel lift at PUF, we agree that the study results were inconclusive. However, we disagree with Briar's assertion that further study is unlikely to produce different results. It may require a larger sample size, different methodology, or both, but verifying effectiveness of the existing structure is critical to ensure it will fulfill the requirement for upstream eel passage, as prescribed, and meet associated performance criteria.
2. For downstream fish passage, both eel and alosine project survival failed to meet the downstream performance criteria at PUF with existing infrastructure. As Briar noted in their response, the route-specific survival estimate for adult alosines passing through the PUF turbines met the required >95% survival. While this result is promising, a single target species and route meeting the criteria is not sufficient for the total Project's downstream fish passage to be considered adequate. Furthermore, section 6.3.1 of our Preliminary Prescription requires a new downstream fish passage and protection system at PUF. Testing of the existing measures during the study phase does not fulfill the requirement for effectiveness testing pursuant to Section 6.3.7.

Penacook Upper Falls Upstream Eel Passage Minimum Flow

Through their comments Briar indicated a preference that the required zone of passage flow be revised from 5 cfs down to 1-2 cfs. Given that existing leakage is difficult to quantify and may be variable, the 5 cfs value was determined through consultation with MRTC member agency biologists as a starting point that we are reasonably confident will result in desired attraction and passage efficiency. Our prescription contemplates that a lower flow may be provided if Briar can demonstrate it supports comparable effectiveness. Providing the 5 cfs (or approved alternative flow value) on a year-round basis ensures both effective passage, and that the bypass remains wetted, supporting habitat and reducing the risk of stranding for any eel or other species that may be inhabiting or passing through that reach.



BRIAR HYDRO ASSOCIATES

c/o ESSEX HYDRO ASSOCIATES, LLC
369 VILLAGE ST
PENACOOK, NH 03303 USA

TELEPHONE:
FAX:

617-367-0032
617-367-3796

March 26, 2026

John Spain, Regional Engineer
Federal Energy Regulatory Commission
Division of Dam Safety and Inspections
New York Regional Office
19 West 34th Street, Suite 400
New York, New York 10001

**RE: Briar Hydro Associates-Penacook Upper Falls, P-6689-NH,
2026 Annual Spillway Gate Operation Certificate**

Dear Mr. Spain:

On March 20, 2026 the project spillway gates were opened and closed as required under 18 CFR 12.44. All worked satisfactorily. The verification form also filed along with this letter is in accordance with 18 CFR 12.13.

Please contact Mr. Robert Thornton (603) 753-6166 or rthornton@essexhydro.com if you have any additional questions.

Sincerely,

BRIAR HYDRO ASSOCIATES,

By: Essex Hydro Associates, L.L.C.
General Partner

Robert Thornton
Operations Manager

ANNUAL SPILLWAY GATE OPERATION CERTIFICATE

FERC PROJECT NO: 6689 NAME: Penacook Upper Falls Project - Briar Hydro Associates


DEVELOPMENT NAME: Penacook Upper Falls

LICENSEE/EXEMPTEE/APPLICANT: Briar Hydro Associates

Category ^{1/}	Date of Detailed Inspection ^{2/}	Gate No. ^{3/}	Date of Opening		Purpose for gate discharge ^{5/}	Opening (ft)	Voltage ^{6/} (line to line)	Phase Current ^{6/}	Rated Horsepower ^{6/}
			Current	Last Full ^{4/}					
2	N/A	1	3/20/2026	3/14/2024	Flood Passage / Test	2'	N/A	N/A	N/A
2	N/A	2	3/20/2026	3/14/2024	Flood Passage / Test	2'	N/A	N/A	N/A
2	N/A	3	3/20/2026	3/14/2024	Flood Passage / Test	2'	N/A	N/A	N/A
2	N/A	4	3/20/2026	3/14/2024	Flood Passage / Test	2'	N/A	N/A	N/A
2	N/A	5	3/20/2026	3/14/2024	Flood Passage / Test	2'	N/A	N/A	N/A
2	N/A	6	3/20/2026	3/14/2024	Flood Passage / Test	2'	NA	N/A	N/A

Note : Two gates were alternated during high River Flow Event for 2 foot gate opening for testing purposes. Normal Pond (~306.00 MSL) was maintained during the gate test operations.

PROBLEMS NOTED/MAINTENANCE REQUIRED: None

The above gate(s) was (were) operated as indicated by: 
Dylan Leslie

TYPE OF EMERGENCY OPERATION

Manual

Standby power source(s) - Describe: Tested DC pump and diesel pump

Date of last test: 3/20/2026

Gate operated: #2

Problems noted/Maintenance required: None

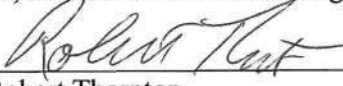
The diesel pump and backup power source were load-tested as indicated by:


Dylan Leslie

Annual Spillway Gate Operation Certificate, Page 2

State of New Hampshire
County of Merrimack

The undersigned, being first duly sworn, states that he has read the above document and knows the contents of it, and that all of the statements contained in that document are true and correct, to the best of his knowledge and belief.




Robert Thornton
Operations Manager

Sworn to me and subscribed before me this 25th of March 2026.

(Seal)





Notary Public or other state or local official authorized
by law to notarize documents

3-25-2026

Note:

- 1/ Category 1 - Failure has dam safety or operational consequence
- Category 2 - Failure has minimal or no consequences.
- 2/ A close up detailed inspection is required for all category 1 gates every 10 years.
- 3/ Attach additional sheets if more space is required.
- 4/ Full gate operation must be performed at least once every five years for Category 1 gates and 10 years for Category 2 gates.
- 5/ Flood passage, test, maintenance, under stoplogs, etc.
- 6/ Required for Tainter gates only.

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Annual Headwater Benefits Assessment
Merrimack River Basin
Docket Nos.
HB61-26A-23 (P-3342-000),
HB61-26A-24 (P-6689-000), and
HB61-26A-25 (P-3240-000)
Briar Hydro Associates
New Hampshire Water Resources Board

February 20, 2026

VIA Electronic Mail

Andrew Locke
President
Essex Hydro Associates, LLC
alocke@essexhydro.com

Subject: 2026 Annual Headwater Benefits Assessment - Merrimack River Basin,
Docket Nos. HB61-26A-23, HB61-26A-24, and HB61-26A-25

Dear Andrew Locke:

By order issued August 2, 2001, Docket Nos. HB61-93-11-001 through 003,¹ the Commission established annual fees for benefits derived from headwater projects in the Merrimack River Basin. There are four federal reservoirs benefiting your projects. The table below represents the energy gain benefits you are being assessed for the period January 1, 2025 through December 31, 2025:

¹ *Public Service Company of New Hampshire, CHI Energy Inc., and Essex Hydro Associates*, 96 FERC ¶ 62,115 (2001).

Downstream Project Name	FERC Project No.	Headwater Benefits Assessment
Lower Penacook	3342A	\$744.00
Upper Penacook	6689A	\$756.00
Rolfe Canal	3240A	\$1,098.00
Total		\$2,598.00

The attached bill and payment thereof are to be considered final until such time that changed conditions in the basin warrant a new study. Please review the attached instructions to remit payment. Payment is due by the date indicated. Payment must be made on or before the due date to prevent the assessment of penalty and administrative charges. For general information about headwater benefits, visit the Commission's Internet site at: <http://www.ferc.gov/> and follow the links to the hydropower page.

Sincerely,

Kelly Houff
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance

Enclosure: Commission Staff's Summary of HWB Assessment in the Merrimack River
Basin
Disbursement of Headwater Benefits Assessments

cc: VIA Electronic Mail

James Choate, CDFM, DFMCP2
Finance and Accounting Policy Division
U.S. Army Corps of Engineers
James.B.Choate@usace.army.mil

DISBURSEMENT OF HEADWATER BENEFITS ASSESSMENTS

River Basin: Merrimack

Docket Nos.: HB61-26A-17 through HB61-26A-20 (Central Rivers Power)
HB61-26A-21 (Boot Hydropower, LLC)
HB61-26A-22 (Essex Company, LLC)
HB61-26A-23 through HB61-26A-25 (Briar Hydro Associates)

Disbursement: Department of the Army
U.S. Army Corps of Engineers
Resource Management, 3P16
ATTN: Mike Walsh
441 G Street, NW
Washington, DC 20314-1000

The table below is the apportionment of the total headwater benefits assessment among the four federal reservoirs providing energy gains for the period of January 1, 2025, through December 31, 2025.

DISBURSEMENT TO THE CORPS OF ENGINEERS:

UPSTREAM RESERVOIR NAME	APPORTIONMENT
Blackwater	\$2,338.00
Franklin Falls	\$13,199.00
Hopkinton	\$6,747.00
Everett	\$285.00
Total	\$22,569.00

ANNUAL CHARGES PAYMENT INSTRUCTIONS

Include **BILL NUMBER(S)** on all payment options listed below.

ACH Credit: Federal Reserve Bank	Fedwire: Federal Reserve Bank
Routing Number: 051036706	Routing Number: 021030004
Account Number: 540032	Account Number: 89000004

FERC also participates in the FedNow and Online Bill Pay programs.

REQUIREMENTS

The basis for the submission of this statement of annual charges is Section 10(e) (annual charges) or 10(f) (headwater benefits assessments) of Part I of the Federal Power Act for licensees, and Section 3401 of the Omnibus Budget Reconciliation Act of 1986 for exemptees.

A licensee may file a request with the Director of the Office of Energy Projects for a credit for contractual payments made for construction, operation, and maintenance of a Government dam at any time before 30 days after receiving a billing for annual charges.

Payment is due 45 days from the statement issue date. Penalty and administrative charges accrue on an unpaid balance after the due date and may be assessed monthly. Payments made “under protest” will be placed in a suspense account until a determination is made on the appeal (and subsequent rehearing, if one is filed). Making a payment “under protest” alone is not sufficient to appeal the bill.

This statement of annual charges is subject to subsequent correction in case of error, even though payment will have been made. In such event, if the correction shows a decrease in the total charges, credit will be given on the statement for the following year. If the correction shows an increase, additional remittance will be required, upon notification.

APPEALS

If you believe this statement is incorrect, you must file an appeal with the Chief Financial Officer, no later than 45 days after rendition of the statement. Written appeals may be sent to: Federal Energy Regulatory Commission, Chief Financial Officer, 888 First Street, NE, Washington, DC, 20426 or annualcharges@ferc.gov. You may call Ms. Raven A. Rodriguez at (202) 502-6276 or Mr. Norman Richardson at (202) 502-6219 with any questions. You must still make timely payment of the charges assessed to avoid penalty and administrative charges.

REQUESTS FOR REHEARING

For the Commission to consider an argument of law or policy, you must file a Request for Rehearing, no later than 30 days from the Chief Financial Officer’s decision on the appeal (18 CFR, 385.713). The request for rehearing is not a stay of the Commission’s statement, and if you have not yet paid or, as a result of the disposition of your appeal, now owe additional sums, you must still pay the charges to avoid any penalty and administrative charges. Send requests for rehearing to: Federal Energy Regulatory Commission, Acting Secretary Debbie-Anne A. Reese, 888 First Street, NE, Washington, DC, 20426.

FERC’s Federal ID: 52-1383541

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

Andrew Locke
President
Essex Hydro Associates, LLC
alocke@essexhydro.com

BILL NUMBER:	HB2625	BILLED AMOUNT:	\$2,598.00
INT. RATE:	05.00%		
DATE BILLED:	02/20/2026		
DATE DUE:	04/06/2026		
DOE CID REFERENCE:	HB2625	RECEIPTS:	\$0.00
		TOTAL DUE:	\$2,598.00

Dear Briar Hydro Associates:

The attached letter describes the breakdown of annual charges for Headwater Benefits. Payment must be received on or before the due date to avoid the assessment of penalty and administrative charges. If you have any questions regarding payment, please contact Ms. Raven Rodriguez at (202) 502-6276.