

FERC UPDATE July 13, 2026

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

- 6/8/2026 – US Dept. of Interior Fish & Wildlife Service. Response to FERC on relicensing- FWS requires no further consultation at this time

Attachments

20260608-FWS Letter



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New England Field Office
70 Commercial Street, Suite 300
Concord, NH 03301-5087

<https://www.fws.gov/office/new-england-ecological-services>



June 8, 2026

David Turner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

RE: Relicensing of Rolfe Canal Hydroelectric Project (FERC No. P-3240-040), Penacook Upper Falls Hydroelectric Project (FERC No. P-6689-018), and Penacook Lower Falls Hydroelectric Project (FERC No. P-3342-025) in New Hampshire
In reply refer to Project Codes 2024-0015410, 2024-0015442, and 2024-0015461

Dear David Turner:

This responds to your request for our concurrence with the Federal Energy Regulatory Commission's (FERC) determination that authorizing Briar Hydro Associates (Briar Hydro) to continue operation and maintenance of the subject hydroelectric projects in New Hampshire (collectively, the Projects) may affect, but is not likely to adversely affect, the federally endangered northern long-eared bat (*Myotis septentrionalis*). We received your complete consultation request on January 21, 2026. Your request and our response are made pursuant to section 7 of the Endangered Species Act of 1973, as amended (87 Stat. 884, as amended; 16 U.S.C 1531, et seq.) (ESA).

Briar Hydro proposes to continue operation and maintenance of the Rolfe Canal Hydroelectric Project, the Penacook Upper Falls Hydroelectric Project, and the Penacook Lower Falls Hydroelectric Project (collectively, Projects). All of the projects are located on the Contoocook River in Merrimack County, New Hampshire. The purpose of the Projects is to provide hydroelectric power to the electrical grid. Detailed descriptions of the Projects can be found in section 2.1.1 of their respective Environmental Assessment (EA) issued by the FERC in September and October 2025.

Briar Hydro proposes to modify the licensed boundary of the Rolfe Hydroelectric Project to include an existing boat launch, parking area, and dirt roads associated with the parking area. These areas are currently maintained by Briar Hydro. All three Projects propose operation adjustments, plan developments, and/or installation of facilities all designed to improve fish

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passage. Detailed descriptions of the proposed action and staff alternatives are found in sections 2.2 and 2.4 of their respective EAs.

The Projects fall within the range of the northern long-eared bat, however, there are no known detections of the species within the boundaries of the Projects. As part of the proposed operations scenarios, Briar Hydro proposes to remove hazard trees and other trees necessary for routine facility maintenance. Northern long-eared bats roosting in trees slated for trimming or removal could be injured or killed if they are unable to safely exit the roost, or may be more likely to experience day-time predation when unexpectedly forced to relocate from a roost.

Briar Hydro would implement these measures to avoid adverse effects to the northern long-eared bat from the proposed project:

- Restrict tree cutting between April 15 and October 31 except when trees pose a threat to human or property safety (i.e., emergencies); and
- If trees are removed between April 15 and October 31 due to an emergency, Briar Hydro will voluntarily submit the attached “Hazard Tree Removal Form” following emergency tree removal to the New England Ecological Services Field Office (newengland@fws.gov).

We concur with your determination that the proposed action may affect, but is not likely to adversely affect, the northern long-eared bat because:

- The likelihood of adverse effects on northern long-eared bats during tree removal is discountable because northern long-eared bats would not be present in trees during the inactive season; and
- The effects of tree removal on northern long-eared bat habitat would be insignificant because relatively few trees would be affected and substantial suitable habitat exists in, and adjacent to, the Projects for bats to use when they return from hibernation.

This concurrence does not include future emergency actions, which need to be addressed as they occur and pursuant to 50 CFR 402.05. The U.S. Fish and Wildlife Service’s (USFWS) ESA Consultation Handbook defines an emergency as “...a situation involving an act of God, disasters, casualties, national defense or security emergencies, etc., and includes response activities that must be taken to prevent imminent loss of human life or property.”¹ 50 CFR 402.05 provides for emergency response coordination between an action agency and the USFWS; however, the emergency response should not be delayed to complete coordination or consultation pursuant to section 7 of the ESA.

The FERC determined the proposed action would have no effect on the federally threatened small whorled pogonia (*Isotria medeoloides*).

¹ <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf> Accessed May 15, 2026. See chapter 8.

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Further consultation with us under section 7 of the ESA is not required at this time. If any of the criteria at 50 CFR 402.16(a)² are met, reinitiation of consultation is required, and the FERC or Briar Hydro should contact us immediately and suspend activities that may affect those species until the appropriate level of consultation is completed with our office. Thank you for your cooperation, and please contact Jessica Fletcher of this office at 603-724-8269 or jessica_fletcher@fws.gov if you have questions or need further assistance.

Sincerely,

Audrey Mayer
Supervisor
New England Field Office

² <https://www.ecfr.gov/current/title-50/chapter-IV/subchapter-A/part-402/subpart-B/section-402.16>

Optional Hazard Tree Form

Use of this form by U.S. Fish and Wildlife Service (USFWS) offices and their partners is voluntary. Its intent is twofold –

- to help USFWS field office staff respond to inquiries about removing hazard trees when an endangered bat species may be present;
- to document basic information about such incidents for later analysis.

Instructions: Please collect and report as much information as you can but don't delay removal of hazard trees in the interest of collecting data. All this information can be collected after the tree is felled.

Tree Removal Information:

Date of Removal:

Time of Removal (24 hr):

GPS Coordinate Format:

Zone (UTM):

Value:

Coordinate:

Value:

Coordinate:

Event or condition that made the tree a hazard:

Results of visual inspection post-felling (i.e. any signs of bats using this tree for roosting?):

Photo of Hazard Tree (Optional)

Tree and Habitat Information: (see table at end of form if multiple hazard trees are removed)

Tree Species:

Tree Height ():

DBH (in):

Decay Class¹:

Are any tree features present?

Cracks/ crevices

Holes

Sloughing bark

Leaf clusters

Other notable features (i.e. roads, water sources nearby, buildings etc.):

Additional Habitat information (Optional)

Basal Area ():

Elevation ():

Slope (%):

Bark remaining (%):

Canopy Cover (%):

Were acoustics recorded before tree was removed?

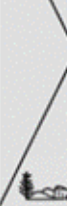
Yes

No

If so, please describe results below or attach summary:

¹ See below. For example, "Live- 1."

Decay Class1

Wildlife Tree Class								
Live		Dead						Dead Fallen
		Hard →			Spongy	→ Soft		Not Sampled
1	2	3	4	5	6 ≈ 2/3 original height	7 ≈ 1/2 original height	8 ≈ 1/3 original height	9
								
Live		Dead					Dead Fallen	
		Hard →		Spongy	→ Soft		Not Sampled	
1	2	3	4	5	6		6	
								

Reference:

Province of British Columbia. 2009. Protocol for stand-level biodiversity monitoring: Steps for field data collection and administration. B.C. Ministry of Forests and Range and B.C. Ministry of Environment, Forest and Range Evaluation Program, Victoria, B.C.

Emergence Survey Information

If the action agency or its representative carried out an emergence survey before tree removal, enter the results in the section below. See [here](#) for bat survey guidance, including guidance on conducting emergence surveys (Appendix E).

Emergence Survey:**Date:****Time of Sunset (24 hr):****Start Time (24 hr):****End Time (24 hr):****Weather Conditions Acceptable:****Yes****No****Temperature ()::****Wind Speed ()::****Precipitation:****# of bats observed:****Roost Height ()::****Roost aspect (Degrees):****Roost type if bats are present:****Sloughing bark****Cavity****Foliage****Names of Surveyors:**

***Agency may also provide a separate table or spreadsheet with the same information**

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