



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

3817 Luker Road  
Cortland, NY 13045



November 13, 2008

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
Mail Code: DLC, HL-11.2  
888 First St., NE  
Washington, DC 20426

**RE: Waterloo-Seneca Falls Hydroelectric Project (FERC #2438)  
Compliance with License Article 406 – Funding of USGS Gage**

Dear Ms. Bose:

The Seneca Falls Power Corporation (SFPC), licensee for the Waterloo-Seneca Falls Hydroelectric Project in New York, is required by License Article 406 to install and operate, or pay for the installation and operation, of a United States Geological Survey (USGS) gage or its equivalent to verify compliance with license conditions. This requirement was stipulated in the Federal Energy Regulatory Commission's (FERC) September 14, 2004, *Order Modifying and Approving, in Part, Flow Monitoring Plan Under Article 406*. The SFPC chose to fund the USGS to install and operate a gage downstream of the Seneca Falls development.

It has come to our attention<sup>1</sup> that the SFPC is no longer willing to fund the operation of the USGS gage. The USGS intends to discontinue operation of this gage. To the best of our knowledge, the SFPC has not installed an equivalent gage. Therefore, by failing to continue the funding of the USGS gage, the SFPC is in violation of License Article 406 and the subsequent FERC Order of September 14, 2004. Without appropriate gaging, it will not be possible to verify compliance with several license articles related to operation of the Waterloo-Seneca Falls Project.

The U.S. Fish and Wildlife Service (Service) recommends that the FERC immediately order the SFPC to resume funding of the USGS gage or an equivalent so that its operation can continue and compliance with license conditions can be verified. The Service has worked diligently with the SFPC, the FERC, and the New York State Department of Environmental Conservation (NYSDEC) over the last 10 years to bring this project into compliance with its license requirements. This failure to continue funding the USGS gage continues the SFPC's record of failing to comply with, or delaying implementation of, environmentally-related license requirements. Compliance with the Seneca Lake rule curve has still not been resolved, and local citizens and Congressmen have been registering complaints with the NYSDEC and the FERC. In addition, the Seneca Falls fish passage facility has still not been constructed after 10 years of

<sup>1</sup> Personal Communication, E. Bugliosi, USGS, November 2008.

deliberations, nor has effectiveness testing of fish passage facilities taken place at Waterloo or Seneca Falls.

Thank you for the opportunity to provide information relating to license compliance. If you have any questions or desire additional information, please contact Steve Patch at 607-753-9334.

Sincerely,

A handwritten signature in black ink that reads "David A. Stilwell". The signature is written in a cursive style with a large initial "D".

David A. Stilwell  
Field Supervisor

cc: SFPC, Concord, CA (S. Goodwin)  
FLEA, Geneva, NY (D. Scott)  
NYSDEC, Albany, NY (M. Woythal, W. Little)  
NYSCC, Albany, NY (C. Mantello)  
USGS, Ithaca, NY (E. Bugliosi)  
FERC, New York, NY (P. Valeri)