



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
408 Atlantic Avenue – Room 142  
Boston, Massachusetts 02210-3334



March 24, 2006

ER 06/115

The Honorable Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**RE: Comments and Prescriptions  
Niagara Power Project Relicensing, FERC Project No. 2216-066  
Application Ready for Environmental Analysis**

Dear Secretary Salas:

In response to the Federal Energy Regulatory Commission's (Commission) February 7, 2006, Notice of Application Ready for Environmental Analysis, the U.S. Department of the Interior provides the following comments.

In correspondence of September 8, 2005, the Department commented on the Commission's "Offer of Settlement and Explanatory Statement" in support of the "Relicensing Settlement Agreement Addressing New License Terms and Conditions." The Department of the Interior, through the U.S. Fish and Wildlife Service, the National Park Service and the Bureau of Indian Affairs, is a signatory to the "Relicensing Settlement Agreement Addressing New License Terms and Conditions," one of four negotiated settlements that make up the Offer of Settlement. We would like to emphasize our continued support for the Settlement Agreement.

## Section 10(j) Recommendations

In addition to recommending the adoption of the Settlement Agreement generally, the Department on behalf of the U.S. Fish and Wildlife Service, hereby specifically recommends, pursuant to Section 10(j) of the Federal Power Act, that the Commission issue a license including the provisions of Section 4.1.2 and 4.1.3. of the Settlement Agreement. These provisions, under which the New York Power Authority is to provide for certain habitat improvement projects, are designed for the protection, enhancement, and mitigation of impacts to fish and wildlife resources impacted by the Project.

### Section 18 Reservation of Authority

The Department hereby reserves the authority of the Secretary of the Interior under Section 18 of the Federal Power Act to require the licensee to construct, operate, and maintain such fishways as may be prescribed by the Secretary, and requests that the Commission include language reserving said authority in any license issued for the Niagara Project.

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The Department is encouraged by the Commission's November 7, 2005, decision to prepare an Environmental Impact Statement (EIS) on the Niagara Power Project relicensing. We look forward to the reviewing the Draft EIS.

Thank you for the opportunity to provide input on the License Application for the Niagara Power Project. If you have questions or require further assistance in this matter, please contact me at (617) 223-8565, Kimberly Owens at (202) 208-6240, or Andrew Tittler at (617) 527-0134.

Sincerely,

*Andrew L. Raddant* /s/  
Regional Environmental Officer