



# Draft

## Section 401 Water Quality Certification

Permittee: Scott Sanicki  
102 Quiet Woods Road  
East Hampton, CT 06424

Site address: Quiet Woods Hydroelectric Project; P-15324  
102 Quiet Woods Road  
East Hampton, CT 06424

Application: #202309481  
Permit Type: Section 401 Water Quality Certification – FERC Hydropower Exemption Projects  
Permit: WQC-202309481  
Town: East Hampton, CT  
Waters: Pocotopaug Creek, CT

Pursuant to Section 401 of the Federal Clean Water Act (33USC 1341), Water Quality Certification is hereby issued to Scott Sanicki, (the "Permittee"), for construction and operation of a small, low impact, run of the river hydroelectric power project (the "Project") that is proposed to have an installed capacity of 10 megawatts or less located on Pocotopaug Creek at 102 Quiet Woods Road, East Hampton, Connecticut (the "site"). All activities shall be conducted in accordance with the application referenced above and filed with this department on December 18, 2023, as amended and described herein.

Said operations and development within Pocotopaug Creek will comply with the applicable provisions of Section 301, 302, 303, 306 and 307 of said Act and will not violate Connecticut's Water Quality Standards.

### **AUTHORIZED ACTIVITY**

Specifically, the Permittee is authorized to construct and operate a small, low impact, run of the river hydroelectric power project that is proposed to have an installed capacity of 10 megawatts or less, in accordance with application number 202309481 submitted to the Connecticut Department of Energy and Environmental Protection (CTDEEP).

#### **Project Details:**

The Project consists of a new installation of under-shot run of the river power generating water wheel with diameter of approximately 6ft. Local water flow in area of installation is between 3-5 ft/sec equivalent to approximately 0.14-0.4 ft of head. The placement of the water wheel is to be located to take advantage of a nature weir in the river created by a large boulder locally accelerating the velocity of the stream.

The under-shot power generating water wheel will be a rotating cantilever mount to the riverbank by utilization of a concrete pad approximately 6 X 6 ft with depth / thickness of 3 feet dependent on local site conditions. The mount will allow the wheel to be rotated into and out of the river location and contain a second mechanism to allow the wheel to be lowered into the stream. This design style allows for maintenance on the riverbank and is such that the wheel is temporary in its placement in the water flow.

- average annual generation in kilowatt-hours: 8800Kw/hr
- The minimum and maximum hydraulic capacity of the hydroelectric project (flow through the hydroelectric project) in cubic feet per second: 13.5-37.5 ft<sup>3</sup>/s.

**PERMITTEE’S FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS PERMIT SHALL SUBJECT PERMITTEE AND PERMITTEE’S CONTRACTOR(S) TO ENFORCEMENT ACTIONS AND PENALTIES AS PROVIDED BY LAW.**

This authorization is subject to the following conditions:

**SPECIAL CONDITIONS**

1. The Permittee shall operate the Project in an instantaneous run-of-river mode, whereby inflow to the Project will equal outflow from the Project at all times. Run-of-river operation may be temporarily modified if required by operating emergencies beyond the control of the Permittee, or for short periods upon mutual agreement between the Permittee, the CTDEEP, the U.S. Fish and Wildlife Service (USFWS).
2. The Permittee shall install and operate the Project as proposed in the exemption application filed with the FERC ([FERC Accession Number 20231002-5315](#)) and the application for a 401 Water Quality Certification for Hydropower Facilities filed with CTDEEP (#202309481). Any deviations from the equipment, structures, components, and specifications described in the applications, and particularly the items detailed in the table below, must be approved first.

Water Wheel Diameter	No greater than 6 feet
Water Wheel Width	No greater than 3 feet
Water Wheel Type	Undershot
Mounting Mechanism	Rotating Cantilever
Cantilever Position	At lowest operational level, positioned to provide a minimum of 11 inches between the bottom of the water wheel and the streambed.

3. After completing construction, but before the Project commences generating power, the Permittee shall provide an opportunity for CTDEEP and USFWS to visit the Project to observe and collect information sufficient to verify the Project was constructed as designed.
4. The Permittee is prohibited from modifying the stream channel within the proposed project area without prior consultation with, and approval by, CTDEEP and USFWS.

5. The Permittee will abide by all necessary local inland wetlands approvals.
6. If at any time, the Permittee is aware of the Project not meeting water quality standards, the Permittee shall implement mitigation measures as sufficient to achieve said standards and notify the CTDEEP and USFWS of such mitigation measures.
7. If, at any time, the permittee is aware of the Project causing migratory delay, injury or mortality to resident or migratory fish, the Permittee shall implement measures approved by CTDEEP to eliminate such migratory delay, injury or mortality.
8. State Listed Species:

According to our department records, the following State-listed species (RCSA Sec. 26-306) have been documented in very close proximity and may be affected by your work in the proposed project area:

- **Eastern box turtle (*Terrapene carolina carolina*)** Protection Status: State Special Concern

In Connecticut, these turtles are found in well-drained forest bottomlands and a matrix of open deciduous forests, early successional habitat, fields, gravel pits, and or powerlines. Turtles are dormant between November 1 and April 1 and hibernate in only a few inches from the surface in forested habitat.

CTDEEP **does not** have any records of **Northern Long-eared bat (*Myotis septentrionalis*)** within 5 miles of this location. Please be aware that tree clearing time of year restrictions suggested by your Information Planning and Conference (IPAC) review from USFWS to protect this species (limiting non-hazardous tree removal to the period April 1 through October 31) are in conflict with our recommendations for Eastern box turtle, which is of higher priority on this site. However, because the footprint of this project is small, you can take the following precautions to avoid impacts to turtles.

- A. If you conduct construction work or tree cutting during the species dormant period (Nov 1- March 31):
  - Avoid stump removal of trees or other significant ground disturbance within suitable overwintering habitat for Eastern box turtle
  - Use Best Management Practices to avoid soil compaction
  - Take extra care to limit area impacted by motorized vehicles
- B. If you conduct tree removal or use heavy equipment when the species is active (April- Nov 1):
  - The crew be made aware of the species description and possible presence.
  - The immediate area to be worked each day should be searched for turtles before starting work.
  - Any turtles found should be moved out of the way, just outside of the work area. This animal is protected by law and should never be taken off site.

- Work conducted during the early morning and evening hours should occur with special care not to harm basking or foraging individuals.

The NDDB - New determination for the Quiet Woods Water Wheel as described in the submitted information is valid until 12/6/2025. This determination applies only to the project as described in the submission.

Please re-submit an updated Request for Review if the project's scope of work and/or timeframe changes, including if work has not begun by 12/6/2025.

Activities that may affect a listed species in a manner not considered in this exemption require additional consultation with CTDEEP and USFWS under section 7 of the Endangered Species Act. Information on completing this process is available at this website: <https://ipac.ecosphere.fws.gov>. The Permittee and/or the FERC shall review this consultation process and contact CTDEEP and USFWS at least 60 days prior to initiating any activities that may affect a listed species in a manner not considered in this exemption.

## GENERAL TERMS AND CONDITIONS

1. **Rights.** This certificate is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further Subject to any and all public and private rights and to any federal, state, or local laws or regulations pertinent to the property or activity affected hereby. This certification does not comprise the permits or approvals as may be required by Chapters 440, 446i, 446j and 446k of the Connecticut General Statutes.
2. **Expiration of Certificate.** This certificate shall expire upon the expiration of the Federal Energy Regulatory Commission permit no. P-15324 for the same activity.
3. **Compliance with Certificate.** All work and all activities authorized herein conducted by the Permittee at the site shall be consistent with the terms and conditions of this certificate. Any regulated activities carried out at the site, including but not limited to, construction of any structure, excavation, fill, obstruction, or encroachment, that are not specifically identified and authorized herein shall constitute a violation of this certificate and may result in its modification, suspension, or revocation. In carrying out the certified discharge(s) authorized herein, the Permittee shall not store equipment or construction material, or discharge any material including without limitation, fill, construction materials or debris in any wetland or watercourse on or off site unless specifically authorized by this certificate. Upon initiation of the activities authorized herein, the Permittee thereby accepts and agrees to comply with the terms and conditions of this certificate.
4. **Transfer of Certificate.** This authorization is transferable with the written consent of the Connecticut Department of Energy and Environmental Protection. The Permittee shall incorporate the aforementioned terms and conditions in any conveyance—by lease, sale or otherwise—of its interests so as to legally assure compliance with said conditions for as long as the Project operates under an exemption from licensing.

5. **Reliance on Application.** In evaluating the Permittee's application, the Connecticut Department of Energy and Environmental Protection has relied on information provided by the Permittee. If such information subsequently proves to be false, deceptive, incomplete or inaccurate, this certificate may be modified, suspended or revoked.
6. **Approval of Project Changes.** Any change to the project that would have a significant or material effect on the findings, conclusions or conditions of this certification, including project operation, must be submitted to the Connecticut Department of Energy and Environmental Protection for prior review and written approval where appropriate and authorized by law and only as related to the change proposed.
7. **Continuing Jurisdiction.** The Connecticut Department of Energy and Environmental Protection, in consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, reserve the right to add and alter the terms and conditions of this certification, when authorized by law and as appropriate to carry out its responsibilities with respect to water quality, fish and wildlife resources during the life of the project. The Permittee shall, within thirty (30) days of receipt of notice from the Connecticut Department of Energy and Environmental Protection, the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, file with the FERC any additional terms and conditions imposed by such agencies. The Permittee shall allow such agencies to inspect the Project area at any time while the Project operates under an exemption from licensing to monitor compliance with their terms and conditions.
8. **Reopening of Certification.** The Connecticut Department of Energy and Environmental Protection may reopen and alter or amend the conditions of this Certification over the life of the Project when such action is necessary to assure compliance with the Connecticut Water Quality Standards and to respond to any changes in the classification or management objectives for the affected waters.
9. **Enforcement.** Certification conditions are subject to enforcement mechanisms available to the federal agency issuing the license and to the state of Connecticut. Other mechanisms under Connecticut state law may also be used to correct or prevent adverse water quality impacts from construction or operation of activities for which certification has been issued.
10. **Best Management Practices.** In constructing or maintaining the activities authorized herein, the Permittee shall employ best management practices, consistent with the terms and conditions of this certificate, to control storm water discharges and erosion and sedimentation and to prevent pollution. Such practices to be implemented by the Permittee at the site include, but are not necessarily limited to:
  - a. Prohibiting dumping of any quantity of oil, chemicals or other deleterious material on the ground;
  - b. Immediately informing the Connecticut Department of Energy and Environmental Protection's Oil and Chemical Spill Response Division at (860) 424-3338 (24 hours) of any adverse impact or hazard to the environment, including any discharges, spillage, or

loss of oil or petroleum or chemical liquids or solids, which occurs or is likely to occur as the direct or indirect result of the activities authorized herein;

- c. Separating staging areas at the site from the regulated areas by silt fences or straw/hay bales at all times;
- d. Prohibiting storage of any fuel and refueling of equipment within twenty-five (25) feet from any wetland or watercourse;
- e. Preventing pollution of wetlands and watercourses in accordance with the document "Connecticut Guidelines for Soil Erosion and Sediment Control" as revised. Said controls shall be inspected by the Permittee for deficiencies at least once per week and immediately after each rainfall and at least daily during prolonged rainfall. The Permittee shall correct any such deficiencies within 48 hours of said deficiencies being found;
- f. Stabilizing disturbed soils in a timely fashion to minimize erosion. If a grading operation at the site will be suspended for a period of thirty (30) or more consecutive days, the Permittee shall, within the first seven (7) days of that suspension period, accomplish seeding and mulching or take such other appropriate measures to stabilize the soil involved in such grading operation. Within seven (7) days after establishing final grade in any grading operation at the site the Permittee shall seed and mulch the soil involved in such grading operation or take such other appropriate measures to stabilize such soil until seeding and mulching can be accomplished.
- g. Prohibiting the storage of any materials at the site which are buoyant, hazardous, flammable, explosive, soluble, expansive, radioactive, or which could in the event of a flood be injurious to human, animal or plant life, below the elevation of the five hundred (500) year flood. Any other material or equipment stored at the site below said elevation by the Permittee or the Permittee's contractor must be firmly anchored, restrained or enclosed to prevent flotation. The quantity of fuel stored below such elevation for equipment used at the site shall not exceed the quantity of fuel that is expected to be used by such equipment in one day.
- h. Immediately informing the Connecticut Department of Energy and Environmental Protection's Innovative Partnerships and Planning Office at [DEEP.OPPD@ct.gov](mailto:DEEP.OPPD@ct.gov), (860) 424-3003 of the occurrence of pollution or other environmental damage resulting from construction or maintenance of the authorized activity or any construction associated therewith in violation of this certificate. The Permittee shall, no later than 48 hours after the Permittee learns of a violation of this certificate, report same in writing to the Connecticut Department of Energy and Environmental Protection. Such report shall contain the following information:
  - i. the provision(s) of this certificate that has been violated;
  - ii. the date and time the violation(s) was first observed and by whom;
  - iii. the cause of the violation(s), if known;
  - iv. if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;
  - v. if the violation(s) has not ceased, the anticipated date when it will be corrected;

- vi. steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented; and
- vii. the signatures of the Permittee and of the individual(s) responsible for actually preparing such report, each of whom shall certify said report in accordance with General Condition number 13 of this certificate.

For information and technical assistance, contact the Connecticut Department of Energy and Environmental Protection's Innovative Partnerships and Planning Office at [DEEP.OPPD@ct.gov](mailto:DEEP.OPPD@ct.gov), (860) 424-3003.

11. **Other Regulated Activities.** Should the Permittee wish to conduct any regulated activity in the future which requires the issuance of a permit from the Connecticut Department of Energy and Environmental Protection, the Permittee must obtain the appropriate permit(s) prior to conducting such activity. Please be aware that performing an activity without a permit required by Title 22a of the General Statutes may subject the Permittee to an injunction and penalties.
12. **Public Use.** The Connecticut Department of Energy and Environmental Protection and the U.S. Fish and Wildlife Service recommend that the Permittee permit access to the Project area wherever possible to allow for public utilization of fish and wildlife resources, taking into consideration any necessary restrictions to maintain public safety and protect Project civil works.
13. **Certification of Documents.** Any document, including but not limited to any notice, which is required to be submitted to the Connecticut Department of Energy and Environmental Protection under this certificate shall be signed by the Permittee, a responsible corporate officer of the Permittee, a general partner of the Permittee, or a duly authorized representative of the Permittee and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense in accordance with section 22a-6 under section 53a-157b of the Connecticut General Statutes."
14. **Submission of Documents.** The date of submission to the Connecticut Department of Energy and Environmental Protection of any document required by this certificate shall be the date such document is received by the Connecticut Department of Energy and Environmental Protection. Except as otherwise specified in this certificate, the word "day" as used in this certificate means the calendar day. Any document or action which falls on a Saturday, Sunday, or legal holiday shall be submitted or performed by the next business day thereafter. Any document or notice required to be submitted to the Connecticut Department of Energy and Environmental Protection under this certificate shall, unless otherwise

specified in writing by the Connecticut Department of Energy and Environmental Protection,  
be directed to:

Office of Innovative Partnerships and Planning  
Department of Energy and Environmental Protection  
79 Elm Street, Third Floor  
Hartford, Connecticut 06106-5127

Issued Date: \_\_\_\_\_

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**Emma Cimino**  
Deputy Commissioner