

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Application of

ERIE BOULEVARD HYDROPOWER, L.P.

for Section 401 Water Quality
Certification for its School Street
Project.

Ruling on Motion
for Extension of
Comment Period

(April 6, 2005)

DEC Project No.
4-0103-00027/00001

(Albany County)

(FERC No. 2539)

This project is the last of nine former Niagara Mohawk Power Corporation projects that have been the subject of settlement negotiations. Erie Boulevard Hydropower, L.P., ("Applicant") is the current successor in interest to Niagara Mohawk Power Corporation with respect to the School Street WQC project.

The Department's WQC proceeding commenced on August 5, 1993, with a legislative hearing and issues conference held in Utica, New York. The hearing addressed all nine hydroelectric projects. During the intervening 11 years, the nine cases have been sequentially the subject of lengthy, complex multiparty negotiations.

A supplemental public hearing notice in the above referenced matter appeared in the Albany *Times Union* on March 12, 2005 and in the Department's electronic *Environmental Notice Bulletin* on March 9, 2005. The supplemental notice advertised availability of a complete application, draft water quality certification (WQC), public comment period, and reconvened public hearing commencing on April 13, 2005 and invited petitions for party status and written public comments on the project. As advertised in the notice, oral and written public comments will be received at the April 13, 2005 legislative hearing session. In addition, written public comments will be considered if postmarked by April 6, 2005.

By letter dated March 30, 2005, Special Counsel for Green Island Power Authority (GIPA) moved for an extension of the public comment period in this matter through May 13, 2005. GIPA contends that a number of residents and community groups are interested in commenting on this project, but will not be able to attend the April 13, 2005 legislative hearing and further, that

it will be difficult for them to prepare and file comments prior to that date.

Both the applicant and DEC staff filed opposition responses to this motion, noting that GIPA's Special Counsel does not purport to represent any aggrieved resident and community group, nor does he provide any evidence that any other person claims an interest in extending the comment period. Only two written comments have been received to date, and neither DEC staff nor the Office of Hearings and Mediation Services have received any request for extension of the comment period, other than the GIPA motion.

Ruling

In view of these facts and circumstances, the GIPA motion to extend the comment period beyond the period advertised in the public hearing notice, is denied.

DATED: April 6, 2005
Albany, New York



Kevin J. Casutto
Administrative Law Judge

TO: School Street WQC Project
Distribution List (Dated 4/5/2005)