



Government of Newfoundland and Labrador
Department of Environment and Climate Change
Water Resources Management Division

WATER USE LICENCE
Water Power Generation

Pursuant to the *Water Resources Act*, SNL 2002 cW-4.01

Date of Issuance: MAY 12, 2022

No: WUL-22-12348

File: 516

Licensee: Newfoundland Power Inc.
55 Kenmount Road P.O. Box 8910
St John's, NL
A1B 3P6
ghumby@newfoundlandpower.com

Attention: Mr. Gary Humby

Re: Water Use for Port Union Hydroelectric Power Generating Plant, Port Union

The Minister of Environment and Climate Change (the "Minister") hereby grants a non-exclusive water right to: **Newfoundland Power Inc.** (the "Licensee") to continue operating the existing hydroelectric plant at Second Storage Pond within the Town of Trinity Bay North (Port Union), utilizing the water from the watershed as indicated in Schedule A, defined herein as the "authorized plant area", for the purpose of generation hydroelectric power and subsequent sale for Newfoundland Power Inc. The non-exclusive water right is granted in reference to the original application for Water Use Authorization dated November 3, 1994, and applications for renewal received on March 3, 2004, and on June 28, 2021.

This Licence is subject to the terms and conditions, reservations, exceptions, and provisions stated herein and the *Water Resources Act* and regulations thereunder. Appendices A, B and Schedule A (attached) form part and parcel of this Licence.

This Licence does not release the Licensee from the obligation to obtain appropriate approvals, permits or licences from other concerned municipal, provincial and federal agencies.

The Licensee shall complete and return the attached Notification of Acceptance of Water Use Licence to the Water Rights, Investigations, and Modelling Section of the Department of Environment and Climate Change within thirty (30) days of receipt of this Licence.

(for) MINISTER

GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR
DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE

No: WUL-22-12348
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APPENDIX A
TERMS AND CONDITIONS FOR WATER USE LICENCE

The Minister of Environment and Climate Change (the "Minister") hereby grants a non-exclusive water right to: **Newfoundland Power Inc.** (the "Licensee") to continue operating the existing hydroelectric plant at Second Storage Pond within the Town of Trinity Bay North (Port Union), utilizing the water from the watershed as indicated in Schedule A, defined herein as the "authorized plant area", for the purpose of generation hydroelectric power and subsequent sale for Newfoundland Power Inc. The non-exclusive water right is granted in reference to the original application for Water Use Authorization dated November 3, 1994, and applications for renewal received on March 3, 2004, and on June 28, 2021.

1. Ownership of water rights remains with the Crown and is not transferred. This Water Use Licence only provides permission for the Licensee to withdraw and use water for the designated purpose indicated in this Licence.
2. The non-exclusive rights and privileges hereby demised by this Licence shall not be sold, assigned, transferred, leased, mortgaged, sublet or otherwise alienated by the Licensee.
3. The Licensee acknowledges and agrees that this Licence does not grant any interest in land.
4. The Licence shall not affect or be interpreted as granting any rights which might affect the quantity and quality of water required at present or in the future to the Community of Port Union and any and all water users in and outside the authorized plant area for their domestic and municipal uses. The Licensee shall be responsible for undertaking any measures which the Minister considers necessary to satisfy the quantity and quality of water required at present or in the future for the said water uses.
5. This Licence is subject to the full right of Government, its licensees, lessees, assignees, transferees, and any other person authorized by Government to enjoy all other rights not otherwise granted and demised by this Licence.
6. This Licence shall expire on May 12, 2027 or earlier if suspended or modified or cancelled by the Minister due to reasons that include, but is not limited to, non-compliance with the Water Resources Act, 2002 and terms and conditions, reservations, exceptions, and provisions, lack of utilization of approved water for the designated purpose or prompt reporting pursuant to this Licence. Also, this Licence may be renewed by the Minister for such renewal term as the Minister deems appropriate, on such terms and conditions as the Minister considers appropriate and in the public interest, provided the Licensee applies for a new Licence at least hundred and eighty (180) days before the expiry of this Licence. To make the licence effective on certain date add
7. The designated purpose of the water use is Water Power Generation.

8. The maximum estimated annual water withdrawal from the said body of water shall not exceed 73,000,000 cubic meters, subject to water availability without changing the hydraulic characteristics of or causing impact on fish and fish habitat in the said body of water or impact on other water users in or outside the authorized plant area. The Licensee shall not at any time withdraw and use amounts of water in excess of the need of water to the designated purpose of the water use indicated in this Licence, irrespective of the amount of water authorized by this Licence. The water withdrawal pipe of the intake must be fitted with a screen to protect fish from impingement or entrainment. In addition, the Licensee shall take all necessary measures to avoid damage of fish habitat and disturbance of the material of the said body of water.
9. The water extraction to the intake channel and penstock shall be made at the intake structure located in Second Storage Pond and water shall be returned to Catalina Harbour at the tailrace location, as indicated in Schedule A.
10. The Minister shall have the right to allocate the water in excess of the authorized water for the plant, for any other beneficial purpose provided such allocation of the water does not prejudicially affect the rights of the Licensee conveyed in this Licence. This Licensee will be duly informed and consulted by the Minister on any request for authorization of the excess water.
11. The Minister may, upon providing one hundred and eighty (180) days written notice to the Licensee, suspend, cancel or modify this Licence by allocating all or part of the authorized water, for other beneficial use(s) of higher order of precedence outlined in Section 15 of the Water Resources Act, 2002 on priority right. The Licensee will be fully consulted on any such applications before any decision is taken by the Minister.
12. The Licensee shall not at any time impair, pollute or cause to be polluted the quality of water in the said body of water or any nearby body of water. Also, this Licence shall not be interpreted as granting any rights to cause adverse effect(s) on water and other water users in or outside the authorized plant area and all operations must be carried out in a manner that prevents damage to land, vegetation, and bodies of water. The Water Resources Management Division of the Department of Environment and Climate Change must be informed if water withdrawal and use activities or any ongoing activity has a potential to impair, pollute or cause to be polluted the quality of water in the said body of water or any nearby body of water. In addition, any and all waste material that may result from water withdrawal and use activities must be removed and disposed at a site approved by the regional Government Service Centre of the Department of Digital Government and Service NL. The Departments of Environment and Climate Change and Digital Government and Service NL may require samples to be submitted for testing and analysis.
13. Water pumped or discharged from the water withdrawal and use activities, or any runoff or effluent directed out of the authorized plant area, must have silt and turbidity removed by filtration or other suitable treatment before discharging to any nearby body of water. Effluent discharged into receiving waters must comply with the Environmental Control Water and Sewage Regulations, 2003.
14. The Licensee shall not construct any new systems and works or make alterations to the existing systems and works in or outside the authorized plant area without obtaining the prior written approval of the Minister. Also, the Licensee shall abide by term and conditions indicated in Permits, Licences or Certificates issued or that are to be issued in connection with the plant and its systems and works required in or outside the authorized plant area. In addition, the Licensee shall not make changes in the purpose, rates and amounts of water authorized in this Licence, or divert the course or alter the physical features of the bodies of water within or outside the authorized plant area without obtaining the prior written approval of the Minister.

15. The Licensee shall operate the plant in a manner which does not cause any water related and/or environmental problems, including but not limited to problems of erosion, deposition, flooding, deterioration of water quality and groundwater depletion in or outside the authorized plant area. The Licensee shall be responsible for any and all damages associated with these problems caused as a result of changes, deficiencies, and inadequacies in the Licensee's operational procedures.
16. The Licensee may be required by the Minister to install, operate and maintain streamflow, water level monitoring stations, and other necessary measures in or outside the authorized plant area and also to monitor water quality at specified locations in such a manner as the Minister considers necessary for the assessment of the quantity and quality of the water available in or outside the authorized plant area and the quantity of water used by the Licensee for the generation of hydroelectric power.
17. The employees of the Department of Environment and Climate Change, authorized by the Minister, may at all reasonable times during the term created by this Licence enter into the authorized plant area and the Licensee's designated place(s) of business to inspect all associated systems or works, records, statements, and accounts, and shall be entitled to copy such information as may be required by the Minister in relation to this Licence and may exercise all other powers of inspection as provided for in the Water Resources Act, 2002.
18. The Licensee shall keep all systems, works, equipment and vehicles used for water withdrawal and use activities, in clean and good condition and repair, free of oil leaks, or other harmful substances that could impair water quality of the said body of water or any nearby body of water and shall notify the Minister immediately if any problem arises which may adversely affect public safety or other water users in or outside the authorized plant area. Also, the Licensee shall restore all areas that may be affected by water withdrawal and use activities, to a state that resembles local natural conditions. Further remedial measures to mitigate environmental impacts on water resources can and will be specified, if necessary in the opinion of this Department.
19. The Licensee and its agent(s), subcontractor(s), and consultant(s) indemnify and hold the Government and the Minister harmless against any and all liabilities, losses, claims, demands, damages or expenses including legal expenses of any nature whatsoever whether arising in tort, contract, statute, trust or otherwise resulting directly or indirectly from the non-exclusive rights granted under this Licence, systems, works and equipment in the authorized plant area, or any act or omission of the Licensee or its agent(s), subcontractor(s), or consultant(s) in or outside the authorized plant area and all associated systems, works and equipment, or arising out of a breach or non-performance of any of the terms and conditions, and provisions of this Licence by the Licensee or its agent(s), subcontractor(s), or consultant(s).
20. If the Licensee or its agent(s), subcontractor(s), or consultant(s) fails to perform, fulfil, or observe any of the terms and conditions, or provisions of this Licence and/or Ministerial orders and guidelines, as determined by this Department, the Minister may, after providing ten (10) day notice to the Licensee, amend, modify, suspend or cancel this Licence in accordance with the Water Resources Act, 2002.
21. The Licensee and its agent(s), subcontractor(s), and consultant(s) are responsible for reporting any environmental problem encountered in connection with the said body of water or any nearby body of water to the Water Resources Management Division and environmental monitors within 24 hours. This includes, but is not limited to, any spillage of fuel, lubricant, or any other material, siltation of water or depletion of any source of water used for any purpose in connection with the water withdrawal and use activities.
22. This Licence is subject to the Water Power Rental Regulations, NLR 64/03 under the Water Resources Act, 2002 and the Licensee shall upon receipt of an invoice stating the amount owing for water use charges, pay to the Minister the full amount within thirty (30) days of the receipt of the said invoice and if imposed by provincial legislation, fees, incentives, royalties or subsidies for water use.

23. The Licensee shall prudently maintain in good faith records, accounts and statements of the rates and amounts of water used on a daily basis for the generation of hydroelectric power, power production and any other information that the Minister may require in whatever form, manner and time. Also, the Licensee shall ensure that rates and amounts of flows in Second Storage Pond during the operation of the said plant, are sufficient for protecting fish habitat and aquatic life as required under the federal Fisheries Act and/or any other federal or provincial legislation. Copies of such records, accounts, statements shall be submitted to the Water Rights, Investigations, and Modelling Section of the Department of Municipal Affairs and Environment on or before January 31st of each year or as required at any time during the term created by this Licence.
24. Should any provision of this Licence be unenforceable, it shall be considered separate and severable from the remaining provisions of this Licence which shall remain in force and be binding as though the provision had not been included.
25. This Licence is subject to all provisions of the Water Resources Act, 2002 and any regulations in effect either at the date of this Licence or hereafter made pursuant thereto or any other relevant legislation enacted by the Province of Newfoundland and Labrador in the future.
26. This Licence shall be construed and interpreted in accordance with the laws of the Province of Newfoundland and Labrador.
27. This hydroelectric development includes dams classified in the HIGH, SIGNIFICANT and LOW Consequence category based on the 2007 Canadian Dam Association (CDA) guidelines. To meet the CDA's Dam Safety guidelines (Current Edition) for dams of this classification, the owner must:
- Carry out an annual Dam Safety Inspection and provide the results to this Department,
 - Carry out a Dam Safety Review and submit a Dam Safety Report to this Department a maximum of every **seven years**,
 - Submit to this Department the most recent Dam Safety Review undertaken for this hydroelectric development,
 - Submit to this Department a current Operation, Maintenance and Surveillance (OMS) Manual for the operation of the dams,
 - Submit to this Department a current Emergency Preparedness and Response Plan (EPRP) including dam break inundation mapping,
 - Develop and submit to this Department dam break inundation mapping for inclusion in the EPRP for any dams where there is a reasonable likelihood of a population at risk downstream of the dam and mapping has not already been developed, and update and submit to the Department dam break inundation mapping for any dams for which existing mapping is more than 25 years old.

All notices to be given pursuant to the terms and conditions of this Licence shall be given in writing and delivered by facsimile with auto confirmation or registered mail. If a notice is delivered by facsimile, it is deemed to have been received on the day it was sent if that day is a normal business day, if not, it is deemed to have been received on the next normal business day. If a notice is sent by registered mail, it is deemed to have been received three days after the day it was mailed. The address of the Licensee is:

Newfoundland Power Inc.
55 Kenmount Road P.O. Box 8910
St John's, NL
A1B 3P6

The address and facsimile number of the Department of Environment and Climate Change are:

Water Rights, Investigations, and Modelling Section
Department of Environment and Climate Change
PO Box 8700
St. John's NL A1B 4J6
(709) 729-0320

GOVERNMENT OF NEWFOUNDLAND AND LABRADOR
DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE

APPENDIX B

Report to Department of Environment and Climate Change

To: Water Rights, Investigations, and Modelling Section

Water Resources Management Division
Department of Environment and Climate Change
PO Box 8700
St. John's NL A1B 4J6

No: WUL-22-12348
File: 516
Authorized: MAY 12, 2022

Re: *Water Use for Port Union Hydroelectric Power Generating Plant, Port Union*

This report must be completed and filed on or before January 31st of each year or upon the completion of activities for a temporary period. The completed report can be emailed to waterinvestigations@gov.nl.ca. Provide the information required below:

1. Has the Licensee used water during last year? Yes No
If no, explain (use extra sheet to provide more information, if any).

2. Does the Licensee wish to continue the non-exclusive water right? Yes No
If no, explain (use extra sheet to provide more information, if any).

3. Has the Licensee exceeded the estimated maximum water withdrawal of that indicated in Appendix A? Yes No
If yes, explain in the space below (use extra sheet to provide more information, if any).

In the table below, state the monthly water uses during last year or a temporary period and attach spreadsheet for daily water uses along with water quality report(s) as may be applicable:

Month	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Use in litres or cubic meters													

4. Is there any other matter on which the Licensee wishes to inform the Department of Environment and Climate Change regarding this Licence and its terms and conditions? Yes No
If yes, explain (use extra sheet to provide more information, if any).

I/We acknowledge that the information contained in this report is true and correct.

Newfoundland Power Inc.
55 Kenmount Road P.O. Box 8910
St John's, NL
A1B 3P6

Signature: _____
Name/Title: _____
Date: _____

- cc: Ms. Paula Dawe, P.Eng.
Manager, Drinking Water and Wastewater Section
Water Resources Management Division
Department of Environment and Climate Change
P.O. Box 8700
4th Floor, West Block, Confederation Building
St. John's, NL A1B 4J6
pauladawe@gov.nl.ca
- cc: Richard Harvey, Ph.D., P.Eng.
Manager, Water Rights, Investigations and Modelling Section
Water Resources Management Division
Department of Environment and Climate Change
RHarvey@gov.nl.ca
- cc: Frank Norman (Eastern)
Land Management Specialist
Crown Lands Administration
Department of Fisheries, Forestry and Agriculture
Howley Building
St. John's
franknorman@gov.nl.ca
- cc: Fisheries Protection Division
Ecosystem Management Branch
Fisheries and Oceans Canada
P.O. Box 5667
St. John's, NL A1C 5X1
FPP-NL@dfo-mpo.gc.ca
- cc: Town of Trinity Bay North
Ms. Valerie Rogers
P.O. Box 91
Port Union, NL A0C 2J0
tbn@personainternet.com
- cc: File Copy for Binder



Government of Newfoundland and Labrador
Department of Environment and Climate Change
Water Resources Management Division

Water Rights, Investigations, and Modelling Section
Water Resources Management Division
Department of Environment and Climate Change
PO Box 8700
St. John's NL A1B 4J6

Date: **MAY 12, 2022**
File: **516**

NOTIFICATION OF ACCEPTANCE OF WATER USE LICENCE
Water Use for Port Union Hydroelectric Power Generating Plant, Port Union

Water Use Licence No. **WUL-22-12348** issued on **MAY 12, 2022**, and valid until **MAY 12, 2027**.

As a Licensee of Water Use Licence No. **WUL-22-12348**, issued pursuant to the *Water Resources Act*, **Newfoundland Power Inc.** (the "Licensee"), agrees to accept this Licence for the stated duration and abide by all terms and conditions, reservations, exceptions and provisions stated therein. The Licensee acknowledges that failure to abide by the terms and conditions, reservations, exceptions and provisions indicated in Appendices A, B and Schedule A (attached), and the *Water Resources Act* will render the Licence null and void, place the Licensee and/or their agent(s) in violation of the *Water Resources Act* and regulations thereunder and cause the Licensee to be responsible for any and all remedial measures which may be prescribed by the Department of Environment and Climate Change.

Signed, sealed, and delivered by
Newfoundland Power Inc.,
in accordance with its rules and
regulations in that behalf
at _____, _____, this _____ day
of _____, 2022 in the presence
of:

Witness

Per: _____
Signing Officer

Seal:

Important: The attached Water Use Licence is not valid unless the Licensee completes and returns this notification to the address above within thirty (30) days of receipt.