

**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

In re:

FirstLight MA Hydro LLC

) Turners Falls Hydroelectric Project No. 1889-085

Northfield Mountain LLC

) Northfield Mountain Project No. 2485-071

**MOTION TO INTERVENE
OF
TOWN OF MONTAGUE, MASSACHUSETTS**

Pursuant to Rules 210, 212, and 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.210, 385.212, and 385.214, the Town of Montague, Massachusetts (“Movant”) hereby moves to intervene and request party status in this proceeding.

On April 29, 2016, FirstLight Hydro Generating Company filed a Final License Application for the Turners Falls Project and Northfield Mountain Pumped Storage Project while several relicensing studies were still underway. On December 4, 2020, FirstLight MA Hydro LLC, owner of the Turners Falls Hydroelectric Project and Northfield Mountain LLC, owner of the Northfield Mountain Pumped Storage Project, collectively “FirstLight,” filed an Amended Final License Application (“AFLA”). FERC issued a letter of deficiency and additional information request on January 14, 2021 and an additional information request on April 19, 2021.

FirstLight then re-engaged interested parties in separate settlement negotiations starting in late 2021. On March 31, 2023, FirstLight filed a Flows and Fish Passage Settlement Agreement, which also included whitewater releases for recreation. On June 12, 2023, FirstLight filed a Recreation Settlement Agreement.

On February 22, 2024, the Commission issued a Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Fishway Prescriptions, requiring motions to intervene to be filed on or before April 22, 2024.

I. Communications and Service of Process

All communications, pleadings and orders with respect to this proceeding should be sent to the following individuals. In the event of personnel or board member changes, the person in the positions listed below will serve the same role. Note that Walter Ramsey is slated to become Town Administrator effective July 1, 2024, with a new Assistant Town Administrator still to be hired.

Name:	Steve Ellis, Town Administrator
Address:	Montague Town Hall, 1 Avenue A, Turners Falls, MA 01376
Phone:	413-863-3200 x. 110
Email:	townadmin@montague-ma.gov
Name:	Walter Ramsey, Assistant Town Administrator
Address:	Montague Town Hall, 1 Avenue A, Turners Falls, MA 01376
Phone:	413-863-3200 x. 126
Email:	assistant.townadmin@montague-ma.gov
Name:	Wendy Bogusz, Executive Assistant to the Selectboard
Address:	Montague Town Hall, 1 Avenue A, Turners Falls, MA 01376
Phone:	413-863-3200 x.108
Email:	selectscty@montague-ma.gov
Name:	Janel Nockleby, Montague Historical Commission Chair
Address:	c/o Montague Town Hall, 1 Avenue A, Turners Falls, MA 01376
Phone:	413-204-0889
Email:	janel.nockleby@gmail.com

II. Position of the Town of Montague

Pursuant to the Commission’s rules, 18 C.F.R. § 385.214(b)(1), requiring a statement of the Town’s position, the Town seeks to have any license issued by FERC conditioned to assure that the Northfield Mountain Pumped Storage Project does not cause erosion. The Town of Montague is interested in project impacts on erosion upstream of the Turners Falls Dam, as eroded sediment tends to be deposited within Barton Cove, and this impacts Montague. Erosion caused by the Pumped Storage Project degrades water quality in violation of state and federal clean water laws, harms fish and wildlife habitat, causes the loss of land along the river including prime agricultural land, threatens important transportation and municipal water and wastewater infrastructure, increases flood risks, impedes boat access in Barton Cove for recreation and emergency rescues, and damages important historical and cultural resources. The FERC license for this facility should include conditions that will prevent these harms by erosion from occurring.

As a party to the recreation settlement agreement filed with FERC on June 12, 2023, the Town of Montague supports the recreation provisions in the settlement agreement and requests FERC to accept the Recreation Management Plan. The recreation settlement agreement satisfies the Town's recreational interests with regard to the operation of both projects.

In accordance with Section 2.2 of the Recreation Settlement Agreement, though we were not a party to the flows and fish passage settlement agreement, the Town of Montague has agreed not to oppose any of the terms of the flows and fish passage settlement agreement. The Town has an interest in the Connecticut River being a healthy river ecosystem.

III. Interests of Movant

The Town has ample interest in participating in this matter to justify intervention as required by the Commission's rules, 18 C.F.R. § 385.214(b)2).

A. Direct Interests

The Town of Montague is a duly incorporated municipality in the Commonwealth of Massachusetts, with the responsibility to protect the health, safety, and well-being of the community. The Connecticut River forms the northern and western boundary of Montague and is a vital part of the culture, history, and economy of the Town. The River serves as a central recreational, tourism and natural resource for the Town's 8,580 residents¹ and visitors. The mills on the river once formed the economic basis for the village of Turners Falls, which is located within the Town and corresponds to an Environmental Justice Census Tract. The Turners Falls Canal is an integral part of the village's layout, with many former mill buildings and housing located in the section of land between the canal and River. A bike path runs parallel to the Turners Falls canal before crossing across the Connecticut River to East Deerfield, near the confluence with the Deerfield River. The lower end of the Turners Falls Canal is a local draw for anglers and birders, especially in the winter when waterfowl congregate on the water.

Visitors and residents use the river upstream and downstream of the Turners Falls Dam for paddling, fishing, boating, birding, and swimming (although FirstLight does not allow swimming on its properties due to safety concerns). Downstream of the confluence with the Deerfield River, the Connecticut River floodplain is used largely for agriculture. Town residents regularly use and deeply care about the area of the Connecticut River affected by the presence and

¹¹ U.S. 2020 Census population

operation of the Turners Falls Dam and Northfield Mountain Pumped Storage Project, owned and operated by FirstLight.

The Connecticut River is so closely woven into the town's identity that Montague named its partnership to promote the local arts and business communities RiverCulture. This public-private partnership is committed to enhancing the creative economy of Montague.

Town context and financial interest

The Town of Montague is directly impacted by the operations of both projects and will be directly impacted by the proposed relicensing. The Turners Falls Dam structure lies partially in Montague, and the entire canal system, Station Number 1, and Cabot Station all lie within Montague. Additionally, the impoundment formed by the dam and used as the lower reservoir for Northfield Mountain Pumped Storage Project affects the riverbanks in Montague. Town of Montague interests include but may not be limited to recreational amenities, local and regional economies, wetlands, wildlife habitat including aquatic habitat, undeveloped riparian land, and the many significant archaeological, cultural, and historical sites within our town and the entire project boundary.

FirstLight is one of the largest landowners in the Town of Montague and is the largest taxpayer, accounting for 11.9% of the total assessed real and personal property taxes for Fiscal Year 2024. In addition to the actual infrastructure of the Turners Falls Dam and the power canal, the power company owns most of the land along the Connecticut River upstream of the dam. FirstLight MA Hydro LLC owns 68 parcels encompassing 552 acres of land in Montague, which is a total of 2.7% of the land area of the Town.² FirstLight properties in Montague have a total assessed value of \$141 million, according to the Montague Director of Assessors.³

Recreation interests

Recreational amenities associated with the Projects are located within our town and are important to the regional and local economies, and the quality of life of our residents. Existing recreation facilities owned by FirstLight in Montague include the Unity Park riverfront, the Gatehouse Fishway Viewing Area, the Turners Falls Branch Canal overlook and benches, Cabot Woods, and the Poplar Street River Access location downstream of the facilities. The Turners Falls Rod and Gun Club is a private men's club located on land owned by FirstLight. Relicensing

² Land area owned by FirstLight and total acreage of Montague is 20,109 acres according to Montague's 2017 Open Space and Recreation Plan.

³ Personal communication dated March 18, 2024.

Study 3.6.1, Recreation Use/User Contact Survey Study Report, found that of 945 survey responses, 69% were from 10 or fewer miles away. Residents regularly visit and recreate on the Connecticut River.

The Massachusetts Department of Conservation and Recreation maintains the Canalside Rail Trail, and owns and operates the Great Falls Discovery Center in downtown Turners Falls, where visitors can learn about the natural, cultural, and industrial history of the Connecticut River Watershed within a renovated former mill building. Behind the Great Falls Discovery Center, the public can cross the Canalside Rail Trail, walk across the bridge over the canal, and see the Turners Falls dam and parts of the fish ladder, and walk down to the river downstream of the dam on FirstLight property.

The town-owned portion of Unity Park offers residents a place to recreate, with ball fields, basketball courts, play structures, and a skate park, all with a gorgeous view of the Connecticut River at Barton Cove.

Cabot Camp is located at the end of East Mineral Road at the confluence of the Millers and Connecticut Rivers. The property is owned by FirstLight Power, which allows river access at the site. The site also includes historic buildings and foundations that are not accessible to the public. The Town is interested in protecting this site for its scenic, historic value, and responsibly enhancing its recreational accessibility and value.

Montague's 2017 Open Space and Recreation Plan included the following river-related items in its 7-year action plan:

- Develop public boating, fishing, and viewing access to the Connecticut River below Turners Falls Dam.
- Improve public access to the Connecticut River at the Rock Dam and Poplar Street for fishing, boating, and wildlife viewing.
- Promote preservation and public access at Cabot Camp.
- Plan and prepare for recreational opportunities in the Connecticut River Bypass.
- Improve fish passage at the Turners Falls Dam and Canal.
- Support implementation of FirstLight's Erosion Control Plan on the Connecticut River.
- Develop a public park/ Native American Culture interpretive trail below the Turners Falls Dam.

Land uses along the Connecticut River

The Town's largest village is the planned industrial community of Turners Falls, which hosts substantial elements of the project. Hydropower generation has been a part of the village identity for hundreds of years, but as the community diversifies from a manufacturing-based economy, the Town looks to capture the river and its natural features as the community's greatest asset. The village of Turners Falls is about half the population of Montague, and is a state and federally designated environmental justice community. The Town seeks to create equitable access to the River's beauty and resources for people who live adjacent to this formerly industrialized area. Public access points managed by FirstLight Hydro are an essential element of its equity strategy.

Upstream of the Dam and Barton Cove, there are 13 seasonal or year-round private "camps" plus the Turners Falls Rod and Gun Club in Montague located on land owned by FirstLight. These are held under revocable 5-year licenses with FirstLight, with the exception of three remaining "life licenses" (as of 2008) that will become 5-year licenses after the life licenses are transferred to a new owner.⁴ Many of these camps have private boat docks licensed through Massachusetts Chapter 91 regulations with FirstLight as landowner.⁵

Infrastructure interests

As stated earlier, the Canal District is a major component of the identity of the Turners Falls village. The Canal District is a narrow man-made island between the Connecticut River and the power canal. Since the 19th century, the island has been home to various mill buildings such as a cutlery company, a paper company, and a coal-fired, co-generation power plant. For decades, Montague's economy has been shifting away from heavy industry, leaving many of the buildings and surrounding sites underutilized, vacant, or deteriorating.⁶ Montague has received funding for master planning of the Canal District, and the transformation of this area will be ongoing for many years.

Montague has three bridges over the Connecticut River in the project area – the Gill-Montague Bridge, the "White" Bridge between Turners Falls and Greenfield that also crosses the canal, and the General Pierce Bridge between Montague City and Greenfield. These are in addition to

⁴ See FirstLight Hydro Generating Company Request for Authorization of Non-Project Use and Occupancy of Project Lands dated October 10, 2008. Accession Number 20081010-5144.

⁵ The camps are managed by FirstLight as non project use of project lands. See FERC Order Modifying and Approving Non-Project Use of Project Lands and Waters issued October 28, 2009, Accession Number 20091028-3034. The number of life licenses as of 2008 was project-wide, not necessarily in Montague.

⁶ Visioning Phase Report for the Canal District Master Plan, Dietz & Company Architects, Inc. March 14, 2023.

the long-condemned former Strathmore Mill Footbridge over the power canal, which FirstLight Hydro has agreed to remove within the next three years, and a utility bridge over the canal in the vicinity of the Discovery Center, which serves as an access point to the river for emergency response, utility maintenance, and public recreation.

Montague receives wastewater from 115 homes and businesses in the Town of Gill's Riverside neighborhood. A pump station sends wastewater under the Connecticut River to the Town of Montague's system for treatment at the Montague Clean Water Facility (CWF). Additionally, town has easements from Firstlight for sewer pump stations on First Street and G Street serving the village of Turners Falls. The CWF is located outside of the project area, immediately downstream of FirstLight's Poplar Street river access location.

Montague is vulnerable to FirstLight infrastructure failure. A dam or dike failure at Northfield Mountain Pumped Storage Facility could trigger cascading failures on multiple other dams downstream, resulting in catastrophic flooding in Montague, potentially including critical infrastructure, several hazardous facilities, and hazardous materials routes and rails. The Cabot Spillway, Turners Falls #1 Dam, Turners Falls Dam, and the Turners Falls Canal Headgates are all High Hazard Potential dams in Montague. Failure of any of these dams, as well as the canal itself, was identified as an area of concern during the Municipal Vulnerability Preparedness (MVP) community workshop in 2018. The Patch neighborhood located between the canal and the Connecticut River, as well as the village of Montague City, located further downstream, are vulnerable to failure of these structures. FirstLight maintains a reverse call system for residents in these areas, however, participants at the 2018 MVP workshop noted that new residents may be unaware of the system and may not have signed up for the calls to alert them of a dam or canal failure. According to the 2022 Emergency Action Plan for the canal, failure of the left bank of the canal impoundment would flood Montague City Road in a matter of minutes. There would be little to no warning time.⁷

Indigenous, archaeological, and historical interests

According to FirstLight's Response to FERC letter of Deficiency and Additional Information Requests filed with FERC on March 15, 2021, there are 15 archaeological resources identified in the area of potential effect in Montague. Given the excellent fishing opportunities offered by the Connecticut and Millers Rivers as well as the hunting resources of the Montague Plains and surrounding woodlands, the area that is now the Town of Montague was the site of extensive indigenous settlements. For many generations until the late 17th century, large numbers of Native American people congregated at the falls on the Connecticut River, at the place then

⁷ Town of Montague Hazard Mitigation Plan, 2020.

known as Peskeomskut (now the site of the Turners Falls Dam), and at Millers Falls during the annual spring spawning runs of salmon and shad.

Turners Falls and Gill are the site of an important King Phillip's War massacre that occurred in 1676 where hundreds of lives were lost and for which the village is named. The Town of Montague has been working in partnership with area indigenous tribal groups with support from the National Park Service Battlefield Protection Program to study and analyze the native village and events that occurred. The majority of the battlefield is inundated within FirstLight's project area.

The village of Turners Falls has a designated Historic District listed on the National Register. The Town of Montague submitted comments to FirstLight on March 31, 2016 concerning the Historic Properties Management Plan filed with the Draft License Application.⁸ These comments compiled a list of priorities and concerns regarding several bridges and access to properties in the Turners Falls Historic District, which also overlaps with a designated Massachusetts Cultural District.

For the above reasons, the Town of Montague has a direct and substantial interest in the outcome of the relicensing process for the Northfield Pumped Storage Project and the Turners Falls Project.

B. Public Interest

The Town's responsibility to protect the interests of its residents and respond to any potential adverse impacts to its residents associated with the relicensing of the referenced projects is, by its very nature, in the public interest. The Town of Montague is not just responsible for protecting its direct interests but also those of its residents and the public throughout the course of this relicensing.

The operations of the Turners Falls Dam and Northfield Pumped Storage Project affect the public interest by operating recreation facilities in Montague along the Connecticut River, diminishment of fish passage and aquatic and riparian habitat for rare and endangered species, and decline in water quality. Such impacts would significantly affect the quality of life, economic well-being, and access to a clean and natural environment for the Town's residents.

The Town has long demonstrated its interest in both matters through several years of active participation in proceedings before the Commission and negotiations with the Applicant involving both Turners Falls Dam and the Northfield Pumped Storage Project. Most recently, in

⁸ FERC Accession Number 20160401-5044. An updated Historic Properties Management Plan was filed with the Amended Final License Application in 2020. There was no comment period for that filing.

June of 2023, the Town of Montague signed on as a party to a recreation settlement agreement to both licenses. In 2019, the Town filed a Protest and Motion to Intervene regarding the transfer of both licenses to separate limited liability companies (LLCs). The Town of Montague also filed comments on February 29, 2016 on the Draft License Application, bringing up the following major issues:


- 1) restricted access to the Turners Falls Historic Industrial Canal District which prevents implementation of the community's riverfront redevelopment vision,
- 2) minimum flows in the bypass reach are unacceptably low for recreation and aquatic habitat,
- 3) inadequate access to the Connecticut River for recreation, and
- 4) the draft license application fails to meet the need for an interpretive framework for a 1676 King Phillips War Battle that occurred in the project area.

For all these reasons, the Town has a strong interest in the effective management and stewardship of lands within the Connecticut River watershed affected by the referenced projects.

IV. Conclusion

Granting intervenor status to the Town of Montague will allow the Town to present an important perspective and relevant information for the Commission's consideration. The Town is coordinating with other municipalities in Franklin County with the support of the Franklin Regional Council of Governments (FRCOG) and will, except where interests diverge, endeavor to coordinate the Town's participation with FRCOG and other similarly situated communities to minimize duplication and ensure the efficient presentation of relevant information to the Commission.

For these reasons, the Town respectfully requests that the Commission grant this Motion to Intervene as a party with full rights to participate in all further proceedings.



Rachard Kuklewicz
Chair, Montague Selectboard
Montague Town Hall
1 Avenue A
Turners Falls, MA 01376

3-25-2024

Date

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

In re:) Turners Falls Hydroelectric Project No. 1889-085
FirstLight Hydro Generating Company) Northfield Mountain Project No. 2485-071

DECLARATION OF STEVEN ELLIS

I, Steven Ellis, pursuant to 28 U.S.C. § 1746, hereby state that I am over the age of 18 and am in all respects competent and qualified to make this Declaration.

1. I am the Town Administrator for the Town of Montague ("Town") and in that role supervise and collaborate with a Town and District staff, in excess of 75 people, with responsibility for managing the public resources of the Town, including roads, water and wastewater, recreation, public safety and other infrastructure, and associated Town property. As Town Administrator, I am also directly involved in the Town's exercise of responsibilities for the general health, safety and well-being of the Town's residents, including regulating local land use, preventing and responding to natural disasters, protecting local natural resources, and developing and implementing a vision for the economic development of the Town and its five Villages.
2. In fulfilling my responsibilities, I have become familiar with the Town's history, culture, natural resources, infrastructure, and real property ownership, both through personal observation and also through information obtained from Town staff, expert consultants, other public officials at the local, regional, state, tribal and federal levels, and reviewing public documents or reports and publications prepared by experts.
3. As stated in more detail in the Town's Motion to Intervene in the above-referenced matter relating to the Federal Energy Regulatory Commission ("FERC") licensing of the Turners Fall Hydroelectric Project and the Northfield Mountain Pumped Storage Project ("Projects"), the Town has a direct interest in and acts on behalf of its residents for the following:
 - a. The economic well-being of the Town, including managing the Town budget and income derived from real and personal property taxes.
 - b. The Town's recreation facilities, which are important to the Town's economic vitality and the quality of life for Montague residents.
 - c. Land uses along the Connecticut River, including industrial and commercial buildings and residents that live along the canal and River.

- d. Continued use and upkeep of the Town's infrastructure, including public utilities and easements; roads and land abutting the project area, including a wastewater treatment plant; and bridges over the Turners Falls canal and Connecticut River.
 - e. Hazard mitigation and emergency preparedness in the event of operational or infrastructure failure of high hazard dams.
 - f. Preserving the environment, including water quality, fish habitat, and riparian habitat and health.
 - g. Preserving and honoring the town's indigenous and recent history.
4. As stated in more detail in the Town's Motion to Intervene in the above-referenced matter, the Town acts on behalf of its residents and members of the public who visit the Town in furtherance of the public interest in access to a clean and healthy environment, access to recreation facilities, public safety, economic well-being, and protection of a clean and healthy Connecticut River for people and aquatic life. The Town has long demonstrated its interest in protecting the public interest through several years of active participation in proceedings before FERC and negotiations with the applicant involving both Projects.
5. As Town Administrator, I represented the Town of Montague in negotiations, including that which led to the recreation settlement agreement with FirstLight, as the appointed representative of the Montague Selectboard. I actively consult with the Montague Selectboard, who serve as the Chief Executive Officers of the Town relative to the settlement agreement and the Selectboard consider and sign all documents and agreements on behalf of the Town.
6. I participated in the development of the Town's Motion to Intervene in the above-referenced matter, have reviewed the facts stated in Section III titled "Interests of the Movant" and, based on my personal knowledge as Town Administrator, attest that these facts are true and correct.

I state, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

3/26/2024
Date



Steven Ellis
Montague Town Administrator