

**NOTICE OF INTENT TO FILE  
APPLICATION FOR ORIGINAL LICENSE**

**SCOTT'S MILL HYDROELECTRIC PROJECT (FERC No. 14425)  
SCOTT'S MILL HYDRO, LLC**

**JANUARY 11, 2018**

**1. Potential applicant's name and address:**

Scott's Mill Hydro, LLC  
Attention Mark Fendig  
912 Wilson Highway  
Mouth-of-Wilson VA, 24363

**2. Project number:**

FERC No. 14425

**3. License expiration date, if any:**

N/A—no current license exists for FERC Project no. 14425.

**4. Unequivocal statement of potential applicant's intention to file an application for an original license:**

Scott's Mill Hydro, LLC hereby unequivocally declares its intent to apply for an original project license for the Scott's Mill Hydroelectric Project, FERC No. 14425.

**5. Type of principal project works to be licensed, if any, such as powerhouse, transmission lines, dam and reservoir:**

The Scott's Mill Hydroelectric Project would be located at the existing Scott's Mill Dam on the James River downstream of the Reusens hydroelectric dam. The existing Scott's Mill Dam facilities include: 1) the dam, 2) reservoir, and 3) spillway. The dam is 15 feet high and 875 feet long. The dam impounds a 316 acre reservoir with a normal maximum water surface elevation of 516 feet msl.

The applicant proposes to construct a new powerhouse containing four generating units with a total installed capacity of 4.5 MW, a new 1,200 foot-long underground transmission line, and appurtenant facilities. The project will have an estimated annual generation of 20,700 megawatt-hours, and will either be used by U.S. Pipe and Foundry Company, LLC or sold to a local utility.

**6. Location of project, as appropriate—state, county, stream, city, nearby city:**

**State:** Virginia  
**County:** Amherst County / Bedford County  
**Stream:** James River  
**Nearby City:** Lynchburg, VA  
**Amherst County Tax Parcel:** 160-A-15A 160A1 (2.93 acres)

**River Basin:** Middle James River-Buffalo River (HUC 02080203)  
**Watershed:** James River-Harris Creek (HUC 0208020303, JM-C)  
**Sub-Watershed:** James River-Opossum Creek (HUC 020802030305, JM11)  
**Latitude/Longitude:** 37.424466 N, -79.140858 W  
**Elevation:** 500-550 feet msl

**7. Installed plant capacity, if any:**

Scott's Mill, LLC proposes to install nine generating units with a total installed capacity of 4.5 MW.

**8. Names and mailing addresses of:**

**i) Every county in which any part of the project is located, and in which any Federal facility that is used or to be used by the project is located;**

Portions of the project are located in Amherst and Bedford Counties, Virginia and the City of Lynchburg, VA.

Bedford County Administrator  
122 East Main Street, Suite 202  
Bedford, VA 24523

Amherst County Administrator  
153 Washington Street  
Amherst, VA 24521

Lynchburg City Manager  
520 Taylor Street  
Lynchburg, VA 24502

The project is located on the existing Scott's Mill Dam, which is owned by Luminaire Technologies, Inc.  
9912 Wilson Highway  
Mouth-of-Wilson VA, 24363  
Attention: Mr. Mark Fendig

No federal lands are involved.

**ii) Every city, town or similar political subdivision**

**A) In which any part of the project is or is to be located and any Federal Facility that is or is to be used by the project is located within 15 miles of the existing or proposed project dam;**

Portions of the project are within the city limits of Lynchburg, Virginia.

Mr. Timothy Mitchell, PE  
City of Lynchburg Utilities Administrator  
520 Taylor St.  
Lynchburg, VA 24505

**iii) Every irrigation district, drainage district or similar special purpose political subdivision**

**A) In which any part of the project is or is proposed to be located and any Federal facility that is or is proposed to be used by the project is located; or**

The project is located within the City of Lynchburg's water supply territory.

Mr. Timothy Mitchell, PE  
City of Lynchburg Utilities Administrator  
520 Taylor Street  
Lynchburg, VA 24501

**B) That owns, operates, maintains or uses any project facility or any Federal facility that is or is proposed to be used by the project**

The project is located within the City's water supply area.  
Address: End of Adams Street: Lynchburg, VA 24503  
Attention: Timothy Mitchell, PE

**iv) Every other political subdivision in the general area of the project or proposed project that there is reason to believe would be likely to be interested in, or affected by, the notification; and**

There are no other political subdivisions in the general area of the project that are believed to be interested in, or affected by, this notification.

**(v) Affected Indian Tribes.**

The following Native American Tribes have been identified as having a potential interest in the Scott's Mill Hydroelectric Project based on other FERC licensing

processes on the James River and the Commission's list of contacts: 1) Cherokee Nation; 2) Eastern Band of Cherokee Indians; 3) Monacan Tribe; 4) Tuscarora Indian Nation, 5) Absentee-Shawnee, 6) Eastern Shawnee Tribe of Oklahoma, 7) Shawnee Tribe, 8) United Keetoowah Band of Cherokee Indians and 9) Delaware Nation.

Cherokee Nation  
Cultural Resources Specialist  
P.O. Box 948  
Tahlequah, Oklahoma 74465

Eastern Band of Cherokee Indians  
Cultural Resources Department  
P.O. Box 455  
Cherokee NC 29718

Ms. Diane Shields  
Monacan Tribe  
349 Ebenezer Road  
Amherst, VA 24521

Tuscarora Indian Nation  
Chief  
5616 Walmore Road  
Lewistown, NY 14092

Absentee-Shawnee  
Tribal Historical Preservation Officer  
2025 S. Gordon Cooper Drive  
Shawnee, OK 74801

Eastern Shawnee Tribe of Oklahoma  
Tribal Historical Preservation Officer  
P.O. Box 350  
Seneca, MO 64865

Shawnee Tribe  
Tribal Historical Preservation Officer  
P.O. Box 189  
Miami, OK 74355

United Keetoowah Band of Cherokee Indians  
Chief  
P.O. Box 189  
Parkhill, OK 74451

Delaware Nation  
Ms. Kimberly Penrod  
Director, Cultural Resources  
31064 State Highway 281  
PO Box 825  
Anadarko, OK 73005

### **Request for non-federal designation**

Pursuant to 18 CFR 5.5 (d), applicant requests to be designated as the Commission's non-Federal representative for purposes of consultation under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402, Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and the implementing regulations at 50 CFR 600.920. Applicant also requests authorization to initiate consultation under Section 106 of the National Historic Preservation Act and the implementing regulations at 36 CFR 800.2(c)(4).

### **Request to use Traditional Licensing Process**

Applicant requests authorization to use of the Traditional Licensing Process (TLP) for licensing the Scott's Mill Hydroelectric Project. The Commission previously approved the TLP for the preliminary permit that expired on November 30, 2017. No participant objected to the TLP in that proceeding and in fact, the Virginia Department of Game and Inland Fisheries preferred the TLP. Because of the limited number of issues, the TLP process will be the lowest cost licensing process since it has a lesser administrative burden. The TLP offers the best potential for timely license issuance.

## **PRE-APPLICATION DOCUMENT**

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## LIST OF ACRONYMS

APCO – Appalachian Power Company  
ASMFC – Atlantic States Marine Fisheries Commission  
°C – degrees Celsius  
CD – compact disk  
CEII – Critical Energy Infrastructure Information  
CFR – Code of Federal Regulations  
cfs – cubic feet per second  
CPUE – Catch Per Unit Effort  
CT – Chewacla-Toccoa  
CWA – Clean Water Act  
DA – Draft Application  
DO – Dissolved Oxygen  
EA – Environmental Assessment  
EIS – Environmental Impact Statement  
ESA – Endangered Species Act  
FERC – Federal Energy Regulatory Commission  
FMP – Fishery Management Plan  
FPA – Federal Power Act  
GPS – global positioning station  
in – inch  
JAI – juvenile abundance index  
km - kilometer  
KV - Kilovolt  
KVA – kilovolt amp  
KW - Kilowatt  
KWH – kilowatt hour  
LU – Liberty University  
m - meter  
mm - millimeter  
msl – mean sea level  
MWh – megawatt hour  
NEPA – National Environmental Policy Act  
NRHP – National Register of Historic Places  
NMFS – National Marine Fisheries Service  
NOAA Fisheries – National Oceanographic and Atmospheric Administration, National Marine Fisheries Service  
NOI – Notice of Intent  
NRCS – Natural Resources Conservation Service  
NTU – Nephlo-turbidity Units  
O&M – Operations and Maintenance  
PAD – Pre-Application DoAPEA – Applicant Prepared Environmental Assessment  
PCB – Polychlorinated biphenyls  
PM&E – Protection, Mitigation, and Enhancement  
ppb – parts per billion

RM – River mile  
RKM – River kilometer  
RPM – revolutions per minute  
SCORP – State Comprehensive Outdoor Recreation Plan  
Taf - Tallapoosa  
TBD – To Be Determined  
TLP – Traditional Licensing Process  
UL – Urban Land  
USDA – United States Department of Agriculture  
USEPA – U.S. Environmental Protection Agency  
USFS – U.S. Forest Service  
USFWS – U.S. Fish and Wildlife Service  
USGS – U.S. Geological Survey  
VDEQ – Virginia Department of Environmental Quality  
VDGIF – Virginia Department of Game and Inland Fish  
VDHR – Virginia Department of Historic Resources  
VDRC – Virginia Department of Recreation and Conservation  
VMRC – Virginia Marine Resources Commission  
YOY – Young of year



**PRE-APPLICATION DOCUMENT  
SCOTT'S MILL DAM (P-14425)  
SCOTT'S MILL HYDRO, LLC**

**PRE-APPLICATION DOCUMENT**

**1. PROCESS PLAN, SCHEDULE, AND COMMUNICATIONS PROTOCOL**

The following sections contain information concerning the licensing approach and early consultation; process plan and schedule; communications and document distribution; and development of a licensing study program.

**1.1 Overview of Licensing Approach and Early Consultation**

Applicant is studying and evaluating the Scott's Mill Project. Applicant proposes to use the Traditional Licensing Process (TLP) for the application development process in a collaborative and efficient manner. The Notice of Intent (NOI) and portions of the Pre-Application Document are being filed simultaneously and distributed to federal and state resource agencies, local governments, Indian tribes, members of the public and other interested parties. The TLP provides a framework for consultation, study plan development and execution, and application review and comment.

The purpose of the PAD is to provide substantial background information related to the engineering, operational, economic, and environmental aspects of the project. It also identifies and describes issues and potential study needs. Applicant intends to use the TLP to develop appropriate protection, mitigation, and enhancement (PM&E) measures to be included in the license application.

In preparing the PAD, Applicant researched and reviewed reasonably available, relevant information concerning the existing conditions and environment in and around the Project site. This information was obtained through the search of various public information and reference sources, and stakeholder contacts and consultations. Information from licensing and relicensing of upstream hydropower projects was especially helpful in compiling available information.

Applicant reached out to the US Fish and Wildlife Service (USFWS), Virginia Department of Game and Inland Fisheries (VDGIF), Virginia Department of Quality (VDEQ), Virginia Department of Historic Resources (SHPO), and American Rivers. These consultations helped Applicant to identify, scope and study the issues presented in the draft application.

## 1.2 Process Plan and Schedule

The Process Plan and Schedule outlines the specific timeframes, deadlines, and responsibilities of Applicant, FERC, and other stakeholders in the TLP. In accordance with FERC regulations (18 CFR §5.6 (d)(1)), Applicant must adhere to the plan and schedule for pre-application activities. The process plan and schedule is presented in Table 1.2. Applicant is requesting that the Commission waive the Joint meeting and comments on the PAD because Applicant is proposing to use the efforts of all parties in the previous pre-filing consultation process.

Table 1.2-1 – Scott’s Mill Proposed Process Plan and Schedule

18 CFR	Lead	Action	Date
§5.5	Applicant	File NOI	January 11, 2018
§5.6	Applicant	File PAD	January 11, 2018
§5.7	FERC	Tribal Consultation	Waiver Requested
§5.8	FERC	FERC Decision on Use of TLP	TBD
§4.38(b)(3)(i)	Applicant	Meeting Notice and Agenda	Waiver Requested
§4.38	Applicant	Joint (Scoping) Meeting & Site Visit	Waiver Requested
§4.38	Participants	Comments on PAD and Studies	Waiver Requested
§4.38(c)	Applicant	Conduct Studies	2016, 2017
§4.38(c)	Applicant	Draft License Application (DA)	December 8, 2017
§4.38(c)	Participants	Comments on DA	March 8, 2018
§4.38(c)	All	DA Meeting	<60 d after comments
§4.38(d)	Applicant	File License Application	TBD
§4.32(b)	FERC	FERC Tendering Notice (of App.)	TBD
§4.32(b)	Participants	Requests for Studies (60 d after Not.)	TBD
§4.32(d)	FERC	Notice of Acceptance	TBD
§4.34(b)	FERC	FERC Ready for Env. Analysis	TBD
§4.34(b)	Agencies	Preliminary Terms and Conditions	60 d after REA
§4.34(b)	App./Particip.	Reply Comments	105 d after REA
§380	FERC	FERC Draft EA or EIS	TBD
§380	All	Comments on FERC NEPA Doc	45 d after EA/EIS

Applicant has conducted filed studies and included the results in the draft license application distributed to participants and filed with the Commission.

## 1.3 Communications and Document Distribution

The Communications Protocol (Protocol) is intended to facilitate communications and cooperation among Applicant, federal and state agencies, Indian tribes, and other interested organizations and parties. This Protocol is structured to complement the requirements of the TLP for the pre-application consultation period. Applicant anticipates that the Protocol will allow meaningful input by participants without undue

burden. The Protocol is intended to provide a framework for communications among all participants and provide Applicant's plans regarding access to information regarding consultation activities related to the licensing and planning of the Project. The Protocol is not intended to apply to communications solely between participants, or to any participant's internal communications. The Protocol is intended to provide a flexible framework for dissemination of information and for document consultation among all participants involved in the licensing process.

### **1.3.1 Maintenance of the Public Reference File**

Applicant will maintain copies of relevant written communications and other materials produced during the consultation process. The consultation record will be updated regularly and available to the public on the website. The license application will be distributed to the Lynchburg public library. To reduce the administrative burden, all documents will be made available on the project website. Copies of the letters transmitting documents will be distributed via email, and hard copies of the transmittal letters (and documents) will be made to those requesting hard copies.

This information will constitute the Formal Consultation Record covering the period from the previous preliminary permit to Applicant filing the final license application with FERC and will be available for viewing at:

1. Scott's Mill Project Licensing Website: <http://www.scottsmillhydro.com>
2. Applicant Library, 912 Wilson Highway  
Mouth-of-Wilson VA, 24363

These materials will be available for public inspection during regular business hours in a form that is readily accessible, reviewable and reproducible. Copies of the materials will be available to a requester through the mail or electronically. Applicant may charge the public the reasonable cost of reproduction, and if applicable postage, for any hard copies.

Applicant will delete from any information made available in the public reference file, specific site or property locations the disclosure of which would create a risk of harm, theft, or destruction of archeological or Indian tribe cultural resources or of the site at which the resources are located or would violate any Federal law, including the Archeological Resources Protection Act of 1979, 16 U.S.C. 479w-3, and the National Historic Preservation Act of 1966, 16 U.S.C. 470hh. Certain documents may also be restricted from publication on the licensing website in accordance with FERC's regulations protecting Critical Energy Infrastructure Information (CEII) (18 CFR §388.113) or in cases where the document contains privileged information (e.g., sensitive species locations, cultural resources sites, etc.). Applicant will address requests for access to this information on a case-by-case basis, in accordance with Virginia Commonwealth and federal law as needed during the licensing process.

Consistent with the federal and state paper-reduction policies, and in accordance with the objectives of FERC Order No. 604, Applicant will transmit and receive related

communications and other written materials in electronic format when possible. Preferred formats are MS Word, Adobe, MS Excel, or ASCII text.

### 1.3.2 Licensing Website

Applicant will maintain a website ([www.scottsmillhydro.com](http://www.scottsmillhydro.com)) as the primary mode of document distribution and access to key documents developed during the course of the licensing consultation, such as the PAD and NOI, meeting notices, meeting summaries, study plans and study reports, draft license application, and final license application.

Applicant will maintain a current calendar of upcoming and past meetings, and will post meeting materials (including agendas, handouts, and summaries) on the website to increase the availability of these materials to all participants.

Applicant will use email notifications to participants to announce important new postings, which will help maximize review and comment opportunities, where applicable. The following table summarizes the general guidelines that Applicant will follow in determining the appropriate mode of distribution for licensing documents.

Table 1.3-1 Documents Distribution Guidelines

Document Type	Distribution
Informal Communications	Email or regular mail
Formal TLP Meeting Notices and Agendas	Website with email notice
Meeting Summaries	Website with email notice
Licensing Related Documents	Website with email notice and or CD through regular mail; paper format upon request

### 1.3.3 TLP Meetings

Applicant anticipates that limited meetings will be needed over the course of the licensing process. These will include meetings required by the TLP and any special meetings to resolve challenging issues. To the extent possible, telephonic/Go To Meeting conference calls will be utilized. For any required meetings, Applicant will comply with the applicable regulatory requirements and in addition, Applicant will post the information on the Project website.

Applicant will schedule meetings for which it is responsible and will consult with stakeholders on meeting dates and agendas. To the extent practicable Applicant will schedule meetings at least 30 days in advance. Notification may be made via email, posting on the project website, or by telephone. If circumstances dictate Applicant may hold meetings with less than 30 days-notice.

Applicant will provide draft meeting agendas at least two weeks prior to a scheduled meeting to the extent possible. Participants may submit comments on the agenda before

the scheduled meeting. Applicant will distribute a final agenda at the meeting and with the consensus of the participants, the agenda may be modified at the beginning of the meeting.

Applicant will strive to make available documents and other information necessary to prepare for a consultation meeting at least two weeks prior to the scheduled meeting.

#### **1.3.4 TLP Documentation**

All of the documentation requirements described below apply to substantive communications regarding the licensing of the Project; communications related to procedural matters (e.g., responding to inquiries regarding meeting scheduling) will not be subject to the documentation requirements.

##### **1.3.4.1 Meeting Summaries**

Applicant will provide a written meeting summary of the matters addressed at meetings. To the extent practicable, a meeting summary will be posted to the Project website within 15 days of the meeting. Comments should be submitted within 15 days of the meeting. Applicant will modify and finalize meeting summaries within two weeks after receipt of comments.

##### **1.3.4.2 Technical Documents**

Because of the existing information available for the Project, Applicant does not anticipate developing numerous technical documents. To the extent that documents will be prepared, Applicant will communicate to participants review time frames for providing comments. Applicant will typically request 30-day review periods unless the Commission's regulations require longer periods (e.g., 90 days on the draft license application). Applicant may adjust review periods in consultation with participants.

##### **1.3.4.3 Written Correspondence**

Applicant requests that licensing-related correspondence or other materials intended or required to be part of the Formal Consultation Record contain the following reference: "Applicant, Scott's Mill Project, FERC No. 14425, Request for Inclusion in Formal Consultation Record" and to be addressed to:

Mr. Mark Fendig  
912 Wilson Highway  
Mouth-of-Wilson VA, 24363  
M.fendig@aisva.net

#### **1.3.5 Distribution of Licensing Documentation**

Distribution of licensing documents will be accomplished by posting on Applicant's website and emailing the distribution, and on FERC's e-Library. Hard copies of

licensing documents will be made available in the Lynchburg public library and in Applicant's office.

### **1.3.6 Communications with FERC Staff**

Communications with FERC staff that address the merits of the proceeding will be included in the public record. In order to have written communication with FERC staff made a part of the record for a project, it must be formally filed with FERC as follows:

The Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

All correspondence not filed with FERC electronically must include an original and eight copies and have the following displayed on the first page:

“Applicant, Scott’s Mill Project, FERC Project No. 14425 – Application for License.”

The Commission encourages participants to file their comments electronically via the Internet instead of submitting comments by mail. Instructions for e-Filing are provided at [www.ferc.gov](http://www.ferc.gov) under the e-Library link. Additional information on this program can be found in the regulations at 18 CFR 385.2001(a)(1)(iii). Filing comments electronically with FERC also eliminates the need for filing an original and eight copies.

## **1.4 Licensing Studies**

Licensing studies were conducted based on study plans developed in conjunction with licensing participants. The information was included in the draft license application. The draft license application will be updated and filed as a final license application after licensing participants provide comments and after a Joint meeting is held, if the comments on the draft application indicate there are unresolved issues.