Notice of Certification Application Filing

Stillwater B Hydroelectric Project (FERC No. 2712)

Harrington Park, New Jersey (August 7, 2013) – LIHI is pleased to announce that Black Bear Hydro Partners, LLC, has submitted an application for Certification of its Stillwater Powerhouse B Hydroelectric Project (the “Project”). Powerhouse B at the Stillwater Project consists of new construction of a second powerhouse plus substantial new fish passage facilities. The new Powerhouse B is being added to the existing Stillwater Project that was previously certified by LIHI as Certificate No. 67. The Federal Energy Regulatory Commission (FERC) originally licensed the Project on April 20, 1998 (FERC Project No. 2712), and the B powerhouse was addressed in an amendment to that license, approved by FERC on September 16, 2012.

The Stillwater B Hydroelectric Project is a run-of-river facility located on the Stillwater Branch of the Penobscot River in Old Town, Maine. The Project is a component of the Penobscot River Restoration Agreement (http://www.penobscotriver.org/). The overall intent of the Agreement is to provide enhancements to the Penobscot River's environmental resources, and lower and minimize the influence of hydroelectric projects on those resources while maintaining the levels of renewable hydropower generation from the river. This restoration effort is one of the largest river restoration projects in our nation's history. In an unprecedented collaboration, a diverse group of stakeholders have worked together to restore 11 species of sea-run fish to the Penobscot River, while maintaining energy production.

A. Flows

The Lower Penobscot River Multiparty Settlement Agreement provided for amendments to the Stillwater Hydroelectric Project license, incorporating the pertinent minimum flow and contingent mitigation requirements provided for in Attachments A and B of the Agreement, including run-of-river operations and a combined minimum bypass flow of 70cfs. The signatories to the Agreement also filed supportive pleadings and those provisions are now included in the FERC license. In addition, the Project’s original license and Water Quality Certificate, as well as the amendments to incorporate the relevant provisions of the Lower Penobscot River Multiparty Settlement Agreement include provisions for water level and flow management. Please see attached 14 September 2012
FERC Order amending the license which calls for the water level plan to be updated. For additional information please see attached 9 July 2012 FERC Environmental Assessment.

B. Water Quality

The Stillwater Hydroelectric Project received its Water Quality Certification from the Maine Department of Environmental Protection on 23 October 1992, and the Certification was amended on 13 January 2005, and 17 August 2011 to incorporate construction and operation of the Stillwater project Powerhouse B, and the relevant provisions of the Lower Penobscot River Multiparty Settlement Agreement. Please see attached 17 August 2011 Water Quality Certification.

C. Fish Passage and Protection

The Lower Penobscot River Multiparty Settlement Agreement provided for the amendment of the Stillwater Hydroelectric Project license, incorporating the pertinent fish passage and contingent mitigation requirements (for existing and additional facilities) provided for in Attachments A and B of the Agreement. The license also includes an article reserving FERC’s authority to require the licensee to construct operate and maintain such fishways as may be prescribed by the Secretary of Interior of the Secretary of Commerce under Section 18 of the Federal Power Act. Furthermore, the recently amended license includes provisions for additional fish passage measures. Please see attached 14 September 2012 FERC Order amending license.

D. Watershed Protection

Since the FERC Project boundary for the Stillwater Hydroelectric Project primarily contains the land necessary for operation and maintenance of the project facilities, state and federal resource agencies did not request a formal shoreland management plan. However, in addition to the standard FERC license requirements associated with erosion and sedimentation control the Project is subject to federal, state and local erosion and sedimentation control requirements.

E. Threatened and Endangered Species Protection

The Penobscot River run of Atlantic salmon was recently added to the Gulf of Maine population of Atlantic salmon that is listed as endangered under the Federal Endangered Species Act. As a result, Black Bear Hydro Partners, LLC worked with the US Fish and Wildlife Service and NOAA Fisheries to develop a species protection plan (SPP) for its Penobscot River hydroelectric projects and operations. The SPP was incorporated into the Biological Opinion (BO) (issued 31 August 2012) that was subsequently made part of the Stillwater Project FERC license, as amended by Order dated 14 September 2012. In addition to the 14 September 2012 FERC Order Amending the Stillwater Project License which includes the pertinent terms and conditions of the BO, we are also attaching the 31 August 2012 BO as additional background information.

F. Cultural Resource Protection

Cultural resource assessments during the licensing process did not reveal any specific issues associated with the Stillwater Project. However, the Project does have a Cultural Resource Management Plan which includes provisions to address cultural resource issues in the event they
arise during the term of the license.

G. Recreation

The Stillwater Hydroelectric Project license and Water Quality Certificate contain recreation-related provisions for the project. Black Bear Hydro Partners, LLC has implemented the recreation plan in accordance with the license requirements.

Public Comments

We encourage public comments on this application. Specifically, we are interested in knowing whether you think the Stillwater B Hydroelectric Project meets our LIHI criteria. Please review the program and criteria in greater detail and then review the Project’s application. Comments that are directly tied to specific LIHI criteria (flows, water quality, fish passage, etc.) will be most helpful, but all comments will be considered. Comments may be submitted to the Institute by e-mail at info@lowimpacthydro.org with “Stillwater B Hydroelectric Project Comments” in the subject line, or by mail addressed to the Low Impact Hydropower Institute, PO Box 194, Harrington Park, New Jersey 07640. Comments must be received at the Institute on or before 5 pm Eastern time on October 7, 2013 to be considered. All comments will be posted to the web site and the applicant will have an opportunity to respond. Any response will also be posted.

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