October 8, 2004

TO: LIHI Governing Board

cc: LIHI Advisory Panels
Gabriela Goldfarb Consulting

FROM: Fred Ayer, Executive Director

SUBJECT: Recommendation regarding the application for certification of the Bowersock Hydroelectric Project on the Kansas River, in the City of Lawrence, Kansas

ISSUE

Should the Governing Board certify the Bowersock Hydroelectric Project as a Low Impact Hydropower Facility?

RECOMMENDATION

The Governing Board should certify the Bowersock Hydroelectric Project because it meets the Low Impact Hydropower Certification Criteria.

DISCUSSION

I have reviewed the application, and the Application Reviewer’s report. I concur with the Application Reviewer’s determination that the Bowersock Hydroelectric Project, located on the Kansas River in the City of Lawrence, Kansas meets the Low Impact certification criteria.

I found one issue raised by the application and the Application Reviewer’s report that is a bit unusual. That issue is fish passage. The issue is that although the existing dam is a barrier to upstream migration by fish species under most flow conditions, the dam also blocks the upstream migration of the unwanted and invasive exotic---the Asian carp. The resource agencies have taken the position that the benefits of installing fish passage at the facility are outweighed by the benefits of maintaining the facility as a barrier to upstream migration of the Asian carp. Further, the federal and state resource agencies acknowledge that the applicant has committed to implement fish passage when required, and that the agencies have not acted to trigger the requirement, though they reserve the right to do so.
Reading the notes on interviews conducted by the Application Reviewer, the resource agencies and interested parties appear to have a positive attitude toward the Applicant. These parties are also satisfied with the Applicant’s implementation of the terms and conditions. To date, the Applicant has reportedly met the timetables established for completing plans, conducting agency coordination, and construction of facility improvements.

There appear to be no significant issues that conflict with the FERC License and the Low Impact Criteria. However, as a result of the unusual fish passage situation, I recommend that any certification included a reinforcing condition that points out that the project is certified with the understanding that if a dispute arose between the project and the resource agencies over implementing the fish passage, the certification would be suspended until the dispute was resolved. If the project refuses to meet the resource agencies’ requested actions, LIHI will revoke certification.

Public Comments and Appeal Period

There were two public comments, both in support of the project.