



**34 Providence Street
Portland, Maine 04103**

May 22, 2009

TO: LIHI Governing Board

cc: LIHI Advisory Panels
Gabriela Goldfarb, Application Reviewer

FROM: Fred Ayer, LIHI Executive Director

SUBJECT: Recommendation regarding the application for certification of the 15-Mile Falls Hydroelectric Project, Connecticut River, Vermont/New Hampshire

ISSUE

Should the Governing Board certify the 15-Mile Falls Hydroelectric Project as a Low Impact Hydropower Facility?

RECOMMENDATION

The Governing Board should certify the 15-Mile Falls Hydroelectric Project because it meets the Low Impact Hydropower Certification Criteria.

DISCUSSION

I have reviewed the application, Settlement Agreement, and the Application Reviewer's report. I concur with the Application Reviewer's determination that the 15-Mile Falls Hydroelectric Project, located on the Connecticut River in New Hampshire and Vermont, meets the Low Impact certification criteria. The Settlement Agreement (SA) for 15-Mile Falls appears to be very generous and effective in most areas of concern.

The 15-Mile Falls Project offers us an interesting look at how well, or not so well, Settlement Agreements "age". While most participants in the SA are positive about the SA, some have found the results late in coming and disappointing. This dissatisfaction is more dramatic for projects on river systems with sluggish anadromous fish restoration programs and fish passage disappointments and failures.

Public Comments and Appeal Period

LIHI received three comment letters from resource agencies in opposition to the project's certification. The resource agency letters express the opinion that the project causes adverse impacts to the Connecticut River and cannot therefore be considered "low impact." As the Application Reviewer points out "... None of the agencies said that the applicant has violated terms of its FERC license or settlement agreement provisions." In responding to the agency's letter, the applicant agreed that the results to achieve downstream passage have been disappointing. The Licensee described the challenging river and reservoir conditions that have hampered progress. In addition the use of adaptive management techniques (agreed to in the SA) have also slowed the process. I am comfortable in the way that the application reviewer handled the comment letters in her report.

Policy Issue

While it is not new for resource agency staff to disagree with LIHI certification decisions for certain projects. The 15-Mile Falls application brought more comments in opposition to certification than any to date. While we respect the agency staffers' position that a large hold and release project can't be low impact, we hope they understand and respect our recommendations to the LIHI Board which are based on our LIHI criteria. We have regularly accepted Settlement Agreements as the most recent and most stringent resource agency recommendations. What this application points out to me is a need for LIHI to continually strive to improve our outreach efforts and distribute plain language explanations of how we make these determinations and what we are looking for in public comments.