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Monday, July 27, 2015

Dr. Michael J. Sale
Executive Director
Low Impact Hydropower Institute

Subject: Recertification Review for Bear River Hydroelectric Project

Greetings Dr. Sale:

This letter contains my recommendation to recertify the Bear River Hydroelectric Project located in Southeastern Idaho and consisting of the Soda (14 MW), Grace (33 MW), and Oneida (30 MW) projects and operated under FERC License P-20.

I. Background

The Project received its most recent License (#20) from the Federal Energy Regulatory Commission on December 22, 2003, after a relicensing procedure with extensive studies and consultation culminated in an approved Settlement Agreement among stakeholders in the Bear River region. The Project was initially certified by LIHI as "Low Impact" in May 19, 2010. The applicant submitted a timely application for recertification on November 20, 2014. The application was posted for 60-day public comment period on February 3, 2015. No public comments were received.

In reviewing the watershed protection information the original Application Reviewer recommended that the LIHI Board award the Bear River project an extra three years of certification because of the Applicant's watershed protection efforts. The Board discussed the recommendation but did not come to an agreement and asked whether the Applicant is interested in seeking the extra three years. The Board asked PacifiCorp to supply supporting information, including (1) copy of entire settlement document, (2) annual status of land protection measures, (3) contacts with whom LIHI can discuss the administration of this land protection (e.g., land trust given to, etc) to see how it is going, and; (4) any additional information that helps the Board answer "yes" to D.2 of the Watershed Protection criterion.

Pacificorp Energy submitted this additional information by letter dated December 2, 2010. However, no board action was taken to provide the additional 3 years of certification. For the reasons discussed in Section III below, I concur with the original reviewer's recommendations that the measures taken by Pacificorp for watershed protection qualify the Bear River Project for the extra 3 years of certification under LIHI Criteria D.2.

II. Recertification Standards

The June 16, 2014 letter to applicant notifying of upcoming expiration of Low Impact Hydropower Institute certification, included the Standards for Recertification providing that a "request for renewal of a

previously-issued LIHI certification (“recertification”) will be granted at the conclusion of the term of the existing certification if re-certification is desired by the certificate holder, and so long as (1) there have been no “material changes” at the facility that would affect the certification and (2) LIHI’s certification criteria have not been revised since the previous certification was issued by LIHI.”

The Recertification review criteria also provides that “If the Application Reviewer can definitively determine from the submitted application materials, a review of the LIHI file containing the past certification decision(s), any public comments received during the application process, and any limited reviewer-initiated questioning by LIHI of the applicant and/or third parties, that the answer to both questions above is “no,” the Application Reviewer will recommend re-certification approval to LIHI’s Executive Director, and there will be no further application review.”

III. Material changes at the facility since original certification

In accordance with the Recertification Standards, "material changes" mean non-compliance and/or new or renewed issues of concern that are relevant to LIHI’s criteria. There were no instances of “material changes” under LIHI definition identified during the review process. In addition, the applicant has made positive progress towards fulfilling requirements in the 2003 Settlement Agreement and received encouraging feedback from stakeholders involved. See Contact Log in Attachment 1 for details. There have been several changes at the facility, but I do not find these to be new or renewed issues of concern, but rather Pacificorp’s ongoing compliance with the terms in the Settlement Agreement and Relicensing requirements:

- **License Amendment - Operations and Compliance Plan (Article 415)** – On June 20, 2013, Pacificorp submitted an Operations and Compliance Plan, which includes updates on new stream flow gaging equipment, the change in compliance point at Grace Dam, operations directions for transition from minimum stream flow at Grace Dam to inflow, and publication of USGS stream flow data. The plan was approved by FERC September 16, 2014 and has been implemented.
- **New Land Management Plan (Articles 424, 425, and 426)**- The FERC license required the development of a Land Management and Shoreline Buffer Plan (LMP) for all three developments at the Bear River Project. Since original certification, an updated plan has been prepared and filed in the 2011 Annual Report. The LMP was prepared in consultation with the Environmental Coordination Committee (ECC¹) and approved by FERC on July 17, 2014. In compliance with this plan, Pacificorp provides established funds to implement watershed protection and enhancement measures, providing the ecological and recreational equivalent of land protection as defined by LIHI criteria D2. Annual funds for these projects are provided up to \$567,000 annually. Projects include the Conservation Hatchery Program, Habitat Restoration Program, Land and Water Conservation Fund, and various studies to promote environmental sustainability in the project areas. The ECC meets regularly (4-8 times/year) to discuss and prioritize projects for funding. Notes and action items from these meetings are posted on Pacificorp’s website for the Bear River Project. The total acreage protected by this Fund was 1,000 acres in 2010, at time of original certification, and has increased to 2,233 acres as of 2014.

¹ The ECC includes stakeholders comprised of signatories to the Settlement Agreement, formed to consult and make decisions regarding the use of funding and other license requirements for the Bear River Project. Members include federal and state resource agencies and various national and local NGOs. For a full list of members, including meeting notes see <http://www.pacificorp.com/es/hydro/hl/br.html#>

In the original 2010 LIHI Certification Report, the reviewer noted “watershed protection and enhancement measures and funding program combined, provide the ecological and recreational equivalent of land protection that would be established under dedication of a 200 foot buffer zone.” PacifiCorp Power has continued to follow recommendations in the existing plan, providing annual funding of over \$500K to support habitat conservation measures in areas impacted by the project, and maintaining dedicated buffer zones around the project areas. I discussed the project with 5 members of the Environmental Coordination Committee, and every member had only positive comments regarding PacifiCorp’s stewardship of their lands and the progress made with the funds allocated, and the environmental progress afforded by those funds (see Attachment 1). *I concur with the original reviewer’s recommendation that the project has demonstrated sufficient evidence to gain the extra 3 years of certification for watershed conservation measures under LIHI Criteria D.2.*

- **Implementation of Conservation Hatchery Agreement (Article 403)** – during 2011, Idaho Department of Fish and Game (IDFG) prepared a draft Conservation Hatchery Agreement, and the Conservation Hatchery Program commenced December 22, 2011. IDFG provided a final report of broodstock development activities on January 24, 2012 and the first conservation hatchery payment was made. In spring 2014, IDFG released approximately 13,522 Bonneville cutthroat trout produced during 2013; an additional 14,102 were released in fall. Approximately 32,738 Bonneville cutthroat trout were produced during 2014 for release in 2015. IDFG will continue to produce Bonneville cutthroat trout at the Grace Fish Hatchery. James DeRito noted in his comments (see Attachment 1) that: “The course of action that was affirmed this past spring is well informed and meets the needs of all the concerned resources.”
- **Suspension of Article 409** - The Boater Flow Ramp Rate Study was completed during 2010 and a final report was submitted to FERC. The need to implement, change or request removal of Article 409, based on study results, was discussed with the ECC during a series of meetings in 2011. Per the requirements in a June 2, 2011 FERC Order, PacifiCorp prepared a report on the ECC’s decision making regarding boater flows and the suspension of Article 409. This report was submitted to FERC on January 31, 2012 and included a recommendation to continue suspension of Article 409. The report also included the ECC’s decision to use a down ramp rate of 1 foot per hour following boater flows. On May 18, 2012, the Final Agreement on Boater Flows was filed with FERC. This agreement included the ECC’s recommendation to not reinstate Article 409. Continued suspension of the Article 409 Fish Stranding Minimization Plan was confirmed by FERC on October 17, 2012, in an issuance that confirmed PacifiCorp had complied with Ordering paragraph (b) of FERC’s June 3, 2011 Order Approving Suspension of the Fish Stranding Minimization Plan. There were no new actions in 2014.

IV. LIHI's criteria have been revised since last recertification, but none of the changes affect this project.

On November 20, 2014, the Governing Board of the Low Impact Hydropower Institute (LIHI) approved revised Criteria to be used in LIHI’s certification decisions. However, those revised criteria will not be implemented until 2016, as the new edition of the LIHI Handbook is still in development. This facility originally applied for recertification in November of 2014, so the new changes in criteria do not affect recertification.

V. Conclusion

Given the size of the Bear River Hydroelectric Projects and the extent of the recent Settlement Agreement, it is not surprising that some physical and operational changes have taken place over the past 5 years of Certification. However, after reviewing all files available from the applicant and on FERC e-library, and speaking with members of the Bear River Environmental Coordination Committee, I am fully confident that these changes have been to fulfill resource agency requirements or complying with terms of the Settlement Agreement, and there have been no new or renewed issues of concern affecting the project. I recommend that the project is recertified and provided the extra 3 years of certification due to watershed protection measures in fulfillment of Watershed Protection Criteria D.2.

Please contact me with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'Peter R. Drown', with a large, sweeping flourish extending to the right.

Peter R. Drown
Cleantech Analytics LLC

Attachment 1
Agency and Applicant Communications

Date: July 17, 2015
Contact Person: Blaine Newman
Organization: Bureau of Land Management
Title: Assistant Field Manager

I spoke with BLM by phone. Arn Berglund, the previous ECC representative for BLM, retired last month, and my call was forwarded to Blaine Newman. Mr. Newman noted that there are no issues or concern's from BLM regarding the Bear River Project, and the project has been working very well with the ECC to achieve the objectives laid out in the original Settlement Agreement.

Date: July 15, 2015
Contact Person: Kathy Rinaldi
Organization: Greater Yellowstone Coalition (member of Bear River ECC)
Title: Idaho Conservation Coordinator

Kathy Rinaldi

Jul 15 (2 days ago)

Hi Peter-

Very sorry for my delay in getting back to you. It seems if I don't respond within 24 hours, it is lost in the email black hole. Thanks for your reminder call this morning.

Per your question re: Bear River, I do not know of any material changes to the project since I have been a member of the ECC (one year).

Kathy Rinaldi, Idaho Conservation Coordinator

Greater Yellowstone Coalition

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Date: July 14, 2015
Contact Person: Cary Myler
Agency: U.S. Fish & Wildlife Service
Title: Partners Biologist

Cary Myler sits on the ECC for the Bear River Projects. We spoke very briefly by phone, and he had only positive remarks regarding the project. He is happy with the progress to date from Pacificorp and mentioned that the ECC has been able to “implement a lot of restoration activities with the mitigation dollars” provided under the plan. He has no concerns with the project.

Date: July 9, 2015
Contact Person: Charlie Vincent
Organization: American Whitewater
Title: Regional Coordinator

Charlie Vincent

Jul 9 (3 days ago)

to Kevin, peter.drown

Peter:

Thanks for the opportunity to give input. Overall I'd say there has been continued steady improvement since 2010 on the Bear projects. Initially the recreational releases in Black Canyon were contingent on no detrimental effects on fish, macro invertebrates, water quality, etc. These studies have been concluded and no significant impacts were observed. There has also been progress in Bonneville Cutthroat Trout (BCT) stocking and habitat enhancement efforts

Charlie Vincent
CLVincent@xmission.com
[801-243-4892](tel:801-243-4892)

Date: July 6, 2015
Contact Person: James DeRito
Organization: Trout Unlimited
Title: Fisheries Restoration Coordinator

James DeRito

Jul 6 (6 days ago)

to Peter

Hello Peter,

I've been a member of the Bear River ECC for about 3 years now. I've been very impressed with the group and the work accomplished to benefit aquatic resources as it relates to the license requirements. Mark Stenberg, PacifiCorp's coordinator of the ECC, does a very nice job of informing the ECC of license requirements and any related PacifiCorp actions. He also has been very diligent with tracking and



implementing the two primary PacifiCorp funding sources for conservation work: the Habitat Fund and the Land & Water Conservation Fund. I should also note the work done by PacifiCorp and ECC members, in particular Idaho Department of Fish and Game (IDFG) and the Idaho Department of Environmental Quality (IDEQ), regarding the Whitewater Boater Flows that are released in the spring from Grace Dam. The overall process has been very adaptive to meet the boater needs for these flows and at the same time provide a framework to understand the potential impacts on cutthroat trout and water quality. The course of action that was affirmed this past spring is well informed and meets the needs of all the concerned resources.

Please let me know if you have any other questions or need additional information.

Jim

Jim DeRito
Fisheries Restoration Coordinator
Trout Unlimited
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