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Wednesday, August 12, 2015

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

Subject: Recertification Review for Cutler Hydroelectric Project

Greetings Mike:

This letter contains my recommendation to recertify the Cutler Hydroelectric Project located on the Bear River in Northern Utah and operated under FERC License #P-2420. The Cutler facilities are owned and operated by PacifiCorp Energy ("PacifiCorp" or "facility owner").

I. Background

The 30-MW Cutler Hydroelectric Project received its most recent License (#2420-001) from the Federal Energy Regulatory Commission (FERC) on April 29, 1994, after a relicensing process which included stakeholder engagement and an environmental assessment. The Project was initially certified by LIHI as "Low Impact" on October 22, 2010. The applicant submitted a complete and timely application for recertification on November 20, 2014. The application was posted for 60-day public comment period on February 3, 2015. No comments were received.

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 current LIHI Recertification Standards (Handbook, April 2014), "material changes"

mean non-compliance and/or new or renewed issues of concern that are relevant to LIHI's criteria. There were no issues of non-compliance discovered during the review process. Based on my review of materials provided, review of FERC's public records, and consultation with the noted individuals, I found that there have been no material changes or noncompliance issues associated with the Cutler Project. The Applicant provided correspondence with resource agencies regarding various events that have occurred over the past five years, including planned maintenance reservoir drawdowns and temporary water quality deviations, and has received the required permission from those agencies for those temporary deviations, and no record of violations have been issued.

The original certification of Cutler was contingent upon the project receiving a letter within 60 days from the Utah division of Wildlife Resources stating that the flows released downstream of Cutler are adequately protective of fish, wildlife and water quality. This letter was provided on December 6, 2010, wherein the agency conducted a flow analysis and found that conditions were suitable for fish and the "management of Cutler Reservoir water levels benefits various fish and wildlife species...for these reasons, we support the LIHI certification of the Cutler Hydroelectric Project." The project is therefore in compliance with this LIHI condition.

On April 1, 2013, PacifiCorp filed with FERC a "5 year Monitoring Report for the Resource Management Plan" (RMP) as required by License Article 402. This period marked the completion of implementation of the RMP, and the project is now in Operations & Maintenance (O&M) and monitoring phase for the continued lifetime of the license (through 2024). The RMP made significant progress towards achieving goals that touch on many of LIHI's criteria, including watershed enhancement programs, recreational site development, fish habitat improvements, a water quality monitoring program, and a water level monitoring program. These programs were mostly implemented prior to the original LIHI certification, (with the exception of one additional recreation site added during the 5 year period,) and therefore do not represent "material changes" over the five year certification period. The Monitoring Report provides an update for these activities. Comments were solicited and received from state and local resource agencies, including USFWS, Utah Division of Wildlife Resources, U.S. Forest Service, Utah State Parks and Recreation, Utah Division of Water Resources, and local stakeholders. All parties accepted the results with only cosmetic changes requested, which were made by PacifiCorp in the final Report.

In the original LIHI certification report, the reviewer recommended the project be granted an extra three years of certification "as it has an established a buffer zone extending 200 feet from the high water mark for 99.6% of the undeveloped lands around the reservoir. The remaining 0.4 % (0.8 miles) is characterized by steep terrain along the canyon at the north end of the reservoir." The buffer includes a vegetation enhancement program, protecting and creating designated wildlife habitats and restoring native grasses and plants, establishing fencing to keep grazing animals from eroding the shoreline, and monitoring the zones and tenant's compliance with lease terms annually. The Resource Management Plan is prepared in extensive consultation with agencies as noted above, and received positive comments, as did agency feedback received from the Utah Department of Environmental Protection obtained during the recertification review process (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.***

During agency consultation, Paul Thompson from Utah Division of Wildlife Resources referenced the potential impact of reservoir drawdowns on a local population of California Floater (a state-sensitive mussel species) residing in Cutler's reservoir. The applicant also noted the existence of this species in the

recertification application¹. Mr. Thompson requested the magnitude and timing of drawdowns be considered and his office contacted prior to any drawdowns occurring to assist with surveys and bi-valve salvage opportunities. Additionally, Thompson noted that there are historical records of bluehead sucker downstream of the Cutler dam, and his team is currently surveying for this species. If these are found to be present now, Thompson requested a meeting between PacifiCorp and his agency to discuss life history needs of this species.

In regards to the California Floater, PacifiCorp already notifies state agencies, (including Utah Division of Wildlife Resources) during reservoir drawdown events. For example, in the Recertification Application, PacifiCorp provided email documentation of this notification in a recent September 2014 drawdown event. In regards to the Bluehead Sucker, since no population has been identified as of this recertification, it does not represent a “Material Change” as defined by LIHI. However, both of these recommendations from Utah Division of Wildlife Resources should be complied with for the project to meet LIHI criteria. I am therefore including these recommendations in Section V Conclusion.

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, and will soon be announcing those changes. The full details of the transition and implementation from previous approaches have not yet been published. A revised LIHI Handbook is pending, and the implementation of revised criteria will likely be phased in over the first half of 2016. This facility originally applied for recertification in November of 2014, so the new changes in criteria do not affect recertification.

V. Conclusion

I recommend that the project be recertified and be provided the extra three years of certification due to watershed protection measures in fulfillment of Watershed Protection Criteria D.2. I further recommend two conditions be placed on the new LIHI certification, as follows:

Condition 1. The facility owner shall notify the Utah Division of Wildlife Resources, Northern Region Aquatic Manager, prior to any reservoir drawdowns, and work with that agency to develop a plan to minimize the impact of the drawdown on resident populations of California Floater (*Anodonta californiensis*).

Condition 2. If a viable population of Bluehead Sucker (*Catostomus discobolus yarrowi*) is found in UDWR's surveys at the Cutler facility, a meeting between PacifiCorp and the UDWR should be initiated to discuss life history needs of this species. The facility owner shall notify LIHI within 30 days of any such finding, as well as keep LIHI informed of the results and courses of action taken as a result of agency consultation.

Please contact me with any questions.

¹ Utah does not have a state Endangered Species Act, and the California Floater is not a Federal T&E species. It is, however, on the Utah Sensitive Species List.

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 29, 2015

Contact Person: Paul Abate

Organization: U.S. Fish and Wildlife Service; Utah Ecological Services Field Office

Title: Aquatics Branch Supervisor

Paul Abate did not have any comments of any significant issues with the Cutler Hydroelectric Project relative to LIHI certification. He works closely with Eve Davies, Principal Scientist Hydro Resources at PacifiCorp, and maintains contact and communication on a fairly regular basis. Mr. Abate mentioned PacifiCorp Power keeps them well-informed of any potential issues or significant changes in water elevation as a result of unplanned operational issues, etc.

Date: July 22, 2015

Contact Person: Erica Gaddis

Organization: Utah Department of Environmental Quality

Title: Assistant Director

Hi Peter,

Here is our response to your questions. Let me know if you need anything more.

The Division of Water Quality does not have any issues of concern in relation to the Cutler Hydropower Project. As you are aware, PacifiCorp has been punctual in delivering water quality program monitoring reports (FERC License requirement). They have also participated actively in our Cutler Reservoir Technical Advisory Group that worked toward development of a TMDL in 2010. PacifiCorp Energy monitors water quality once every five years; most recently in 2013. Our agency works closely with PacifiCorp to share data. PacifiCorp has successfully completed the Cutler Hydro Project Resource Management Plan (RMP). Through the monitoring results we can document success through the seven goals outlined in the PacifiCorp 1995 RMP that included improved riparian vegetation via installation of erosion controlled basins and bank stabilization measures. They have been responsive to our future monitoring requests, worked successfully to incorporate new conditions into wildlife habitat projects through the construction of a 6-acre wetland mitigation area with our sister agency Utah Division of Wildlife Resources and have been resolute in resolving property and boundary issues. PacifiCorp Energy has been diligent in reporting any deviations from the normal average elevation and any related water quality questions or concerns to our agency. Overall, our experience working with the Cutler Hydro Project has been very positive.

Erica

Erica Brown Gaddis, Ph.D.

Assistant Director

Division of Water Quality

Utah Department of Environmental Quality

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Date: July 15, 2015

Contact Person: Paul Thompson

Organization: Utah Division of Wildlife Resources, Northern Region

Title: Northern Region Aquatic Program Manager

Paul Thompson

Jul 15 (4 days ago)

to Phil, Samuel, Peter

Peter -

I offer the following thoughts/suggestions regarding Cutler Reservoir and its' operation regarding wildlife:

- 1) More information has recently become available indicating that a population of California floater (*Anodonta californiensis*) occurs in Cutler Reservoir. While the recent drawdowns in Cutler Reservoir were needed to make repairs on the dam, this species should be considered if future drawdowns need to occur. Specifically,
 - a) magnitude of the drawdown should be minimized if possible,
 - b) timing of drawdown should be considered (e.g., winter may result in higher bi-valve mortality because of soil/bi-valve freezing)
 - c) the Utah Division of Wildlife Resources, Northern Region Aquatics Manager([801-476-2771](tel:801-476-2771)) should be contacted prior to any drawdown so that plans for surveys and possible salvage of bi-valves can occur during the drawdown.

- 2) Historical records of bluehead sucker exists in the Bear River downstream of Cutler Reservoir. The Utah Division of Wildlife Resources is currently surveying this reach of the Bear River to determine if this species still persists. If a population of bluehead sucker is found, a meeting between PacifiCorp and the UDWR should be initiated to discuss life history needs of this species.

Please let me know if you have additional questions. The above information is all that is new regarding Cutler Reservoir in the past 5 years.

Paul