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June 6, 2019

Shannon Ames, Executive Director
Low Impact Hydropower Institute
329 Massachusetts Ave,
Suite 6, Lexington, MA 02420
Submitted via email to comments@lowimpacthydro.org

Re: Comments on New Construction Eligibility

Dear Ms. Ames:

American Whitewater is a national non-profit organization with a 30 plus year history of working on the relicensing, proposal, and removal of hundreds of hydropower dams. We have helped reduce the impacts of many hydropower projects by successfully advocating for the restoration of variable flow regimes and public access. Our community of river enthusiasts knows too well the impacts of dams that inundate, divert, block, and modify rivers and their many natural processes. We know that our nation's rivers have been and remain severely impacted by hydropower dams, and that freshwater ecosystems demand improvements rather than additional impacts if they are to persist. For these and other reasons, we do not support the construction of new dams on currently free-flowing rivers.

We appreciate this opportunity to comment on LIHI's proposal to include new dams in the certification program, and we certainly appreciate the role LIHI plays in reducing the impacts of hydropower projects. We question however the practical effect and rationale for proposing this change.

The proposal states that LIHI is not incentivising new dams because only around a dozen have been built since 1998. This is not logical since new dams are not eligible for LIHI certification so it goes without saying that LIHI has not historically led to construction of new dams. This is not a persuasive argument that LIHI eligibility for new dams would not lead to construction of additional new dams.

The proposal states that "technology is being developed that could restore ailing river systems or otherwise improve river environments while providing additional hydropower supply." We are

not aware of this technology. We have not seen evidence that potentially lower-impact non-conventional hydropower projects are cost effective, nor have we seen new technology that generates power at new dams and diversions in a manner that restores river values.

The proposal states that unless LIHI “reconsiders the vintage date criteria for eligibility, LIHICertified® hydro will become a rapidly decreasing resource...” This concern overlooks the reality of renewable energy market trends. Hydropower itself will become a relatively smaller portion of the renewable energy mix because wind and solar are new and rapidly growing energy sources with vast potential, while hydropower is century-old technology that is largely built-out. Regardless of LIHI certification, the number of new dams will rightly remain small, and will eventually get smaller over time. The opportunities for growth in the LIHI program lies not in new dams or eased standards, but in performance improvements at existing hydropower projects to the point that they are eligible for certification, and in new hydropower capacity at existing dams.

We are not opposed to broad consideration of the “net benefit” of a project or application of criteria that takes a broader geographical view. Optimization of a watershed where net positive river restoration could be achieved is a goal we support, but we do not believe this can be achieved through the development of new dams. For a new dam to have a net benefit, its construction would almost certainly have to be paired with a dam removal. We often support dam removals and will see many removals in the future as projects become uneconomical, unsafe, and environmentally unacceptable. We do not however see the need to tie these removals with construction of new projects, nor do we see industry demand for such deals in many cases. We certainly see opportunities for net benefits to be a worthwhile lens in certification, but not for new dams on rivers.

Because of these overarching views, we do not believe that the proposed changes to LIHI eligibility will or should actually lead to a growth in the program. With this as our primary response to the proposal, we’ll also respond in detail to some of the specific questions posed in the proposal.

1. Should LIHI change the cutoff date for new dams or diversions?

No. We understand that the proposed five year period is predicated on the projects having a net benefit, but we view the net benefit standard as the pivotal metric, and the timeframe being much less relevant. A five year waiting period is not a significant deterrent for new dam construction given that five years is a very small percentage of the useful life of many hydropower projects which can extend far beyond a century. The incentives granted through LIHI certification could therefore incentivise new dam construction that is not low impact unless the net benefit analysis is extremely robust. We do not believe that new dam construction is wise or necessary, and are skeptical that incentivising them is a proper step.

2. Is five years an appropriate timeframe to understand a new dam or “diversion’s impacts?

No. Increasingly, mitigation measures are scheduled throughout the life of a license that extends over decades, or at a minimum are delayed five or more years through the creation and implementation of post-licensing plans. While in theory most projects improve their environmental and social performance as mitigation is brought online, the fact remains that the first 5-10 years after licensing are a very dynamic period. In addition we have found that 5-year studies do not adequately capture natural (or modified) variability in instream flows or population dynamics of aquatic organism, so the impacts of new projects may well be undocumented within a 5-year study. In terms of net benefits, mitigation measures like related dam removals would often take more than 5 years, so calculating net benefit would not yet be possible. We feel that if LIHI moves forward with a change, it should be left up to the applicant and hopefully settlement parties to make a case that a net benefit has been accomplished when they feel their case is convincing. This could be in 5 years or much longer.

3. Should the new date be a specific date or rolling as suggested in the proposal?

Moving the cutoff to a later date does not make sense as it is arbitrary, and project proponents will expect the same grace in subsequent years and decades. A rolling date would make more sense, however for the reasons mentioned above we do not wish to see this proposal move forward.

4. Should other eligibility requirements be adjusted?

We do not have comment on this question at this time.

5. How should an applicant demonstrate net benefit to resource values?

An applicant would need to show that their actions related to the project caused measurable enhancements to existing and beneficial uses that are protected under the Clean Water Act and Electric Consumers Protection Act, including at a minimum recreation, native aquatic species, and instream flows, within a reasonable nexus to the project. The various impacts of hydropower projects make an apples-to-apples analysis that weighs the impacts of a new project against the benefits of that project and related mitigation very difficult. Certainly the acres inundated, stream miles inundated, and stream miles impacted by altered flows are important metrics to compare over time. In addition, boatable days, native fish populations, and Indicators of Hydrologic Alteration outputs are important metrics. Net benefit should be looked at holistically in a manner that reflects improvements across all resource values, and would likely only be adequately delineated by a comprehensive settlement agreement that includes all affected interests.

6. Does the definition of Net Benefit (page 42 of 2nd Edition Handbook) need to be adjusted?

Yes. The definition of net benefit does not include recreation, and should. As a non-power use that must be considered under the Electric Consumers Protection Act, and a public benefit protected by the Clean Water Act, the definition of net benefit should include a net benefit of like-kind recreation opportunities. Creating reservoir recreation in exchange for river recreation for example should not count as a net benefit. We also want to point out that recreation is often place-based, and therefore support from recreation user groups is critical to determining that the net benefit is in fact real and accepted by the end users. All places are not of equal recreational importance or quality for the public, and only the affected public can make a judgement call on the adequacy of trading or equating public river resources.

The definition also does not explicitly require that the applicant be responsible for the increases in overall habitat in the area. This could lead to LIHI eligibility for high impact new dams cited near dam removals or other restoration projects that are unrelated to the applicant's efforts. This would create a negative dynamic where new impacts could chase restoration projects with the result being chronic impacts and wasted and/or diminished investments in restoration.

Conclusions

We do not feel that LIHI certification for new dams would meet LIHI's goals of expanding their program in any significant amount, nor would it meet our shared goals of reducing the impacts of hydropower projects on our nation's rivers and communities.

Thank you for considering these comments.

Sincerely,

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