



August 10, 2019

Low Impact Hydro Institute
329 Massachusetts Ave
Suite 6
Lexington, MA 02420

Re: Comments on the Lower Robertson and Ashuelot Hydroelectric Projects LIHI Certification Application

To Whom it May Concern:

The Connecticut River Watershed Council, Inc., doing business as the Connecticut River Conservancy (CRC), is a nonprofit watershed organization that was established in 1952 as a citizen group to advocate for the protection, restoration, and sustainable use of the Connecticut River and its four-state watershed. CRC has an interest in protecting environmental values that directly and indirectly support the state, regional, and local economies and quality of life of the Connecticut River. In that capacity, we routinely participate in the relicensing of the multiple hydro-electric facilities that exist in the Connecticut River watershed.

CRC assumes that this recertification is being examined under a Stage II process since there has been a material change in the certification process with the implementation of the 2nd Edition Handbook.

3.2.2 Criterion B - Water Quality

The stated goal for water quality is that, "Water quality is protected in waterbodies directly affected by the facility, including downstream reaches, bypassed reaches, and impoundments above dams and diversions."¹

The applicant claims that they satisfy this criterion under Standard B-3. In order to satisfy this standard they must demonstrate that the facility is "in compliance with the quantitative water quality standards established by the state or other regulatory authority to support designated uses pursuant to the federal Clean Water Act or other applicable statute in the facility area and in the downstream reach."²

The applicant states that New Hampshire Department of Environmental Services (NH DES) is requiring updated water quality testing to certify if the facility is in compliance with this criterion and they request recertification pending water quality test results. Assuming that LIHI complies with this request, CRC expects that the applicant will be proactive before the next re-certification process in 2025

¹ Low Impact Hydropower Certification Handbook. 2nd Edition. Revision 2.03: December 20, 2018. Low Impact Hydropower Institute. Page 7.

² Ibid. Page 8.

to make sure that this water quality data collection is done before they submit their application. Given the timing of the current application, CRC will defer to the NH DES on comments related to this criterion.

3.2.3 Criterion C - Upstream Fish Passage

The stated goal for upstream fish passage is that, "The facility allows for the safe, timely, and effective upstream passage of migratory fish. This criterion is intended to ensure that migratory species can successfully complete their life cycles and maintain healthy, sustainable fish and wildlife resources in areas affected by the facility."³

The applicant claims that they satisfy this criterion under Standard C-2. In order "to pass the upstream fish passage criterion the applicant must demonstrate that ... the facility is in compliance with science-based fish passage recommendations issued by appropriate resource agency(ies) for the facility and which may include provisions for appropriate monitoring and effectiveness determinations."⁴ Since successful migratory fish passage has not been accomplished at Fiske Mill Dam, the downstream obstacle, the trigger has not yet been met to require upstream passage for shad. It is our understanding that the applicant is anticipating provided upstream passage and is currently researching different alternatives and preparing for this capital expense. CRC encourages this continued effort and points out that riverine fish would also benefit from this ability to move between habitat areas. While the trigger has not been met, nothing precludes Ashuelot River Hydro from providing upstream passage now.

Additionally, American eel have been documented in the Ashuelot River above and below these projects⁵. There is no indication in the documentation provided that the applicant has considered upstream passage for juvenile American eel which may require a different physical structure to maximize population regeneration. It is our understanding that traditional fish passage ladders may be ineffective at passing juvenile American eel. Given the obstacle at Fiske Mill dam it is not justified to require appropriately designed upstream passage for America eel at this time, but the applicant should anticipate this need and begin research efforts in advance of this requirement.

3.2.4 Criterion D - Downstream Fish Passage and Protection

The stated goal for downstream fish passage and protection is that, "The facility allows for the safe, timely, and effective downstream passage of migratory fish. For riverine (resident) fish, the facility minimizes loss of fish from reservoirs and upstream river reaches affected by facility operations. All migratory species can successfully complete their life cycles and to maintain healthy, sustainable fish and wildlife resources in the areas affected by the facility."⁶

The applicant claims that they satisfy this criterion under Standard D-2. In order to satisfy this standard they must show that, "the facility is in compliance with a science-based resource agency recommendation for downstream fish passage or fish protection, which may include provisions for

³ Low Impact Hydropower Certification Handbook. 2nd Edition. Revision 2.03: December 20, 2018. Low Impact Hydropower Institute. Page 8.

⁴ Ibid.

⁵ New Hampshire Fish Survey Map. Accessed on August 8, 2019 at: <https://nhfg.maps.arcgis.com/apps/MapJournal/index.html?appid=d6549e90155b441fa0e29bdc44eebc2b>

⁶ Low Impact Hydropower Certification Handbook. 2nd Edition. Revision 2.03: December 20, 2018. Low Impact Hydropower Institute. Page 9.

appropriate monitoring and effectiveness determinations.”⁷

The applicant included documentation that indicates that downstream fish passage was required for salmon smolts in 2001. It is our understanding that American shad have been stocked upstream of the Lower Robertson Project since 2005. In order to be a true Low-Impact facility and meet the goal for this criterion, it is incumbent on the applicant to make sure that the downstream passage for shad is safe and effective. If a certificate is issued, it should contain a condition to provide monitoring of fish using the downstream fish passage to ensure that shad and other species are successfully and safely passing the dam on their out migration. This could be done with a pit tag study.

3.2.6 Criterion F - Threatened and Endangered Species Protection

The stated goal for this criterion is that, “The facility does not negatively impact federal or state listed species.”⁸ The applicant seeks to satisfy this criterion under Standard F-2 Finding of No Negative Effects for both the tailrace and impoundment. In order to satisfy this criterion the applicant needs to show that, “the facility has been found by an appropriate resource management agency to have no negative effect on them, or habitat for the species does not exist within the project’s affected area or is not impacted by facility operations.”⁹

The only documentation in the application is from 2009. The applicant refers to an email with Melissa Grader from the USFWS on Feb. 16, 2019, but that email exchange is not included in the application. CRC assumes there was a mistake in compiling the application and will defer to USFWS for comments on this criterion. The applicant should submit a corrected application to be included for the public record.

3.2.8 Criterion H - Recreational Resources

The goal of this criterion is that, “the facility accommodates recreation activities on lands and waters controlled by the facility and provides recreational access to its associated lands and waters without fee or charge.”¹⁰ The applicant claims to satisfy this criterion under Standard H-2 which requires that the, “facility demonstrates compliance with resource agency recommendations for recreational access or accommodation (including recreational flow releases), or any enforceable recreation plan in place for the facility.”¹¹ The applicant has provided a portage trail for the Ashuelot River Project. Recent documentation by local people would seem to indicate that it may not currently be well maintained.

In general the applicant, as many other LIHI applicants, relies on the basic requirements in place for FERC relicensing, or in this case FERC exemption. It is CRC’s contention that since the granting of a Low Impact Hydro Certificate often provides for direct compensation through access to renewable energy credits to the hydro owner, that in all cases, the facilities do more than what is simply required of them by regulation in order to earn the Low Impact Certificate. Additionally, as the certificate needs to be renewed every five years, all facilities should provide documentation from *the previous five years to prove* that, water quality is good, fish passage is safe and effective, recreational amenities are being used effectively, the shoreline is continuing to be protected, and that there is no new information about endangered species that needs to be considered.

⁷ Ibid.

⁸ Ibid. Page 11.

⁹ Ibid.

¹⁰ Ibid. Page 12.

¹¹ Ibid. Page 13.

CRC is very grateful for the opportunity to comment. CRC is supportive of the Low Impact Hydro designation and feels strongly that certified facilities should go above and beyond what is required by regulation in order to earn this certification. Those efforts will inspire continued innovation in the hydro-electric sector.

Sincerely,

A handwritten signature in black ink that reads "Kathy Urffer". The signature is written in a cursive, flowing style.

Kathy Urffer
River Steward

Cc: Bob King, Ashuelot River Hydro
Sam Payne, Ashuelot River Hydro
Gregg Comstock, NH DES
Barbara Skuly, Ashuelot River Local Advisory Committee
Bill McDavitt, NMFS
Melissa Grader, USFWS
Katie Kennedy, TNC