



March 9, 2018

Conrad St. Pierre, Sr.  
Director of Hydro North America O&M  
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Enel Green Power North America, Inc.  
100 Brickstone Square, Suite 300  
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Via email: [Conrad.stpierre@enel.com](mailto:Conrad.stpierre@enel.com)

**RE: Report of the Executive Director Regarding Lowell Project Certification Decision**

Dear Mr. St. Pierre,

In its meeting on February 15, 2018, LIHI's Technical Committee voted in favor of staff's recommendation to approve Boott Hydropower, LLC's application for LIHI certification. The Lowell facility is now preliminarily approved for Certification with the conditions listed below. This preliminary decision will be announced via email and social media, starting the 30-day appeal window in accordance with the LIHI Handbook. The full reviewer's report and this letter will be posted on the LIHI website.

This was a unique application. To our knowledge, this is the first time an applicant has worked proactively with state and federal agencies to develop and commit to collectively defined migratory fish passage measures in exchange for agency support for LIHI certification. We commend the organizations for their collaboration.

In transmitting this decision, I want to be clear about how we handled the issue of hydro-modification in the bypass reach. The applicable LIHI Water Quality criterion states: "In all cases, if the waterbody directly affected by the facility has been defined as being water quality limited...the applicant must demonstrate that the facility has not contributed to the substandard water quality in that waterbody." (LIHI Handbook 2016 edition, section 3.2.2). The Massachusetts DEP listed the Merrimack River as impaired, identifying hydro-modification as one of several probable sources of the impairment. Given the voluntary flows being passed by the applicant and the state agency's support for those flows, the Technical Committee determined that and since the agency had an opportunity to, but chose not to update the water quality certificate in the last ten years, at this time, the project passes the Flows and Water Quality criterion in the bypass reach based on agency recommendation (Standards A-2 and B-2). We understand that there is limited information regarding instream habitat in the bypass reach, and the incremental contribution of hydro-modification to the impairment. We also understand that this information will be developed through the upcoming FERC relicensing process. The conditions below

recognize the importance of developing this type of information and its relevance to continued LIHI certification.

The following conditions are included in the Certification:

**Condition 1.** The Owner shall continue to maintain the current voluntary seasonal attraction flows in the bypass reach and full season fish ladder operation<sup>1</sup> and proactively consult with the resource agencies regarding possible interim opportunities to enhance flows in the bypass reach and in the canal system (if needed) while the upcoming FERC relicensing activities are underway. Such opportunities may involve study of habitat quantity/quality, alternative flow regimes, and/or water quality monitoring so that modifications can be implemented more quickly once a new license is issued, or even prior to a new license if agreed to by all parties. During the term of this LIHI Certification, should a resource agency request implementation of enhanced bypass and/or canal flow measures as part of their recommendations or jurisdictional mandates under the relicensing proceedings, the Owner shall provide to LIHI in the annual compliance report a copy of the request, and describe the Owner's plans to address these requests along with a schedule and progress toward implementation.

**Condition 2.** The Owner shall provide to LIHI as part of the annual compliance report, a status report of the FERC licensing progress listing significant agency interactions that have occurred in the past year that are relevant to any of LIHI's Certification criteria, and highlighting major topics of agreement or disagreement. LIHI reserves the right to request additional details if necessary, if highlighted topics are relevant to LIHI Certification criteria and their associated goals. LIHI also reserves the right to modify the Certificate conditions again if needed.

**Condition 3.** The Owner shall work toward removing the state's water quality impairment listing for hydromodification in the combined bypass and downstream reach of the Project. This may be accomplished by working proactively with Massachusetts DEP and: a) ensuring that any water quality studies conducted as part of relicensing adhere to state quality control/quality assurance (QA/QC) protocols and that results are submitted to the state timely and in the proper format for use by the state in its biennial review(s) of the State's Clean Water Act Integrated List of Waters; b) providing results of other relicensing studies (e.g., instream flow studies) to the state for inclusion in upcoming biennial reviews of the state's impairment listings; and c) by submitting public comments relative to results from flow and water quality studies in that reach during the public comment process when the state's draft lists are made available. Activities and any changes in the impairment listing for the reach shall be summarized and reported to LIHI in the annual compliance reports.

**Condition 4.** The Merrimack River basin is highly developed for water resources and the operation of multiple hydropower facilities and other water uses in the basin are interconnected to a degree that requires a systematic approach for future management. Solutions for individual facilities are insufficient to achieve the environmental protection and restoration needed for long-term, sustainable water uses. Therefore, the Owner of the Lowell facility shall continue to play a constructive, supportive role in promoting integrative water management in the basin, both in the Project's upcoming FERC relicensing and in other regulatory proceedings and voluntary activities that may develop in the basin. The Owner shall report to LIHI on its activities

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<sup>1</sup> See LIHI Reviewer Report, Appendix – Agency Letters

relative to this condition each year in its annual compliance report. LIHI reserves the right to modify the Certificate conditions again if needed.

Additional details regarding condition fees and estimated annual fees will follow under separate cover. If you have any questions regarding this decision or the conditions included, please contact me.

Sincerely,



Shannon Ames  
Executive Director

cc: Kevin Webb, Boott Hydropower Inc.; Kevin.Webb@enel.com  
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