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July 7, 2004

Fred Ayer, Executive Director
Low Impact Hydropower Institute
34 Providence St.
Portland, ME 04103

Subject: Final Application Reviewer Report for Pawtucket Hydroelectric Project

Dear Fred:

Based on our telephone conversation earlier today in which you reported that you had no concerns or comments on my draft report, attached please find my final reviewer's report on the application by Pawtucket Hydropower for certification of the Pawtucket Hydroelectric Project by the Low Impact Hydropower Institute (LIHI). Please contact me with any questions or concerns.

Best regards,

s//Gabriela

Gabriela Goldfarb

Attachment: as described.

**Review of Low Impact Hydropower Institute Application
for Low Impact Hydropower Certification:
Pawtucket (RI) No. 2 Small Hydroelectric Project**

Introduction and Overview

This report reviews the application submitted by Pawtucket Hydropower (applicant) to the Low Impact Hydropower Institute (LIHI) for Low Impact Hydropower Certification for the Pawtucket No. 2 Small Hydroelectric Project (project or facility) in the city of Pawtucket in Providence County, Rhode Island. The Federal Energy Regulatory Commission (FERC) issued the project a license exemption (FERC 3689) in 1981 for the operation and maintenance of the 1,675 kilowatt, run-of-river facility.

Project and site characteristics. The project is located at the mouth of the Blackstone River, one of the largest tributaries draining to Narragansett Bay; the waters immediately below the dam are fully tidal salt water (i.e., the dam is at “head of tide”), and also the head of the Seekonk River (an estuarine river). The Blackstone River, which originates in Massachusetts and crosses into Rhode Island, drains a watershed of 475 square miles that includes both highly urbanized and historically industrialized areas, such as the city of Pawtucket, and large undeveloped areas. The river is characterized by numerous dams and channelization for transportation, urban development, and flood control. The project dam at Pawtucket Falls is thought to have first been constructed in the early 1700s.¹

The project consists of “(1) a brick and timber dam, about 200 feet long and 4 feet high, constructed at the top of waterfalls about 13 feet high; (2) a reservoir of negligible storage...; (3) an intake structure and brick-lined underground tunnel (penstock) 17.5 feet in diameter and 130 feet long; (4) a brick and granite hydroelectric station building...and a tailrace, 90 feet long and 45 feet wide...”² In conjunction with FERC’s issuance of the 1981 license exemption to the project’s previous owner, Blackstone Valley Electric Company, waterwheels and generators were replaced with turbines. Today the project operates two 1.9 meter full Kaplan turbines with total installed capacity of 1,300 kilowatts and average annual generation of 4,000 megawatt hours. The facility operates in run-of-river mode, with a small impoundment of approximately 1 acre in surface and 2 acre-feet in volume; the facility inundates less than 1/2 acre. Non-reservoir facilities occupy 1/2 acre. Blackstone Valley Electric Company transferred facility ownership to the applicant in 1999.

In 2002 the Rhode Island Department of Environmental Management (RIDEM), through its operation of the Narragansett Bay Estuary Program, concluded the process of developing a *Blackstone River Fisheries Restoration Plan* with the involvement of the multi-stakeholder Blackstone River Fish Restoration Steering Committee. The applicant participated in the plan’s development as a member of that committee, but submitted a critique of the study commissioned by RIDEM from the University of Rhode Island (URI) that makes the case for the historical

¹ Narragansett Bay Estuary Program. *Blackstone River Fisheries Restoration Plan*. Report #02-120. Providence, RI. May 2002.

² Federal Energy Regulatory Commission. Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less. Project No. 3689-000. July 21, 1981.

presence of anadromous fish in the Blackstone River. Both the URI study and the applicant's critique were included as appendices to the restoration plan.

The restoration plan includes the following statement:

On the basis of this body of evidence, it is the position of the Narragansett Bay Estuary Program, the R.I. Department of Environmental Management and others that the Blackstone River historically supported annual runs of anadromous fish, specifically, salmon, herring and shad. The Bay Program and the Department recognize, however, that it is impossible to ascertain with certainty the condition of the river 300 years ago, and that the process by which the runs declined during the era of dam building is somewhat unclear. The Bay Program and the Department recognize as well that opinions differ as to the meaning of the documentary evidence. Appendix 4 provides an alternative review and analysis of the historic record, which contrasts that presented in the URI research.

The restoration plan's goal is to restore self-sustaining populations of shad and river herring (but not Atlantic salmon) to the Blackstone River basin. Implementation of the plan, which was completed in 2002 and subsequently approved, will not commence until proponents are successful in securing the necessary funding. In telephone conversation agency staff shared the perspective that the Pawtucket Hydroelectric project, like the two other hydroelectric facilities on the lower Blackstone River, are significant for their historical value, important as viable small businesses in an economically depressed region, and positive in their generation of climate friendly energy.³

Public comment and agency letters. LIHI received two public comments on this application, both expressing concerns about or opposing the project's certification. Russ Cohen, River Advocate, Massachusetts Riverways Programs (part of the Massachusetts Department of Fisheries, Wildlife and Environmental Law Enforcement) expressed the sentiment that providing fish passage at the facility should be a prerequisite to LIHI certification.

John Torgan, Narragansett BayKeeper, Save the Bay, contends that the facility results in the entrainment, impingement, and destruction of fish. He also asserts that the applicant has taken a "position against participating in any state or federal restoration program" of anadromous fish, further citing what he says is the applicant's contention "that no anadromous fish have ever naturally existed above this facility," which Torgan says "is not supported by the best available scientific information." Torgan writes that Save the Bay would reconsider its objection to certification contingent on the applicant's explicit agreement to cooperate in the state fish restoration program, and to implement measures to prevent entrainment and impingement.

The applicant submitted rebuttals to both letters. The letters and rebuttals are available on the LIHI website (<http://www.lowimpacthydro.com>).

There were also two letters of contingent support for certification that accompanied the application. One was written to LIHI by RIDEM and the other to the applicant (and included

³ Ardito, Thomas. Narragansett Bay National Estuary Program. Personal communication. 25 June 2004.

with the application for LIHI certification) by the U.S. Fish and Wildlife Service (FWS). Both affirmed that the applicant is in compliance with all existing resource agency requirements. RIDEM expressed support for certification conditional to “[c]ontinued cooperation of the facility with the Department’s plans to restore anadromous fish passage on the lower Blackstone River [...]” FWS interpreted LIHI criteria as requiring the applicant to submit to LIHI “evidence of your commitment to provide fish passage when required in the future.” FWS requested that the applicant forward to FWS a “copy of whatever evidence you submit to LIHI [...]”

General conclusions. The LIHI Governing Board’s decision whether to certify the Pawtucket Hydroelectric Project will depend on its assessment of the enforceability of Standard Article 2 of the project’s FERC exemption, requiring “compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources” as contained in “any letters of comment of these agencies.” FWS submitted such comment timely in 1981 prior to FERC’s issuance of the exemption, requiring “fish passage facilities and any other appropriate project modifications...when the Rhode Island Division of Fish and Wildlife implements a plan for restoring anadromous fish to the Blackstone River.”⁴

The relevant resource agencies have submitted in writing that the applicant is in compliance with all existing requirements and have confirmed the validity of the requirement for fish passage and other modifications when RIDEM implements its *Blackstone River Fisheries Restoration Plan*. Resource agency staff also confirmed in telephone conversation that the applicant has, to date, agreed to all requests for cooperation. However an agency staff person and a public commenter raised concerns that the applicant has expressed an unwillingness to fulfill future obligations imposed by RIDEM’s fisheries restoration plan. The applicant stated in a rebuttal to Save the Bay’s comment on this point that “I do not have a position against participating with any state or federal agencies. Although I have disagreed with government agencies on some points I have participated and cooperated with them [...]” In a telephone conversation the applicant stated “we are in compliance with our exemption obligations and intend to be.”⁵

The applicant’s disagreement with government agencies is focused, in large part, on whether or not there were historic anadromous fish populations in the Blackstone River. The applicant’s rebuttal to one public commenter included the statement “[i]t is appropriate, if one wishes, to simply want fish passage as an environmental goal but it is not appropriate to [assert that runs of anadromous fish ever went up the Blackstone River beyond the natural falls in Pawtucket].” For the reason discussed in my recommendation, in my judgment this position is not a significant factor in the LIHI Governing Board’s consideration of whether to certify this project.

Recommendation. Based on my review of information submitted by the applicant, my review of additional documentation, and my consultations with resource agency staff, I believe the

⁴ Patterson, William P., Regional Environmental Officer, U.S. Department of the Interior. Letter to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 21 May 1981. ER 81/722. *Response to public notice dated March 23, 1981, regarding the Application for Exemption, Pawtucket No. 2 Project, FERC No. 3689, Blackstone River, Pawtucket, Providence County, Rhode Island.* Boston.

⁵ Rosenfield, Charles. Personal communication. 29 July 2004.

Pawthucket No. 2 Small Hydroelectric Project meets all of the criteria to be certified and I recommend certification. However, this recommendation to certify is contingent on two factors:

- 1) That the LIHI Governing Board concurs in my assumption that Standard Article 2 of the project's FERC exemption is a legally binding requirement that the applicant modify the project consistent with a state anadromous fisheries restoration plan if and when RIDEM implements such a plan.
- 2) That the applicant submit documentation relating to the status of implementation of any state anadromous fisheries restoration plan as it may or may not affect the facility if and when the applicant applies for renewal of the facility's certification, or sooner and periodically as the LIHI Governing Board may decide.

Low Impact Certification Criteria

A. Flows:

Criteria

- 1) **Is the facility in Compliance with Resource Agency Recommendations issued after December 31, 1986 regarding flow conditions for fish and wildlife protection, mitigation and enhancement (including in-stream flows, ramping and peaking conditions, and seasonal and episodic instream flow variations) for both the reach below the tailrace and all bypassed reaches?**

NOT APPLICABLE.

If not applicable, go to A2.

- 2) **If there is no flow condition recommended by any Resource Agency for the Facility, or if the recommendation was issued prior to January 1, 1987, is the Facility in Compliance with a flow release schedule, both below the tailrace and in all bypassed reaches, that at a minimum meets Aquatic Base Flow standards or "good" habitat flow standards calculated using the Montana-Tennant method?**

NO.

If no, go to A3.

- 3) **If the Facility is unable to meet the flow standards in A.2., has the Applicant demonstrated, and obtained a letter from the relevant Resource Agency confirming that demonstration, that the flow conditions at the Facility are appropriately protective of fish, wildlife, and water quality?**

YES.

The Environmental Protection Agency (EPA) in a February 19, 2004 letter stated its agreement with the 50 cubic feet per second (cfs) flow required by the applicant's 1981 FERC exemption. EPA cited "the fact that the river is tidal to the downstream face of the project dam" as its reason for agreeing that the 50 cfs flow is adequate. FWS in a March 29, 2004 letter stated its belief that the applicant is in compliance with required flows, and did not take issue with the 50 cfs flow requirement. In a February 16, 2004 letter RIDEM stated that it considers the 50 cfs requirement adequately protective, while "reserving the right to reconsider this determination should it deem additional flows are necessary" in the future.

DISCUSSION

Both EPA and FWS originally recommended higher flows at the time the then owner of the Pawtucket Project sought the FERC exemption in 1981; both agencies acknowledged in 2004 that they based their recommendations on standard calculations and that the recommendations did not reflect the tidal nature of the waters below the project. In its 2004 letter RIDEM noted that "[t]he water quality certificate issued by [RIDEM] for the facility in 1980 noted that a minimum spillway release of 50 cfs instead of the 7Q10 flow of 115 cfs was deemed adequately protective of water quality given the tidal nature of the river below the dam and short distance between the dam and the tailrace from the generating facility."

PASS.

B. Water Quality:

1) Is the Facility either:

- a) In compliance with all conditions issued pursuant to a Clean Water Act Section 401 water quality certification issued for the facility after December 31, 1986? Or**
- b) In Compliance with the quantitative water quality standards established by the state that support designated uses pursuant to the federal Clean Water Act in the Facility area and in the downstream reach?**

YES.

In its February 16, 2004 letter RIDEM states that it "does not believe that the subject facility has any impact on water quality on the river, nor does the subject facility impact the R.I. 303(d) list."

If yes, go to B2.

- 2) Is the Facility area or the downstream reach currently identified by the state as not meeting water quality standards (including narrative and numeric criteria and designated uses) pursuant to Section 303(d) of the Clean Water Act?**

YES.

The State of Rhode Island's most recent (2002) list of impaired water bodies includes the waters immediately above and below the facility. Water quality impairments include elevated levels of ammonia, nutrients, low dissolved oxygen, copper, lead, and human pathogens (fecal coliform).

If yes, go to B3.

3) If the answer to question B.2. is yes, has there been a determination that the Facility is not a cause of that violation?

YES.

See answer to B(1) above.

PASS.

C. Fish Passage and Protection:

1) Is the facility in compliance with Mandatory Fish Passage Prescriptions for upstream and downstream passage of anadromous and catadromous fish issued by Resource Agencies after December 31, 1986?

NOT APPLICABLE.

If not applicable, go to C2.

2) Are there historic records of anadromous and/or catadromous fish movement through the facility area, but anadromous and/or catadromous fish do not presently move through the Facility area (e.g., because passage is blocked at a downstream dam or the fish run is extinct)?

YES.

If yes, go to C2a.

RIDEM's position is that historically anadromous fish moved through the facility area. The two appendices to the *Blackstone River Fisheries Restoration Plan* relevant to this questions – the University of Rhode Island study commissioned by RIDEM establishing the case for historic presence of anadromous fish, and the critique authored by the applicant – are included as attachments to this application reviewer's report.

- a) **If the fish are extinct or extirpated from the Facility area or downstream reach, has the Applicant demonstrated that the extinction or extirpation was not due in whole or part to the Facility?**

NOT APPLICABLE.

If not applicable, go to C2b.

- b) **If a Resource Agency Recommended adoption of upstream and/or downstream fish passage measures at a specific future date, or when a triggering event occurs (such as completion of passage through a downstream obstruction or the completion of a specified process), has the Facility owner/operator made a legally enforceable commitment to provide such passage?**

YES.

Standard Article 2 of the project's FERC exemption requires "compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources" as contained in "any letters of comment of these agencies." FWS submitted such comment timely in 1981 prior to FERC's issuance of the exemption, requiring "fish passage facilities and any other appropriate project modifications... when the Rhode Island Division of Fish and Wildlife implements a plan for restoring anadromous fish to the Blackstone River."⁶ The applicant is subject to all the conditions of the exemption as if he were the original licensee. RIDEM has an approved *Blackstone River Fisheries Restoration Plan*. According to RIDEM staff, implementation of the plan is contingent on securing funding.

If yes, go to C3.

3) If, since December 31, 1986:

- c) **Resource Agencies have had the opportunity to issue, and considered issuing, a Mandatory Fish Passage Prescription for upstream and/or downstream passage of anadromous or catadromous fish (including delayed installation as described in C2a above), and**
- d) **The Resource Agencies declined to issue a Mandatory Fish Passage Prescription,**
- e) **Was a reason for the Resource Agencies' declining to issue a Mandatory Fish Passage Prescription one of the following: (1) the technological infeasibility of passage, (2) the absence of habitat upstream of the Facility due at least in part to inundation by the Facility impoundment, or (3) the anadromous or catadromous fish are no longer present in the Facility area and/or downstream reach due in whole or part to the presence of the Facility?**

⁶ Patterson, William P., Regional Environmental Officer, U.S. Department of the Interior. Letter to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 21 May 1981. ER 81/722. *Response to public notice dated March 23, 1981, regarding the Application for Exemption, Pawtucket No. 2 Project, FERC No. 3689, Blackstone River, Pawtucket, Providence County, Rhode Island.* Boston.

NO.

As noted above, funding constraints are reportedly the only obstacle to RIDEM implementing its anadromous fish recovery plan for the Blackstone River, and the reason the agency has not yet issued mandatory fish passage prescriptions for the facility.

If no, go to C5.

5) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream or downstream passage of riverine fish?

NOT APPLICABLE.

There are no mandatory fish passage prescriptions for upstream or downstream passage of riverine fish.

DISCUSSION

Note that because the project is at “head of tide,” any riverine fish that pass below the facility enter a salt water environment.

If not applicable, go to C6.

6) Is the facility in Compliance with Resource Agency Recommendations for Riverine, anadromous and catadromous fish entrainment protection, such as tailrace barriers?

NOT APPLICABLE.

PASS.

D. Watershed Protection:

Criteria:

- 1) Is the Facility in Compliance with Resource Agency Recommendations, or, if none, with license conditions, regarding protection, mitigation or enhancement of lands inundated by the Facility or otherwise occupied by the Facility, or regarding other watershed protection, mitigation and enhancement activities?**

NOT APPLICABLE.

There are no resource agency recommendations or license exemption conditions regarding watershed protection.

PASS.

E. Threatened and Endangered Species Protection:

- 1) Are threatened or endangered species listed under state or federal Endangered Species Acts present in the Facility area and/or downstream reach?**

YES (CONTINGENT).

RIDEM's March 29, 2004 letter stated that "[n]o threatened and endangered species are known to be impacted by the facility." The FWS letter did not mention any listed species. At the time of this writing a request is in to both agencies to confirm whether any are present. This analysis presumes one or more may be present but are unaffected by the facility, as RIDEM's letter asserts. Any information to the contrary will be provided at the LIHI Governing Board meeting to consider certification of the project

If yes, go to E2.

- 2) If a recovery plan has been adopted for the threatened or endangered species pursuant to Section 4(f) of the Endangered Species Act or similar state provision, is the Facility in Compliance with all recommendations in the plan relevant to the Facility?**

NOT APPLICABLE.

If not applicable, go to E3.

- 3) If the Facility has received authority to Incidentally Take a listed species through: (i) Having a relevant agency complete consultation pursuant to ESA Section 7 resulting in a biological opinion, a habitat recovery plan, and/or (if needed) an incidental take statement; (ii) Obtaining an incidental take permit pursuant to ESA Section 10; or (iii) For species listed by a state and not by the federal government, obtaining authority pursuant to similar state procedures; is the Facility in Compliance with conditions pursuant to that authority?**

NOT APPLICABLE.

If not applicable, go to E5.

- 5) If E2 and E3 are not applicable, has the Applicant demonstrated that the Facility and Facility operations do not negatively affect listed species?**

YES.

In its February 16, 2004 letter, RIDEM stated that “[n]o threatened and endangered species are known to be impacted by the facility.”

PASS.

F. Cultural Resource Protection:

Criteria:

- 1) If FERC-regulated, is the Facility in compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license or exemption?**

NOT APPLICABLE.

There were no requirements in the exemption regarding cultural resource protection.

PASS.

G. Recreation:

Criteria:

- 1) If FERC-regulated, is the Facility in Compliance with the recreational access, accommodation (including recreational flow releases) and facilities conditions in its FERC license or exemption?**

NOT APPLICABLE.

There were no requirements in the exemption regarding recreation.

PASS.

H. Facilities Recommended for Removal:

- 1) Is there a Resource Agency recommendation for removal of the dam associated with the Facility?**

NO.

There have been no recommendations for removal of the facility.

PASS.

FACILITY IS LOW IMPACT

RECORD OF CONTACTS WITH RESOURCE AGENCY STAFF

Date of Conversation: June 24, 2004
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: John O'Brien, Freshwater and Anadromous Fisheries, Div. of Fish and Wildlife, Management, Rhode Island Dept. of Environmental Management
Telephone/email: Telephone call.
Areas of Expertise: Anadromous and riverine fish biology and restoration

Mr. O'Brien confirmed that RIDEM had completed the Blackstone River Fisheries Restoration Plan, but that the state had no near term plans to move forward with the plan's implementation due to funding constraints. When asked whether fish impingement or entrainment was a problem at the facility, he said that to his knowledge the Division of Fish and Wildlife Management has no involvement in looking at that issue, and that he did not know who in RIDEM would have such responsibility. He suggested contacting someone in permitting.

Date of Conversation: June 24, 2004
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Tom Ardito, RI Dept. Environmental Mgmt./Narragansett Bay National Estuary Project
Telephone/email: Telephone call.
Areas of Expertise: Author of Blackstone River Fisheries Restoration Plan, Drafter of RIDEM Letter of Support for LIHI Certification of Pawtucket Hydro Project

Mr. Ardito described the Blackstone River as a major restoration opportunity. It is one of the two largest rivers draining to Narragansett Bay. The other is the Taunton, which has a million-fish run of herring returning to the river. The Blackstone has "tons of fish bumping up against [the Pawtucket] dam." The U.S. Army Corps of Engineers (USACE) did a study assessing the restoration potential of the Blackstone some time back, with positive results. The Narragansett Bay Estuary Program (NBNEP) and the Division of Fish and Wildlife, R.I. Department of Environmental Management (RIDEM) decided to do so again, but this time with the involvement of a multi-stakeholder group convened as the Blackstone River Fish Restoration Steering Committee that included hydropower dam owners, environmental groups, other community and business interests, federal and state agencies, and academia. As a whole the group concluded that restoration would be worthwhile, though very challenging, and issued the Blackstone River Fisheries Restoration Plan. Among the most serious hurdles are the three small hydroelectric dams (there is a 4th non-hydro dam). The stakeholders recognize their value as small businesses in an economically challenged region and a source of non-greenhouse gas emitting energy. However, they also believe the hydro projects are using a public resource and have a responsibility to participate in mitigating the impacts of their projects. Ardito noted that the facilities generate relatively low amounts of revenue; he projected annual revenues to Pawtucket Hydro in a good year at \$200,000 while the anticipated cost of a fish ladder at the site is \$600,000.

Ardito says that the stakeholder initiative reflects a desire to pursue a collaborative approach to getting restoration to happen, rather than pursuing regulatory means or lawsuits. RIDEM/NBNEP is starting the process of seeking to secure a portion of the necessary restoration via the USACE civil works project process. Ardito believes supporting Pawtucket Hydro in its efforts to get LIHI certification is helpful in building goodwill, and if Pawtucket Hydro succeeds in increasing its revenue stream through the sale of green energy, it will be in a better position to contribute financially to restoration. Ardito emphasized that Pawtucket Hydro owner Charlie Rosenfield is in compliance with all current regulatory requirements, that Rosenfield actively participated in the stakeholder process that produced the Blackstone River Fisheries Restoration Plan (see note following), and to date has agreed to everything asked of him. At the same time, Ardito reported that Rosenfield maintains that a study forming the basis for claims of historical populations of anadromous fish in the Blackstone River, commissioned from the University of Rhode Island by a subset of the stakeholder group preparing the Blackstone River Fisheries Restoration Plan and included in an appendix to the plan, is wrong in fact and interpretation. Rosenfield prepared a critique of the study that was included as an appendix to the plan that details his assertions that there is no historical evidence proving the existence of anadromous fish in the Blackstone River. (Ardito forwarded me a copy both of the study and Rosenfield's critique.)

Date of Conversation: June 25, 2004
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Tom Ardito, RI Dept. Environmental Mgmt./Narragansett Bay
National Estuary Project
Telephone/email: Telephone call – follow up call.
Areas of Expertise: Author of Blackstone River Fisheries Restoration Plan, Drafter of
RIDEM Letter of Support for LIHI Certification of Pawtucket
Hydro Project

In this follow up phone call I asked Mr. Ardito about the counterclaims of Pawtucket Hydropower project owner Charles Rosenfield asserting that the historical record does not conclusively demonstrate the presence of anadromous fish. Mr. Ardito said that qualified experts had reviewed and agreed to the validity of the report prepared in conjunction with the Blackstone River Fisheries Restoration Plan presenting historical evidence that there were anadromous fish. Mr. Ardito confirmed that the State of Rhode Island's position is that the Blackstone River historically supported runs of salmon, shad, and river herring. He cited two recent examples of evidence that the Blackstone offers strong restoration potential: sampling of fish at the foot of the Pawtucket dam that included two species of (non-salmon) gravid anadromous fish, as well as an experiment in restocking (non-salmon) anadromous fish above the dams which resulted in successful reproduction. He noted that the Blackstone is the only hydro river in the state.

Date of Conversation: June 28 & 29, 2004
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Charles Rosenfield, Pawtucket Hydropower

Telephone/email: Emails.
Areas of Expertise: Owner of Pawtucket Hydroelectric Project

In this email exchange, I said I wanted my application reviewer's report to accurately represent Mr. Rosenfield's position with regards to implementation of the state's fisheries restoration plan. I acknowledged what I understood his position to be, namely "that you believe there never were anadromous fish in the Blackstone River, ergo it is not a restoration." In response, Mr. Rosenfield wrote: "A clarification: My position is not just that I believe there were never anadromous fish runs above the natural falls in Pawtucket, but that the authors of the "Restoration Plan..." have made false and misleading statements on this subject in order to justify and gain support for their program. To simply say we disagree is incomplete enough to be inaccurate. Someone isn't telling the truth."

Date of Conversation: June 29, 2004
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Charles Rosenfield, Pawtucket Hydropower
Telephone/email: Telephone call.
Areas of Expertise: Owner of Pawtucket Hydroelectric Project

In addition to a June 29, 2004 email response, Mr. Rosenfield telephoned me regarding my offer to give him the opportunity to provide a statement regarding his future intentions with respect to cooperating with implementation of the *Blackstone River Fisheries Restoration Plan* if and when implemented by RIDEM, as required by Standard Article 2 of the FERC exemption. Mr. Rosenfield stated that "we are in compliance with our exemption obligations and intend to be."

Date of Conversation: July 1, 2004
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: John Torgan, Narragansett Baykeeper, Save the Bay
Telephone/email: Telephone call.
Areas of Expertise: Environmental advocate.

Mr. Torgan sees Charles Rosenfield, owner of the Pawtucket Hydro project as a major impediment to implementation of the *Blackstone River Fisheries Restoration Plan* because of what Torgan says is Rosenfield's unwillingness to pay for fish passage improvements. Torgan believes that Rosenfield would be willing to let someone else pay for and "deal with" fish passage. Torgan also believes that the facility is killing fish, and that Pawtucket Hydro is not being held accountable for that as any other hydroelectric facility would be, and that on that basis alone it should not be classified as a "green" facility.
