

July 23, 2015

Mr. Michael Sale  
Low Impact Hydropower Institute  
704 Potters Falls Road  
Wartburg, TN 37887

Subject: Recertification Recommendation for the Prospect No. 3 Hydroelectric Project

Dear Mike:

Please see the attached report which contains my recommendation for recertification of the Prospect No. 3 Hydroelectric Project (P- 2337) (the "Project").

Please contact me if you have any questions.

Sincerely,



Patricia B. McIlvaine

## **Reviewer's Report for the Recertification of the Prospect No. 3 Hydroelectric Project (P- 2337)**

This report contains my recommendation for recertification of the Prospect No. 3 Hydroelectric Project (P- 2337) (the "Project").

### **Background**

Application was initially made to LIHI for certification by PacifiCorp in December 2009. Because there was no Water Quality Certification or water quality data, the application was placed "on-hold". This data was collected through coordination with Oregon Department of Environmental Quality, and submitted to LIHI in April 2013. The project was certified by LIHI as "low impact", with no conditions, for a five-year period, expiring on December 31, 2014.

Attachment #1 includes a site location map of the Project as well as photographs of the dam, fishway and water conveyance system.

### **I. Recertification Standards**

Chapter 2, Section 2.25 of the Low Impact Hydropower Institute (LIHI)'s Certification Handbook (Updated April 2014) regarding Applications for Recertification ("Recertification Standards") provides that a request for renewal of a previously-issued LIHI certification ("re-certification") will be granted at the conclusion of the term of the existing certification, 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 process also states that if no information is missing from the Re-Certification application package, and if the Application Reviewer has determined that there are no material changes or changes in LIHI's criteria, than the project is eligible for recertification action by the Executive Director.

### **II. Adequacy of the Recertification Application Package**

The Prospect No. 3 Hydroelectric Project (the "Project") received a 30-year license (P-2337) from the Federal Energy Regulatory Commission (FERC) on January 30, 1989. The project has been owned and operated by PacifiCorp since its initial licensing.

I have reviewed the materials submitted in November 2014 by PacifiCorp, in support of its application for recertification of the Prospect No. 3 Hydroelectric Project. My review of the application, which was initiated in May 2015, found that some additional information was required to complete the recertification review. This data was received on June 29, 2015. I also reviewed the LIHI file containing the original certification files and FERC's public information file on the Project. I solicited comments from the state and federal agencies knowledgeable of the Project, as noted in Attachment #2. Communications with agencies are summarized in this same Attachment.

In my opinion, the materials now in LIHI's possession are sufficient to make a recertification recommendation.

**III. There have been no "material changes" at the facility that would affect the certification.**

In accordance with the Recertification Standards, "material changes" mean non-compliance and/or new or renewed issues of concern that are relevant to LIHI's criteria. Based on my review of materials provided, review of FERC's public records, and consultation with the noted agencies, I found that there are no instances of non-compliance or new or renewed issues of concern, as discussed below.

Compliance Status

My recertification assessment of the Project included review of compliance with FERC License during the period of LIHI certification: December 2008 through October 2014. PacifiCorp annually files two reports with FERC pursuant to License and management plan requirements important to LIHI criteria review: (1) a record of consultation with USDA-Forest Service pursuant to License Article 102, and (2) wildlife crossing and fencing monitoring and maintenance reports pursuant to the FERC-approved Fish and Wildlife Habitat Mitigation Plan (January 30, 1990) prepared in partial fulfillment of License Article 406. During the last two years, reports of consultation with USDA-Forest Service were filed with FERC on January 25, 2013; February 6, 2014; and March 27, 2015. Monitoring and maintenance reports for Project wildlife crossings and fencing were filed with FERC on January 4, 2013; December 20, 2013; and January 23, 2015. These reports were provided and reviewed as part of this recertification process.

In response to my inquiry, PacifiCorp reported there were no deviations from license requirements, including those associated with minimum flow releases, during the original LIHI certification period. The Pre-Application Document filed by PacifiCorp in July 2013 for re-licensing of the Project reported that the last deviation from the minimum flow requirements for the Project occurred in 2001. Review of FERC's eLibrary did not identify any minimum flow deviation reports or other reports of non-compliance to FERC.

None of the agency representatives reached during this recertification review identified any non-compliance issues. Attachment #2 documents the conversations I had with the resource agencies.

New/Renewed Issues of Concern

The second key element of the recertification review for "material changes" is associated the existence of new or renewed issues of concern relative to LIHI's certification.

My review of the materials received and FERC's eLibrary data supports the position reported by PacifiCorp that no material changes which affects LIHI's certification criteria have occurred since 2013 when the initial certification was approved by LIHI. Contact with key resource agencies also did not identify any new issues.

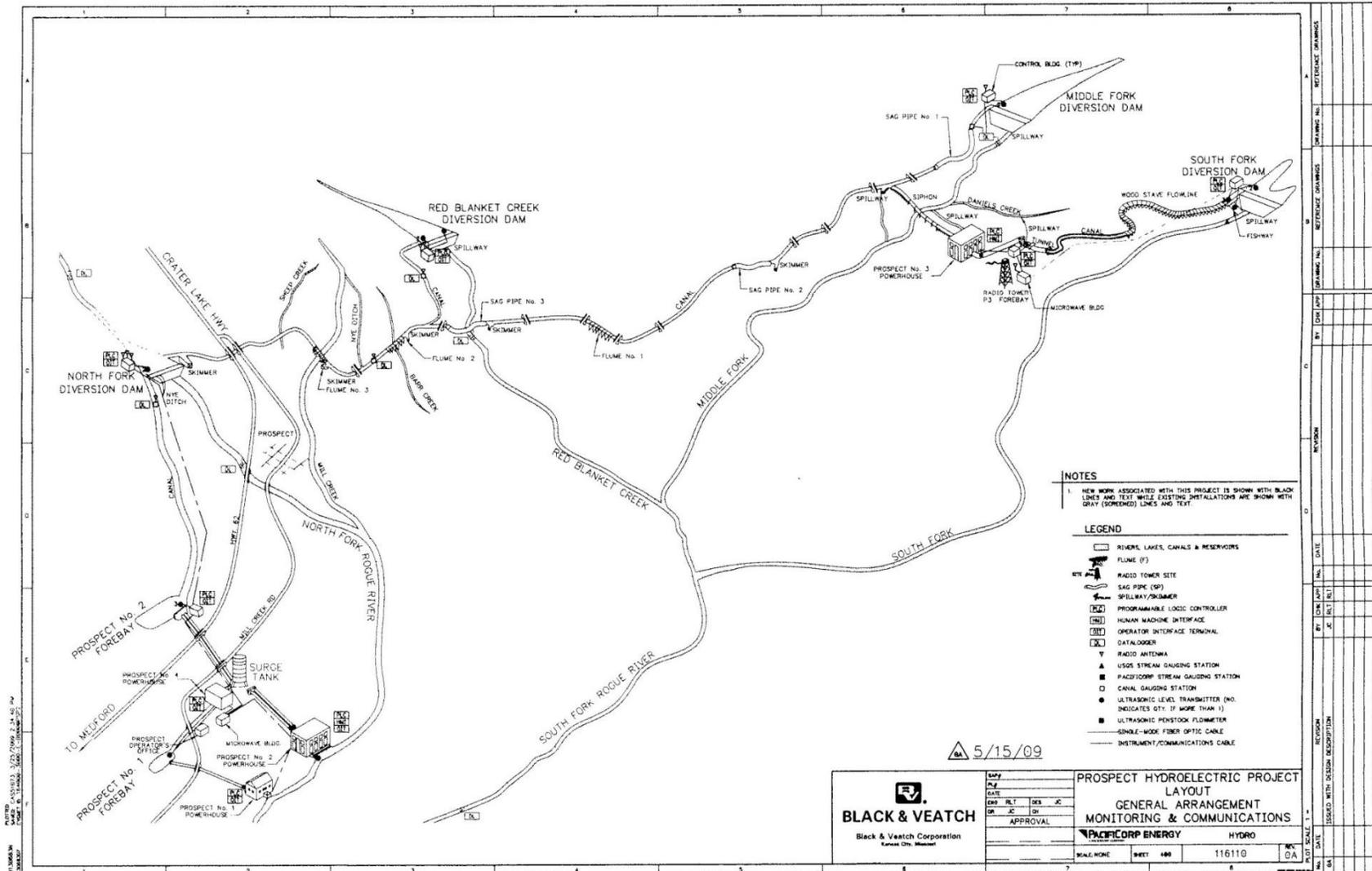
**IV. LIHI's certification criteria have not been revised since the previous certification was issued by LIHI.**

It is my understanding that LIHI's criteria, or the Board's interpretation of one or more criteria, that are applicable to the circumstances of the Prospect No. 3 Hydroelectric Project have not changed in meaningful ways since the date of the original certification.

**V. Conclusion**

In light of the above, I recommend recertification of the Prospect No. 3 Hydroelectric Project for a five-year period with no conditions.

# Attachment #1 Project Location Map and Photographs





**Prospect No. 3 diversion dam, canal and fish ladder.**



**Close-up of the fish ladder. South Fork Rogue River is visible on the left.**



**Section of woodstave water conveyance system.**

## Attachment #2 Agency Consultation

The following lists direct consultation initiated by the Reviewer and a summary of these communications. Numerous attempts were made to reach Mitchell Wilkinson, US Forest service (USFS) to discuss Watershed Protection and Rob Burns, US Fish and Wildlife Service to discuss fisheries and endangered species, but unfortunately connection was not achieved.

<b>LIHI CRITERION</b>	<b>PRIMARY CONTACT INFORMATION</b>
<b>Flows</b>	Dave Harris, Oregon Department of Fish and Wildlife (ODF&W)
<b>Water Quality</b>	Chris Stine, Oregon Department of Environmental Quality (ODEQ)
<b>Fish Passage &amp; Protection</b>	Dave Harris, ODF&W
<b>Watershed Protection</b>	None reached.
<b>Threatened &amp; Endangered Species</b>	Dave Harris, ODF&W
<b>Cultural Resources Protection</b>	Dennis Griffin, Oregon State Historic Preservation Office (SHPO)
<b>Recreation</b>	None required
<b>Facilities Recommended for Removal</b>	None required

## **RECORD OF CONTACTS**

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Date: 6/29/15

Contact Person: Chris Stine; ODEQ; Hydroelectric Specialist

Contact Information: (541) 686-7810; stine.chris@deq.state.or.us

Area of Expertise: Water quality

See attached email addressing C. Stine's position on compliance of the Prospect No. 3 Project with state water quality standards.

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Date: 7/21/15

Contact Person: Dr. Dennis Griffin; OR SHPO; State Archaeologist

Contact Information: (503) 986-0674

Area of Expertise: Cultural resources

Dr. Griffin reported that he has no specific issues with the recertification of this project. The project has requirements to prepare management plans should any site construction be undertaken. He confirmed that to date, to his knowledge, no such activities have been undertaken in at least the past five year period.

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Date: 7/23/15

Contact Person: Dave Harris; ODF&W; Hydropower Coordinator, SW Region

Contact Information: (541) 440-3353

Area of Expertise: Fisheries and protected species

See attached email from Dave Harris regarding response to my inquiry regarding this project.

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Patricia McIlvaine

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From: STINE Chris <Stine.Chris@deq.state.or.us>  
Sent: Monday, June 29, 2015 6:28 PM  
To: Albertelli, Steve  
Cc: STINE Chris  
Subject: RE: Follow-up on Data Request for Prospect #3 LIHI Recertification

Steve -

In 1989, the Federal Energy Regulatory Commission (FERC) relicensed PacifiCorp's Prospect No.3 hydroelectric project to a 30-year term. At that time ODEQ elected to not issue a Section 401 water quality certification and consequently did require water quality monitoring as a condition of the new license. In 2012, PacifiCorp conducted a water quality monitoring study in consultation with ODEQ in support of its application to the Low Impact Hydro Institute (LIHI) for certification pursuant to LIHI's low-impact criteria. In correspondence dated April 12, 2013, ODEQ confirmed the 2012 data demonstrate compliance with water quality criteria at all monitoring locations and supported PacifiCorp in its application for LIHI certification.

PacifiCorp is currently pursuing relicensing of the Project and, in 2014, completed the first of two years of water quality monitoring. Data from the Initial Study Report dated May 2015 are consistent with the 2012 LIHI study and again indicate that water quality criteria are currently met within the project area.

ODEQ continues to work with PacifiCorp to gather and interpret data during Project relicensing efforts. It cannot yet be determined what conditions will be placed on future operation of the Project by ODEQ or other agencies and how these conditions may or may not affect water quality. However, available data collected from 2012 and 2014 indicate no violations of state water quality criteria under current operating conditions.

Please feel free to contact me if you have any questions.

Chris

Christopher Stine, PE | Hydroelectric Specialist  
Oregon Department of Environmental Quality  
165 East Seventh Avenue, Suite 100  
Eugene, Oregon 97401 | (541) 686-7810

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From: Albertelli, Steve [mailto:Steve.Albertelli@pacificorp.com]  
Sent: Wednesday, June 24, 2015 11:48 AM  
To: STINE Chris  
Subject: FW: Follow-up on Data Request for Prospect #3 LIHI Recertification

Chris-

Can you provide a brief statement regarding compliance with state water quality standards at Prospect No. 3? An email message will be sufficient. The recent Initial Study Report may assist in your determination. The statement will be used in analysis of PacifiCorp's application for recertification with the Low Impact Hydropower Institute.

Thanks in advance.

*Steve Albertelli*  
Program Manager, PacifiCorp  
North Umpqua and Prospect Hydroelectric Projects  
925 South Grape Street, Medford, OR 97501  
Office: 541 776-6676  
Cell: 541 646-2778

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From: Patricia McIlvaine  
Sent: Thursday, June 04, 2015 3:24 PM  
To: 'mark.sturtevant@pacificorp.com'  
Cc: [mjsale@lowimpacthydro.org](mailto:mjsale@lowimpacthydro.org); [dhall@lowimpacthydro.org](mailto:dhall@lowimpacthydro.org)  
Subject: Data Request for Prospect #3 Recertification

Hi Mark

I understand that you are the contact for the Prospect No. 3 Project's LIHI recertification application. I have been assigned as the Independent Reviewer for the recertification review. I have been through the materials provided to LIHI but have the following questions that must be addressed for me to complete the recertification review. As noted in the letter sent to Todd Olson at PacifiCorp on June 16, 2014, (see highlighted copy attached) current documentation showing that your facility remains in compliance with the conditions imposed from your FERC license and water quality standards must be provided to support the statements made in your application. For example, please provide a list and submittal dates of any reports required by your license since your initial certification as a means of confirming these requirements have been met. The application we received does not include such supporting documentation.

Also, as noted in this same June 2014 letter, your recertification application must identify and describe any "material changes in circumstances" regarding your facility as it relates to each criterion. Examples of "material changes" important to LIHI would include:

1. updates in the status of compliance with approved Plans or implementation of other actions required by the license that have occurred since the project received its certification (related to item discussed above)
2. identification of compliance issues (non-implementation of a requirement, delayed implementation, incomplete implementation of obligations that are relevant to LIHI's Criteria, non-compliance with requirements such as minimum flows, etc.);
3. new, renewed and updates on issues that are relevant to LIHI's Criteria occurring since the previous certification was issued (e.g., newly-monitored exceedance of water quality criteria; modifications to an existing fishway at the facility; revised flow regime due to inadequacies found in previous regime, etc.; and/or
4. any amendments to the license that address issues of importance to LIHI's criteria that involve "material changes" since your certification. If there have been none, please state so. If there have been amendments, please provide e a copy.

If you have had any minimum flow or other deviations, to help me understand these events, please provide me documentation for these reported deviations that includes a summary description of the deviation event – when it occurred, how long did the deviation last before minimum flow was restored, what caused the deviation (all typically included in the notice to FERC) and FERC's decision on whether or not the deviation was considered a violation of your license exemption. Note that such deviations will not necessarily prevent recertification, especially where FERC has determined it was not a license violation...but it is important for me to know the facts.

Given that the project does not have a Water Quality Certification, a letter (or email) from Oregon Department of Environmental Quality stating their understanding of your continued compliance with state water quality standards would be very helpful.

Finally, a copy of the most recent FERC Environmental Inspection of the Project should be provided if there was one since the 2011 Inspection (I have a copy of that one). Such an inspection report is great documentation showing your Project's compliance with issues such as recreational facility maintenance, etc.

If you have any questions please call me at the direct number listed below.

Thanks for your time

Pat

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**Patricia McIlvaine | Project Manager**

99 Main Street | Topsham, ME 04086  
**Office** 207.725.8721 | **Direct** 207.798.3785 |

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## Patricia McIlvaine

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From: Dave Harris <dave.a.harris@state.or.us>  
Sent: Thursday, July 23, 2015 3:37 PM  
To: Patricia McIlvaine  
Cc: VANDYKE Daniel J; HOMOLKA Ken; Bridges, Paul  
Subject: RE: Seeking your input on Prospect #3 Project

Patricia: ODFW appreciates the informal extension to provide comments on the Prospect 3 LHI application. Because the project has not changed since our 2010 comments, ODFW has no additional comments to offer.

Thank you for the opportunity to comment.

David A. Harris  
Southwest Regional Hydropower Coordinator  
4192 North Umpqua Highway  
Roseburg, OR 97470  
Work: 541-440-3353 Ext 257  
Cell: 541-530-8236  
dave.a.harris@state.or.us

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From: Patricia McIlvaine [mailto:Pat.McIlvaine@wright-pierce.com]  
Sent: Monday, July 20, 2015 5:33 AM  
To: HARRIS Dave A  
Subject: RE: Seeking your input on Prospect #3 Project

Hi Dave

Unfortunately I need to complete my report by this Friday..so in for me to consider your comments I will need any input by this Friday noon (east coast time). I apologize for having to set this deadline...but the application has been available for public comment for quite a while now. My attempts to reach out to you is essentially an "informal extension" of that past deadline.

Please keep in mind that any comments should be limited to compliance with the current license which includes the "resource agency requirements" established at that time. I know the project is going through re-licensing but we cannot comment/pass judgment on suggested changes / issues associated with getting a new license.

Thanks

Pat

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From: Dave Harris [mailto:dave.a.harris@state.or.us]  
Sent: Friday, July 17, 2015 1:55 PM  
To: Patricia McIlvaine; [rob\\_burns@fws.gov](mailto:rob_burns@fws.gov)  
Subject: RE: Seeking your input on Prospect #3 Project

Patricia: I apologize for not getting back to you sooner, I was out on vacation for a couple and weeks and now another ODFW staff biologist who is involved in the LIHI comments is out until next Wednesday. ODFW has had internal discussion regarding the Prospect 3 LIHI application and will provide a response by the end of next week (I hope).

Thanks for your patience regarding this matter.

David A. Harris  
Southwest Regional Hydropower Coordinator  
4192 North Umpqua Highway  
Roseburg, OR 97470  
Work: 541-440-3353 Ext 257  
Cell: 541-530-8236  
[dave.a.harris@state.or.us](mailto:dave.a.harris@state.or.us)

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From: Patricia McIlvaine [<mailto:Pat.McIlvaine@wright-pierce.com>]  
Sent: Wednesday, July 01, 2015 12:37 PM  
To: HARRIS Dave A; [rob\\_burns@fws.gov](mailto:rob_burns@fws.gov)  
Subject: Seeking your input on Prospect #3 Project

Good afternoon

PacifiCorp has recently applied to the Low Impact Hydropower Institute for recertification of their Prospect #3 Project, and I have been assigned as the Independent Reviewer for LIHI. I understand you both are the individuals they coordinate with regarding fish and wildlife issues. I would like your input into the following questions. You may feel free to respond by email or call me at the number listed below. My usual approach to doing such reviews is to call you within about a week of sending this email to follow-up in case I have not heard from you.

My general questions are:

1. Do you believe that the current operation of the Project and other activities being undertaken at the site have met with your satisfaction regarding minimizing the potential for impacts to state and federal endangered and threatened species as possibly or know to occur in the Project Vicinity? I understand these species include northern spotted owl (*Strix occidentalis caurina*), gray wolf (*Canis lupus*), and Canada lynx (*Lynx canadensis*), and Oregon spotted frog (*Rana pretiosa*).
2. Are you satisfied with the upstream and downstream fish passage facilities currently provided for riverine species? To your knowledge, do they continue to provide effective passage?
3. Do you believe these fish passage activities and protected species measures have been in compliance with the terms of the project's FERC license?
4. Do you believe that the project should again be certified under LIHI's "low impact certification program"?
5. Do you have any other comments or concerns you wish to share with me regarding the activities of these owners and your working relationship with them?

If you still have questions or just wish to ask other questions please feel free to give me a call.  
Thanks for your time. I do hope to hear from you soon.

Pat McIlvaine

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**Patricia McIlvaine | Project Manager**

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