

America First Hydro LLC

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June 21, 2018

Via eFiling

Hon. Kimberly D. Bose, Secretary Federal Energy
Regulatory Commission 888 First Street NE
Washington, DC 20426.

RE: Lower Mousam Project
America First Hydro, LLC FERC Project No. 14856-000

REVISIONS TO PROPOSED STUDY PLAN (PSP) WITH COMMENTS

Dear Secretary Bose:

In accordance with the schedule established by the FERC Staff¹ for implementation of the ILP, the proposed applicant, America First Hydro LLC (AFH), respectfully submits Revisions to its Proposed Study Plan (PSP). The PSP was filed on February 21, 2018. *See* FERC Accession No. 20180221-5117.

Section 5.13(a) of the Commission's regulations require:

(a) Within 30 days following the deadline for filing comments on the potential applicant's proposed study plan, as provided for in §5.12, the potential applicant must file a revised study plan for Commission approval. The revised study plan shall include the comments on the proposed study plan and a description of the efforts made to resolve differences over study requests. If the potential applicant does not adopt a requested study, it must explain why the request was not adopted, with reference to the criteria set forth in §5.9(b).

The deadline for comments to the February 22 PSP was May 22, 2018. The following comments were timely filed:

- 5-22-18 Staff Comments 20180522-3024
- 5-22-18 Trout Unlimited 20180522-5089
- 5-18-18 MKRA&MR 20180518-5085
- 5-17-18 Maine DEP 20180518-5148

¹ *See* FERC Staff Letter providing Scoping Document 2 for the Lower Mousam Project, February 21, 2018, FERC Accession No. 20180221-3039.

- 5-18-18 Maine DIFW 20180518-5148
- 5-15-18 NOAA/NMF 20180515-5176
- 5-02-18 USF&WS 20180502-5028

America First Hydro held a conference call on March 23, 2018 to take comments on the PSP. A transcript of the call was filed with FERC on May 7, 2018. *See* FERC Accession No. 20180507-5121.

AFH also convened on June 18, 2018 a meeting with the resource agencies held at the three development sites. The meeting was attended by K. Howatt - MDEP, J. Pelling - MDIFW (Region A), J. Perry – MDIFW, and R. Mohlar – MDEP. Representatives from USF&WS and NOAA had to cancel their attendance on June 13, 2018.

On June 19, 2018 a draft memo by email was sent to the resource agencies summarizing the meeting highlights. The substance of the email/memo follows:

- A consensus was reached that there will be four (4) study areas for the water quality sampling. One below Kesslen Dam, approximately 1,000 feet away from the dam. Then there will be one study area, in the deepest area, of each of the three development's impoundment. The sampling protocol will be followed as recommended by the MDEP, *i.e.*, MDEP's water quality sampling protocol.
- Run of River requirements and the state of Maine's requirements for all dams on the Mousam River were discussed. Operating requirements for hydroelectric plants operating run-of-river were clarified. The desirability of plant automation for adherence to run-of-river operation were discussed.
- Fish studies will be conducted in late May, at night. Fish weights, catch/unit, and other pertinent information will be collected. Electro-fishing will be utilized up each shoreline. At Kesslen Dam backpack methods will be utilized to count given the low depth.
- As part of a broader discussion on possible means for implementing the construction of eel and fish passage facilities, a phased in approach for construction and operation of such facilities was discussed with the facilities constructed first at Kesslen Dam and then at each upstream dam based upon "triggering" events occurring, *e.g.*, presence of certain species in certain quantities, passage of the same at the downstream facilities, etc.

Responses/Revisions to Comments:

FERC Staff

Progress Reports – each proposed study is revised to include the provision of progress reports as required by section 5.11(b)(3). Status reports on relicensing activities will be filed with FERC commencing September 2018 and will continue every three-months thereafter. Draft Study reports will be filed with FERC with email notice provided to the resource agencies. Each draft report will request written comments with 45 days of the reports provision of agency review.

Downstream Passage and Fish Entrainment Study – the proposed study is revised to clarify that the study will evaluate the downstream passage and entrainment potential for diadromous species, including at a minimum, an assessment of adult and juvenile American shad, blueback herring, and alewife; adult American eel; and juvenile sea lamprey.

Eel Passage Siting and Design Study -- The goal and objective of the Eel Passage Siting and Design Study are revised by modifying the goal of the study to include an evaluation of upstream and downstream eel passage based on project design and operation, and the migration behavior of juvenile and adult American eel at all three project dams. The objectives of the study will include for all three project dams: (1) a determination of the locations in which juvenile eels congregate; (2) an evaluation of upstream eel passage design; and (3) an initial evaluation of downstream eel passage. The methodology will be revised to specify where nighttime observation surveys will be conducted in consultation with the resource agencies in the vicinity of the three project dams, and how America First Hydro, LLC will identify “strategic locations” for deploying temporary ramp traps.

Maine Department of Environmental Protection

Impoundment Aquatic Habitat Studies – These studies are not being required. Once AFH has completed an assessment of the current equipment’s capability to be automated, etc., a report on the likelihood of the need for drawdowns greater than one-half (50%) Secchi disk depth will be provided to the agencies.

Impoundment Trophic State Study – This study will be provided and follow MDEP’s protocols. As noted in the June 19 email/memo, the locations for the sampling will be conducted at one location for each impoundment at their deepest point.

Water Quality – DO and Temperature – This study will be revised as discussed at the June 18 meeting. The locations of sampling points transect points, etc., will be provided by July 30, 2018.

Bypass Reach Cross-Section Flow Study– As discussed at the June 18 meeting, the only bypass reach required to be studied is that of the Kesslen Dam. The locations of the transect points will be provided by July 30, 2018. MDEP’s protocol will be used.

Benthic Macroinvertebrate (BMI) Study – As discussed at the June 18 meeting, BMI sampling sites will take place at each impoundment. Exact details will be clarified with the department prior to the commencement of the study, per discussion at the June 18 meeting.

Maine Department of Inland Fisheries and Wildlife (MDIFW)

Fish Assemblage Study—MDIFW requested more information regarding Timing, Seasonality, and Location of sampling for the Fish Assemblage Study. These concerns were discussed at the June 18 meeting. AFH proposes to conduct nighttime surveys in late May along each shoreline. Backpack electro-sampling will be utilized below the Kesslen dam.

National Marine Fisheries Service

Fish Assemblage Study -- The concern stated with the spatial extent of the sampling was discussed at the June 18 meeting and is revised as stated above under the response to MDEP. NOAA specifically requested more clarity around the Fish Assemblage Study at the Kesslen dam. AFH, working with those that attended the June 18 meeting, defined and clarified how fish assemblage will be studied at the Kesslen dam.

Eel Passage and Design -- The need for nighttime observations at the base of the three dams was discussed at the

June 18 meeting and will be revised as stated above under the response to MDEP.

Downstream Passage and Fish Entrainment -- The proposal is to study adult American eel and juvenile and adult Atlantic salmon. This study will include an assessment for the potential for turbine entrainment, potential impingement, and turbine entrainment mortality estimates at all three powerhouses and whole project survival estimates be developed for American shad (adult and juvenile), blueback herring (adult and juvenile), alewife (adult and juvenile) and juvenile sea lamprey.

U.S. Fish and Wildlife Service

Desktop Downstream Fish Passage and Effectiveness and Survival (Downstream Fish Passage Study) – Addressed under the response to NOAA.

Fish Assemblage – Addressed in response to MDEP/MDIFW comments and at the June 18 meeting.

Eel Passage Facility Siting and Design -- Addressed in response to MDEP comments and at the June 18 meeting.

MKRA&MR

Relevant comments raised by MKRA&MR are covered by the comments from the above resource agencies and AFH's responses thereto.

Timing and Proposed Second Site Visit and Agency Meeting.

It is anticipated that the studies, or segments thereof, will be conducted in 2019 during the months of May and June (and possibly July), *e.g.*, fish and eel assemblage for upstream passage; and, August, September and October for water quality, habitat trophic, etc.

In order to accommodate the request of some agencies for another site visit, AFH anticipates scheduling a second site visit to accommodate their requests in late September 2018.

Based upon the results of that visit, the revised study plans will be finalized and filed with the Commission.

Paul V. Nolan

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Maine Department of Environmental Protection (MeDEP)
Maine Department of Inland Fisheries & Wildlife (MeDIFW)
Maine Department of Marine Resources (MeDMR)
National Oceanic and Atmospheric Administration (NOAA)
U.S. Department of Interior / Fish and Wildlife Service (USFWS)
Keep the Kennebunk Dams Save the Mousam, LLC (KKDSM)
Trout Unlimited / Sebago Chapter (TU/SC)
Trout Unlimited (TU)

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