



United States Department of the Interior  
U.S. FISH AND WILDLIFE SERVICE



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August 19, 2019

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

**SUBMITTED ELECTRONICALLY**

**RE: Comments on Study Status Report No. 1 for the Lower Mousam Project (P-14856)**

Dear Secretary Bose:

American First Hydro (AFH) filed its Study Status Report No. 1 (Status Report) pursuant to CFR 5.15(c)(1) on July 19, 2019. On July 30, 2019, AFH held a public meeting to discuss the study results, and on August 15, 2019, AFH submitted an Updated Study Meeting Report (Meeting Report), which summarized the discussion from this public meeting and reiterated the Federal Energy Regulatory Commission (FERC) schedule. This letter provides our comments on these documents.

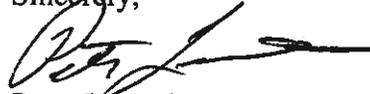
We are concerned that AFH has not made significant progress towards completion of the requirements, and information contained in the Status Report and Meeting Report suggests that it is unlikely that AFH will complete the required studies in a timely manner as stated in the study plan determination. Based on the FERC schedule, results from the FERC approved studies should have been provided in the Status Report. However, no results were included, and although the Status Report provided some information about why studies have not been completed, it does not provide comprehensive explanations for the delays. For example, high water flows in May contributed to unsuccessful field work, but office studies (the Downstream Passage and Fish Entrainment Study) could have been conducted at any time. Federal regulations at 18 CFR 5.15(a) require potential applicants to gather information and conduct studies as described in the approved study plan and schedule. Thus, AFH must complete the studies required to inform the licensing process, if they intend to pursue a license.

The Meeting Report states that AFH will request a waiver of 18 CFR 5.16(a) because of delays; however, a waiver may only be granted based on "a consensus of the participants

in favor of such a waiver” (18 CFR 5.16(f)). To date, no official request for a waiver has been made. In addition, the Meeting Report indicates that AFH is intending to file a Preliminary Licensing Proposal on November 20, 2019 and expects agency responses by December 5, 2019, a total of 15 days. The FERC guidance (18 CFR 5.16(e)) allows agencies 90 days to prepare such comments.

We request that the FERC take a more active role in monitoring this proceeding and ensuring that process and information collection and distribution are adhered to. We also concur with the concerns that the National Marine Fisheries Service raised in its August 14, 2019 letter to you. If you have any questions regarding this request, please contact me by telephone at 207/902-1556 or via email at [peter\\_lamothe@fws.gov](mailto:peter_lamothe@fws.gov) or contact our office at the above address.

Sincerely,



Peter Lamothe  
Complex Manager  
Ecological Services Maine Field Office  
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