

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D. C. 20426  
August 26, 2019

OFFICE OF ENERGY PROJECTS

Project No. 14856-000 – Maine  
Lower Mousam Project  
America First Hydro, LLC

VIA FERC Service

Mr. Ian Clark  
America First Hydro, LLC  
826 Scarsdale Ave  
Scarsdale, NY 10583

**Subject: Revised Process Plan and Schedule for the Lower Mousam Project**

Dear Mr. Clark:

On July 20, 2018, Commission staff issued a study plan determination for America First Hydro, LLC's (AFH) Lower Mousam Project No. 14856.<sup>1</sup> The study plan determination required AFH to conduct seven studies,<sup>2</sup> and file an initial study report on the studies by July 21, 2019. AFH filed its initial study report on July 19, 2019, and held a study report meeting on July 30, 2019.

AFH's study report indicates that AFH has not completed any of the seven studies required by the study plan determination. The study report includes a description of ongoing efforts to conduct the studies, but does not include any data or information collected during the 2018 – 2019 study season, as required by section 5.15(c)(1) of the Commission's regulations.<sup>3</sup> AFH indicates that several issues have slowed its progress

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<sup>1</sup> The Lower Mousam Project is currently licensed to Kennebunk Light and Power District, and designated as Project No. 5362. *See Kennebunk Light and Power District*, 19 FERC ¶ 62,061 (1982).

<sup>2</sup> The required studies include: a Water Quality Study; a Benthic Macroinvertebrate Study Fish Assemblage Study; an Eel Passage Siting and Design Study; a Downstream Passage and Fish Entrainment Study; a Recreation Needs Study; and a Historic Assessment Study.

<sup>3</sup> 18 C.F.R. § 5.15(c) (2019).

on the studies, including high water levels, heavy rain, and repairs being made at the dam. In its summary of the study meeting, filed on August 15, 2019, AFH also references scheduling issues with its consultant and “excessive spilling at the dams” as factors that have prevented studies from being completed. However, AFH does not provide any detailed information to corroborate its claims, including water level and precipitation records for the study period required by the study plan, and a schedule and detailed explanation of the maintenance activities that prevented it from conducting certain of the studies. In addition, AFH fails to explain why it has not completed the desktop analysis for the Downstream Passage and Fish Entrainment Study, which by its very “desktop” nature, would not appear to be substantially affected by weather conditions or onsite maintenance activities.

Because no study data or results were provided in the initial study report, Commission staff and the other participants have not had the opportunity provided by section 5.15(c) of the Commission’s regulations to review the first-year study results gathered to date and then determine whether or not modifications to the study plan are needed to provide sufficient information for the license application. In its study report, AFH states that, although it was unable to complete the studies at the time the initial study report was filed, the studies are “progressing well and more data will be shared as reports are finished up.” In order to provide AFH additional time to complete the required studies during the 2018 – 2019 study season and provide Commission staff and the participants the aforementioned opportunities afforded by section 5.15(c) of the Commission’s regulations, we have revised the process plan and schedule (attached) to require AFH to submit a revised initial study report by no later than November 15, 2019. The revised process plan and schedule extends the dates for the study plan modification process that follows the filing of an initial study report, consistent with the ILP pre-filing process. AFH must include with its revised initial study report, a description of its progress in implementing the study plan, a detailed account of all data collected during the 2018 – 2019 study season, and detailed explanations of any variances from the study plan.

In the event that the revised initial report indicates a lack of significant progress in conducting the studies, or does not include the aforementioned supporting information on such progress, including a detailed account of the data collected to date, the ILP may be terminated.

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If you have any questions, please contact Michael Watts at (202) 502-6123 or michael.watts@ferc.gov.

Sincerely,

Vince Yearick  
Director  
Division of Hydropower Licensing

Attachment: Revised Process Plan and Schedule

## REVISED PROCESS PLAN AND SCHEDULE

The revised process plan and schedule is presented below. Shaded milestones are unnecessary if there are no study disputes. If a due date falls on a weekend or holiday, the due date is the following business day. Early filings or issuances will not result in changes to these deadlines. As appropriate, the process plan and schedule may be further revised in the future.

<b>Responsible Party</b>	<b>Pre-Filing Milestone</b>	<b>Date</b>	<b>FERC Regulation</b>
America First Hydro	<i>Revised</i> Initial Study Report	<i>11/15/19</i>	5.15(c)(1)
All stakeholders	<i>Revised</i> Initial Study Report Meeting	<i>11/30/19</i>	5.15(c)(2)
America First Hydro	<i>Revised</i> Initial Study Report Meeting Summary	<i>12/15/19</i>	5.15(c)(3)
All stakeholders	Any Disputes/Requests to Amend Study Plan Due	<i>1/14/20</i>	5.15(c)(4)
All stakeholders	Responses to Disputes/Amendment Requests Due	<i>2/13/20</i>	5.15(c)(5)
FERC	Director's Determination on Disputes/Amendments	<i>3/14/20</i>	5.15(c)(6)
America First Hydro	Second Study Season	<i>Spring/ Summer 2020</i>	5.15(a)
America First Hydro	Updated Study Report due	<i>11/15/20</i>	5.15(f)
All stakeholders	Updated Study Report Meeting	<i>11/30/20</i>	5.15(f)
America First Hydro	Updated Study Report Meeting Summary	<i>12/15/20</i>	5.15(f)
All stakeholders	Any Disputes/Requests to Amend Study Plan Due	<i>1/14/21</i>	5.15(f)
All stakeholders	Responses to Disputes/Amendment Requests Due	<i>2/13/21</i>	5.15(f)
FERC	Director's Determination on Disputes/Amendments	<i>3/15/21</i>	5.15(f)

<b>Responsible Party</b>	<b>Pre-Filing Milestone</b>	<b>Date</b>	<b>FERC Regulation</b>
America First Hydro	File Preliminary Licensing Proposal	11/2/19	5.16(a)
All stakeholders	Preliminary Licensing Proposal Comments Due	1/31/20	5.16(e)
America First Hydro	File Final License Application	3/31/20 <sup>4</sup>	5.17
America First Hydro	Issue Public Notice of License Application Filing	4/14/20	5.17(d)(2)

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<sup>4</sup> Pursuant to 18 C.F.R § 16.20, any application for a license for this project must be filed with the Commission at least 24 months prior to the expiration of the existing license. Because the current license expires on March 31, 2022, all applications for license for this project must be filed by March 31, 2020.

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