



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

GERALD D. REID
COMMISSIONER

August 29, 2019

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. P-14856)

Dear Secretary Bose:

The Maine Department of Environmental Protection (Department) has reviewed an Initial Study Report and Updated Study Meeting Report submitted by America First Hydro, LLC (AFH) for the Lower Mousam Project (FERC No. P-14856) (Project) and attended a study report meeting on July 30, 2019. The Department submits the following comments:

1. The Pre-Application Document for the Project did not propose to undertake water quality studies to demonstrate that proposed project operations meet Maine’s water quality standards. Therefore, the Department requested certain water quality studies, including Impoundment Trophic State Study; Temperature and Dissolved Oxygen Study; Benthic Macroinvertebrate Study; and Aquatic Habitat Cross Section Flow Study, be conducted in accordance with established sampling protocols at the three project dams. A study of the impoundment habitat was determined to be unnecessary because all three Project dams are operated in run-of-river mode, meaning that inflow is equal to outflow and there is no significant impoundment drawdown during normal operations. Under such an operational regime no impact to littoral habitat in the impoundments is expected. That said, the remaining studies requested by the Department are critically important to supplying the data necessary for the Department to assess whether the Project operations, as proposed, can meet Maine’s water quality standards and to make a determination to certify the Project.
2. At the time of the study report meeting, no water quality studies requested by the Department had been started, and so water quality studies are not being conducted in accordance with the regular sampling protocols supplied to the applicant with the study requests. In order to salvage what remained of the field season, the Department modified its sampling protocols through a series of emails with the applicant and its consultants to provide a modified plan for collection of the necessary water quality data under a

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compressed schedule which we all hope will be sufficient to demonstrate whether Project operations currently meet Maine's water quality standards.

3. The third bullet in AFH's Summary of the 7/30/2019 Meeting indicates that the Department "confirmed that no cross-section flow study was required as AFH proposes to operate the projects as run-of-river and that the existing 5 cfs flow regime is no longer needed." To be clear, notwithstanding the Department's study request, AFH did not include this study in its study plan. Further, FERC's study plan determination excluded this study from the final study plan. It's not accurate to now say that the Department no longer requires it when we have continued to advocate for the Aquatic Habitat Flow Study in the free-flowing reaches of the Project waters.
4. In its Updated Study Meeting Report, the applicant indicates that "all studies are either done or underway...". Some studies requested by state or federal agencies are time sensitive in that study results can only be meaningful if they are conducted during certain time windows; for example, studies related to fish migration are meaningless if they occur outside of the migration season. The Trophic State Study is intended to collect data for at least five consecutive months of the open water season to evaluate the condition of the impoundment and the effects of the hydropower operations on water quality over the growing season. Compressing the data collection to ten weeks over two and a half months affects the overall understanding of the Project effects.

All studies must be completed and all data available for the Department to make a preliminary determination regarding whether the project operations, as proposed, can meet water quality standards. The Draft License Application is due to be filed in early November, and it's unclear whether study results for the Project will be available for the Department to make its preliminary determinations.

5. Inclusion of a second sampling location for the Macroinvertebrate study, located in the free-flowing reach downstream of the Twine Mill dam in addition to the free-flowing reach downstream of the Kesslan dam, is an important data point in determining the effect of operations of the Dane Perkins and Twine Mill dams.
6. The Department continues to support study requests prepared by other natural resource agencies and NGOs, and believes the studies are important to understanding the impacts of project operations on the natural resources of the State.

Thank you for the opportunity to comment on the Initial Study Report and Updated Study Report. Please direct any questions to me at kathy.howatt@maine.gov or (207)446-2642.

Sincerely,

Kathy Davis Howatt
Hydropower Coordinator
Bureau of Land Resources