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February 12, 2021

***VIA ELECTRONIC FILING***

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E. Room 1-A  
Washington, D.C. 20426

**Re:** Great River Hydro, LLC; FERC Docket Nos. 1892, 1855 and 1904  
Comments on December 7, 2020-Submission of Amended Final License Application

Dear Secretary Bose,

As you may know, the Connecticut River Joint Commissions (CRJC) has a statutory duty, as a public entity, to comment on licenses that affect the River, and advise public agencies in their decisions regarding the River.

We and our local river subcommittees, designated by the State of New Hampshire to advise on this State Protected River, have been involved in this relicensing effort since its onset, in 2012, and are sensitive to the fact that one hundred and twenty miles of our lower Connecticut River between New Hampshire and Vermont will be affected by the proposed license. Of this 120-mile reach, 100 miles have been converted to impoundments, essentially lakes, to facilitate power generation by the three hydroelectric dams requesting a new license.

CRJC herein identifies deficiencies and offers recommendations on the so-called “amended final license application” (FLA) for the above-mentioned projects. We request that FERC require Great River Hydro, LLC (GRH) to respond to these recommendations and provide additional information and documents as needed. Our recommendations are as follows:

- 1. Public Participation in Developing this FLA.** We were very pleased to see the proposed modifications to project operations to minimize water level fluctuations. This has been a very high priority for CRJC. However, we request that CRJC, the only public body specifically representing the interests of New Hampshire and Vermont regarding the Connecticut River, be included in any

future negotiations with stakeholders regarding mitigation and enhancement. The process should be transparent and collaborative, consistent with ILP objectives.

- 2. Documentation of Environmental Impacts.** The proposed operational changes will likely benefit the river's ecosystem as these changes will "reduce the factors (e.g., WSE [water surface elevations] stability, WSE fluctuations) that influence erosion and result in an overall reduction in erosive forces along project shorelines further minimizing Project related effects on rates of erosion." (FLA, p.787). However, the Project will still have adverse effects in both impoundment and riverine reaches (e.g., see FLA, p. 955, 1144).

*Comments:* Will these changes affect the temperature, dissolved oxygen, pH, nutrients, bacteria and invasive aquatic plants of impoundment and riverine reaches? On this, GRH provides conflicting responses. GRH is proposing operational changes, but also states, "[b]ecause Great River Hydro is not proposing any changes to Project operations, continued Project operations will result in pH levels that reflect existing conditions, generally comply with state water quality standards, and will likely continue to support and maintain designated uses" (FLA, p.940). And, [b]ecause Great River Hydro is not proposing any change in Project operations, existing DO levels throughout the entire Project area are not expected to change" (FLA, p. 955). We believe the FLA should not be filed until impacts by the preferred alternative can be determined and clearly stated.

- 3. Address Potential Climate Impacts.** The FLA should incorporate scenarios and potential responses to more intense storm events and prolonged periods of drought that are based on recent historical data and predicted by the preponderance of climate models. These might include, for example, specific provisions for reopening the permit if there are significant persistent changes in river flows, e.g., (greater flows due to more frequent flood events, or lower flows due to drought).
- 4. Address Establishment of Mitigation Enhancement Fund.** As "use" of the River for power generation will continue along with adverse impacts, we respectfully request that a Mitigation Enhancement Fund be established that, at a minimum, compensates for foreseeable (e.g., bank erosion) and unforeseen future impacts (e.g., methylmercury accumulation). GRH offers operational changes as "the major enhancement and mitigation element" (FLA, p. 2), but this appears to us to be avoidance and minimization, not enhancement nor compensatory mitigation. To mitigate unavoidable adverse effects, GRH needs to offer significant compensatory mitigation.

*Comments:* Previously, the CRJC was involved with relicensing the Fifteen Mile Falls (FMF) hydroelectric facilities on the northern reach of the Connecticut River, including the Moore, Comerford, and McIndoes Falls dams. That effort began in 1996 and Governor Shaheen was an important participant in setting the terms of the license that was issued in 2002. A very important outcome of that coordinated effort was the establishment of a \$15 million Connecticut River Mitigation and Enhancement Fund (with those funds provided by the licensee), which supports restoration and enhancement projects. This fund has been a tremendous asset for the northern reach of the Connecticut River and adjacent New Hampshire communities and should serve as a model for this Project.

5. **Support Riverside Recreation.** As an example of project mitigation, GRH should not only maintain and enhance existing recreational access to the river, but they should fund additional initiatives to increase public engagement with the river (e.g., walking trails). This is of significant interest to many communities along the river. Many have already, or are in the process of, identifying specific projects. (Please review the priorities identified in the three applicable CRJC Subcommittee Recreation Plans.)
6. **Include a Toxins Management Plan.** With respect to toxins, FERC needs to compel GRH to provide a Toxin Management Plan, acceptable to stakeholders, which provides for the funding of studies, plans, and mitigation measures for mercury and other toxin reduction efforts designed to address bioaccumulation in the project area.

*Comment:* CRJC identifies and recommends in its Connecticut River Corridor Management Plan, Volume I, River Wide Overview. (p. 12)

([http://www.crjc.org/wp-content/uploads/2017/12/VolumeI\\_RiverwideOverview.pdf](http://www.crjc.org/wp-content/uploads/2017/12/VolumeI_RiverwideOverview.pdf))

the need to “fund the monitoring for toxic substances in the water, fish, and sediments, and inform the public about the results.” Unfortunately, this Management Plan and the CRJC 2009 Connecticut River Water Resources Management Plan were not included in the list of “comprehensive plans” evaluated for consistency review in Exhibit E, Section 5.2 of the FLA. Nevertheless, based on the science, mercury and other toxins in fish tissues and sediments should be tested to identify mercury levels in order to inform possible mitigation measures. Recent research indicates reservoir water level fluctuations enhance methylmercury production, a process that can result in elevation of methylmercury concentrations in biota, even in older reservoirs (e.g., see (<https://www.researchgate.net/publication/279634886> Influence of reservoir water level))

7. **Verify Accuracy of Data.** CRJC has concerns that the FLA was not carefully prepared as there are errors in the underlying data. For example, spot-checking Exhibit G. Sheet 12 of 18 (FLA, p. 33) reveals flowage rights on two properties where, in fact, flowage rights have never been conveyed to Great River Hydro or any of its predecessors-in-titles. This indicates a need for verifying all of the data that GRH uses to draw its conclusions.

*Comments:* The title chain of each property in question (Charlestown Tax Map/Lot 210-009 and 210-011) was examined back to its original owner. Note: The properties in question belong to a member of the CRJC FERC Relicensing Work Group. We recommend that at a minimum, the Surveyor’s Statement that “The Project Boundary and property interests depicted on this drawing should not be used for purposes of developing property boundary descriptions” be amended to add, after “description”, “or identifying property interests with respect to flowage rights”.

8. **Include Revenue-Sharing for Adjacent Communities.** We ask that GRH participate in revenue-sharing with riverfront communities. The FLA does not address many of the costs borne by local communities and landowners in unwilling service to a private enterprise whose profits derive from its use of our public resource. Investors in GRH benefit from recent sweeping changes to the tax code which increases their profits, while citizens of New Hampshire riverfront communities struggle to pay some of the highest electrical rates in the country, which Eversource recently stated

will increase even further. These high electrical rates are a major impediment to local economic development.

*Comments:* The costs not addressed include loss of agricultural land due to shoreland erosion, flooding of developed areas, costs associated with maintaining and monitoring recreational use of the impoundments, and most importantly, threats to infrastructure (e.g., NH Route 12A between Charlestown and Walpole, and River Road in Lyme, New Hampshire, which have cost taxpayers tens of millions of dollars) caused by shoreland erosion. The reluctance of TransCanada, GRH's predecessor-in-title, to compensate municipalities for assessed values of dam properties or expenses related to their operations was highlighted by TransCanada's challenges of local property tax assessments, which required expenditures by the municipalities to defend. GRH will monopolize use of the river, a public trust resource, over the next 40-50 years (the exact term of the license is unclear) to generate electricity. We are concerned that riverfront communities do not benefit enough from the generation of that electricity. Under the public trust doctrine, the State holds title to submerged land under navigable waters in trust for the benefit of the public. The public should benefit by sharing in the profits generated for use of our public trust resource by GRH, a for-profit private investment company. The lease of the state-owned Sunapee Ski Area to a private enterprise is a precedent for a revenue-sharing agreement between the State and a private company.

9. **Establish a Decommissioning Fund.** CRJC believes it is imperative that GRH establish a decommissioning fund to ensure the facilities can be dismantled if they become obsolete. Neither New Hampshire, Vermont, nor riverfront towns should be liable for the cost of river restoration efforts should the dams outlive their usefulness. GRH acknowledges that "[t]here would be significant costs involved with decommissioning the projects and/or removing project facilities" (FLA, p. 691).
  
10. **Complete Management, Mitigation and Enhancement Plans before Application for Water Quality Certification is Considered.** FERC should clarify that the FLA is not complete as of December 7, 2020 and the proposed operations should not necessarily be used in water quality certification applications nor trigger the beginning of the one-year period for New Hampshire Department of Environmental Services to review and issue water quality certification under Section 401 of the Clean Water Act. Various management, mitigation, and enhancement plans to benefit environmental and cultural resources need to be completed first. And these need to be incorporated as conditions upon federal permits or licensees as a prerequisite to granting the permit or license.

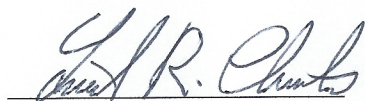
*Comments:* Explicit methods need to be developed for protecting, at a minimum, water quality (e.g., mercury), listed species (e.g., dwarf wedge mussel, rare plants), historic properties and archaeological sites, all of which will be affected by project operations. GRH does not appear to be dedicated to protecting these resources, but instead, relies on protective measures currently available under federal statutory authorities (e.g., Endangered Species Act, Clean Water Act, and National Historic Preservation Act). However, these authorities have been weakened by recent

federal actions, so it is incumbent upon the project proponent to explain specifically how these resources will be protected from the applicant's proposed use and management of the River.

In summary, the CRJC believes the FLA has several serious deficiencies that should be addressed by GRH and that the FLA is not yet complete. Proposed operational changes to be approved by FERC will affect communities along the Connecticut River for many decades. This is not a moment to cut corners or rush final approval. Rather, it is a time to document the current situation and identify changes in climate and technology and any other elements that may warrant modifications during the lifetime of this permit and allow for modifications if needed.

The CRJC appreciates your consideration of these comments and if you have any questions or need additional information, we encourage you to contact ([LChute@sullivancountynh.gov](mailto:LChute@sullivancountynh.gov))

Sincerely,



Lionel Chute, President  
Connecticut River Joint Commissions

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