

TOWN OF ERVING

SELECT BOARD / WATER COMISSIONERS To be held at the Senior & Community Center,

1 CARE DRIVE, ERVING, MASSACHUSETTS 01344

Meeting Agenda Wednesday, February 02, 2022

Jacob A. Smith, Chair William A. Bembury Scott Bastarache Select Board

Bryan Smith Town Administrator

This meeting is open to the public.

Scheduled Business

TimeAgenda Item6:30 PMCall to Order

Old Business		
Agenda Item		Section
Discussion Regarding Town Response to COVID-19		1
Discussion Regarding Traffic Control in Erving Center Impacted by Church St. Bridge		2
Review of Arch Street Force Sewer Main Change Order Requests		3
New Business		
Agenda Item		Section
Meeting Minutes: January 03, 2022, January 10, 2022 & January 24, 2022		4
Discussion Regarding Annual Report Dedication		5
Discussion and Review of Draft Agreement in Principle Regarding Recreation for First		6
Other Business		
Signing of the Treasury Warrant		
Anticipated Next Meeting Dates		

Anticipated Next Meeting Dates

Monday, February 07, 2022- 6:30PM

Monday, February 28, 2022- 6:30PM

Note: These agenda items and estimated times are those reasonably anticipated by the Chair. Not all items listed may in fact be discussed and other items not listed may be brought up for discussion. Estimated agenda times may need to be changed on the night of the meeting for the sake of expediency. Section numbers correspond to agenda packets and are not an indication of the order of the agenda

TURNERS FALLS HYDROELECTRIC PROJECT FERC PROJECT NO. 1889

NORTHFIELD MOUNTAIN PUMPED STORAGE PROJECT FERC PROJECT NO. 2485

AGREEMENT IN PRINCIPLE TO DEVELOP A RELICENSING SETTLEMENT AGREEMENT

February X, 2022

WHEREAS, FirstLight MA Hydro LLC and Northfield Mountain LLC (collectively, FirstLight) are the Federal Energy Regulatory Commission (FERC) licensees for the Turners Falls Hydroelectric Project, FERC Project No. 1889 (Turners Falls Project) and Northfield Mountain Pumped Storage Project, FERC Project No. 2485 (Northfield Mountain Project), respectively. Both the license for the Turners Falls Project and the license for the Northfield Mountain Project expired April 30, 2018. The Projects have been operating on annual licenses pursuant to Section 15 of the Federal Power Act (FPA) since that time.

WHEREAS, in accordance with the requirements of the FPA and FERC's regulations, FirstLight filed a Final Application for New License (FLA) for the Turners Falls and Northfield Mountain Projects with FERC on April 29, 2016. Because certain environmental studies had not yet been completed as of the statutory deadline for filing of the FLA, FirstLight filed a separate Amended Final License Application for each Project on December 4, 2020 (AFLA), including FirstLight's proposed protection, mitigation and enhancement (PM&E) measures to be included in the new licenses and the scientific and evidentiary basis for those measures.

WHEREAS, since filing of the AFLAs, FirstLight has been engaged with federal and state resource agencies, local communities, environmental organizations, Native American Tribes, and other stakeholders to consider agency and stakeholder proposals for additional PM&E measures on a broad range of issues pertaining to fish passage, streamflows, recreation, and cultural resources, with the goal of developing a comprehensive settlement agreement that resolves all outstanding issues for the relicensing of the Projects and associated regulatory approvals, including water quality certification under section 401 of the Clean Water Act and compliance with section 7 of the Endangered Species Act.

WHEREAS, FirstLight has been engaged specifically with the Parties to this Agreement in Principle (AIP), including Appalachian Mountain Club, American Whitewater, Access Fund, Connecticut River Conservancy, Crab Apple Whitewater Inc, Franklin Regional Council of Government, Massachusetts Department of Conservation and Recreation, National Park Service, New England FLOW, New England Mountain Bike Association, Town of Erving, Town of Gill, Town of Montague, Town of Northfield, Western Massachusetts Climbers' Coalition, and Zoar Outdoors, on recreation improvements at the Projects. The Parties have now achieved conceptual agreement on a proposal for recreational improvements designed to function as part of a framework for the development of a Final Settlement Agreement resolving all issues relating to the relicensing of the Projects.

NOW, THEREFORE, the Parties agree in principle as follows:

PART I: OVERVIEW AND INTENT

- A. The Parties agree to negotiate a Final Settlement Agreement collaboratively and in good faith as soon as possible. The intent of the Parties is to execute a Final Settlement Agreement no later than June 30, 2022, that would resolve all issues related to the Project relicensings, including outstanding issues not covered by this AIP.
- B. Each Party to this AIP agrees that it will not use negotiation of the Final Settlement Agreement as an opportunity to renegotiate the measures on which the Parties have conceptually agreed as set forth in Part II of this AIP.
- C. As soon as possible following execution of a Final Settlement Agreement, FirstLight will submit the Final Settlement Agreement to FERC as an offer of settlement pursuant to 18 C.F.R. § 385.602, accompanied by an Explanatory Statement.
- D. The Final Settlement Agreement will include PM&E measures in the form of proposed license articles and/or proposed management plans that the Parties will jointly request FERC to include in the new Project licenses.
- E. The Final Agreement may also include measures that will not be included in the new Project licenses but they will be independently enforceable.
- F. The Parties anticipate that the Final Settlement Agreement will contain provisions to encourage federal and state agencies with independent regulatory authority to impose conditions on the FERC Project licenses, to the extent they exercise such authority, to do so in a manner that is consistent with the Final Settlement Agreement. The Parties further expect that the Final Settlement Agreement will include language that commits the Parties not to challenge license conditions that are consistent with the Final Settlement Agreement, or advocate for license conditions that are inconsistent with the Final Settlement Agreement.
- G. Notwithstanding anything in this AIP or Final Settlement Agreement, the Parties acknowledge and agree that certain discretionary permits, licenses and approvals may be required to use the subject properties and/or to perform the PM&E measures described in this AIP, and that nothing herein shall be deemed to waive any Party's obligations to apply for and comply with all such permits, approvals and conditions, and no Party hereby guarantees that any such permits, licenses or approvals will be granted. The Parties further acknowledge and agree that any use of and/or work done with respect to the properties and/or the PM&E measures described in this AIP or Final Settlement Agreement will be done in accordance with all applicable federal, state and local laws, and nothing in this AIP or in the Final Settlement Agreement will be construed as a waiver of any Party's right to enforce the laws within its jurisdiction, said enforcement rights being expressly retained.
- H. All Parties enter into this AIP without any admission of law or fact. The Parties acknowledge that the Final Settlement Agreement must include other material terms that have not yet been agreed upon (for example erosion) and is subject to agreement on language embracing all of the terms agreed to in principle as set forth in Part II herein.

- I. The Parties recognize that the Final Settlement Agreement and any other related agreements negotiated pursuant to this AIP are subject to formal and final review and approval of the Parties' management, executives, boards of directors, and other leadership, as necessary and appropriate to comply with corporate, municipal and agency requirements.
- J. All Parties recognize and acknowledge that this AIP is not legally binding and does not give rise to any enforceable rights in contract.
- K. Unless and until a Final Settlement Agreement is executed by the Parties, any Party may take any action before FERC or any other agency as that Party unilaterally determines necessary to protect its interests.
- L. In the event that this AIP does not culminate in a Final Settlement Agreement, it shall be null and void. No Party shall use this AIP as evidence of any other Party's position on any issue addressed in this AIP.

PART II: PROTECTION, MITIGATION AND ENHANCEMENT MEASURES- RECREATION

1 RECREATION

Since the inception of the Northfield Mountain Project, FirstLight and the predecessor owners of the Northfield Mountain and Turners Falls Projects have been major providers of recreation facilities and programs to the local communities and region, at large. FirstLight agrees to maintain and provide the existing recreation features already in its existing license. In addition, FirstLight agrees to provide additional recreation features and other measures associated with recreation as outlined in <u>Table 1.0-1</u>.

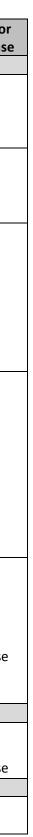
Recognizing that FirstLight has capital commitments on several PM&E measures in this AIP, FirstLight will complete the construction of the proposed License and Off License recreation facilities described in <u>Table 1.0-1</u> within 5 years of license issuance.

Figure 1.0-1 and 1.0-2 show the existing and proposed recreation facilities.

The Final Settlement Agreement will include new Recreation Management Plans (RMP) for the Northfield Mountain Project and Turners Falls Project, which will supersede the RMPs FirstLight filed in its AFLA. The new RMPs will reflect the recreation measures contained in this AIP. FirstLight has agreed that the RMPs will be revisited once every 10 years to evaluate recreation use and demand in consultation with stakeholders. The signatories to this Agreement will be provided with 30 days to comment on any proposed changes to the RMP prior to submission of the RMP to FERC for approval.

Table 1.0-1 Existing and Proposed Recreation Facilities or Features at the Northfield Mountain and Turners Falls Projects, Listed by Town

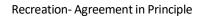
Recreation Facility or Feature	Existing or Proposed	Part of NFM or TF License	License or Off License
Town of Northfield	-		
Bennett Meadow			
• FirstLight will permanently conserve FirstLight's lands within Bennett Meadow that are not already under conservation easement,	Proposed	Northfield	License
pending consultation with the Massachusetts Division of Fisheries and Wildlife (MDFW) on needs for hunting.			
 FirstLight will also add a trail at Bennett Meadow and include historical and cultural interpretation. 			
Munn's Ferry Boat Camping Recreation Area			
Water access only camping sites.	Existing	Northfield	License
Pedestrian footbridge.			
 Tent campsites, each with trash can, tent platform, picnic table, grill, and some fire rings. 			
Riverview			
Parking lot for 54 vehicles, 2 ADA.			
 Provides picnic tables (10) and grills along the river, Pavilion (8 tables), ADA compliant restrooms, benches. 	Existing	Northfield	License
 Tours on the Riverboat travelling between Barton Cove and Riverview. 			
Site currently includes dock for Riverboat tours.			
 FirstLight to relocate the dock that would be enclosed by the proposed fish barrier net. 	Proposed		License
FirstLight to provide for an ADA-accessible dock layout that supports motor boats, canoes/kayaks, and Riverboat in consultation with	Proposed		License
the Town of Northfield and the Massachusetts Department of Conservation and Recreation (MDCR).			
Northfield Mountain Tour and Trail Center (also includes the Town of Erving)			
 Parking for up to 50 vehicles, 3 ADA. 	Existing	Northfield	License
 Visitors Center with self-guided interpretive displays, meeting rooms, lounge and ADA accessible restrooms. 			
 Offers recreation and environmental education programs year-round. 			
 25 miles of trails used for mountain biking, x-country skiing, snowshoeing, horseback riding and walking. 			
Mountaintop Observation Deck.			
 Retain seasonal ski equipment rentals at the Northfield Visitors Center and continue to maintain ski trails. 	Dranaad		Liconco
• FirstLight will add up to 5 miles of new trails for mountain biking to be designed in consultation with the New England Mountain Bike	Proposed		License
Association (NEMBA) and the MDCR.	Proposed		License
FirstLight to donate used sporting equipment to local youth organizations.	Floposeu		LICENSE
Turners Falls Impoundment Access and Viewing (also includes the Town of Gill)			
• FirstLight to provide paddle access camping at 2 new campsites in coordination with the Appalachian Mountain Club (AMC): one in	Proposed	Northfield	License
the Barton Cove area in Gill and the other (if possible) at Mallory Brook in Northfield.			
FirstLight will install one pocket park at the Pauchaug-Schell Bridge Greenway and include signage for historical and cultural	Proposed		License
interpretation.	Dranaad		Offliggere
• FirstLight will install another pocket park at a location to be determined in Northfield, or an equivalent investment for a single river	Proposed		Off-License
access point in consultation with the Parties, which may include signage for historical and cultural interpretation. The second pocket			
park will be in Northfield; the access point may not be in the town of Northfield.			
Town of Erving			
Climbing Ledges	Droposed	Northfield	Liconco
 FirstLight will make Rose Ledge a designated Project Recreation Facility to allow climbing as it is already in the Project Boundary. FirstLight will permanently personal factory ledge for climbing and other recreation purposes. 	Proposed	Northfield	License Off-License
FirstLight will permanently conserve Farley Ledge for climbing and other recreation purposes.	Proposed		On-License
Town of Montague			
Cabot Camp	Bronosod	Northfield	License
• FirstLight will create a formal access trail for a put-in to the Millers River at Cabot Camp, add a picnic table and improve signage.	Proposed	Northfield	License



Recreation Facility or Feature	Existing or Proposed	Part of NFM or TF License	License or Off License
• FirstLight, in consultation with the Town of Montague, will attempt to find a qualified organization within the first 3 years of license issuance to take responsibility for preserving the Cabot Camp historic buildings. Absent finding a qualified organization and in consultation with the Town of Montague, FirstLight would: a) conduct a topographic and property survey, and condition assessment of the Cabot Camp parcel within 3 years of license issuances, b) plan and conduct market/re-development study of Cabot Camp in collaboration with the Town of Montague and c) if no acceptable means to otherwise preserve the historic structures of Cabot Camp is identified, re-use the property for other recreation or alternative uses consistent with the Historic Properties Management Plan (HPMP) and the Recreation Management Plan (RMP).	Proposed		License
Unity Park			
• FirstLight will add a new car-top access and put-in at the northern end of Unity Park, and work with the Town of Montague to provide a means of storing and locking vessels and reconfiguring the Unity Park parking lot to improve vehicle and pedestrian safety.	Proposed	Northfield	License
 <u>Gatehouse Fishway Viewing Area</u> Continue with providing approximately 27 parking spaces, picnic tables, bike rack, trail, fishway view visitor facility (with feed to above ground TV), ADA accessible restrooms and interpretive signage. 	Existing	Northfield	License
 <u>River Access below Turners Falls Dam</u> FirstLight will complete the following river access points: Turners Falls bypass both upstream and downstream of Peskeomskut Island (located just below the Turners Falls Dam). 	Proposed	Turners Falls	License
 At the Station No. 1 tailrace for fishing and non-motorized boats. Improvements at the Poplar Street put-in and take-out to include placement of stairs with boat slide leading to a landing/concrete abutment, a gangway and a floating dock. Improve signage at this location and improve digital information about the site and porta potty. Work with Montague to address parking and sanitary facilities. 	Existing	Turners Falls	
 <u>Safety Improvements</u> FirstLight will make safety improvements to abandoned water passages, under FirstLight's ownership, in the Turners Falls bypass (focused between the dam and upstream of Station No. 1 on river left). 	Proposed	Turners Falls	License
<u>Viewing Platform</u> FirstLight will construct a viewing platform and picnic area below the Turners Falls Dam with the best feasible view of the Great Falls and their surrounding natural environment. FirstLight to maintain the adjacent area near the bridge crossing.	Proposed	Turners Falls	License
 <u>Turners Falls Branch Canal</u> FirstLight will continue to provide the overlook and benches. 	Existing	Turners Falls	License
 <u>Cabot Woods</u> FirstLight will continue to provide parking for approximately 17 cars, picnic tables, and offer fishing access at Cabot Woods. FirstLight will replace and maintain stairs at Cabot Woods. 	Existing Proposed	Turners Falls	License
 Portage Continue with the current portage where boaters can call FirstLight for transport, and maintain signage explaining canoe portage operations, procedures and the call number. (May 1 – October 15) FirstLight will construct a portage trail around Rock Dam (on river left; on the Cabot Woods side of the river) subject to consultation with the National Marine Fisheries Service, Natural Heritage Endangered Species Program (NHESP), and recreation stakeholders. The 	Existing Proposed	Turners Falls	License License
Nolumbeka Project Inc., and the Elnu Abenaki Tribe. Town of Gill			
 Barton Cove Nature Area and Campground Nature Area Parking for 26 vehicles, Campground Parking for 28 vehicles Restrooms (2 facilities, ADA compliant) Walking trail to an overlook Campground for trailer and tents sites, 28 campsites (1 ADA compliant), sites include picnic table, grills and fire ring, trash containers Nature trail, dock 	Existing	Northfield	License

Recreation-Agreement in Principle

	Recreation Facility or Feature	Existing or Proposed	Part of NFM or TF License	License or Off License
٠	FirstLight to provide paddle access camping at 2 new campsites in coordination with the Appalachian Mountain Club (AMC): one in the Barton Cove area in Gill and the other (if possible) at Mallory Brook in Northfield.	Proposed	Northfield	License
Barton	Cove Canoe and Kayak Rental Area			
•	Parking for 28 vehicles	Existing	Northfield	License
•	6 picnic tables, seasonal restroom			
•				
•	Paddlecraft rental service			
•	On-call vehicular canoe and kayak transport service			
•	FL will add the ability to lock canoes and kayaks during the day at Barton Cove in the Town of Gill.	Proposed	Northfield	License
•	FirstLight will donate used sporting equipment to local youth organizations			
Project	-wide			
Flow N	otification			
•	FirstLight will provide real-time Turners Falls Impoundment (TFI) water level information and real-time discharge information at	Proposed	Northfield and	License
	Turners Falls Dam and Station No. 1 year-round on a website that will be accessible to the public.		Turners Falls	
•	FirstLight will develop a flow monitoring plan with the agencies.			
•	FirstLight will provide digital flow notification of the Naturally Routed Flow (NRF) and the anticipated Turners Falls Dam spillage and			
	anticipated Station No. 1 discharge for a 12-hour window into the future at any given time. This proposal is contingent upon advance			
	notification procedures to be followed by Great River Hydro (GRH). Should FirstLight take deviations to passing the 12-hour previous			
	NRF it will post the revised flows (in the 12-hour look ahead window) to the digital location as soon as practicable after they are			
	known. Should GRH provide FirstLight with flow data more than 12 hours in advance, FL will publish the information sooner.			
<u>ADA</u>				
•	For any new construction and rehabilitation of existing public recreation buildings and facilities, FirstLight will comply with 521 CMR to	Proposed	Northfield and	License
	the extent applicable pursuant to 521 CMR and Title III of the Americans with Disabilities Act. As part of the Recreation Management		Turners Falls	
	Plan process and updates, FirstLight will conduct a programmatic assessment of the existing and proposed public recreation buildings			
	and facilities for consistency with the requirements of the Americans with Disabilities Act (ADA), and will implement applicable ADA			
Pocroa	improvements. tion Advisory Group and Recreation Management Plan			
•	FirstLight will have an annual Recreation Advisory Group meeting to discuss recreation use and O&M needs. Any signatory to the	Proposed	Northfield and	Off-License
•	settlement agreement can be an invitee and participant in these meetings.	rioposed	Turners Falls	On-License
Recrea	tion Management Plan			
•	FirstLight will revise and submit a new Recreation Management Plan that will be part of the Settlement Agreement.	Proposed	Northfield and	License
•	FirstLight will consult with the Parties on the proposed recreation features.	rioposed	Turners Falls	License
•	The Recreation Management Plan will be revisited once every 10 years to evaluate recreation use and demand. Those to be consulted			
-	on the RMP include the Parties as defined above.			
Advert				
•	FirstLight will commit to coordinating promotion of its Project facilities with local communities and organizations and improve its	Proposed	Northfield and	Off-License
	digital presence. FL will commit to working with the Recreation Advisory Group to identify the targeted audiences for this outreach,		Turners Falls	
	including EJ communities, Indigenous communities, those with disabilities, visitors to the region, residents, and local communities			
	and organizations; and a schedule for pushing out facility promotional materials.			
Conser	vation Easements			
•	FirstLight will place lands it owns and are not used for specific project activities (e.g., power production, project recreation facilities,	Proposed	Northfield and	License
	etc.) along the TFI shoreline in conservation easement to maintain riparian buffers and river right (looking downstream) downstream	- 1	Turners Falls	
	of the Turners Falls Dam. The easements will include those lands where agricultural farming occurs up to the river's edge; however,			
1	no conservation easements will be sought on existing developed lands along the TFI.			





Recreation Facility or Feature	Existing or Proposed	Part of NFM or TF License	License or Off License
• FirstLight will conserve the approximately 1.3-mile portion of the New England National Scenic Trail in the Project boundary on the			
eastern side of the Northfield Mountain Upper Reservoir in Erving, MA.			

Figure 1.0-1. Turners Falls Impoundment- Proposed and Existing Recreation Facilities Open PDF Figure 1.0-2. Turners Falls Area- Proposed and Existing Recreation Features Open PDF

PART III SIGNATURES

The signing of this AIP is a good faith indication by the Parties that they support this AIP and commit to developing a Final Settlement Agreement and other necessary documents for the comprehensive settlement of all issues related to the relicensing of the Turners Falls Project and Northfield Mountain Project.

Organization: FirstLight MA Hydro LLC and Northfield Mountain LLC (collectively, FirstLight)

Ву:	
Title:	
Signature:	
Date:	

Organization: Appalachian Mountain Club

By:	
Title:	
Signature:	
Date:	

Organization: American Whitewater

Ву:	
Title:	
Signature:	
Date:	

Organization: Access Fund

Ву:	
Title:	
Signature:	
Date:	

Organization: Connecticut River Conservancy

By:	
Title:	
Signature:	
Date:	

Organization: Crab Apple Whitewater, Inc

By:	
Title:	
Signature:	
Date:	

Organization: Franklin Regional Council of Governments

By:	
Title:	
Signature:	
Date:	

Organization: Massachusetts Department of Conservation and Recreation

Ву:	
Title:	
Signature:	
Date:	

Organization: National Park Service

Ву:	
Title:	
Signature:	
Date:	

Organization: New England Flow

Ву:	
Title:	
Signature:	
Date:	

Organization: New England Mountain Bike Association

By:	
Title:	
Signature:	
Date:	

Organization: Town of Erving, MA

By:	
Title:	
Signature:	
Date:	

Organization: Town of Gill ,MA

Ву:	
Title:	
Signature:	
Date:	

Organization: Town of Montague, MA

Ву:	
Title:	
Signature:	
Date:	

Organization: Town of Northfield, MA

Ву:	
Title:	
Signature:	
Date:	

Organization: Western Massachusetts Climbing Coalition

Ву:	
Title:	
Signature:	
Date:	

Organization: Zoar Outdoors

Ву:	
Title:	
Signature:	
Date:	

