

143 West Street Ext., Suite E PO Box 5002 New Milford, CT 06776 Ph: (860) 350-3617 FAX: (860) 354-4724 E-mail: john.howard@firstlightpower.com

John Howard Director CT Operations

FERC0033t March 27, 2019

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

### <u>Housatonic River Project - P-2576-139</u> Submission of the 2019 Revised Shoreline Management Plan

Dear Secretary Bose:

According to the Federal Energy Regulatory Commission (FERC) Order issued March 27, 2013 (142 FERC¶62,256) modifying and approving the Shoreline Management Plan (SMP) pursuant to License Article 407 for the Housatonic River Project (Project, FERC Project No. 2576, 107 FERC¶61,305), FirstLight Hydro Generating Company, LLC (FirstLight), the Licensee for the Housatonic River Project (Project), is required to review and update the SMP every six years. FirstLight hereby submits this 2019 revised SMP for the Housatonic River Project (FERC Project No. 2576-139) for FERC review and approval. This is the first revised SMP submission since FERC approval of the SMP, March 27, 2013.

This SMP conforms to the guidance provided by the FERC (2012)<sup>1</sup>. FirstLight consulted with numerous state, federal and local agencies, and other stakeholders who expressed interest in being a party to this public process. FirstLight identified and contacted a broader group of stakeholders and agencies than were consulted for the previous SMP, and initiated discussions with stakeholders in December of 2018. FirstLight distributed a draft amended SMP to stakeholders and posted it on its company website on December 17, 2018 for public review. FirstLight then reconvened the SMP Lake and River Advisory Committees on February 19, 2019, and subsequently held a required public hearing on February 27, 2019. Associated meeting notes were prepared and FirstLight responded to both public and stakeholder comments in the consultation record, and incorporated several changes into this SMP as a result. Key changes incorporated in this SMP include:

<sup>&</sup>lt;sup>1</sup> FERC. 2012. Guidance for shoreline management planning at hydropower projects, Office of Energy Projects. Federal Energy Regulatory Commission. Washington, DC.

<sup>(</sup>https://www.ferc.gov/industries/hydropower/gen-info/guidelines/smpbook.pdf).

- FirstLight agreed to reduce the proposed SMP revision time from 10 years to 6 years.
- FirstLight agreed to fix the Administrative Fee Schedule for the next 6 years.
- FirstLight modified the text of the SMP to reflect many consultation requests.
- FirstLight increased the riparian vegetated buffer requirement from 5-50% to 20-50% and reduced the required installation time from five to three years or less.
- FirstLight clarified that it has the sole discretion to release company data.
- FirstLight agreed to hold annual meetings of the SMP Lake & River Advisory Committee for two years after the approval of this SMP.
- FirstLight proposed a simplified annual reporting requirement to reflect significant activities and inform stakeholders of progress on implementing this SMP and the installation of riparian vegetated buffers at those sites.

FirstLight calls the Commission's attention to one notable change in this SMP. Specifically, one-time fees are proposed to cover its costs incurred by FirstLight to administer the permitting process. During the first six years of implementation since approval of the SMP, FirstLight has assumed significant additional obligations. Details on the additional costs incurred and the efforts made to implement them are stated in the introduction of this SMP. Since 2004, FirstLight has spent several million dollars to implement the SMP's policies, plans, and programs. From 2009 until 2013, FirstLight operated its permitting program as if the SMP had already been approved by the FERC in order to begin implementation while awaiting Commission approval. Additionally, many FERC licensed Projects with shoreline management plans charge fees in accordance with FERC guidance.

FirstLight appreciates the time dedicated by each individual and entity that, through the consultation process, took the opportunity to aid in the creation of this SMP. FirstLight is confident the Commission will recognize that this SMP achieves a delicate balance among the interests of many diverse stakeholders and fulfills the goals of License Article 407.

FirstLight requests that the Commission approve the attached SMP without material changes so that FirstLight and the stakeholders can begin a new era of protecting and enhancing the scenic, recreational and environmental values of the shoreline of the Housatonic River Project.

Should you have any questions, please call me at (860) 350-3617.

Very truly yours, FirstLight Power Resources Services, LLC As agent for FirstLight Hydro Generating Company

John Howard

Director of CT Hydro Operations



# Shoreline Management Plan Final to FERC 3/27/19



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### SHORELINE MANAGEMENT PLAN HOUSATONIC RIVER PROJECT NO. 2576-139

### I. HISTORY OF THE PROJECT & SHORELINE MANAGEMENT PLAN

On June 23, 2004, the Federal Energy Regulatory Commission ("FERC") issued FirstLight Hydro Generating Company ("FirstLight" or "Licensee") a new license with specific requirements defined as Articles for the Housatonic River Project No. 2576-139 (the "Project") for a 40-year term (the "License"). The Project consists of the following four conventional hydroelectric developments on the Housatonic River, as well as the first pumped storage hydroelectric development in the United States: Bulls Bridge (1904), Falls Village Station (1909), Stevenson Dam (1919), Rocky River Pumped Hydro Station (1927), and Shepaug Station (1955). Article 413 of the License requires the Licensee to regulate the non-project uses and occupancies ("Uses") of lands and waters within Project boundaries, and Article 407 of the License requires the Licensee to develop and submit for FERC approval a Shoreline Management Plan ("SMP") that constitutes a comprehensive plan for managing reservoir shorelines and riverfront lands within the Project boundary.

The FERC approved the SMP in 2013; however, such approval included several additional new requirements ordered by the FERC. These new requirements included: the development, filing, approval and implementation of a "Boat Overcrowding Plan", the development, filing, approval and implementation of a "Land Conservation Plan", the development, filing, approval and implementation of the "Shoreline Management Manual", and the filing of annual reports related to the seawall, vegetated buffers and vessel pump out progress report.

FirstLight was also required to perform a comprehensive GPS inventory on over 200 miles of Project shoreline and prepared and submitted to the FERC a "Non-Conforming Structure Inventory Reports" for each of the five developments in the Project. FirstLight has also completed the installation of four out of the five shoreline demonstration vegetated buffers on FirstLight owned lands. None of the activities noted above were contemplated at the time the 2013 SMP was negotiated and submitted to the FERC for approval. All of these additional programs and activities have been implemented and operated by FirstLight at no cost to Property Owners.

This 2019 SMP is a result of the required FERC order issued in 2013 approving the SMP to undergo a six year review and update. The goal of this SMP review is to clarify the procedures, guidelines, and standards for management of lands within the Project Boundary to ensure protection of existing and future natural resources, and aesthetic and environmental values at the Project. The intent of the proposed updates to the Shoreline Land Designation mapping and definitions, as well as the addition of Shoreline Permit Guidelines, is to clearly define acceptable current and future shoreline and land uses at the Project. Additionally the proposed updates seek to provide standards for those uses and to simplify and define the procedures and processes for FirstLight's authorization of such uses and associated activities. The 2019 SMP is also a result of FirstLight's requested stakeholder and public comments received and incorporated into this SMP.

### II. INTRODUCTION AND GOALS OF THE SHORELINE MANAGEMENT PLAN

FirstLight has an ongoing responsibility to permit, supervise and control shoreline and land uses to ensure that authorized uses are consistent with Project purposes such as protecting and enhancing the project scenic, recreational and environmental values.

FirstLight's 2019 SMP provides a comprehensive plan to manage the multiple resources and uses of the Project's shoreline in a manner that is consistent with the License requirements, property rights and addresses the needs of the public.

Terms not otherwise defined herein are set forth in the Glossary of Terms in Appendix B

FirstLight's 2019 SMP balances the interests among Property Owners, public recreational users, natural and historical resources, and the continued operation of the project.

### III. OBJECTIVES OF THE SHORELINE MANAGEMENT PLAN

Protect and Enhance Public Access and Recreational Opportunities:

FirstLight has located the public access points on the Shoreline Land Designation Maps for potential future enhancements.

### Preserve and Enhance Natural Resource Values (Wildlife, Water Quality, Riparian Habitat):

FirstLight has identified the Project purposes and allowable shoreline and land uses that will be authorized. Going forward this will be based upon the shoreline land designations, and the standards and guidelines herein, to ensure the protection and preservation of existing natural resources and to promote the improvement of environmental values into the future.

### Preserve Existing Aesthetic Resources (Balance Natural and Developed Vistas):

In order to balance future development pressure with existing resources, FirstLight has defined the existing conservation lands and areas of undeveloped residential type lands at the Project and limited the allowable shoreline land uses to ensure the protection of existing vistas and the preservation of naturalized areas.

### Clarify Shoreline Permit Program and Process:

FirstLight has developed and updated shoreline permitting guidelines herein, which, taken in conjunction with the shoreline land designations, will determine allowable uses. These guidelines provide standards and procedures for the authorization of existing historical uses, encroachments and structures at the Project. These guidelines also define the allowable shoreline and land uses and associated activities that will be authorized at the Project going forward.

### Preserve Historic and Cultural Resources:

New England has a rich history and important cultural resources. Therefore, the shoreline and land uses authorized into the future will minimize excavation of naturalized areas.

### IV. TERM

The effective date of the first SMP was March 27, 2013, which is the date on which it was approved by the FERC. It shall remain effective until the acceptance and approval by the FERC of the current revision. This SMP contains the revisions and updates to the first SMP and is being submitted by FirstLight for review and approval by the FERC. FirstLight will file a report six years after the date of the FERC approval of this SMP that describes the consultation process, any recommended modifications to the SMP and a plan and schedule for addressing any modifications.

Prior to submitting to FERC any future update to the SMP, FirstLight shall consult with local stakeholders, including but not limited to non-governmental, federal, state and municipal entities. This shall also include lake authorities acting on behalf of their respective municipalities, state and federal agencies. Such consultation is intended by the parties to be an exchange of ideas, written comments, and proposals. The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and will include at least one noticed public hearing prior to any SMP update being submitted to the FERC for review and approval.

### V. REVIEW AND FERC APPROVAL

- a) The 2019 SMP is submitted by FirstLight to the FERC for review and approval to the extent of its jurisdiction. The FERC's approval of this 2019 SMP will allow FirstLight to continue to update the Exhibits, Guidelines and Appendices referenced herein. Updates will be noticed on the FERC docket and made available to the public on FirstLight's website.
- b) After the initial 6 year review of the 2019 SMP, FirstLight will review and update the SMP and perform stakeholder consultation on the SMP and associated supporting Guidelines, Exhibits and Appendices every six years going forward until the expiration of the License.
- c) FirstLight reserves the rights to revise the Shoreline Designation Maps, Shoreline Management Plan Definitions, Shoreline Permit Guidelines, Shoreline Management Manual and Enforcement Guidelines, Shoreline Management Plan History without stakeholder review or input. This will allow for a Shoreline Management Plan which can be modified around the changing socioeconomic, public, private, Project, natural and historical resources interests that are balanced by the Licensee over time.
- d) Following approval of the SMP, FirstLight will modify the Shoreline Management Manual and the Land Conservation Plan to be consistent with the updates and revisions to the SMP.
- e) Shoreline Designation Mapping may be updated by FirstLight to reflect the identification of new Project resources that require further protection or as part of field confirmation of corrections needed without stakeholder review or input.
- f) Definitions will only be updated to reflect new terms and facts that materialize as part of implementing the SMP over time without stakeholder review or input.

### VI. STAKEHOLDER CONSULTATION AND SUPPORT

As described above, the 2019 SMP is the product of a collaborative effort among the relevant municipalities, federal and state agencies, the public and other interested parties. FirstLight looks forward to continued formal written consultations and in person regular communications with all the Stakeholders under all facets of the FERC License. This SMP defines the stakeholders and their responsibilities in Appendix G.

### VII. MUNICIPAL AND STATE JURISDICTION

This section of the SMP provides a discussion of local government and other land use regulations that may affect Project resources and the processes employed by FirstLight to coordinate its efforts with local, state and federal agencies. This section provides a discussion of the responsibilities of entities that provide for the protection of public safety, public health and natural and historical resources within the Project Boundary.

- a) FirstLight does not have, as part of its authority under the Federal Power Act, jurisdiction over public health and water quality. Therefore, the State of Connecticut Department of Public Health ("CTDPH"), local health departments, State of Connecticut Department of Energy and Environmental Protection ("CTDEEP") and any other jurisdictional bodies are primarily responsible for public health and water quality, consistent with their regulatory authority on and in both Project lands and Project waters.
- b) FirstLight does not have, as part of its authority under the Federal Power Act, jurisdiction over public safety, such as police, fire or emergency response powers. Municipal, State and Federal entities have various levels of jurisdiction over boating and other police powers within the Project Boundary.
- c) FirstLight maintains a Public Safety Plan to ensure that FirstLight's Project Operations do not endanger the public. The Plan defines areas which are not open to the public for dam safety and other operational purposes.
- d) The State of Connecticut has created Municipal Powers under 22a-36 through 22a-45 of the General Statutes of Connecticut to regulate certain activities with the potential to impact areas within and adjacent to inland wetlands and watercourses in Connecticut. In addition, FirstLight has the obligation to ensure that the activities and structures that it authorizes do not adversely impact Project or other resource values.
- e) FirstLight works cooperatively with local wetlands and watercourse commissions and may require applicants who FirstLight determines are proposing a potential significant activity to seek local wetland and watercourse permits. FirstLight reserves its authority to approve or deny all applications to occupy Project lands.

- f) FirstLight regularly works with the State of Connecticut, Office of the State Building Inspector and Local Building Inspectors to ensure all structures are constructed and maintained in a safe condition. These governmental entities ensure that, consistent with the State Building Code, the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures is done so in a manner that ensures public safety. FirstLight may request inspection, condemnation and other services from these entities as part of its compliance with the terms of this SMP.
- g) Applicants who apply to FirstLight are responsible for securing all the necessary government approvals and permits required prior to the issuance of a FirstLight authorization for an activity or use within the Project Boundary.
- h) In a case decided after FirstLight's submission of the 2013 SMP, the Connecticut Supreme Court ruled that all municipal zoning laws are federally pre-empted by the Federal Power Act. Therefore, municipal zoning authorities do not have the jurisdiction to issue permits, variances, enforce their regulations or undertake any actions within the Project Boundary. However, FirstLight generally refers to the municipal zoning use category for property adjacent to the Project to determine what type of uses it will permit within the Project Boundary.

### VIII. SHORELINE LAND DESIGNATIONS

The Shoreline Land Designations represent the existing land use conditions both inside and outside the Project Boundary and identify the potential for future shoreline and land uses that could occur within the Project Boundary. The updates to the Shoreline and Land Designations were based on review of the current use of lands outside the Project boundary and the review of the historical use, project resources, and project operation requirements of lands within the Project Boundary.

### LANDS WITHIN THE PROJECT BOUNDARY ABUTTING PROPERTY OUTSIDE THE PROJECT BOUNDARY ENCROACHMENTS/STRUCTURES/DOCKS OTHER SHORELINE AND LAND USES ZONING CLASSIFICATION AESTHETIC / NATURAL RESOURCES / RECREATION HISTORICAL / CULTURAL / WILDLIFE PUBLIC SAFETY/RESERVIOR OPERATION HISTORICAL LAND USES GENERATION OF ELECTRICTY/PUBLIC SAFETY SHORELINE LAND DESIGNATIONS CONSERVATION LANDS **DEVELOPED RECREATIONAL LANDS** UNDEVELOPED RESIDENTIAL LANDS **COMMERCIAL LANDS**

### **SHORELINE LAND DESIGNATION PROCESS**

FirstLight has updated the Shoreline Land Designation Table and the Shoreline Land Designation Maps, which are shown in the Table below and in Appendix **A** respectively. Any future updates to the maps will be posted on FirstLight's website. By referencing the Shoreline Designation Maps, Property Owners can first identify their adjoining Shoreline Land Designation. The Table can then be referenced for information on the Project resources that are to be protected and preserved by the SMP, and identify potentially allowable future shoreline and land uses based upon the Shoreline Land Designations and their property rights. This methodology allows Property Owners and FirstLight to more clearly define natural and environmental resources to be protected and what uses and activities are potentially permissible within the Project Boundary. All potentially permissible Uses and associated activities must obtain authorization from FirstLight through FirstLight's shoreline permit and authorization program and are subject to the authorization processes, standards, and guidelines herein.

TABLE 1 - SHORELINE LAND DESIGNATION CHART				
DESIGNATION	DESCRIPTION	ALLOWABLE USES		
Conservation Lands	Currently undeveloped lands within the Project Boundary that will be managed for environmental protection and conservation, in order to protect important natural and cultural resource values such as fish and wildlife habitat, open space, and/or aesthetic resources. These lands are subject to a 200' Vegetated Riparian Buffer Zone. These lands are candidates for voluntary conservation restrictions consistent with the "Feasibility Report, Plan and Schedule for Conservation Easements and Restrictions".	Soil Stabilization Techniques Trail and Greenway Development Wildlife and Habitat enhancements Educational Signage Invasive Species Management Improved Public Access Points Other Resource Protection and Preservation Uses at the discretion of FirstLight		
Developed Recreational Lands	Lands within the Project Boundary currently providing access to the recreational public, including Municipal, State and Project recreational facilities. These lands can be allowed future shoreline and land uses that benefit the public and protect existing resources values. These lands are subject to a 50' Vegetated Riparian Buffer Zone. These lands are candidates for voluntary conservation restrictions consistent with the "Feasibility Report, Plan and Schedule for Conservation Easements and Restrictions".	Enhanced Public Access Uses Boat Landings, Boat Ramps & Beaches to serve the Public Public Park & Recreational Facilities Trail and Greenway Development Wildlife and Habitat Enhancements Soil Stabilization Techniques Other Publicly Available uses at the discretion of FirstLight		

TABLE 1 - SHORELINE LAND DESIGNATION CHART Cont.				
DESIGNATION	DESCRIPTION	ALLOWABLE USES		
	Lands within the Project Boundary that are	Limited Vegetation Clearing		
	privately owned undeveloped land, or	Paths to Project Waters		
	undeveloped shoreline lands owned by FirstLight managed for environmental			
	protection and conservation. Currently	Community Docks		
Undeveloped	undeveloped lands not owned by FirstLight	Private Residential Docks		
-	may be converted to residential or other			
Residential	uses. Applicants may apply for uses	Shoreline Armament		
Lands	consistent with the applicant's property	Other Shoreline and Land Uses that are		
	rights and future shoreline and land use development may be restricted to protect	Determined by FirstLight to be Limited Activity		
	and preserve existing natural resources.	Uses		
	These lands are subject to a 200' Vegetated			
	Riparian Buffer Zone within the Project			
	Boundary. These lands are candidates for			
	voluntary conservation restrictions			
	consistent with the "Feasibility Report, Plan and Schedule for Conservation Easements			
	and Restrictions".			
	Lands within the Project Boundary characterized by historical residential and	Limited Vegetation Clearing and the Installation of Vegetated Riparian Buffers		
	community development. Many of these			
	lands have existing non-conforming	Paths, Steps, Walkways over Project Lands to		
	structures and/or encroachments. These	Project Waters		
Developed	lands have the potential for applicants to	Community and Residential Docks		
Residential	apply for future shoreline and land uses.	Convalle. Din Dan and other Sheroline		
	These lands are subject to a 50' Vegetated Riparian Buffer Zone within the Project	Seawalls, Rip Rap and other Shoreline Armament		
Lands	Boundary. Applicants may apply for uses			
	consistent with the applicant's property	Retaining Walls, Level Sitting Areas, Temporary Structures		
	rights and future shoreline and land uses as	Structures		
	defined within the SMP. Future shoreline	Existing Habitable Encroachments and other		
	and land use development may be restricted to protect and preserve existing natural	Structures		
	resources. These lands are candidates for	Boat Landings, Boat Ramps and Boat Racks		
	voluntary conservation restrictions			
	consistent with the "Feasibility Report, Plan	Other Shoreline and Land Uses that are Determined by FirstLight to be Limited Activity		
	and Schedule for Conservation Easements	Uses and/or Significant Activity Uses		
	and Restrictions".			

	TABLE 1 - SHORELINE LAND DESIGN	ATION CHART Cont.
DESIGNATION	DESCRIPTION	ALLOWABLE USES
Commercial Lands	Lands and waters within the Project Boundary historically characterized by existing and newly proposed commercial private marinas, waterfront restaurants, event facilities, and marine service providers. These lands shall be managed to allow for continued commercial use, which provides the public to access to recreational and sporting opportunities and allows Abutters to have service providers maintain their uses in good working order. These uses are managed under a separate authorization process outside the SMP, consistent with the requirements of License Article 413.	<ul> <li>Private Commercial Facilities:</li> <li>Existing and historical Marinas, Restaurants, Marine Service Providers and other Private</li> <li>Existing Commercial Facilities are Managed</li> <li>by FirstLight through current contracts and</li> <li>agreements</li> <li>Newly Proposed Commercial Facilities are</li> <li>managed by FirstLight with review and approval</li> <li>by the FERC under License Article 413 and</li> <li>are not included in the SMP.</li> </ul>
Project Operational Lands	Lands within the Project Boundary dedicated to Project operations including generation facilities, dams, switchyards, transmission lines and other activities. These lands will be managed by FirstLight for the installation and maintenance of generation, transmission and distribution facilities to provide electricity for the public.	Private uses to support the operation of the Project Facilities including utilities, transmission, communication facilities. Other uses at the discretion of FirstLight.

### IX. AUTHORIZATION OF SHORELINE AND LAND USES

Property Owners must have authorization from FirstLight for their non-project uses and occupancies ("Uses"). These include, but are not limited to, shoreline and land uses such as docks, seawalls, retaining walls or paths within the Project Boundary. Any proposed activity to repair an existing use, modify an existing use, or construct or install a new use also requires authorization from FirstLight. Uses and associated activities may be authorized at FirstLight's discretion subject to the procedures, standards, and guidelines defined herein.

### **Uses That Can Not Be Authorized**

Uses may only be authorized if such Uses do not:

- Present a threat to safety or health
- Interfere with Project operations
- Impede navigation
- Unduly interfere with the ability of others to properly exercise their Property Rights
- Are required to be removed by FERC

### Previously Authorized Uses and Structures

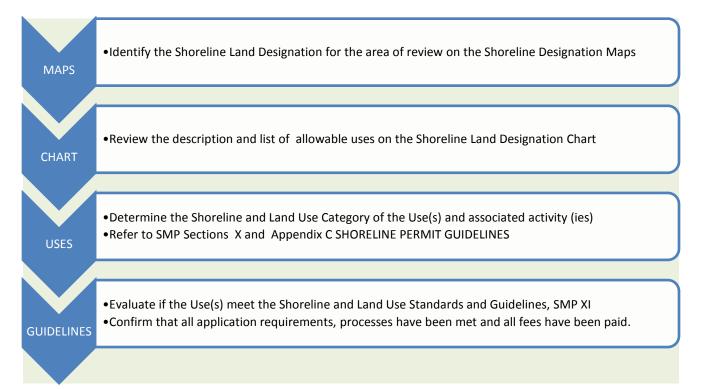
Many shoreline and land uses have been previously authorized by FirstLight through the issuance of a lease, license, permit or other legal agreement between the Property Owner and FirstLight or its predecessor. Such uses, as defined within such agreements, may remain or activities may occur within the Project Boundary as long as such agreement is in effect and all terms and conditions of the agreement are being met. In all cases FirstLight reserves the right to exercise its legal rights and revoke or terminate any such agreement and require that Project lands be restored to the satisfaction of FirstLight.

### **Unpermitted Existing Uses and Proposed Uses and Activities**

For any unpermitted existing use or any proposed shoreline and land use and associated activity to repair, replace, install, or construct a new use, a Property Owner must submit an application and the required application materials to FirstLight for review and potential authorization. FirstLight's determination of allowable shoreline and land uses and associated activities shall be based upon the type of Shoreline Land Designation classification within the Project Boundary and at the discretion of FirstLight. FirstLight has established a shoreline permit and authorization program to manage residential type Uses and associated activities within the Project. The procedures, standards, and guidelines for Uses on residential type lands are defined herein and provide Property Owners guidance on the acceptable Uses that can be applied for. The lands within the Project Boundary designated as commercial, public recreational lands, project operational and conservation lands are dealt with through a separate permitting process at the discretion of FirstLight and may be subject to separate FERC requirements.

### SHORELINE AND LAND USE AUTHORIZATION PROCESS

The process outlined below details FirstLight's steps in evaluating an application for a Use and any activities associated with such Use. Property Owners can use a similar process prior to starting their application to determine what Uses may potentially be acceptable, the standards and guidelines for those uses, and application requirements and processes that may apply.



## **Determination by FirstLight** Uses and Activities may only occur if authorized by FirstLight

### X. SHORELINE AND LAND USE CATEGORIES

Shoreline and land uses are generally categorized as existing uses ("Existing Uses") or as future or proposed Uses and associated activities which are categorized as either Limited Activity Uses or Significant Activity Uses. Other uses may only be authorized with FERC approval.

### A. EXISTING USES AND STRUCTURES

Existing Uses are shoreline and land uses, structures and encroachments that have historically existed and can be authorized under the existing use and structure standards and guidelines or through an application review and authorization process. The size, location, and configuration of existing uses cannot be modified without additional authorization from FirstLight. Existing Uses within the Project Boundary, owned and maintained by Property Owners, that have historically existed and have been inventoried by FirstLight may be allowed to remain as outlined below.

### **Registration of Existing Uses**

FirstLight may authorize acceptable uses through a registration or permitting process below:

<u>Registered Existing Uses</u>: Existing Uses that have been registered through the issuance of a Certificate of Permission by FirstLight or that are still eligible for such registration may remain within the Project Boundary as long as such uses meet all terms and conditions of the Certificate of Permission.

<u>Unregistered Existing Uses</u>: Existing Uses that have not been registered through the issuance of a Certificate of Permission in a timely manner or that have not been otherwise authorized by FirstLight through the issuance of a permit may only remain within the Project Boundary if an application is submitted for review and approval by FirstLight according to the Shoreline Management Plan and the Shoreline Permit Guidelines.

### **Registration and Permitting of Existing Structures and Encroachments**

FirstLight may authorize existing inventoried habitable structures and or encroachments within the Project Boundary subject the requirements for Existing Uses and the FERC approved Non-Conforming Inventory Structure Reports for the Project.

### **Existing Septic Systems**

If a septic system is located on FirstLight's property within the Project Boundary, it may be allowed to remain if it is not discharging effluent into Project waters and if the owner of the septic system has a valid permit from the Health Department. Existing septic systems that have failed may be allowed by FirstLight to remain only if they are repaired or replaced, and permitted by the Health Department, and if an independent registered professional engineer provides documentation that it is not practicable to relocate the septic system outside the Project Boundary. No new septic systems, repairs or replacement of septic systems that would support a greater number of bedrooms than the existing system may be installed within the Project Boundary. Connecticut Public Health Code Regulation Sec. 19-13-B103d(d) requires that a septic system shall be located on the same lot as the building served. FirstLight will not grant property easements to allow septic systems within the Project Boundary. Furthermore, many Property Owner's deeds expressly prohibit the discharge of sewage onto FirstLight lands and or Project waters.

### B. LIMITED ACTIVITY USES

Repairs, modifications to an existing use, and new uses and associated activities that have minimal impact on Project lands, waters and resources may be authorized as a Limited Activity Use by FirstLight. Such uses may include, but are not limited to, shoreline stabilization, docks, pathways and walks, level sitting areas, and retaining walls. The Shoreline and Land Use Guidelines herein and the Shoreline and Land Use Table in Appendix C provide additional information on Uses that may be considered within a Limited Use Activity Application. Such uses shall meet the following criteria:

### Docks

For residential type docks proposals for repairs, changes to an existing dock, or proposals for a new dock may be authorized by FirstLight under an application for a Limited Activity Use. Proposals for community docks may be subject to additional requirements.

### Shoreline Uses

Shoreline stabilization and other shoreline uses that pose only minimal impact to the shoreline may be authorized by FirstLight under a Limited Activity Use Application.

### Upslope Uses

Uses resulting in land disturbance may be considered a Limited Activity Use if only minimal alterations of Project lands are proposed. If significant land disturbance, including but not limited to extensive vegetation removal, terracing, or other substantial site grading and earth moving are required then these uses are subject to the requirements for Significant Activity Uses.

Significant Activity Use requirements will apply for uses that substantially increase the area of impervious surface on Project lands. These uses may not be considered a Limited Activity Use.

### Other Uses

Uses such as flagpoles, campfire pits, irrigation pumps and other similar uses may be authorized at FirstLight's discretion as Limited Activity Uses. Many of these uses have unique characteristics and additional requirements as determined by FirstLight may also apply. FirstLight may determine that certain such uses must be considered a Significant Activity Use, and therefore will be subject to all the Significant Activity Use requirements.

### C. SIGNIFICANT ACTIVTY USES

Certain proposed Shoreline and Land Uses and associated activities that cannot be categorized as Limited Activity Uses may be considered by FirstLight in its discretion as a Significant Use Activity. Proposals for such Uses and associated activities may include the construction, installation, or modification of uses such as retaining walls and terracing, motorized or vehicular access paths, the installation and construction of pervious patios, decks, gazebos, and temporary shade or storage structures. Many of these uses are consistent with the type of shoreline and land uses that have historically existed in Developed Residential type lands. The Shoreline Land Use Standards and Guidelines herein and the Shoreline Use Table in Appendix C provide additional guidance on Uses that require a Significant Use Activity Application. Application requests for these Uses are considered at FirstLight's sole discretion, FirstLight reserves the right to decline to accept or review, any submitted application. If an application is accepted for review, Significant Use Activities shall only be authorized by FirstLight at its discretion if the applicant establishes that the standards and requirements herein have been met.

### Non-Conforming Uses and Structures:

Under the Shoreline Management Plan, as approved in 2013, the size, location, and configuration of many existing uses and structures such as patios, decks, gazebos, sheds, and other such uses could not be authorized as modified or new uses and activities by FirstLight. These guidelines establish the standards under which FirstLight may consider the approval and modification to such Uses. Therefore, pervious patios, decks, temporary shade structures, and temporary storage structures may be subject to the additional requirements as set forth herein.

### **Environmental Benefit Requirement:**

Significant Activities and uses shall only be authorized by FirstLight if the applicant establishes that their proposal reduces soil erosion, takes measures to protect water quality, creates wildlife habitat, and otherwise provides an environmental benefit.

### Significant Activity Use Application Submittal Standards:

Application submittals for uses and activities that are considered under these Significant Activity Use Standards and Guidelines will be required to include an agreed upon property boundary survey, comprehensive site plans, project schedules, and details as may be required by FirstLight, including plans prepared by a Licensed Professional. The application plans and documentation submitted shall demonstrate the environmental benefits of the proposed site modifications.

### Authorization and Reporting:

Approved Significant Activity Uses shall be subject to annual reporting requirements as set forth in Section XVII. REPORTS.

### D. USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL

FirstLight at its discretion may seek authorization from the FERC as part of License Article 413 to address specific issues that arise at the Project over time. There are several activities that require the FERC's approval and they are detailed in Appendix D.

### XI. SHORELINE AND LAND USE STANDARDS AND GUIDELINES

The following Shoreline and Land Use Standards and Guidelines provide guidance, information, and detail relevant to the requirements for specific Shoreline and Land Uses which may be allowable based on the Shoreline Land Designation and which may be authorized by FirstLight subject to the requirements herein and the Shoreline Permit Guidelines hereto. To provide further guidance to applicants, FirstLight may as part of its educational materials develop additional guidance information on authorization processes and procedures, relevant design and construction guidelines, and application requirements.

### A. DOCKS

All docks on Project waters require authorization from FirstLight. Residential and Community docks that are eligible for a Certificate of Permission may be authorized by FirstLight through registration and subsequent issuance of a Certificate of Permission. All other Residential and Community docks may be authorized subject to the standards and guidelines herein.

### Dock Use

<u>Residential Dock Use</u>: All residential docks and boat slips may only be used for private, non-commercial use and may be classified as boat docks, swim docks, fishing docks, or other similar dock types. Registered vessels shall only be secured at a dock designated as a boat dock. Boat lifts may be installed in association with any authorized boat dock. Personal watercraft may be secured at a separate ramp, lift or dock. Not more than a total of two (2) registered vessels and or two (2) registered personal watercrafts shall be secured. Non-registered boats such as canoes, rowboats, sailboats and kayaks can be secured at the dock or on shore.

<u>Community Dock Use</u>: All community docks and boat slips may only be used for the private, non-commercial use of the community members and their invited guests. Community docks shall only be offered for rental to property owners within the community. Only property owners who are members of the community can secure vessels overnight.

### **Existing Docks**

Existing Docks may remain subject to the requirements herein.

Docks that replace existing dock structures must have FirstLight approval. Docks shall adhere to the standards and guidelines herein and may be subject to additional requirements set forth by FirstLight.

Docks that have been previously permitted by FirstLight may be replaced in the same size, configuration, and location following FirstLight's authorization of such replacement.

With any proposed change in the size, configuration, or location of the dock, all the requirements for new or modified docks shall apply.

### New or Modified Docks

All new and modified replacement dock structures and shall be implemented in compliance with the standards and guidelines herein.

Location: Docks shall be located as not to interfere with navigation or the rights of others.

<u>Securing</u>: Docks shall have no permanent structural contact with the submerged land, and placement shall not require excavation of submerged land. FirstLight may require the removal of Existing Docks with permanent structural contact with submerged lands when a dock is being replaced or modified or with a new or modified use.

<u>Bulkheads</u>: Docks shall be securely anchored to a concrete bulkhead or other masonry structure, approved fixed dock, or natural feature with detachable hardware.

<u>Materials</u>: Dock surface materials for new and replacement docks, floats, catwalks and stairs should be constructed of materials that are naturally rot resistant, such as cedar, pressure treated lumber, metal, or synthetic composite materials.

<u>Flotation</u>: Dock flotation materials used in new and replacement docks must be completely enclosed to prevent the materials from being chewed by animals, from breaking apart or from floating away. The enclosure material used must be impact resistant, puncture-proof, and non-corrosive.

<u>Structures and Utilities</u>: Docks and stairs shall not have permanent roofs, second stories or electrical utilities.

<u>Residential Docks</u>: The location and configuration of docks is specific to the intended use at each site location and is subject the following guidelines. Additional design, construction, and installation requirements may apply as required by FirstLight.

- A minimum of fifteen (15) foot setback from either side lot line projection into the waterway shall be required, unless a narrower setback is specifically authorized or required by FirstLight.
- Docks shall not exceed four hundred (400) square feet of contiguous floating platform. The maximum allowable total dock area, including but not limited to the area of floating platform(s), that is authorized to a Property Owner is site specific and FirstLight may at its discretion require that the total dock area be minimized or reduced.
- The maximum allowable length of the dock as measured from the shoreline is site specific. Docks should not extend farther than forty (40) feet into Project waters unless a longer length is specially authorized by FirstLight. Under no circumstances may the dock extend out into a bay or narrow part of the lake greater than one third the width of the opening of the bay or narrow, nor shall it impose any type of navigational hazard in the judgment of Connecticut Department of Energy and Environmental Protection ("CTDEEP").

<u>Community Docks</u>: Community docks are subject to the following guidelines. Additional design, construction, and installation requirements may apply as required by FirstLight.

- Replacement of the size, location and number of slips of all community docks are limited to the existing dock system configuration. Modifications to the size, location, and configuration shall require additional authorization from FirstLight. Additional FERC authorization as set forth in License Article 413 may also be required.
- Under no circumstances may the dock(s) extend out into a bay or narrow part of the lake greater than one third the width of the opening of the bay or narrow, nor shall it impose any type of navigational hazard in the judgment of CTDEEP.
- Community docks shall be designed so as to secure registered vessels and or registered personal watercrafts. One empty slip may remain open for temporary docking of invited guests.

### **B. DERELICT DOCKS**

All entities shall be responsible for maintaining their docks in a safe working condition. If a dock is to be removed or replaced, the old dock must be disposed of properly outside the Project Boundary. FirstLight or its agents, the respective police, boating authority or any others may endeavor to secure, remove and/or dispose of any derelict docks that break loose and could cause a hazard to boating navigation.

FirstLight will charge the owner of a derelict dock an enforcement fee plus the cost of recovering and disposing of the dock. The owner of the derelict dock may be subject to loss of their shoreline and land use authorization and enforcement fees.

### C. VESSEL MOORINGS AND NAVIGATIONAL OR REGULATORY BUOYS

Except as previously authorized by FirstLight, vessel moorings are prohibited within the Project Boundary.

FirstLight shall have the discretion to approve new vessel moorings to accommodate individuals and communities with Deeded dock Rights where, at FirstLight's determination, site conditions are not conducive to dock installation.

Unauthorized vessel moorings and other buoys shall not be used as marker buoys to demarcate swimming areas or prevent boats from traveling near the shoreline. If found, these moorings or buoys are subject to removal by FirstLight or the respective authorities without prior notice.

Prior to authorization by FirstLight, all new moorings must be approved by the CTDEEP in accordance with applicable regulations.

The placement of boating navigational and regulatory markers or buoys on Project waters requires a permit from the State of Connecticut Boating Division.

### D. SHORELINE USES

Shoreline Uses are uses and structures located at or immediately near the water's edge. Such uses include seawalls and other methods of shoreline stabilization and armament. Uses that provide access to Project waters such as steps and ramps to the water, boat ramps, or boat landing-beaches are also considered shoreline uses.

### **Shoreline Stabilization:**

FirstLight's authorization of uses for shoreline stabilization and armament is site specific. Allowable methods of shoreline stabilization may include new and replacement seawalls or alternative shoreline stabilization techniques such as, but not limited to uses such as rip rap revetments, stacked boulder walls or bioengineering. In addition to these techniques, jetties and breakwaters may be used to aid in the stabilization and protection of Project shorelines. Shoreline stabilization uses are subject to the requirements, standards, and guidelines herein and may be authorized as either a Limited Activity Use or Significant Activity Use. Additional guidance is provided within the Shoreline Permit Guidelines and the Shoreline and Land Use Table, Appendix C, and the Shoreline Management Manual.

- a. FirstLight shall communicate more environmentally benign alternatives to solid concrete armament or seawalls through its guidelines and education materials. FirstLight's "Shoreline Management Manual" provides information on alternative techniques for shoreline stabilization. Prior to submitting an application for shoreline stabilization, Property Owners shall schedule a site inspection with FirstLight's representative.
- b. The appropriate use of seawalls or alternative shoreline stabilization techniques is site specific and factors such as slope, wave action, and impact of ice must be considered.
- c. Intermediate techniques to extend the life of an existing seawall such as buttressing and placement of rip rap or stone at the base of the wall may be considered. Natural Stone from the adjacent lake bed may be utilized.
- d. Steps in evaluating Project shorelines are outlined in the Shoreline Management Manual.
- e. At FirstLight's discretion, design cross sections, design details, as-built drawing, or inspections signed by a CT Licensed Engineer may be required.
- f. Design details for alternative shoreline stabilization are available in the Shoreline Management Manual.
- g. To stabilize eroded shoreline areas and to tie into the existing grades at the shoreline, alternative shoreline stabilization techniques may extend beyond the existing shoreline into Project waters.
- h. Jetties and breakwaters shall be located and designed so as not to interfere with the rights of others or to impact navigation.

- i. Existing seawalls may remain subject to the requirements for Existing Uses herein.
- j. Seawalls shall only be located at the existing or historical shoreline.
- k. Seawall repairs such as minimal resetting or restacking of stone, repointing, and the limited placement of stone from the adjacent lake bed at the base of an existing seawall may be authorized as a Limited Activity Use. More extensive repairs shall be considered a Significant Activity Use and applicable requirements will apply.
- I. Proposals for the replacement of a seawall or the construction of a new seawall are subject to all the standards, guidelines, and requirements of Significant Activity Use application.
- m. Seawalls shall be constructed in such a manner that they dissipate and or absorb wave action energy and prevent any subsequent soil erosion of the existing shoreline.
- n. Seawalls shall be constructed for the purpose of minimizing direct run-off and promoting infiltration of stormwater before it enters into Project waters.
- o. Environmentally benign alternatives to seawalls shall be considered. A site specific evaluation and justification by a CT Licensed Engineer for the repair, replacement, or construction of a new seawall may be required at FirstLight's discretion. Consideration shall be given to such factors as the slope of shoreline, areas of shoreline erosion, wave action, prevailing winds, ice impacts, and other factors. FirstLight may waive such requirements if the Property Owner has submitted sufficient information to establish that they have express deeded rights to the construction of seawalls or other shoreline armament to FirstLight. If such requirements are not practicable or feasible, violate applicable law, or if immediate action is required to stabilize the shoreline. FirstLight reserves the right to waive, as necessary, any of these shoreline stabilization requirements detailed. Such cases shall be documented by FirstLight and reported according to XVII. REPORTS.

### Steps/Ramps to Water, Boat Landing Beaches, and Trailered Boat Ramps:

- a. Steps and ramps to Project waters may extend beyond the existing shoreline to allow for reasonable and safe access.
- b. Steps and Ramps shall be designed to minimize shoreline erosion and scouring.
- c. Where site conditions allow, environmentally benign alternative to concrete or asphalt paving shall be considered.
- d. FirstLight, at its sole discretion, may require that ramps be designed by a CT Licensed Engineer.
- e. Existing boat landings or beach areas may be reclaimed and beach sands may be added at the discretion of FirstLight.
- f. FirstLight, at its sole discretion, may consider the authorization of Trailered Boat Ramps. Trailered Boat ramps may be authorized by FirstLight as a Significant Activity Use subject to the following:.
  - Trailered boat ramps are for private, non-commercial use of Property Owners or Communities only.
  - Trailered boat ramps shall be designed to allow for the safe launching of vessels. Ramps shall extend below the minimum elevation of the impoundment.
  - Where site conditions allow, boat ramps shall be surfaced with stone, shoreline erosion control matting, or pervious paving systems in place of concrete or asphalt paving.
  - Rip Rap shall be placed at the toe and edges of the ramp to prevent scouring.
  - FirstLight, at its discretion, may require that trailered boat ramps be designed by a CT Licensed Engineer.

### E. UPSLOPE USES

Upslope uses are Uses on Project lands that are located between the normal operating range of Project waters and the Project boundary. These Uses typically include paths and walkways, level seating areas, retaining walls, and other similar activities.

- a. Land disturbance may only be considered a Limited Activity Use if it results in only minimal alterations of Project lands. If significant land disturbance, including but not limited to extensive vegetation removal, terracing, or other substantial site grading and earth moving are required then these Uses shall be subject to the standards and guidelines for Significant Activity.
- b. Grading and terracing to stabilize soils, restore Project lands, and provide reasonable access and or to improve public access to Project lands and waters may be considered. For Significant Activity Uses, such proposals shall include detailed site grading and erosion control plans and details as well as cut and fill calculation for disturbed lands within the Project Boundary.
- c. Where land areas are encumbered by FirstLight's Flowage Rights, authorized Upslope Uses shall not materially interfere with FirstLight's rights to inundate Project Lands with water and ice within the Project boundary.
- d. Upslope Uses shall be designed and constructed to minimize direct run-off and promote infiltration of stormwater before it enters into Project waters.
- e. Retaining walls and edging categorized as a Limited Activity Use shall be minimal in height and only be constructed as necessary for site stabilization or minimal modifications in existing grade required for the installation of other upslope uses.
- p. Retaining walls greater than fifteen (15) inches in height and multiple levels of retaining walls that terrace project lands shall be categorized as a Significant Activity Use and shall be subject to all requirements for a Significant Activity Use. At FirstLight's discretion, design cross sections, design details, as-built drawing, or inspections signed by a CT Licensed Engineer may be required.
- f. Steps, paths and walkways categorized as Limited Activity Use shall only be for pedestrian use. The width of such paths shall be limited. Such steps, paths, and walkways may have a surface of mulch or crushed stone, or a hardened surface such as stone, masonry, brick, concrete, or pavers. FirstLight encourages the use of environmentally benign materials and pervious surfaces.
- g. Additional application requirements will apply for uses that substantially increase the area of impervious surface on Project lands. These uses may not be considered a Limited Activity Use and shall only be authorized subject to the standards and guidelines for Significant Activity Uses
- h. Access paths for motorized vehicles such paths may be of a sufficient width to allow for vehicular access and shall be categorized as a Significant Activity Use and are subject to

all applicable Significant Activity use requirements.

- i. Level seating areas are categorized as a Limited Activity Use if they are limited in area and their installation will result in minimal disturbance of Project lands. Such Level seating areas shall be less than one hundred and twenty (120) square feet and shall only be surfaced with sand, pea gravel, mulch, lawn or other similar material as authorized by FirstLight. Level seating areas authorized as a Limited Activity Use shall not be surfaced or be resurfaced with concrete, masonry, stone, brick, or impervious pavers.
- j. Level seating areas greater than one hundred and twenty (120) square feet or which will potentially result in significant land disturbance shall be categorized as a Significant Activity Use and shall be subject to all applicable Significant Activity use requirements.
- k. FirstLight may at its discretion require that proposed plans and details for any upslope use be prepared by a Qualified Person. Such required plans and drawings may include but are not limited to; site grading and erosion control plans, design and construction details, cross sectional details, cut and fill calculations and structural designs by a CT Licensed Engineer.

### F. OTHER USES

Many typical shoreline and land uses have unique characteristics and may be authorized at FirstLight's discretion subject to the standards and guidelines below.

### Other Use Which May be Categorized as Limited Activity Uses:

Uses such as flagpoles, campfire pits, irrigation pumps and other similar uses, which may be categorized as a Limited Use Activity, may be authorized by FirstLight. Additional requirements as applicable may also apply.

<u>Campfire Pits</u>: Campfire pits and campfires must comply with all applicable State and local requirements. FirstLight does not permit the construction of chimney stacks.

<u>Electrical and Utility</u>: All electrical and utility installations on FirstLight's lands shall comply with all applicable codes and shall be inspected or installed by a Qualified Person or a CT Licensed Electrician. Such uses are only allowed at FirstLight's discretion and may be subject to additional requirements and permit or authorization condition as determined by FirstLight.

<u>Irrigation Pumps and Intakes</u>: Water pumps and water intakes may only be used for irrigation and may be authorized by FirstLight. FirstLight does not authorize the installation or maintenance of submersible irrigation pumps. Such pumps are subject to removal.

<u>Boat Racks</u>: Boat Racks shall be used for the sole purpose of storage of non-registered boats and related accessories such as paddles, sails, and life vests.

<u>Fences</u>: Fences less than six feet high may be permitted at the discretion of FirstLight provided they do not interfere with public access to FirstLight lands within the Project boundary, or extend into Project waters.

<u>Similar uses</u>: Other similar uses such as flagpoles, handrails and guardrails may also be considered at the discretion of FirstLight.

### Other Use Which May be Categorized as Significant Activity Uses:

Other uses such patios storage structures, shade structures and decks may, at FirstLight's discretion, be authorized subject to all the requirements of Significant Activity Uses and the following standards and guidelines:

<u>Replacement Patios</u>: FirstLight encourages the resurfacing or replacement of impervious patio or terrace areas with pervious surfaces. At FirstLight's discretion, if an existing patio or terrace area is replaced and such plans incorporate the use of pervious surfaces, the size, location, and configuration may be modified. FirstLight may also require the replacement or reduction in size of impervious patios as part of any Significant Activity Use application.

<u>New or Modified Patio Areas</u>: New or modified patio and terrace areas shall only be constructed of FirstLight approved pervious materials. New patio areas shall have a total area of no greater than one hundred and fifty (150) square feet.

<u>Shade and Storage Structures</u>: Temporary, one story detached accessory structures, which are not intended for habitable use, may be authorized by FirstLight. Such structures may include gazebos, pergolas, tool and storage sheds, playhouses and similar uses. The roof area of shade structures shall not exceed one hundred and fifty (150) square feet and the floor area of storage sheds or playhouses shall not exceed one hundred (100) square feet.

<u>Decks and Landings</u>: Decks not exceeding one hundred and twenty (120) square feet in area that are not more than thirty (30) inches above grade at any point and are not attached to a dwelling may be authorized.

<u>Recreation Equipment</u>: The temporary installation of swings or other playground equipment may be authorized if the area occupied does not exceed one hundred (100) square feet. All equipment must be installed and maintained to meet all manufacturers' specifications and applicable law.

### G. STORMWATER USES AND STORMWATER MANAGEMENT

New stormwater discharges are not allowed within the Project boundary unless they employ current State of Connecticut Stormwater Quality Manual's best management practices. FirstLight currently encourages the incorporation of Low Impact Development (LID) techniques to promote infiltration and reduce direct run-off to Project waters.

Existing pipes and other conveyances that occupy Project lands or waters within the Project boundary must be authorized to remain.

FirstLight may, at its discretion, convey easements, rights of way or enter into agreements for use of Project lands for storm drains or other conveyances consistent with the requirements of Article 413 of the License.

To provide further guidance to applicants on best management practices for stormwater, FirstLight may, as part of its educational materials, develop additional guidance information and requirements relevant to stormwater management, LID designs and other construction guidelines for retrofitting existing as well as installing new conveyances.

### H. VEGETATED RIPARIAN BUFFERS

The preservation or re-establishment of Vegetated Riparian Buffers is required. Existing buffer areas cannot be altered without prior authorization from FirstLight. In cases where there is not an existing compliant buffer area, the enhancement of the buffer area shall be required as a condition of the approval of other shoreline and land uses. The buffer zone depth is determined by the shoreline land use designation.

Vegetated Buffer requirements and guidelines are as set forth herein and as defined within FirstLight's Shoreline Management Manual (SMM), A Homeowner's Guide to Shoreline Stabilization and Vegetated Buffers.

<u>Vegetated Riparian Buffer Zones</u>: Vegetated Riparian Buffer Zones are established by FirstLight on all its shorelines within the Project Boundary in two intervals of either fifty (50) feet or two hundred (200) feet based upon the Shoreline Land Designations and associated maps. These zones are intended to provide for the establishment of native vegetated cover plants, over time, to the extent reasonable and practicable. These Zones may or may not currently support native vegetated cover.

<u>Vegetated Riparian Buffer Zone Depths</u>: The Vegetated Buffer Zone is measured horizontally from the high water mark which is the maximum normal operating level of the reservoir. The depth of the Zone will vary depending on the Shoreline Land Designation. The Zone depth for Developed Recreational Lands and Developed Residential lands owned by FirstLight is fifty (50) feet or the Project Boundary whichever is less. For Conservation Lands and Undeveloped Residential Lands owned by FirstLight, the depth of the buffer zone is two hundred (200) feet or the Project boundary, whichever is less. Existing Commercial Lands and Project Operational Lands are not subject to the Vegetated Riparian Buffer Zones and are reviewed and authorized on an individual basis. <u>Vegetated Riparian Buffer Area</u>: A Vegetated Riparian Buffer Area is an area within the Vegetated Riparian Buffer Zone of naturally established vegetation or an area reestablished with vegetation by either natural succession (i.e. stop mowing grass) or the planting of trees, shrubs, herbaceous plants or ground covers.

<u>Vegetated Buffer Compliance</u>: The vegetated buffer compliance goal is to achieve an area equivalent to fifty (50) percent of the Vegetated Riparian Buffer Zone, within the Project Boundary, to be preserved or re-established as a Vegetated Riparian Buffer Area. Site specific variances, as defined within the Shoreline Management Manual, may be applied at FirstLight's discretion. Generally, a compliant Vegetated Riparian Buffer Area shall occupy between twenty (20) and fifty (50) percent of the Vegetated Riparian Buffer Zone within the Project Boundary. If the existing, established vegetated buffer exceeds the minimum requirement, FirstLight, at its discretion, may require that an area greater than fifty (50) percent be preserved. FirstLight may waive or alter the vegetated buffer requirement, if the preservation or installation of such buffers is not reasonably practicable, feasible, or violates applicable law. If FirstLight determines that a waiver is necessary or that a variance may be granted, such buffer will be considered compliant.

<u>Vegetated Buffers as a Required Use</u>: Based on a vegetated buffer assessment, Property Owners may be required to preserve, install or re-establish a vegetated riparian buffer when an application request is made to modify the size, location or configuration of an existing use or an application request is made to install a new authorized use. For an application request for Limited Activity Uses, the Property Owner generally will have up to three years to fully complete the implementation of an approved enhanced buffer planting. FirstLight may require that vegetated buffer installations to be installed sooner to resolve a violation or in other cases where stabilization of the shoreline or upslope lands is required. For application requests that include a request for Significant Activity Uses, the installation of vegetated buffer plantings will be required as part of the implementation of the Significant Activity. The installation of the required enhanced vegetate buffer shall generally occur within one year. An extension in time of may be granted at FirstLight's discretion for either Limited Activity Uses or Significant Activity Uses. Such extension shall only be granted if the Property Owner provides justification for the extension and a detailed construction and planting schedule.

### I. SHORELINE VEGETATION REMOVAL

FirstLight maintains all its lands in a natural state, including fallen trees, and a naturalized shoreline to ensure the protection and enhancement of natural resources, aesthetic values and recreational access for the public.

Removal of trees, shrubs and other vegetation located within the Project Boundary is prohibited without prior written authorization by FirstLight.

FirstLight reserves the right to prohibit the mowing of Project lands where a Property Owner has failed to comply with any FirstLight requirement.

In the event existing vegetation within the Project Boundary is removed without prior authorization from FirstLight, individuals, groups or entities that have trespassed, authorized or performed such removal shall be required to restore and mitigate the removal as required by FirstLight. In addition, FirstLight may take other enforcement actions including but not limited to civil and or criminal trespass penalties and enforcement fees.

FirstLight may allow limited removal of vegetation for the construction and installation of docks, seawalls, retaining walls or other authorized uses, provided that FirstLight determines that such removal is environmentally acceptable. FirstLight may require, as a condition of removals, that a vegetation landscape planting plan be submitted to FirstLight for prior review and authorization.

### XII. VEGETATED RIPARIAN BUFFER EDUCATION PROGRAM

FirstLight has established a Vegetated Riparian Buffer Education Program, which, in addition to Shoreline Education Workshops, includes FirstLight's "Shoreline Management Manual – A Homeowners Guide to Shoreline Stabilization and Vegetated Buffer Zones" which is published on its website along with other educational materials. The Shoreline Management Manual may be updated by FirstLight to enhance its content and address new issues within the Project Boundary without FERC approval. Any future updates will be noticed on the FERC docket and published on the company website, with revision dates noted.

Where shoreline lands within the Project Boundary are defined as Developed Residential Lands, and Vegetated Riparian Buffers have been previously cleared and or existing habitable or other structures such as, decks, sheds, seawalls, upslope retaining walls, paths, walkways, stairs and patios have been constructed, FirstLight shall recommend and encourage Property Owners to voluntarily re-establish a vegetated riparian buffers and or manage stormwater on Project lands around such structures.

### XIII. FIRSTLIGHT APPLICATION SUBMITTAL AND REVIEW FEES

All Property Owners, municipalities, State of Connecticut or other entities seeking review of an application for an authorized use of Project lands and waters shall pay an administrative fee to cover the cost associated with such review. The schedules and rates for application and administrative fees are listed in APPENDIX F – 6 Year Fixed Administrative Application Fee Schedule.

FirstLight also reserves the right to recover from abutting Property Owners, entities with Deeded Rights, municipalities or entities with non-commercial residential use and occupancy of lands and waters within the Project Boundary, any costs, including legal costs, associated with:

- a) The conveyance of property rights by FirstLight within the Project Boundary or the resolution of a Project Boundary dispute including Property Survey and Title Research Costs and any other costs incurred;
- b) Obtaining FERC authorization for a residential use that FirstLight does not have authority to permit under License Article 413;
- c) Taxes, fees or other costs levied upon FirstLight by municipalities or other third parties for shoreline and land uses within the Project Boundary and any other similar costs that were not reasonably anticipated or foreseen by FirstLight at the time the 2019 SMP was filed.
- d) The Fee Policy described herein will apply for the remaining term of the License. FirstLight reserves at its sole discretion the right to review and update the Fee Policy in the event additional obligations and costs are imposed on it related to the implementation of Articles 407 and 413 beyond those specified in the 2019 SMP.
- e) If a proposed shoreline and land use is only for the exercise of a deeded right or easement, recorded and within the chain of title of the Property Owner, an application fee will not be assessed for the review of the application associated with the use or occupancy authorized by and within the scope of the deeded right or easement.
- f) FirstLight reserves any and all legal rights it may now or in the future have to impose additional fees not specified herein. FirstLight's submission of this SMP is not an admission that it does not have legal authority to impose additional fees for use and occupancy of Project lands and waters.

In the event that an application to the FERC is required for approval of a Property Owners activity, FirstLight requires the payment of \$10,000 to cover its costs associated with such application.

### XIV. ENFORCEMENT

FirstLight is responsible for ensuring compliance with the 2019 SMP, as well as enforcing other FERC and property rights requirements that apply to the use and occupancy of lands and waters within the Project Boundary. FirstLight reserves the right to impose enforcement fees and exercise its legal rights against any person or entity for any unauthorized use or occupancy of lands or waters within the Project Boundary. The failure to register and or obtain an authorization for an existing or new use or any violation of any license, agreement, permit, deed, SMP, Project license or Federal Power Act requirement may result in enforcement by FirstLight. Such enforcement may also include the recovery of FirstLight's legal and other associated costs related to such enforcement and other policies as shown in the Enforcement Guideline Appendix E.

### XV. EDUCATION

FirstLight shall publish materials regarding the 2019 SMP, the Shoreline Permit Guidelines, Shoreline Land Designation Mapping and other materials on the company website. FirstLight will also work with municipal and state agencies, and their designees and others to develop appropriate educational materials which it will make available at public access points and/or on the internet.

FirstLight shall periodically sponsor workshops for the public, realtors, surveyors, municipal land use staff, contractors and professionals. The purpose of these workshops is to educate and inform attendees regarding the Shoreline Management Plan's goals and objectives, its Shoreline Permit Guidelines and the authorization processes.

### XVI. DIGITAL AND HARD COPY DATA POLICY

FirstLight developed and maintains a digital and hard file system for tracking shoreline activities and authorizations.

FirstLight does not have any obligation to release any permit, license, lease, agreement or any other company information to the public.

Any data that FirstLight has determined is accessible to the public may be posted on the FirstLight's website.

FirstLight will review individual written requests for specific information associated with specific projects and determine at its sole discretion if and how the data will be provided.

### XVII. REPORTING

FirstLight will provide annual reports for 30 day written consultation with stakeholders on the significant activities that have been completed and inspected in the previous calendar year. These reports will contain a photo and description of the activities completed.

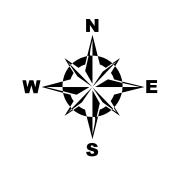
APPENDIX A

### **SHORELINE LAND DESIGNATION MAPS**



Housatonic River Project P-2576 Shoreline Land Designation Map Falls Village Development

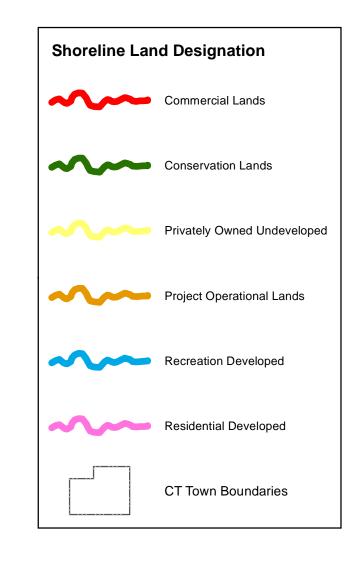


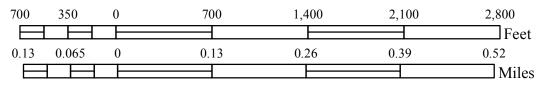


# Falls Village Study Area



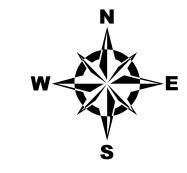
NORTH CANAAN CANAAN





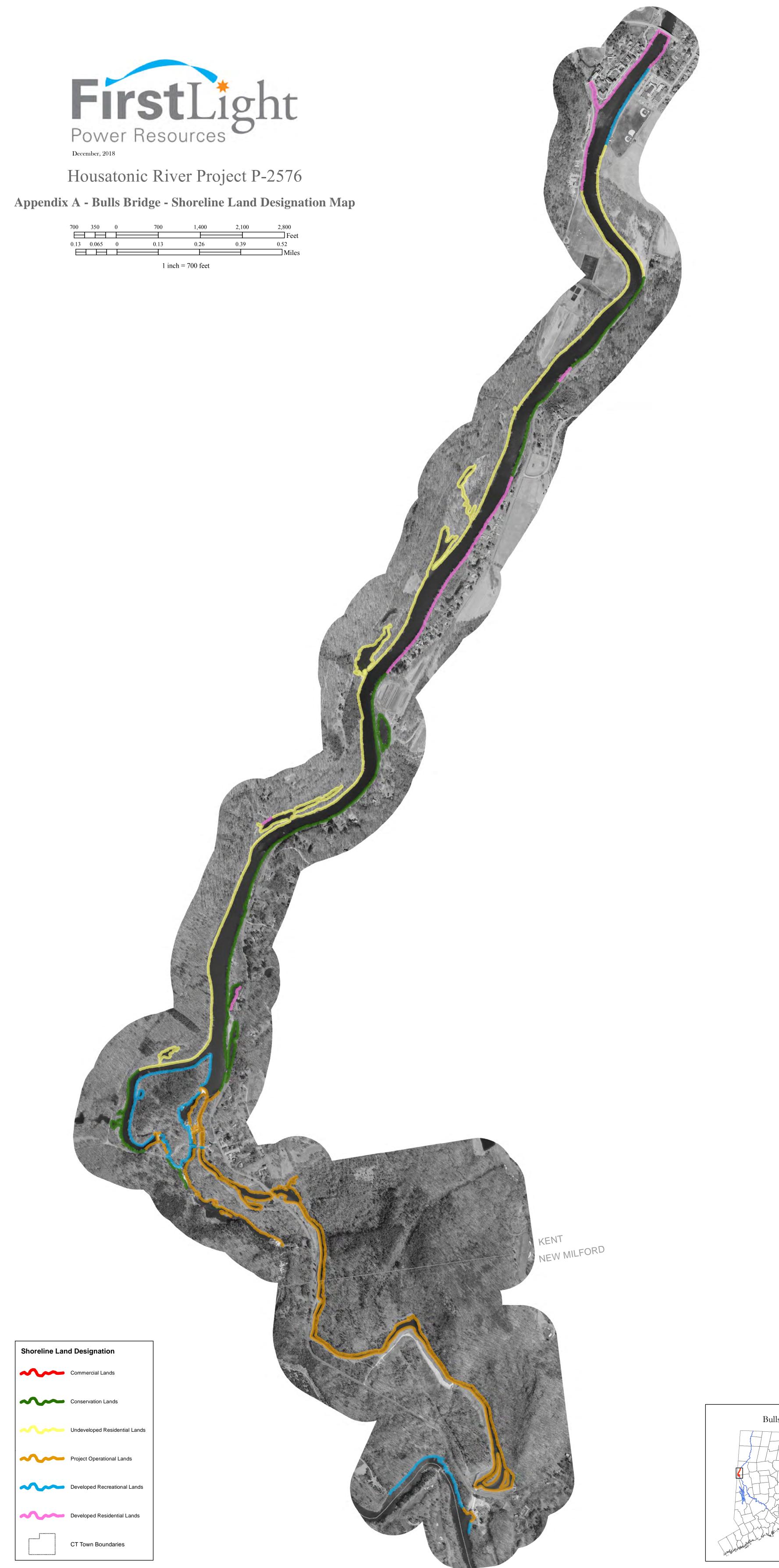
1 inch = 700 feet

December, 2018

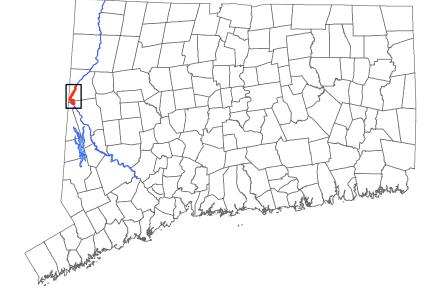




700	350	0	700	1,400	2,100	2,800
						Feet
0.13	0.065	0	0.13	0.26	0.39	0.52
						Miles
	1 1 1	<b>I</b>	<b>I</b>	I		

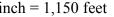


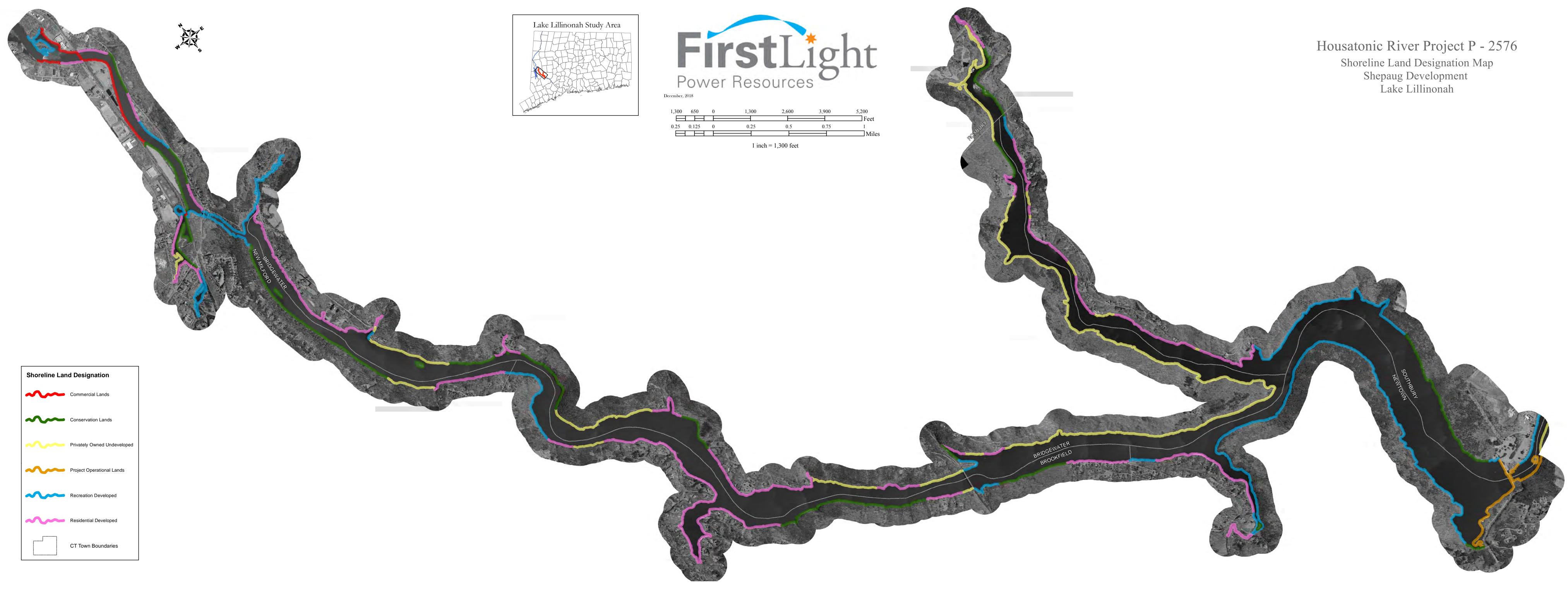
Bulls Bridge Study Area

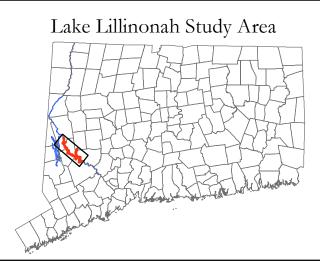


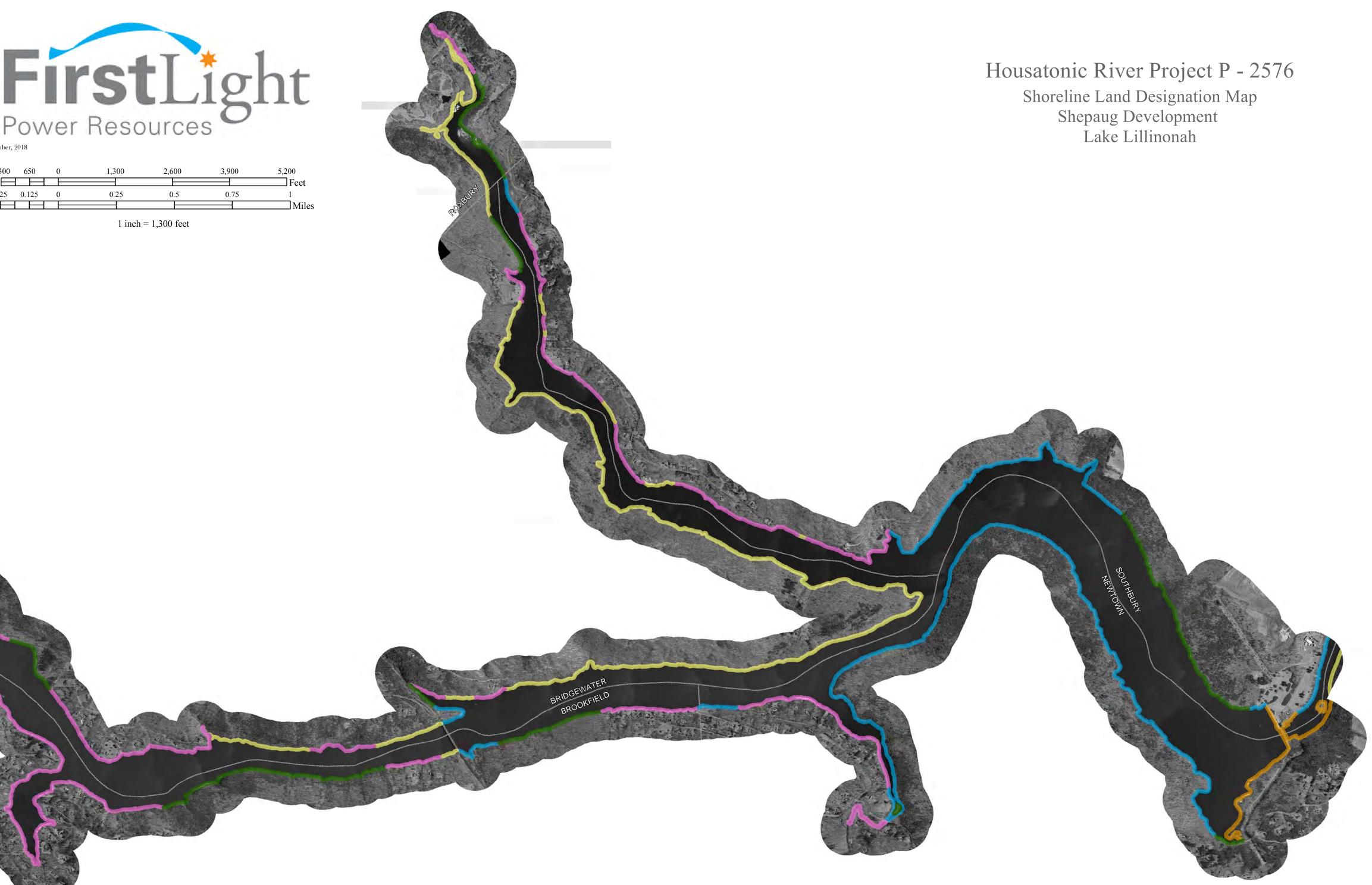


Feet           0.22         0.11         0         0.22         0.44         0.66         0.88	1,150 5	75 0	1,1	50 2,3	00 3,45	4,600
						Feet
	0.22 0.	11 0	0.2	22 0.4	44 0.6	6 0.88
						Mile

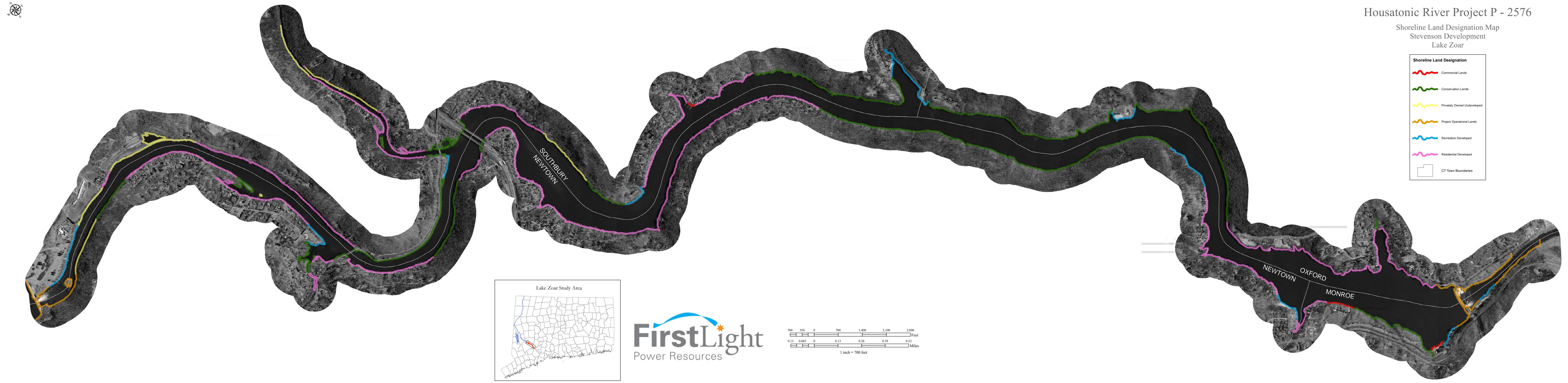








1,300	650	0	1,300	2,600	3,900	5,200
						Feet
0.25	0.125	0	0.25	0.5	0.75	1
						Miles



#### APPENDIX B SHORELINE MANAGEMENT PLAN DEFINITIONS

#### GLOSSARY OF TERMS

- a) "Licensee" is the entity who owns and operates the Project in compliance with the terms as set forth in the Housatonic River Project.
- b) "Project" is the hydro electric generators, dams, infrastructure, reservoirs, lands and waters under the control and maintenance of the Licensee (FirstLight) as needed to use the waters of the people of the United States of America to generate electricity.
- c) "Non-Project Use" is a specific use and/or occupancy being requested by a Property Owner within the Project Boundary on Project lands and/or waters that does not relate to the production of hydroelectric power or other Project purposes.
- d) "Project Boundary" is a jurisdictional line approved by the FERC to enclose the lands, waters and structures necessary for the operation of a hydroelectric project. The current Housatonic River Project Boundary is delineated on the most recently FERC approved Exhibit G Drawings as shown on FirstLight's website. Exhibit G drawings detail all areas within the Project Boundary and the boundaries for the five (5) developments' reservoirs that comprise the Housatonic River Project.
- e) "Property Owner" is an individual, group or entity which owns land either adjacent to or within FirstLight's federal Project Boundary or a land owner who possesses an easement or other legal right or interest to lands and waters within the Project.
- f) "Deeded Right" is a private property right specifically conveyed or retained in the past which established and which is maintained in a property's chain of title as a recorded instrument regarding the right and/or restriction to utilize Project lands and/or waters within the Project Boundary.

Some Examples of Deeded Rights at the Project Include:

- Right to maintain Docks of Simple Construction
- Rights to pass and repass to Project waters
- Rights to place Seawalls or Rip Rap substantially along the shoreline
- Rights to flowage with water, ice and material
- Restrictions on the discharge of sewage to lands and waters
- Restrictions on impacting navigation on project waters
- Restrictions on use in common with others
- g) "Flowage Rights" are the rights to inundate, store and permanently flow uninterrupted water, ice and material to an elevation on land within the Project Boundary and beyond. These property rights also limit the ability of the Property Owner to restrict and/or alter the land in a fashion that materially interferes with the flowage right.
- h) "Shoreline and Land Uses" are the activities and non-project uses and occupancies which either have historically existed within the Project Boundary and/or are being requested by Property Owners to be allowed through an authorization of an activity into the future within the Project Boundary.
- i) "Vegetated Riparian Buffer Zone" is a set distance of 50' for Developed Residential Lands and Developed Recreational Lands as defined on the Shoreline Designation Maps or 200' for Conservation Lands and Undeveloped Residential Lands from the water's edge upslope within the Project Boundary intended to provide for the establishment of native vegetated cover plants over time to the extent reasonable and practicable. The area may or may not currently support native vegetated cover.
- j) A Vegetated Riparian Buffer Area is an area within the Vegetated Riparian Buffer Zone of naturally established vegetation or an area re-established with vegetation by either natural succession (i.e. stop mowing grass) or the planting of trees, shrubs, herbaceous plants or ground covers.

#### APPENDIX B SHORELINE MANAGEMENT PLAN DEFINITIONS

- k) "Authorized Use" is an activity that has been determined by FirstLight to meet the minimum standards guidelines and requirements that are allowable through the issuance and execution of a written agreement with FirstLight.
- I) "Activity" is the action of performing a task to install, remove, construct or repair an authorized use.
- m) "Shoreline Land Designation" is a classification of the area within the Project Boundary that defines the types of shoreline and land uses that are allowable.
- n) "Limited Activity Use" is an authorized use or group of shoreline and land uses which have been determined by FirstLight to have a minimal potential to impact Project and other resources.
- o) "Significant Activity Use" is an authorized use or group of shoreline and land uses which have been determined by FirstLight to have a potential to materially impact Project and other resources.
- p) "Qualified Person" is a person who has a certificate, professional training, experience or knowledge to solve, inspect or resolve specific subject matter.

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#### I. INTRODUCTION

As set forth in the Shoreline Management Plan ("SMP"), FirstLight has established a permit and authorization program to manage the shoreline and land use occupancies ("Uses") of lands within the Housatonic River Project FERC P-2576 (the "Project") through a shoreline permit program. These Shoreline Permit Guidelines ("Guidelines") are intended to provide supplementary information to the SMP on FirstLight's permit procedures, standards and guidelines. Property Owners should first refer to the SMP when using these Guidelines. The Guidelines may be amended by FirstLight without stakeholder consultation or FERC approval. Any updates or revisions will be noticed on the FERC docket.

#### II. SHORELINE AND LAND USE TABLE

FirstLight requires that all Shoreline and Land Uses and associated activities within FirstLight's Project Boundary, whether existing or proposed, be authorized by FirstLight. The Shoreline Land Designation Maps, Shoreline Land Designation Chart provide guidance on potentially acceptable uses and associated activities Within the SMP, Uses are generally categorized as existing or future Uses that are either Limited Activity Uses or Significant Activity Uses. The following table(s) describe and define Uses and their associated activity(ies) that may be applied for as either Limited Activity Uses or Significant Activity Uses. Not all Uses are shown in the table and Property Owners should refer to the SMP and contact the FirstLight Land Management Department for additional Information.

SF	IORELINE AND LAND USE AND ACTIVITIES T REPAIRS AND NEW OR MODIFIED USES	ABLE			
SHORELINE AND LAND USES			ACTIVITY AUTHORIZATION		
DOCKS AND SHORELINE USES	Description	LIMITED SIGNIFICA			
DOCK NEW OR MODIFIED		х			
BOAT LIFT AND PERSONAL WATER CRAFT LIFT- RAMPS		x			
SEAWALL NEW			X		
SEAWALL REPAIR-L	Less than 15' total length of repairs such as repointing and resetting of stone.	X			
SEAWALL REPAIR-S	Greater than 15' total length of repairs such as repointing and resetting of stone.		Х		
SEAWALL REPLACEMENT	Extensive Repairs or Removal and Replacement of an Existing Seawall.		X		
RIP-RAP REVETMENT - L	Placement of Rip Rap for the stabilization of eroded shoreline areas of less than 10' in length.	X			
RIP-RAP REVETMENT - S	Placement of Rip Rap for the stabilization of eroded shoreline areas of less than 10' in length.		X		
STACKED BOULDER - L	Minor re-stacking of existing stone and boulders at shoreline.	Х			
STACKED BOULDER - S	Extensive re-stacking of existing or placement of new stone and boulders at shoreline.		X		
BIO-ENGINEERING - L	Implementation of bio-engineering shoreline stabilization techniques at less than 15' total length.	x			
BIO-ENGINEERING - S	Implementation of bio-engineering shoreline stabilization techniques at greater than 15' total length.		X		
JETTY BREAKWATER OR - L	Minor re-stacking of existing stone or boulders to establish or re-establish jetties or breakwaters, for wave attenuation.	X			
JETTY BREAKWATER OR - S	Placement of new materials to establish or re-establish jetties or breakwaters for wave attenuation.		X		
STEPS TO WATER - L	Steps at no greater than 6' in width. Maximum Length and Rise determined at FirstLight's Discretion.	x			
STEPS TO WATER - S	Steps greater than 6' in width.		Х		

SF	IORELINE AND LAND USE AND ACTIVITIES TA REPAIRS AND NEW OR MODIFIED USES	ABLE	
SHORELINE AND LAND USE	ES		
DOCKS AND SHORELINE USES	Description	LIMITED	SIGNIFICANT
RAMPS TO WATER       Ramps less than 10' in width that are used for the purpose of launching or securing kayaks, sailboats, or other small or non-motorized water craft.			x
RECLAMATION OF EXISTING BOAT LANDING BEACH	Racking and removal of natural and man- made material or debris. Hand removal of surface rocks or stone to facilitate water access	X	
NEW BOAT LANDING BEACH	Placement of new materials or grading to establish new boat landing or beach.		X
TRAILER BOAT RAMP	Boat Ramps for the purpose of launching of boats, vessels, or other watercraft.		X
SI	HORELINE AND LAND USE AND ACTIVITIES T REPAIRS AND NEW OR MODIFIED USES	ABLE	
SHORELINE AND LAND USE	S	ACTIVITY A	UTHORIZATION
UPSLOPE AND OTHER USES	Description	LIMITED	SIGNIFICANT
STEPS/PATHS/ WALKWAYS - L	Steps, Paths, or Walkways that are no greater than 4' in width that are used for pedestrian purposes only.	x	
STEPS/PATHS/ WALKWAYS - S	Step, Paths, Walkways greater than 4' in width and less than 7' in width that may be for pedestrian use or small motorized vehicular use.		X
RETAINING WALL - L	Low retaining walls, free standing walls, or edging less than 15" in height.	Х	
RETAINING WALL - S	Retaining walls and free standing walls that are greater than 15" in height and less than 4' in height or multiple walls of any height constructed as part of terracing of the land.		Х
ENGINEERED RETAINING WALL	Retaining Walls greater than 4' in height.		X
LEVEL SEATING AREA - L	Level seating areas surfaced with sand, pea gravel, mulch, lawn or other similar material less than 120 square feet in area.	x	
LEVEL SEATING AREA - S	Level seating areas surfaced with sand, pea gravel, mulch, lawn or other similar material as authorized by FirstLight greater than 120 square feet in area.		X
MINOR PATIO REPAIR	Minor resetting or replacement of existing pavers or stone.	х	

SF	IORELINE AND LAND USE AND ACTIVITIES T REPAIRS AND NEW OR MODIFIED USES	ABLE	
SHORELINE AND LAND USE	ACTIVITY AUTHORIZATION		
UPSLOPE AND OTHER USES	Description	LIMITED	SIGNIFICANT
REPLACEMENT PATIO	Resetting or leveling of existing pavers or stone or replacement of pavers or stone with new material.		X
NEW PATIO AND TERRACES	New areas surfaced with pavers or stone of no greater than one hundred and fifty (150) sq. feet.		X
CAMP FIRE PIT		Х	
KAYAK BOAT RACK	Boat Racks used for the purpose of storing kayaks, canoes, or other small unregister watercraft.	X	
FLAG POLE		Х	
IRRIGATION INTAKES AND PUMPS	Water pumps and water intakes are used for the purpose of irrigation	Х	
FENCES	Fences not over 6 feet high that do not interfere with public access to FirstLight lands within the Project boundary, or extend into Project waters at the discretion of FirstLight.	X	
SHADE STRUCTURE	Temporary gazeboes, pergolas and other similar type shade structures no greater than 150 sq. feet.		x
STORAGE STRUCTURE	Temporary sheds or other storage structures with size limits as defined in the SMP		x
DECK	New or Modified Decks and Landings as defined in the SMP		X
RECREATION EQUIPMENT	Swings or other pay ground equipment that occupies an area of less than 100 sq. feet.		Х
LAND DISTURBANCE- MINIMAL	Minimal alterations to Project Lands associated with a Limited Activity Use.	Х	
LAND DISTURBANCE- SIGNIFICANT	Extensive vegetation removal, terracing, or other substantial site grading and earth moving.		X
VEGETATED BUFFER ENHANCEMENT	Installation of trees, shrubs, herbaceous plants and ground covers.	х	
VEGETATION REMOVAL - L	Minimal alterations to the Vegetated Buffer Area associated with a Limited Activity Use.	Х	
VEGETATION REMOVAL - S	Minimal alterations to the Vegetated Buffer Area associated with a Significant Activity Use.		Х
MULTIPLE LIMITED ACTIVITY USES	Applications with greater than three land based Limited Activity Uses will be considered a Significant Activity Use.		X

#### **APPLICATION PROCESSES**

FirstLight requires that all Shoreline and Land Uses and associated activities within FirstLight's Project Boundary, whether existing or proposed, be authorized by FirstLight. All application requests shall be subject to review, payment of a fee and must receive written authorization by FirstLight. It is the applicant's responsibility to provide sufficient information for FirstLight to make its authorization determination. This application process and the application information required will vary depending upon the type of application requested. The information in the following tables below provides guidance on the types of applications, activities and contracts FirstLight issues for specific requests.

#### **APPLICATION TYPE TABLES**

CERTICATE OF PERMISSION						
ТҮРЕ	WHO MAY APPLY	PURPOSE	TRANSFERS	ALLOWS ROUTINE MAINTENACE		
CERTIFICATE OF PERMISSION	Property Owners who have received a " <u>HOUSATONIC RIVER</u> <u>PROJECT P-2576</u> <u>NOTICE OF REQUIREMENT</u> <u>TO REGISTER</u> <u>YOUR EXISTING</u> <u>SHORELINE AND LAND</u> <u>USES</u> "	Temporary certificate issued to meet the registration requirements under the SMP as approved on March 27, 2013. Property owners of pre-existing uses and/or structures were required to register their uses following approval of the Shoreline Management Plan *	No	No		
March 27, 2013, Exhi Impoundments and pe River Impoundment h	ibit A, Section VIII.) is ongoing ending for Property Owners at t as expired and all Property Ow	their Pre-Existing Uses and Dock g for Property Owners at the he Stevenson Impoundment. Th ners who do not have a Certifica pplication and submit all the re	Falls Village, Bull e registration pro ate of Permission	ls Bridge, Shepaug ocess for the Rocky or an Existing Use		

Existing Use Permit.

EXISTING USE PERMITS				
ТҮРЕ	WHO	PURPOSE	TRANSFERS	ALLOWS ROUTINE
	MAY			MAINTENANCE
	APPLY			
EXISTING USE PERMIT	Property	Authorizes Existing	Yes*	Yes**
	Owners	Shoreline and Land Uses		
EXISTING USE PERMIT	Property	Authorizes Existing	Yes*	Yes**
TRANSFER	Owners	Shoreline and Land Uses		

\* A Shoreline and Land Use Application is required prior to the transfer of licenses and or permits for a current licensee or permittee. New owners must accept all liabilities and responsibilities under the license and or permit.

\*\* Maintenance activities are limited to routine maintenance of existing shoreline and land uses. Generally, routine maintenance shall only include simple, small-scale activities, associated with periodic and customary upkeep of the improvements to prevent deterioration against normal wear and tear or for their continued operation in their original condition. Routine maintenance shall not include activities such as those requiring machinery or specialized tools, or capital improvements.

ТҮРЕ	PURPOSE	TRANSFERS	ALLOWS ROUTINE MAINTENACE	ALLOWS REPAIRS AND NEW OR MODIFIED USES			
LIMITED ACTIVITY*	Authorizes Limited Activity Uses	No	Yes	Yes			
Proposed shoreline and	land uses may in	nclude docks, sho	oreline stabilization, and	paths or walkways that			
FirstLight at its sole disc	retion has deter	mined have a mi	nimal impact on Project	lands, waters and resources.			
SIGNIFICANT ACTIVITY*	Authorizes Significant Activity	No	Yes	Yes			
Proposed shoreline and	land uses may ir	nclude retaining	walls and terracing, mot	orized or vehicular access			
paths, the installation an	nd construction	of pervious patio	os, decks, gazebos, and te	emporary shade or storage			
structures that FirstLight at its sole discretion has determined have a potential significant impact on Project							
lands, waters and resources.							
* These Authorization agreements may allow for the installation of new, modification to existing and							
* These Authorization a	greements may a	maintenance beyond a routine nature. Once the work authorized under an Activity Number is completed and					

#### APPENDIX D USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL

#### USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL

FirstLight at its discretion may seek authorization from the FERC (Commission) as part of License Article 413 described below to address specific issues that arise at the Project over time. There are several activities that require the FERC's approval and they are detailed below:

#### (EXCERPT FROM - P-2576 - STANDARD LAND USE ARTICLE 413)

#### PROCESS FOR CONVEYING SIMPLE EASEMENTS:

(a) The licensee may convey easements or right-of-way across, or leases of, project lands for:

- (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained;
- (2) storm drains and water mains;
- (3) sewers that do not discharge into project waters;
- (4) minor access roads;
- (5) telephone, gas, and electric utility distribution lines;
- (6) non-project overhead electric transmission lines that do not require erection of support structures within the Project Boundary;
- (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69 kV or less); and
- (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir.

No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (a) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

#### APPENDIX D

#### USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL

### (EXCERPT FROM - P-2576 - STANDARD LAND USE ARTICLE 413)

#### PROCESS FOR CONVEYING FEE TITLE AND COMPLEX EASEMENTS

- (b) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for:
  - (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained;
  - (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained;
  - (3) other pipelines that cross project lands or waters but do not discharge into project waters;
  - (4) non-project overhead electric transmission lines that require erection of support structures within the Project Boundary, for which all necessary federal and state approvals have been obtained.
  - (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina;
  - (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and
  - (7) other uses, if; (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (b)(7) in any calendar year.

At least 60 days before conveying any interest in project lands under this paragraph (b), the licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

#### APPENDIX D

#### USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL

#### (EXCERPT FROM - P-2576 - STANDARD LAND USE ARTICLE 413)

#### FIRSTLIGHT APPLICATION REVIEW AND CONSULTATION REQUIREMENTS

- (c) The following additional conditions apply to any intended conveyance under paragraph(a) or (b) of this Section VII:
  - (1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.
  - (2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.
  - (3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project, and (iii) the grantee shall not unduly restrict public access to project waters.
  - (4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.
  - (5) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be change to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposal to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.
  - (6) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the Project Boundary.

#### APPENDIX E ENFORCEMENT GUIDELINES

FirstLight is responsible for enforcement of the SMP and FERC requirements that apply to the use and occupancy of Project lands and waters within the Project Boundary. FirstLight reserves the right to impose enforcement fees and exercise its legal rights on any person or entity for any unauthorized use or occupancy of lands or waters within the Project Boundary, including failure to register and or obtain authorization for an existing or new use, and violation of any law, regulation, agreement, SMP, Project license or Federal Power Act (FPA) requirement.

Such enforcement rights shall also include the recovery of FirstLight legal costs related to enforcement.

#### FIRSTLIGHT ENFORCEMENT ACTIONS

- As described in Article 413, FirstLight shall take any lawful action necessary to correct the violation including but not limited to:
  - Trespass actions (where FirstLight owns the relevant land), overburdening of easement actions (where abutters have exceeded their deeded rights to utilize Project lands), actions for material interference with FirstLight flowage rights (where FirstLight has a deeded right to inundate lands with water and ice).
  - Issuing Notices of Violation regarding unauthorized use or occupancy of Project lands and waters and to seek corrective action.
  - Exercise of federal right of eminent domain under Sec. 21 of the FPA.
  - Removal of structures and uses by FirstLight. In addition to the enforcement fees below, FirstLight reserves the right to recover the cost of removal and restoration of Project lands.
  - Suspension and/or cancellation of any authorized use and or occupancy, including revocation of any agreement.
  - Bar Property Owners from receiving any future authorization to use Project lands and waters for a period of time to be determined by FirstLight.
  - Recovery of enforcement related legal costs.
  - Posting of lands within the Project Boundary.
  - To the extent practicable, FirstLight shall notify the relevant governmental authority regarding violations that fall within the governmental authority's jurisdiction. Governmental authorities shall have permission to conduct inspections of authorized and unauthorized structures and uses on Project lands and waters.

#### ENFORCEMENT FEE SCHEDULE

- Unauthorized use and or occupancy of lands or waters within the Project Boundary: An administrative charge of up to \$5,000.00 per violation for an initial violation and up to \$1,000.00 per violation per month for continuing violations.
- Failure to register and or seek authorization for an existing or new use, violation of any agreement, SMP, Project license or FPA requirement or any other law or regulation may result in a charge of up to \$5,000.00 per violation for an initial violation and up to \$1,000.00 per violation per month for continuing violations.
- Unauthorized commercial use of lands or waters within the Project Boundary, including, but not limited to, operating a business whether for profit or not-for-profit, renting or selling docks, or working as a contractor for a third-party, may result in an administrative charge of up to \$25,000.00 and up to \$5,000.00 per violation per month for ongoing violations.
- Abandoned Vessels and/or Vehicles, Derelict Docks may result in an administrative fee of \$2,000.00.
- These fee schedules are for administrative enforcement only, and, in addition to any monetary damages or attorneys' fees that FirstLight seeks or is awarded by a Court or Tribunal, and any administrative application fees that FirstLight may charge.

#### APPENDIX F ADMINISTRATIVE FEE SCHEDULE

## 6 YEAR FIXED ADMINISTRATIVE FEE SCHEDULE

# FEE EXCEPTIONS AND WAIVERS

Request and Applications Not Subject to Application Submittal Fee				
Registration of Historical Uses	Free			
(Certificate of Permission)				
Maintenance Activity (As defined in Existing Use Permit) Submittal for Start Work Authorization	Free			
Requests for an Extension in Time for an Authorized Activity	Free			
Immediate Action Tree, Dock, Mooring, or Debris Removal	Free			

Uses for which the Onetime Administrative Fee for Activity Authorization Review Shall be Waived					
Dock with Deeded Right Free					
Seawall or Protective Construction with Deeded Rights Free					
Other Uses for which there are Deeded Rights Free					

Uses for which Onetime Administrative Fee(s) for	
Limited (L) and Significant (S) Activity Use Review are not assessed	
Limited Activity Repairs	No Additional Fee
Limited Activity Landscape Enhancement	No Additional Fee
Limited Activity Vegetation Removal	No Additional Fee
Erosion Control and/or Wave Attenuation	No Additional Fee
Alternative Shoreline Stabilization Techniques	No Additional Fee
Seawall Repair	No Additional Fee
Camp Fire Pit	No Additional Fee
Kayak-Boat Rack	No Additional Fee
Flag Pole	No Additional Fee
Wildlife And Habitat Enhancements	No Additional Fee

#### APPENDIX F ADMINISTRATIVE FEE SCHEDULE

### 6 YEAR FIXED ADMINISTRATIVE FEE SCHEDULE

# ADMINISTRATIVE FEE TYPES AND CALCULATION

	Administrative Fee Types & Calculation	
1	Application Submittal Fee	
	(Required for all Applications)	
2	Onetime Administrative Fee for Permit Review or Activity	
	Authorization Review	
	(Select One)	
3	Additional Onetime Administrative Fee(s) for Limited (L) and	
	Significant (S) Use Review	
	(Select All that Apply)	
	Fee Amount 1 + Fee Amount 2 + Fee Amount 3	
Total	Less any Exemptions or Waivers	
Fee	Equals the Total Fee that will be applied.	
	(Onetime Administrative Fee Review And Processing Of Applications	
	Requiring FERC Approval may also apply)	
4	(Onetime Administrative Fee Review And Processing Of Applications	
	Requiring FERC Approval may also apply)	

# **1 – APPLICATION SUBMITTAL FEE**

Application Submittal Fee	
This fee applies to all submitted applications	
Application Submittal Fee \$150.00	

#### 2 – PERMIT AND ACTIVITY REVIEW FEE

Onetime Administrative Fee for Permit or Activity Authorization Review	
This fee is applied in addition to the Application Submittal Fee	
Residential Existing Use Permit	No Additional Fee
Community Existing Use Permit	No Additional Fee
Pre-Purchase Inspection Fee	\$250.00
Limited Activity Use	\$300.00
Significant Activity Use	\$1,5000.00

#### APPENDIX F ADMINISTRATIVE FEE SCHEDULE

# **3 – ADDITIONAL ONETIME ADMINISTRATIVE FEE(S)**

Additional Onetime Administrative Fee(s) for Limited (L) and Significant (S) Use Review These fees apply in addition to the Application Submittal Fee and Activity Authorization Review Fee		
Type of Use* Fee Fee		
DOCK NEW	\$250.00	
DOCK MODIFICATION	\$250.00	
BOAT LIFT AND PERSONAL WATER CRAFT LIFT-RAMPS	\$250.00	
SEAWALL NEW	\$250.00	
SEAWALL REPLACEMENT	\$250.00	
STACKED BOULDER – S	\$250.00	
STEPS TO WATER – S	\$250.00	
RAMPS TO WATER	\$250.00	
NEW BOAT LANDING BEACH	\$250.00	
TRAILER BOAT RAMP	\$250.00	
STEPS/PATHS/WALKWAYS – L/S	\$250.00	
RETAINING WALL – L/S	\$250.00	
ENGINEERED RETAINING WALL	\$250.00	
LEVEL SEATING AREA –L/ S	\$250.00	
REPLACEMENT PATIO	\$250.00	
NEW PATIO AND TERRACES	\$500.00	
SHADE STRUCTURE	\$500.00	
STORAGE STRUCTURE	\$500.00	
DECK	\$500.00	
LAND DISTURBANCE-SIGNIFICANT	\$500.00	

\* See – Appendix C - Shoreline and Land Use And Activities Tables – For More Details (L/S)

# 4 - ADMINISTRATIVE FEE FOR APPLICATIONS REQUIRING FERC APPROVAL

Onetime Administrative Fee Review And Processing Of Applications Requiring FERC Approval This fee is applied in addition to the fees as defined in the tables above.	
FERC Application Fee* \$10,000	
*Uses that require additional FERC approval as defined in Article 413	

#### APPENDIX G STAKEHOLDERS AND THEIR RESPONSIBILITIES

#### Purpose

The SMP Lake Advisory Committee (LAC) and SMP River Advisory Committee (RAC) stakeholders meetings shall serve as forums for discussions of ongoing activities associated with the SMP. These stakeholders shall meet annually for the first two years after the approval of the SMP and once as part of the next six year review and update of the SMP.

#### Annual Meetings:

#### Process

Each time the Stakeholders meet, FirstLight will approve the members, create an agenda, schedule, and host the Stakeholder meetings. No later than thirty days prior to the meeting, FirstLight shall distribute an agenda to the Stakeholders. FirstLight will entertain suggestions of additional issues to be addressed if received fifteen days prior to the date of the meeting.

#### Reporting

FirstLight will take meeting notes and submit the agenda, meeting notes and attendees sign in sheet to the FERC. No written consultations will occur and FirstLight will determine if any discussion items from the meeting are actionable as part of implementing the SMP.

#### Six Year Review and Update Meeting:

#### Process

FirstLight will invite and approve the SMP LAC & RAC members. FirstLight will create an agenda, publish a copy of the proposed updates to the SMP on a website and schedule a stakeholder meeting no less than 30 days after posting the SMP. No later than thirty days prior to the meeting, FirstLight shall distribute the agenda to the approved Stakeholders. FirstLight will entertain suggestions of additional issues to be addressed if received fifteen days prior to the date of the meeting. Stakeholders will be asked to provide written comments to FirstLight in a consultation table concerning the SMP draft within thirty days after the meeting. If no written comments are received within 30 days from stakeholders, then it will be assumed that the updated SMP is supported as prepared. None of the Stakeholders shall have the authority to alter the SMP.

#### Final Determination and Submission

FirstLight will, at its sole discretion, make any final decision regarding the SMP and its revision, subject to any necessary FERC approvals. Each Stakeholder will, upon request, declare its representative to FirstLight and provide their respective contact information. The responsibilities of the Stakeholders are to provide specific input on the six year review and update of the SMP. None of the Stakeholders shall have the authority to alter the SMP.

#### APPENDIX G STAKEHOLDERS AND THEIR RESPONSIBILITIES

#### SMP LAC & RAC Members

Below are lists of the Agencies and Stakeholder Groups to be invited to participate as part of the Shoreline Management Plan's required consultation.

#### The SMP Lake Stakeholder Group will include the following:

- U.S. Fish and Wildlife Service; (One Representative)
- National Park Service; (One Representative)
- State Historic Preservation Officer (One Representative)
- Connecticut Department of Energy and Environmental Protection; (Division Representatives)
- Municipal Representatives (One Per Town) Appointed by the Chief Elected Official
- Lake Lillinonah Authority; (One Representative)
- Candlewood Lake Authority; (One Representative)
- Lake Zoar Authority; (One Representative)
- CT BASS (One Representative)
- Commercial Marina Owner (One Representative)
- Lakefront Property Owner Representatives (One Representative)
- FirstLight Power Resources
- Others may be invited at the discretion of FirstLight

#### The SMP River Stakeholder Group members will include the following:

- U.S. Fish and Wildlife Service; (One Representative)
- National Park Service; (One Representative)
- State Historic Preservation Officer (One Representative)
- Connecticut Department of Energy and Environmental Protection; (Division Representatives)
- Housatonic Environmental Action League; (One Representative)
- Western Connecticut Council of Governments (HVCEO) (One Representative)
- Housatonic Valley Association; (One Representative)
- Appalachian Trail Conference; (One Representative)
- Appalachian Mountain Club; (One Representative)
- Housatonic River Commission (One Representative)
- Adirondack Mountain Club; (One Representative)
- American Whitewater; (One Representative)
- Trout Unlimited; (One Representative)
- FirstLight Power Resources
- Others may be invited at the discretion of FirstLight

RESOLUTION DATE	DESCRIPTION/REQUIREMENT	RESOLUTION
6/23/2004	Order Issuing New License	FirstLight Received FERC Order approving Application f new Housatonic River Project License P-2576
6/23/2004	Article 407 of the New License required the creation and submission of a Shoreline Management Plan with specific requirement below:	FirstLight began drafting a SMP in 2005
	SMP Require	ed Provision:
9/20/2006	(1) safe public access to shoreline and riverfront lands and waters for informal recreational and navigational use;	1-FirstLight confirmed that all its lands and waters are op to the public and created a Recreation Management Plan which was approved by the FERC on 9/20/2006.
12/04/2014	(2) the conservation of important resource and environmental qualities surrounding the project's shorelines and riverfront lands;	2-FirstLight prepared and submitted a "Article 407 Feasibility Report, Plan and Schedule for Conservation Easements and Restrictions" 3/26/2014
6/30/2009	(3) the development of shoreline and riverfront areas and facilities that are consistent with both project and non- project needs and demands.	3-FirstLight prepared and submitted the SMP and established a formal permitting program.
	SMP Des	criptions:
3/27/2019	(1) the purpose and scope of the plan;	4-FirstLight prepared an introduction in this SMP that clarifies the purpose and scope of the Plan.
3/27/2019	(2) how the plan was prepared including identification of the entities involved in its preparation;	5-FirstLight developed and consulted with all concerned parties as part of the Lake and River Advisory Committee written consultation and a public hearing (See SMP Stakeholder Consultation Record-filed 3/27/2019).
3/27/2019	(3) the licensee's policies and guidelines on shoreline use including a shoreline- use classification system (if applicable), and associated permitting and property- conveyance procedures;	6-FirstLight developed Shoreline Land Designation Maps formal permitting program and conveyances are managed consistent with Article 413 guidelines. (See Appendices A,B & C)
6/30/2019	(4) any special management measures to be administered under the plan (such as a clean-marina initiative, adopt-a-shoreline program, parkland lease program, etc).	7-FirstLight implemented a derelict dock, mooring remov and required compliance with CTDEEP's clean marina program in 2009.

SMP Implementation:		
06/30/2009	(1) guiding prospective applicants for non-project uses of project lands in conforming their proposals to the plan's provisions;	8-FirstLight provided and continues to maintain permit application materials and general information on its website. FirstLight continues to review requested applications based upon the approved SMP's requirements and this SMP provides additional updated Shoreline Permit Guidelines as Appendix C herein.
6/30/2009	(2) reviewing pending proposals for use of project lands to determine their consistency with the plan's policies, classifications, prescriptions, and application requirements;	9- See 8 Above
9/18/1981	(3) monitoring existing shoreline activities to ensure their compliance with the plan.	10-FirstLight regularly performs site walks prior to the issuance of any permits and monitors on going activities from the land and water. FirstLight has been monitoring its lands and issuing permits since 1981.
	SMP Other	Provisions:
11/17/2014	a) Identification of a vegetated buffer zone around reservoir shorelines and riverfront lands of up to 200 feet measured horizontally from the high water mark on lands that it owns within the project boundaries, consistent with the Commission's regulations.	11-FirstLight prepared and submitted a Vegetated Buffer Plan and Shoreline Management Manual on March 27, 2014. FERC issued an Order approving the Vegetated Buffer Plan on 11/17/2014. This SMP proposes to update the Shoreline Management Manual after the approval of this 6 year update. This SMP eliminates the requirements to install a vegetated buffer within five years of an adjacent parcels change in ownership. The trigger that will require a vegetated buffer to be installed will be a condition of a request for a limited or significant activity on project lands and waters.
2019 completed	b) Identification on maps of disturbed NGS-owned lands with the potential for re-vegetation and provisions to re- vegetate these areas within the project boundaries.	12-FirstLight included in its Vegetated Buffer Plan and consultation a schedule for targeted revegetation of project lands at each of the five impoundments. Four of the five have been completed and the final site is being installed now and will be completed in 2019.
Annually	c) A public education component that could include brochures, seminars, or signs to encourage the planting and/or establishment (i.e., implementation of no-cut zones along the shoreline, shoreline stabilization, buffer-zone maintenance, habitat protection and enhancement) of native species in the	13-FirstLight established and maintains an educational program as part of the SMP, this SMP proposes to continue and enhance that program through workshops, publishing information on the company website and other methods.

	buffer zone by private landowners for adjoining residential property owners.	
6/30/2009	<ul> <li>d) Identification of procedures to maintain access for recreational purposes for adjacent landowners.</li> </ul>	14-FirstLight has implemented a permitting program that balances maintaining access for adjacent landowners with the public.
3/26/2014	e) Provisions for identifying opportunities to provide conservation easements for greenway and trail development and improved public access within the project boundary including a description of a permitting system to allow management of such easements by a qualified entity.	15-See note 2 above.
5/5/2017	f) A provision to share existing digital mapping data upon request.	16-FirstLight initially provided for a GIS Data Policy in Section XXIV of the 2009 SMP. Subsequently, FirstLight determined that the release of all GIS data collected by the Company was inconsistent with internal policies. FirstLight submitted a summary report on 1/4/2017 to the FERC clarifying this situation. FERC provided clarification on this requirement in a letter dated 5/15/2017. This SMP reflects FERC's clarification and contains a resolution to this requirement in section XVI Digital and Hardcopy Data Policy as described in the correspondences above.
11/27/2008	g) An inventory of existing shoreline development facilities (such as boat docks, marinas, landings, and bulkheads/shoreline stabilization structures) located on project lands, the conditions of the facilities, and the entity that manages the facilities (details on ownership and condition of each private dock are not necessary).	17-FirstLight completed an initial photographic inventory of all shoreline uses and subsequently performed a physical shoreline inventory which resulted in submission of Non- Conforming Structure Inventory Reports for each impoundment. All five impoundments reports have been submitted and subsequently approved by the FERC as of 11/27/2018.
12/04/2014	h) An inventory of aesthetic resources on project lands and lands adjacent to the project boundary and areas thought to have high aesthetic value, including vegetated shorelines and views of water.	18-See note 2 above.
9/20/2006	i) Measures to control erosion from trails and parking lots and shoreline areas, and restrictions on pedestrian traffic in areas with sensitive habitats.	19-See Note 1 & 12
12/04/2014	j) Identification of conservation restrictions or other similar protective measures on those NGS-owned lands within the project boundary that are not already dedicated to open space.	20-See note 2 & 6
12/04/2014	<ul> <li>k) A report on the feasibility of conserving those project lands that are deemed critical for protecting the scenic,</li> </ul>	21-See note 2 & 6

	recreational, and natural values of the project area, as well as lands that can be used for greenway and trail development, and, as appropriate, a plan and schedule for acquiring those easements.	
6/30/2009	1) A discussion of local government zoning and other land use regulations affecting project resources and any coordination efforts between the licensee and local governments about land and aesthetic conservation goals.	22-FirstLight developed as part of the 2009 SMP in Exhibit A an Agreement with Municipalities to address this requirement. This SMP has eliminated that agreement and rather defines and clarifies Municipal and State Jurisdictions in section VII.
6/30/2009	m) A schedule and process for periodically reviewing and updating the plan every six years.	23-The 2009 SMP resolved this requirement in section III. Term, this SMP section IV. Term retains the review and updating of the plan at six years, Appendix G describes the stakeholder process going forward.
6/30/2009	n) The identification of land that could be used as staging areas by local lake associations or authorities for patrol and water quality monitoring activities.	24-FirstLight provided consultation opportunities as part of the minutes of the Lake and River Advisory Committee initial meetings to determine a suitable location. No entities ever identified a suitable location upon request, however, any entity can apply for a permit for such a use under the SMP.

# SMP STAKEHOLDER CONSULTATION RECORD

# THIS IS NOT A PART OF THE FINAL SMP

#### SMP MUNICIPAL CHIEF ELECTED OFFICIALS INVITE APPOINT MEMBERS TO LAC & RAC

From: Lake Permits [mailto:Lake.Permits@firstlightpower.com] Sent: Tuesday, January 22, 2019 11:34 AM To: townhall@salisburyct.us; Selectmen@Canaanfallsvillage.org; selectman@northcanaan.org; firstselectman@townofkentct.org; Mayor@newmilford.org; m.boughton@danbury-ct.gov; sdunn@brookfieldct.gov; dlowe@townofshermanct.org; pdelmonaco@newfairfield.org; bhenry@roxburyct.com; dan.rosenthal@newtown-ct.gov; selectman@southbury-ct.gov; firstselectmen@oxfordct.gov; kkellogg@monroect.org Cc: Leonard Greene; Lake Permits

#### Subject: FirstLight Power Shoreline Management Plan 6 Year Review Lake and River Advisory Committees Meetings Feb. 19, 2019

Dear Chief Elected Official,

FirstLight has been implementing its Shoreline Management Plan (SMP) for the Housatonic River Project P-2576 since its approval on 3/27/13. This Shoreline Management Plan requires that prior to a six year review and update of the Plan, FirstLight must convene both a River Advisory <u>Committee and</u> a Lake Advisory Committee meeting. This email constitutes FirstLight's 30 day meeting notice request, that each Chief Elected Official declare its representative to FirstLight & provide their contact information if they wish to attend the February 19, 2019 meetings at FirstLight's Office located at 143 West St. Suite E. New Milford, CT 06776.

The Lake Advisory Committee meeting will be held from 9:00 AM - 11:00 AM - February 19, 2019

Rocky River Station - Brookfield, Danbury, New Fairfield, New Milford, Sherman Shepaug Station - Brookfield, Newtown, New Milford, Roxbury, Southbury Stevenson Station -Monroe, Newtown, Oxford, Southbury

#### The River Advisory Committee meeting will be held from 12:00 PM - 2:00 PM - February 19, 2019

Falls Village Station - Canaan, North Canaan, Salisbury Bulls

Bridge Station - Kent, New Milford

These stakeholder meetings will provide your representative of your constituents an opportunity to review and provide comments on the six year review of the updated Shoreline Management Plan which has been publically available since December 2018 on FirstLight's Website at: <a href="https://www.firstlightpower.com/shoreline-management/connecticut-permit-applications/shoreline-management-plan-review-2019/">https://www.firstlightpower.com/shoreline-management-plan-review-2019/</a>

Several Stakeholders are submitting written comments, which are due by February 1, 2019. As a Chief Elected Official you or your <u>representative are</u> welcome to submit written comments in advance of the February 19, 2019 meeting or attend. However meeting minutes will be taken by FirstLight at the meetings and submitted as part of the SMP review and update process prior to the submission to the Federal Energy Regulatory Commission on 3/27/19.

If you or your representative wishes to attend either of the meetings, please RSVP to <u>Lake.Permits@FirstLightPower.com</u> no later than February 4<sup>th</sup>\_\_\_\_\_ 2019.

If you have any questions on the Shoreline Management Plan or any other issue, please don't hesitate to contact Len Greene Director of Government and Regulatory Affairs at <a href="mailto:len.greene@firstlightpower.com">len.greene@firstlightpower.com</a>. Land Management Department Shoreline and Lake Permits FirstLight Power Resources



#### **SMP LAC INVITE**

From:	Lake Permits
To:	melissa_grader@fws.gov; kevin_mendik@nps.gov; Robert.Hannon@ct.gov; peter.aarrestad@ct.gov;
	healct@snet.net; jbastian@westcog.org; mj.hva@outlook.com; abrown@appalachiantrail.org;
	hedmonds@aol.com; wrtingley@gmail.com; neil@adk.org; Bob@americanwhitewater.org;
	james.belden@cvtu.org; kit@cttrout.org; nwct009tu@gmail.com
Cc:	Lake Permits; John Howard; Brian Wood; Lauren Richardson
Subject:	Firstlight Power 2019 Shoreline Management Plan 6 Year Review RAC mtg - Feb. 19, 2019 12:00 PM - 2:00 PM
Date:	Monday, January 21, 2019 12:16:00 PM
Attachments:	image001.png
	SMP RAC 2019 - 6 Year Review Meeting Agendadoc

#### Dear Stakeholder,

As you are aware, FirstLight has been implementing its Shoreline Management Plan (SMP) for the Housatonic River Project P-2576 since its approval on 3/27/13. This SMP RAC meeting request and associated materials are being received by you as being determined by FirstLight to represent a stakeholder group who may submit comments and attend the February 19, 2019 RAC meeting at FirstLight's Office located at 143 West St. Suite E. New Milford, CT 06776. The attached agenda associated with this meeting will be held 30 days from today.

This stakeholder meeting will provide yourself as a representative of your constituents to review and provide comments on the six year review of the updated SMP which has been publically available since December 2018 on FirstLight's Website at: <u>https://www.firstlightpower.com/shoreline-management/connecticut-permit-applications/shoreline-management-plan-review-2019/</u>

Several Stakeholders are submitting written comments, which are due by February 1, 2019. However meeting minutes will be taken by FirstLight at the above mentioned meeting and submitted as part of the SMP review and update process prior to the submission of the SMP Update to the Federal Energy Regulatory Commission on 3/27/19.

Conf. Dial In 1-844-607-9548 Passcode 974-013-1738 Dial In 1-844-607-9548;974-013-1738# Office location: 143 West St Ste E, New Milford

Please let us know if you will be attending by replying to this email.

Thank you.

Land Management Department Shoreline and Lake Permits FirstLight Power Resources



Tel. 860-350-3294 Iake.permits@firstlightpower.com

#### Shoreline Management Plan 6 Year Update & Review Lake Advisory Committee Meeting Agenda February 19, 2019

9:00 a.m. – 11:30 a.m.

Location: FirstLight Power Resources Office Via: Conference dial in #: 1-844-607-9548 Passcode #: 974-013-1738

# 9:00 Welcome and Introductions

• All attendees should sign in

## 9:15 Stakeholder Consultation Process

- Draft shared with stakeholders on 12/17/2018.
- An additional 30 days following this meeting provided for written consultation. Due 3/20/19.
- Public Hearing to be held on 2/27/19 at the Heritage Hotel in Southbury CT.

#### 9:30 Overview of the 2019 SMP

- Goals of the 2019 SMP include balancing individual property rights with the long-term protection of natural resources; and clearly defining allowable existing uses while limiting future development of currently undeveloped shoreline.
- This SMP achieves Environmental Benefits by requiring applicants for Significant Activity Uses to reduce erosion, take measures to protect water quality, create wildlife habitat, and prove an environmental benefit
- The shoreline lands were reclassified in this updated SMP to 1) match known deeded property rights,
   2) allow for continued uses on existing developed shorelines, and 3) protect undeveloped shorelines into the future.
- This SMP is intended to provide simple guidelines for neighbors, clearly define permissible uses, and guide neighboring property owners through the permitting process.

# 10:00 Key Updates to the SMP

- The 2019 SMP incorporates the significant changes to clarify the permitting of existing and new uses
- The Shoreline Designation Maps and definitions have been updated to match property rights.
- Significant Activity Uses will now require the mitigation of storm water and the installation of vegetated riparian shoreline buffers within one year.
- Under this updated SMP, FirstLight is proposing to allow for sheds, shade structures and patios.
- The current requirement for neighbors to install a vegetated shoreline buffer within 5 years of purchase has been eliminated, and instead the requirement to install a vegetated shoreline will only be tied to future permit requests to use company lands.

# 10:30 FirstLight's Responses to Several Comments Received to Date

- FirstLight has received comments from some stakeholders and continues to review and consider the input. A few key themes have been identified that FirstLight is prepared to respond to:
  - Stakeholders seek continued cooperative partnerships with FirstLight
    - The draft SMP will be revised to reflect an agreed upon 6 year review and update period for the SMP
    - The draft SMP will be revised to include 2 years of annual SMP LAC/RAC meetings after FERC approval
    - FirstLight is updating the roles and responsibilities of the new SMP LAC & RAC.
    - Stakeholders seek to protect natural resources and water quality
    - FirstLight is clarifying the SMP's sections on Shoreline Stabilization and Vegetated Riparian Buffers

# 11:00 – Meeting Adjourns

#### Shoreline Management Plan 6 Year Update & Review Lake Advisory Committee Meeting – Meeting Notes

#### Attendees in person and via phone:

Paul Szymanski – Engineer James Ferlow - New Milford Wetlands Officer Jeff Manville - Southbury First Selectman Ellen Cavallo – CT Realtor Scott Schifilliti – Lake Lillinonah Authority (LLA) Shannon Young – LLA Neil Stalter – Candlewood Lake Authority (CLA) Mark Howarth – CLA Robert Hannon – CT Department of Energy and Environmental Protection (CTDEEP) Bob Nasdor - American Whitewater Khris Hall – New Fairfield – Selectman Pat Callahan - Candlewood Community Representative Phyllis Schaer - CLA Bill Lohan - CLA Kevin Mendik - National Park Service Don Traester – FirstLight Power (FirstLight) Lauren Richardson – FirstLight Len Greene – FirstLight Elaine Richardson – Consultant Brian Wood – FirstLight **Conference Line**: Gary Fillion – Lake Zoar Authority Rick Schultz - Monroe - Representative

#### Meeting Start Time: 9:00am Actual Start Time: 9:04am Welcome:

B Wood stated the purpose of the meeting is to get the New Lake Advisory Committee together. Per the FERC order approving the Shoreline Management Plan ("SMP") we have to review and update the plan every six years. This meeting will provide information on some key updates to SMP to the stakeholders in the Lake Advisory Committee ("LAC").

#### **Introductions:**

All members present introduced themselves and the agencies or entities they represent. They also signed in and picked up meeting materials including a copy of the draft SMP and the meeting agenda which shown above.

#### **Dialog Commenced:**

B Wood stated that FirstLight is in the 6<sup>th</sup> year review of the SMP in 2019 as required by the Federal Energy Regulatory Commission ("FERC"). He continued that you all picked up copies of the agenda and the draft SMP. The goal of this meeting is to cover the talk points on the agenda and try to add some color to what has been updated. The most important thing at this meeting is to have an engaging conversation. Welcome everybody. We sent out the SMP and posted it on our website on December 17<sup>th</sup>, 2018. FirstLight decided at the request of stakeholders to extend the written consultation to February 4<sup>th</sup> and to add another 30 day written consultation after today's meeting to March 20<sup>th</sup>, 2019. The other thing that happened after December 17<sup>th</sup> was just after January 1<sup>st</sup>

we sent emails to the chief elected officials. FirstLight asked the CEO's to identify and invite people to represent them and to come to this meeting. The other key stakeholder consultation coming up is our 2/27 public hearing in Southbury. FirstLight will be posting public notices in the paper today. This meeting is intended for stakeholders who may not have been here over the years during the implementation of the SMP. The public hearing is an opportunity for the public to be heard. The public hearing is from 7-9pm in Southbury at the Heritage Hotel.

M Howarth stated as we discussed before Brian if people can't come to the public hearing can they submit written comments.

B Wood responded they should if they are unable to attend and have an interest. If you guys can get the word out to your folks that public comments will be accepted in writing to <u>lake.permits@firstlightpower.com</u> FirstLight learned a lot during the implementation of this 2013 SMP over the past 6 years. FirstLight also learned a lot about property rights, some of our regulations and the plans in the 2013 SMP were impossible. FirstLight began the review of the 2013 SMP by reviewing those failures to see what's the best way to move forward in to 2019. FirstLight develop shoreline guidelines that are simple that home owners can understand. FirstLight also asked the question what are we significantly needing to change? This revised SMP is really above striking a balance between who has what property rights, FirstLight must allow folks to exercise their property rights. Between the time the original 2013 SMP was being drafted and receiving approval from the FERC the issue of property rights was resolved by the FERC in their Order Approving the SMP, this order also required FirstLight to perform additional requirements that were unforeseen at the time the SMP was submitted.

L Richardson added that FirstLight also performed a comprehensive shoreline inventory of all of its lands and filed Non-Conforming Structure Inventory Reports.

B Wood stated FERC approved all five of these Reports, after the SMP was approved and they identified 227 homes or encroachments that are either partially or entirely on FirstLight land at the Rocky River Project. We were unable to permit these homes in the past and this 2019 SMP resolves those outstanding issues, but our current SMP does not. FirstLight is trying to address the structures and uses that were not contemplated and are common place as a part of this SMP. Lake Zoar and Lake Lillinonah had no habitable structures on FirstLight's lands.

G Fillion commented I just want to clarify that on Lake Zoar most of the land is owned by the neighbors, even below the waterline to the old river.

B Wood responded to Gary that's part of the reason that we need to understand property rights in balancing natural resources. FirstLight didn't know in the past what was flowage and what was fee. FirstLight is still researching and understanding the two property rights we have which is either own it or we own the right to flow water and ice. The right to flood limits people from being able to construct uses without receiving a permit. Someone still cannot build a structure on flowage. FirstLight may determine that it will not allow a use to be constructed. This 2019 SMP was rewritten so homeowners could understand our SMP and the types of allowable uses going forward.

G Fillion replied thank your or that explanation. Other issues that his folks on Lake Zoar crop up because that age of this lake, property owners have rights all the way at the bottom of the river.

B Wood stated there are properties on Zoar where FirstLight owns fee title on the bottom of the river. There are also areas were FirstLight took flowage rights only. In our shoreline guidelines we clarify what is required. FirstLight's flowage rights should be shown on someone's property so if they create a survey they should show on the survey the right to flood. FirstLight wants to work with your surveyors to ensure the property rights are clarified going forward. Many neighbors are now starting to understand why FirstLight is here. FirstLight has been updating its mapping over the years as well. FirstLight decided as part of this 2019 SMP to update the

Shoreline designation mapping to reflect individuals property rights, the original SMP didn't show FirstLight's boundary clearly. Lands that were previously classified as conservation lands are now classified as undeveloped residential land based upon property rights. In the 2013 SMP stakeholders wanted to protect the land as conservation lands and they never considered that these undeveloped lands can become homes overtime. The yellow that you see on the maps is undeveloped residential lands where FirstLight either owns or has flowage over these lands. FirstLight hopes that with these updated maps conservation agencies and others can target upslope adjacent land parcels for permanent conservation and minimize potential shoreline development in the future or regulated their adjacent uses. FirstLight has to allow the neighbors to exercise the property rights to build a dock in certain areas if they prove to have those rights.

P Callahan asked I'm assuming we're talking about Candlewood.

N Stalter stated in the document, that distinction between flowage and fee might be useful; within the project boundary section it might be useful to discuss those two ownership distinctions.

K Hall asked when you talk about flowage rights, the 440 line at Candlewood. How does the 440 line change.

B Wood stated we tell people there is no 440 line, there is a Project boundary. There has been a miscommunication over the years in our data between CL&P 440' and NGVD 438.1'. FirstLight has maps in the town halls on Candlewood where we have a right to flood that area, or where we own the land up to 440 feet CL&P Datum. The Project boundary elevations are based on the height of the dams during construction in 1927. Many surveyors' maps are 1.9' feet incorrect because of the conversion. We either have the right to flood or in some places we own the right to flowage way above the Project boundary.

K Hall commented this confuses me. I understand your explanation, I'm grappling with what that means. I'm not sure I understand what that means for our residents?

B Wood stated FirstLight recommends that everybody get a surveyor. FirstLight's rights have not changed since the dams constructions and we still have the same rights as we did in the 1920's however the mapping of a neighbors parcel today needs to be done by a licensed surveyor.

K Mendik responded that a 2 foot vertical incline could mean 200 yards based upon the grade of the lands.

B Wood replied our website has the Exhibit G maps and data which have been approved by the FERC. FirstLight also has pins around the reservoirs that can be used as base elevations. FirstLight's Exhibit G maps also have our neighbor's house foundations so people could find their homes in relation to the Boundary. FirstLight has retained all the same property rights and it remain the same line as 1920's. However, surveyors and others have mis-understood or mis-mapped FirstLight's Property rights over the last 80 years.

K Hall asked where is this all explained?

B Wood explained all of this is explained on the Exhibit G mapping that is publically available on FirstLight's website and can be interpreted by a surveyor.

P Schaer asked if people have a Deed that's been transferred. It lists a 440 line as a designation, how can you assert the current 440 line is not the survey line?

B Wood replied that the property line is not an elevation it is the 440 line as it sat when the deed was created, it needs to be in the right datum and confirmed by a surveyor.

P Schaer asks why aren't there markers around the area and the lake. I had a dispute with my surveyor and

# neighbor.

B Wood answered that's pretty common, that's why we brought many local surveyors in for training. FirstLight has been updating the maps, sending them to FERC for approval of changes to any Exhibit G maps. On Stevenson the datum has been constant since the 1900's Surveyors would use lake elevations. We asked surveyors not to identify the locations of FirstLight's control pins because our neighbors would destroy it. Many people found FirstLight's survey pins and they didn't like them so they chiseled them out. FirstLight gave our data to local surveyors and told them to mark where FirstLight's pins are that they find. FirstLight's benchmarks are not on the Project boundary, they are purposely offset in elevation up our down slope from our land so we can recreate an elevation. This is a really complex issue, it's not part of the SMP and all neighbors need to know is FirstLight's property right doesn't move or change it is where it is and its always been and in most cases the misunderstanding is from uninformed, unqualified people trying to determine a property line.

P Schaer asked can you make the surveys public to the town.

B Wood responded all the materials and maps are public record in the Town Halls.

K Mendik stated one of the things that really helped in the SMP was bringing in the real estate brokers, so that everyone knew that this issue was out there. You need to be aware of the need for a survey and to check what your rights are. FirstLight is not supposed to be there to sort this out you have to know what you're buying. Educating the realtors has been a success.

B Wood stated that was one of the goals of the 2013 SMP to train surveyors, we have trained hundreds of local homeowners. Homeowners need to get a survey; we have our surveyors work with theirs to figure out the property line. We all knew that people had an issue during the 2013 SMP on how property rights worked along our boundary. This SMP redefines what FirstLight is going to allow on its lands into the future based on their adjacent shoreline land classification. On undeveloped residential FirstLight can limit the clearing of natural areas. In today's SMP Neighbors with developed residential property can't come in and propose a shed, gazebo, etc. that they don't have the land rights to. If you wish to apply for a new shed....You're going to have to come in with a significant request under the 2019 SMP. This may limit the clearing of natural buffer areas and you will have one year to install your compliant vegetative buffer. In today's SMP when someone buys a home, they have 5 years to install a compliant buffer; with this SMP we are accelerating the install requirement to 1 year. With a limited activity use the neighbors will have 3 years to put in a vegetative buffer. If you propose a significant activity you will need to ensure stormwater is managed, the resources are protected and a vegetated buffer is installed.

G Fillion asked in the 5 year to install a buffer is being removed in this SMP

B Wood stated we're proposing to eliminate that. If a neighbor maintains all their existing uses and receives a permit, unless they request a new use or something from our company they will not be required to install a vegetated buffer.

G Fillion asked don't you think that's a step backwards? Shoreline management requires you to manage the shoreline.

B Wood responded I understand your concerns, FirstLight believes this will accelerate the installation of vegetated buffers, as folks realize they can do more they will apply to install buffers but requiring them to be installed based upon an adjacent properties sale trigger is not enforceable or legal.

K Mendik stated if the neighbor is not proposing to do anything FirstLight may not have authority to require them to install a buffer, what rights FirstLight has are limited, what rights the landowner retains were not contemplated

in the original SMP. The FERC has since the SMP clarified property rights and the result of that may be that not everybody has to put in a vegetative buffer. Its a reality check that what was written may not be ok now.

P Schaer asked how are you proposing this new concept to actually be enforced or to regulate the ability to put in a buffer in one year or three years. There's no way to track how you doing you are not offering a report with this new change. If there's no improvement there's no way to check

B Wood stated its FirstLight's responsibility to track compliance, we are going to track and monitor with significant activities permits that are issued each year. If an applicant says my seawall has failed, I need to replace it. That would trigger a significant activity. We would monitor that on a regular basis. The goal is to have those several people annually with significant activities and significant project costs to provide that environmental benefit. FirstLight would hopes more neighbors will come in and apply know that they can do more and this will require them to comply.

K Hall asked did I hear you say that, you are lessening the number of significant activities that are occurring. So that I understand the requirement to buffer is more focused on the people that are investing more significant money in new uses will require a buffer change. So that You will then have a firm record, permitting activity, of what the commitment was, and you guys are the enforcing agency? If this homeowner comes in to install a sea wall, you are going to go back around to check in a year.

B Wood answered we will inspect them for compliance based upon their permits. You may recall that someone built patios and electricity on our lands and FirstLight went all the way to the State Supreme Court, and we won. They have to take all of that out and install a vegetative buffer. It takes time to get through the court system. FirstLight only has one or two jobs annually that want to work on a couple hundred feet of shore line. We go out and monitor that construction. As you alluded to, we can then track permit and activity, the challenge is to track the sales of adjacent properties on all five impoundments in 23 towns. We try to gather that information and generate an annual report today, that is proposed to be eliminated. We don't have legal authority to require a neighbor to implement a buffer over 5 years of time.

K Hall commented if you have that information and make it available so that you can make it more public, so others can hear it. If you were more willing to share it, there may be more means to make things happen. We are not feeling a lot support on making this information public.

P Szymanski asked if I'm buying a piece of property and not making one single modification, you as a municipality have no jurisdiction to tell me what to do, what regulatory authority do you have to tell me what to do. What right do you think you have to override my rights?

K Hall responded through wetlands.

P Szymanski commented but there's no change, nothing is being done to even allow going towards the point of having a member of a town come out and require anyone to do a buffer.

K Hall responded I'm not arguing on the positive impacts.

P Szymanski stated we represent a lot of clients on the lake and this costs money.

K Hall replied I'm trying to turn it into an education process. I can't understand why this information would be withheld.

K Mendik asked if any of the shoreline projects don't find their way to FirstLight.

B Wood stated if someone buys or sells a neighboring property we have no property rights to require them to install a buffer in a set period of time. We only know what occurs on the land records which is once a year usually. We track the publicly available systems.

K Mendik asked you're still doing water based inspections and site visits.

B Wood answered we do shoreline tours and site inspections from both the water and land.

K Mendik commented you're not going to know for a year then if a new neighbor bought.

B Wood stated we meet a couple of people each year before they buy, and if there is an active project we make sure it's under control. The problem is to require a buffer is 5 years is illegal and unenforceable. If someone comes in and asks for new use or something from of the company, that process of approval kicks in, and we can change that requirements to 3 or 1 year based upon the requests. We have modeled most of the changes in the 2019 SMP on what already exists in local regulations and what is allowable in the law.

P Schaer asks can you tell us where that becomes illegal, how can that not be enforceable. The CLA would like to have a lake zoning overlay zone, its enforceable all the way down the 440 line. We know that proper regulation helps improve the water quality. Is there a way we can work together and enforce it when you have a permit?

B Wood answers we are not involved in the adjacent property sale. That license or permit sets forth the condition for using our land. If you buy/sell your home and they have no contract with FirstLight, if they do something wrong we enforce against them, we make them sign an agreement. We don't have any agreement with who buys a piece of land we have no interest in their lands. We have to look at what our obligations are, we work with the towns. We see if there's activity going on, likewise we get the phone calls. We try to get someone in a contract and permit to use our lands and that's enforceable. We are more than willing to work with overlay zones outside the project boundary. We're following the same model that you guys are implementing here in this SMP. We want to see a plan and in many cases we are enforcing your guy's regulations and you are not enforcing. We have discussed developing a pilot buffer education program with the CLA and we already have a realtor, professionals and land use officer, education program. Everybody needs to understand your and our regulations; an expanded education program is the bang for your buck.

P Schaer commented nobody reads your 140 page Shoreline Management Manual, we want something short and easy to read. If a sale of the property could have a softer request but don't look to sue them. I don't want to lose that requirement. We see those clipped lawns I know that's a problem that ruins water quality. A buffer is a value to the lake owner too.

B Wood stated that FirstLight is moving towards the education program on vegetated buffers not enforcement. The attorneys will say you have to have a contract with FirstLight before you doing anything on the lake front. We can send them to a website, their first time entering our community. Neighbors don't understand what living on a lake is and they need to learn that they have the vested interest in not ruining a lake. We need to meet them in the middle and having a robust education program is the long term solution, not litigation. We want them to manage all of the new structures they are putting in and understand why they are installing a buffer.

K Mendik commented that the methods to install and require buffers are another piece of this puzzle that was not understood when we drafted the original SMP. A proposed method was drafted but it may not be the right solution, we didn't know what would work then.

G Fillion, I need some clarification, it sounds like you are trying to move away from the 5 year buffer requirement after a sale. On Lake Zoar and on Candlewood if it was above the 110 Project line where you have no permitting capabilities. That would have no affect if they put a shed in outside your jurisdiction.

B Wood responded that's correct. If you put it outside of our boundary we have no jurisdiction. You also have to understand many of our neighbors would be willing to put in a hundred thousand dollar buffer if they could put a shed in by the lake. If they stay above FirstLight we don't have any obligation to require a buffer no do they have any reason to install one. Most of the vegetated buffer since the creation of the dams has actually increased, there were little or no trees in the entire watershed when Zoar and Candlewood were created. Since then the shoreline has been cleared by neighbors through removal with or without FirstLight or the Town's approvals.

G Fillion clarifies so what you're saying is that if it's outside your controllable area, then the property owner would have to go through the township

B Wood responded that's correct. We didn't know that zoning as a state regulation would be federally preempted at the time the SMP was written. So we need to continue to work with that town on the flowage pieces to make sure structures aren't permitted without Both Municipal and FirstLight Approvals.

K Mendik stated a lot of real estate brokers and attorneys understand that if you have a federal license, that is supersedes state regulations and local jurisdictions. The original SMP stakeholders wanted to require them to do something with planting buffer vegetation. The lakefront folks wanted to be able to hang on to as much lawn as they could. If someone says okay I need permission but I'm going to plant a lawn right up to the water, then the Courts may say that's going to affect the lands in the boundary even though it's allowable locally.

B Wood stated for the folks on the phone, K Mendik spoke that things can happen outside of the boundary; we don't have jurisdictions over those property rights. The first SMP didn't understand or contemplate that. Property rights are adjudicated as state rights, yet there is federal supremacy over some regulations.

K Mendik commented that the first SMP got approved, there was intense opposition and attention to that SMP. FERC then recinded their approval and said do it all over again. A couple of years later we agreed upon the current SMP and now this is the third generation of the SMP. Each time a new SMP is drafted you can't identify all the issues, that's why updating these plans is required to reflect successes and failures.

P Callahan asks what we did years ago is we put a vegetated buffer booklet out there of things we don't want you to do and things we want you to do to protect the lakes. I think through working with FirstLight again we can do this again, education is the key, now what we need is information sharing. This was a great meeting and we covered many topics, the new SMP is a good start.

K Hall & P Schaer commented I agree, this was a great meeting and thanks for arranging it.

P Schaer stated it might be good to work together with this new brochure and education which is a lake owner's guide. She added the sharing of data is a concern.

B Wood stated I think the challenge is that the stuff that FirstLight collects is private company information. We don't have to release our GIS data that was decided by the FERC years ago. What this SMP provides is a plan to get the vegetated buffer education program model set up, so we can get the education out there. With regards to data requests we are willing to review them based upon written detailed requests, we could give you the 50 foot shoreline buffer zone? It's a question of what level of our data is it that we are willing to provide as a private company, we don't have to release anything? The data sharing policy in the current SMP was based upon the fact that FirstLight didn't have a GIS at all at that time. There has been extensive data collected since then and not all of it is allowable for the public's use.

K Hall & P Callahan said, we understand that the data being requested would have to be defined.

B Wood stated we will decide what we have in our GIS that we are willing to provide to government agencies based upon specific requests made in writing, not broad language. What my management team is focusing in on is what is the project, written requests of here are the specific things we want, what applies to that common goal and what are we willing to release and how. Part of our management and enforcement plan is that we don't want the public to have access to and know everything we have, some of it is restricted for security purposes. We are reluctant to give away everything and the broad data policy is a non-starter.

P Schaer commented even though the people are doing work below the 440, people come down through their lot to access that. These vehicles are disturbing that land. The municipalities require that they put up a bond. She continued that some of the data that you collect we don't have like the boating densities on the lake from your flyovers. We need to know better that data for our marine patrol to plan their activities.

B Wood stated that all that information is managed under another license article within the recreation management plan which is not being reviewed under the SMP.

P Schaer stated there was a statement that you don't need to share you data. We really want to help manage the lake in the best possible way.

N Stalter stated under the 2013 SMP, you are doing a yearly buffer report. You had mentioned the buffer report doesn't have any value to you, the buffer report helps us build a better picture of what the lake looks like. The buffers are tied to the lake water quality. But also when we come back in 6 years to review this again we want to insure that as stakeholders these things are actually being done. At a certain point we understand you want to keep your information private. We want to know if these documents are being followed. We want to balance what you want to do but hold you accountable for what's in the document.

B Wood responds I agree, and we have decided to compromise by providing a reporting mechanism that actually has some value in response to your written requests. This reporting requirement today has no value. The depth of the buffer zone is 50' and the 50% is a percentage of the total area. We prepare these reports that check a box for you guys and add no value or achieve anything towards working with our neighbors to actually install buffers. As Neil alluded to having a valued metric for you to review, is over 200 hours of work for FirstLight with no value. If we spend that time responding to calls from neighbors such as "I saw an excavator down there" we would require a significant activity permit, get them a permit that we will be monitoring for the next year with a required buffer. We are waiting for all of your guy's written comments to come in, then we want to come up with a significant activity reporting method.

L Richardson stated that Zoning and Wetlands follow the same breakdown of limited vs. significant activities for residential land. So that's why we really need to understand their rights and define the activity uses allowable by the adjacent shoreline designation. So if you propose a significant activity you have to make sure you reduce soil erosion, take measures to protect water quality, create wildlife habitat, and provide an environmental benefit. We want you to look at your existing vegetative buffers, on some properties the existing natural planting are in decline. It's really about looking at the area as a whole and reviewing each property individually. These new guidelines are specific with your activity requests, what's the limit of a retaining wall. We are continuing to work on the SMP to help clarify the uses allowed and incorporate your comments already received. Many of the uses neighbors ask for are significant and this SMP will require buffers and other benefits to go in faster. This SMP actually strengthens the buffer requirements and includes a stormwater component.

K Hall asks what's the answer to a question like, can I have what my neighbor has?

L Richardson answers you can have a shed or gazebo under this new SMP if you protect water quality, install a buffer, create wildlife habitat, stop erosion and show an environmental benefit, if you meet these requirements as part of comprehensive plan, you can have a shed.

P Callahan commented I'm sorry to take up so much time. First of all thank you for the deep draw down this winter to control mifoil weeds. Why can't we do a deep drawdown every year? I understand there are financial impacts to the company. There have been proposals for chemicals, carp and weevils for the weeds. Homeowners are using chemicals illegally. People are doing stuff to control the weeds. Can you tell us why we can't do that every year?

B Wood responds we had a meeting of the Nuisance Species Technical Committee a few weeks ago and we proposed a shallow for next year and deep drawdown every other year in Candlewood. We have an instance where this deep drawdown was the first in three years. So every year we go through that consultation under a separate plan than the SMP. The selected management of weeds and algae falls under each lake authority's jurisdiction, we try to tell you guys about what we plan and look for your management techniques.

P Callahan asked if CTDEEP does not want a deep draw down?

M Howarth responds this is our first year following a deep draw down, with the risk of zebra mussels and grass carp in the Candlewood.

P Callahan comments the result of this deep drawdown could be very effective.

B Wood stated we proposed a 4-6 foot for this upcoming winter once we see the impact of what happened this winter. I'd like to thank and appreciate you guys keeping us aware of what you are doing. You have thirty days to read the draft nuisance plant report. The plant report has been out for comment for over thirty days. This meeting is for the SMP which is also still up for written consultation. We separate each topic and consultation by FERC License Article.

B Wood continued some stakeholders had time to read this SMP and others did not. Therefore we decided to extend the SMP consultation which began in December of last year again from today another 30 days to comment in writing on this document. In some instances with consultation we come back to FERC and say this doesn't make any sense. Year six review and update, this SMP is not working let's review it, that's what this meeting is for. The other thing that we run into if you buy a home, and you have 5 years to put in a buffer, it's impacting the price of their home. The other side that many commented on is that as you see as you read through the SMP, some sections say shall and some sections say may. FirstLight's biggest concern is that we are capable of replacing shall and may in the new SMP to match property rights and not draft a document that is impossible to implement. For instance on Lake Zoar, Bulls Bridge and Falls Village FirstLight and our neighbors have different property rights than on Candlewood. We have one SMP that covers all 5 assets on the Housatonic River. In the first SMP that approval was rescinded by the FERC, the stakeholders wanted and we wrote 5 separate SMP's with different rules for each impoundment, which doesn't work. The current SMP put them all together one set of rules, one Project, you couldn't mesh the gears or enforce 5 sets of rules. We understand the difference between shall and may, the placement and selection of these words was determined to balance the differing assets and property rights throughout all 200 miles of shoreline.

P Callahan stated going back to the deep draw downs. The opportunity arises where you can see the stormwater and other contaminants running into the lake. It's a good idea now to go sample and see now what's coming into the lake during a deep drawdown.

P Schaer commented especially the septic systems around the lake.

K Hall stated it's not just us, but would the towns and CLA to be able to work with FirstLight about storm water and septic systems. This is a point source as it rolls into Candlewood Lake from rainfalls.

B Wood stated everything in the watershed has got to go into the lake. We have seen perfectly installed vegetated buffers with a 30 inch pipe underneath that was exposed from the drawdown under a buffer. You have an entire stormwater system, roads and other point sources through out the watershed. On FirstLight impoundments you are lucky to have a neighbor at the lake edge before the lake with a federal license. The overlay zones and the zoning and wetlands jurisdictions outside the Project boundary need to be implemented before the water reaches FirstLight's project boundary. FirstLight will continue to be a neighbor and partner on the waterfront partnering with you guys overtime, the problem we see is the stormwater and septics discharging and being transmitted to the lake thousands of feet above FirstLight uphill in the development of the watershed. We hear a lot about the lake shore buffer, however you guys have jurisdiction above us and through education we need to let the public know that the buffer needs to extend along ever drainage way, yard and go to the top of the watershed to have an impact. We can get the lake edge buffers going as we have, we need you guys to require this and regulate your residents to the top of the watershed. Through apired education, now we can have people invested in the protection of the lake. But today we are reviewing the SMP and in the current SMP we built an unenforceable enforcement program that requires the 5 year post sale install not an education program. Not everyone is doing it in 5 years, some folks said make me do it! We can't make them do it legally. In this SMP we want to do something useful, enhancing education by working with our stakeholders and requiring a buffer installation when folks ask to use company lands.

E Cavallo asks what happens to those folks when they hit 5 years and they didn't put in a buffer in 5 years, does that go away for those new homeowners.

B Wood answers the current SMP still stands with the 5 year requirement until FERC approves the modifications proposed in the new SMP. We are trying to work out those transitional folks as they approach the deadline. Many folks have already begun and/or have installed or protected existing buffers in fear of enforcement. We don't want to begin lawsuits with our neighbors.

E Cavallo responds the hard part in our world as a realtor is people are completely uneducated about this period. Many realtors don't know about the Lakefront. On one we just worked on it was sold just 6 months ago and it had a violation from FirstLight my client didn't even know about. Do you contact the town on violations is it on the land records, how do we know about a violation?

B Wood answers we copy the town land use departments when we issue a violation, we cannot put it on the land records, and we cannot post something on your clients deed that could impact their title. We have no interest in their property.

E Cavallo responds now we have an issue that impacting a sale, people buy property that has issues and find out after they buy it, you had a violation with the previous owner. You can stop them from building or using your lands. There's so much legality with all this, its impact home sales, the lawyers and realtors don't understand it. There are so many people who don't know anything about any of this.

B Wood responds we have tried to educate folks; we've done it with yourself and so many others on the lakes. Many of the real estate attorneys and agents tell us, we are not going to let our clients buy a house, sign a purchase agreement, until they meet FirstLight and/or receive a permit and document everything is in compliance. In other words they say don't buy this house without a permit from FirstLight and you know the rules.

E Cavallo comments I don't understand how people are buying without knowing all this stuff. A lot of people are buying from New York City or using a NY attorney and they need to know that you are their neighbor. They need to know they aren't waterfront. They need to know why they are paying these big numbers to be on the lake and that FirstLight owns the waterfront.

P Schaer comments the real estate agents have been irresponsible. This is another reason why the CLA thinks it's

important to share data. If no one knows there's an issue, then the time of closing is not the time to do it.

B Wood commented the challenge that we have is that we legally are not involved in the adjacent sale of properties, we cannot get involved in the adjacent sale of private properties, they may or may not have deeded rights and the properties are separate.

E Cavallo comments it impacts your idea of the closing going smoothly at the last minute.

G Fillion stated if the property is outside your management zones how do you have jurisdiction.

K Mendik commented you're talking about putting the FERC License on the land records, for every property that touches the Project boundary and has these concerns, as a means to trigger a notification that there are rights associated with FirstLight, FERC and the waterways.

B Wood commented we have researched this, it's illegal and it may "cloud an individual's title" those are attorneys words not mine.

K Hall responds I don't think we meant to insert it in their deed. I live in a small house on the lake. We have filed with the deeds that if anybody who buys that property that they are subject to those laws. Building on Kevin's idea, I don't think you put it on the deed, but you can file it with the deed without clouding the title. A factual thing that a FERC license is next to your property.

B Wood stated I'll have our attorney's review this topic but we have looked at it a lot over the years and there's no good legal way to make a title searcher pick up a neighbors title or rights.

E Cavallo replied there needs to be a flag that goes up so these folks know about the requirements and regulations around the lakes.

B Wood stated we tell town officials when issue a Notice of Violation, we have seen our notices in the towns building and land use files, if the due diligence is done right.

K Mendik stated that's only where there is a violation. Some mechanism for a NY buyer can have local link in the Town halls that this is a FERC Project.

B Wood replied a surveyor would pick it up. That's really the only means to document what they are buying and what they are not.

K Mendik asks can there be a database for this to show certain properties? An attorney from out of town can't miss it.

B Wood stated there is a municipal database that's already publically available as the tax assessors data. These properties are identified on every tax card as waterfront if they abut FirstLight. That's why these houses are \$250 thousand more than their neighbors behind them.

K Mendik asks so who is responsible? For telling these guys it's a FERC Project.

B Wood stated it's the real estate brokers responsibility to tell folks what is being sold and what is not. We tell folks every day, this isn't your land and you need a permit. It's a misinformed public and an educational challenge that has existed since the impoundment was flooded 100 years ago.

B Wood stated well put your concerns in the meeting notes; the major thing we wanted to cover is the responses

that we responded to already. Again we're opening up the SMP again for another thirty days. As specific as you can be with your comments, we are going to be looking at a lot of people's comments. Write what sections or detailed concerns and language changes you have for us. There are many things that we already compromised on, there are big changes that we tried to clarify municipal jurisdictions. We didn't want to put any stakeholders meetings after the approval of the SMP, now we are going to do meeting like this one for 2 years after the FERC's approval. We want to keep that active stakeholder communication open on how the plan is implemented. We compromised back from 10 to 6 year review periods and we want to do 2 years of the new SMP LAC meetings. We are moving the majority the text from our shoreline permit guidelines back into the SMP as requested. We understood from some comments that the buffer definition should be more detailed about who has to put in a buffer. The way this SMP is drafted is that what we are proposing that the top document becomes the approved SMP and the Shoreline Permit Guidelines are more flexible and don't require FERC approval to update. We find out that we can't do some things in the SMP and want the flexibility to edit the guidelines as conditions and regulations change. We don't want to wait 6 years, or have a homeowner do something wrong for 6 years.

P Schaer stated it seems that you have no ability to notify stakeholders that you made changes to the guidelines.

B Wood stated that the Shoreline guidelines will be available to the public on the company website.

K Mendik stated if you file a notice with FERC that a change has been made. Not everyone subscribes to the FERC docket for documents. Once you sign up for FERC, you get all of the filings and all of the notices. That's a way to provide all of the documentation and let stakeholders know a change has been made. They are not necessarily getting all the changes but maybe an annual filing.

N Stalter asks Just to clarify, the update to the appendices will not triggered a consultation.

B Wood answers, that's correct, changes will not require consultation.

P Schaer asks does that allow a 30 day comment? There's no ability to discuss before you file it? There's no instrument for the stakeholders to have any comment.

B Wood answers we have permit guidelines that you guys cannot comment on. We maintain those guidelines but you guys have zero input on what those guidelines are. We are proposing herein to make those guidelines part of the SMP, so homeowners can see where it is written down. We want to make it better for homeowners.

P Schaer asks how is it more user friendly?

P Schaer asks there are guidelines in this draft?

B Wood answers yes, the entire second half of the document is guidelines.

K Hall stated it has to do with the values of vegetative buffers and fees. As I'm finding out there is no issue between New Fairfield and FirstLight and the town does not object to a reasonable fee for significant activities. We charge a permit fee it is reasonable. Not reasonable, is that you should not have to pay a fee for having a deeded dock. It has been taken out of the current SMP. You have the right under this to change the SMP fees without notice and comment. I think the homeowners have a right to know when the fees are going to go up. Without some sort of limitations, no comment, to change those fees.

B Wood replied we've documented in the current and proposed SMP appendices we have always reserved the right to change our fees to use our land. The change is going forward when someone asks FirstLight to work on our lands they will be required to pay a onetime fee. We decided not to do a bill every year as annual fees for this SMP. Some other FERC Licensees charge per sq ft. or by individual use annually, FirstLight has developed this

fee structure consistent with other FERC Hydro Projects nationwide who already charge fees. In fact up until around 2007 FirstLight charged these onetime fees in the past for all permits issued on a one-time basis to recover its costs. Under this SMP if you have lived in your lake house for years and don't change anything then you don't pay anything. However, if you want to ask for something from FirstLight we want to recover the administrative costs to issue that permit.

K Hall responded First, I'm arguing that we need confirmation that there is not going to be a registration fee for just having a dock. I didn't see it in the document but orally you have said it. Number 2 changing the amount of fee that you charge. What I would like to see is that before you change the fees some ability to have input.

B Wood responded this is the same process as in the past for consultation, we asked that everbody their questions like this one in writing. We will then consolidate the comments received and try to address every consultation from each person individually. This is the same consultation methods we use for all the FERC filings and it's a public defined process that already exists.

K Mendik stated when folks file comments with FirstLight or if they file with FERC it becomes part of the record. You don't have to file with FERC and FirstLight become part of the final record.

K Hall asks before I go, this is a great meeting. The fact that you are now going to do this every two years; why once every two years, why not yearly?

B Wood answers to address that, what is required for FirstLight to plan, host, report and schedule a meeting is a lot of effort. FirstLight's doors are always open; it takes months of time to prepare something for these. We followed the model we had in the past as defined in the SMP LAC&RAC. We used to do a lot of meetings all as one but we migrated away from that. For two years after the implementation of the 2019 SMP seems reasonable. Feel free to put it in writing your suggestions as Kevin stated it becomes part of the record.

P Schaer comments the meeting was good, we all expressed a lot of concerns. Is there a draft two of the SMP after the comments have been considered? I request a draft two after the changes have been made.

B Wood answers the challenge is that some people are hearing this for the first time. We want everyone's opinions. Sometimes 5-6 comments may thread to one sentence. We want to get everyone's information in at one time and determine what makes sense with the most number of stakeholders input, we cannot promise to get you to get a new version out to you.

P Schaer asks you said when we met months ago there were going to be multiple versions of the draft. I want to know what items FirstLight has decided to change?

B Wood answered, we have determined that the changes will be made in the final draft that is submitted to the FERC.

P Schaer asks about the comments at the very bottom of the agenda, have you already addressed these.

M Howarth comments some of the challenges is that some things are pretty easy, some changes you are making we don't really know what is going to be pulled out. More helpful for us to know is the data sharing you said that you guys would be willing to share or not. It would be helpful for us to know what the changes made are and not have a broad brush in our final comments. If there are areas we agree on we would like to know that.

B Wood replies that makes a lot of sense. The data policy stated in the SMP allows us to determine what data we have to make available. But if people want to come to us, with a request or discussion of a project we will review with them and make determination if we are going to provide the data requested. The big challenge with making

another second draft available or to give you another version of the SMP with what of your comments have been responded to, is very difficult to manage. If you get us your supplemental and final comments in the next thirty days we can address them as part of the consultation record. We want to get everything in then determine the best path forward.

E Cavallo asks can you touch on what's going to change on properties that don't get docks because they don't have deeded rights. Is anything going to change, there are waterfront properties who don't get a dock?

B Wood stated, Candlewood is defined by the CLA as overcrowded and we developed an Overcrowding Plan. The CLA as a stakeholder pushed to limit overcrowding, we had no mechanism to limit the number of docks on Candlewood lake to satisfy this requests other than deeded rights. As such under the overcrowding plan, even if you own water front and you have not ever installed a dock and then today without a deed right to install a dock you cannot put a dock on Candlewood lake in the future.

K Mendik commented one of the goals of the SMP was acknowledging who was and who was not, grandfathered to remain under the Federal license. But for properties that are undeveloped without a grandfather's right, they will not receive a deeded right because of the overcrowding issues. Only those properties with deeded rights will be allowed to place a dock on Candlewood.

P Schaer stated I would like you to clarify that Vaughn's neck does not have a deed right to docks.

B Wood answered that is correct Eversource has retained the lands and the rights necessary to develop that parcel, including docks.

P Schaer asks so if they put it in a permit for multiple lots on Vaughn's neck they would each have a dock?

B Wood answers yes that's correct. Stakeholders never realized that Eversource retained their deeded rights to Candlewood Lake and on other parcels. These reserved rights on Vaughn's neck are part of why we updated the Shoreline designation mapping to reflect lands that could be developed into the future, Vaughn's Neck is one of many up and down the river. Stakeholders thought that by marking them as conservation lands in the current SMP they were protected forever. However the SMP does not preempt property rights and FirstLight is not Eversource we have been separate companies since 1999.

P Schaer comments development could only by lessened if the towns changed the lot size to minimize the amount of docks.

K Mendik commented, this subdivision of lots by Eversource already exists

B Wood answered these issues are outside the SMP it's up to the Towns.

J Ferlow stated I'd like to say something. Be careful of unintended consequences if you can't get a zoning permit you can't get a building permit. It does not meet the building code. There's actually a court case that people can't actually give a zoning permit for anything inside the FERC boundary.

B Wood commented any building that exists in CT can have its health and safety checked by the building and health departments, however zoning is what was knocked out as a municipal power under the court case. If there is a structure inside the state of CT and we want to request for it be inspected to make sure it's safe. The state building official says that's law it is subject to inspection by the state for safety and health.

J Ferlow replied, you can't do that according to the court case. I'm just looking at the options here, zoning cannot act within the FERC boundary and that has been found to be a problem.

B Wood stated that as part of our current SMP in exhibit A, the land use agreement zoning is incorrectly in this text. The majority of our neighboring towns have not signed the agreement and that's why we eliminated it. We are trying to clarify it here in this SMP under the jurisdictions sections what is currently consistent with state laws and court cases, that was the goal here. What we learned is a judge can change whatever piece of paper you wrote down as part of your SMP and the laws change overtime.

E Cavallo asks if I own a piece of property on Vaughn's neck that's undeveloped I can develop it and put in a dock.

B Wood replied on Candlewood if you don't have a deeded right to a dock and you never had one then you are not grandfathered in. On Candlewood that's plan.

P Schaer asks does the property need to be developed to exercise the dock right?

B Wood answers we would require an application first, then title then determine if a dock can be installed.

K Mendik comments there was a discussion about placing protections over Vaughn's neck when the first License was applied for and the company at the time decided not to do that. There's nothing that prohibits them from exercising their rights it's a separate company which is not regulated by the FERC.

B Wood answers we no longer own it, we only control what's inside our FERC boundaries.

K Mendik stated there are a lot of similar situations nationwide, where power companies owned a lot more land than needed for a power generation. The values of these places are retained by the separation of the companies and then the shrinking of the project boundaries. 20 years ago it was all under one company and all under the same ownership. Deregulation broke the companies up and that has been the case for a long time.

B Wood commented I'ld like to ask the folks who have sat here patiently listening for Lake Lillinonah who haven't said anything, if they have any comments.

R Schultz responded I'm not prepared to provide formal comments; I'm trying to catch up

S Young stated being aware of the issue of data and privacy issues is the newest proposal that after approval data could be made available upon request for things within the project boundary that are not considered to be private property.

B Wood stated the challenge is what to do folks need from FirstLight to generate a report or a specific project. What do they need what are we willing to provide and what do we not need to make available to the public.

S Young responds if we saw something happening along the shoreline can just call you. If there's been a project approved in Brookfield just to make people aware that something is coming who do you let know. That way people will be aware there is a project going on.

B Wood answers that's one of the things that we have done, we issue activity signs that are posted on site, if someone is going by they can see a sign that FirstLight issued a permit. Its like a building permit that must be posted on site. We could make these signs larger so people can see that it is valid work being completed.

J Ferlow commented almost everything on this lake needs a permit from both the Town and FirstLight and this has been happening for years together. The town has records as well.

S Schifilliti then asked when is the public hearing?

N Stalter asks so we have another 30 day comment window and it goes to March 20<sup>th</sup>, do you foresee another draft by that date?

B Wood answers we don't believe we will turn another draft it depends if we get enough information and how quickly we get the information back.

P Schaer responds at this point without a second draft and without your comments on our consultation, if we have a specific list of comments to send them into you and to FERC so it becomes part of the record. I want to know how the document has changed based on our comments. I want to go on record what CLA's comments are before, and a record of them rather than be stuck in at the last minute. This has always been a concern of ours getting a document at the day's meeting.

B Wood answers we don't have an obligation to give you a second document but to consult and respond to you about it. We want to get your guys' information; we chose not to provide a half-baked second draft plan 2 days before the meeting. We went out of our way to do that in the past and you complained that you had no time to review it.

P Schaer asks how many people did not review this SMP beforehand?

B Wood answers we have a process, We cannot comment on anything you don't get us in writing the plan is to respond to all the comments received and then to file the SMP. We have an obligation to receive comments, respond to comments and then file to the plan and consultation on the FERC record.

P Callahan comments you guys have been great with everything. We just want to know what the process is going to be going forward. But we appreciate all you guys have done to let us provide input and discuss this SMP.

P Schaer your responses to our past comments that were already made would make this easier for you to deal with and less for us to deal with in the end.

B Wood stated, I think we all understand the process and time line now going forward, I want to thank everyone for coming.

G Fillion asked about the status of the Dam warning signs downstream of Shepaug.

B Wood answered we are still working on it Gary, I'll give ya a call to discuss.

Meeting End Time: 11:11am

### SMP RAC INVITE

From:	Lake Permits
То:	melissa_grader@fws.gov; kevin_mendik@nps.gov; Robert.Hannon@ct.gov; peter.aarrestad@ct.gov; healct@snet.net; jbastian@westcog.org; mj.hva@outlook.com; abrown@appalachiantrail.org; hedmonds@aol.com; wrtingley@gmail.com; neil@adk.org; Bob@americanwhitewater.org; james.belden@cvtu.org; kit@cttrout.org; nwct009tu@gmail.com
Cc:	Lake Permits; John Howard; Brian Wood; Lauren Richardson
Subject:	Firstlight Power 2019 Shoreline Management Plan 6 Year Review RAC mtg - Feb. 19, 2019 12:00 PM - 2:00 PM
Date:	Monday, January 21, 2019 12:16:00 PM
Attachments:	image001.png
	SMP RAC 2019 - 6 Year Review Meeting Agendadoc

Dear Stakeholder,

As you are aware, FirstLight has been implementing its Shoreline Management Plan (SMP) for the Housatonic River Project P-2576 since its approval on 3/27/13. This SMP RAC meeting request and associated materials are being received by you as being determined by FirstLight to represent a stakeholder group who may submit comments and attend the February 19, 2019 RAC meeting at FirstLight's Office located at 143 West St. Suite E. New Milford, CT 06776. The attached agenda associated with this meeting will be held 30 days from today.

This stakeholder meeting will provide yourself as a representative of your constituents to review and provide comments on the six year review of the updated SMP which has been publically available since December 2018 on FirstLight's Website at: <u>https://www.firstlightpower.com/shoreline-management/connecticut-permit-applications/shoreline-management-plan-review-2019/</u>

Several Stakeholders are submitting written comments, which are due by February 1, 2019. However meeting minutes will be taken by FirstLight at the above mentioned meeting and submitted as part of the SMP review and update process prior to the submission of the SMP Update to the Federal Energy Regulatory Commission on 3/27/19.

Conf. Dial In 1-844-607-9548 Passcode 974-013-1738 Dial In 1-844-607-9548;974-013-1738# Office location: 143 West St Ste E, New Milford

Please let us know if you will be attending by replying to this email.

Thank you.

Land Management Department Shoreline and Lake Permits FirstLight Power Resources



Tel. 860-350-3294 Iake.permits@firstlightpower.com

### Shoreline Management Plan 6 Year Update & Review River Advisory Committee Meeting Agenda February 19, 2019

12 noon – 2:00 p.m.

Location: FirstLight Power Resources Office Via: Conference dial in #: 1-844-607-9548 Passcode #: 974-013-1738

### 12:00 Welcome and Introductions

• All attendees should sign in

### 12:15 Stakeholder Consultation Process

- Draft shared with stakeholders on 12/17/2018.
- An additional 30 days following this meeting provided for written consultation. Due 3/20/19.
- Public Hearing to be held on 2/27/19 at the Heritage Hotel in Southbury CT.

### 12:30 Overview of the 2019 SMP

- Goals of the 2019 SMP include balancing individual property rights with the long-term protection of natural resources; and clearly defining allowable existing uses while limiting future development of currently undeveloped shoreline.
- This SMP achieves Environmental Benefits by requiring applicants for Significant Activity Uses to reduce erosion, take measures to protect water quality, create wildlife habitat, and prove an environmental benefit
- The shoreline lands were reclassified in this updated SMP to 1) match known deeded property rights, 2) allow for continued uses on existing developed shorelines, and 3) protect undeveloped shorelines into the future.
- This SMP is intended to provide simple guidelines for neighbors, clearly define permissible uses, and guide neighboring property owners through the permitting process.

### 1:00 Key Updates to the SMP

- The 2019 SMP incorporates the significant changes to clarify the permitting of existing and new uses
- The Shoreline Designation Maps and definitions have been updated to match property rights.
- Significant Activity Uses will now require the mitigation of storm water and the installation of vegetated riparian shoreline buffers within one year.
- Under this updated SMP, FirstLight is proposing to allow for sheds, shade structures and patios.
- The current requirement for neighbors to install a vegetated shoreline buffer within 5 years of purchase has been eliminated, and instead the requirement to install a vegetated shoreline will only be tied to future permit requests to use company lands.

### 1:30 FirstLight's Responses to Several Comments Received to Date

- FirstLight has received comments from some stakeholders and continues to review and consider the input. A few key themes have been identified that FirstLight is prepared to respond to:
  - Stakeholders seek continued cooperative partnerships with FirstLight
    - The draft SMP will be revised to reflect an agreed upon 6-year review and update period for the SMP
    - The draft SMP will be revised to include 2 years of annual SMP LAC/RAC meetings after FERC approval
    - FirstLight is updating the roles and responsibilities of the new SMP LAC & RAC.
    - Stakeholders seek to protect natural resources and water quality
      - FirstLight is clarifying the SMP's sections on Shoreline Stabilization and Vegetated Riparian Buffers

### <u> 2:00 – Meeting Adjourns</u>

#### Shoreline Management Plan 6 Year Update & Review River Advisory Committee Meeting – Meeting Notes

### Attendees in person and via phone:

William Tingley – Housatonic River Commission (HRC)
Dave Barger – Canaan/North Canaan Selectman
Robert Hannon – Connecticut Department of Energy and Environmental Protection (CTDEEP)
Mike Jastremski – Housatonic Valley Association (HVA)
Kevin Mendik – Nation Park Service (NPS)
Henry Edmonds – Appalachian Mountain Club (AMC)
Don Traester – FirstLight Power (FirstLight)
Len Greene – FirstLight
Elaine Richardson – Consultant
Lauren Richardson – FirstLight

Conference Line - No Attendees

### Meeting Start Time: 12pm

### Actual Start Time: 12:10

B Wood opened the meeting with thanks for all your help in managing the river this SMP meeting is less impactfull on the river neighbors than the Lake folks. FirstLight always does these SMP River Advisory Committee (RAC) meetings in the afternoon, I apologize for not getting food for us all. We wanted to welcome everybody. We began drafting the SMP in 2004 with some of you folks and we typically have different concerns along the river than the lake folks. We started all of this 10-12 years ago and the river folks didn't get a chance to talk to much when we had combined meeting so we spilt up the River and Lake Impoundments. There is a lot more active recreation going on in rivers. The current SMP was approved by FERC in 2013, this is our 6<sup>th</sup> year review with our Shoreline Management Plan. We want to discuss key changes that have occurred in this 2019 SMP.

### **Introductions:**

B Wood stated our Shoreline Management Plan went out for review in mid-December. We started email communications, to schedule this meeting and we had several verbal conversations. After this meeting we'll open up for an additional written consultation for another 30 days. We're giving you another opportunity to give us comments in writing. FirstLight has a shared email lake.permits@firstlightpower.com and a digital copy of the SMP is available on our website. www.firstlightpower.com. The initial consultation ended on Feb 1<sup>st</sup>, we reopened that written consultation again today. We have a public hearing scheduled for February 27<sup>th</sup> in Southbury, CT. We want to give the public a chance to comment as well. We selected Southbury because it's in the middle of the river. Some of this stuff has been announced in both the local news article and noticed in the local papers. We wanted to schedule this meeting to talk in person with our stakeholders. Feel free to get the word out about the public hearing. The acronyms I always use are SMP Shoreline Management Plan, and FERC Federal Energy Regulatory Commission. I think that the big challenge in reviewing these plans is understanding where the Project is Bulls Bridge runs from the Station after the dams upstream where its impounded as flat water all the way to the Kent monument. As an example if someone wants to clear trees along the river bank they need to talk to us. We tried to redraft this SMP to resolve issues that weren't defined in the previous SMP. As an example, on one of our impoundments here we might own a 10 feet of land, we might only own 6 inches of flowage above the dam. We saw very few typical uses along the rivers at Falls Village and Bulls Bridge, there are canoe docks or a simple set of stairs along the edges of the river. Some of our impoundments that are right on the

river, very little passive staircases or any uses exist within our jurisdiction. The challenge is writing a document that applies to all five impoundments. The property rights are a big change in this SMP, we had to define what rights we had and what our neighbors had. Some of those lands have been changed from conservation lands to undeveloped residential lands they were thought to be undevelopable for years now. However many of our neighbors have the right to build several things. These areas that might have been conservation lands and now are defined in this SMP as underdeveloped. There is no way FirstLight can stop massive development if its permitted by a town, however now conservation agencies can identify who are our neighbors and what needs to be protected into the future. Whatever is yellow on our maps really isn't permanently protected and applicants have to come to FirstLight for a permit.

W Tingley asked a permit to do what?

B Wood explained a permit for anything they want to do either on our lands or within our flowage rights, if we identified a small structure, we needed to inventory it all and they will need to get a permit.

W Tingley asked are you saying a property that you own?

B Wood answered yes on a property that we either own, or have the rights to flood.

W Tingley replied, So you're saying even if someone has something that they didn't even build?

B Wood responded, yes if it's a structure, concrete, built by someone within the FERC Project boundary they need a permit for its continued use and occupancy.

W Tingley asked, Don't you think that zoning is going to be dealing with that?

B Wood answered no, Zoning has no jurisdiction within our FERC Boundary however we continue to work with all of the Inland Wetland departments.

W Tingley commented, In our 40 mile stretch we at the Housatonic River Commission would like to see any permits. We would like to be able to comment on that. Especially now that we will be federally endorsed, if you're giving out permits to do things, then if we are an equal power under the Nation Wild and Scenic Rivers we should have input.

B Wood replied, we worked on a couple of projects that are within our jurisdiction. If there is an existing use, and we have not already issued a permit for it, we are going to mail all of the neighbors a Certificate of Permission.

W Tingley asked, This is stuff that's already in existence?

B Wood answered, Yes this is for stuff that's already existing. If its new they will be asked to contact us, make us aware of the application. Get everybody on the same page, we may then issue a Letter of Filing Consent, which allows them to go to the Towns and get a permit, then we issue them a permit. That's how it works now.

W Tingley asked What if you find something that's not looking too good?

B Wood answered, Uses are allowable as long as it does not create an impact of public safety, or unduly interfere with our rights. Those are the only two thing that allow something to not be permissible. Then going forward they are advised if they want to cut trees, build a sea wall, etc. that requires a permit before they do it. That is what we are hoping to continue, it has been working well. If something is going through local wetlands in Kent, then we have an application as well if there's something that damaged their dock. Our real goal is to protect property rights. The current SMP didn't really do a good job at determining if they want to do a large scale project and the

river was eroded. Now we would classify that as a significant activity, a limited activity is someone that has an existent ramp that goes into the river. If someone came in and wanted to do a significant activity, we would say that we want them to manage their storm water, install a vegetated buffer and protect the existing natural habitat.

W Tingley asked, Wouldn't that trigger something for army corps of enginners to coordinate?

B Wood answered If it's below a certain size or length no, the ACE will not be involved.

W Tingley asked, That's the ruling?

B Wood answered Yes.

W Tingley asked 300 feet of shoreline, before the Army gets involved?

B Wood answered That's the Army Corps Standards, I'll have to reread that.

W Tingley commented That's a lot of material.

B Wood stated That's a massive amount of material, we figured out what the jurisdiction is. If you're doing that big of a project and you're going to start disturbing our land you'll need to talk to the town. We don't want someone cutting trees and driving an excavator in the river. One of the big successes is not really changing in the current SMP is the Towns get to determine they want the character of their town to be going forward. If FirstLight agrees with the town, we are not going to the FERC to allow for a commercial marina on the river. We try to allow the towns to see how they want the growth of their communities to go. That's how it's been working for some years. The change in this SMP is if an applicant applies for a significant activity which is a more involved project, we may allow sheds, patios and gazebos, in exchange for protecting and enhancing the shoreline. Currently, we can't allow any structures within our boundaries where we don't own a larger piece of land. If someone is willing to come in and say I have 300 feet of shoreline and just want a small gazebo down there and a small ramp. We would say stay under this elevation and approve it, we will require you to manage storm water and provide for wildlife habitat, maintain or enhance the riparian buffer, it's benefitting the environment, and engages the homeowner for protecting the shoreline.

W Tingley asks, Would you direct them to zoning or something like that, whether you feel if it's significant or insignificant area? That's a grey area there. Let the town know?

B Wood answers, That's how we do it today, we see if it's consistent, we notify the homeowner, request they get signatures from the town and issue a permit.

L Richardson adds in that we work regularly with the land use departments including, wetlands, building, health, and other folks like the Housatonic River Commission.

W Tingley asks, So you're saying that zoning does not apply?

B Wood adds, Zoning doesn't apply, because we have federal jurisdiction.

W Tingley asks, If we become designated as a Wild and Scenic River would we then have federal jurisdiction when we reach that point? You're not going to be superseding them right?

B Wood replies I think the national scenic river excluded our Project boundaries as proposed. Just to ensure that there weren't multiple federal jurisdictions overlapping but that would need to be confirmed on the maps.

W Tingley asks and that's still true?

R Hannon commented, For example with Farmington River, national and scenic river designation, the maps do not included the dams and the areas they flood or operate on. There's like 3 miles above and below the dam to ensure the jurisdictions don't overlap a FERC Hydro.

B Wood responded, That's what we worked on with Housatonic Valley Association years ago in developing the maps, with the understanding that if it went from salt water to the impoundments FirstLight would be cookie cut out. We did not want 2 federal entities in the same area.

W Tingley comments, Seems like we're working in the same direction, and you're not impounding water anyways. Other than the fact that there are dams there, your are Run of River.

B Wood adds, That's right.

W Tingley stated You're flooding because the water is dammed up, Bulls Bridge: really the crown jewel of the river, so you're saying that the entire bypass is something that is department of interior.

B Wood responds, From the power house the boundary runs up to the two dams by the covered bridge to the monument in Kent that's our project boundary, our canal is our diversion canal which is in our boundary. The FERC boundary runs up to the monument in Kent.

W Tingley comments, that's a big responsibility.

B Wood replies Yup that would be the limit of a national scenic river boundary, both stations are run of river. So at Falls Village it's quite expansive, north into robin's swamp upstream of the dam it's a huge area. It almost goes to the Massachusetts line.

W Tingley asks Do you still have the Canon mountain?

B W answers, No Skiff Mountain. I know that Eversource kept a lot of lands that were once ours, when we split companies in 1999 they retained a lot of the excess lands. We don't have any control of where we don't have a dam. It's worth taking a look. So if we go to exhibit A,

L Richardson adds Excuse me Appendix A

B Wood states Page 14 is Fall's Village, 15 Bull's Bridge. Yellow vs green vs developed really hard to see on these maps. We didn't want to print 7 trees worth for the maps to be full sized. You can see on the right center where general location is in relation to the State of CT. Do you know if the national and Scenic declaration goes into MA.

W Tingley responds, No I do know, I think it starts right at the border

B Wood adds, Some folks designations have gone multi state. That map gives you a feel for where we have jurisdiction, we don't know what your river designation mapping looks like.

M Jastremski asks, When was that Brian?

L Greene responded it was about four and a half years ago, we sat down with you guys and discussed the river mapping.

B Wood asks, Who was the gentleman that just retired, Dick. How do we all work together to clarify this in the future. Likewise the next page shown Bulls Bridge from the Kent monument downstream to what is considered to be the eastern side of Route 7. The western side of the river goes towards Henry it was sold away as part of the National Scenic Trails act to protect the Appalachian Trail.

H Edmonds answers Yeah that's land I manage.

B Wood replies, Likewise we sold them land to protect the trail and in Kent and New Milford where Henry finds something wrong we work together.

H Edmonds adds and at Fall's Village we have the same relationship. There are 7 acres on west side in Salisbury you have the underlying land and we have a scenic easement.

B Wood replies I don't want to have the conversation while we're trying to cover this all those issued are dealt with in the Recreation Management Plan. For the trail, if there's areas where we want control. The reason we have so much land, we need the land to repair the dam or maintain the land. At the Bulls Bridge Island the AT sweeps back up to the woods. So our predecessor CL&P sold the downstream and gave a large piece of land to the Appalachian Trail to maintain it. We maintained some areas.

H Edmonds asked by the power plant. There's only a 2 acre easement there and a parking lot there. The trail is your responsibility there.

B Wood replied, We maintain the trails from the Falls Village parking lot to the foot bridge to make sure that the park is maintained. Our interpretive trail shows the historic canals and such. Its Handicap accessible, if you guys have land that we need and we have land that you need. All of our land is open to the public free of charge. If you can use it safely our land is open to the public and we are not going to stop you. The only way we can control access is parking. We can only limit the number of parking spaces for a user cap. We got a hold of Salisbury to try and control parking at the Falls Village overlook with the local trooper. We try to pick up garbage because trash cans are like a magnet. Not only our parks but also our guy's clean up areas we don't own. We try to work with whoever our neighbor is. The blue trail has been a great success at Bulls Bridge, we also cover the cost of a game warden or a police. We'll pay time as a company for an officer for special events to control chaos.

H Edmonds added you guys help us with trash too?

B Wood adds trash is always an issue. Bulls Bridge had a lot of trash a few years ago. Once you clean up all of garbage, the problem is how we get it so it doesn't come back. We want to make sure we covered some of it. People are always asking to access the river & impoundments. People are always using that lakefront or riverfront. On the River sections with both ice and the water flow, people know when it rains to go check out the great falls at Falls Village just to see what it looks like. We're hoping going forward this SMP and the Recreation Plan will help say you can use a small area on the riverbank. We can permit small things for people to use at the riverbank. Everyone wants to go to the river, but it's a matter of controlling that. I think that this SMP proposes that when there is a request for a significant activity we will enhance the environmental protections into the future. Currently we track who buys adjacent to our boundary, if you bought riverfront land that was subject to flowage rights; within 5 years you need to install a buffer. The challenge we have which is proposed here, we've altered it where if you want to do an activity, we need to check that you have a good buffer to start and then enhance it. The current SMP requires a buffer on flowage within 5 years after they buy this is something doesn't make any sense, is unenforceable and illegal. On a FirstLight flowage parcel the company cannot regulate the removal or installation of vegetation. We hope that the existing buffer will be protected as they sit and should be installed or enhanced when an activity occurs in a shorter time span. If someone along the river finds out that we allow 50% of the first 50 feet of shoreline to be lawn and finds out they can cut 50% they're going to cut it for a view. This SMP limits clearing and protects existing vegetation better, when you call and ask for a permit, at that

point we'll review what is stable on this property. We would rather work with homeowners who come in and ask for stuff of us then suit them because they bought waterfront 5 years ago. As part of a legal action they may choose to clear the entire existing shoreline buffer and we would have little or no recourse.

R Hannon asked a question on sea walls. If you have a property where someone new comes in and they want to start with a sea wall. While the shoreline is designated as wild and scenic, how does that playout with the town, would FirstLight allow that.

B Wood answers, It's different on the river front, on the river where individuals may own up to the river bank or below the water. FirstLight can't tell you that you can or can't do it. There may be active erosion and we will not issue a permit for a sea wall unless we see that there are serious erosion issues. We would ask you need and engineer to say you need to put some structural stone here to keep the land from eroding, if you build a structure we have a right to destroy that structure with water and ice. We always prefer to know and issue a permit with the Town before you begin activities. The neighbors are at the meetings, homeowners lost 75 feet of shoreline some years ago, they asked us if FirstLight would go in and stabilize the area and we said no we have the right to erode those areas. I haven't seen an application on the river for bulk heads or seawalls in my 13 years. Have you guys seen anything.

W Tingley responds, Great question, let's just say there is more real estate pressure now than 30 or 40 years ago. Now it's water front land, you're seeing the signs, you're seeing a push on real estate. Fishing shacks had been bought and the footprint was used for improvements. Historically if you go through our rivers they were channelized in terms of our businesses. Once it got out of those towns, the river could go wherever it wanted. On a practical matter they are going to want to protect their investments, it's a significant thing. I think that some contractors we have dealt with are using more native looking rock, there's some thoughts hydraulically its better. This is a key in shoreline management, part of the problem is that people are choosing these places, with hurricane spots where people are rebuilding instead of paying attention with what's happening to the water. We can only hope that we're doing it right and not impacting others.

B Wood stated The lake people want a wall, the river folks typically want something more benign. The manual we put out on our website contains 140 pages of how to do it. We try to apply it to a bunch of options, the change is now where there is significant activity proposed you can't just go and do maintenance without our permission. You don't remove invasive species with a bulldozer. The good thing is that undeveloped land on page 13, on those lands we will not be permit significant activities, that's how we're protecting the natural resource overtime. We don't want it to become downtown Kent or Candlewood overtime. You don't want to develop undeveloped shorelines a new seawall or armament will move the energy to the other side of the river and cause erosion.

W Tingley responds, Just to finish up on this in the past people in some towns Canaan, North Canaan, people were making emergency declarations because they saw the river coming. That will change (the emergency) designation process but the point is that all of your select usage of words in terms of trying to make these as great as they are.

B Wood responds, The FERC license controls how to grandfather what people already have. We don't have time to look for what things are going to look like in 40 years. This plan addresses the future much more forward looking. We don't have that in our current SMP, we would review impacts in our application process. We want to be able to say go to FirstLights website, Shoreline Management tab and check FirstLights standards. We've had a couple of towns take our rules and integrate them into their regulations. The town of Canaan and FirstLight said you can't do it. Long term resource protection, requires stability overtime. We've never seen someone put in 300 feet of seal walls on the river. We might see the river move out somewhere else. The only other thing that is a significant change is a lot of the stakeholders, this plan was proposed to running for 10 years, we compromised to review every 6. We backed down to 6 after comments came in. We also proposed no meetings after approval, now we agreed to do 1 meeting every year for 2 years to make sure things are working. The other thing we tried to do

was include our guidelines, we tried to make it so our appendices, they don't require approval from FERC to update. If it doesn't match our guidelines, we can change our guidelines to allow for flexibility of uses.

K Mendik comments, the nation scenic rivers declaration would start at the Project line it states shows on the maps what is associated with Bulls Bridge and Falls Village under FERC.

B Wood responds National scenic, Kevin just came in. We excluded our projects to set apart the declarations of Wild and Scenic. I don't have 100% assurance that's how the maps are today.

K Mendik 29esponds That's what the governor said historically to not include the FERC projects in river designations. NPS had input historically that the new designation is going to exclude the FERC boundaries I don't know if that has been formally settled if that has been suitable for designation. Again this is a state requesting the process

B Wood responds Part of that challenge is you have multiple Federal Jurisdictions, if someone clears trees to put in a dock, who do we have to consult. We made the decision to keep them inches apart.

K Mendik adds This is a private river, there aren't going to be any Federal takings. So it shouldn't be a surprise to anyone, just where are the boundaries for everyone. The designation will try to be accommodating of what is there.

B Wood responds That's how some of our mapping came to be. The easements, the trails, the AT are all part of the public's interest. I'm hoping our mapping wont thread thread together. On Lake Lillinonah, or Lake Zoar where does it become a river and where is it a lake. And then there's some portions further down where it becomes tidal. Our SMP contemplates modifications to the maps and guidelines so that there's flexibility for a dock, etc so if there's something better we can change it without a whole consultation process. Anything else you guys can think of.

M Jastremski asks, If there's only one neighbor with undeveloped land, how is it functionally different.

B Wood answered it is an example with a large tract of water, how big is there lot, does it have a house on it, is it currently developed, if it's an undeveloped piece but it's private they can do things in the future within the Boundary. Who owns that land and what rights do they have, we don't want a 200 unit condo complex to pop up and not have a plan. They have private property rights but how does it impact the river. We have a very little area of FERC jurisdiction. However, if they are impacting the river it comes into our jurisdiction.

M Jastremski asked If they were there before there was conservation land, how is it different then than now.

K Mendik stated these aren't properties that are owned by the company, the SMP just explains what can occur on these properties at the waters edge. The yellow designation now is what was may have been green in the previous SMP. We thought they were undevelopable, but without protections on there

B Wood replied When we drafted the current SMP we didn't have the company land ownership data, therefore folks assumed almost all the land was conservation land.

K Mendik stated FERC requires licensees to determine types of land uses that allow stakeholders and communities to identify parcels to be protected. The goal is to have stakeholders be provided guidance on lands in their communities. The mapping here doesn't provide and any actual protection, there is no legal force in effect via the maps. So these maps now have more property ownership details shown on the maps, once you see it on the maps and it says undeveloped you have an idea that maybe it should be protected in the future.

L Richardson responded potentially once there is a parcel of land where the adjacent property owner requests a use and have never developed, then potentially the shoreline could be protected as part of the use approval.

M Jastremski commented so there's still conservation lands but it is actually protected legally and designated for land that is protected.

B Wood stated a State Park might have come in when the river was flooded and the deed says the previous owner can log it. The easement sticks with that land. We targeted that conservation land is in green with the yellow as currently unprotected. And as Lauren alluded, if a forty acres parcel with 300 feet of shoreline asks for a new uses 50 feet wide on the river they can get a permit and potentially the undeveloped yellow line could turn green for the 250 feet.

K Mendik responded That was part of the goal of the SMP was to determine where you efforts should go to protect the river and shorelines into the future.

W Tingley asked Are those maps available.

B Wood answered Yes they are on our website as individual maps, printed 24 x 36. Some are set by scale. For this purpose we shrunk them into our map. As well as the other mapping, exhibit G mapping shows where the federal project boundary is. But you can look at our exhibit G maps and bull bridge download pdf showing boundary is shows towns, roads. Those have been online for 7-8 years. If there is a line between us and you, you need to get a permit. As things get protected we can update the mapping as part of a site visit and inventory. We would like to see a copy of your deeds if you're putting small things in the riverbed. We will then get a copy of their survey so we can move this from yellow to green, We want to update our yellow to green to show its been protected.

R Hannon stated states that flexibility allow variances, theoretically, you're not supposed to be clearing the river banks. I'm bringing this up for example along the rivers could it be more of philosophical approach to treat those applications, a lot of the time someone brings in a gazebo now all of a sudden the erosion is not coming from the river side, it's caused from another property. Why would they be allowed to put in a sea wall when they're the people who created the concern in the first place. I look at the areas around the rivers different than the lakes because of the use over time, different philosophical approach.

B Wood stated We had to develop one document that matches rules for both the river and lakes. This is a big concern over the use of May vs. Shall by the Lake Stakeholders. They want it to say shall but we need it to say may because we have flowage parcels where may is more suitable and shall is illgal. We can't tell people to put trees back because they're not our trees. We interpret and visit each property as an individual, we don't issue permits without walking the property. We make an effort to go out and discuss with our neighbors their wants and needs. We take that opportunity to educate them about the benefits of buffers and natural resource protection. This flexibility in language allows for the two different ownership types of fee vs. flowage on both the lakes and the river. If FirstLight has two feet from the water's edge to the Project boundary on the river and on a lake it goes back 400 feet. We control the lake elevations without it impacting the environment. On the river Mother Nature can flood far outside our boundary as an act of god, and does so almost every year. The SMP as written provides discretion to FirstLight so if the regulation works on a lake but not a river and vice versa. You have to understand that in a floodplain there's no good place to put a gazebo. However zoning has no jurisdiction it's up to FirstLight so if we determine you can't build a gazebo within a 100 yard of the floodplain, and then you can't do it. We try to document all of that, but it's difficult to balance rivers vs lakes especially were the ownerships and rights are different. The town could bring in an engineer and says you don't need a sea wall then it's not going in. This SMP as written allows for enough flexibility.

K Mendik stated And your FERC license does change what the private property and land rights are, that why is a "Plan" not a regulation, its needs to be flexible and changeable over time.

B Wood stated A lot of people on the lakes and rivers don't understand that without a permit people only the rights to do what is their deed. If we can see a major flood or if it's an emergency and its impacting our operations then we can come in and place the river or lake back where it is with in the flowage rights.

W Tingley remarked, Changing the subject what about the Canaan dam

B Wood asked Which one is the Canaan Dam?

W Tingley responded at the Black Berry River

B Wood responded I don't think we have jurisdiction there we do own a dam very far up above Falls Village.

W Tingley responded I see a squiggle up there on the maps can you let me know if you have jurisdiction.

B Wood stated, If you email us a map and location where it is I can take a look at it.

W Tingley replied Between Salisbury and Canaan.

B Wood responded, Yes I know the area but I would want to ensure we own it.

W Tingley stated, That is known as the Canaan Dam, what do you want to do with it.

B Wood said, It controls the water entering the Falls Village impoundment

W Tingley asked, Do you know the condition?

B Wood answered, I believe it's almost gone and breached.

W Tingley stated, It's dangerous.

B Wood responded, If you confirm the location we can review it.

R Hannon stated if the dam broke then it no longer a dam.

W Tingley said, It doesn't sound like its gone.

R Hannon stated, all state dams are supposed to be inspected.

B Wood stated, We work with CTDEEP and we own a lot of dams.

M Jastremski replied, I'm not familiar with the dam.

B Wood stated, If you send an email we can keep the conversation going.

K Mendik asked, Is that dam breached?

W Tingley responded, It's breached, it's rubble, it's an unfortunate mess. It creates some swimming pools.

B Wood stated, That's why I want to make sure I have the right dam.

W Tingley said, It looks pretty good, but there's plenty of extra concrete sticking out around it.

B Wood stated, the dams been there before it even became our asset.

W Tingley What would happen if you remove the dam.

R Hannon stated with or without a dam. Removal is extremely expensive and needs to be engineered

K Mendik stated, could someone apply to work on it.

B Wood stated, Absolutely we did it in other rivers, if you want to change it, we can issue the entity of agency a permit.

W Tingley commented, If you do own that thing, it's a liability.

B Wood said, All of FirstLight's lands are open to the public free of charge and at their own risk.

### Meeting Adjourned – Conversations Continued

End at 1:47pm

## Legal Notice of Public Hearing

NOTICE OF PUBLIC HEARING. FirstLight Power Resources, in accordance with its license from the Federal Energy Regulatory Commission for the Housatonic River Project No. 2576-139, will hold a public hearing at the Heritage Hotel, 522 Heritage Rd, Southbury, CT from 7:00 pm – 9:00 pm on Wednesday, February 27, 2019. The purpose of the hearing will be to receive public input and discuss the Shoreline Management Plan (SMP) for managing reservoir shorelines and riverfront lands within the project boundary. A copy of the SMP is available for public review at the offices of FirstLight Power Resources, 143 West Street, Ste. E, New Milford, CT 06776 or online at <u>www.firstlightpower.com</u>. Written comments will be accepted until March 20, 2019 and can be mailed to FirstLight or can be emailed to <u>lake.permits@firstlightpower.com</u>.

### **PUBLIC HEARING HANDOUT**



**PUBLIC HEARING SIGN IN SHEET** 

(19 Attendees)



## SIGN IN SHEET

FirstLight Power Shoreline Management Plan Public Hearing February 27, 2019

Name (print)	Address/Organization	
Thyllis Schate	Town of Sherman, Ct - CHAIRMAN	
Roseann Di Matteo	Shortlane, Sherman - Holiday Point Association	
KAREN LOVEQUIST	BOBUS HILL ROAD, N.F.	
Carolan Kowan	" " Conservation, Inland S/Wetlands )	
DR.B.K. APPIERS	MRADUT CANDIENED LANS	
Kathoyn Gerety	Fazzone & Harrison	
Rathleen HARRISON	FAZZONE & HARRISON ROSLY	
PON TRADUTER	FIRSTLICHT	
Ela (avall, prath	Independent death ling?	
MARK HOWARTH	CANDELODD LAKE AUTROPITY	
Neil Stalter	Candlewood Lake Authority	
DAUIS MARSILLUS	CIUB A-	
GEORGE RADRIS	GLUB A-	
KEN GUCKER.	STATE REP 138	
SLOTT SCH; Sillit:	LAKE LILINDWAT POTT - 151 VILE CUM	

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## SIGN IN SHEET

FirstLight Power Shoreline Management Plan Public Hearing February 27, 2019

Name (print)	Address/Organization
Barbara tal	Caldwell Banker
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DOUG CUSHNIE	CLA/MILL POND FARM.
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#### PUBLIC HEARING REGISTRATION TO SPEAK

(8 Speakers)



# **REGISTRATION TO SPEAK**

### FirstLight Power Shoreline Management Plan Public Hearing February 27, 2019

	Name (print)	Sign	Address/Organization
1	Phyllis Schner	Au la She	- Taun of Sherman, CT- CIA CH
2	Boseann Di Mattes	Repearing Matte	I Short Lang, Shorman - Holiday Point Asso
3	Caroly Rowan	MA DA	63 Bogus Hill Road New Fringeld
4	BOB STRYLER	- Alt Alt	CANELLUCION ISLE - N.F.
5	Ella Cudlopicat	HAN	Indreadent Really Croup
6	MARKHOWARDE	mpx	CANDLE WOOD LAKE ANTHOROTY
7	DAVID MARTUD	A	Club A
8	KENNETH GUCKER	In.	89 PADANARAM RD/DANBIRG
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### PUBLIC HEARING MINUTES

### FirstLight SMP Public Hearing 2/27/19

Heritage Hotel, Southbury, CT 7-9PM

### Public Hearing Opened at 7:10pm

### Introductions

**Elaine Richardson**: Good Evening, my name is Elaine Richardson and I will be the facilitator for tonight's public hearing. Tonight we are here for FirstLight Power's 6 year review and update to the Shoreline Management Plan (SMP) for the Housatonic River Project. This meeting is the SMP's 6 year update required public hearing. The update and the changes in this 2019 version will be discussed, and we will also cover the differences from the 2013 plan. We are then going to open up this hearing for public comments; FirstLight wants to hear from all of you. FirstLight will review some prepared comments to set the stage for public comments.

This hearing will not be a questions and FirstLight responses format, after FirstLight presents some of the plans components. Public comments will be recorded as part of the record and responded to as part of the FERC process, we will end the hearing without closing remarks.

So, if you have not signed in, please do so. If you are interested in speaking we will do it in the order of those who signed up. I ask tonight that we recognize there are a lot of opinions in the room and we want to be respectful of each other. FirstLight wants to understand your concerns. So we're going to start with an overview of the SMP, key changes and updates. Brian Wood will be doing this for us tonight. Brian.

### **Presentation of Key Updates & Changes**

**Brian Wood:** Welcome everyone, we are going to be going through the key changes and proposed updates to the SMP. Property owners' rights are ideas we always think about, this is the foundation of this update to the SMP. We have fee title legal ownership of many of the lands. In other occasions we have limited flowage rights. These areas can be flooded and the private owners have legal ownership, however we have a right to flood and regulate the use of that land. FirstLight's responsibility is to develop and implement the SMP. Our project boundaries encompass 5 projects at 5 stations and hundreds of miles of shoreline. The original SMP in 2013 contemplated that the property's deed language dictates the owner's rights. The 2013 SMP was not fully consistent with CT law or property rights. FirstLight did not have rights to dictate certain policies. We wanted to go over the keys changes in the 2019 SMP. FirstLight's has updated the Shoreline Land Designations and Mapping residentially developed, undeveloped residential lands and conservation lands have been redefined and updated. This SMP includes an update to vegetative buffer requirements and the inclusion of one time use fees. FirstLight has an obligation to respect individual property rights as part of implementing the SMP. This SMP in 2019 helps balance all of those interests. It limits into the future developing the currently undeveloped shoreline.

To continue on the overview of things that have changed in this SMP, we reclassified in this SMP to allow for both property rights to be permitted and allow for unpermitted uses to continue to exist on already developed shorelines. The Shoreline Designations and mapping categories that were made for this are in the new SMP.

Limited activity uses and Significant activities are clearly defined. Significant activities Uses could include gazebos, sheds, patios and other impermissible uses to be permitted in the future. If people come in for a significant activity use we make sure it's going to minimally impact the environment and at least provide a benefit. The vegetated buffers requirement in the 2019 plan eliminates people having to install a buffer within 5 years of purchase. We are also working with our stakeholders to increase education on the values and benefits of buffers. Another change on this is SMP is the inclusion of one time administrative fees to recover a portion of the costs incurred by FirstLight. These fees are made to differentiate between significant and limited activity requests to use lands. FirstLight is not going to recover all of its costs to administer these requests and fees will never exceed the cost of administering the program.

With that, back to Elaine.

### **Public Hearing Began**

**Elaine Richardson:** A short overview of the key changes and updates to the SMP was just made. Therefore, no the Public hearing part of today's program begins.

We will take comments in the order you signed up to speak. We ask that you to speak slowly and clearly. We will not be answering questions tonight, FirstLight will take all of the information tonight and respond to those comments as they create the next draft of the SMP. For now we're going to start with a 2 minute time frame for each speaker.

**Phyllis Schaer:** Good evening Phyllis Schaer representing the Town of Sherman, CT. We have already had sufficient time to review the draft. My comments represent the existing draft. This provides FirstLight overly broad power to edit the SMP. This provides little responsibility for meeting their SMP and license requirements. This plan should clarify land management and where this is defined, this is not the case. The document makes substantial changes that weaken existing protections. We have concerns with the elimination of yearly compliance reporting. You have eliminated the commitment to sharing data, which is valuable when checking lake health with lake authorities. Increasing the time period between revisions to 10 years, it is currently 6 years. Removing the annual lake advisory meetings to review SMP progress, adding resident fees when making permit requests. Moving many requirements within the existing SMP and stipulating that they can be changed without public notice in the appendices. Eliminating the requirement for homeowners to install buffer gardens following property sales. And eliminating progress report on vegetative buffers. Making many mandatory stuff completely discretionary with the use of the word "may" instead of "will or shall" in the document.

**Roseann DiMatteo:** FirstLight reserves the right to revise various documents and impose fees. This must be changed to include stakeholders and the public input. The graphic labeled Shoreline Land Designation Process is not actually a process diagram. Property owners have gotten delays from FirstLight in getting permits. This needs to show progress to all stakeholders. Section describing the dispute resolution is missing and should be added back in. In the undeveloped land section the current buffer zone seems to be very cost prohibitive. In section 14 page 13 it should specify when it is published and available to the public. FirstLight should be required to publish any water quality and health data that they collect. In the design and construction guides for community docks, the community docks should not be offered for rental to non-property rentals this could be misinterpreted. It should be rewritten with fewer negatives, "community docks shall only be rented for free or for rental to property rentals within the community". Design and construction for sea walls the sentence natural stone from the adjacent lake bed may be utilized for homeowners to get large rocks from the lake bed negatively impacting fish. It should be reworded. In the other uses section it should include solar and wind farms. As far as the administrative fee schedule, docks owners should be able to maintain uses with no fees for aesthetic or repair uses.

**Carolyn Rowan:** I wanted to voice concern and disappointment. A Lake House owner wants to know my rights. This new SMP does not seem resident friendly to me. The purpose of the written proposal is to lessen FirstLight's responsibilities to manage the lake, and to allow FirstLight with less rights in those regards. I'm very concerned that the new SMP calls for shorter reviews, calls for a necessary revision every 10 years, used to be 6 years. With ever-changing threats of certain species being our greatest challenges, if anything the new draft should be every 5 years, like other years. Certainly not every 10 years.

My concerns are as follows: FirstLight seems to be backing off on its rights for buffer gardens, data and, research is clear about buffer zones to filter storm water, and harmful chemicals that can destroy the health of any lake. This is called an SMP, shouldn't FirstLight continue to manage buffer zones as a part of managing the shoreline. Your presentation calls it unmanageable. In closing, I'm very weary of how this plan has been remodeled. A lot has been moved to the appendix instead of the body of its Plan.

**Bob Stryker:** I have a gripe with FirstLight; they seem to intimidate people. Some people remember when the proposal first caught the Lake, FirstLight came up with other members 114 people that own land. FirstLight intimidates people and doesn't even use their own guideline which says the 440 boundary is their own boundary which the new SMP calls the judicial boundary. If any people own the land, they have no right to tell you what you can and can't do on your land. The only way they can do that is to go to court and take it by domain. So if they say you need a permit, they have no right to your land. FERC makes it very clear: Whatever a land owner's rights are the boundary of the project in the deeds have not been altered by FERC's actions. The inclusion of lands, boundaries does not restrict the land owner use. If you own underwater land you have the subaqueous rights, in about the 190 years of cases, the federal court says it's not inevitable, then that water or that land you as the owner underwater, you actually own the water above it. Now they have flowage rights, that's all they have. Now whatever you want to do on your property is only subject to zoning.

Yes on the land that they own, they can kick people off, and enforce. But zoning with still occur on private land whether you want to do work on down to the 440 land or even underwater. The town and the states do have a right. FirstLight has no rights, they are a private power producer. The state has very little authority over the making or changing rights.

**Ellen Cavallo:** (real estate broker): I have question about buffers. Since we've been implementing your plan saying it needs to be implemented for the last 5 years, what happens to those people now?

Is it going to be implemented on the people that you've told them the implementation is required? Or does it just stop? The last 4-5 years the brokers have been told that they have to implement this plan from your educational workshops. What happens to the people that we've discussed that implementation with now that you've decided not to go forward with that. This is going to be an issue and it has impact property sales, closings, values both up and down for years now.

**Mark Howarth:** (executive director of Candlewood Lake Authority): I would like to begin by thanking FirstLight. The CLA has had the opportunity to review this draft. In the submitted written comments which are available on our website. The structure of the document now allows FirstLight to make changes to the appendices containing important requirements without oversight. The removal of all reporting requirements, and a lack of confirmation that there will be no registration fees. Because of the many concerns with stakeholders with the fundamental changes to this document. FirstLight should file with FERC to continue to use the current SMP from 2013 for another term. It's not a perfect document, the CLA's subcommittee feels that current SMP protects the lake more than the draft would. The approval process for the current SMP could be simply extending the term and this would be better overall. We continue to want to work with FirstLight to protect the Lake.

**Kenneth Guker:** (state representative for the 138): My concerns are with the buffer gardens. The carp and algae blooms, if you start getting rid of the buffer zones you're going to have a larger problem. I think some of the transparency is going away. It would benefit everyone if they had more transparency with this problem. Lastly concerned how the weed mapping was done this year, new process that got changed. Not sure how accurate the research is that was done.

**Elaine Richardson:** We have allowed time for all those who has signed up to speak, we can now allow another opportunity to those in the room if they wish to speak again.

### **Reopening to Speakers Unlimited Time**

**Bob Stryker:** They mentioned enforcement within project boundaries. There should be an exception for people who own their own land. There is a jurisdictional line, FERC even puts it in their guidelines assuming this is a guideline for all utilities. Property owners do not need jurisdiction, property owners do not need to pay fees. You do not need special permits. Again, it's the administrative boundary, one of my neighbors built a platform on the water and FirstLight came over and told him to tear it down. He spent \$8,000 on it. If you own the property and the water then they have zero rights and control. All they have is flowage.

**Carolyn Rowan:** I have two questions that were brought up. The first one is the erosion of the islands on the lake. Some are deemed undeveloped land some are deemed conservation land. You just stated you want to protect the underdeveloped shoreline in the future. The islands need to be shored up. They are disappearing at an alarming rate. This happens a lot from boats. Vaun's Lake is being deemed as undeveloped land and not conservation land but still those conservation shore lines need help. The Candlewood Lake Authority have the resources to do that. There should be some kind of provision for that. We need to protect undeveloped shorelines in the future.

**Elaine Richardson:** So let me just summarize this. This is open until March 20<sup>th</sup>, they will be accepting comments in writing. It's important that you get them in writing, this will be submitted to FERC. All of these things will be responded to. The next draft for the SMP will be shared at the time it is submitted to FERC.

**Gary Marsillio:** How will we know if there's any changes made? The last time it was written and approved. From the time it was written and approved there were changes made that were not in the public interest. Most people want to avoid this. If we read the rules we'll understand them, we might not agree with all of them at this point, they should change that.

**Elaine Richardson:** We understand that if items in the plan are changing you want to see that, that's recorded today.

**Gary Marsillio:** I see all of the fees and I understand the fees. But I see the fines that if a person doesn't comply. There are X amount of people on a lake, and X amount of people are interested in this meeting so we will all know the rules. But most people will get the letter that have been living here for 30 years and will throw the letter away. And then they are going to do something wrong and will get a \$5,000 fine. I'm nervous that there is going to be an uproar. I'm worried that this one here they don't say what kind of warnings they are going to give you.

**Elaine Richardson:** Those will be considered and at some point responded to FirstLight will remain in contact with their stakeholders, I can't answer that tonight but we will. I appreciate you putting that on record.

**Phyllis Schaer:** Could you just discuss the timeframe of when the consultation is done when the SMP is going to be back up on a website.

**Elaine Richardson:** I don't have that answer for you tonight. We will let you know what that process is and when it is determined.

**Phyllis Schaer:** Are all the comments that are being received, they have to review on the FirstLight power website so that if your asking parties can, go to it and see what comments people are making in regards to this SMP draft.

Elaine Richardson: At this point I can't address that but we will look into it.

**Phyllis Schaer:** So we wouldn't know till you've made a final draft and submission on March 27<sup>th</sup> and what exactly is going to be seen as the complete SMP.

Elaine Richardson: I can't address that in this point in time.

**Phyllis Schaer:** To clarify that the public should be allowed to see the comments that are going to be made. I would like to make a comment that public should be able to see the revised document that you are going to submit to FERC as your final draft before you submit it and comment again.

Elaine Richardson: Thank you we appreciate that. We continue looking forward to a dialogue.

**Elaine Richardson:** Any other comments? If not, again, public comments will be accepted until March 20<sup>th</sup>. Thank you for attending tonight, we appreciate your input.

### Public Hearing Closed at 7:55 p.m.

PUBLIC COMMENT	FIRSTLIGHT RESPONSE	
PUBLIC HEARING ON 2/27/19		
<b>Phyllis Schaer: (PS)</b> PS1 –We have concerns with the elimination of yearly compliance reporting.	PS1- FirstLight has proposed a Reporting requirement in section XVII of the SMP	
PS2 –You have eliminated the commitment to sharing data	PS2-This was resolved on 5/5/2017 in a FERC Letter. PS3-FirstLight agreed to 6 years and informed you of	
PS3 –Increasing the time period between revisions to 10 years, it is currently 6 years	this at the SMP LAC meeting. PS4-FirstLight agreed to add a 2 year post approval	
PS4 –Removing the annual lake advisory meetings to review SMP progress	consultation with the SMP LAC PS5-CLA supported the charging of fees to recover	
PS5 –adding resident fees when making permit requests.	costs in oral consultation PS6-FirstLight moved many portions from the original	
PS6 –Moving many requirements within the existing SMP and stipulating that they can be changed without public notice in the appendices.	Appendices into the SMP PS7-CLA supported this change in its comments on 3/20/19	
PS7-Eliminating the requirement for homeowners to		

### WRITTEN PUBLIC HEARING COMMENT RESPONSE TABLE

install buffer gardens following property sales.	8-See 1 above.
PS 8-And eliminating progress report on vegetative buffers. PS 9-Making many mandatory stuff completely discretionary with the use of the word "may" instead of "will or shall" in the document.	9-FirstLight addressed this concern throughout the stakeholder consultation records in more details.
<b>Roseann DiMatteo: (RD)</b> RD1 – FirstLight reserves the right to revise various documents and impose fees. This must be changed to include stakeholders and the public input.	See PS6 above
<ul> <li>RD2 – The graphic labeled Shoreline Land Designation Process is not actually a process diagram.</li> <li>RD3 – Section describing the dispute resolution is missing and should be added back in.</li> <li>RD4 – In the undeveloped land section the current buffer zone seems to be very cost prohibitive. In section 14 page 13 it should specify when it is published and available to the public</li> <li>RD5 – FirstLight should be required to publish any water quality and health data that they collect.</li> <li>RD6 – In the design and construction guides for community docks, the community docks should not be offered for rental to non-property rentals this could be misinterpreted. It should be rewritten with fewer negatives, "community docks shall only be rented for</li> </ul>	<ul> <li>RD2 – FirstLight updated SMP Section VII to resolve this concern</li> <li>RD3 – FirstLight disagrees the Dispute Resolution X. of the old SMP was a part of the Exhibit A – Agreement in the SMP which has been removed.</li> <li>RD4 – FirstLight does not believe installing a vegetated buffer has any costs, ceasing mowing is compliant and we will publish the SMP and Appendices on our website once approved.</li> <li>RD5 – See response to TNF 8 in "Written Stakeholder Consultation &amp; Response Table" below</li> <li>RD6 – This was updated in the SMP</li> </ul>
free or for rental to property rentals within the community". RD7- Design and construction for sea walls the sentence natural stone from the adjacent lake bed may be utilized for homeowners to get large rocks from the lake bed negatively impacting fish. It should be reworded.	RD7 – See CLA 23 in "Written Stakeholder Consultation & Response Table" below

RD8 – In the other uses section it should include solar and wind farms.	RD8 – FirstLight will not authorize these uses without further review and approval and many uses are at the discretion of FirstLight
RD9 – As far as the administrative fee schedule, docks owners should be able to maintain uses with no fees for aesthetic or repair uses	RD9 – Existing permitted uses can be maintained per the permit conditions at no costs
<b>Carolyn Rowan: (CR)</b> CR1 – The purpose of the written proposal is to lessen FirstLight's responsibilities to manage the lake, and to allow FirstLight with less rights in those regards.	CR1 – FirstLight disagrees, this SMP will enhance and protect the undeveloped lands by limiting future development
CR2 – I'm very concerned that the new SMP calls for shorter reviews	CR2-See PS3 above
CR3 – In closing, I'm very weary of how this plan has been remodeled. A lot has been moved to the appendix instead of the body of its Plan.	CR3-See PS6 above
<b>Bob Styker: (BS)</b> BS1 – Public hearing comments are written above in the Public Hearing Minutes.	BS – FirstLight responded more specifically to BS's written comments in the "Written Stakeholder Consultation & Response Table" below
<b>Ellen Cavallo: (EC)</b> EC1 – I have question about buffers. Since we've been implementing your plan saying it needs to be implemented for the last 5 years, what happens to those people now? Is it going to be implemented on the people that you've told them the implementation is required? Or does it just stop?	EC1 – FirstLight will continue to use the current SMP until the FERC approves this proposed SMP, until that occurs the regulations remain in place. FirstLight hopes the FERC approves this plan as submitted and until approval FirstLight will not begin enforcing the 5 year requirement
EC2 – This is going to be an issue and it has impact property sales, closings, values both up and down for years now.	EC2 – FirstLight understands the confusion and has no interest in affecting adjacent property sales, that's why we have eliminated this requirement
Mark Howarth: (MH) MH1 – The structure of the document now allows FirstLight to make changes to the appendices containing important requirements without oversight	MH1 – See PS6 above
MH2 – The removal of all reporting requirements, and a lack of confirmation that there will be no registration fees.	MH2 – See PS1 and FirstLight has confirmed there will be no fees for registering existing uses.
MH3 – Because of the many concerns with stakeholders with the fundamental changes to this	MH3 – FirstLight disagrees with this request, the current SMP has several illegal policies such as the 5

document. FirstLight should file with FERC to continue to use the current SMP from 2013 for another term. It's not a perfect document, the CLA's subcommittee feels that current SMP protects the lake more than the draft would. The approval process for the current SMP could be simply extending the term and this would be better overall.	year buffer requirement among others and the process of consultation has greatly improved the proposed SMP to address many concerns of FirstLight and its neighbors as part of this review and update process MH4 – FirstLight looks forward to continuing to work
MH4 – We continue to want to work with FirstLight to protect the Lake	with the communities and our partners into the future.
Kenneth Gucker: (KG)	KG1 – FirstLight has increased the timing of Buffer
KG1 – My concerns are with the buffer gardens. The carp and algae blooms, if you start getting rid of the buffer zones you're going to have a larger problem	installs to match requests to perform a use and the control and abatement of weeds and algae is the responsibility of the Lake Authorities.
KG2 – I think some of the transparency is going away. It would benefit everyone if they had more transparency with this problem	KG2 – See PS2 above
KG3 – Lastly concerned how the weed mapping was	KG3- FirstLight provides weed mapping to stakeholder
done this year, new process that got changed. Not	consistent with the requirements of the Nuisance
sure how accurate the research is that was done.	Species Monitoring Report under Article 409, this is not part of the SMP.
	who has signed up to speak, we can now allow another om if they wish to speak again.
Bob Styker: (BS)	See BS1 above – FirstLight responded more specifically
BS2 – Public hearing comments are written above in the Public Hearing Minutes.	to BS's written comments in the "Written Stakeholder Consultation & Response Table" below
Carolyn Rowan: (CR)	
CR4 – The first one is the erosion of the islands on the lake. Some are deemed undeveloped land some are deemed conservation landThe islands need to be shored up. They are disappearing at an alarming rate. This happens a lot from boats. Vaughn's Neck is being deemed as undeveloped land and not conservation land but still those conservation shore lines need help. There should be some kind of provision for that. We need to protect undeveloped shorelines in the future.	CR4 – FirstLight has implemented targeted revegetation sites at all five impoundments. Erosion is a natural process and is extenuated by human activity. FirstLight will permit an entity like the CLA or other to place armament on islands. However, FirstLight maintains its lands in a natural state as stated in the SMP section I.

Gary Marsillio: (GM)		
GM1 – I'm worried that this one here they don't say what kind of warnings they are going to give you.	GM1 – FirstLight will be providing mailing and public notice as part of implementing the SMP policies and procedures.	
<ul> <li>Phyllis Schaer: (PS)</li> <li>PS10 – Could you just discuss the timeframe of when the consultation is done when the SMP is going to be back up on a website</li> <li>PS11 – Are all the comments that are being received, they have to review on the FirstLight power website so that if your asking parties can, go to it and see what comments people are making in regards to this SMP draft.</li> </ul>	PS10 – The stakeholder process is defined in Appendix G and the SMP will be placed on a company website PS11 – FirstLight has responded to all the comments received in the "Stakeholder Consultation Record" which is not part of the SMP and will not be posted on a website, rather it will be filed with the FERC and publically available as such.	
PS12 – So we wouldn't know till you've made a final draft and submission on March 27 <sup>th</sup> and what exactly is going to be seen as the complete SMP.	PS12 – FirstLight has incorporated countless edits at the request and in response to the stakeholder process, the final SMP will be filed with the FERC.	
PS13 – To clarify that the public should be allowed to see the comments that are going to be made. I would like to make a comment that public should be able to see the revised document that you are going to submit to FERC as your final draft before you submit it and comment again.	PS13 – FirstLight has provided more the required stakeholder consultation, extended deadlines several times and disagrees with this request.	
PUBLIC HEARING CLOSED		

## WRITTEN STAKEHOLDER CONSULTATION & RESPONSE TABLE

AGENCY/STAKEHOLDER COMMENT	FIRSTLIGHT RESPONSE		
United States Fish and Wildlife (USFWS) written Comments 3/22/19			
<b>USFWS:</b> Due to workload and staffing constraints, the USFWS is not able to review and comment on the revised Shoreline Management Plan.	FirstLight thanks the USFWS for responding and understands the Agencies constraints.		
State Historic Preservation Officer	(SHPO) written Comments 1/29/19		
<ul> <li>SHPO has reviewed the referenced document for potential effects to historic properties. SHPO understands that in 2004, the Federal Energy Regulatory Commission (FERC) approved a new license for the Housatonic River Project No. 2576-139 for a 40 year term. A provision of the license required FirstLight Hydro Generating Company (FirstLight), the licensee, to regulate the non-project uses and occupancies of lands and waters within the project boundaries, as well as develop a Shoreline Management Plan (SMP). FERC approved a SMP prepared by FirstLight in 2013, but since that time new requirements have been requested by FERC. The referenced document was prepared to address these additional requirements and provide clarifications to previously promulgated land management procedures, guidelines, and standards.</li> <li>One of the objectives of the SMP is to preserve "Historic and Cultural Resources." Connecticut's shorelines have long attracted human settlement and land use. As a result, these areas tend to contain large numbers of important built and archaeological resources. As a result, some of the allowable uses have the potential to impact significant historic and cultural resources.</li> </ul>	FirstLight thanks the CT SHPO for understanding this FERC process and supporting the revisions in this SMP. This SMP now provides much more clearly defined goals and objectives sections to ensure the protection of Historic and Cultural Resources.		

office has no objection to FirstLight's handling of its delegated responsibilities pursuant to Section 106. They have always consulted with our office in good faith and have provided our office with the necessary information to complete a comprehensive review. If substantial ground disturbing activities or historic structure alterations are required as part of the SMP, this office would appreciate additional consultation to determine the need for additional investigations. With this precaution taken into consideration, it is our opinion that the allowable uses will have no adverse effects to historic properties. The State Historic Preservation Office appreciates the opportunity to review and comment upon this project. These comments are provided in accordance with Section 106 of the National Historic Preservation Act, as amended.	FirstLight will continue to consult with the CT SHPO on applications to the FERC under Article 413 of the License and report any identified resources immediately to the CT SHPO.
CT Department of Energy & Environ	mental Protection (CTDEEP) 3/22/19
CTDEEP 1 – Provided several hand written notes and a markup of the SMP with questions and comments throughout. Key Points were use of "shall" vs. "may", clerical edits.	FirstLight incorporated many of these notes and concepts into the revision of the text and update to the SMP. Many of these comments were with regards to moving portions of the guidelines into the SMP document to ensure FERC authorizes the language and to clarify definitions of terms and policies for ease of understanding by the public. The notes also included several references to the use of "may" rather than "shall". This is explained in more detail in the specific comments and responses below from other stakeholders.
<b>CTDEEP 2</b> – Asked if the placement of rip rap into the lake at the base of walls may be an encroachment is FirstLight promoting this.	FirstLight regularly allows for the removal of lakebed stone during drawdowns to be placed against seawall and for the addition of rip rap and native stone to ensure the stability of aging seawalls and to address wave attenuation.
<b>CTDEEP 3</b> – Identified that the Shoreline Land Designation definitions requires updating because "lands" cannot apply for uses.	FirstLight addressed this concern in updating the text of that section.

<b>CTDEEP 4</b> – Does the design of an alternative shoreline	FirstLight may require a design from a CT Licensed	
stabilization technique requires and engineered plan.	Engineer, however a reservation was made for projects where it is obvious simpler techniques would not require engineering.	
<b>CTDEEP 5</b> – Some of the text in the permit guidelines could be moved into the SMP and there could be a list of significant and limited activities	FirstLight reorganized the shoreline permit guidelines ad included more of the text into the SMP body and created a "Shoreline And Land Use And Activities Table" at the request of the Agency.	
<b>CTDEEP 6</b> – CTDEEP Inland Fisheries from below to above the Bulls Bridge generating station, there is nearly 1 km of shoreline that is currently open to fishing, swimming, picnicking, boating. There is a newly enhanced gravel boat launch, picnic tables, grill, and port- a - potty near the power station. Above the power station, there is an incredibly valuable section of river with marble bedrock, important boating rapids called "Georges Hole" by kayakers, the best trout thermal refuge at Powerhouse Brook mouth, three major fishing pools Powerhouse Rapids Pool, Powerhouse Brook Pool, and Carlson Farm Pool, all accessed from the formal Gunn's Eddy parking unchallenged. There is no infrastructure there except the generating plant at the very lower.	FirstLight understands the agencies concerns over limiting public access to the trophy trout waters in this area. FirstLight's reviewed the maps with your concerns over public access to Project Operational Lands where there is an earthen canal and determined that the availability of land access to this area from Route 7 or Bulls Bridge Rd is not permissible. However, FirstLight did edit the maps to provide more access from the Fisherman's Parking lot trail south to the Station and below the tailrace and believes that with this change there remains reasonable public access is always a challenge. FirstLight looks forward to reviewing his with the agency and has reserved the right to amend these maps as part of the SMP without FERC or stakeholder review.	
Town of New Fairfield (TNF) Written Comments on 2/22/2019		
<b>TNF</b> – <b>1</b> "Given how critical the issues are facing Candlewood Lake, we believe the 5-yer period is the appropriate period for the next revision."	FirstLight agreed to reduce the review period from 10 to six years.	
<b>TNF -2</b> "We would like to see at least an annual meeting of stakeholders with First Light to provide a formal avenue to discuss the challenges facing the Lake and how they can best be jointly managed."	FirstLight agreed to annual meetings for the first two years after the approval of the SMP. FirstLight is always open to meeting requests as we had with you selectman Kris Hall to discuss current issues.	
<b>TNF -3</b> "Additionally, we would request that Firstlight be more open with the Town of New Fairfield, CLA, and the other surrounding towns concerning the data it gathers - or is required to gather. Data and images from flyovers, GIS data, boat counts, and sampling, and analysis should be readily available to the five surrounding towns. We believe, for example, that First Light has been taking water samples and analyzing them. This information should be routinely shared	FirstLight has redrafted its data policy and included a provision to review written requests for data it collects as part of the SMP and other efforts.	

with interested towns and the CLA."	
<b>TNF -4</b> "We are satisfied with the current working relationship for FirstLight review proposed actions by New Fairfield residents below the 440 line. We are willing to work cooperatively with FirstLight on issues that affect New Fairfield residents, but would like clarification that we are not legally obligated to do so."	FirstLight is obligated to enforce the terms of the SMP and the Municipalities are required to implement any regulations as clearly stated in the SMP which are not federally preempted by the FERC License.
<b>TNF -5</b> "Any change in the proposed fees must be based on provable changes in requirements or costs and subject to notice and comment. Otherwise, FirstLight can arbitrarily change them without accountability. Furthermore, we would like FirstLight to confirm that they have no intention of imposing administrative/registration fees,"	FirstLight per your request fixed the onetime fees for the 6 year term of the SMP. FirstLight reserved as it did in the previous SMP the right to recover any unforeseen costs.
<b>TNF -6</b> "If a municipality raises a property tax assessment, for example, does that entitle FirstLight to somehow recover those costs from abutting landowners."	FirstLight reserves its right to recover the costs it incurs including real and personal property taxes assessed by Municipalities from permittees for their uses.
<b>TNF -7</b> FirstLight should make protecting natural resources and water quality a co-equal requirement of the Shoreline Management Plan. FirstLight denies responsibility in Section VII for protecting water quality, without any basis. Likewise, protection of natural resources or water quality is not listed as a co-equal requirement for "Authorization of Shoreline Land Uses Within the Project Boundary" as laid out in II in Appendix C. FERC, however, is clear that protection of environmental values, including water quality, is part of its mandate:	FirstLight has clearly defined the goals and objectives of this SMP in section III & IV, this SMP provides enhanced protections for water quality which is one of the environmental values at the projects protected by this SMP. It includes reviewing, inspecting and permitting allowable uses to ensure they do not impact water quality and other resources. This effort ensures long-term protection of company lands by only authorizing Property Owners to establish uses that are not as of right through a rigorous permit process. FirstLight makes annual voluntary donations to the CLA, has established a voluntary Housatonic River
"Included in the Commission's regulatory mandate are specific requirements for protecting non-power resources, including fish and wildlife habitat, irrigation, water supply, recreation, flood control, and water quality." (Guidance for Shoreline Management Planning at Hydropower Projects, FERC, 2012) By extension, this is also part of FirstLight's mandate.	Project Grant Program and meets with the CLA regularly in an effort to understand their positions on many issues. We look forward to collaborating with the CLA as they develop plans and provide recommendations to the Municipalities and CT DEEP on water management, depth, flow and circulation and to control and abate weeds and algae, as authorized under their enabling statute (https://cga.ct.gov/current/pub/chap_098.htm#sec_7-151a).
This attempt to deny responsibility is characteristic of the way FirstLight has administered its responsibilities on Candlewood Lake. Instead of proactively joining the towns and CLA in defining the water quality problems and finding	The concerns raised here are not a part of the SMP however continuing to be a good neighbor and partner is FirstLight's goal.
solutions, First light employs consultants who have disputed data showing the problems and who have supported solutions that involve the use of chemicals. Use of chemicals to control Eurasian milfoil or blue green algae was overwhelmingly opposed by those who voted in this specific issue in a 2017 referendum in New Fairfield. FirstLight also replaced a	FirstLight would like to correct the record, FirstLight did not hire consultants to dispute or propose an aquatic plant management method or herbicides, in fact FirstLight is agnostic on the selected methods to control and abate weeds and algae. Controlling and abating algae and aquatic weeds in cooperation with the CT DEEP is the clear statutory

respected scientist with this consultant, without consulting its own Technical Committee, in what many see as an effort to downplay the milfoil issue on the Lake. We respectfully request that FirstLight recognize its responsibility to protect natural resources and water quality throughout the Plan and commit to working cooperatively with the five towns and CLA to address them.	responsibility of the CLA. FirstLight has provided voluntary donations to support both the CLA and their selected treatment methods for over 20 years. The Town of New Fairfield's previous CEO contracted consultants and applied as the Town of New Fairfield to CTDEEP for the use of Herbicides not FirstLight. FirstLight believes this SMP clearly enhances the protection of natural resources.
<b>TNF -8</b> "We would like to see the legal opinion that says this information must remain confidential."	As a private entity, legal opinions that FirstLight receives are privileged and FirstLight will not waive its attorney-client privilege. FirstLight relies on the data provided by our neighboring municipalities under State law requirements to update and reflect taxable ownership changes by our neighbors overtime. This transfer data is not confidential, it publically available however the requirement to employ a buffer is illegal.
<b>TNF – 9</b> Additionally, we request clarification of the following definition in Appendix B: A 5% buffer zone is reasonable for a very small yard bordering Squantz Pond, for example, since a larger buffer zone may constitute a "taking." Five percent is not reasonable for a larger lot. We suggest adding language that clarifies that the size of the buffer zone will be dependent on the size of the lot overall, with 5% being the exception rather than the rule.	FirstLight has agreed to increase the buffer zone requirement from 5%-50% to 20%-50% and that is reflected in the final SMP, being that this value is a percentage, it already accounts for the different sizes of lots.
<b>TNF -10</b> Likewise, we urge some accountability in the following circumstance, laid out in the section on Vegetative Riparian Buffers: "Any requirement to install vegetated buffers may be waived at the discretion of FirstLight if the installation of such buffers is not reasonably practicable, feasible and or violates applicable law. "If FirstLight contemplates waiving the buffer zone requirement, we request that the Town in which the property is located be notified and given a chance to comment.	FirstLight disagrees that consultation with a Town is required by FirstLight in determining if a waiver for a buffer that is "not reasonably practicable, feasible and or violates the law" arises. The Town has no regulatory authority over vegetated buffers or FirstLight's SMP.
<b>TNF -11</b> New Fairfield would like to work with First light to better manage stormwater discharges. While we appreciate the statements in the proposed SMP concerning new sources of stormwater discharges, existing stormwater discharges may be a contributing factor to runoff of nutrients and salts into the Lake. New Fairfield and other towns around the Lake will start working on these issues in the near future. We would like to propose a joint program to map outfalls and put	FirstLight believes that the inclusion of a stormwater mitigation requirement in the significant activity enhancement to this SMP adequately addresses this concern. FirstLight has a Housatonic River Project Grant Program which could aid Municipalities in meeting their MS4 stormwater requirements to locate and sample stormwater.

together a sampling plan with potential mitigation measures. We believe this is a shared responsibility to address water quality issues in the Lake. <b>TNF – 12</b> New Fairfield requests clarification of the provisions concerning existing septic systems. In the discussion of existing septic systems in Section IV, the following sentence seems internally contradictory to the rest of that paragraph: "FirstLight will not grant property easements to allow septic systems within the Project Boundary." Previous sentences in that section state that First Light will allow repair or replacement of existing septic systems under certain conditions. Those repairs or replacements cannot be permitted if FirstLight does not grant an easement. Please clarify the intent of this sentence.	FirstLight updated SMP Section X, A, Existing Septic System language to clarify this and other verbally stated concerns raised by the Town at an in person meeting on 3/8/2019. FirstLight believed that both the CLA & the Municipalities would be in support of FirstLight requiring the removal of illegally installed failed systems, limiting repairs to aging systems, and preventing new septic systems near the lake through the refusal to grant easements. Perhaps we were wrong FirstLight believed this policy would be triumphantly supported because this is undoubtedly the largest single source of pollutants impacting water quality
<b>TNF -13</b> The Town of New Fairfield endorses and Incorporates by reference the comments of the Candlewood Lake Authority. Because there are five municipalities that border the Lake, no one town can adequately address issues on the Lake by itself. CLA represents the interests of all five municipalities that border Candlewood Lake, has been deeply involved in addressing the many challenges affecting the Lake, and has developed expertise that the Towns rely on. For this reason, we endorse the comments submitted to FirstLight by CLA on January 31, 2019.	and public health. FirstLight addresses the comments received by the CLA as part of this process below in more detail.
CLA Written Responses to 1/9/2019 Pre-Consultation Meeting	
<i>CLA 1</i> – Requested to provide more detailed responsibilities of the SMP LAC	FirstLight modified the Plan to include this request
<i>CLA 2</i> – CLA Requested continued SMP LAC meeting annually after the revised SMP is approved.	FirstLight modified the plan to include a first two year provision for stakeholder meeting after approval of the

CLA 3 – Insert Foot notes for referenced documents. Change numbering to follow throughout document.

The page numbering of appendices should be independent of the main body of the SMP as these sections may be updated. For ease of reference the footers of the appendices have been updated to include the Appendix name and page number.

SMP.

<i>CLA 5</i> – Dock and Mooring Tagging Program. Request to for tagging system that to identify dock location and identify permitted moorings. Dock location program proposed to assist in emergency response.	Rather than clarify the tagging requirement it was removed from the SMP. Government Agencies already have a location system in place that is used for emergency response. FirstLight does not have an interest in establishing and maintaining a parallel system. Emergency response should be based solely on the governmental agencies system not FirstLight's shoreline permitting, as defined in the Section VII. b) of the SMP
<i>CLA 6</i> – Moorings. Request to include language regarding removal of unpermitted moorings	This request and response is more clearly defined below.
<i>CLA</i> 7 – Request to have derelict dock responsibilities clarified	This request and response is more clearly defined below.
CLA 8 – Swim Platforms	FirstLight clarified the language on swim platforms in the SMP by including them into the dock section.
<b>CLA 9 -</b> Vegetated Buffer Requirement in SMP vs Appendices. Requirement at Transfer	FirstLight moved the Vegetated buffer requirements into the SMP and out of the Appendices.
<i>CLA 10</i> – Clarify Vegetated buffer requirement for significant activities	FirstLight clarified the significant activity language in the SMP.
<i>CLA 11</i> – Clarify Language for pruning, mowing weeding	FirstLight clarified the vegetation removal section to address this concern.
<i>CLA 12</i> – Add Enforcement language regarding vegetated buffers	FirstLight addresses this in the vegetation removal section.
CLA 13 – No reporting program for vegetated buffers	FirstLight added a reasonable reporting section to the SMP and eliminated all other historical reporting requirements.
CLA 14 – Path width should be defined	Paths and walkways were more clearly defined in the SMP.
<i>CLA 15</i> – Discuss process for SMP review of comments, will there be a revised version of SMP	This request and response is more clearly defined below and FirstLight included a detailed review process.
<i>CLA 16</i> – Fee schedule needs clarification and greater description	FirstLight included a more clearly defined fee process, more detailed fee section and use selection charts to aid the public in understanding what the associated fees are.
<i>CLA 17</i> – Clarifcation of the Definition for Project boundary and discussion of the 440	The Project boundary is a defined term in the SMP Definitions section. As discussed at the SMP LAC meeting, a survey needs to define property lines.

CLA Written Responses to 1/31/2019 Formal Consultations	
<b>CLA 1 -</b> I. P. 3, IV. TERM: This section states: "FirstLight shall review and. As necessary, revise the SMP every 10 years following approval of the 2019 SMP."	
a. The License (article 407, p. 38-40) states: "Further, the SMP shall include (m) a schedule and process for periodically reviewing and updating the plan every six years."1	
<ul><li>i. We are requesting this 6-year review process in the 2019 SMP to allow for the most effective evaluation of progress and implementation.</li><li>b. The last sentence of this section reads "The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and may include at least one noticed public hearing prior to any SMP update being submitted to the FERC for approval."</li></ul>	a-i. FirstLight at the request of several stakeholders has reduced this proposed ten year review period to six years for this SMP due to the significant changes and updates proposed herein, the majority of them made at the request of stakeholders.
i. We are requesting that this "may" be changed to "will" or "shall" as we feel a noticed public hearing is integral to informing the public of SMP changes during the review and consultation process.	b-i. FirstLight has modified this in the SMP to reflect your request.
CLA 2 - II. P. 3, V. REVIEW AND FERC APPROVAL	
<ul> <li>a. (a) states: "The FERC's approval of this 2019 SMP will allow FirstLight to continue to update the Exhibits, Guidelines and Appendices referenced herein."</li> <li>i. We request that all of the appendices, save the maps contained in appendix A, be moved instead to the body of the document. These describe critical components of permitting, fee structure, guidance, and more for how to comply with the SMP and any changes to these must be subject to FERC approval.</li> </ul>	a-i. FirstLight believes that this modification to the SMP to allow for FirstLight to continue to update the Exhibits, Guidelines and Appendices is critical for allowing the SMP to continue as a living document. FirstLight has moved most of the permit guideline descriptions into the SMP.
ii. The appendices shall be reserved for citation of specific supporting documentation and information, such as: the "Feasibility Report, Plan, and Schedule for Conservation Easements and Restrictions" (referenced on p.7), License articles 407 and 413, important shoreline management manual excerpts, shoreline buffer report excerpts, seawall report excerpts, etc.	a-ii. FirstLight created an Appendix H to include the other specific supporting documentation and history of the SMP.

### CLA Written Responses to 1/31/2019 Formal Consultations

# **CLA 3 -** III. P. 4, VII. MUNICIPAL AND STATE JURISDICTION

a. (a) States: "FirstLight does not have, as part of its authority under the Federal Power Act, jurisdiction over public health and water quality. Therefore, the State of Connecticut Department of Public Health (CTDPH), local health departments, State of Connecticut Department of Energy and Environmental Protection (CTDEEP) and any other jurisdictional bodies are primarily responsible for public health and water quality, consistent with their regulatory authority on and in both Project lands and Project waters."

i. While all of these entities have a responsibility to protect public health and/or water quality, however, as noted in the FERC Guidance for Shoreline Management Planning at Hydropower Projects: "Licensees have an ongoing responsibility to supervise and control such shoreline developments to ensure that they are not inconsistent with project purposes, including protection and enhancement of project's scenic, recreational, and environmental values."2

ii. We request that this passage be edited to reflect this shared responsibility for protecting water quality and public safety.

b.(f) On p. 5 states that "FirstLight may request inspection, condemnation and other services from these entities as part of its compliance with the terms of this SMP."

i. It is our understanding that New Fairfield, Danbury, and a few other Municipalities bordering other impoundments never signed the land use agreement saying that they have any jurisdiction within the project boundary, and thus FirstLight might be able to request these services, but the municipalities have no responsibility to provide these services. This should be clarified.

# **CLA 4 -** IV.P. 7-9, SHORELINE LAND DESIGNATION CHARTS

a. The 2013 SMP contains a "Land Conservation Program" on P. 7, XII.3 This has been eliminated from the 2019 draft SMP.

a-ii. FirstLight believes that this section of the SMP clearly redefines the jurisdictions of the respective entities and meets the requirement as stated in License Article 407 to have a discussion of local government and other land use regulations that affect project resources and any coordination efforts between FirstLight and local governments.

b-i. FirstLight has eliminated the "Exhibit A –Agreement" between the municipalities and FirstLight as part of this revised SMP. State and Municipal jurisdiction is therefore clarified in section VII and other parts of the of the 2019 SMP and includes requests for inspections, condemnation and other services consistent with state law and entities jurisdictions over public health and safety.

<ul> <li>i. Subsection (a) states: "undeveloped shoreline lands owned by FirstLight within the project boundary shall be managed for environmental protection and Conservation." This is now the first sentence of the description of the Conservation Lands designation.</li> <li>1. We request this sentence also be added to the undeveloped residential lands designation.</li> <li>ii. Under the Undeveloped Residential Lands designation in the 2019 SMP, it states: "land use development may be restricted to protect and preserve existing natural resources."</li> </ul>	<ul> <li>ai. FirstLight eliminated the Land Conservation Program because it was superseded by the Article 407 Feasibility Report, Plan and Schedule for Conservation Easements and Restrictions submitted on 3/26/2014 after the approval of the SMP was issued.</li> <li>1. FirstLight made this change in the SMP text.</li> </ul>
1. We request this "may" be replaced with "will" as we would like these lands, should they ever be developed, to retain the requirement for a 200ft buffer, as well as other existing restrictions compared to the developed residential lands designation.	1. FirstLight needs to retain the "may" because the actual property rights have not been determined and no application to use Project lands has been reviewed to date.
2. The last sentence under this designation, referring to voluntary conservation restrictions should be clarified to include where these restrictions can be found, and why developed residential lands are not candidates for voluntary conservation restrictions.	2. FirstLight's ATTACHMENT D Riparian Land Conservation Toolkit contained in the "Feasibility Report, Plan and Schedule for Conservation Easements and Restrictions" provides guidance on models and methods to enter into voluntary conservation restriction. FirstLight did not identify, nor did any other stakeholders identify undeveloped lands within the project boundary that may be suitable for conservation easements for greenway and trail development, or other measures to improve public access to project lands and waters upon FirstLight's request and consultation.
<ul> <li>CLA 5 - V.P. 11. X. VEGETATED RIPARIAN BUFFERS AND STORMWATER MANAGEMENT</li> <li>a. Vegetated Riparian Buffers: This section should likely contain more specifics regarding: "existing buffer areas cannot be altered without authorization from FirstLight and the enhancement of such buffer areas may be required as a condition of approval of other shoreline and land uses."</li> <li>i. We request that this "may" be changed to "shall" as enhancement or creation of a vegetated buffer is a requirement of permitting shoreline and land uses, and that requirement should be reflected here.</li> </ul>	a-i. FirstLight applied the word "may" rather than "shall" in the Vegetated Riparian Buffer section of this SMP. This "may" allows for flexibility in implementing the regulation with respects to others property rights within the FERC Project boundary. (ie. if FirstLight only has the right to flood the property, FirstLight cannot require the installation of a vegetated buffer or regulate the removal.)
that requirement should be reflected here.	b. FirstLight migrated many portions of the draft Appendices into the body of the SMP to satisfy this and

<ul> <li>b. We request the detail and information in Appendix C</li> <li>p.12-15 regarding vegetated buffer installation be</li> <li>included here, in the body of the document, to ensure that</li> <li>buffer installation remains a FERC mandated requirement.</li> <li>See above comment II for more detail about this request.</li> <li>c. Stormwater Management: We want to confirm that</li> <li>homeowners will not be required to fund stormwater</li> <li>retrofitting projects for municipal or community</li> <li>stormwater conveyances within the project boundary.</li> </ul>	<ul> <li>many other stakeholder comments.</li> <li>c. FirstLight cannot confirm who will be responsible for funding or retrofitting stormwater conveyances inside or outside the Project Boundary. FirstLight does have a permit process and a voluntary donation program to aid in the funding of projects that benefit the environment.</li> </ul>
CLA 6 - VI. P. 13, XIV. DIGITAL AND HARD COPY DATA POLICY a. This passage states: "FirstLight does not have any obligation to release any company information to the public. Any data that FirstLight has determined is accessible to the public may be posted on the FirstLight's website."	FirstLight has updated the Digital and Hard Copy Data Policy section to include a written request and review process. In addition the FERC provided clarification on this requirement in a letter dated 5/15/2017. This SMP reflects FERC's clarification and contains a resolution to this requirement in section XVI Digital and Hardcopy
<ul><li>i. Under article 407 in the FERC License for Housatonic Hydro4, subsection</li><li>(f) clearly states the SMP shall include: "a provision to share existing digital mapping data upon request."</li></ul>	Data Policy
ii. We request this passage be rewritten as: "FirstLight does not have any obligation to release any permit, license, lease, agreement, or any company information to the public inconsistent with past or future FERC requirements and rulings for project number p-2576. FirstLight will abide by article 407, subsection (f), of the project license stating that they will share existing digital mapping data upon request."	
CLA 7 - VII.Appendix C. P.4, V. LIMITEDACTIVITY USE GUIDELINES, Derelict Docks	
a. This passage states: "FirstLight or its agents, the respective police, boating authority, or any others shall endeavor to secure, remove, and/or dispose of any derelict docks that break loose and could cause a hazard to boating navigation."	
i. We request this passage be re-written to say: "FirstLight or its agents shall secure, remove, and dispose of any derelict docks that break loose and could cause a hazard to boating navigation. The respective police, boating	a. i. FirstLight modified the wording in the Derelict Dock Section from "shall" to "may" allowing for each respective agency to determine what they prefer their role

<ul> <li>authority, or any others may assist with the location, securing, and notification to FirstLight of said derelict docks."</li> <li>ii. This original passage also states instead of "securing, removing, and disposing of the derelict docks", that FirstLight can "secure, remove, and/or dispose of any derelict docks."</li> </ul>	to be.
<ul> <li>1.If read as "secure, remove, or dispose of any derelict docks" this requirement would allow FirstLight to only Secure the dock, meaning the issue does not get taken care of. We have removed the "or" in our suggested language.</li> <li>iii.It is also worth noting that "shall endeavor to" has a distinctly different meaning than just "shall" and the latter is the language that should be used for this to be a policy that is actually enforced.</li> <li>iv. There is no discussion of a timeframe of when derelict docks would be removed from the lake following reporting. A timeline should be explicitly stated in this passage.</li> </ul>	<ol> <li>FirstLight did not make this change, in some locations along the water way securing may be the only solution.</li> <li>FirstLight modified the SMP Text to state "All entities shall be responsible for maintaining their docks in a safe working condition. If a dock is to be removed or replaced, the old dock must be disposed of properly outside the Project Boundary. FirstLight or its agents, the respective police, boating authority or any others may endeavor to secure, remove and/or dispose of any derelict docks that break loose and could cause a hazard to boating navigation."</li> <li>FirstLight disagrees, the Derelict Dock section of the SMP is designed to inform the public of their responsibilities to maintain and remove unsafe docks and work with boating authorities to ensure a safe navigation channel is maintained, not as an enforcement policy.</li> </ol>
<ul> <li>CLA 8 - VIII. Appendix C. P. 5, V. LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Residential Docks</li> <li>a. "Tagging" states that "All docks shall be marked with their FirstLight activity number."</li> <li>i. Clarification of whether this tag is solely for in-progress, permitted projects, or if every dock will have a permanent tag for inventory keeping, is needed here.</li> </ul>	FirstLight has removed a tagging requirement from the SMP do to stakeholder confusion in written responses received. See CLA 5 above.

CLA 9 - IX.Appendix C. P. 6, V. LIMITEDACTIVITY USE GUIDELINES, Vessel Moorings and Navigational or Regulatory Buoysa. The third paragraph states "If found, [unauthorized vessel moorings] are subject to removal by FirstLight or the respective authority."i.We suggest a rewrite of this passage, stating "If found, unauthorized vessel moorings and other unpermitted	a. i. FirstLight disagrees, the CLA's own Marine Patrol, other Lake Authority and the CTDEEP staff asked for the
buoys will be removed by FirstLight. Prior notice before removal is not required."	permissions to be crafted this way so that if a navigational hazard is determined by a boating authority it could be immediately removed by that authority.
ii.We suggest FirstLight create a system whereas licensed moorings are tagged. This would allow more easy identification of licensed vs. unlicensed moorings that could be more easily removed.	iiiiiiv FirstLight has a system for permitting limited moorings, removing unauthorized moorings, and the text was updated to address some of your concerns in XI. SHORELINE AND LAND USE STANDARDS AND GUIDELINES of the SMP. Swim docks are also
iii.We request a timeline for unauthorized mooring removal (i.e. following notification to FirstLight that an unauthorized mooring has been found, how quickly will unauthorized moorings be removed/permitted).	added into the dock policies.
iv.Unlicensed Swim Areas are also not specifically called out as requiring DEEP permitting in the new SMP and should also be included in this section as not being approved without the proper approval first from DEEP.	
1. This had been included in the SMP approved in 2013, where it fell under XI (p. 6)5.	
2.We request that this section (XI) from the 2013 SMP be re- included here in the 2019 SMP.	
CLA 10 - X. Appendix C. P. 7, V. LIMITED ACTIVITY USE GUIDELINES, Seawalls	
a. Design and Construction Guidelines for Seawalls states: "Environmentally benign alternatives shall be considered" as opposed to seawalls.	
i. We request the language here be changed to: "Environmentally benign alternatives, such as vegetation and rip-rap shall be utilized unless impossible based on a scheduled site inspection with FirstLight. Any new or significantly modified shoreline stabilization projects, including seawalls, rip-rap, and other environmentally benign alternatives will be included in an annual 'seawall	a. i. FirstLight updated the SMP to define what is significant and what is limited with regards to seawalls. The use of the word "impossible" is not realistic, we did state "may require the design by a CT Licensed Engineer" FirstLight proposed a new reporting program and the seawall report is being proposed to be eliminated.

report."'	
b.We note that the requirement for an annual seawall report is omitted from the 2019 SMP draft.	
i.We request that this annual reporting requirement be included in the new draft, but only requiring: "a site description, photographs, and any other pertinent information (e.g., the existence of deeded rights to a seawall) that demonstrates that the licensee considered alternatives to a seawall, but that other alternatives were not feasible" for new projects as laid out by FERC in the Order Modifying and Approving the SMP in 2013.6	b. i. FirstLight proposed an annual reporting schedule per consultation responses for significant activities performed in the previous year.
CLA 11 - XI. Appendix C. P. 8, V. LIMITED ACTIVITY USE GUIDELINES, Alternative Shoreline Stabilization Techniques	
a. This passage states: "These uses may be authorized subject to Article 413 of the License, the SMP, and in compliance with these Guidelines and other applicable requirements."	
i. We request that this passage be rewritten as: "These alternative Shoreline Stabilization techniques will be implemented subject to Article 413 of the License, the SMP, and in compliance with these guidelines and other applicable requirements unless impossible based on site specific criteria discussed during a site inspection with FirstLight."	i. See Response CLA 10 Above with regards to the use of "impossible".
b. This section, and the Seawalls section discussed above, could be combined into one section titled "Seawalls and Alternative Shoreline Stabilization Techniques" to illustrate that the two are related, and that environmentally benign alternatives are prioritized, based on site specific criteria.	b. FirstLight combined the shoreline stabilization measures and moved them from the guidelines into the SMP, FirstLight also waived the fees for Erosion Control and/or Wave Attenuation & Alternative Shoreline Stabilization Techniques to incentivize the use of alternative stabilization.
CLA 12 - XII. Appendix C. P. 10, V. LIMITED ACTIVITY USE GUIDELINES, Upslope Uses	FirstLight clarified this in the text of the SMP.
a. Under Steps, Paths, and Walkways it is stated that "The width of such [pedestrian] paths shall be limited."	
i. We would like to see this width limit stated specifically in this passage for easy reference for residents. Notably, there is a width limit mentioned in Appendix D of 4ft.	

<ul> <li>CLA 13 - XIII. Appendix C. P. 12-15, V. LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers</li> <li>a. Vegetated Riparian Buffer Area describes a buffer as requiring "native trees, shrubs, and herbaceous or ground covers which must occupy between five and fifty percent of the vegetated buffer zone." In a normal 50ft buffer zone, this would mean that only 2.5ft need to be covered by plants. This could be accomplished by planting one shrub, a small tree, bush, etc.</li> </ul>	a. FirstLight believes that the CLA does not understand the regulation is not a depth, rather it is an area. FirstLight will be providing a summary report on vegetated buffers for consultation to resolve this confusion.
i. We suggest an increase to the bottom boundary of this requirement to 20%. 10ft of plants in a 50ft buffer is a reasonable bottom boundary and will still accomplish the goal of a vegetated buffer; 5% coverage will not be able to effectively mitigate runoff pollution into the lake.	i. FirstLight has proposed to increase the required Area to 20% as a guideline from 5% which is currently approved, again it is not a depth but and area.
ii. This 20% bottom boundary can be changed for exceptional cases where 20% is not achievable based on site specific criteria and will be noted in the annual buffer report.	ii. FirstLight has reduced the time allowed to install a buffer and removed the requirement to install a buffer 5 years after a neighbor buys a property, this was unenforceable, annual reporting on vegetated buffers has been removed from this SMP and replaced by a reporting
b. Vegetated Buffers as a required Use starts by saying "Property Owners may be required to install or re- establish a Vegetated Riparian Buffer composed of native vegetation when an application is made to modify an existing use."	of Significant activities.
i We request that "May" be replaced by "will" to enforce that this is indeed a requirement.	i. FirstLight disagrees, if the parcel is flowage enforcement is impractical and that's why may was selected.
1. If there are exceptions, a sentence can be included that states: "Homeowners can apply for an exemption if installation of a vegetated buffer is impossible based on site specific criteria discussed during a site inspection by FirstLight."	1. There is no need to add and exception, see above responses.
ii. There is no mention of a change of ownership requirement for buffer installation. This is one of the most important and effective triggers for buffer implementation.	ii. FirstLight removed the requirement to install a buffer 5 years after a neighbor buys a property, this was unenforceable.
1. The 2013 SMP states on p. 5: "Landowners abutting the project boundary shall be required to install a vegetated buffer within	
(5)years of change of ownership of property, a change in	

its size, location or configuration of an existing structure, or installation of a new structure."7	
a. We request that this change of ownership requirement be added to the 2019 draft SMP.	a. See responses above.
b. We appreciate the new tightened time frame of 3 years (for limited activity use permitting), but all triggers for buffer zone implementation should be conserved.	b. See responses above.
iii. The one-year time frame of buffer installation should be included for clarity in the sentence: "For applications that include a request for Significant Activity Uses, the installation of vegetated buffer plantings will be required as part of the implementation."	iii. FirstLight updated and clarified the definition and requirements for a significant activity uses.
iv. There is no mention of the required annual buffer zone implementation reports, as laid out in the order modifying and approving the 2013 SMP.	iv. See responses above.
1. As stated in the Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407 (p 15, 29): The Licensee should be required to file with the Commission an annual report that details its progress	1. See responses above
<ul><li>implementing its shoreline buffer rules."8</li><li>2. As this was added to the original SMP by FERC and gives valuable insight into the success of buffer zone implementation, it should be incorporated into this, and all future SMP iterations.</li></ul>	FirstLight disagrees, the proposed reporting as added to the SMP ensures that when a vegetated buffer is required as part of a significant activity it will be reported.
a. Shoreline Vegetation Removal states: "Removal of trees, shrubs, and other vegetation located within the project boundary is prohibited without prior written authorization by FirstLight."	FirstLight disagrees, this language is clear and concise:
i. This should specifically discuss the process if a fallen tree presents a safety or navigation hazard to property owners or boaters or prevents a homeowner from exercising their deeded rights (i.e. to pass and re-pass and access their dock).	"removal of trees, shrubs, and other vegetation located within the project boundary is prohibited without prior written authorization by FirstLight" No neighbors have a deeded right to harvest vegetation from FirstLight's lands.
<ul><li>ii. The following passage states: "Such prohibition does not apply to pruning, mowing, or weeding.</li><li>Notwithstanding the foregoing, pruning, mowing or weeding of a permitted Vegetated Riparian Buffer shall not be permitted unless it is authorized by FirstLight."</li></ul>	ii. FirstLight clarified this in the SMP.
1. We suggest a rewrite of the above, as it is very	1. See response above.

<ul> <li>confusing: "The vegetation removal prohibition does not apply to mowing, pruning, or weeding within the project boundary. General maintenance of a permitted vegetated buffer, including light weeding and pruning, is allowed provided it is not prohibited by FirstLight, and there is no significant removal of vegetation within said buffer."</li> <li>b. On p. 15, Irrigation and Application of Fertilizers, Pesticides, and Herbicides could be improved by stating specifically that fertilizers with phosphorous shall not be used in vegetated buffers unless expressly allowed under State of CT Senate Bill-254 which prohibits the application of fertilizer containing phosphorus in buffer</li> </ul>	b. FirstLight removed this level of detail from the SMP and FirstLight cannot enforce state law.
<ul> <li>zones.</li> <li>c. Under the Vegetated Riparian Buffer Education Program, it discusses FirstLight's Shoreline Management Manual, which is an extensive and informative document.</li> <li>i. However, this document is so long (over 140 pages) as to be unapproachable for average homeowners.</li> <li>ii. We would like to collaborate with FirstLight on the creation of a shorter, approachable, guidelines document that can be distributed to homeowners who trigger the buffer requirement.</li> </ul>	i. FirstLight's Shoreline Management Manual is nationally recognized and an award winning publication. FirstLight has moved several sections of the Appendices into the SMP and clarified the permitting process for homeowners in this SMP. FirstLight plans to update the SMM and may ask the CLA to collaborate on its update.
<ul> <li>CLA 14 - XIV. Appendix D. P. 1 ADMINISTRATIVE APPLICATION FEE SCHEDULE</li> <li>a. Application Submittal Fee (7th row) should be clarified.</li> <li>i. This fee should not apply to uses that are listed in the table as being free, like permitted tree removal and deeded rights.</li> <li>b. What is the definition of an "Existing Use Permit."</li> <li>i. Why are residential existing Use Permits free, while community permits cost \$500? (Rows 9 and 10) We request that these community existing use permits be free, the same as residential existing use permits.</li> <li>c. What is the definition of a "New Boat Landing" (2nd from last row)?</li> <li>d. We request the addition of a "Deeded Right Maintenance and Repair" row, with a \$0 (Free) fee, just</li> </ul>	<ul> <li>i. FirstLight clarified this in the SMP per consultations received.</li> <li>b. FirstLight clarified the types of uses and permit types per consultations received.</li> <li>i. Community docks are more expensive because they require more time to review, deeds and are used by larger groups of users in a more intensive manner than residential areas.</li> <li>c. FirstLight updated the SMP to more clearly describe uses and activity classes.</li> <li>d. FirstLight disagrees the action of exercising a Deeded Right is free, repairs and maintenance would fall under</li> </ul>

for clarity and ease of reference for property owners.	limited activity repairs \$150 application review fee.
e. We request that you add a footnote to the FERC Application Fee row (Final Row) citing p. 19 in what is currently Appendix C so homeowners can easily reference what this fee applies to.	e. FirstLight added an asterisks * and footnote referencing the License Article 413.
CLA 15 - XV. Appendix F. P. 1 STAKEHOLDERS AND THEIR RESPONSIBILITIES	a-bi-iiFirstLight updated Appendix G to address the
a. It is unclear how often the Stakeholders will meet, how meetings are called, and whether stakeholders can request meetings. We request clarification on these points.	timing of the SMP LAC & RAC meetings for 2 years after the approval of the SMP by the FERC and clarified that the Committees will be reconvened once before the next 6
b. It is stated: "The Stakeholders will meet prior to the ten-year review and update to the SMP."	year review and update. FirstLight may request a ten year review period for the next revision of the SMP.
i. See comment above labeled I for concerns regarding the ten-year review period.	
ii. We suggest annual meetings of the stakeholders for the first 3 years following approval of the new SMP, to discuss what is and isn't working, and strategies for effective implementation.	
1. This was done following approval of the original SMP in 2013 (Exhibit I), where it says: "The LAC and RAC will meet, at a minimum, on an annual basis for the first three years after approval of the SMP"9 and has been omitted from this SMP.	1- FirstLight addressed this in the comment above.
c. This passage states "FirstLight will entertain suggestions of additional issues to be addressed if received fifteen days prior to the date of the meeting."	c-FirstLight retained the 15 day request requirement allowing time for FirstLight Staff to prepare responses
i. We request this timeframe be increased to 5 business days prior to the meeting.	and your request for 5 days is too little time for reasonable preparation.
d. This passage states "FirstLight will, at its sole discretion, make any final decision regarding the SMP and its revision, subject to any necessary FERC approvals."	
i. We suggest rewriting this sentence to say: "FirstLight will, following stakeholder meetings and consultation, make any final decision regarding the SMP and its revision"	d-FirstLight reserves its sole discretion as stated in the SMP because not all changes require stakeholder meetings and consultation.
e. This section contains very little detail about the stakeholders and their responsibilities and should contain	

more specific information of Lake Stakeholder Group and River Stakeholder Group responsibilities, similar to the bulleted list found in the SMP approved in 2013.12	e-FirstLight updated the stakeholder responsibilities in the Appendix G to reflect the remaining responsibilities of the SMP LAC & SMP RAC going forward.
f. We request that the representatives in the SMP Lake Stakeholder group for Lakefront property owners remain the same as it is in the SMP approved in 2013 (i.e. 2 from Candlewood, one from Squantz, one from Lillinonah, and one from Zoar) and as appointed by the CEOs of the surrounding municipalities.	f-FirstLight modified the members of the SMP LAC & RAC to better represent the users at the Project. Ultimately the respective lake authorities and their delegates represent the Municipalities and these other entities as they are appointed by the CEO's.
i. We also request that Municipal representatives also states that each representative will be appointed by that town's CEO; the same as it stands in the SMP approved in 2013.	i-FirstLight added, "Appointed by the Chief Elected Offcicial"
CLA 16 - XVI. General Comments	
a. We would like to see, when referencing specific other documents, or even other pages within the SMP, that a page number or footnote be included. This would allow more easy research and reference for residents when going through the SMP. For example, the requirements in the Shoreline Management Manual referenced on p. 13 of the SMP under section X. Or referencing page numbers on p. 10 with the specific Limited and Significant Activity	a.FirstLight added an Appendix with a timeline and history of the SMP to aid users in understanding the process that created this SMP.
use guidelines. b. We suggest that the page numbers in the 2019 SMP increase by 1 every page, and don't reset in appendices, for ease of reference in the future.	b.The page number concern was addressed by updating the footer of each Appendix.
c. There is insufficient explanation of how floating debris that poses a navigational hazard (such as trees coming up from the bottom, or blowing in after a storm, etc.) on Candlewood Lake would be dealt with. We suggest a similar arrangement to the rewritten derelict dock arrangement mentioned above in comment VIII.	c. FirstLight has addressed this concern by stating that it maintains its lands in a natural state, trees and storm debris are a natural part of an impoundment, this was not added to the derelict dock section.
d. On page 4, under municipal and state jurisdiction, section (e) should say that FirstLight "will" require applicants who are proposing a significant activity seek local wetland and watercourse permits. This process, of	d. FirstLight chose "may" and not to require all applicants to secure local wetlands and watercourse permits. FirstLight believes that the Municipal Wetlands regulations may be federally pre-empted by the

projects requiring both FirstLight and Wetlands permitting should be outlined explicitly both in this section, and in the application processes section on p. 22 of Appendix C.	regulations and policies in the SMP and therefore does not want to create a requirement that may be inconsistent with state and federal law.
<ul> <li>e. Please clarify within the SMP FirstLight's responsibility for tree/limb removal, shoreline damage, etc. as a result of significant storm events.</li> <li>f. Stakeholder and public consultation is described briefly in three sections in this SMP: Under "IV. Term", "VI. Stakeholder Consultation and Support", and "Appendix F. Stakeholders and Their Responsibilities." None of these sections are very descriptive of what stakeholder and public consultation will actually look like, and what responsibilities and timeline of this consultation process will look like.</li> <li>i. We request the stakeholder and public consultation period be expanded upon on p.4 (VI. Stakeholders will be consulted when a change is proposed to the SMP, a timeline for that consultation, and how stakeholders will be notified. This will help ensure that everyone knows they are both permitted and encouraged to consult with FirstLight regarding concerns and suggestions during SMP updates and reviews.</li> </ul>	<ul> <li>e. FirstLight maintains a vegetation management policy outside of the SMP's permitting guidelines and the SMP provides a process for securing permits for vegetation removal for free.</li> <li>f. FirstLight has defined the entities and the stakeholders process in Appendix G. It was also clarified in the response to CLA 15 above.</li> <li>i. FirstLight updated Appendix G to address this concern.</li> </ul>
CLA Written Responses	to 3/14/2019 Consultation
<b>CLA 17 -</b> I. P. 3, V. REVIEW AND FERC APPROVAL: The Candlewood Lake Authority's highest priority concern is contained within items (a) and (c) of this section which assert that FirstLight, or any future licensee which inherits the SMP, can "continue to update the Exhibits, Guidelines, and appendices referenced herein." a. These appendices comprise a majority of the document and contain vitally important guidelines and information. This proposal for FirstLight to update the appendices at- will represents a new addition to the SMP, as the current approved SMP provides for no such shility in the	a. FirstLight has migrated the majority of the Appendices into the SMP as we informed you at the SMP LAC meeting.
<ul><li>approved SMP provides for no such ability in the "REVIEW AND APPROVAL BY FERC" section1.</li><li>i. If this were to be approved as is, the day after FERC approves the document, FirstLight could, for example, unilaterally double the amount of administrative fees, change the land area that a vegetated buffer must</li></ul>	i. FirstLight fixed the onetime fees for the 6 year term of this SMP at the request of stakeholders and see responses

comprise, remove members from the stakeholder	above.
committees for future reviews, allow unregulated vegetation removal, add annual use fees, and change the definitions of limited and significant activity uses so that every activity use is significant and thus accounts for a higher administrative fee without public review or FERC approval.	
1. While we don't expect FirstLight to do all these things, allowing at-will updates to the appendices presents not only a change from the current approved SMP, but a dangerous precedent that could have lasting negative effects for lake residents and lake health.	
ii. For these reasons, we want to re-state our request (previously made in our comments submitted to FirstLight in January of 2019)2 that either all the content currently found in appendices be moved to the body of the document and thus subject to public comment and FERC approval for updates, or that this passage be changed to remove the ability to update the appendices without public comment and FERC approval.	ii. FirstLight updated the SMP addressed your previous comments above as part of revising the SMP as part CLA's original comments.
<b>CLA 18 -</b> II. P. 3, IV. TERM: In our previously submitted comments, we stated: "b. The last sentence of this section reads 'The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and may include at least one noticed public hearing prior to any SMP update being submitted to the FERC for approval.' i. We are requesting that this 'may' be changed to 'will' or 'shall' as we feel a noticed public hearing is integral to informing the public of SMP changes during the review and consultation process."3	II. FirstLight made this change the SMP and agreed to one noticed public hearing before the next 6 year review and update.
a. We would like to amend this comment with an additional request of more than one public hearing at different geographic locations throughout the project. The project boundary affected by the shoreline management plan is so significant that a "central location" like the one chosen for the 2019 SMP review is inconvenient for the public to attend and prevents people who would otherwise have valuable feedback from attending. The seasonal nature of project residency is also an important aspect that has not been accounted for in the past for public feedback and is included in the below requested addition.	a. FirstLight disagrees with this request and believes that the process of providing written consultation for over 16 weeks, over 100 days, accompanied by both SMP LAC and RAC Meetings and closed with a public hearing and an additional 22 day for public comment provided more than adequate time for stakeholders to respond to these updates and revisions.
i. Thus, we request the following addition to our previous	

comment: "ii. We are also requesting that the SMP instead, state: "and will include at least two noticed public hearings, occurring between the Memorial Day and Labor Day summer season, when affected seasonal residents have the ability to attend. One meeting will be focused on the area from Bulls Bridge to the Rocky River Pumped Hydro Station (including Candlewood Lake) and to be held in one of the municipalities bordering Candlewood Lake, and the other being focused on the project boundary south of the Rocky River Pumped Hydro Station, to be held at a central location for residents of the river system."	i. FirstLight disagrees with your request for additional public hearings and timings. FirstLight believes that the Municipalities and their Chief Elected Officials are representative of their constituents, in addition the Lake Authorities are a second layer of appointed representatives of this shoreline constituency. There were several other stakeholder entities that represent not only the lakes but also the river communities and other regulatory agencies and entities as part of this extensive consultation.
<b>CLA 19 -</b> III. P. 6, VIII. SHORELINE LAND DESIGNATIONS	
<ul> <li>a. The figures under the "SHORELINE LAND DESIGNATION PROCESS" are very difficult to understand.</li> <li>i. We request that these figures be updated to describe the Shoreline Land Designation Process for residents and other members of the public, or text be added clearly describing the process.</li> </ul>	i. FirstLight updated the process for defining and added text to the SMP to clarify the permitting process for the public.
<b>CLA 20 -</b> IV. P. 12, XI. FIRSTLIGHT APPLICATION SUBMITTAL AND REVIEW FEES	
a. (f) states that "FirstLight reserves any and all legal rights to assert that it has authority to impose additional fees not specified herein. FirstLight's submission of the 2019 SMP is not an admission that it does not have legal authority to impose additional fees for use and occupancy of Project lands and waters."	
<ul> <li>i. This passage is concerning for a variety of reasons.</li> <li>1. The original draft SMP approved in 2007 was rejected due to strong public opposition to annual fees for use and occupancy of project lands and waters. This passage should be replaced with an assurance that annual fees for use and occupancy will not be imposed for the remainder of the license, just as in SMP XI. (d) which states that the "Fee Policy described herein will apply for the remaining term of the license" (FirstLight 2018, p.12).</li> </ul>	1. FirstLight has fixed the onetime fees for the term of this SMP at the request of the Town of New Fairfield and disagrees that a language change is needed the Fee Policy section of the SMP is clear, concise and consistent with state law.
a. Note, also, that the language in the current SMP (approved in 2013) states: "It is FirstLight's intention to	a. FirstLight has always reserved its rights to charge fees and recover its costs in both SMP's this is clearly stated in

<ul> <li>policy specified herein pursuant to clause (d) of this Section entities and persons other than FirstLight reserve any and all legal rights to contest the authority of FirstLight to impose additional fees."5 Which is in direct contradiction to quoted passage (f) in the draft SMP, implying that FirstLight has the authority to instate new fees, including the annual use/registration fees, at will and without public and FERC oversight.</li> <li>2. Any and all changes to fees, including changes to amounts and additional fees, should be subject to public and FERC comment and review, as they have a clear and direct effect on every person with property adjacent to the project boundary.</li> <li>a. It is for this reason that we suggested the appendices (including appendices D and E, describing fees and enforcement guidelines) be included in the body of the document and thus under FERC jurisdiction in our comments submitted to FirstLight on January 31 20192, as well as in these comments again in numeral I above.</li> <li>b. We also request that the language of section XI. reflect this promise to not unilaterally change fee amounts and add additional fees without public and FERC comment and review, which is clearly in contrast to section (f) in this section.</li> </ul>	<ul> <li>a. FirstLight disagrees, the onetime permit application fees have been fixed for this six year term of the SMP, however unforeseen costs, taxes or additional requirements not contemplated in this SMP proposal as is described in the introduction has occurred in the past, could be increased by others and FirstLight always reserves its rights to recover those and any other costs as a land owner without input from the public or the FERC.</li> <li>b. See responses above.</li> </ul>
i. This is particularly true for explicitly and unequivocally stating that there will be no annual use/registration fees for the remainder of the license, as stated in our comments above.	i. FirstLight believes the processes and policies in the SMP as stated meet the requirements for this six year review.
<ul> <li>CLA 21 - V. P. 12, XIII. EDUCATION</li> <li>a. The second paragraph of this section states "FirstLight periodically sponsors workshops for the public"</li> <li>i. We appreciate these workshops and educational events sponsored by FirstLight and want to ensure that they continue.</li> <li>ii. We request the addition of "will" to this section, so that it reads: "FirstLight will periodically sponsor workshops for the public"</li> </ul>	ii. FirstLight is committed to future education and believes it is essential to the success of the SMP, FirstLight included the word "shall" to the Education section of the SMP.

<b>CLA 22 -</b> VI. Appendix C. P. 5, V. LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Community Docks:	
a. This passage states: "Community docks shall not be offered for rental to non- property owners within the community."	
i. This sentence is confusing, and we suggest rewriting it to say: "Community docks shall not be offered to individuals who do not own property within the community."	i. FirstLight addressed this concern and reworded this section of the SMP.
<b>CLA 23</b> - VII. Appendix C. P. 7, LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Seawalls	a. Replacing a seawall is actually a significant impact to the lake and the littoral zone.
a. This passage states: "Intermediate techniques to extend the life of an existing seawall such as buttressing and placement of rip rap or stone at the base of the wall may be considered. Natural stone from the adjacent lake bed may be utilized."	ii. FirstLight disagrees that the removal of lakebed stone to enhance and protect existing seawalls disrupts the littoral zone, rather it protects it, by reducing resuspension and lowering the potential of a seawall failure.
i. One of the stated objectives of the shoreline management plan stated on p. 2 (III) is to "Preserve and enhance natural resource values"	The Shoreline Management Manual states on page 52 that "scouring sediments at the base and to the ends of the
ii. Removal of stone from the lake bed can disrupt crucial littoral zone habitat for important freshwater organisms. We request removal of the sentence: "Natural stone from the adjacent lake bed may be utilized."	wall, which can ultimately cause wall failure. Constant scouring also causes the resuspension of lakebed sediments into the water, decreasing water clarity, which has negative implications on fish, wildlife, and aquatic plants near the shoreline in the littoral zone."
<b>CLA 24</b> - VIII. Appendix C. P. 12-15, LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers	a. See responses above.
a. In our previous comments, we stated "we suggest an increase to the bottom boundary of this [buffer installation] requirements to 20%." (CLA p. 7).	
i. We would like to add an amendment to that mirroring New Fairfield's comment stating that an exception for a 5% buffer can be made "for a very small yard bordering Squantz Pond, for example, since a larger buffer zone may constitute a 'taking.'"6	i. FirstLight does not believe a buffer requirement is a "taking" we already own the lands.
b. In our previous comments, we stated "ii. There is no mention of a change of ownership requirement for buffer	

installation. This is one of the most important and effective triggers for buffer implementation a. We request that this change of ownership requirement be added to the 2019 draft SMP."7	
i. After hearing from FirstLight why this requirement was very difficult or impossible to enforce, and due to the progress and tightened time-frame of buffer implementation for limited and significant activity uses, we would like to rescind that comment. In the spirit of collaboration, we feel that this is an effective compromise on buffer implementation that benefits both parties.	i. FirstLight appreciates CLA's understanding that this is a compromise that will enhance rather than weaken the protections for the Lakes.
1. Our above rescission is on the condition that FirstLight include a vegetated buffer reporting requirement, similar or improved in form to the current annual vegetated buffer progress reports. This was also stated in our previously submitted comments.8 We request an annual report containing: the town in which the property is located, the type (significant or limited) of use that triggered the buffer requirement, the date of permit issuance (start date of the buffer installation time-frame) and buffer progress (none, being installed, or finished).	1. FirstLight disagrees with the details you are requesting, however the proposed Reporting section has been added to the SMP for Significant Activities which will trigger the required installation of a buffer, as well as newly proposed, reduction in soil erosion, enhanced stormwater management, wildlife and environmental benefits. None of these are required in the current SMP.
a. This will allow the CLA and towns to both build a picture and understanding of the shoreline around Candlewood Lake and allow us as stakeholders to ensure that FirstLight (or any future licensee that inherits the SMP) is compliant with their buffer requirements.	FirstLight regulates its lands consistent with its SMP, the other entities including Municipal entities like the CLA can aid in enhancing education and water quality benefits set forth in the SMP outside the Project Boundary to the limits of the watershed.
<ul> <li>CLA 25 - IX. Appendix C, P. 19, USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL</li> <li>a. The first sentence of this paragraph reads: "FirstLight, at its discretion may seek authorization from the FERC as part of License Article 413 described below"</li> <li>i. We request this sentence to be rewritten to say: "FirstLight, as required, will seek authorization from the FERC"</li> <li>ii. This ensures that this FERC authorization is only sought out when required, so as not to unnecessarily charge residents and businesses a substantial fee for these activities.</li> </ul>	i. FirstLight disagrees to the use of the word "will" as the land owner and Licensee there may be uses which FirstLight determines do not meet the requirements of the SMP or for any other reason, FirstLight may not seek FERC approval.

<ul> <li>CLA 26 - X. Appendix E, ENFORCEMENT GUIDELINES</li> <li>a. Certain bullet points describing FirstLight's Enforcement Actions are unclear and should be expanded upon.</li> <li>i. We request the bullet point stating "Bar Property Owners from receiving any future authorization to use Project lands and waters for a period of time to be determined by FirstLight" be expanded to describe the length of that time period or how it will be determined.</li> <li>ii. We request clarification of what the bullet point stating "Posting of lands within the Project Boundary" means, and the effect of this posting.</li> </ul>	<ul> <li>i. FirstLight disagrees with your request, the time and duration for which FirstLight chooses to bar a use of its lands is an essential enforcement tool.</li> <li>ii. FirstLight posts its lands with signage as a regular part of permitting and enforcement to inform the public and neighbors of activities under enforcement and court cases that have set precedent.</li> </ul>	
CLA Written Responses to 3/20/2019 Consultation		
<b>CLA 27 -</b> For these reasons, we want to re-state our request (previously made in our comments submitted to FirstLight in January of 2019)2 that either all the content currently found in appendices be moved to the body of the document and thus subject to public comment and FERC approval for updates, or that this passage be changed to remove the ability to update the appendices without public comment and FERC approval.	Please see comments CLA 2-5-20-17 above.	
<b>CLA 28 -</b> Thus, we request the following addition to our previous comment: " ii. We are also requesting that the SMP instead, state: " and will include at least two noticed public hearings, occurring between the Memorial Day and Labor Day summer season, when affected seasonal residents have the ability to attend. One meeting will be focused on the area from Bulls Bridge to the Rocky River Pumped Hydro Station (including Candlewood Lake) and to be held in one of the municipalities bordering Candlewood Lake, and the other being focused on the project boundary south of the Rocky River Pumped Hydro Station, to be held at a central location for residents of the river system	Please see Comment CLA 18 above.	
<b>CLA 29 -</b> i.We request that these figures be updated to describe the Shoreline Land Designation Process for residents and other members of the public, or text be added clearly describing the process.	FirstLight updated this sections text to reflect your several previous comments.	

<b>CLA 30 -</b> Any and all changes to fees, including changes to amounts and additional fees, should be subject to public and FERC comment and review, as they have a clear and direct effect on every person with property adjacent to the project boundary.	FirstLight consulted with the CLA early on and they supported the collection of fees, FirstLight has since fixed the onetime fee structure for this term of a reduced SMP review period of 6 years. We can address this concern in 2025.
<b>CLA 31 - a.</b> It is for this reason that we suggested the appendices (including appendices D and E, describing fees and enforcement guidelines) be included in the body of the document and thus under FERC jurisdiction in our comments submitted to FirstLight on January 31 2019, as well as in these comments again in numeral I above.	FirstLight disagrees with this request.
<ul> <li>CLA 32 - b. We also request that the language of section XI. reflect this promise to not unilaterally change fee amounts and add additional fees without public and FERC comment and review, which is clearly in contrast to section (f) in this section.</li> <li>i. This is particularly true for explicitly and unequivocally stating that there will be no annual use/registration fees for the remainder of the license, as stated in our comments above.</li> </ul>	<ul><li>FirstLight updated the SMP in sections XIII a-f and XIV to address many of these concerns and you can see responses to previous comments above.</li><li>FirstLight refuses to release its legal rights as part of the SMP.</li></ul>
<b>CLA 33 -</b> We request the addition of "will" to this section, so that it reads: "FirstLight will periodically sponsor workshops for the public	See CLA 21 above.
<b>CLA 34 -</b> This sentence is confusing, and we suggest rewriting it to say: "Community docks shall not be offered to individuals who do not own property within the community	FirstLight corrected this in the SMP.
<b>CLA 35</b> - Removal of stone from the lake bed can disrupt crucial littoral zone habitat for important freshwater organisms. We request removal of the sentence: "Natural stone from the adjacent lake bed may be utilized."	See CLA 23 above.
<b>CLA 36 -</b> i. After hearing from FirstLight why this requirement was very difficult or impossible to enforce, and due to the progress and tightened time-frame of buffer implementation for limited and significant activity uses, we would like to rescind that comment. In the spirit of collaboration, we feel that this is an effective compromise on buffer implementation that benefits both parties.	FirstLight thanks the CLA for understanding that this regulation was unenforcable and illegal.

1. Our above rescission is on the condition that FirstLight include a vegetated buffer reporting requirement, similar or improved in form to the current annual vegetated buffer progress reports. This was also stated in our previously submitted comments.8 We request an annual report containing: the town in which the property is located, the type (significant or limited) of use that triggered the buffer requirement, the date of permit issuance (start date of the buffer installation time-frame) and buffer progress (none, being installed, or finished).	FirstLight disagrees with the CLA's stipulation on reporting conditions and believes the proposed reporting requirements as added, as a part of several consultation responses in the current SMP as section "XVII Reporting" meets the goals and objectives of the SMP and replaces all previous reporting requirements and past consultation.
<b>CLA 37 -</b> This will allow the CLA and towns to both build a picture and understanding of the shoreline around Candlewood Lake and allow us as stakeholders to ensure that FirstLight (or any future licensee that inherits the SMP) is compliant with their buffer requirements.	FirstLight does not believe the CLA or the Towns are responsible as stakeholders for ensuring compliance. The CLA has no regulatory authority in any land-use or permitting. Rather the CLA plays an advisory role to the Towns. See TNF 7 above.
<ul> <li>CLA 38 - a. The first sentence of this paragraph reads:</li> <li>"FirstLight, at its discretion may seek authorization from the FERC as part of License Article 413 described below"</li> <li>i. We request this sentence to be rewritten to say:</li> <li>"FirstLight, as required, will seek authorization from the FERC"</li> <li>ii. This ensures that this FERC authorization is only sought out when required, so as not to unnecessarily charge residents and businesses a substantial fee for these activities</li> </ul>	See CLA 25 above.
<ul> <li>CLA 39 - a. Certain bullet points describing FirstLight's Enforcement Actions are unclear and should be expanded upon.</li> <li>i. We request the bullet point stating "Bar Property Owners from receiving any future authorization to use Project lands and waters for a period of time to be determined by FirstLight" be expanded to describe the length of that time period or how it will be determined.</li> <li>ii. We request clarification of what the bullet point stating "Posting of lands within the Project Boundary" means, and the effect of this posting.</li> </ul>	See CLA 26 above.

National Park Service Oral Com	ments During SMP LAC & RAC
<b>NPS 1</b> – FirstLight received many oral comments from NPS staff as part of the stakeholder consultation during both the SMP LAC & RAC Meetings.	FirstLight believes the comments recorded in the minutes of the SMP LAC & RAC Meetings were sufficient to address the NPS's concerns and those minutes are attached hereto as part of the consultation record.
Housatonic Valley Associatio	n Written Comments 3/19/19
<b>HVA 1</b> - P. 3, V. REVIEW AND FERC APPROVAL: Important information regarding compliance with the SMP currently included as appendices should be moved into the main body of the document in order to ensure adequate review of any changes outside of the 6-year review and update term by FERC and other stakeholders.	FirstLight has made this change as requested by stakeholders and many of the sections of the draft were incorporated in to the body of the SMP.
<ul> <li>HVA 2 - P. 4, VII. MUNICIPAL AND STATE JURISDICTION: FirstLight's responsibility to supervise and control shoreline developments to ensure that they are consistent with project purposes (including protection and enhancement of project's scenic, recreational, and environmental values), in partnership with municipal and state enforcement agencies, should be clearly stated in this section to reflect FERC's guidance for SMP development and implementation.</li> <li>Under this section, the role of municipalities in regulating shoreline activities should be clarified. Furthermore, we ask that FirstLight work towards standardizing oversight of shoreline development activities by appropriate municipal land use authorities in all abutting communities, and explicitly state this goal under this section. Section (e) should be changed to say that FirstLight "will" require applicants who are proposing a significant activity to seek local wetland and watercourse permits. This process, of projects requiring both FirstLight and Wetlands permitting should be outlined explicitly both in this section, and in the application processes section on p. 22 of Appendix C.</li> <li>A process for review of all shoreline development projects proposed on project lands between the MA/CT border and Boardman Bridge in New Milford by the Housatonic River Commission should be included in this section.</li> </ul>	FirstLight believes the SMP as written provides clear and concise language of the responsibilities of all parties involved as stated in SMP Section VII. e) provides for input from local wetlands and watercourse commissions who can request review and/or input from the Housatonic River Commission as they see fit.

<b>HVA 3</b> - Finally, we request that a process for notifying the LAC/RAC when applications for shoreline development are submitted to FirstLight be included in this section.	FirstLight disagrees that the SMP LAC/RAC are a consultative committee that FirstLight convenes as part of reviewing, updating and implementing the SMP and has no jurisdictional or permit review responsibilities. See Appendix G Stakeholders and Their Responsibilities.
<b>HVA 4</b> - P. 7-9, SHORELINE LAND DESIGNATION MAPS: While we understand that the proposed reclassification of "conservation land" to "undeveloped land" is meant to clarify the vulnerability of these lands to development, we urge FirstLight to exercise all of their authority, and facilitate oversight by state and municipal regulatory agencies, to protect the project's scenic, recreational and environmental values on these lands in the future. At minimum, development on these lands should be subject to maintenance of a native vegetative buffer adequate for protecting water quality and bank stability, and inclusion of Green Infrastructure practices adequate for maintaining pre-development hydrology. As stated above, we also urge that all development proposals on these lands be subject to review and approval by the Housatonic River Commission (for projects within their jurisdiction) as well as local land-use authorities. We also request that a process for notifying the LAC/RAC of permit applications on these lands be developed.	FirstLight has limited jurisdiction over lands that are only subject to flowage rights as is the majority of the lands upstream of the Bulls Bridge and Falls Village Projects. In these instances the future development of the lands adjacent the FERC Project Boundary is the sole responsibility of local land-use authorities, such as local zoning, wetlands, Housatonic River Commission and possibly others. FirstLight prepared and submitted a "Article 407 Feasibility Report, Plan and Schedule for Conservation Easements and Restrictions" the toolkit section of this filing can guide local entities on methods and solutions to preserve and protect this land beyond FirstLight's authority.
<b>HVA 5</b> - P. 11. X. VEGETATED RIPARIAN BUFFERS AND STORMWATER MANAGEMENT. This section should be explicit in saying that enhancement of shoreline buffers shall be a requirement as a condition of approval for shoreline development projects. We also reiterate that the detail and information in Appendix C p.12-15 regarding vegetated buffer installation be included here, in the body of the document, to ensure that buffer installation remains a FERC mandated requirement. See above comment under P. 3, V. REVIEW AND FERC APPROVAL.	FirstLight has modified the SMP to update and clarify the vegetated buffer requirements and included them in the SMP.
<b>HVA 6</b> - XIII. Appendix C. P. 12-15, V. LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers. This appendix describes a buffer as requiring "native trees, shrubs, and herbaceous or ground covers which must occupy between five and fifty percent of the vegetated buffer zone." We would not expect five percent coverage to be adequate for protecting water quality, and we request that the minimum requirement be changed to	FirstLight disagrees that 50% is reasonable or practicable as a goal, however FirstLight does reserve the right to restrict removal of existing buffers as part of the updates to the SMP.

<ul> <li>50%, with a species mix that includes groundcover, shrubs and trees as in a natural riparian forest.</li> <li>This appendix states that "Property Owners may be required to install or re-establish a Vegetated Riparian Buffer composed of native vegetation when an application</li> </ul>	FirstLight applied the word "may" rather than "shall" in the Vegetated Riparian Buffer section of this SMP. This "may" allows for flexibility in implementing the regulation with respects to others property rights within
is made to modify an existing use." We request that "May" be replaced by "will" to make it clear that this is a requirement.	the FERC Project boundary. (ie. if FirstLight only has the right to flood the property, FirstLight cannot require the installation of a vegetated buffer or regulate the removal.)
We are concerned about the removal of the change-of- ownership trigger for buffer installation, and the effect this will have on the pace of buffer restoration around the project. We request that this change-of-ownership requirement be added to the 2019 draft SMP.	See CLA responses above.
There is no mention of the required annual buffer zone implementation report, as laid out in the order modifying and approving the 2013 SMP. As this was added to the original SMP by FERC and gives valuable insight into the success of buffer zone implementation and the opportunity for informed program modification to increase effectiveness, it should be included in the 2019 SMP.	See CLA responses above.
<b>HVA 7</b> - The section "Irrigation and Application of Fertilizers, Pesticides, and Herbicides" on page 15 should state specifically that fertilizers with phosphorous shall not be used in vegetated buffers unless expressly allowed under State of CT Senate Bill-254, which prohibits the application of fertilizer containing phosphorus in buffer zones.	FirstLight removed this level of detail from the SMP and FirstLight cannot enforce state law, perhaps the Housatonic River Commission can enforce this State Law.
Paul Szymanski Writ	ten Comments 3/21/19
Paul Szymanski 1 - Significant Activity Use Section - In summary, I believe the proposed plan is a marked improvement in comparison to the existing plan. One of the major improvements is the "Significant Activity Use" permit process. Unfortunately, there was very little discussion at the Stakeholder Meeting regarding this significant improvement to the Plan. With the proper plans, you will now consider pervious patios up to 200 square feet in size and playgrounds up to 100 square feet in size. I believe this is a step in the right direction but respectfully request you consider increasing the sizes. Just northeast of Candlewood Lake we have been	FirstLight thanks you for commenting and concluding that this SMP is vastly better than the current SMP. FirstLight agrees that your extensive field knowledge and familiarity with securing permits provided understanding of the SMP deeper than most who commented and have never received or requested a permit.

extremely successful in improving water quality on Lake Waramaug. There is a cooperative relationship between the Task Force there and the property owners. We routinely add pervious patio like structures exceeding 400 square feet. In return, we provide tremendous water quality improvements such as removing all lawns within 100 feet of the Lake, intercepting and treating all direct discharges along the frontage from the roads. The benefits provided by the activities allow the property to have better use of their property but most importantly allow some of the largest pollutants discharging in to the Lake to finally be dealt with. These types of symbiotic relationships should be strongly encouraged in the Plan.	
Paul Szymanski 2 - Acknowledgement of No JurisdictionOutside of the Project BoundaryIt is very encouraging that you have acknowledged yourlack of jurisdiction when a land transfer takes place andno activities are performed within the project boundary.This is a positive step.	FirstLight redrafted this SMP to be consistent with State law and in an effort to meet its obligations while respecting other private property rights.
Paul Szymanski 3 - Tagging ProcessI strongly support the tagging process as recommended in the document as it is a benefit to all from an enforcement and awareness perspective.	See CLA 5 in the "Written Responses to 1/9/2019 Pre- Consultation Meeting" In addition, FirstLight mentions in the SMP Appendix E – Enforcement, that FirstLight Posts its lands with signage as part of enforcement to inform both the Towns and the public of active violations.
<b>Paul Szymanski 4 -</b> Limited Activity Use, Seawalls Please allow some flexibility with respect to seawalls. There are certain areas where a seawall provides less disruption (i.e. – at base of extremely slope) where a vegetated buffer or riprap slope would require significantly greater upslope disturbance that would be unnecessary with a seawall.	FirstLight has clarified in the SMP where and how seawalls can be employed and it requires review and input from an Engineer like yourself to address concerns like those you stated in your comment.
<b>Paul Szymanski 5</b> - Use of "Impossible" in the Document I know some people have encouraged changing out several words in the document that would not allow certain things unless it was, "impossible," as this is simply not practical. As an engineer, I can make almost anything possible so long as the client is willing to spend a large amount of money and wait a little longer for approvals. However, even with spending a significantly larger amount of money does not assure that the resource	FirstLight has not included the use of the word "impossible" that was contained in comments received from the CLA and has responded to above in the consultation record. However, FirstLight agrees the investments made to stabilize the shoreline can be significant and costs could be better spent improving employing methodologies which improve water quality.

will be left in a better state. Instead the overall project
should be looked at as a whole and many times that extra
money could be spent on other activities which would
significantly assist with water quality improvements.

#### Steve Paduano – Waterfornt Owner - Written Comments 3/14/19

Steve Paduano - The reason to pump the lake up to the	FirstLight voluntarily restricts pumping all summer at the
maximum level as far as I can ascertain is because the	Rocky River station in an effort to reduce the risk of
Housatonic River water temperature is below 54-degrees	Zebra Mussels being introduced into the reservoir.
Fahrenheit in the spring. Pumping Housatonic River water when it is above 54 degrees Fahrenheit into the lake would not be good because the zebra mussels are spawning and therefore, they would contaminate the lake. I have had parts of my lake shore buffer eroded because of this policy and neighbors have had their walls damaged by waves breaking over them and the backwash eroding them. Hardwood trees on Vaughn's Neck are	FirstLight is operating in compliance with the terms of its license with regards to elevations and recommends our neighbors schedule a site visit to secure and permit and discuss their concerns. Erosion is a natural process and the introduction of larger wake board vessels paired with failing seawalls is a concern.
submerged most of the summer and the roots of many trees are being exposed, a few due to erosion have fallen into the lake.	FirstLight disagrees that a study needs to be performed rather the repair and replacement of shoreline armament
The study should be conducted to ascertain the erosion this policy is causing and whether the policy is beneficial.	into the future can accommodate these stresses if properly designed.

#### Marc Rogg – Echo Bay Marina – LAC Member – Written Comments 3/21/19

Marc Rogg 1 - My name is Marc Rogg and I am the owner of Echo Bay Marina. Our family has been operating Echo Bay Marina since 1994 on Candlewood Lake. After having carefully reviewed the Shoreline Management plan as proposed I would like to speak in favor of it. In my opinion First Light is committed to environmental controls on the lake as well as ensuring that Candlewood Lake is accessible for recreation by the local	FirstLight appreciates your support for the SMP and understanding FirstLight's commitment to protecting the environment and ensuring continued public access.
community and residents.	
Marc Rogg 2 - In particular I would like to highlight	FirstLight would like to thank you and those others Echo
First Lights commitment to aid us in the permitting	Bay Marina for allowing and supporting the resolution of
process for a mobile lakeside bathroom setup – everyone	a key issue in the SMP, the presence of a pump-out boat
from the town to the state agreed it was a worthy project	and publically available restroom facilities on
and environmentally a good thing to do, but due to	Candlewood Lake. Your efforts involved CLA,
multiple arcane regulations no one wanted to actually sign	CTDEEP, Local Health Officials and FirstLight to
off on the project. With significant aid (both	produce a long term solution to the disposal of human
administrative and financial) from First Light we were	waste on the impoundment. It has been a great success all
able to install a clean environmentally friendly bathroom	around.
setup that is now used by our marina customers as well as	

lake boaters. It has become such a popular stop for boaters there are often lines. I like to think this project has cut down on the amount of waste ending up in our waters.	
<b>Marc Rogg 3</b> - I also would like to speak of the fees that are being proposed. As a lifelong fiscal conservative I have to say I dislike fees as much as the next guy, but in this instance I believe the proposed fee structure is reasonable. To manage the waterfront properties and the required work that it takes to keep our shorelines beautiful and protected is a huge task. If we would like a reasonable turn around time on a permits – site visits etc, First Light will need to have adequate staff to do review and permitting of all ongoing projects. Without an income stream to support that staff, service to us the waterfront owners will suffer. I do not think the fee structure is unreasonable and without those fees it would be my guess that significant permit delays will be the likely result. Today when I go in front of a wetlands board requesting a permit, even a simple permit is generally \$1000 +. A building permit is commonly a similar or greater fee. The required engineering drawings/ designs also generally are in the thousands of dollars. The minimal fees that are being proposed I believe are more than reasonable and cutting them is only going to hurt those of us looking to do a waterfront project.	FirstLight also believes that these proposed onetime use fees are reasonable and will aid in the partial recovery of the staff time and resources necessary to facilitate permits for shoreline requests over time.
Marc Rogg 4 - Finally I would like to say First Lights position is not an easy one. Every group has a bit of a different agenda. Towns are looking to control their waterfront development, enforce their land use regulations and bolster their tax collections. Candlewood Lake Authority is trying to keep the lake safe as well as educate the public. Local residents want to use the lake for recreation and want clean water and minimal invasives. The waterfront residents want to build out their waterfronts with the latest toys and gadgets. First Light has to generate electricity and make hopefully make some money to keep their shareholders happy. To try and keep each of these groups completely satisfied is not possible. Overall it is my opinion that First Light balances each parties priorities with their primary focus being environmentally responsible development and their revised Shoreline management plan reflects these priorities and goals and should be approved as written.	FirstLight appreciates your understanding of the efforts the company makes to balance existing uses and future development pressures with protecting and enhancing natural resources. FirstLight also tries to balance the diverse stakeholder requests with the goals of the SMP and believes this SMP achieves that as written.

Peter Young – Local Developer – 3/20/19	
Peter Young: To whom it may concern,I have been dealing with lakefront license, permits &property transfers since the early 80's. I just completed aproperty transfer involving a permit and a follow upwalkover by your personel. The process to obtain permitsand transfer them to new owners has become morecomplicated over the years. The present staff in charge ofshoreline management has been the most professional andhelpfull over the many years I have worked onCandlewood Lake properties.Thank You for the experience.Peter G. Young	FirstLight thanks Mr. Young for always securing permits over the last 30 years and following our processes, it is complicated.
Litchfield County Land Consultants	
Louise Clark – landowner – 2/27/19	
<b>Louise Clark:</b> I agree with the comments made by the Candlewood Lake Authority published in the Town Tribune (Opinion Page; Section 1, Feb. 21, 2019, page 11). The new plan should not weaken the existing 2013 plan, but strengthen it.	FirstLight believe that this plan enhances and strengthens the protections under the SMP, see TNF 7 comment above.
The new plan SHOULD NOT:	
1-Increase the time period in between public review of SMPs from 6 yrs. to 10 yrs.,	1-See CLA responses above.
2-Eliminate the requirement for new homeowners to install a vegetated buffer garden following a property sale and annual buffer progress reporting;	2-See CLA Responses above.
3-Add administrative fees when residents apply for shoreline uses within the project boundary;	3-See TNF -5 above.
<ul> <li>4-Eliminate the commitment to share data, particularly of GPS mapping data valuable when evaluating lake health with municipalities and lake authorities;</li> <li>5-Provide no requirement for homeowners to install shoreline stabilizing and erosion controlling rip/rap instead of new seawalls and eliminates reporting on seawall and rip/rap installation;</li> </ul>	<ul><li>4-See CLA 6 above</li><li>5-FirstLight promotes the use of alternative shoreline stabilization techniques and has eliminated the fees for these uses to incentivize selecting there alternatives. FirstLight proposed a reporting mechanism in section XVII of the SMP.</li></ul>

<ul> <li>6-Move any requirements laid out in the current SMP to appendices where they can be freely updated by FirstLight without public notice, comment or approval;</li> <li>7-Make many requirements that were mandatory discretionary through the use of the word "may" instead of "will";</li> <li>8-Eliminate the annual stockholder meeting to review SMP progress; and</li> <li>9-Muddy the language concerning consultation with municipalities and wetlands commissions when permitting shorelines uses.</li> </ul>	<ul> <li>6-FirstLight addressed this issue throughout the consultation process and has moved several sections from the Appendices into the SMP body of text.</li> <li>7-FirstLight applied the word "may" rather than "shall" in several sections of this SMP to be consistent with State laws and property rights.</li> <li>8-FirstLight included a SMP LAC into he SMP for two years after the approval of the SMP.</li> <li>9- FirstLight believes that section VII. of this SMP clearly redefines the jurisdictions of the respective entities and meets the requirement as stated in License Article 407 to have a discussion of local government and other land use regulations that affect project resources and any coordination efforts between FirstLight and local governments.</li> </ul>
Roseann DiMatteo -	- landowner – 3/9/19
<b>Roseann DiMatteo 1 -</b> In several sections of the draft First Light wants to reserve the right to unilaterally revise various documents and impose fees – This must be changed to require sufficient notice and input from stakeholders and the public. First Light should provide transparency into how fees are calculated.	FirstLight moved many sections of the Appendices into the SMP, fixed the fees in this SMP for 6 years and clarified the fee calculation section
<b>Roseann DiMatteo 2 -</b> Section 8 p. 6 – The Shoreline Land Designation Process label is not a process diagram. First Light processes are confusing and property owners have experienced significant delays getting permits from First Light. This graphic needs to show a coherent process so that all stakeholders understand the step by step process and decision points. A section describing the dispute resolution process must also be included in the SMP.	FirstLight updated the sections of the SMP to address these concerns and the dispute resolution section was removed as part of the Exhibit A – Agreement of the 2013 SMP along with that entire settlement agreement.
<b>Roseann DiMatteo 3</b> - Table $1 - p 8$ – Undeveloped Residential Lands - A 200' vegetative riparian buffer zone for unbuilt residential property is cost prohibitive to individual property owners and should be reduced. The way it is written, a person who owns 100' of waterfront that is 200' deep must plant the entire property with buffer. If this is not First Light's intention, this section should be clarified.	FirstLight believes the SMP as redrafted resolves this concern.

<b>Roseann DiMatteo 3 -</b> Section 9 p. 10 – Significant Activity Use Guideline – Contradicts/complicates the uses already described in the Developed Residential Lands section in Table 1 above	This was resolved in the editing of the Apendices into the SMP body of text as you requested in comment 1 above.
<b>Roseann DiMatteo 4 -</b> Section 14 p. 13 – The SMP should specify what data will be published and available to the public. Minimally, First Light should be required to publish any water quality and public health data that they collect.	FirstLight updated the SMP Section XVI to resolve thi concern.
<b>Roseann DiMatteo 5 -</b> Appendix C - Dock tagging – Does this really refer to all docks or only those with work in progress due to the permit process? If all docks, then the SMP should clearly state that First Light should supply tags and apply them to the docks.	FirstLight eliminated the tagging requirement form the SMP.
<b>Roseann DiMatteo 5 -</b> Design and Construction Guidelines for Community Docks – The use of two negatives in the sentence – "Community docks shall not be offered for rental to non-property owners within the community" seems to allow for renting community docks to non-property owners from outside the community. It should be rewritten something to the effect of "Community docks shall be offered for free or for rental only to property owners within the community".	This was updated in the SMP, see RD6 in the consultation response to the public hearing.
<b>Roseann DiMatteo 6 -</b> Design and Construction Guidelines for Seawalls – The sentence – "Natural stone from the adjacent lake bed may be utilized." -opens the door for property owners to harvest large quantities of rock from the lake bed and negatively impacting aquatic wildlife habitats. It should be reworded that with prior approval from First Light, very limited amounts of natural stone from the lake bed may be used in the construction of seawalls.	See CLA 23 response above.
<b>Roseann DiMatteo 7 -</b> Other uses should include swim areas, solar, and wind farms.	See RD8 response above.
<b>Roseann DiMatteo 8 -</b> Vegetative Riparian Buffer Zone Depths – Commercial and project operational lands should not be exempt from these requirements. Exceptions should only be granted on a very limited and case by case basis.	Commercial lands are not included in the SMP and FirstLight's operational lands must be maintained for dam safety through mowing not for the establishment of Vegetated Buffers.
Roseann DiMatteo 9 - Administrative Application Fee	See response RD9 in the "Written Public Hearing

Schedule – Dock owners should be allowed, without a fee, to maintain their docks for safety or aesthetic reasons when there is no change to the dock footprint or attachment to land.	Comment Response Table Above"
<b>Roseann DiMatteo 10</b> - Appendix E – The revised SMP shall be in the same format as the current SMP with revisions clearly marked in order to allow stakeholders and the public to easily see where revisions have been made and their impact compared to the original version. SMP stakeholders and public meetings shall commence not less than 6 months before the revised SMP is due to FERC.	FirstLight disagrees that there is a requirement to provide an easily comparable version for stakeholders to review or any requirement to begin consultation 6 months before the next revision of the SMP.
Robert Stryker – Waterfront Landowner – 3/17/19	
<b>Robert Stryker 1 -</b> This plan (SMP) contains a number of references that in relation to privately owned property within the 440' elevation line must be corrected. These references are either inserted by error or by purpose. Although I should believe that the former is prevalent, the latter has been used, as FLPR has in the past, and continuing to the present, by enacting a policy of intimidation, coercion, and threats against owners of deeded property within the project boundary (440' line) when they have no authority over these privately owned properties, according to FERC and CT State case precedence.	<ul> <li>FirstLight disagrees that it intimidates, coerces or threatens its neighbors, FirstLight clearly has jurisdiction over lands over which it has flowage rights, see <i>Mad River Co. v. Pracney, 100 Conn. 466 (1924)</i>.</li> <li>FLPR has the unrestricted private property right to inundate all those lands with water and ice, and that any material interference with that right whether over dry or flooded land is actionable under state law-and will only be allowed by FirstLight with a valid permit.</li> </ul>
<b>Robert Stryker 2 -</b> VII Municipal and State Jurisdiction, e) - "authority to approve all applications to occupy project lands, h) - "zoning laws arepreempted by the Federal Powers Actmunicipal zoning authorities do not have jurisdictionpermitsvariancesthis only applies to lands owned by FLPR, others subject to municipal ordinances	FirstLight disagrees with this statement; zoning was determined to be federally pre-empted within the Federal Project Boundary by the Federal Power Act. See JLG v. Hackett, 285 Conn. 498 (2008). ("We agree with the reasoning of the other courts that have considered this issue and conclude that the town's zoning regulations were preempted because the act demonstrates Congress' intent to create "a complete scheme of national regulation"; <i>First Iowa Hydro-Electric Cooperative v. Federal Power Commission</i> , supra, 328 U.S. 180; for all aspects of hydroelectric power projects, including recreational uses within the project.")
<b>Robert Stryker 3 -</b> XII Enforcement, "to the use and occupancy of lands and waters within the project boundary." no enforcement on lands and waters privately owned	FirstLight disagrees, if there is found to be a structure or use that materially interferes with FirstLight's right to inundate and flood the lands, FirstLight has the right to enforce on these lands. <i>Mad River Co. v. Pracney</i> , 100

	Conn. 466 (1924).
<b>Robert Stryker 4 -</b> Appendix B, d) - "Project Boundarya jurisdictional line approved by the FERC, incorrect, it is only an "administrative marker" according to FERC guidelines	FirstLight believes this definition is correct and has been approved by the FERC in the current SMP as Section II c)
<b>Robert Stryker 5 -</b> h) - Shoreline and Land Usesactivities and,uses and occupancieswithin the Boundaryby property owners to be allowed through authorization" again, incorrect; no authorization is needed for privately owned properties	FLPR has the unrestricted private property right to inundate all those lands with water and ice, and that any material interference with that right whether over dry or flooded land is actionable under state law-and will only be allowed by FirstLight with a valid permit.
<b>Robert Stryker 6 -</b> Appendix C, - Shoreline Permit Guidelines - I. Introduction"Property Ownerslegal rights to lands and waters within the project must have authorizationfor their shoreline and land uses" Private Property Owners do not need any authorization, otherwise this would be an usurpation of property rights and an illegal taking of that property without a court order. This may be a violation subject to CT statute.	See Robert Styrker 5 above and courts across the country have held that structures or fill that materially interfere with a flowage right within a FERC licensed project are not permitted, unless authorized by the Licensee in writing.
<b>Robert Stryker 7</b> - Appendix E, "FirstLightthe right to enforce feesunauthorized use or occupancy" no enforcement, no fees	FirstLight believes that it has the authority "exercise its legal rights on any person or entity for any unauthorized use or occupancy of lands or waters within the Project Boundary" See Appendix E of the SMP.
<b>Robert Stryker 8 -</b> Shoreline permit guidelines, I "property ownersmust have authorization" II. "requires authorization." Existing uses, "registers existing useunregistered use." no authority to require any registration of any use what-so-ever	FirstLight again disagrees with you position, FirstLight believes that it has the authority "exercise its legal rights on any person or entity for any unauthorized use or occupancy of lands or waters within the Project Boundary" See Appendix E of the SMP. FirstLight believes that the registration of these uses is required to authorize their continued occupancy.
<b>Robert Stryker 9 -</b> According to FLPR, there are approximately over a hundred privately owned properties within the project boundary, both dry lands below the 440' line as well as subaqueous lands - including ownership to the waters above those lands [re: "Riparian Rights in Nonnavigational Waters, Water Law & Access Rights to Lakes, Ponds & Streams by Sally Roberts, CT Attorney at Law, for a legal summation]	See Robert Stryker 1 above, FirstLight disagrees with you opinion and your reference to non-navigable is incorrect.
The above noted examples either should be changed individually to mention the exceptions to these sections or a broad statement covering these points - using FERC's	

own words - is necessary to for these some hundred plus owners of private property to inform them they are not subject to any of them.	
<b>Robert Stryker 10 -</b> This way, they will know that any intimidation, coercion and threats from FLPR should be reported to the local authorities as well as FERC. Any actions that indicate even the intended taking of private property may be construed as a violation of CT Statute: Sec. 53a-119 - the intent of the taking of private property.	See Robert Stryker 1-3-5-6-7-8 above. FirstLight does not need to exercise its rights to eminent domain under the federal power act and perform a Fee Title taking, because the necessary rights to operate the Project and hence regulate the uses of lands and waters within the Project Boundary are sufficient with the flowage right taken in the past from you and your neighbors predecessors by FirstLight from Mary E. Maisenholder by the Superior Court of Fairfield County on August 22, 1927.

#### USFWS COMMENTS

From:	John Howard	
To:	Brian Wood; Lauren Richardson	
Subject:	FW: [EXTERNAL] Housatonic Project	
Date:	Friday, March 22, 2019 7:39:04 PM	
Attachments:	image001.png	

From: Grader, Melissa [mailto:melissa\_grader@fws.gov] Sent: Friday, March 22, 2019 5:31 PM To: John Howard <John.Howard@firstlightpower.com> Subject: Re: [EXTERNAL] Housatonic Project

Hello John,

Due to workload and staffing constraints, the USFWS is not able to review and comment on the revised Shoreline Management Plan.

How was Europe?

Regards,

Melissa Grader Fish and Wildlife Biologist U.S. Fish and Wildlife Service - New England Field Office 103 East Plumtree Road Sunderland, MA 01375 413-548-8002 x8124 melissa\_grader@fws.gov

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# CT STATE HISTORIC PRESERVATION OFFICER COMMENTS



Department of Economic and Community Development

State Historic Preservation Office

January 29, 2019

Mr. Brian D. Wood, Land Manager FirstLight Power Resources 143 West St. Suite E, PO Box 5002 New Milford, CT 06776

> Subject: Shoreline Management Plan, First Draft Housatonic River Project No. 2576-139: Falls Village Station, Bulls Bridge, Rocky River Pumped Hydro Station, Shepaug Station, and Stevenson Dam Housatonic River and Candlewood Lake, Connecticut

Dear Mr. Wood:

The State Historic Preservation Office (SHPO) has reviewed the referenced document for potential effects to historic properties. SHPO understands that in 2004, the Federal Energy Regulatory Commission (FERC) approved a new license for the Housatonic River Project No. 2576-139 for a 40 year term. A provision of the license required FirstLight Hydro Generating Company (FirstLight), the licensee, to regulate the non-project uses and occupancies of lands and waters within the project boundaries, as well as develop a Shoreline Management Plan (SMP). FERC approved a SMP prepared by FirstLight in 2013, but since that time new requirements have been requested by FERC. The referenced document was prepared to address these additional requirements and provide clarifications to previously promulgated land management procedures, guidelines, and standards.

One of the objectives of the SMP is to preserve "Historic and Cultural Resources." Connecticut's shorelines have long attracted human settlement and land use. As a result, these areas tend to contain large numbers of important built and archaeological resources. As a result, some of the allowable uses have the potential to impact significant historic and cultural resources. FirstLight noted that future authorization will minimize excavations in naturalized areas. Our office has no objection to FirstLight's handling of its delegated responsibilities pursuant to Section 106. They have always consulted with our office in good faith and have provided our office with the necessary information to complete a comprehensive review. If substantial ground disturbing activities or historic structure alterations are required as part of the SMP, this office would appreciate additional consultation to determine the need for additional investigations. With this precaution taken into consideration, it is our opinion that the allowable uses will have <u>no adverse effects</u> to historic properties.

The State Historic Preservation Office appreciates the opportunity to review and comment upon this project. These comments are provided in accordance with Section 106 of the National Historic Preservation Act, as amended. For additional information, please contact Catherine Labadia at (860) 500-2329 or catherine.labadia@ct.gov.

Sincerely,

Catherine Labadia Deputy State Historic Preservation Officer

State Historic Preservation Office 450 Columbus Boulevard, Suite 5 | Hartford, CT 06103 | P: 860.500.2300 | Cultureandtourism.org An Affirmative Action/Equal Opportunity Employer An Equal Opportunity Lender

# CT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION COMMENTS

Connecticut Department of		MAR 2 2 2019
ENVIRONMENTAL PROTECTION		
'9 Elm Street • Hartford, CT 06106-5127	www.ct.gov/deep	Affirmative Action/Equal Opportunity Employer
	20 Mar	rch 2019
FirstLight Power Attn.: Brian D. Wood P.O. Box 5002		
New Milford, CT 06776 RE: Shoreline Management Pl	lan	
Dear Brian:		
Enclosed please find comments f Department has, which I have hig Program.		
not sure it establishes some of the not enough "shall" language and	e. From a general overvie e clarity you were seeking too many "at the discretion r cannot do. I understand	garding the new structure of the ew perspective of the document, I am to promote. Too many "may" and n of FirstLight" to give people a clear some of the issues you are grappling
Please feel free to contact me sho	ould you have any question	is on my comments.
	BOBI	Annon
rom: Humphreys, Michael ent: Monday, February 25, 2019 8:16 AM		
<ul> <li>Deter &lt; <u>Peter Aarrestad@ct.gc</u></li> <li>Context Beauchene, Mike &lt; <u>Mike.Beauchene@ct.</u></li> <li>Context Beauchene</li> <li>Context Determine</li> <li>Contex</li></ul>	<u>gov</u> >	
swimming, picnicking, boating. There is a power station. Above the power station, the rapids called "Georges Hole" by kayakers Powerhouse Rapids Pool, Powerhouse B lot. All of this is marked as "Project Opera as was done with other nearby lands in 20	newly enhanced gravel boat la here is an incredibly valuable se , the best trout thermal refuge a rook Pool, and Carlson Farm P tions" on the new map. From t 015 (the entire canal, and the a ged. There is no infrastructure t	1 km of shoreline that is currently open to fishing, unch, pionic tables, grill, and port-a - potty near the ection of river with marble bedrock, important boating at Powerhouse Brook mouth, three major fishing pools ool, all accessed from the formal Gunns Eddy parking his it appears that it could be shut down to the public, rea below the covered bridge), at the whim of First there except the generating plant at the very lower tity, posted to exclude the public.

# TOWN OF NEW FAIRFILED COMMENTS



# THE TOWN OF NEW FAIRFIELD

First Selectman 4 Brush Hill Road, New Fairfield, CT 06812 PH: 203-312-5600 FAX: 203-312-5612 www.newfairfield.org

February 15, 2019

John Howard Director of Connecticut Operations FirstLight Power Resources P.O. Box 5002 New Milford, CT 06776

FEB 2 2 2019

Dear Mr. Howard:

We hereby submit comments of the Town of New Fairfield, CT on the Shoreline Management Plan v.1.0 made available in December. We view the Shoreline Management Plan as a critical component to protect the quality of Candlewood Lake for use by its residents as well as protecting the right of residents who own property on or near the Lake.

New Fairfield is one of five municipalities bordering Candlewood Lake and Squantz Pond and, in fact, has more shoreline than any other municipality. The Town has a park with a beach and over 100 docks on Candlewood Lake. That property is used extensively by residents for swimming, canoeing, kayaking, boating, concerts and other outdoor events, and other recreational opportunities. We have approximately 600 parcels of land owned by New Fairfield resident directly on Candlewood Lake or Squantz Pond. Additional several hundred live in lakeside communities that have beaches and docks on the lake. Many of these residents who live on the lake have deeded rights to land that extends out into the lake dating back to the formation of Candlewood Lake in the 1930s.

Homes on Candlewood Lake have higher property assessments than other homes. Additionally, we have businesses in New Fairfield that depend for their livelihood on people who visit the lake, including a large commercial marina, boat repair services, sports fishing enterprises, beverage shops, delis and restaurants, and a gas station.

All of which is to say that New Fairfield, both as a town and on behalf of its residents, has a large vested interest in the continuing health and vitality of Candlewood Lake, as well as an interest in protecting the rights of its lakeside residents. If the quality of the Lake were to be degraded, it could have a negative impact on the financial viability of the town as well as on our commercial enterprises. Likewise, the property rights of New Fairfield's lakeside residents (including those on Squantz Pond) would be infringed, if FirstLight were to take arbitrary action to impose unjustified fees.

Candlewood Lake faces a number of serious challenges. These include:

- Proliferation of Eurasian milfoil that chokes swimming and boating areas
- Increased incidence of cyanobacteria in blue green algae blooms
- The threat of zebra mussels.

The communities around the lake have taken action to address these threats, spearheaded by the Candlewood Lake Authority (CLA). There are indications that some progress is being made in slowing the advancement of some of these threats. However, with increasing pressure from global climate change and increased usage of the Lake, continued vigilance and pro-active measures to protect the Lake are required.

From this perspective, we are disappointed in the draft Shoreline Management Plan issued in December, 2018 and have a number of concerns with it. While the version currently in effect can certainly be improved, it at least gives proper attention to protecting the unique natural resource that Candlewood Lake is and defines the rights of towns and residents around the Lake. The proposal now under review has been so fundamentally restructured, that it is difficult to understand all the ramifications. But, it appears that the guiding principle in the rewritten proposal is to downplay its responsibilities to manage the Lake and protect it and the rights of residents and towns around it while increasing the flexibility of FirstLight to run its operations with less regard to those rights.

The important business of protecting Candlewood Lake requires the active support and participation of the owner of the Lake. We urge FirstLight to restore balance to the Shoreline Management Plan so that it both allows FirstLight to run its power generating operations while also protecting Candlewood Lake. We request that you take the following comments into account in modifying the proposal.

1. The Town of New Fairfield would like to see a more cooperative partnership with FirstLight, the other four surrounding towns and CLA than what is proposed in the SMP. Because the Lake is so central to the wellbeing of New Fairfield and the other surrounding towns, we expect to be involved as partners in managing the issues that are critical to us. We are disappointed that the proposed SMP minimizes avenues for our input and that of the public generally. For example, FirstLight states that the next revision of the SMP will be in ten years, despite FERC guidance that revisions should take place every five years and FERC license conditions that specify six years. Given how critical the issues are facing Candlewood Lake, we believe the 5-yer period is the appropriate period for the next revision.

Likewise, FirstLight seeks to limit communication with Stakeholders to once every ten years, prior to revision of the SMP. We would like to see at least an annual meeting of stakeholders with FirstLight to provide a formal avenue to discuss the challenges facing the Lake and how they can best be jointly managed. This would also provide FirstLight the opportunity to educate the stakeholders and public at large as to the challenges faced by FirstLight in its power generation operations. More frequent communication would help

alleviate some of the contention that has characterized relationships between FirstLight and the public in recent years, especially concerning water quality issues.

Additionally, we would request that FirstLight be more open with the Town of New Fairfield, CLA, and the other surrounding towns concerning the data it gathers – or is required to gather. Data and images from flyovers, GIS data, boat counts, and sampling, and analysis should be readily available to the five surrounding towns. We believe, for example, that FirstLight has been taking water samples and analyzing them. This information should be routinely shared with interested towns and the CLA.

For these reasons, we object to the unilateral assertion in Section XIV that "FirstLight does not have any obligation to release any...company information to the public. Information concerning the quality and state of the Lake as well as action taken by FirstLight to enforce its requirements should not be considered as "company information" and should be routinely available to the public. It is difficult to understand what privacy concerns there might be to justify not sharing such information. Similarly, concerns about proprietary software, if they exist, should be fairly easy to remedy. Likewise, information on compliance with buffer garden requirements should be available. We do not understand what privacy concerns justify not releasing this information -- nor why it is not possible to put such information and data in a non-proprietary database. Lack of availability of such data means FirstLight is unaccountable to anyone in measuring progress of the buffer garden program.

We would appreciate the opportunity to work more openly and cooperatively with FirstLight in our shared responsibility to manage the Lake as a natural resource and protect the health and safety of our residents.

- 2. The Town of New Fairfield requests that First Light clarify its responsibilities vis-à-vis municipalities for activities below the 440 line. Court cases have clearly stated that the owner of the Lake has responsibility for all activity regulatory and otherwise below the 440 line. The current proposal does not clearly indicate that this is the case and in fact tries to shift responsibility for some matters, i.e. derelict docks that are below the 440 line, away from itself. The SMP should clearly state that it has exclusive jurisdiction for all matters below the 440 line unless such jurisdiction has been delegated and accepted by another entity, such as a municipality or CLA. For the record, New Fairfield did not consent to the delegation of authority for regulating building, zoning, wetlands protection, or any other matter as part of the current SMP and will not do so for this version. We are satisfied with the current working relationship for FirstLight review proposed actions by New Fairfield residents, but would like clarification that we are not legally obligated to do so.
- 3. The Town of New Fairfield does not object to the fees proposed by FirstLight for permit, application, and review fees as laid out in Appendix D, but believes any changes should be

subject to notice and comment. We do object, however, to the broad language of Section XI that would give First Light virtually unfettered discretion to change the fees in Appendix D or to "impose additional fees not specified herein." This is an invitation to abuse. Any change in the proposed fees must be based on provable changes in requirements or costs and subject to notice and comment. Otherwise, FirstLight can arbitrarily change them without accountability. Furthermore, we would like FirstLight to confirm that they have no intention of imposing administrative/registration fees, similar to that contained in Section IV of the current SMP, on those who live on the lake absent some sort of activity that triggers a review requirement by FirstLight. There is no legal basis for such fees, especially because many of our lakeside residents have deed rights extending into the Lake.

We would also like to understand the practical meaning of the second paragraph in Section XI concerning recovery of costs "from abutting Property Owners, entities with Deeded Rights, municipalities or others related to their non-commercial residential use and occupancy of lands and waters within the Project Boundary." This appears to be a fairly broad statement of right of recovery, but it is difficult to understand what First Light has in mind. If a municipality raises a property tax assessment, for example, does that entitle FirstLight to somehow recover those costs from abutting landowners?

4. FirstLight should make protecting natural resources and water quality a co-equal requirement of the Shoreline Management Plan. FirstLight denies responsibility in Section VII for protecting water quality, without any basis. Likewise, protection of natural resources or water quality is not listed as a co-equal requirement for "Authorization of Shoreline Land Uses Within the Project Boundary" as laid out in II in Appendix C. FERC, however, is clear that protection of environmental values, including water quality, is part of its mandate: "Included in the Commission's regulatory mandate are specific requirements for protecting non-power resources, including fish and wildlife habitat, irrigation, water supply, recreation, flood control, and water quality." (Guidance for Shoreline Management Planning at Hydropower Projects, FERC, 2012) By extension, this is also part of FirstLight's mandate.

This attempt to deny responsibility is characteristic of the way FirstLight has administered its responsibilities on Candlewood Lake. Instead of proactively joining the towns and CLA in defining the water quality problems and finding solutions, FirstLight employs consultants who have disputed data showing the problems and who have supported solutions that involve the use of chemicals. Use of chemicals to control Eurasian milfoil or blue green algae was overwhelmingly opposed by those who voted in this specific issue in a 2017 referendum in New Fairfield. FirstLight also replaced a respected scientist with this consultant, without consulting its own Technical Committee, in what many see as an effort to downplay the milfoil issue on the Lake.

We respectfully request that FirstLight recognize its responsibility to protect natural resources and water quality throughout the Plan and commit to working cooperatively with the five towns and CLA to address them.

5. Buffer Gardens continue to be an important protection. The Town of New Fairfield continues to support the requirement for installation of buffer gardens for properties along the shoreline. We believe this program is an important component of managing runoff into the Lake. Because these areas fall below the 440 line, FirstLight is responsible for administering the program. We would like to understand the progress FirstLight has made in carrying out this responsibility and what changes may be necessary. Since the Buffer garden program began in 2013, the five-year deadline for properties required to install buffer gardens is being hit. We believe FirstLight has information on what properties may be in compliance, but have heard that it is not being shared out of concern for privacy. We would like to see the legal opinion that says this information must remain confidential.

Additionally, we request clarification of the following definition in Appendix B:

"Vegetated Riparian Buffer" is an area within the Vegetated Riparian Buffer Zone comprised of native vegetation created either through natural succession (i.e. stop mowing grass) or the planting of native trees, shrubs and herbaceous or ground covers that occupy between 5% and 50% of the Vegetated Buffer Zone. "

A 5% buffer zone is reasonable for a very small yard bordering Squantz Pond, for example, since a larger buffer zone may constitute a "taking." Five percent is not reasonable for a larger lot. We suggest adding language that clarifies that the size of the buffer zone will be dependent on the size of the lot overall, with 5% being the exception rather than the rule.

Likewise, we urge some accountability in the following circumstance, laid out in the section on Vegetative Riparian Buffers:

"Any requirement to install vegetated buffers may be waived at the discretion of FirstLight if the installation of such buffers is not reasonably practicable, feasible and or violates applicable law. "

If FirstLight contemplates waiving the buffer zone requirement, we request that the Town in which the property is located be notified and given a chance to comment.

- 6. New Fairfield would like to work with FirstLight to better manage stormwater discharges. While we appreciate the statements in the proposed SMP concerning new sources of stormwater discharges, existing stormwater discharges may be a contributing factor to runoff of nutrients and salts into the Lake. New Fairfield and other towns around the Lake will start working on these issues in the near future. We would like to propose a joint program to map outfalls and put together a sampling plan with potential mitigation measures. We believe this is a shared responsibility to address water quality issues in the Lake.
- 7. New Fairfield requests clarification of the provisions concerning existing septic systems. In the discussion of existing septic systems in Section IV, the following sentence seems internally contradictory to the rest of that paragraph: "FirstLight will not grant property easements to allow septic systems within the Project Boundary." Previous sentences in that

section state that FirstLight will allow repair or replacement of existing septic systems under certain conditions. Those repairs or replacements cannot be permitted if FirstLight does not grant an easement. Please clarify the intent of this sentence.

8. The Town of New Fairfield endorses and Incorporates by reference the comments of the Candlewood Lake Authority. Because there are five municipalities that border the Lake, no one town can adequately address issues on the Lake by itself. CLA represents the interests of all five municipalities that border Candlewood Lake, has been deeply involved in addressing the many challenges affecting the Lake, and has developed expertise that the Towns rely on. For this reason, we endorse the comments submitted to FirstLight by CLA on January 31, 2019.

Sincerely,

atrica del Monaco

Patricia Del Monaco First Selectman Town of New Fairfield

# CANDLEWOOD LAKE AUTHORITY

Member Municipalities: Brookfield • Danbury • New Fairfield • New Milford • Sherman

PO BOX 37 · SHERMAN, CT 06784 · P (860) 354-6928 · F (860) 350-5611

To: John Howard Director of Connecticut Operations FirstLight Power Resources P.O Box 5002 New Milford Connecticut, 06776

# Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Comments for FirstLight Power Resources

#### 1/31/2019

- I. P. 3, IV. TERM: This section states: "FirstLight shall review and. As necessary, revise the SMP every 10 years following approval of the 2019 SMP."
  - a. The License (article 407, p. 38-40) states: "Further, the SMP shall include... (m) a schedule and process for periodically reviewing and updating the plan every six years."<sup>1</sup>
    - We are requesting this 6-year review process in the 2019 SMP to allow for the most effective evaluation of progress and implementation.
  - b. The last sentence of this section reads "The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and may include at least one noticed public hearing prior to any SMP update being submitted to the FERC for approval."
    - We are requesting that this "may" be changed to "will" or "shall" as we feel a noticed public hearing is integral to informing the public of SMP changes during the review and consultation process.

#### II. P. 3, V. REVIEW AND FERC APPROVAL

- a. (a) states: "The FERC's approval of this 2019 SMP will allow FirstLight to continue to update the Exhibits, Guidelines and Appendices referenced herein."
  - We request that all of the appendices, save the maps contained in appendix A, be moved instead to the body of the document. These describe critical components of permitting, fee structure, guidance, and more for how to

<sup>1</sup> Federal Energy Regulatory Commission (FERC), FERC License for Housatonic Hydro, P-2576, June 2004. P 40

comply with the SMP and any changes to these must be subject to FERC approval.

ii. The appendices shall be reserved for citation of specific supporting documentation and information, such as: the "Feasibility Report, Plan, and Schedule for Conservation Easements and Restrictions" (referenced on p.7), License articles 407 and 413, important shoreline management manual excerpts, shoreline buffer report excerpts, seawall report excerpts, etc.

# III. P. 4, VII. MUNICIPAL AND STATE JURISDICTION

- a. (a) States: "FirstLight does not have, as part of its authority under the Federal Power Act, jurisdiction over public health and water quality. Therefore, the State of Connecticut Department of Public Health (CTDPH), local health departments, State of Connecticut Department of Energy and Environmental Protection (CTDEEP) and any other jurisdictional bodies are primarily responsible for public health and water quality, consistent with their regulatory authority on and in both Project lands and Project waters."
  - i. While all of these entities have a responsibility to protect public health and/or water quality, however, as noted in the FERC Guidance for Shoreline Management Planning at Hydropower Projects: "Licensees have an ongoing responsibility to supervise and control such shoreline developments to ensure that they are not inconsistent with project purposes, including protection and enhancement of project's scenic, recreational, and environmental values."<sup>2</sup>
  - ii. We request that this passage be edited to reflect this shared responsibility for protecting water quality and public safety.
- b. (f) On p. 5 states that "FirstLight may request inspection, condemnation and other services from these entities as part of its compliance with the terms of this SMP."
  - i. It is our understanding that New Fairfield, Danbury, and a few other Municipalities bordering other impoundments never signed the land use agreement saying that they have any jurisdiction within the project boundary, and thus FirstLight might be able to request these services, but the municipalities have no responsibility to provide these services. This should be clarified.

<sup>2</sup> Federal Energy Regulatory Commission, Guidance for Shoreline Management Planning at Hydropower Projects, July 2012, p. 9

#### IV. P. 7-9, SHORELINE LAND DESIGNATION CHARTS

- a. The 2013 SMP contains a "Land Conservation Program" on P. 7, XII.<sup>3</sup> This has been eliminated from the 2019 draft SMP.
  - i. Subsection (a) states: "undeveloped shoreline lands owned by FirstLight within the project boundary shall be managed for environmental protection and Conservation." This is now the first sentence of the description of the Conservation Lands designation.
    - We request this sentence also be added to the undeveloped residential lands designation.
  - ii. Under the Undeveloped Residential Lands designation in the 2019 SMP, it states: "land use development may be restricted to protect and preserve existing natural resources."
    - We request this "may" be replaced with "will" as we would like these lands, should they ever be developed, to retain the requirement for a 200ft buffer, as well as other existing restrictions compared to the developed residential lands designation.
    - The last sentence under this designation, referring to voluntary conservation restrictions should be clarified to include where these restrictions can be found, and why developed residential lands are not candidates for voluntary conservation restrictions.

# V. P. 11. X. VEGETATED RIPARIAN BUFFERS AND STORMWATER MANAGEMENT

- a. Vegetated Riparian Buffers: This section should likely contain more specifics regarding: "existing buffer areas cannot be altered without authorization from FirstLight and the enhancement of such buffer areas may be required as a condition of approval of other shoreline and land uses."
  - i. We request that this "may" be changed to "shall" as enhancement or creation of a vegetated buffer is a requirement of permitting shoreline and land uses, and that requirement should be reflected here.
- b. We request the detail and information in Appendix C p.12-15 regarding vegetated buffer installation be included here, in the body of the document, to ensure that buffer installation remains a FERC mandated requirement. See above comment II for more detail about this request.
- c. Stormwater Management: We want to confirm that homeowners will not be required to fund stormwater retrofitting projects for municipal or community stormwater conveyances within the project boundary.

<sup>3</sup> FirstLight Power Resources, Shoreline Management Plan Housatonic River Project No. 2576, 2009. P. 7

# VI. P. 13, XIV. DIGITAL AND HARD COPY DATA POLICY

- a. This passage states: "FirstLight does not have any obligation to release any... company information to the public. Any data that FirstLight has determined is accessible to the public may be posted on the FirstLight's website."
  - Under article 407 in the FERC License for Housatonic Hydro<sup>4</sup>, subsection (f) clearly states the SMP shall include: "a provision to share existing digital mapping data upon request."
  - ii. We request this passage be rewritten as: "FirstLight does not have any obligation to release any permit, license, lease, agreement, or any company information to the public inconsistent with past or future FERC requirements and rulings for project number p-2576. FirstLight will abide by article 407, subsection (f), of the project license stating that they will share existing digital mapping data upon request."

# VII. Appendix C. P.4, V. LIMITED ACTIVITY USE GUIDELINES, Derelict Docks

- a. This passage states: "FirstLight or its agents, the respective police, boating authority, or any others shall endeavor to secure, remove, and/or dispose of any derelict docks that break loose and could cause a hazard to boating navigation."
  - i. We request this passage be re-written to say: "FirstLight or its agents shall secure, remove, and dispose of any derelict docks that break loose and could cause a hazard to boating navigation. The respective police, boating authority, or any others may assist with the location, securing, and notification to FirstLight of said derelict docks."
  - ii. This original passage also states instead of "securing, removing, and disposing of the derelict docks", that FirstLight can "secure, remove, and/or dispose of any derelict docks."
    - If read as "secure, remove, or dispose of any derelict docks" this requirement would allow FirstLight to only Secure the dock, meaning the issue does not get taken care of. We have removed the "or" in our suggested language.
  - iii. It is also worth noting that "shall endeavor to" has a distinctly different meaning than just "shall" and the latter is the language that should be used for this to be a policy that is actually enforced.
  - iv. There is no discussion of a timeframe of when derelict docks would be removed from the lake following reporting. A timeline should be explicitly stated in this passage.

<sup>4</sup> Federal Energy Regulatory Commission (FERC), FERC License for Housatonic Hydro, P-2576, June 2004. P. 39

VIII.	Appendix C. P. 5, V. LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Residential Docks
	a. "Tagging" states that "All docks shall be marked with their FirstLight activity number."
	i. Clarification of whether this tag is solely for in-progress, permitted
	projects, or if every dock will have a permanent tag for inventory keeping, is needed here.
IX.	Appendix C. P. 6, V. LIMITED ACTIVITY USE GUIDELINES, Vessel Moorings and Navigational or Regulatory Buoys
	a. The third paragraph states "If found, [unauthorized vessel moorings] are subject to removal by FirstLight or the respective authority."
	<ol> <li>We suggest a rewrite of this passage, stating "If found, unauthorized vessel moorings and other unpermitted buoys will be removed by FirstLight. Prior notice before removal is not required."</li> </ol>
	ii. We suggest FirstLight create a system whereas licensed moorings are tagged. This would allow more easy identification of licensed vs. unlicensed moorings that could be more easily removed.
	iii. We request a timeline for unauthorized mooring removal (i.e. following notification to FirstLight that an unauthorized mooring has been found, how quickly will unauthorized moorings be removed/permitted).
	iv. Unlicensed Swim Areas are also not specifically called out as requiring DEEP permitting in the new SMP and should also be included in this section as not being approved without the proper approval first from
	DEEP.
	<ol> <li>This had been included in the SMP approved in 2013, where it fell under XI (p. 6)<sup>5</sup>.</li> </ol>
	<ol> <li>We request that this section (XI) from the 2013 SMP be re- included here in the 2019 SMP.</li> </ol>
X.	Appendix C. P. 7, V. LIMITED ACTIVITY USE GUIDELINES, Seawalls a. Design and Construction Guidelines for Seawalls states: "Environmentally benign
	alternatives shall be considered" as opposed to seawalls.
	i. We request the language here be changed to: "Environmentally benign
	alternatives, such as vegetation and rip-rap shall be utilized unless
	impossible based on a scheduled site inspection with FirstLight. Any new or significantly modified shoreline stabilization projects, including
	or significantly mouned shorenine stabilization projects, including
<sup>5</sup> Firstl	ight Power Resources, Shoreline Management Plan Housatonic River Project No. 2576, 2009. P. 7
	5

seawalls, rip-rap, and other environmentally benign alternatives will be included in an annual 'seawall report.'''

- b. We note that the requirement for an annual seawall report is omitted from the 2019 SMP draft.
  - i. We request that this annual reporting requirement be included in the new draft, but only requiring: "a site description, photographs, and any other pertinent information (e.g., the existence of deeded rights to a seawall) that demonstrates that the licensee considered alternatives to a seawall, but that other alternatives were not feasible" for new projects as laid out by FERC in the Order Modifying and Approving the SMP in 2013.<sup>6</sup>

# XI. Appendix C. P. 8, V. LIMITED ACTIVITY USE GUIDELINES, Alternative Shoreline Stabilization Techniques

- a. This passage states: "These uses may be authorized subject to Article 413 of the License, the SMP, and in compliance with these Guidelines and other applicable requirements."
  - i. We request that this passage be rewritten as: "These alternative Shoreline Stabilization techniques will be implemented subject to Article 413 of the License, the SMP, and in compliance with these guidelines and other applicable requirements unless impossible based on site specific criteria discussed during a site inspection with FirstLight."
- b. This section, and the Seawalls section discussed above, could be combined into one section titled "Seawalls and Alternative Shoreline Stabilization Techniques" to illustrate that the two are related, and that environmentally benign alternatives are prioritized, based on site specific criteria.

#### XII. Appendix C. P. 10, V. LIMITED ACTIVITY USE GUIDELINES, Upslope Uses

- a. Under <u>Steps, Paths, and Walkways</u> it is stated that "The width of such [pedestrian] paths shall be limited."
  - We would like to see this width limit stated specifically in this passage for easy reference for residents. Notably, there is a width limit mentioned in Appendix D of 4ft.

# XIII. Appendix C. P. 12-15, V. LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers

 <u>Vegetated Riparian Buffer Area</u> describes a buffer as requiring "native trees, shrubs, and herbaceous or ground covers which must occupy between five and

<sup>6</sup> Federal Energy Regulatory Commission (FERC), Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407, March 27, 2013. P. 17 fifty percent of the vegetated buffer zone." In a normal 50ft buffer zone, this would mean that only 2.5ft need to be covered by plants. This could be accomplished by planting one shrub, a small tree, bush, etc.

- i. We suggest an increase to the bottom boundary of this requirement to 20%. 10ft of plants in a 50ft buffer is a reasonable bottom boundary and will still accomplish the goal of a vegetated buffer; 5% coverage will not be able to effectively mitigate runoff pollution into the lake.
- ii. This 20% bottom boundary can be changed for exceptional cases where 20% is not achievable based on site specific criteria and will be noted in the annual buffer report.

b. <u>Vegetated Buffers as a required Use</u> starts by saying "Property Owners may be required to install or re-establish a Vegetated Riparian Buffer composed of native vegetation when an application is made to modify... an existing use."

- We request that "May" be replaced by "will" to enforce that this is indeed a requirement.
  - If there are exceptions, a sentence can be included that states: "Homeowners can apply for an exemption if installation of a vegetated buffer is impossible based on site specific criteria discussed during a site inspection by FirstLight."

 There is no mention of a change of ownership requirement for buffer installation. This is one of the most important and effective triggers for buffer implementation.

- The 2013 SMP states on p. 5: "Landowners abutting the project boundary shall be required to install a vegetated buffer... within (5) years of change of ownership of property, a change in its size, location or configuration of an existing structure, or installation of a new structure."<sup>7</sup>
  - a. We request that this change of ownership requirement be added to the 2019 draft SMP.
  - b. We appreciate the new tightened time frame of 3 years (for limited activity use permitting), but all triggers for buffer zone implementation should be conserved.
- iii. The one-year time frame of buffer installation should be included for clarity in the sentence: "For applications that include a request for Significant Activity Uses, the installation of vegetated buffer plantings will be required as part of the implementation."
- iv. There is no mention of the required annual buffer zone implementation reports, as laid out in the order modifying and approving the 2013 SMP.

<sup>7</sup> FirstLight Power Resources, Shoreline Management Plan Housatonic River Project No. 2576, 2009. P. 5

- As stated in the Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407 (p 15, 29): The Licensee should be required to file with the Commission an annual report that details its progress implementing its shoreline buffer rules."<sup>8</sup>
- As this was added to the original SMP by FERC and gives valuable insight into the success of buffer zone implementation, it should be incorporated into this, and all future SMP iterations.
- a. <u>Shoreline Vegetation Removal states</u>: "Removal of trees, shrubs, and other vegetation located within the project boundary is prohibited without prior written authorization by FirstLight."
  - i. This should specifically discuss the process if a fallen tree presents a safety or navigation hazard to property owners or boaters or prevents a homeowner from exercising their deeded rights (i.e. to pass and re-pass and access their dock).
  - ii. The following passage states: "Such prohibition does not apply to pruning, mowing, or weeding. Notwithstanding the foregoing, pruning, mowing or weeding of a permitted Vegetated Riparian Buffer shall not be permitted unless it is authorized by FirstLight."
    - 1. We suggest a rewrite of the above, as it is very confusing: "The vegetation removal prohibition does not apply to mowing, pruning, or weeding within the project boundary. General maintenance of a permitted vegetated buffer, including light weeding and pruning, is allowed provided it is not prohibited by FirstLight, and there is no significant removal of vegetation within said buffer."
- b. On p. 15, Irrigation and Application of Fertilizers, Pesticides, and Herbicides could be improved by stating specifically that fertilizers with phosphorous shall not be used in vegetated buffers unless expressly allowed under State of CT Senate Bill-254 which prohibits the application of fertilizer containing phosphorus in buffer zones.
- c. Under the Vegetated Riparian Buffer Education Program, it discusses FirstLight's Shoreline Management Manual, which is an extensive and informative document.
  - However, this document is so long (over 140 pages) as to be unapproachable for average homeowners.
  - ii. We would like to collaborate with FirstLight on the creation of a shorter, approachable, guidelines document that can be distributed to homeowners who trigger the buffer requirement.

<sup>8</sup> Federal Energy Regulatory Commission (FERC), Order Modifying and Approving Shoreline Management Plan Pursuant to Article 407, March 27, 2013. P. 15

XIV.	Appendix D. P. 1 ADMINISTRATIVE APPLICATION FEE SCHEDULE	
	a. Application Submittal Fee (7th row) should be clarified.	
	i. This fee should not apply to uses that are listed in the table as being free,	
	like permitted tree removal and deeded rights.	
	b. What is the definition of an "Existing Use Permit."	
	i. Why are residential existing Use Permits free, while community permits	
	cost \$500? (Rows 9 and 10) We request that these community existing use	
	permits be free, the same as residential existing use permits.	
	c. What is the definition of a "New Boat Landing" (2 <sup>nd</sup> from lastrow)?	
	d. We request the addition of a "Deeded Right Maintenance and Repair" row, with a	
	\$0 (Free) fee, just for clarity and ease of reference for property owners.	
	e. We request that you add a footnote to the FERC Application Fee row (Final Row)	
	citing p. 19 in what is currently Appendix C so homeowners can easily reference	
	what this fee applies to.	
XV.	Appendix F. P. 1 STAKEHOLDERS AND THEIR RESPONSIBILITIES	
	a. It is unclear how often the Stakeholders will meet, how meetings are called, and	
	whether stakeholders can request meetings. We request clarification on these	
	points.	
	b. It is stated: "The Stakeholders will meet prior to the ten-year review and update to the SMP."	
	i. See comment above labeled I for concerns regarding the ten-year review	
	period.	
	ii. We suggest annual meetings of the stakeholders for the first 3 years	
	following approval of the new SMP, to discuss what is and isn't working, and strategies for effective implementation.	
	<ol> <li>This was done following approval of the original SMP in 2013</li> </ol>	
	(Exhibit I), where it says: "The LAC and RAC will meet, at a	
	minimum, on an annual basis for the first three years after approval	
	of the SMP"9 and has been omitted from this SMP.	
	c. This passage states "FirstLight will entertain suggestions of additional issues to be	
	addressed if received fifteen days prior to the date of the meeting."	
	<ol> <li>We request this timeframe be increased to 5 business days prior to the meeting.</li> </ol>	
	d. This passage states "FirstLight will, at its sole discretion, make any final decision	
	regarding the SMP and its revision, subject to any necessary FERC approvals."	

<sup>9</sup> FirstLight Power Resources, Shoreline Management Plan Housatonic River Project No. 2576, 2009. Exhibit I "Responsibilities of the LAC and RAC."

- i. We suggest rewriting this sentence to say: "FirstLight will, following stakeholder meetings and consultation, make any final decision regarding the SMP and its revision..."
- e. This section contains very little detail about the stakeholders and their responsibilities and should contain more specific information of Lake Stakeholder Group and River Stakeholder Group responsibilities, similar to the bulleted list found in the SMP approved in 2013.<sup>12</sup>
- f. We request that the representatives in the SMP Lake Stakeholder group for Lakefront property owners remain the same as it is in the SMP approved in 2013 (i.e. 2 from Candlewood, one from Squantz, one from Lillinonah, and one from Zoar) and as appointed by the CEOs of the surrounding municipalities.
  - We also request that Municipal representatives also states that each representative will be appointed by that town's CEO; the same as it stands in the SMP approved in 2013.

# XVI. General Comments

- a. We would like to see, when referencing specific other documents, or even other pages within the SMP, that a page number or footnote be included. This would allow more easy research and reference for residents when going through the SMP. For example, the requirements in the Shoreline Management Manual referenced on p. 13 of the SMP under section X. Or referencing page numbers on p. 10 with the specific Limited and Significant Activity use guidelines.
- b. We suggest that the page numbers in the 2019 SMP increase by 1 every page, and don't reset in appendices, for ease of reference in the future.
- c. There is insufficient explanation of how floating debris that poses a navigational hazard (such as trees coming up from the bottom, or blowing in after a storm, etc.) on Candlewood Lake would be dealt with. We suggest a similar arrangement to the rewritten derelict dock arrangement mentioned above in comment VIII.
- d. On page 4, under municipal and state jurisdiction, section (e) should say that FirstLight "will" require applicants who are proposing a significant activity seek local wetland and watercourse permits. This process, of projects requiring both FirstLight and Wetlands permitting should be outlined explicitly both in this section, and in the application processes section on p. 22 of Appendix C.
- e. Please clarify within the SMP FirstLight's responsibility for tree/limb removal, shoreline damage, etc. as a result of significant storm events.
- f. Stakeholder and public consultation is described briefly in three sections in this SMP: Under "IV. Term", "VI. Stakeholder Consultation and Support", and "Appendix F. Stakeholders and Their Responsibilities." None of these sections are very descriptive of what stakeholder and public consultation will actually look

like, and what responsibilities and timeline of this consultation process will look like.

i. We request the stakeholder and public consultation period be expanded upon on p.4 (VI. Stakeholder Consultation and support) to include how stakeholders will be consulted when a change is proposed to the SMP, a timeline for that consultation, and how stakeholders will be notified. This will help ensure that everyone knows they are both permitted and encouraged to consult with FirstLight regarding concerns and suggestions during SMP updates and reviews.

Respectfully Submitted,

CANDLEWOOD LAKE AUTHORITY

Mark Howarth Executive Director

JNS

# CANDLEWOOD LAKE AUTHORITY

Member Municipalities: Brookfield • Danbury • New Fairfield • New Milford • Sherman

PO BOX 37 · SHERMAN, CT 06784 · P (860) 354-6928 · F (860) 350-5611

To: John Howard Director of Connecticut Operations FirstLight Power Resources P.O Box 5002 New Milford Connecticut, 06776

# Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Additional Comments for FirstLight Power Resources

Project Number: 2576

#### March 13, 2019

- I. P. 3, V. REVIEW AND FERC APPROVAL: The Candlewood Lake Authority's highest priority concern is contained within items (a) and (c) of this section which assert that FirstLight, or any future licensee which inherits the SMP, can "continue to update the Exhibits, Guidelines, and appendices referenced herein."
  - a. These appendices comprise a majority of the document and contain vitally important guidelines and information. This proposal for FirstLight to update the appendices at-will represents a new addition to the SMP, as the current approved SMP provides for no such ability in the "REVIEW AND APPROVAL BY FERC" section<sup>1</sup>.
    - i. If this were to be approved as is, the day after FERC approves the document, FirstLight could, for example, unilaterally double the amount of administrative fees, change the land area that a vegetated buffer must comprise, remove members from the stakeholder committees for future reviews, allow unregulated vegetation removal, add annual use fees, and change the definitions of limited and significant activity uses so that every activity use is significant and thus accounts for a higher administrative fee without public review or FERC approval.

<sup>1</sup> FirstLight Power Resources, "Shoreline Management Plan Housatonic River Project No. 2576", P. 10, XXV. (June 2009)

- While we don't expect FirstLight to do all these things, allowing at-will updates to the appendices presents not only a change from the current approved SMP, but a dangerous precedent that could have lasting negative effects for lake residents and lake health.
- ii. For these reasons, we want to re-state our request (previously made in our comments submitted to FirstLight in January of 2019)<sup>2</sup> that either all the content currently found in appendices be moved to the body of the document and thus subject to public comment and FERC approval for updates, or that this passage be changed to remove the ability to update the appendices without public comment and FERC approval.

II. P. 3, IV. TERM: In our previously submitted comments, we stated: "b. The last sentence of this section reads 'The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and may include at least one noticed public hearing prior to any SMP update being submitted to the FERC for approval.' i. We are requesting that this 'may' be changed to 'will' or 'shall' as we feel a noticed public hearing is integral to informing the public of SMP changes during the review and consultation process."<sup>3</sup>

- a. We would like to amend this comment with an additional request of more than one public hearing at different geographic locations throughout the project. The project boundary affected by the shoreline management plan is so significant that a "central location" like the one chosen for the 2019 SMP review is inconvenient for the public to attend and prevents people who would otherwise have valuable feedback from attending. The seasonal nature of project residency is also an important aspect that has not been accounted for in the past for public feedback and is included in the below requested addition.
  - i. Thus, we request the following addition to our previous comment: "ii. We are also requesting that the SMP instead, state: "...and will include at least two noticed public hearings, occurring between the Memorial Day and Labor Day summer season, when affected seasonal residents have the ability to attend. One meeting will be focused on the area from Bulls Bridge to the Rocky River Punped Hydro Station (including Candlewood Lake) and to be held in one of the municipalities bordering Candlewood Lake, and the other being focused on the project boundary south of the Rocky River Punped Hydro Station, to be held at a central location for residents of the river system."

<sup>&</sup>lt;sup>2</sup> Candlewood Lake Authority, "Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Comments for FirstLight Power Resources", P. 1-2, II.a, (Jan. 2019)

<sup>&</sup>lt;sup>3</sup> Candlewood Lake Authority, "Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Comments...", p. 1, l.b, (Jan. 2019)

#### III. P. 6, VIII. SHORELINE LAND DESIGNATIONS

- a. The figures under the "SHORELINE LAND DESIGNATION PROCESS" are very difficult to understand.
  - We request that these figures be updated to describe the Shoreline Land Designation Process for residents and other members of the public, or text be added clearly describing the process.

#### IV. P. 12, XI. FIRSTLIGHT APPLICATION SUBMITTAL AND REVIEW FEES

- a. (f) states that "FirstLight reserves any and all legal rights to assert that it has authority to impose additional fees not specified herein. FirstLight's submission of the 2019 SMP is not an admission that it does not have legal authority to impose additional fees for use and occupancy of Project lands and waters."
  - i. This passage is concerning for a variety of reasons.
    - The original draft SMP approved in 2007 was rejected<sup>4</sup> due to strong public opposition to annual fees for use and occupancy of project lands and waters. This passage should be replaced with an assurance that annual fees for use and occupancy will not be imposed for the remainder of the license, just as in SMP XI. (d) which states that the "Fee Policy described herein will apply for the remaining term of the license" (FirstLight 2018, p.12).
      - a. Note, also, that the language in the current SMP (approved in 2013) states: "It is FirstLight's intention to apply the fee policy described herein for the term of the License... If in the future FirstLight reconsiders the fee policy specified herein pursuant to clause (d) of this Section entities and persons other than FirstLight reserve any and all legal rights to contest the authority of FirstLight to impose additional fees."<sup>5</sup> Which is in direct contradiction to quoted passage (f) in the draft SMP, implying that FirstLight has the authority to instate new fees, including the annual use/registration fees, at will and without public and FERC oversight.
    - Any and all changes to fees, including changes to amounts and additional fees, should be subject to public and FERC comment and review, as they have a clear and direct effect on every person with property adjacent to the project boundary.

<sup>4</sup> FERC, "ORDER RESCINDING ORDER ON SHORELINE MANAGEMENT PLAN AND DISMISSING REQUESTS FOR REHEARING", (Oct. 2007).

<sup>5</sup> FirstLight Power Resources, "Shoreline Management Plan Housatonic River Project No. 2576", P. 3, (June 2009)

- a. It is for this reason that we suggested the appendices (including appendices D and E, describing fees and enforcement guidelines) be included in the body of the document and thus under FERC jurisdiction in our comments submitted to FirstLight on January 31 2019<sup>2</sup>, as well as in these comments again in numeral I above.
- b. We also request that the language of section XI. reflect this promise to not unilaterally change fee amounts and add additional fees without public and FERC comment and review, which is clearly in contrast to section (f) in this section.
  - This is particularly true for explicitly and unequivocally stating that there will be no annual use/registration fees for the remainder of the license, as stated in our comments above.

#### V. P. 12, XIII. EDUCATION

- a. The second paragraph of this section states "FirstLight periodically sponsors workshops for the public..."
  - We appreciate these workshops and educational events sponsored by FirstLight and want to ensure that they continue.
  - ii. We request the addition of "will" to this section, so that it reads: "FirstLight will periodically sponsor workshops for the public..."

# VI. Appendix C. P. 5, V. LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Community Docks:

- a. This passage states: "Community docks shall not be offered for rental to nonproperty owners within the community."
  - This sentence is confusing, and we suggest rewriting it to say: "Community docks shall not be offered to individuals who do not own property within the community."

# VII. Appendix C. P. 7, LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Seawalls

- a. This passage states: "Intermediate techniques to extend the life of an existing seawall such as buttressing and placement of rip rap or stone at the base of the wall may be considered. Natural stone from the adjacent lake bed may be utilized."
  - One of the stated objectives of the shoreline management plan stated on p. 2 (III) is to "Preserve and enhance natural resource values"

 Removal of stone from the lake bed can disrupt crucial littoral zone habitat for important freshwater organisms. We request removal of the sentence: "Natural stone from the adjacent lake bed may be utilized."

# VIII. Appendix C. P. 12-15, LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers

- a. In our previous comments, we stated "we suggest an increase to the bottom boundary of this [buffer installation] requirements to 20%." (CLA p. 7).
  - i. We would like to add an amendment to that mirroring New Fairfield's comment stating that an exception for a 5% buffer can be made "for a very small yard bordering Squantz Pond, for example, since a larger buffer zone may constitute a 'taking.""<sup>6</sup>
- b. In our previous comments, we stated "ii. There is no mention of a change of ownership requirement for buffer installation. This is one of the most important and effective triggers for buffer implementation... a. We request that this change of ownership requirement be added to the 2019 draft SMP."<sup>7</sup>
  - i. After hearing from FirstLight why this requirement was very difficult or impossible to enforce, and due to the progress and tightened time-frame of buffer implementation for limited and significant activity uses, we would like to rescind that comment. In the spirit of collaboration, we feel that this is an effective compromise on buffer implementation that benefits both parties.
    - Our above rescission is on the condition that FirstLight include a vegetated buffer reporting requirement, similar or improved in form to the current annual vegetated buffer progress reports. This was also stated in our previously submitted comments.<sup>8</sup> We request an annual report containing: the town in which the property is located, the type (significant or limited) of use that triggered the buffer requirement, the date of permit issuance (start date of the buffer installation time-frame) and buffer progress (none, being installed, or finished).
      - a. This will allow the CLA and towns to both build a picture and understanding of the shoreline around Candlewood Lake and allow us as stakeholders to ensure that FirstLight

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(or any future licensee that inherits the SMP) is compliant with their buffer requirements.

# IX. Appendix C, P. 19, USES AND ACTIVITIES THAT REQUIRE FERC APPROVAL

- a. The first sentence of this paragraph reads: "FirstLight, at its discretion may seek authorization from the FERC as part of License Article 413 described below..."
  - We request this sentence to be rewritten to say: "FirstLight, as required, will seek authorization from the FERC..."
  - ii. This ensures that this FERC authorization is only sought out when required, so as not to unnecessarily charge residents and businesses a substantial fee for these activities.

#### X. Appendix E, ENFORCEMENT GUIDELINES

- a. Certain bullet points describing FirstLight's Enforcement Actions are unclear and should be expanded upon.
  - i. We request the bullet point stating "Bar Property Owners from receiving any future authorization to use Project lands and waters for a period of time to be determined by FirstLight" be expanded to describe the length of that time period or how it will be determined.
  - ii. We request clarification of what the bullet point stating "Posting of lands within the Project Boundary" means, and the effect of this posting.

Respectfully Submitted, CANDLEWOOD LAKE AUTHORITY

Mark Howarth Executive Director

JNS

# CANDLEWOOD LAKE AUTHORITY

Member Municipalities: Brookfield • Danbury • New Fairfield • New Milford • Sherman

PO BOX 37 · SHERMAN, CT 06784 · P (860) 354-6928 · F (860) 350-5611

**To:** John Howard Director of Connecticut Operations FirstLight Power Resources P.O Box 5002 New Milford Connecticut, 06776

# Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Additional Comments for FirstLight Power Resources

Project Number: 2576

March 20, 2019

- I. P. 3, V. REVIEW AND FERC APPROVAL: The Candlewood Lake Authority's highest priority concern is contained within items (a) and (c) of this section which assert that FirstLight, or any future licensee which inherits the SMP, can "continue to update the Exhibits, Guidelines, and appendices referenced herein."
  - a. These appendices comprise a majority of the document and contain vitally important guidelines and information. This proposal for FirstLight to update the appendices at-will represents a new addition to the SMP, as the current approved SMP provides for no such ability in the "REVIEW AND APPROVAL BY FERC" section<sup>1</sup>.
    - i. If this were to be approved as is, the day after FERC approves the document, FirstLight could, for example, unilaterally double the amount of administrative fees, change the land area that a vegetated buffer must comprise, remove members from the stakeholder committees for future reviews, allow unregulated vegetation removal, add annual use fees, and change the definitions of limited and significant activity uses so that every activity use is significant and thus accounts for a higher administrative fee without public review or FERC approval.

<sup>&</sup>lt;sup>1</sup> FirstLight Power Resources, "Shoreline Management Plan Housatonic River Project No. 2576", P. 10, XXV. (June 2009)

- 1. While we don't expect FirstLight to do all these things, allowing at-will updates to the appendices presents not only a change from the current approved SMP, but a dangerous precedent that could have lasting negative effects for lake residents and lake health.
- ii. For these reasons, we want to re-state our request (previously made in our comments submitted to FirstLight in January of 2019)<sup>2</sup> that either all the content currently found in appendices be moved to the body of the document and thus subject to public comment and FERC approval for updates, or that this passage be changed to remove the ability to update the appendices without public comment and FERC approval.
- II. P. 3, IV. TERM: In our previously submitted comments, we stated: "b. The last sentence of this section reads 'The goal of the consultation process is to achieve consensus amongst the parties to the extent possible and may include at least one noticed public hearing prior to any SMP update being submitted to the FERC for approval.' i. We are requesting that this 'may' be changed to 'will' or 'shall' as we feel a noticed public hearing is integral to informing the public of SMP changes during the review and consultation process."<sup>3</sup>
  - a. We would like to amend this comment with an additional request of more than one public hearing at different geographic locations throughout the project. The project boundary affected by the shoreline management plan is so significant that a "central location" like the one chosen for the 2019 SMP review is inconvenient for the public to attend and prevents people who would otherwise have valuable feedback from attending. The seasonal nature of project residency is also an important aspect that has not been accounted for in the past for public feedback and is included in the below requested addition.
    - Thus, we request the following addition to our previous comment:
       "ii. We are also requesting that the SMP instead, state: "...and will include at least two noticed public hearings, occurring between the Memorial Day and Labor Day summer season, when affected seasonal residents have the ability to attend. One meeting will be focused on the area from Bulls Bridge to the Rocky River Pumped Hydro Station (including Candlewood Lake) and to be held in one of the municipalities bordering Candlewood Lake, and the other being focused on the project boundary south of the Rocky River Pumped Hydro Station, to be held at a central location for residents of the river system."

<sup>&</sup>lt;sup>2</sup> Candlewood Lake Authority, "Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Comments for FirstLight Power Resources", P. 1-2, II.a, (Jan. 2019)

<sup>&</sup>lt;sup>3</sup> Candlewood Lake Authority, "Shoreline Management Plan Draft v.1.0 Candlewood Lake Authority Comments...", p. 1, l.b, (Jan. 2019)

#### III. P. 6, VIII. SHORELINE LAND DESIGNATIONS

- a. The figures under the "SHORELINE LAND DESIGNATION PROCESS" are very difficult to understand.
  - i. We request that these figures be updated to describe the Shoreline Land Designation Process for residents and other members of the public, or text be added clearly describing the process.

# IV. P. 12, XI. FIRSTLIGHT APPLICATION SUBMITTAL AND REVIEW FEES

- a. (f) states that "FirstLight reserves any and all legal rights to assert that it has authority to impose additional fees not specified herein. FirstLight's submission of the 2019 SMP is not an admission that it does not have legal authority to impose additional fees for use and occupancy of Project lands and waters."
  - i. This passage is concerning for a variety of reasons.
    - The original draft SMP approved in 2007 was rejected<sup>4</sup> due to strong public opposition to annual fees for use and occupancy of project lands and waters. This passage should be replaced with an assurance that annual fees for use and occupancy will not be imposed for the remainder of the license, just as in SMP XI. (d) which states that the "Fee Policy described herein will apply for the remaining term of the license" (FirstLight 2018, p.12).
      - a. Note, also, that the language in the current SMP (approved in 2013) states: "It is FirstLight's intention to apply the fee policy described herein for the term of the License... If in the future FirstLight reconsiders the fee policy specified herein pursuant to clause (d) of this Section entities and persons other than FirstLight reserve any and all legal rights to contest the authority of FirstLight to impose additional fees."<sup>5</sup> Which is in direct contradiction to quoted passage (f) in the draft SMP, implying that FirstLight has the authority to instate new fees, including the annual use/registration fees, at will and without public and FERC oversight.
    - Any and all changes to fees, including changes to amounts and additional fees, should be subject to public and FERC comment and review, as they have a clear and direct effect on every person with property adjacent to the project boundary.

<sup>&</sup>lt;sup>4</sup> FERC, "ORDER RESCINDING ORDER ON SHORELINE MANAGEMENT PLAN AND DISMISSING REQUESTS FOR REHEARING", (Oct. 2007).

<sup>&</sup>lt;sup>5</sup> FirstLight Power Resources, "Shoreline Management Plan Housatonic River Project No. 2576", P. 3, (June 2009)

- a. It is for this reason that we suggested the appendices (including appendices D and E, describing fees and enforcement guidelines) be included in the body of the document and thus under FERC jurisdiction in our comments submitted to FirstLight on January 31 2019<sup>2</sup>, as well as in these comments again in numeral I above.
- b. We also request that the language of section XI. reflect this promise to not unilaterally change fee amounts and add additional fees without public and FERC comment and review, which is clearly in contrast to section (f) in this section.
  - This is particularly true for explicitly and unequivocally stating that there will be no annual use/registration fees for the remainder of the license, as stated in our comments above.

#### V. P. 12, XIII. EDUCATION

- a. The second paragraph of this section states "FirstLight periodically sponsors workshops for the public..."
  - i. We appreciate these workshops and educational events sponsored by FirstLight and want to ensure that they continue.
  - ii. We request the addition of "will" to this section, so that it reads: "FirstLight will periodically sponsor workshops for the public..."

# VI. Appendix C. P. 5, V. LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Community Docks:

- a. This passage states: "Community docks shall not be offered for rental to nonproperty owners within the community."
  - This sentence is confusing, and we suggest rewriting it to say:
     "Community docks shall not be offered to individuals who do not own property within the community."

# VII. Appendix C. P. 7, LIMITED ACTIVITY USE GUIDELINES, Design and Construction Guidelines for Seawalls

- a. This passage states: "Intermediate techniques to extend the life of an existing seawall such as buttressing and placement of rip rap or stone at the base of the wall may be considered. Natural stone from the adjacent lake bed may be utilized."
  - i. One of the stated objectives of the shoreline management plan stated on p.
     2 (III) is to "Preserve and enhance natural resource values"

ii. Removal of stone from the lake bed can disrupt crucial littoral zone habitat for important freshwater organisms. We request removal of the sentence: "Natural stone from the adjacent lake bed may be utilized."

# VIII. Appendix C. P. 12-15, LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers

- **a.** In our previous comments, we stated "we suggest an increase to the bottom boundary of this [buffer installation] requirements to 20%." (CLA p. 7).
  - i. We would like to add an amendment to that mirroring New Fairfield's comment stating that an exception for a 5% buffer can be made "for a very small yard bordering Squantz Pond, for example, since a larger buffer zone may constitute a 'taking."<sup>6</sup>
- b. In our previous comments, we stated "ii. There is no mention of a change of ownership requirement for buffer installation. This is one of the most important and effective triggers for buffer implementation... a. We request that this change of ownership requirement be added to the 2019 draft SMP."<sup>7</sup>
  - i. After hearing from FirstLight why this requirement was very difficult or impossible to enforce, and due to the progress and tightened time-frame of buffer implementation for limited and significant activity uses, we would like to rescind that comment. In the spirit of collaboration, we feel that this is an effective compromise on buffer implementation that benefits both parties.
    - Our above rescission is on the condition that FirstLight include a vegetated buffer reporting requirement, similar or improved in form to the current annual vegetated buffer progress reports. This was also stated in our previously submitted comments.<sup>8</sup> We request an annual report containing: the town in which the property is located, the type (significant or limited) of use that triggered the buffer requirement, the date of permit issuance (start date of the buffer installation time-frame) and buffer progress (none, being installed, or finished).
      - a. This will allow the CLA and towns to both build a picture and understanding of the shoreline around Candlewood Lake and allow us as stakeholders to ensure that FirstLight

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(or any future licensee that inherits the SMP) is compliant with their buffer requirements.

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# X. Appendix E, ENFORCEMENT GUIDELINES

- a. Certain bullet points describing FirstLight's Enforcement Actions are unclear and should be expanded upon.
  - i. We request the bullet point stating "Bar Property Owners from receiving any future authorization to use Project lands and waters for a period of time to be determined by FirstLight" be expanded to describe the length of that time period or how it will be determined.
  - **ii.** We request clarification of what the bullet point stating "Posting of lands within the Project Boundary" means, and the effect of this posting.

Respectfully Submitted, CANDLEWOOD LAKE AUTHORITY

Mark Howarth Executive Director

JNS



#### Housatonic Valley Association

150 Kent Road P.O. Box 28 Cornwall Bridge, CT 06754 860-672-6678

www.hvatoday.org

1383 Pleasant Street P.O. Box 251 South Lee, MA 01260 413-394-9796 19 Fumace Bank Road P.O. Box 315 Wassaic, NY 12592 845-789-1381

CCREDITED

To: FirstLight Power- Land Management Department

From: Michael Jastremski, Watershed Conservation Director, Housatonic Valley Association

#### RE: DRAFT 2019 Shoreline Management Plan

3/19/2019

To Whom It May Concern:

The Housatonic Valley Association (HVA) is grateful for the opportunity to submit these comments on the draft Shoreline Management Plan (SMP) for FirstLight Power's Housatonic River hydroelectric project. In preparing these comments, we attended the River Advisory Committee (RAC) meeting held on 2/19, and reviewed the draft SMP as well as comments submitted 1/31/2019 by Candlewood Lake Authority (CLA).

We welcome the changes that FirstLight has already made in response to stakeholder comments, specifically that review and update of the SMP will be conducted every six years rather than ten, and that this update process will include at least one noticed public hearing. We also look forward to HVA's continued participation in the newly formed SMP LAC/RAC.

We do have a few concerns about the draft SMP and its implications for protecting the aesthetic and environmental values of the project. Our specific comments are below:

P. 3, V. REVIEW AND FERC APPROVAL: Important information regarding compliance with the SMP currently included as appendices should be moved into the main body of the document in order to ensure adequate review of any changes outside of the 6-year review and update term by FERC and other stakeholders.

P. 4, VII. MUNICIPAL AND STATE JURISDICTION: FirstLight's responsibility to supervise and control shoreline developments to ensure that they are consistent with project purposes (including protection and enhancement of project's scenic, recreational, and environmental values), in partnership with municipal and state enforcement agencies, should be clearly stated in this section to reflect FERC's guidance for SMP development and implementation.

Under this section, the role of municipalities in regulating shoreline activities should be clarified. Furthermore, we ask that FirstLight work towards standardizing oversight of shoreline development activities by appropriate municipal land use authorities in all abutting communities, and explicitly state this goal under this section. Section (e) should be changed to say that FirstLight "will" require applicants who are proposing a significant activity to seek local wetland and watercourse permits. This process, of projects requiring both FirstLight and Wetlands permitting should be outlined explicitly both in this section, and in the application processes section on p. 22 of Appendix C.

Learn more about workplace giving at www.earthsharenewengland.org.

A process for review of all shoreline development projects proposed on project lands between the MA/CT border and Boardman Bridge in New Milford by the Housatonic River Commission should be included in this section.

Finally, we request that a process for notifying the LAC/RAC when applications for shoreline development are submitted to FirstLight be included in this section.

P. 7-9, SHORELINE LAND DESIGNATION MAPS: While we understand that the proposed reclassification of "conservation land" to "undeveloped land" is meant to clarify the vulnerability of these lands to development, we urge FirstLight to exercise all of their authority, and facilitate oversight by state and municipal regulatory agencies, to protect the project's scenic, recreational and environmental values on these lands in the future. At minimum, development on these lands should be subject to maintenance of a native vegetative buffer adequate for protecting water quality and bank stability, and inclusion of Green Infrastructure practices adequate for maintaining pre-development hydrology. As stated above, we also urge that all development proposals on these lands be subject to review and approval by the Housatonic River Commission (for projects within their jurisdiction) as well as local land-use authorities. We also request that a process for notifying the LAC/RAC of permit applications on these lands be developed.

P. 11. X. VEGETATED RIPARIAN BUFFERS AND STORMWATER MANAGEMENT. This section should be explicit in saying that enhancement of shoreline buffers shall be a requirement as a condition of approval for shoreline development projects. We also reiterate that the detail and information in Appendix C p.12-15 regarding vegetated buffer installation be included here, in the body of the document, to ensure that buffer installation remains a FERC mandated requirement. See above comment under P. 3, V. REVIEW AND FERC APPROVAL.

XIII. Appendix C. P. 12-15, V. LIMITED ACTIVITY USE GUIDELINES, Vegetated Riparian Buffers. This appendix describes a buffer as requiring "native trees, shrubs, and herbaceous or ground covers which must occupy between five and fifty percent of the vegetated buffer zone." We would not expect five percent coverage to be adequate for protecting water quality, and we request that the minimum requirement be changed to 50%, with a species mix that includes groundcover, shrubs and trees as in a natural riparian forest.

This appendix states that "Property Owners may be required to install or re-establish a Vegetated Riparian Buffer composed of native vegetation when an application is made to modify... an existing use." We request that "May" be replaced by "will" to make it clear that this is a requirement.

We are concerned about the removal of the change-of-ownership trigger for buffer installation, and the effect this will have on the pace of buffer restoration around the project. We request that this change-of-ownership requirement be added to the 2019 draft SMP.

There is no mention of the required annual buffer zone implementation report, as laid out in the order modifying and approving the 2013 SMP. As this was added to the original SMP by FERC and gives valuable insight into the success of buffer zone implementation and the opportunity

for informed program modification to increase effectiveness, it should be included in the 2019 SMP.

The section "Irrigation and Application of Fertilizers, Pesticides, and Herbicides" on page 15 should state specifically that fertilizers with phosphorous shall not be used in vegetated buffers unless expressly allowed under State of CT Senate Bill-254, which prohibits the application of fertilizer containing phosphorus in buffer zones.

Once again, we appreciate the opportunity to comment on the draft SMP, and we look forward to continued partnership with FirstLight power to protect the natural character and environmental health of the lands under their jurisdiction. We would be happy to discuss these comments in more detail if you would like; my contact information is in my title block below.

Sincerely,

Michael S. Jastremski Watershed Conservation Director MJ.HVA@outlook.com 860-672-6678 ext. 109

From: To: Subject: Date:

Brian,

Thank you for allowing the public the opportunity to comment on the proposed changes to the Shoreline Management Plan. As you are aware, I have several "hats" so to speak as it relates to my interest in commenting. They include but are not limited to:

- 1. As a property owner in close proximity to the Lake whose property values rise and fall with the health of Candlewood Lake.
- 2. As the owner of a civil engineering and surveying firm that represents clients and proposed developments along several of the Lakes you manage.
- 3. As a member of the Town Council in New Milford.

Below please find my comments based on working on dozens and dozens of properties within your project boundaries:

# Significant Activity Use Section

In summary, I believe the proposed plan is a marked improvement in comparison to the existing plan. One of the major improvements is the "Significant Activity Use" permit process.

Unfortunately, there was very little discussion at the Stakeholder Meeting regarding this significant improvement to the Plan. With the proper plans, you will now consider pervious patios up to 200 square feet in size and playgrounds up to 100 square feet in size. I believe this is a step in the right direction but respectfully request you consider increasing the sizes. Just northeast of Candlewood Lake we have been extremely successful in improving water quality on Lake Waramaug. There is a cooperative relationship between the Task Force there and the property owners. We routinely add pervious patio like structures exceeding 400 square feet. In return, we provide tremendous water quality improvements such as removing all lawns within 100 feet of the Lake, intercepting and treating all direct discharges along the frontage from the roads. The benefits provided by the activities allow the property to have better use of their property but most importantly allow some of the largest pollutants discharging in to the Lake to finally be dealt with. These types of symbiotic relationships should be strongly encouraged in the Plan.

# Acknowledgement of No Jurisdiction Outside of the Project Boundary

It is very encouraging that you have acknowledged your lack of jurisdiction when a land transfer takes place and no activities are performed within the project boundary. This is a positive step.

# **Tagging Process**

I strongly support the tagging process as recommended in the document as it is a benefit to all from an enforcement and awareness perspective.

# Limited Activity Use, Seawalls

Please allow some flexibility with respect to seawalls. There are certain areas where a seawall provides less disruption (i.e. – at base of extremely slope) where a vegetated buffer or riprap slope would require significantly greater upslope disturbance that would be unnecessary with a seawall.

### Use of "Impossible" in the Document

I know some people have encouraged changing out several words in the document that would not allow certain things unless it was, "impossible," as this is simply not practical. As an engineer, I can make almost anything possible so long as the client is willing to spend a large amount of money and wait a little longer for approvals. However, even with spending a significantly larger amount of money does not assure that the resource will be left in a better state. Instead the overall project should be looked at as a whole and many times that extra money could be spent on other activities which would significantly assist with water quality improvements.

In conclusion, I believe that the document is a significant improvement and work towards the betterment of your impoundments.

Thank you for your time.

Paul

NOTE: I will try my best to get back to you within 8 hours. If your matter is of a time sensitive nature please contact Heather Fleet at heather@ahhowland.com. Paul S. Szymanski, P.E. Director of Client Experience DID YOU KNOW ... All of the Regulations and Applications for every Town/City in Litchfield County is available online

All of the Regulations and Applications for every Town/City in Litchfield County is available onlin at <u>http://ahhowland.com/regulations.html</u>



New Milford, CT 06776 (860) 354-9346 .::. Phone (860) 350-4419 .::. Fax pszymanski@ahhowland.com .::. E-Mail

### March 14, 2019

Stephen Paduano 767 Candlewood Lake Road 5 New Milford, Ct. 06776 Past Stewart of the 2008 Shoreline Management Plan Past elected official of the New Milford zoning board Property owner and resident of Candlewood lake shore for 40 years.

Dear Members of the Shoreline Management Plan Lake Advisory Committee,

In 2014, First Light made a strategic policy change in keeping the lake elevation in early spring and throughout the summer months at or very close to the permitted 429.5' elevation.

The reason to pump the lake up to the maximum level as far as I can ascertain is because the Housatonic River water temperature is below 54-degrees Fahrenheit in the spring. Pumping Housatonic River water when it is above 54 degrees Fahrenheit into the lake would not be good because the zebra mussels are spawning and therefore, they would contaminate the lake.

This high-water elevation policy sounds like a good idea, but I feel that it is having grave deleterious effects to Lake Candlewood and therefore I am asking that a study be conducted on the impact it is having upon the lake especially regarding lake erosion.

Much of the SMP focuses on policies to curtail lake erosion. This is a good focus. However, it is my observations that the new high-water mark policy has had and is causing irreparable damage and mass erosion to the shoreline i.e. Vaughn's Neck, the Islands of the lake and shoreline property. The erosion to Skeleton Island (located on the southwest side of Vaughn's Neck) is a good example of what has happened.

When the lake is at this high-water mark throughout the summer months erosion to the shores of the lake is further exasperated by large waves produced by severe storms and boats designed to produce large waves.

I have had parts of my lake shore buffer eroded because of this policy and neighbors have had their walls damaged by waves breaking over them and the backwash eroding them. Hardwood trees on Vaughn's Neck are submerged most of the summer and the roots of many trees are being exposed, a few due to erosion have fallen into the lake.

The study should be conducted to ascertain the erosion this policy is causing and whether the policy is beneficial. With the lake low this would be an opportune time to access this policy. I do understand the 429.5' is permissible and in accordance with First Light's license, however "permissible" and what is "acceptable" for the overall health of the lake may be different.

At the very least the shoreline management plan should have guidelines as to the elevation to construct a buffer and how to protect against this new high-water elevation policy.

Respectfully

Stephen Paduano

lake comits@firstightpower.com

CC Candlewood Lake Authority PO Box 37 Sherman, CT 06784

From:	Marc Rogg
To:	Lake Permits
Cc:	Brian Wood
Subject:	Shoreline Management Plan
Date:	Thursday, March 21, 2019 6:35:05 PM

My name is Marc Rogg and I am the owner of Echo Bay Marina. Our family has been operating Echo Bay Marina since 1994 on Candlewood Lake. After having carefully reviewed the Shoreline Management plan as proposed I would like to speak in favor of it. In my opinion First Light is committed to environmental controls on the lake as well as ensuring that Candlewood Lake is accessible for recreation by the local community and residents.

In particular I would like to highlight First Lights commitment to aid us in the permitting process for a mobile lakeside bathroom setup – everyone from the town to the state agreed it was a worthy project and environmentally a good thing to do, but due to multiple arcane regulations no one wanted to actually sign off on the project. With significant aid (both administrative and financial) from First Light we were able to install a clean environmentally friendly bathroom setup that is now used by our marina customers as well as lake boaters. It has become such a popular stop for boaters there are often lines. I like to think this project has cut down on the amount of waste ending up in our waters.

I also would like to speak of the fees that are being proposed. As a lifelong fiscal conservative I have to say I dislike fees as much as the next guy, but in this instance I believe the proposed fee structure is reasonable. To manage the waterfront properties and the required work that it takes to keep our shorelines beautiful and protected is a huge task. If we would like a reasonable turn around time on a permits – site visits etc, First Light will need to have adequate staff to do review and permitting of all ongoing projects. Without an income stream to support that staff, service to us the waterfront owners will suffer. I do not think the fee structure is unreasonable and without those fees it would be my guess that significant permit delays will be the likely result. Today when I go in front of a wetlands board requesting a permit, even a simple permit is generally \$1000 +. A building permit is commonly a similar or greater fee. The required engineering drawings/ designs also generally are in the thousands of dollars. The minimal fees that are being proposed I believe are more than reasonable and cutting them is only going to hurt those of us looking to do a waterfront project.

Finally I would like to say First Lights position is not an easy one. Every group has a bit of a different agenda. Towns are looking to control their waterfront development, enforce their land use regulations and bolster their tax collections. Candlewood Lake Authority is trying to keep the lake safe as well as educate the public. Local residents want to use the lake for recreation and want clean water and minimal invasives. The waterfront residents want to build out their waterfronts with the latest toys and gadgets. First Light has to generate electricity and make hopefully make some money to keep their shareholders happy. To try and keep each of these groups completely satisfied is not possible. Overall it is my opinion that First Light balances each parties priorities with their primary focus being environmentally responsible development and their revised Shoreline management plan reflects these priorities and goals and should be approved as written.

Sincerely

Marc Rogg – Echo Bay Marina marc@echobaymarina.com From: To: Subject: Date: Peter Young Lake Permits Land Management Department Wednesday, March 20, 2019 10:06:03 PM

To whom it may concern,

I have been dealing with lakefront licence, permits & property transfers since the early 80's. I just completed a property transfer involving

A permit and a follow up walkover by your personel. The process to obtain permits and transfer them to new owners has become more complicated

over the years. The present staff in charge of shoreline management has been the most professional and helpfull over the many years I have worked

on Candlewood Lake properties.

Thank You for the experience.

Peter G. Young Litchfield County Land Consultants Dear Sir or Madam

I agree with the comments made by the Candlewood Lake Authority published in the *Town Tribune* (Opinion Page; Section 1, Feb. 21, 2019, page 11). The new plan should not weaken the existing 2013 plan, but strengthen it.

The new plan SHOULD NOT:

- Increase the time period in between public review of SMPs from 6 yrs. to 10 yrs.,

 Eliminate the requirement for new homeowners to install a vegetated buffer garden following a property sale and annual buffer progress reporting;

 Add administrative fees when residents apply for shoreline uses within the project boundary;

- Eliminate the commitment to share data, particularly of GPS mapping data valuable when evaluating lake health with municipalities and lake authorities;

 Provide no requirement for homeowners to install shoreline stabilizing and erosion controlling rip/rap instead of new seawalls and eliminates reporting on seawall and rip/rap installation;

- Move any requirements laid out in the current SMP to appendices where they can be freely updated by FirstLight without public notice, comment or approval;

 Make many requirements that were mandatory discretionary through the use of the word "may" instead of "will";

- Eliminate the annual stockholder meeting to review SMP progress; and

- Muddy the language concerning consultation with municipalities and wetlands commissions when permitting shorelines uses.

As a lifelong summer and current full-time resident of Candlewood Isle, I want FirstLight to hear my voice in their updated version of this important document. This revision should reflect an IMPROVEMENT not a step backwards in the protection of Candlewood Lake now and for the future.

Thank you.

Sincerely,

Louise M. Clark

16 Ridge Road, Candlewood Isle

New Fairfield, CT 06812

Mobile: 203-820-6659

Email: weezm@optonline.net

 From:
 rcdimatteo@aol.com

 To:
 Lake Permits

 Subject:
 Comments to the DR

 Date:
 Saturday, March 09,

Lake Permits Comments to the DRAFT SMP 2019 (Project 2566-139) Saturday, March 09, 2019 6:08:35 AM

First Light,

Please see my comments, below, for 2019 revisions to the Candlewood Lake and Housatonic River Shoreline Management Plan (project 2566-139).

Roseann DiMatteo, Holiday Point Association 1 Short Lane Sherman, CT

- In several sections of the draft First Light wants to reserve the right to unilaterally revise
  various documents and impose fees This must be changed to require sufficient notice and
  input from stakeholders and the public. First Light should provide transparency into how fees
  are calculated.
- Section 8 p. 6 The Shoreline Land Designation Process label is not a process diagram. First
  Light processes are confusing and property owners have experienced significant delays
  getting permits from First Light. This graphic needs to show a coherent process so that all
  stakeholders understand the step by step process and decision points. A section describing
  the dispute resolution process must also be included in the SMP.
- Table 1 p 8 Undeveloped Residential Lands A 200' vegetative riparian buffer zone for unbuilt residential property is cost prohibitive to individual property owners and should be reduced. The way it is written, a person who owns 100' of waterfront that is 200' deep must plant the entire property with buffer. If this is not First Light's intention, this section should be clarified.
- Section 9 p. 10 Significant Activity Use Guideline Contradicts/complicates the uses already
  described in the Developed Residential Lands section in Table 1 above
- Section 14 p. 13 The SMP should specify what data will be published and available to the
  public. Minimally, First Light should be required to publish any water quality and public health
  data that they collect.
- Appendix C Dock tagging Does this really refer to all docks or only those with work in
  progress due to the permit process? If all docks, then the SMP should clearly state that First
  Light should supply tags and apply them to the docks.
- Design and Construction Guidelines for Community Docks The use of two negatives in the sentence – "Community docks shall not be offered for rental to non-property owners within the community" seems to allow for renting community docks to non-property owners from outside the community. It should be rewritten something to the effect of "Community docks shall be offered for free or for rental only to property owners within the community".
- Design and Construction Guidelines for Seawalls The sentence "Natural stone from the adjacent lake bed may be utilized." -opens the door for property owners to harvest large quantities of rock from the lake bed and negatively impacting aquatic wildlife habitats. It should be reworded that with prior approval from First Light, very limited amounts of natural

stone from the lake bed may be used in the construction of seawalls.

- · Other uses should include swim areas, solar, and wind farms.
- Vegetative Riparian Buffer Zone Depths Commercial and project operational lands should not be exempt from these requirements. Exceptions should only be granted on a very limited and case by case basis.
- Administrative Application Fee Schedule Dock owners should be allowed, without a fee, to
  maintain their docks for safety or aesthetic reasons when there is no change to the dock
  footprint or attachment to land.
- Appendix E The revised SMP shall be in the same format as the current SMP with revisions clearly marked in order to allow stakeholders and the public to easily see where revisions have been made and their impact compared to the original version. SMP stakeholders and public meetings shall commence not less than 6 months before the revised SMP is due to FERC.

March 17, 2019

re: FirstLight Power Resources, SMP, 2019

Mr. John R. Shue, President FirstLight Power Resources 111 South Bedford Street Suite 103 Burlington, MA 01803

Dear Mr. Shue:

I am writing to you, and sending this copy of a comment I sent this day to FERC, regarding FirstLight Power resources (FLPR), specifically where it concerns Candlewood Lake.

I have personally witnessed the coercion and threats from past owners of the lake I live on. (FERC project P-2576) licensed to FLPR. With the new Shoreline Management Plan (SMP) draft announced this year, I thought that it was time to bring these infractions to your companies' attention.

It is clear that FERC specifically states that it shall not have any authority over, nor become involved with, any land disputes between its licensees and privately owned real property within project boundaries. That is a matter for the respective states' courts to adjudicate.

The management of this project seems to use the implied threat that they have certain land rights given to them by their FERC license. Most privately owned and deeded land within their boundary does not fall under FLPR purview, yet they infer this authority either overtly or covertly, as stated in this new SMP draft - in a number of it's sections.

Any intended control over privately owned real properties, within or without the project's administrative boundary, would be an illegal partial taking of this property and, in effect, a violation of CT General Statute: Chapter 952, Section 53a-119.

Please review this letter, enclosed, and contact FLPR to make the necessary corrections as I have stated.

Thank you for your prompt attention.

Sincerely,

Robert Stryker P.O. Box 371 C.I. New Fairfield, CT 06812-0371 rstryker71@sbcglobal.net

enclosed: letter to FERC

### LETTER TO FERC 03/14/2017

March 14, 2019

re: FirstLight Power Resources, Shoreline Management Plan, draft for Candlewood Lake December 2018 - project P-2576

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

Dear Ms. Bose,

Please enter these comments regarding the above mentioned project SMP draft.

FirstLight Power Resources Shoreline Management Plan (first draft)

This plan (SMP) contains a number of references that in relation to privately owned property within the 440' elevation line must be corrected. These references are either inserted by error or by purpose. Although I should believe that the former is prevalent, the latter has been used, as FLPR has in the past, and continuing to the present, by enacting a policy of intimidation, coercion, and threats against owners of deeded property within the project boundary (440' line) when they have no authority over these privately owned properties, according to FERC and CT State case precedence.

Also, any private real property disputes that may arise are specifically not within the purview of the Federal Energy Regulatory Commission (FERC) but are limited to any decisions of the Connecticut courts.

FERC: "Whatever rights landowners have in lands within the boundaries of the...project whether conferred by deed, easement or other conveyance - have not been and will not be altered by FERC's actions...the mere inclusion of lands within project boundary will NOT RESTRICT [emphasis added] landowner use, since inclusion does not itself create or alter property rights...[the SMP] does not include structures a landowner built on privately owned land in accordance with property rights." (Ameren Electric, Osage project, Docket No. P-459-313, June 5, 2012 - and FERC Factsheet, November 10, 2011, Docket P-459-310/Osage)

FERC: "The commission has regulatory authority ONLY [emphasis added] over the licensee...and enforce...the licensee only through the license...Property rights are governed by state law, whereas boundaries are determined by the commission." (Niagara Mohawk Power Corp., 77 FERC Sec. 61,306, 1996 - with reference to PacifiCorp 80 FERC, Sec. 61,334 at 62,113, 1997)

FERC: "Guidelines for Shoreline Management Planning at Hydropower Projects", July 2012, page 7 - "Project Boundary...is an ADMINISTRATIVE MARKER [emphasis added]...delineates those lands...operation of the project...the boundary does not affect existing property rights."

The corrections shall specifically mention that any regulations, fees, permissions, permits and/or enforcement authority, etc. is not within the purview of FLPR concerning privately owned deeded properties within the project boundary and that they are a Private Power Producer under state statutes not subject to CT PURA regulation and have no more authority than any other private company or individual within the state.

Examples of recommended changes specified for privately owned properties within the project boundary within these sections:

VII Municipal and State Jurisdiction, e) - "...authority to approve all applications to occupy project lands, h) - "zoning laws are...preempted by the Federal Powers Act...municipal zoning authorities do not have jurisdiction...permits...variances...

this only applies to lands owned by FLPR, others subject to municipal ordinances

XII Enforcement, "...to the use and occupancy of lands and waters within the project boundary." no enforcement on lands and waters privately owned

Appendix B, d) - "Project Boundary...a jurisdictional line approved by the FERC incorrect, it is only an "administrative marker" according to FERC guidelines

h) - Shoreline and Land Uses...activities and...,uses and occupancies...within the Boundary ...by property owners to be allowed through authorization..."

again, incorrect; no authorization is needed for privately owned properties

Appendix C, - Shoreline Permit Guidelines - I. Introduction..."Property Owners...legal rights... to lands and waters within the project must have authorization...for their shoreline and land uses..."

private Property Owners do not need any authorization, otherwise this would be an usurpation of property rights and an illegal taking of that property without a court order

This may be a violation subject to CT statute

Appendix E, "FirstLight...the right to enforce fees...unauthorized use or occupancy... no enforcement, no fees

Shoreline permit guidelines, I "... property owners ... must have authorization ... "

II. "...requires authorization."

Existing uses, "...registers existing use...unregistered use." no authority to require any registration of any use what-so-ever

According to FLPR, there are approximately over a hundred privately owned properties within the project boundary, both dry lands below the 440' line as well as subaqueous lands - including ownership to the waters above those lands [re: "Riparian Rights in Nonnavigational Waters, Water Law & Access Rights to Lakes, Ponds & Streams by Sally Roberts, CT Attorney at Law, for a legal summation]

The above noted examples either should be changed individually to mention the exceptions to these sections or a broad statement covering these points - using FERC's own words - is necessary to for these some hundred plus owners of private property to inform them they are not subject to any of them. This way, they will know that any intimidation, coercion and threats from FLPR should be reported to the local authorities as well as FERC. Any actions that indicate even the intended taking of private property may be construed as a violation of CT Statute: Sec. 53a-119 - the intent of the taking of private property.

Robert Stryker, lake resident