



STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

June 9, 2006

MATTHEW SCOTT
CHAIR

CYNTHIA S. BERTOCCI
EXECUTIVE ANALYST

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ADMIN. ASSISTANT

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GOVERNOR

Mr. Ed Friedman
Friends of Merrymeeting Bay
P.O. Box 233
Richmond, Maine 04357

RE: Petition to Modify the Water Quality Certifications for Hydroelectric Dams on the Androscoggin and Little Androscoggin Rivers

Dear Mr. Friedman:

I am in receipt of the petition dated May 17, 2006 filed by you, Douglas Watts and others requesting that the Board conduct a public hearing to consider modifying the water quality certifications issued by the Department for hydroelectric dams on the Androscoggin and Little Androscoggin rivers including: Brunswick, Pejepscot, Worumbo, Lewiston Falls, Upper Androscoggin, Deer Rips, Gulf Island, Livermore, Otis, Jay, Riley, Rumford Falls, Barker Lower Mills, Barker Upper Mills, Hacketts Mills, and Marcal Projects. You seek modification of these certifications to provide for upstream and downstream passage of American eel.

In your filing you assert that this petition is totally different from the petitions filed by you on behalf of Friends of Merrymeeting Bay (FOMB) on September 29, 2005 and by Douglas Watts on November 10, 2005 in which FOMB and Mr. Watts sought upstream and downstream passage for American eel and some species of anadromous fish at the same dams listed above with the exception of Otis and Rumford Falls. However, your current petition appears to be substantially the same as these earlier petitions and incorporates them by reference. As you are aware, the Board considered the earlier petitions by Friends of Merrymeeting Bay and Douglas Watts at its meeting on February 2, 2006 and voted to dismiss them.

Mr. Watts has appealed the Board's February 2, 2006 decision to Superior Court (AP-06-19). The substantial similarity between your current petition and the earlier petitions seeking eel passage on the Androscoggin raises significant legal issues regarding the appropriateness of the Board taking up an issue it has just recently considered and decided, especially when that decision is now before the Superior Court. Given this, the petition will be held in abeyance pending the Court's ruling on the Board's decision to dismiss the petitions of September 29, 2005 and November 11, 2005. At that time the Board will decide whether to consider the petition.

If you have any questions, you may contact Cindy Bertocci, Board Executive Analyst, at 287-2452 or Carol Blasi, Assistant Attorney General, at 626-8582.

Sincerely,

Matthew Scott

Matthew Scott, Chair



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