EXHIBIT 1

FEDERAL ENERGY REGULATORY COMMISSION
Office of Energy Projects
Division of Dam Safety and Inspections – New York Regional Office
19 West 34th Street, Suite 400
New York, NY 10001
Telephone No. (212) 273-5900 **Fax No. (212) 631-8124**

In reply refer to:

P-3428-ME
NATDAM # - ME00004
Worumbo Project

Emergency ESA
Consultation for
Dam Reconstruction

May 4, 2011

Mr. Jeff Murphy
National Marine Fisheries Service
Protected Resources Division
Maine Field Station
17 Godfrey Drive, Suite 1
Orono, Maine 04473

Dear Mr. Murphy:

The existing timber crib spillway at the Worumbo Dam is in need of replacement. The attached April 29, 2011 letter from the dam owner conveys the sense of urgency for replacing the existing timber crib spillway with a concrete gravity structure as soon as possible. The existing 100-year-old-plus timber crib spillway has reached the end of its service life, resulting in a significant probability of failure if construction is delayed to 2012. In terms of impact of failure, when dams fail suddenly, effects are often unpredictable. A failure of the Worumbo Dam would result in significant environmental consequences and could also produce serious public safety consequences and property damage. FERC concurs with the urgency expressed by the owner, and as such, believes that the spillway should be replaced during the construction season this summer. The

Licensee will take all necessary precautions in accordance with agency recommendations to minimize environmental impacts during construction. We understand that the Licensee is in the process of revising the spillway design for the dam to address resource agency concerns, and we anticipate that these plans will be available shortly for review.

In light of the information provided above, and pursuant to a discussion with National Marine Fisheries Service (NMFS) staff on April 28, 2011[1], we are requesting formal consultation under the Endangered Species Act (ESA) using the emergency consultation procedures specified in NMFS's joint regulations at 50 CFR § 402.05. Emergency consultation is warranted for this project because of the dam safety concerns described above, and because work needed to remedy these concerns must begin by the low water period of the summer of 2011 which is too soon to complete standard formal consultation under the ESA. We look forward to conferring with you as soon as possible in order to identify and schedule the measures necessary to comply with the ESA and to ensure the completion of the necessary dam safety work.

For any questions, please contact Mr. William Atlas at (212) 273-5912 or by e-mail at william.atlas@ferc.gov. or contact Mr. B. Peter Yarrington at (202) 502-6129, or by email at peter.yarrington@ferc.gov.

Your cooperation is appreciated.

Sincerely,

Gerald. L. Cross, P.E.
Regional Engineer

Attachment: as noted

cc: **Bearl S. Keith**
Miller Hydro Group
148 Middle Street, Suite 506
Portland, ME 04101

[1] April 28, 2011 teleconference between Commission staff, the licensee's representative, and Jeff Murphy of the NMFS.

MILLER HYDRO GROUP
148 Middle Street - Portland, Maine 04101
Tel. (207) 772-6190 - Fax (207) 772-6320

April 29, 2011

Gerald L. Cross, Regional Engineer
Office of Energy Projects: Division of Dam Safety and Inspections
New York Regional Office
19 West 34th Street
Suite 400
New York, NY 10001-3006

Re. Worumbo Crib Dam Replacement, Project 3428-ME

Dear Mr. Cross

In follow-up to our telephone conference of April 28, 2011, Miller Hydro Group (Licensee) for the Worumbo Project would like to begin by thanking all of those participating in this for taking the time and making the effort to come up with a solution that can simultaneously satisfy the requirements of the Endangered Species Act (ESA) and the Licensee's obligations under Part 12 of the Federal Power Act. It is the Licensee's view that it has a responsibility to take all reasonable measures to comply with the terms and conditions of its license for this project, but that its public safety obligations must reach an even higher standard of diligence. The Licensee has concluded that Worumbo crib dam has reached the end of its useful life and needs to be replaced now. While the condition of the dam was not one of failure in progress or imminent failure when we last examined it closely in 2010, we do not know, as of this writing, what conditions will reveal when the 2011 run-off subsides. We can reasonably conclude, however, that the condition will be further deteriorated from what it was in 2010 and that it is impossible to guarantee or even provide reasonable assurance that the dam will not fail if construction is delayed to 2012 or beyond.

In our conference there was some discussion as to the mode of failure and as to what the impacts of such a failure might be. While it is certainly true that this is a low hazard structure, this does not mean that there would be no impact to property, persons, or the environment. The actual impact would be a function of both the

mode (speed) of the failure and the timing. If a failure event were to occur slowly during a high water event, then the impact would be to somewhat increase the level of flooding downstream with some impacts to property, but there would probably be limited impact to the environment or persons. On the other hand, *if* the event were to more closely resemble a "sunny day breach" then there would likely be impact to all three elements. There would be a hazard risk to fisherman or other recreationists in the area downstream of the dam; there would likely be environmental impacts from sediment flows; and there would be property impacts to the Project. While it is true that failure modes for crib dams are normally slow and under high flow conditions, we note that this dam contains a significant amount of concrete and we do not believe that it possible to predict with any degree of confidence what the failure mode might be. In the event that we are unable to find a way to undertake this replacement in 2011, the Licensee believes that it would be prudent to close public access in the area downstream of the dam.

It is our hope that we can find a way to accomplish this replacement project in 2011. To that end, the Licensee has been working as diligently as possible on many fronts. To date, the Licensee has constructed a permanent access to the headpond and received all of the necessary permits or sign-offs from all local and state agencies and Indian tribes. On the federal side, the Licensee has been in active discussions with the Commission, the Army Corps of Engineers (ACOE), and the National Marine Fisheries Service (NMFS). Based upon consultation with ACOE, the Licensee has made various changes to its cofferdam design and believes that revised design will satisfy ACOE. Further, it is the Licensee's understanding that the ACOE is only awaiting sign off from NMFS under the ESA to issue the necessary permit. The Licensee has presented its design to NMFS and held various meetings and conversations with NMFS in order to make the structure as friendly to Atlantic salmon as possible and to minimize construction impacts. In brief, the Licensee has made the following modifications to the permanent structure to improve its features for Atlantic salmon: completely removed the existing center dam and replaced with an ogee structure; modified the crib dam replacement flashboard configuration to permit concentration of flow for downstream migrants; and created a plunge pool area downstream of the replacement dam to protect downstream migrants. The Licensee will provide this revised design along with the requisite back-up materials to the Commission shortly. To minimize construction impacts the Licensee has worked with ACOE to reduce the cofferdam quantities and will work with Maine Department of Marine Resources to provide adequate downstream by-pass flow during the construction period. Other cofferdam activities will be in accordance with ACOE standards that are designed to maximize protection of fishery resources.

Because a significant portion of the river must be coffered off in order to accomplish the work, this project can only be undertaken during the low water

season that normally runs from July through September. Given the considerable time has already been consumed with the various activities described above, the Licensee must now proceed with all dispatch, assuming that permission will be granted, in order to avoid missing the seasonal window to complete construction in 2011. We hope for a prompt response from all concerned.

Sincerely,

Mark Isaacson
Vice President

cc. PeterYarington