

LAW OFFICES OF  
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February 26, 2010

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

Re: Topsham Hydro Partners  
Pejepscot Project, FERC Project No. 4784

Dear Ms. Bose:

On February 1, 2010 (erroneously listed as 2009), Mr. Douglas Watts on behalf of the Friends of the Kennebec Salmon and Mr. Ed Friedman on behalf of the Friends of Merrymeeting Bay (jointly referred to herein as "Friends") filed two letters relating to passage of Atlantic salmon at the Pejepscot Project, FERC Project No. 4784 ("Project") – one addressing upstream fish passage and one addressing downstream fish passage. Topsham Hydro Partners ("Topsham") is the licensee of the Project and here submits its response to those two letters, correcting data that was contained therein.

With respect to the upstream fish passage facilities at the Project, Topsham notes the following corrections to the information included in the Friends' letter:

- 1999 – Information correct.
- 2000 – Facilities operated from May 17 through June 26 (a correction),  
and from October 18 through 31 (an addition).
- 2001 – Information correct.
- 2002 – Information correct.
- 2003 – Information correct.
- 2004 – Information correct.
- 2005 – Facilities also operated from October 13 through 17.
- 2006 – Information correct.
- 2007 – Information correct.
- 2008 – Facilities operated May 16 through July 11. This report was sent to  
the Commission on April 22, 2009, but apparently never received.  
Topsham refiled the report on February 24, 2010.

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With respect to the downstream fish passage facilities at the Project, Topsham notes the following corrections to the information included in the Friends' letter:

- 1999 through 2005 – Information correct.
- 2006 – Facilities operated June 15 through November 15. This information was not included in the MDMR minutes of the licensee/agency meeting that were attached to Topsham's report for 2006.
- 2007 – Information correct.
- 2008 – Facilities operated June 10 through November 10. This report was sent to the Commission on April 22, 2009, but apparently never received. Topsham refiled the report on February 24, 2010.

The Maine Department of Marine Resources ("MDMR") establishes the start and end dates for the operation of the fish passage facilities at the Project, as acknowledged in the Friends' letters. Topsham understands that MDMR will file a response to the two letters addressing the manner in which the start and end dates are established. As affirmed in its June 18, 2009, letter to Topsham (a copy of which is attached), MDMR has determined that the appropriate strategy for Atlantic salmon restoration on the Androscoggin River is passive. In addition, in that June 2009 letter MDMR has affirmed that the operational dates for fish passage facilities at the Project for Atlantic salmon are adequate. Therefore, the Commission should deny the Friends' requests in their February 1<sup>st</sup> letters.

If there are any questions concerning this matter, please contact the undersigned.

Very truly yours,



Nancy J. Skandke  
Law Offices of GKRSE  
Counsel for Topsham Hydro Partners

Encl.

cc: Douglas H. Watts, Friends of the Kennebec Salmon (w/ encl.)  
Ed Friedman, Friends of Merrymeeting Bay (w/ encl.)  
Patrick Keliher, Director, Bureau of Sea Run Fisheries & Habitat, MDMR (w/ encl.)



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF  
MARINE RESOURCES  
21 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0021

GEORGE D. LAPOINTE  
COMMISSIONER

June 18, 2009

Mr. Ed Hudson P.E.  
Hydropower Services  
2720 Gateway Oaks Drive  
Suite 300  
Sacramento, Ca. 95833-4305

Dear Mr. Hudson

The returns of adult Atlantic salmon to the Androscoggin River has historically been small and mostly comprised of strays from other active restoration programs. In the past ten years, the number of adults being passed upstream of the Brunswick Project has been fewer than 11 and generally less than six. Scale samples taken from the adults have indicated that almost all of them were of hatchery origin. Currently no Atlantic salmon smolts are released in the Androscoggin River so the returning adults are considered to be strays from other restoration programs. The current Atlantic salmon restoration strategy for the Androscoggin River is passive.

In the past two years, however, the returns to the Androscoggin River have changed in composition and size. The adult returns for 2007 and 2008 were 20 and 16, respectively. While most of the returning adults were determined to be hatchery strays, several adults were found to be of wild or naturally reared origin. Scales samples indicate that three adults in 2007 and another three in 2008 had spent at least two years in a river environment. Given the low stray rate for naturally reared adults, it is likely that they originated from the Androscoggin River or a tributary.

After reviewing this information, the Bureau of Sea Run Fisheries and Habitat (BSRFH) is requesting that downstream passage facilities at the Pejepscot Hydro Project operate according to the downstream passage window for Atlantic salmon smolts and adults. We request downstream passage facilities operate April 1 - June 30 for smolts and kelts (post - spawn adults) and October 15 - December 31 for kelts. Although we request these timing windows for operation, we are aware that river conditions may prevent the safe operation of downstream passage facilities during these dates. We fully understand if ice or high water, for example, were to delay or shorten the operational window. These timing windows are consistent with recommendations at other hydro projects on rivers in Maine.

Even though we are requesting downstream passage facility be operational for Atlantic salmon, we defer requesting downstream kelt and smolts studies to a later date.

In addition, BSRFH feels that upstream passage facility operational dates for Atlantic salmon are adequate. It is our understanding that upstream passage is coordinated with passage at the Brunswick

Project. This ensures passage is available if and when salmon are migrating upriver. Please continue to coordinate upstream operation with Mike Brown of BSRFH.

Thank you very much for your cooperation and if you have any questions or comments please feel free to contact Paul Christman at (207) 624-6352 or by email at paul.christman@maine.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'PKeliher', with a long horizontal line extending to the right.

Patrick Keliher, Director  
Bureau of Sea Run Fisheries & Habitat

Document Content(s)

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