

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

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FRIENDS OF MERRYMEETING BAY and)		
ENVIRONMENT MAINE,)		
)		
Plaintiffs,)		
)	C.A. No. 1:11-cv-00035-GZS	
v.)		
)		
BROOKFIELD POWER US ASSET)		
MANAGEMENT, LLC,)		
and HYDRO KENNEBEC, LLC,)		
)		
Defendants.)		
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DECLARATION OF CHARLES C. CALDART

Pursuant to 28 U.S.C. § 1746, I, Charles C. Caldart, state as follows:

1. I am an attorney with the National Environmental Law Center (“NELC”), and am one of the counsel of record for Plaintiffs Friends of Merrymeeting Bay and Environment Maine in the above-captioned suit against Defendants Brookfield Power US Asset Management, LLC and Hydro Kennebec, LLC (collectively, “Brookfield”). I make this declaration in support of Plaintiffs’ Opposition To Brookfield’s Motion To Dismiss Or Stay. I have personal knowledge of all facts and statements attested to in this declaration.

2. Attached as Plaintiffs’ Exhibit 1 is a true and correct copy of a letter sent jointly by Mary A. Colligan of the National Marine Fisheries Service and Lori H. Nordstrom of the United States Fish and Wildlife Service to Patrick Keliher of the Maine Department of Marine Resources, with copies to other persons as shown, dated August 13, 2009. The document was obtained from the public files of the United States Fish and Wildlife Service.

3. Attached as Plaintiffs' Exhibit 2 is a true and correct copy of selected pages from the National Research Council's "Genetic Status of Atlantic Salmon in Maine: Interim Report from the Committee on Atlantic Salmon in Maine," dated 2002, obtained from the National Academies Press website at <http://www.nap.edu/catalog/10273.html>. As stated in the document, the National Research Council is an arm of the National Academy of Sciences, a society of scholars that "advise[s] the federal government on scientific and technical matters" pursuant to a Congressional charter.

4. Attached as Plaintiffs' Exhibit 3 is a true and correct copy of the "Study Plan for Determination of Downstream Passage Routes and the Post Passage Condition of Atlantic Salmon Smolts Using the Hydro Kennebec Project's Fishway," dated March 2011, which was "prepared for" Hydro Kennebec LLC by Normandeau Associates, Inc. Brookfield produced this document, Bates-stamped "HK 2361" through "HK 2368," to Plaintiffs in discovery.

5. Attached as Plaintiffs' Exhibit 4 is a true and correct copy of selected pages from an "Investment Request Form" relating to Defendant Hydro Kennebec LLC as a "business unit" of Brascan Power Corporation, dated January 24, 2006. Brookfield produced this document, Bates-stamped "HK 7" through "HK 10," to Plaintiffs in discovery.

6. Attached as Plaintiffs' Exhibit 5 is a true and correct copy of an e-mail sent by counsel for Brookfield to counsel for Plaintiffs on October 24, 2011.

7. Attached as Plaintiffs' Exhibit 6 is a true and correct copy of selected pages from a letter sent by Kevin Bernier of Brookfield to the Federal Energy Regulatory Commission, dated March 31, 2011. Brookfield produced this document, Bates-stamped "HK 2352" through "HK 2356," to Plaintiffs in discovery.

8. Attached as Plaintiffs' Exhibit 7 is a true and correct copy of an e-mail sent by Kevin Bernier of Brookfield to members of various regulatory agencies, dated April 28, 2011. Brookfield produced this document, Bates-stamped "HK 2399," to Plaintiffs in discovery.

9. Attached as Plaintiffs' Exhibit 8 is a true and correct copy of an e-mail sent by Kevin Bernier of Brookfield to members of various regulatory agencies, dated December 14, 2010. Brookfield produced this document, Bates-stamped "HK 2401," to Plaintiffs in discovery.

10. Attached as Plaintiffs' Exhibit 9 is a true and correct copy of an e-mail sent by Michael Craig of Brookfield to Kevin Bernier of Brookfield (among other personnel), dated August 29, 2011. Brookfield produced this document, Bates-stamped "HK 8944," to Plaintiffs in discovery.

11. Attached as Plaintiffs' Exhibit 10 is a true and correct copy of Normandeau Associates, Inc.'s "2011 Hydro-Kennebec Smolt Release Summary," prepared on behalf of Brookfield. Brookfield produced this document, Bates-stamped "HK 14610" through "HK 14612," to Plaintiffs in discovery.

12. Attached as Plaintiffs' Exhibit 11 is a true and correct copy of an e-mail sent by Kevin Bernier of Brookfield to himself, dated June 14, 2011. Brookfield produced this document, Bates-stamped "HK 8938," to Plaintiffs in discovery.

13. Attached as Plaintiffs' Exhibit 12 is a true and correct copy of a letter sent by Frederic G. Seavey of the United States Fish and Wildlife Service to Kevin Bernier of Brookfield, dated March 10, 2008. Brookfield produced this document, Bates-stamped "HK 3577" through "HK 3581," to Plaintiffs in discovery.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 30, 2011

/s/ Charles C. Caldart
Charles C. Caldart