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ORIGINAL



June 23, 2004

Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

FILED
OFFICE OF THE
SECRETARY
2004 JUN 25 P 2:44
FEDERAL ENERGY
REGULATORY COMMISSION

**Re: Application For Amendment Of License
Stillwater Hydroelectric Project No. 2712-055**

Dear Secretary Salas:

Enclosed for filing in the above-referenced proceeding are the original and eight copies of PPL Maine, LLC's ("PPL Maine") Application For Amendment Of License ("Application") for PPL Maine's Stillwater Hydroelectric Project No. 2712 ("Project"), along with an original and two copies of a separate volume containing the Critical Energy Infrastructure Information ("CEII") that had been included in the Application but has been removed to comply with CEII requirements. This application is being submitted in accordance with Section IV of the Lower Penobscot River Multiparty Settlement Agreement dated June 2004 ("MPA") that is being filed separately today in this and other project dockets.

The Project is a major water power project under 5 MW. The Application was prepared in accordance with Section 4.201 of the Commission's regulations and includes Exhibits A, E, F, and G. A draft of this Application was distributed to agencies and stakeholders on February 17, 2004, and this Application addresses all comments received. In recognition that this Application is consistent with the MPA, PPL Maine requested that the consulted parties waive the requirement (to the extent applicable) that PPL Maine follow the three-stage consultation process (18 C.F.R. § 4.38) for this Application, and the consulted parties provided such waivers. See Appendix ES-A of the Application.

CEII/E-Library

Honorable Magalie R. Salas
June 23, 2004
Page 2

Communications

The names and addresses of the persons to whom all notices and communications with respect to this proceeding should be sent, and who should be placed on the Commission's official service list for this proceeding, are as follows:

Scott D. Hall
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Phone: (610) 774-5013

John A. Whittaker IV
Winston & Strawn
1400 L Street, N.W.
Washington, D.C. 20005
Phone: (202) 371-5766

Water Quality Certification

PPL Maine has applied to the Maine Department of Environmental Protection ("MDEP") for amendment of its § 401 Clean Water Act Water Quality Certification ("WQC") for the Project. *See Appendix E-A of the Application for a date-stamped copy of PPL Maine's letter transmitting the application for amendment of its WQC for the Project to the MDEP showing that the application was received by MDEP on June 14, 2004.*

CEII

The changes to the Project proposed in the Application required revisions to the Project's two Exhibit F drawings and four Exhibit G maps. The changes proposed in the Application also required the preparation of an Engineering Assessment and a Hydrology Memorandum. Since the revised Exhibit F drawings and Exhibit G maps, Engineering Assessment, and Hydrology Memorandum constitute CEII under 18 C.F.R. § 388.112, they are exempt from the mandatory public disclosure requirements of the Freedom of Information Act and should be withheld from public disclosure, and PPL Maine requests privileged treatment for those materials.

Consistent with the Commission's "Notice of Filing Instructions" for CEII (68 Fed. Reg. 49475 (August 18, 2003)) and 18 C.F.R. § 388.112(b), PPL Maine is submitting the revised Exhibit F drawings and Exhibit G maps, Engineering Assessment, and Hydrology Memorandum in a separate volume marked "Contains Critical Energy Infrastructure Information - Do Not Release." As noted previously, an original and two copies of this separate volume are being provided.

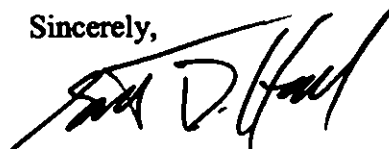
Honorable Magalie R. Salas

June 23, 2004

Page 3

Thank you for your attention to this matter. Please contact me at (207) 827-5354 with any questions concerning this Application.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Hall", written over a horizontal line.

Scott D. Hall

Manager of Environmental Services

cc (w/o CEII volume): Ed Lee, FERC
Distribution List (attached)

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June 23, 2004

Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
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**Re: Application For Amendment Of License
Stillwater Hydroelectric Project No. 2712**

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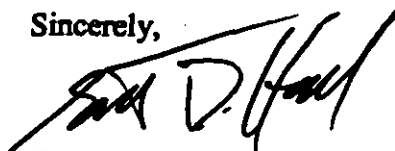
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Sincerely,

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Scott D. Hall

Manager of Environmental Services

cc (w/o CEII volume): Ed Lee, FERC
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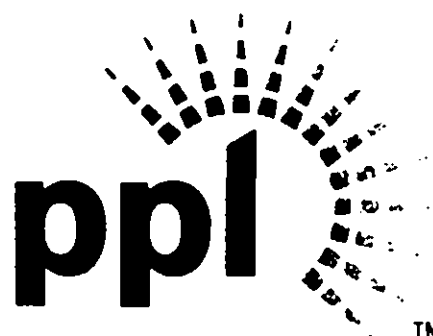
ORIGINAL

**APPLICATION FOR
AMENDMENT OF LICENSE
STILLWATER HYDROELECTRIC PROJECT
FERC PROJECT NO. 2712**

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FEDERAL ENERGY
REGULATORY COMMISSION

**PPL MAINE, LLC
Milford, Maine**

JUNE 2004



APPLICATION FOR AMENDMENT OF LICENSE

STILLWATER HYDROELECTRIC PROJECT

FERC PROJECT NO. 2712

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APPLICATION FOR AMENDMENT OF LICENSE

**STILLWATER HYDROELECTRIC PROJECT
FERC PROJECT NO. 2712**

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APPLICATION FOR AMENDMENT OF LICENSE

**STILLWATER HYDROELECTRIC PROJECT
FERC PROJECT NO. 2712**

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Acronym List

BHE	Bangor Hydro-Electric Company
CEII	Critical Energy Infrastructure Information
cfs	Cubic feet per second
Commission	Federal Energy Regulatory Commission
CMF	Contingent Mitigation Fund
DOI	Department of the Interior
FEIS	Final Environmental Impact Statement
FERC	Federal Energy Regulatory Commission
hp	Horsepower
IFIM	Instream Flow Incremental Methodology
kW	Kilowatt
MDEP	Maine Department of Environmental Protection
MDIFW	Maine Department of Inland Fisheries and Wildlife
MHPC	Maine Historic Preservation Commission
MPA	Lower Penobscot River Multiparty Settlement Agreement
msl	Mean sea level
MW	Megawatt
MWh	Megawatt-hour
NGVD	National Geodetic Vertical Datum
PIN	Penobscot Indian Nation
PMF	Probable Maximum Flood
PPL Maine	PPL Maine, LLC
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
WUA	Weighted Usable Area

Initial Statement

BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION APPLICATION FOR AMENDMENT OF LICENSE

(1) PPL Maine, LLC (PPL Maine) applies to the Federal Energy Regulatory Commission (FERC) for an amendment of license for the Stillwater Hydroelectric Project (L.P. No. 2712), a major water power project under 5MW, as described in the attached exhibits.

(2) The exact name, business address and telephone number of the applicant are:

PPL Maine, LLC
Davenport Street, P.O. Box 276
Milford, ME 04461
207-827-2247

The exact name, address, and telephone number of each person authorized to act as agent for the applicant in this application:

Scott D. Hall
PPL Maine, LLC
Davenport Street, P.O. Box 276
Milford, ME 04461
207-827-5364

Jesse A. Dillon, Esq.
PPL Maine, LLC
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
610-774-5013

John A. Whittaker, IV
Winston & Strawn, LLP
1400 L Street NW
Washington, D.C.
202-371-5766

Initial Statement

- (3) The applicant is a domestic limited liability company licensee for the water power project, designated as Project No. 2712 in the records of FERC. The current license was issued on April 20, 1998.
- (4) The amendments of license proposed herein are necessary to implement provisions of the Lower Penobscot River Multiparty Settlement Agreement ("MPA").
- (5)(i) The statutory or regulatory requirements of the state(s) in which the Project would be located that affect the Project as proposed with respect to bed and banks and the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, are:

- (a) The Mill Act - 38 M.R.S.A. § 651 et seq.

The Mill Act was first enacted by the Maine Legislature as Chapter 45 of the Public Laws of 1821. To a great extent, it was patterned after the Massachusetts Mill Act enacted there in 1714.

The rights and liabilities of riparian landowners with respect to the erection and maintenance on their own land of water mills and dams upon and across any non-navigable stream are set forth in 38 M.R.S.A. § 651 et seq. A complete history of this legislation appears in the case of *Brown v DeNormandie*, 123 Maine 539 (1924).

Section 651 of the Mill Act provides:

Any man may on his own land erect and maintain a watermill and dams to raise water for working it, upon and across any stream not navigable; or, for the purpose of propelling mills or machinery, may cut a canal and erect walls and embankments upon his own land, not exceeding one mile in length, and thereby divert from its natural

Initial Statement

channel the water of any stream not navigable, upon the terms and conditions and subject to the regulations hereinafter expressed.

The Mill Act also contains extensive provisions for the method by which compensation for damages arising from flowage caused by a mill dam are to be determined and recovered.

It is settled law in Maine that a hydroelectric generating plant is a water mill within the meaning of the Mill Act, *Gillmore v Central Maine Power*, 127 Maine 522 (1929); that the Mill Act is constitutional, *Brown v DeNormandie*, 123 Maine 535 (1924); and that the part of a stream above tidewater is not navigable under the Mill Act, *Opinion of Justices*, 118 Maine 503 (1919) and *Veazie v Dwinel*, 50 Maine 470 (1862).

(b) P.L. 92-500 Section 401 as amended - Water Quality Certification. The Maine Department of Environmental Protection has been delegated authority to issue Water Quality Certification under Section 401 of the Clean Water Act.

(5)(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are:

(a) Under the Mill Act, no approval of any state agency is required to continue to use water for the Stillwater Hydroelectric Project.

(b) PPL Maine has applied to the Maine Department of Environmental Protection for amendment of the Water Quality Certification (WQC) for the Stillwater Project. Refer to Exhibit E - Appendix E-A of this Amendment Application for documentation of the WQC Application.

Initial Statement

(6) The following exhibits are filed within and are hereby made a part of this application:

Exhibit A - Project Description and Mode of Operation

Exhibit E - Environmental Report

Exhibit F - Project Design Drawings

Exhibit G - Project Maps

Executive Summary

This application is being submitted in accordance with the provisions of Section IV of the MPA. The MPA is a comprehensive settlement agreement among the licensee, the Penobscot Indian Nation, the U.S. Department of the Interior, various agencies of the State of Maine, and a number of conservation groups. As discussed in greater detail in the Explanatory Statement concurrently herewith in this and other project dockets, implementation of the MPA and the companion "Comprehensive Settlement Agreement Between The Penobscot Indian Nation, PPL Maine, LLC, and the Bureau of Indian Affairs of the Department of the Interior" presents the opportunity to resolve all fish passage, energy generation, and Tribal issues associated with licensee's Penobscot River Basin hydroelectric projects and therefore is clearly in the public interest.

Section IV of the MPA will require the concurrent filing with the Commission of a number of requests and applications, including this application. These various requests and applications (Phase 1 Requests), if granted by the Commission without alteration or change that materially prejudices any party to the MPA, will permit the parties to proceed to the subsequent phases of the MPA and thus realize the full public interest benefits contemplated by the MPA. Because of the various rights and interests implicated by the Phase 1 Requests, all of those requests are interrelated and mutually dependent. Consequently, and as discussed in more detail in the above-referenced Explanatory Statement, if the Commission does not grant this application and all the other Phase 1 Requests without alteration or change that materially prejudices any party to the MPA, all of the Phase 1 Requests, including this application, will be withdrawn pursuant to 18 C.F.R. § 385.216.

A draft of this Application was distributed on February 17, 2004 to agencies and stakeholders. Comments received have been addressed in this final Application, and copies of all correspondence are provided in Appendix ES-A of this Executive Summary. In recognition that this Application is consistent with, and is the initial step towards implementation of the MPA, all agencies and stakeholders consulted support this Application and the accompanying request for a waiver of the three-stage consultation process (see Appendix ES-A).

Description of Requested Modifications

Headpond increase – In order to enhance generation output as proposed in the MPA, PPL Maine proposes to increase the normal impoundment level at the Stillwater Hydroelectric project by one-foot, from 93.65 (NGVD) to 94.65. This will result in approximately 965 MWH of additional generation annually.

This increase in impoundment elevation will be accomplished by simply adding one foot of height to the existing flashboard system and adding flashboards to the non-overflow sections of the dam as necessary to maintain flood flow discharge capacity while allowing the normal headpond elevation increase. Specifically, when the flashboard system is replaced after approval of the amendment request, PPL Maine will utilize boards that are one-foot taller than the existing boards (depending on dam section) currently erected on top of the dam's permanent crest or which will raise sections to the new impoundment level, as needed. The modified flashboard system will be designed to fail with one foot of overtopping to match the current system failure point. The present flashboard system is designed to fail with two feet of overtopping. The flood flow discharge capacity will not be reduced since flood flows occur after the boards have already failed. Additionally, the flashboards will fail at a lower flow.

Minimum Flow Modification – In order to enhance generation output as proposed in the MPA, PPL Maine proposes to modify the minimum bypass flow requirements at the Stillwater Hydroelectric Project by reducing from 40 cfs to 20 cfs the release to the west bypassed channel and by reducing from 155 cfs to 50 cfs the release to the east bypassed channel.¹ This will result in approximately 723 MWh of additional generation annually.

This change in the minimum bypass flows will be accomplished by reducing the "openings" in the flashboard system on the main dam, and the section of dam above the east channel bypass, to allow passage of the modified flows on a continuous basis. Specifically, PPL Maine will adjust

¹ Article 402 of the license, as amended June 29, 2001 (95 FERC ¶ 62,292), specifies flows of 40 cfs and 155 cfs in these channels.

Executive Summary

the openings in the flashboards to provide for 20 cfs from the west channel (1.6 foot opening in the flashboards) and 50 cfs from the east channel (4.4 foot opening in the flashboards). It should be noted that these openings will allow the necessary releases when the headpond is up to one-foot lower than normal full pond elevation (as allowed for by Article 401), and the new openings are calculated at the requested modified normal full pond elevation of 94.65 feet NGVD. In addition, PPL Maine will continue to provide and monitor the releases through its Minimum Flow Monitoring Plan, as approved by Commission Order dated February 17, 1999.

These modified flows reflect the interim minimum bypass flows required by the Water Quality Certification included in the Commission's April 20, 1998 Order Issuing License.

Fish Passage – In order to implement the MPA, PPL Maine agrees to the modification of various articles for purposes of incorporation into the license those requirements consistent with the Department of Interior (DOI) modified fishway prescriptions dated June 2004, as specified in Attachment A of the MPA, as set forth below (four revised license articles).

Contingent Mitigation – In order to fully mitigate for any potential habitat impacts associated with the requested modifications and modifications at other projects, parties to the MPA developed a Contingent Mitigation Fund (CMF) (Attachment B to MPA), whereby it was agreed that the impacts will be fully mitigated by removal of the Veazie (FERC No. 2403) and Great Works (FERC No. 2312) dams. If those dams are not removed, then the MPA provides for the establishment of the CMF and requires PPL Maine to make monetary payments in certain circumstances, as specified in Attachment B to the MPA, to the CMF to fully mitigate for the habitat impacts. PPL Maine proposes to add the article set forth below requiring PPL Maine to comply with Attachment B.

Specific License Article Amendments and Additions

To implement these modifications, PPL Maine requests that the Commission make the following changes to the Project's April 20, 1998 Order Issuing License for the Stillwater Hydroelectric Project as amended by the June 29, 2001 Order Amending License and November 6, 2003 Order Approving Revised Exhibit F:

Paragraph (B)(1): Exhibit G – The following revised Exhibit G maps should be approved and made part of this license:

Exhibit	FERC No.	Showing	Superceding
G Sheet 1	2712-1008	General Map of Project Area	2712-1001
G Sheet 2	2712-1009	Detail Map Reservoir	2712-1002
G Sheet 3	2712-1010	Detail Map Reservoir	2712-1003
G Sheet 4	2712-1011	Detail Map Reservoir	2712-1004

Paragraph B(2)(a): Revised project descriptions as follows:

A main concrete gravity dam, totaling about 1,720 feet long, with a maximum height of 22 feet at crest elevation 91.65 feet National Geodetic Vertical Datum (NGVD), consisting of 13 sections: a non-overflow section, totaling 63 feet long, which serves as an abutment and wingwall, containing a 6-foot-wide unused stoplog sluice gate; a 381-foot-long primary spillway section, with a maximum height of 22 feet at a crest elevation of 91.65 feet NGVD, topped with 3-foot-high pin-supported flashboards; an 85-foot-long by 2-foot-wide by 2.5-foot-high leveling concrete course topped with 1.67 foot-high pin-supported flashboards; a 43-foot-long concrete sill section on top of a ledge island topped with 0.65-foot-high pin-supported flashboards; a 174-foot-long ogee section, with varying heights from 4 to 20 feet, topped with 3-foot-high pin-supported flashboards; a 52-foot-long ogee section, with a maximum height of 9 feet, topped with a concrete curb, 15 inches wide by 25 inches high, topped with 1.80-foot-high pin-supported flashboards; an 89-foot-long spillway section, with an average height of 6 feet topped with 1.05-foot-high pin-supported flashboards; a 42-foot-long

Executive Summary

spillway section, with a maximum height of 8 feet, topped with 0.85- to 3.8-foot-high pin-supported flashboards; an 89.5-foot-long abutment section, with an average height of 4 feet topped with 0.85-foot-high pin-supported flashboards; a 187-foot-long non-overflow section, with varying heights from 3 to 12 feet, which abuts an abandoned powerhouse; a 63-foot-long non-overflow section, which is part of the abandoned powerhouse's foundation; a 255.5-foot-long section, with varying heights from 2 to 4 feet, abutting the old and existing powerhouses; and a 162.5-foot-long non-overflow section, with a downstream-facing earth backfill, having a maximum height of 12 feet, topped with a 2-foot-high concrete curb and a driveway on top of the earth backfill.

Paragraph B (2)(c): Change to reflect current data and new elevations as follows:

c) An impoundment, about three miles long, having a surface area of about 191 acres (AC); a gross storage capacity of approximately 1,910 acre-feet (AF); a negligible useable storage capacity; a normal headwater surface elevation of about 94.65 feet NGVD; and a normal tailwater surface elevation of about 73.65 feet NGVD.

Paragraph (B)(2)(d): Exhibit A reference - Change the reference from the existing Table A-1 to incorporate the changes and additions in the modified Table A-1, as submitted herein.

Paragraph (B)(2)(d): Exhibit F – The following revised Exhibit F drawings should be approved and made part of this license:

Exhibit	FERC No.	Showing	Superceding
F Sheet 1	2712-1012	General Site Plan	2712-0005
F Sheet 2	2712-1013	Powerhouse Plan	2712-0007

Article 401: Change the reference in the first paragraph thereof to “normal full pond elevation of 93.65 feet NGVD” to “normal full pond elevation of 94.65 feet NGVD”.

Executive Summary

Article 402: Change the reference to minimum flows required by the article (as modified by the Commission's Order dated June 29, 2001 (95 FERC 62,292)) from "a permanent minimum flow of 40 cubic feet per second (cfs) into the west bypassed channel and a permanent flow of 155 cfs into the east bypassed channel" to "a permanent minimum flow of 20 cubic feet per second (cfs) into the west bypassed channel and a permanent flow of 50 cfs into the east bypassed channel".

Article 406: Delete the existing Article 406 in its entirety and add the following new Article 406 in lieu thereof (for fish passage under MPA and DOI modified fishway prescriptions):

Article 406: The licensee shall install and operate permanent downstream fish passage facilities at the Stillwater Project. Fishways shall be maintained and operated to maximize fish passage effectiveness throughout fish migration period(s) as defined below. The downstream migration period is defined as April 1 to June 30 and November 1 to December 15 for Atlantic salmon, July 1 to December 31 for American shad and alewife, August to December 31 for blueback herring, and August 15 to November 15 (or other time periods determined when adequate information is available, and during any spring run that may occur) for American eel. Downstream facilities are to operate whenever generation occurs during the downstream migration period. The Licensee shall keep the fishways in proper order and shall keep fishway areas clear of trash, logs, and material that would hinder passage. Anticipated maintenance shall be performed in sufficient time before a migratory period such that fishways can be tested and inspected and will operate effectively prior to and during the migratory periods.

Fishway maintenance and operational plans (including schedules) for all fish passage facilities shall be developed by the Licensee in consultation and cooperation with the U.S. Fish and Wildlife Service (FWS), the Penobscot Indian Nation (PIN), and other fishery agencies (including the Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources, Maine Atlantic Salmon Commission, and NOAA Fisheries). Functional design and final

Executive Summary

design plans for all fishways shall be developed in consultation and cooperation with the FWS, Penobscot Nation, and other fishery agencies.

Downstream fishways shall consist of installation of trashracks with 1" clear opening at the powerhouse turbine intake and gated surface and bottom bypasses discharging up to 70 cfs during the downstream migration period. If shown to be necessary by studies of the effectiveness of these measures, but in no case before the expiration of the safe harbor period delimited in Attachment A, Section II(c) of the Lower Penobscot River Multiparty Settlement Agreement, the licensee shall institute nightly shut-downs for downstream eel passage for a two week period during downstream eel migration season.

Within 180 days from the date of the Commission order inserting this replacement article into the license, the licensee shall file, for Commission approval, a plan for installing the licensee's trashracks. This filing shall include a schedule for installing the trashracks with 1-inch clear opening within 1 year of the effective date of the Lower Penobscot River Multiparty Settlement Agreement.

Within 6 months of the effective date of the transfer of the licenses for the Veazie (no. 2710), Great Works (no. 2312), and Howland (no. 2721) Projects pursuant to the terms of the Lower Penobscot River Multiparty Settlement Agreement, the licensee shall file, for Commission approval, detailed design drawings for the surface and bottom bypasses. This filing shall include but not be limited to: (1) the location and design specifications of the bypasses; (2) a schedule for installing the facilities within 18 months of a Commission order approving the design drawings; and (3) procedures for operating and maintaining the facilities.

The Licensee shall include, with the filings required by the two previous paragraphs, documentation of consultation, copies of agency and PIN comments

Executive Summary

and recommendations on the drawings, plans, and schedules after they have been prepared and provided to the agencies, and specific descriptions of how the agencies' and PIN's comments and recommendations are accommodated by the Licensee's facilities. The Licensee shall allow a minimum of 30 days for the agencies and PIN to comment and to make recommendations before filing the drawings, plans, and schedule with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project specific information.

The Commission reserves the right to require changes to the proposed facilities and schedules. No construction of downstream fish passage facilities shall begin until the Licensee is notified by the Commission that the plan is approved. Upon Commission approval, the Licensee shall implement the proposal, including any changes required by the Commission.

Until the surface and bottom bypasses specified above are installed, the licensee shall continue to operate the existing surface weir bypass facilities at the project.

Article 407: Delete the existing Article 407 in its entirety and add the following new Article 407 in lieu thereof (for fish passage under MPA and DOI modified fishway prescriptions):

Article 407: The licensee shall install and operate permanent upstream fish passage facilities at the Stillwater Project. Fishways shall be maintained and operated to maximize fish passage effectiveness throughout fish migration period(s) as defined below. The upstream migration period shall be defined April 1 to November 30 for American eel. The licensee shall keep the fishways in proper order and shall keep fishway areas clear of trash, logs, and material that would hinder passage. Anticipated maintenance shall be performed in sufficient time before a migratory period such that fishways can be tested and inspected and will operate effectively prior to and during the migratory periods.

Executive Summary

Fishway design, maintenance and operational plans (including schedules) for all fish passage facilities shall be developed by the licensee in consultation and cooperation with the U.S. Fish and Wildlife Service (FWS), the Penobscot Indian Nation (PIN), and other fishery agencies (including the Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources (MDMR), Maine Atlantic Salmon Commission, and NOAA Fisheries). Functional design and final design plans for all fishways shall be developed in consultation and cooperation with the FWS, Penobscot Nation, and other fishery agencies.

During the first upstream eel migration season after the date of the Commission Order inserting this replacement article into the license, the licensee shall assess the appropriate location for the siting of a new upstream eel fishway at the project, in consultation with the FWS, MDMR, and PIN, and these entities' approval of a proposed location, file, for Commission approval, a plan for the fishway. This filing shall include but not be limited to: (1) the location and design specifications of the passage facilities; (2) a schedule for installing the facilities and completing initial testing prior to the third upstream migration season following the effective date of the Lower Penobscot River Multiparty Settlement Agreement; and (3) procedures for operating and maintaining the facilities.

The licensee shall include with the plan documentation of consultation, copies of agency and PIN comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' and PIN's comments and recommendations are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies and PIN to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project specific information.

Executive Summary

The Commission reserves the right to require changes to the proposed facilities and schedule. No construction of upstream fish passage facilities shall begin until the Licensee is notified by the Commission that the plan is approved. Upon Commission approval, the licensee shall implement the proposal, including any changes required by the Commission.

Article 408: Delete the existing Article 408 in its entirety and add the following new Article 408 in lieu thereof (for fish passage under MPA and DOI modified fishway prescriptions):

Article 408: Within 12 months of the deadline established by Articles 406 and 407 for filing design drawings or a plan for a fish passage device, the licensee shall file with the Commission, for approval, a plan to monitor the effectiveness of all the facilities and flows provided pursuant to Articles 406 and 407 of this license that will enable the efficient and safe passage of diadromous fish *migrating upstream and downstream*. The results of these monitoring studies shall be submitted to the agencies listed below and shall provide a basis for recommending future structural or operational changes at the project.

The monitoring plan shall include a schedule for: (1) implementation of the plan; (2) consultation with the appropriate federal, state, and tribal agencies concerning the results of the monitoring; and (3) filing the results, agency comments, and licensee's response to agency comments with the Commission.

The licensee shall prepare the monitoring plan after consultation with the U.S. Fish and Wildlife Service, Maine Fisheries Agencies (IFW, DMR, MASC), the Maine Department of Environmental Protection, the Penobscot Indian Nation (PIN), and NOAA Fisheries.

The licensee shall include with the plan documentation of agency consultation, copies of agency and PIN comments and recommendations on the plan after it has been prepared and provided to them, and specific descriptions of

Executive Summary

how the agencies' and PIN's comments are accommodated by the licensee's plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project specific information.

The Commission reserves the right to require changes to the proposed plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

If the results of the monitoring indicate that changes in project structures or operations, including alternative flow releases, are necessary to protect fish resources, the licensee shall first consult with the agencies listed above to develop recommended measures for amelioration and then file its proposal with the Commission, for approval. The Commission reserves its authority to require the licensee to modify project structures or operations to protect and enhance aquatic resources.

Article 409: Delete the existing Article 409 in its entirety and add the following new Article 409 in lieu thereof (for fish passage under MPA and DOI modified fishway prescriptions):

Article 409: Authority is reserved by the Commission to require the licensee to construct, operate, and maintain, or to provide for the construction, operation, and maintenance of, such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce under Section 18 of the Federal Power Act consistent with the Lower Penobscot River Multiparty Settlement Agreement.

Add the following Article (for MPA):

Article ~~409~~. The licensee shall implement the requirements of Attachment B to the Lower Penobscot River Multiparty Settlement Agreement, dated June

Executive Summary

2004 (Contingent Mitigation Fund), as it pertains to the Stillwater Hydroelectric Project.

APPENDIX ES-A
CONSULTATION DOCUMENTATION

APPENDIX ES-A CONSULTATION DOCUMENTATION

STILLWATER HYDROELECTRIC PROJECT SUMMARY RECORD OF CORRESPONDENCE

Date	Document	Subject
January 26, 2004	Letter from Dana Murch (MDEP) to Scott Hall (PPL Maine)	Phase I Energy Enhancements Lower Penobscot River Conceptual Agreement
February 4, 2004	Electronic mail from Clem Fay (PIN) to Scott Hall (PPL Maine)	Phase I Energy Enhancements Bass Impacts
February 17, 2004	Memorandum from Scott Hall (PPL Maine) to Distribution List	Distribution of Draft Applications for Orono, Stillwater, West Enfield, Medway and Milford
February 25, 2004	Memorandum from Scott Hall (PPL Maine) to Distribution List	Distribution of Draft Application for Veazie
March 3, 2004	Electronic mail from Andrew Tittler (DOI) to Scott Hall (PPL Maine)	Draft Application Comments
March 3, 2004	Electronic mail from Gordon Russell (USFWS) to Scott Hall (PPL Maine)	Draft Application Comments
March 10, 2004	Letter from Patrick Kelliher (MASC) to Scott Hall (PPL Maine)	Draft Application Comments
March 12, 2004	Letter from Dana Murch (MDEP) to Scott Hall (PPL Maine)	Draft Application Comments
March 12, 2004	Letter from Patricia Kurkul (NMFS) to Scott Hall (PPL Maine)	Draft Application Comments
March 17, 2004	Electronic mail from Clem Fay (PIN) to Scott Hall (PPL Maine)	Draft Application Technical Comments; revised bass impact statement
March 17, 2004	Letter from Betsy Elder (MSPO) to Scott Hall (PPL Maine)	Draft Application Comments
March 17, 2004	Telephone Discussion Notes – Clem Fay (PIN) and Scott Hall (PPL Maine)	Draft Application Comments
March 15 & March 25, 2004	Letters from Earle Shettleworth (MHPC/SHPO) to Scott Hall (PPL Maine)	Draft Application Comments
March 23, 2004	Letter from Andrew Raddant (USDOJ) to Scott Hall (PPL Maine)	Draft Application Comments
May 31, 2004	Letter from Ronald Kreisman (Attorney for NGOs) to Scott Hall (PPL Maine)	Draft Application Comments
June 2, 2004	Letter from John Banks (PIN) to Scott Hall (PPL Maine)	Draft Application Comments
June 10, 2004	Telephone Discussion Notes - Louis Sidell (MSPO NFIP) and Maureen Winters (DTA)	Issues related to headpond level changes at West Enfield, Medway, and Stillwater Projects



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAWN R. GALLAGHER
COMMISSIONER

January 26, 2004

Scott D. Hall
Manager Environmental Services
PPL Maine LLC
PO Box 276
Milford, ME 04461-0276

RE: Phase I Energy Enhancements
Lower Penobscot River Conceptual Agreement

Dear Scott:

I have now reviewed the water quality impacts of the Phase I energy enhancements that are included in the Lower Penobscot River Conceptual Agreement with our technical staff and have the following to report.

The Phase I energy enhancements included in the Conceptual Agreement consist of (1) increasing headpond elevations by 1 foot at the Medway, Stillwater, and West Enfield Projects and (2) redeveloping the currently inoperable Orono Project.

The DEP has recently collected data to calibrate and verify a water quality model for the Penobscot River. The model run at worst case conditions of 7-day 10-year low flow, high water temperatures, and point sources at licensed loads predicts that minimum Class B dissolved oxygen criteria will not be met in about 51 river miles. In addition, the model predicts that algae blooms are expected to occur in about 25 river miles.

The DEP Penobscot River model has now been used to predict the changes in dissolved oxygen and algae levels expected to result from the Phase I energy enhancements.

In reviewing the water quality impacts of the Phase I energy enhancements, DEP assumed the following conditions:

1. Stillwater and Orono Projects. Changes in water levels and generation on the Stillwater River will not measurably affect water quality conditions on the main stem Penobscot River, due to the small flow on the Stillwater relative to that on the Penobscot.

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Letter to Scott D. Hall

January 26, 2004

Page 2

2. Medway Project. The existing headpond has a surface area of 120 acres and extends upstream about 1.8 miles to a point about 200 yards below the East Millinocket Dam, and the proposed 1-foot headpond increase would increase the surface area of the project impoundment by about 5 acres.
3. West Enfield Project. The existing headpond has a surface area of 1125 acres and extends upstream about 6 miles to Mohawk Rapids, to a point just upstream of Mohawk Island, and the proposed 1-foot headpond increase would increase the surface area of the project impoundment (including the Merrill Brook "runaround") by about 23 acres.

Based on this review, the DEP has concluded that none of the Phase I energy enhancements, either singly or in combination, will have any measurable impact on water quality. Our technical analysis (memo dated January 20, 2004 from Paul Mitnik to Dana Murch) is attached.

Please contact me if you have any further questions regarding this analysis.

Sincerely,



Dana Paul Murch
Dams & Hydro Supervisor

cc: Dawn Gallagher, Commissioner, DEP
George Lapointe, Commissioner, DMR
Deb Garrett, DEP
Andy Fisk, DEP
Mark Margerum, DEP
Paul Mitnik, DEP
Jay Clement, COE
John Banks, PIN
Gordon Russell, USF&WS
Ron Kreisman, Esq.
Todd Burrowes, SPO
Steve Timpano, IF&W
Laura Rose Day, NRCM
John Burrows, ASF
Pat Keliher, ASC
Jeff Reardon, TU

January 20, 2004

To: Dana Murch

From: Paul Mitnik, P.E.

Subject: Penobscot Restoration Project

Expected Water Quality in Rockabema and West Enfield Impoundments

As you have requested, I have investigated the expected change in water quality assuming both the Rockabema and West Enfield impoundment headpond levels are increased by an elevation of one foot. A water quality model, that has been calibrated and verified with data collected in 1997 and 2001, was used to predicted the expected changes in dissolved oxygen and algae levels (measured as chlorophyll-a). The model is explained in detail in a draft DEP report (Penobscot River Modeling Report, April 2003) that can be downloaded from DEP's website.

Compliance of class C dissolved oxygen criteria in the Rockabema impoundment is currently not an issue. However non-compliance of minimum class B criteria is an issue in the West Enfield impoundment. The occurrence of algae blooms is a greater issue in the Rockabema impoundment than the West Enfield impoundment.

Due to the increased time of travel that will occur with the larger impoundments, it is possible that lower dissolved oxygen and higher chlorophyll-a could result. Adjustments were made to the hydraulic component of the model to account for the increased volume and depth and decreased velocity. Since the estimated change in impoundment surface area is small in both cases, it was assumed that the river width should not change.

The model predicts that no lowering of dissolved oxygen levels should occur in the Rockabema impoundment. The maximum lowering of dissolved oxygen that should occur in the West Enfield impoundment is 0.1 ppm. This is within the measurement error of dissolved oxygen. The maximum increase in chlorophyll-a predicted is 0.01 ppb for Rockabema and 0.25 ppb for West Enfield. In either case, the expected change in chlorophyll-a is negligible.

Penobscot River Model**Existing Hydraulic Conditions**

Model Reach	V Coef	V exp	D coef	D Exp	7Q10 Flow cfs	Vel ft	Depth ft	Width ft
8	0.0014	0.8	2.65	0.16	2227	0.667	9.10	367
18	0.001	0.8	2.78	0.1	2833	0.578	6.16	796
19	0.00054	0.8	4.44	0.1	2835	0.312	9.83	924

New Hydraulic Conditions

(+1' at Rockabema and West Enfield Impoundments)

Model Reach	7Q10 Flow cfs	Depth ft	Width ft	Area ft ²	Vel ft	New V Coef	New D Coef
8	2227	10.1	367	3706	0.601	0.00126	2.94
18	2833	7.16	796	5703	0.497	0.000860	3.23
19	2835	10.83	924	10002	0.283	0.00049	4.89

Model Reach 8 is the Rockabema Impoundment. Reaches 18 and 19 are the West Enfield Impoundment.

Notes: The increase in impoundment surface area from a 1 foot increase in the headpond elevation is expected to change from 120 to 125 acres and 1125 to 1148 acres respectively for Rockabema and West Enfield. Since the difference is very small, a constant width was assumed.

Subject: FW: Phase 1 Bass Habitat/Pop "Impacts"



Hall Bass Impact
Text Phase 1....

From: Clem Fay [mailto:pinfish@penobscotnation.org]
Sent: Wednesday, February 04, 2004 4:13 PM
To: Hall, Scott D
Cc: Jeff Reardon (TU); Jeff Reardon (home)
Subject: Phase 1 Bass Habitat/Pop "Impacts"

Scott:

As you requested, attached is a short summary of my assessment of the "impacts" of Phase 1 energy enhancements at SW, WE, and MW on bass habitat, pops, and fishing in those impoundments. Please let me know if you needed something different. Also, feel free to cut and paste, or paraphrase, as needed for your purposes, as long as such modifications do not change the core substance of what is there.

Clem.

Clem Fay

Fisheries Manager

Penobscot Nation DNR

6 River Road, Indian Island

Old Town, ME 04468

PH: 207-827-7776, ext 7362

PH: 207-817-7362

FAX: 207-827-1137

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**Projected Impacts of Penobscot River Restoration Project
Phase I Energy Enhancements (Impoundment Elevation Increases)
at the Stillwater, West Enfield, and Medway Projects
(by C. Fay, Fisheries Manager, Penobscot Indian Nation DNR)
February 4, 2004**

Recognizing that, except for spawning activity, smallmouth bass in the Penobscot watershed use impounded habitat as readily as free-flowing reaches, then the increased impoundment elevations associated with the Penobscot River Restoration Project Phase I energy enhancements at Stillwater (SW), West Enfield (WE), and Medway (MW) projects (1 foot at each location) are judged to be at worst neutral, and at best, a net positive, with respect to general bass habitat quantity and quality. To the extent that bass spawning activity occurs or would occur in these impoundments (most spawning in the main stem Penobscot River occurs in free-flowing reaches), they should simply be shifted shoreward proportional to the depth increase at the location in question.

As far as angler access to bass fisheries, and navigational safety issues, in these impoundments, again, the Phase I energy enhancements should result in either neutral or net positive impacts at all three projects. Specifically at West Enfield, and recognizing that in some cases, new navigational hazards will be formed where there was none previously, the one foot increase should overall reduce the potential for larger power boats/outboards to hit one of the numerous submerged log and rock cribs that are scattered throughout the lowest river mile of the impoundment, and that currently rise to within 0.5-3.0 feet of the normal water surface elevation. This is particularly true for those cribs located well above the dam, which are generally closer to the surface, harder to distinguish, and where several instances of damaged outboard motor lower units have been observed in the recent past.


Finally, and again specific to West Enfield, the increased impoundment elevation should result in improvements in gross habitat quality for bass in the so-called "Merrill Brook Runaround" segment of the project. Presently, that segment of the project area becomes fairly stagnant in the summer due to diminished inflow over the upstream berm that funnels water from the main river into the runaround.

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MEMORANDUM

TO: DISTRIBUTION

FROM: SCOTT D. HALL, PPL MAINE, LLC 

DATE: 17 FEBRUARY 2004

SUBJECT: DRAFT AMENDMENT APPLICATIONS
REQUEST FOR COMMENTS AND LETTERS OF SUPPORT

Pursuant to the terms of the Lower Penobscot River Conceptual Agreement (October 2003) and the anticipated requirements of the Lower Penobscot River Multiparty Settlement Agreement (MPA), expected to be finalized in April 2004, please find the enclosed draft applications for amendment requests associated with PPL Maine, LLC's Stillwater, Medway, and Milford Projects as well as the West Enfield Project, along with the draft application for new license for Orono. Please note that we have not included a draft of the amendment application for Veazie since it will be very short and limited to implementation of the fish passage provisions required by the MPA, thereby requiring no additional supporting information.

As you will remember, these draft applications are intended to outline and support the requests we will make to the Federal Energy Regulatory Commission (Commission) for the purpose of implementing the MPA. In addition, we will be providing the final applications, as well as specific requests to modify the respective water quality certifications, to the Maine Department of Environmental Protection (MDEP) in a separate filing, with copies to the appropriate municipalities.

Please review the enclosed materials and forward any questions/comments you may have as soon as possible. In the event anyone deems it necessary to meet and discuss any portion of these applications please contact me by the end of February and I will try to set up a meeting of interested parties the week of 8 March 2004.

Please remember that, in accordance with Section IV of the MPA, all parties are required to provide a letter of support, to be filed with the Commission (and the MDEP), so please don't hesitate to contact me with any questions, or if you need additional information to enable you to provide such a letter of support within 30 days. In addition, please include in your letter of support a specific statement conveying your consent to our request to waive consultation requirements normally associated with such applications [18 CFR Sec. 4.38(a)(5) and Sec. 16.8(e)(1)].

As we have discussed, our schedule allows for a 30-day review period by all parties to the MPA, and upon receiving your letters of support, and comment where applicable, we will complete the final applications and file them with the Commission and MDEP in early April. Thank you for your prompt attention to this matter.

17 FEBRUARY 2004

**SUBJECT: DRAFT AMENDMENT APPLICATIONS
REQUEST FOR COMMENTS AND LETTERS OF SUPPORT**

Dana Murch (2 copies)
Maine Department of
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Augusta, ME 04333

Steven Timpano
Maine Department of Inland
Fisheries & Wildlife
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Clem Fay
Penobscot Indian Nation
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Mike Smith
Maine Department of Inland
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Betsy Elder, Hydropower Coordinator
Maine State Planning Office
State House Station 38
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Ron Kreisman
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Todd Burrows
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Kevin Mendick
National Park Service
North Atlantic Region
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Bud Newell
Hydropower Coordinator
Bureau of Parks and Recreation
Maine Department of Conservation
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Earle G. Shettleworth, Jr., Director
Maine Historic Preservation
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Capital Street
State House Station 65
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Arthur Spiess
Maine Historic Preservation
Commission
Capital Street
State House Station 65
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Pat Kelliher
Executive Director
Maine Atlantic Salmon Authority
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Barry Dana, Tribal Chief
Penobscot Indian Nation
6 River Road, Indian Island
Old Town, ME 04468

17 FEBRUARY 2004

**SUBJECT: DRAFT AMENDMENT APPLICATIONS
REQUEST FOR COMMENTS AND LETTERS OF SUPPORT**

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Kim Owens
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Gail Wippelhauser/Tom Squires
Maine Dept. Marine Resources
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Judith M Stolfo
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George LaPointe
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Orono, ME 04473

PPL Maine, LLC
Davenport Street
PO Box 276
Milford, ME 04461-0276
Tel 207.827.2247 Fax 207.827.4102
www.pplweb.com



MEMORANDUM

TO: DISTRIBUTION

FROM: SCOTT D. HALL, PPL MAINE, LLC SDH

DATE: 25 FEBRUARY 2004

SUBJECT: **DRAFT AMENDMENT APPLICATION - VEAZIE
REQUEST FOR COMMENTS AND LETTERS OF SUPPORT**

Pursuant to the terms of the Lower Penobscot River Conceptual Agreement (October 2003) and the anticipated requirements of the Lower Penobscot River Multiparty Settlement Agreement (MPA), expected to be finalized in April 2004, please find the enclosed draft applications for amendment requests associated with PPL Maine, LLC's Veazie Project.

While we did not include this draft application for Veazie in the previous transmittal (17 February 2004), we wanted to send this along now to ensure that you had all of the draft amendment applications so that you could reference each one in your letters of support as outlined below.

Again, this draft application is intended to outline and support the requests we will make to the Federal Energy Regulatory Commission (Commission) for the purpose of implementing the MPA. In addition, we will be providing the final application, as well as specific requests to modify the water quality certification, to the Maine Department of Environmental Protection (MDEP) in a separate filing, with copies to the appropriate municipalities.

Please review the enclosed materials and forward any questions/comments you may have as soon as possible. In the event anyone deems it necessary to meet and discuss any portion of these applications please contact me by the end of February and I will try to set up a meeting of interested parties the week of 8 March 2004.

Please remember that, in accordance with Section IV of the MPA, all parties are required to provide a letter of support, to be filed with the Commission (and the MDEP), so please don't hesitate to contact me with any questions, or if you need additional information to enable you to provide such a letter of support within 30 days. In addition, please include in your letter of support a specific statement conveying your consent to our request to waive consultation requirements normally associated with such applications [18 CFR Sec. 4.38(a)(5) and Sec. 16.8(e)(1)].

As we have discussed, our schedule allows for a 30-day review period by all parties to the MPA, and upon receiving your letters of support, and comment where applicable, we will complete the final applications and file them with the Commission and MDEP in early April. Thank you for your prompt attention to this matter.

25 FEBRUARY 2004

**SUBJECT: DRAFT AMENDMENT APPLICATIONS
REQUEST FOR COMMENTS AND LETTERS OF SUPPORT**

Dana Murch (2 copies)
Maine Department of
Environmental Protection
State House Station 17
Augusta, ME 04333

Steven Timpano
Maine Department of Inland
Fisheries & Wildlife
41 State House Station
Augusta, ME 04333-0041

Clem Fay
Penobscot Indian Nation
6 River Road, Indian Island
Old Town, ME 04468

Mike Smith
Maine Department of Inland
Fisheries & Wildlife
HC 67 Box 1066
Enfield, ME 04493

Betsy Elder, Hydropower Coordinator
Maine State Planning Office
State House Station 38
Augusta, ME 04333

Ron Kreisman
25 Page Street
Hallowell, ME 04347

Todd Burrows
Maine State Planning Office
State House Station 38
Augusta, ME 04333

Kevin Mendik
National Park Service
Northeast Region
15 State Street
Boston, MA 02109

Bud Newell
Hydropower Coordinator
Bureau of Parks and Recreation
Maine Department of Conservation
22 State House Station
Augusta, ME 04333

Earle G. Shettleworth, Jr., Director
Maine Historic Preservation
Commission
Capital Street
State House Station 65
Augusta, ME 04333

Norm Dube
Maine Atlantic Salmon Authority
650 State Street
Bangor, ME 04401-5654

Arthur Spiess
Maine Historic Preservation
Commission
Capital Street
State House Station 65
Augusta, ME 04333

Pat Kelliher
Executive Director
Maine Atlantic Salmon Authority
172 State House Station
323 State Street
Augusta, ME 04330

Barry Dana, Tribal Chief
Penobscot Indian Nation
6 River Road, Indian Island
Old Town, ME 04468

25 FEBRUARY 2004

**SUBJECT: DRAFT AMENDMENT APPLICATIONS
REQUEST FOR COMMENTS AND LETTERS OF SUPPORT**

John S. Banks
Penobscot Indian Nation
6 River Road, Indian Island
Old Town, ME 04468

Kim Owens
Department of Interior
Solicitor's Office
Division of Indian Affairs
1849 C Street NW
Mail Stop: 6456
Washington, DC 20240

Judith M Stolfo
U.S. Department of Interior
Office of the Solicitor
1 Gateway Center, Suite 612
Newton, MA 02458-2881

Andrew Tittler
U.S. Department of Interior
Office of the Solicitor
1 Gateway Center, Suite 612
Newton, MA 02458-2881

Laura Rose-Day
Project Director
3 Wade Street
Augusta, ME 04330

Gail Wippelhauser/Tom Squires
Maine Dept. Marine Resources
State House Station 21
Augusta, ME 04333-0021

George LaPointe
Commissioner
Maine Dept. Marine Resources
State House Station 21
Augusta, ME 04333-0021

Gordon Russell
United States Fish & Wildlife Service
1168 South Main Street
Old Town, ME 04468

Jeff Murphy (2 copies)
National Marine Fisheries Service
PO Box 190
31 Main Street
Orono, ME 04473

Charles Lynch
NOAA Fisheries
One Blackburn Drive
Gloucester, MA 01930

-----Original Message-----

From: Andrew Tittler [mailto:tittlers@rcn.com]
Sent: Wednesday, March 03, 2004 8:31 PM
To: Hall, Scott D; judithstolfo; jwhittaker@winston.com
Subject: comments on PPL filings

These are basically OK, with a couple of comments:

General: in your executive summary, you state that the Agreement "will resolve all fish passage, energy generation and tribal issues". It would be more accurate to say that it "presents the opportunity to resolve" all such issues. This is for two reasons - first, it emphasizes the next point, which is that the Commission must act in the right way to make this happen, and, second, because it may not resolve all issues with respect to Howland and Great works if they are not purchased - we may go right back into relicensing with no prejudice to anyone's position. The opportunity is certainly there if FERC does what it's supposed to and the dams are bought, but it's not a certainty.

Veazie-specific. You ask to set the timeframe of article 413 to "as ordered by the Commission." I would prefer to include language, as I suggested in my effort at our filing, pushing back this requirement until 5 years, 6 months from now, or 6 months after a decision not to remove if the option is exercised, as with the fish passage facilities. The delay makes sense, but your suggestion means we will have to badger the Commission for an order to get recreational facilities at all, which is the next best thing to giving up on them entirely, in my book. Also the language of the MSA states that this is to be delayed until after that decision point, not indefinitely.

I may discover more when I get back to this next week, but that's all I've spotted so far - Gordon, of course, has a better handle on the technical stuff than I do.

--

-Andrew Tittler
U.S. Department of the Interior
Northeast Regional Solicitor's Office
One Gateway Center, Suite 612
Newton, MA 02458

Phone: (617) 527 3400
Fax: (617) 527 6848

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-----Original Message-----

From: Gordon_Russell@fws.gov [mailto:Gordon_Russell@fws.gov]

Sent: Wednesday, March 03, 2004 1:46 PM

To: Hall, Scott D

Cc: pinfish@penobscotnation.org; Norm.Dube@state.me.us;

gail.wippelhauser@maine.gov; steve.timpano@state.me.us;

tittlers@rcn.com; j.stolfo@comcast.net; Larry_M_Miller@fws.gov

Subject: Comments on Penob. R. draft license amendment applications

Scott:

As we've indicated previously to you, DOI will be sending a single, short letter of concurrence and support for the proposed license amendment applications. It will be signed by our Regional Environmental Officer, Andy Raddant, who is in Boston.

However, there were a few specific items that caught me eye as I looked through the applications that I thought I'd pass on.

Medway:

p. E-6: you can delete the sentence on peregrine falcon - it was delisted in 1999.

p. E-9: you should say something like, "The existing upstream and downstream fish passage measures for eels will not be affected by the 1-ft headpond increase."

Stillwater:

p. E-9: last sentence in the paragraph on fish passage isn't quite accurate - Art. 407 of the license requires fish passage plan for upstream and downstream passage.

p. E-12: should say something like, "The proposed 1-ft. increase in headpond level and decrease in minimum bypass flow will not affect existing or proposed fish passage facilities or their operations."

West Enfield:

p. E-6: similar to last comment. Add sentence such as, "The 1-ft increase will not affect existing upstream and downstream fish passage facilities or their operations."

Milford:

p. ES-2: as we've discussed recently, Art. 405 (DO monitoring) would be modified, not deleted.

That's it!

Gordon

Gordon W. Russell, Supervisor

Maine Field Office

1168 Main Street

Old Town, ME 04468

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Fax: (207) 827-6099

Cellular: (207) 949-0561

email: gordon_russell@fws.gov



John E. Baldacci
Governor

**STATE OF MAINE
ATLANTIC SALMON COMMISSION**

**650 State Street
Bangor, Maine 04401
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FAX: (207) 941-4443
www.state.me.us/asa**



Patrick C. Kalther
Executive Director

March 10, 2004

Mr. Scott D. Hall
Manager, Environmental Services
PPL Maine, LLC
Davenport Street
P.O. Box 276
Milford, ME 04461-0276

RE: Draft Amendment Applications – Stillwater Hydroelectric Project (FERC No. 2712), Milford Hydroelectric Project (FERC No. 2534), West Enfield Hydroelectric Project (FERC No. 2600), and Medway Hydroelectric Project (FERC No. 2666)

Draft Application for New License – Orono Project (FERC No. 2710)

Dear Scott:

Under the terms of the October 2003 Lower Penobscot River Conceptual Agreement and with the anticipated requirements of the Lower Penobscot River Multiparty Settlement Agreement (MPA) expected to be finalized next month, PPL had submitted the above-referenced applications for comment. Maine Atlantic Salmon Commission (MASC) staff has reviewed the applications and offer the following comments.

Stillwater Project

PPL requests the following license modifications:

- Headpond increase of one foot,
- Minimum flow reductions of 40 cfs to 20 cfs in the west bypass channel and 155 cfs to 50 cfs in the east bypass channel,
- PPL agrees to modifications of various Stillwater Project License Articles for purposes of making fish passage requirements consistent with the Department of Interior (DOI) and National Marine Fisheries Service (NMFS) modified fishway prescriptions as specified in Attachment A of the MPA, and

- PPL is required to make monetary payments into a Contingent Mitigation Fund (CMF) as provided in Attachment B of the MPA to fully mitigate for habitat impacts in the event the Veazie (FERC No. 2403) and Great Works (FERC No. 2312) dams are not removed.

Milford Project

PPL requests the following license modifications:

- Inclusion of the Penobscot Indian Nation Agreement,
- PPL agrees to inclusion of appropriate article(s) into the Milford Project License for purposes of making fish passage requirements consistent with the DOI/NMFS modified fishway prescriptions as specified in Attachment A of the MPA, and
- PPL requests that Article 405 and Article 410 be deleted from the Milford License.

West Enfield Project

Bangor-Pacific Hydro Associates (BPHA) requests the following license modifications:

- Headpond increase of one foot,
- Inclusion of the Penobscot Indian Nation Agreement,
- BPHA agrees to inclusion of appropriate article(s) into the West Enfield Project License for purposes of making those requirements associated with upstream American eel passage consistent with Attachment A of the MPA, and
- BPHA is required to make monetary payments into a Contingent Mitigation Fund (CMF) as provided in Attachment B of the MPA to fully mitigate for habitat impacts in the event the Veazie (FERC No. 2403) and Great Works (FERC No. 2312) dams are not removed.

Medway Project

PPL requests the following license modifications:

- Headpond increase, and
- A requirement for PPL to make monetary payments into a Contingent Mitigation Fund (CMF) as provided in Attachment B of the MPA to fully mitigate for habitat impacts in the event the Veazie (FERC No. 2403) and Great Works (FERC No. 2312) dams are not removed.

Orono Project

PPL is proposing to:

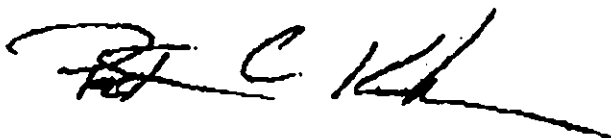
- Relicense and refurbish the Orono Project,
- Operate the facility in a run-of-river mode,
- Provide a flow of 200 cfs into the approximately 1,000 foot long bypass reach making about 250 units (one unit = 100 square yards) of salmon nursery habitat available,

- Provide upstream American eel passage and modified downstream fish passage measures consistent with Attachment A of the MPA and DOI/NMFS modified fishway prescriptions, and
- PPL is required to make monetary payments into a Contingent Mitigation Fund (CMF) as provided in Attachment B of the MPA to fully mitigate for habitat impacts in the event the Veazie (FERC No. 2403) and Great Works (FERC No. 2312) dams are not removed.

We have no substantial comments to make at this time regarding the license amendments for the Stillwater, Milford, West Enfield, and Medway projects or the new license application for the Orono Project. Atlantic Salmon Commission staff has participated in the development of the Lower Penobscot River Conceptual Agreement signed by numerous parties last fall as well as in the development of the Lower Penobscot River Multiparty Settlement Agreement. We expect that the MPA will be finalized in April 2004. Consequently, much of MASC's issues have been resolved through the Conceptual Agreement and MPA processes. As such, we support PPL's request to waive the three stage consultation requirements normally associated with license amendments and for a new license application under 18 CFR Sec. 4.38(a)(5) and Sec. 16.8(e)(1) of the Federal Power Act.

The MPA is the foundation for the Penobscot River Restoration Project, an extensive and comprehensive undertaking to improve water quality and fish and wildlife habitat, to enhance the ecology of the Penobscot River watershed, and to improve access and habitat for diadromous fish species in the Penobscot basin. We look forward to working with all stakeholders involved in this ambitious effort to restore balance to the Penobscot River.

Sincerely,



Patrick C. Keliher
Executive Director

cc: State FERC Coordinating Committee
George Lapointe, Commissioner, MDMR
Roland D. Martin, Commissioner, MDIFW
Paul Frinsko, Public Member, MASC
Joan Trial, MASC
Todd Burrows, SPO
Gordon Russell/Larry Miller, USFWS
Jeff Murphy, NMFS
Ron Kreisman
Laura Rose-Day



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACC
GOVERNOR

DAWN R. GALLAGHER
COMMISSIONER

March 12, 2004

Scott D. Hall
Director of Environmental Services
PPL Maine LLC
PO Box 276
Milford, ME 04461

RE: Comments on Draft Applications for Amendment of License
Veazie Hydro Project, FERC No. 2403
Milford Hydro Project, FERC No. 2534
West Enfield Hydro Project, FERC No. 2600
Medway Hydro Project, FERC No. 2666
Stillwater Hydro Project, FERC No. 2712

RE: Comments on Draft Application for New License
Orono Hydro Project, FERC No. 2710

Dear Scott:

The DEP has reviewed your letters of February 17 and 25, 2004 and the accompanying draft Applications for Amendment of License for the Veazie, Milford, West Enfield, Medway and Stillwater Hydro Projects and the draft Application for New License for the Orono Hydro Project.

We have the following comments on the draft applications.

Veazie Hydro Project, FERC No. 2403

1. We understand that the amendment application calls for: (a) modifying the fish passage requirements in the current FERC license to be consistent with the modified DOI/NMFS fishway prescriptions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement; and (b) extending the deadline for filing and implementing a final recreation plan.

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LAY BLDG., HOSPITAL ST.

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312 CANCO ROAD
PORTLAND, MAINE 04103
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PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 764-1507

Letter to Scott D. Hall
March 12, 2004
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2. We understand that, with respect to the Veazie Project, the modified DOI/NMFS fishway prescriptions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement provide that PPL Maine will continue to operate the project without modifications in existing generating facilities or fish passage facilities, including full responsibility for their operation and maintenance, and to extend, until the expected option to purchase the Veazie, Great Works, and Howland Projects is exercised or expires, the deadlines for complying with the fish passage requirements contained in the current FERC license.
3. In the Maine Waterway Development and Conservation Act Permit and Water Quality Certification previously granted by the DEP for the project (Order #L-16880-35-D-N dated November 10, 1993), compliance with fish passage and recreation conditions is required upon such schedule as established by FERC. Therefore, any extension of these compliance deadlines that is approved by FERC will automatically apply to the certification, and no specific DEP approval of these extensions is required.

Milford Hydro Project, FERC No. 2534

1. We understand that the amendment application calls for: (a) incorporating the provisions of an expected settlement agreement between the Penobscot Indian Nation, PPL Maine, and the DOI Bureau of Indian Affairs; (b) modifying the fish passage requirements in the current FERC license to be consistent with the modified DOI/NMFS fishway prescriptions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement; and (c) deleting several articles from the current FERC license.
2. We understand that, with respect to the Milford Project, the provisions of the expected settlement agreement between the Penobscot Indian Nation, PPL Maine, and the DOI Bureau of Indian Affairs call for PPL Maine to: change to run-of-river project operation; implement a stream bank stabilization and monitoring plan; provide a contribution to the Penobscot Indian Nation Curational Fund; provide funding to PIN to establish the Milford Project Monitoring Fund; remove semi-buoyant logs from the project impoundment; provide notice of and access to PIN to participate in any FERC inspections; provide compensation to PIN for flooded land in the impoundment; develop a canoe portage trail under specified circumstances around the western end of the Milford Dam; and include PIN and BIA in all future consultations.
3. We understand that, with respect to the Milford Project, the modified DOI/NMFS fishway prescriptions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement provide that PPL Maine will continue to operate the project without modifications in existing generating facilities or fish passage facilities and to extend, until the expected option to purchase the Veazie, Great

Letter to Scott D. Hall
 March 12, 2004
 Page 3

Works, and Howland Projects is exercised, the deadlines for complying with the fish passage requirements contained in the current FERC license, except that PPL Maine will develop and implement plans for the installation and operation of a new upstream eel fishway. The modified prescriptions further provide that, upon the exercise of the option and the purchase of the designated projects by the Purchasing Entity, PPL Maine will install a new state-of-the-art fish lift, discontinue use of the existing Denil fishway, and implement physical and operational changes to improve downstream fish passage.

4. We understand that the articles proposed for deletion from the FERC license require that the licensee monitor dissolved oxygen in the Penobscot River below the project (Article 405) and develop and implement a plan to evaluate measures to mitigate for any unavoidable losses to Atlantic salmon due to fish passage inefficiencies (Article 410).
5. The proposed amendments constitute a change in project facilities and operation as previously approved by the DEP (Order #L-16011-35-B-N dated October 23, 1992). Therefore, the proposed amendments must be approved under the Maine Waterway Development and Conservation Act and Section 401 of the Clean Water Act. Please submit a completed Application for Project Modification to the DEP, along with two copies of the final Application for Amendment of License as filed with FERC. A fee of \$109.00 must accompany the application. Please note that public notice is not required for this application.

West Enfield Hydro Project, FERC No. 2600

1. We understand that the amendment application calls for: (a) increasing the height of the existing flashboards by 1 foot; (b) establishing a Contingent Mitigation Fund to fully mitigate for the habitat impacts of increasing the headpond elevation in the event that the Veazie and Great Works Dams are not removed; (c) incorporating the provisions of an expected settlement agreement between the Penobscot Indian Nation, PPL Maine, and the DOI Bureau of Indian Affairs; and (d) requiring the installation of upstream eel passage facilities.
2. We understand that the proposed higher headpond elevation will increase the surface area of the project impoundment by 23 acres and will increase annual generation by 6.412 million kW-hours annually.
3. We understand that, with respect to the Milford Project, the provisions of the expected settlement agreement between the Penobscot Indian Nation, PPL Maine, and the DOI Bureau of Indian Affairs calls for PPL Maine to provide compensation to PIN for the flooding of additional reservation lands.

Letter to Scott D. Hall
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4. We understand that the proposed requirement for the installation of upstream eel passage facilities will be consistent with the provisions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement.
5. Please verify that there will be no in-stream construction work associated with the installation of 1-foot higher flashboards.
6. Please verify that the increase in impoundment area resulting from the 1-foot higher flashboards will be 23 acres (from an existing size of 1,125 acres to a new size of 1,148 acres).
7. Please state the increase in installed capacity that will result from the 1-foot higher flashboards. We note that the project is currently licensed for an installed capacity of 13 MW.
8. We note that, as amended, the project will have 7-foot-high flashboards that will be designed to fail when overtopped by 1 foot of water (i.e., at elevation 157.1 feet NGVD), which is 0.5 feet higher than the elevation at which the existing flashboards are designed to fail (when overtopped by 1.5 feet of water). We also note that the project has substantial gate capacity to pass excess flows and that, as a result, flashboard failure is expected to occur less than 10% of the time. Consequently, we are not concerned that the reduced overtopping tolerance may cause the higher flashboards to fail more frequently, thus adversely affecting aquatic habitat.
9. The proposed installation of higher flashboards qualifies as the structural alteration of a hydropower project in ways that change water levels or flows above or below the project. The other proposed amendments constitute changes in project facilities and operation as previously approved by the DEP. Therefore, the proposed amendments must be approved under the Maine Waterway Development and Conservation Act (MWDCA) and Section 401 of the Clean Water Act. Please submit a completed Application for Project Approval (Form "Hydro.2") to the DEP, along with two copies of the final Application for Amendment of License as filed with FERC. This will also serve as an application to amend the MWDCA permit and Section 401 water quality certification previously issued by the DEP for the project (Order #L-007973-35-A-A dated February 12, 1986). Please note that public notice of the application must be given to the owners of all property adjacent to the impoundment area affected by the amendment.
10. The Application for Project Approval must be accompanied by the appropriate fee. For a capacity increase of up to 0.4 MW, the base fee is \$235.00. For a capacity increase of greater than 0.4 MW, the fee is \$590.00 per megawatt of additional capacity.

Letter to Scott D. Hall
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Page 5

Medway Hydro Project, FERC No. 2666

1. We understand that the amendment application calls for increasing the height of the existing flashboards by 1 foot. We understand that the proposed higher headpond elevation will increase the surface area of the project impoundment by 3.5 acres and will increase annual generation by 2.3 million kW-hours annually.
2. Please verify that there will be no in-stream construction work associated with the installation of 1-foot higher flashboards.
3. Please verify that the increase in impoundment area resulting from the 1-foot higher flashboards will be 3.5 acres (from an existing size of 98 acres to a new size of 101.5 acres). We note that recent survey work has corrected the size of the existing impoundment from 120 acres to 98 acres.
4. Please state the increase in installed capacity that will result from the 1-foot higher flashboards. We note that the project is currently licensed for an installed capacity of 3.44 MW.
5. We note that, as amended, the project will have 5.75-foot-high flashboards that will be designed to fail when overtopped by 1 foot of water (i.e., at elevation 261.3 feet NGVD), which is the same elevation at which the existing flashboards are designed to fail (when overtopped by 2 feet of water). We also note that the flashboards cannot be replaced until river flows drop below turbine capacity, which is exceeded about 58 percent of the time. We further note that the project has limited gate capacity to pass excess flows. As a result, while we appreciate your interest in maintaining the flood flow discharge capacity of the existing project, we are concerned that the reduced overtopping tolerance may cause the higher flashboards to fail more frequently, resulting in larger and more frequent fluctuations in impoundment levels, which may in turn adversely impact aquatic habitat (as well as cause a reduction in generation). Please comment on the likelihood of increased flashboard failure. If increased flashboard failure is likely, please comment on (a) the anticipated impacts on aquatic habitat and (b) the economics of replacing the current flashboard system with an inflatable flashboard system (i.e., a "rubber dam") that will automatically deflate and re-inflate to maintain more stable pond levels.
6. The proposed installation of higher flashboards qualifies as the structural alteration of a hydropower project in ways that change water levels or flows above or below the project. The proposed amendment also constitutes a change in project facilities and operation as previously approved by the DEP. Therefore, the proposed amendment must be approved under the Maine Waterway Development and Conservation Act (MWDCA) and Section 401 of the Clean Water Act.

Letter to Scott D. Hall
 March 12, 2004
 Page 6

Please submit a completed Application for Project Approval (Form "Hydro.2") to the DEP, along with two copies of the final Application for Amendment of License as filed with FERC. This will also serve as an application to amend the Section 401 water quality certification previously issued by the DEP for the project (Order #L-18893-33-B-N dated December 23, 1998). Please note that public notice of the application must be given to the owners of all property adjacent to the impoundment area affected by the amendment.

7. The Application for Project Approval must be accompanied by the appropriate fee. For a capacity increase of up to 0.4 MW, the base fee is \$235.00. For a capacity increase of greater than 0.4 MW, the fee is \$590.00 per megawatt of additional capacity.

Stillwater Hydro Project, FERC No. 2712

1. We understand that the amendment application calls for: (a) increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards and by adding flashboards as needed where none currently exist; (b) modifying the minimum bypass flow requirements in the current FERC license; (c) modifying the fish passage requirements in the current FERC license to be consistent with the modified DOI/NMFS fishway prescriptions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement; and (d) establishing a Contingent Mitigation Fund to fully mitigate for the habitat impacts of increasing the headpond elevation in the event that the Veazie and Great Works are not removed.
2. We understand that the proposed higher headpond elevation will increase the surface area of the project impoundment by 7 acres and will increase annual generation by 0.965 million kW-hours annually.
3. We understand that the proposed amendment calls for reducing minimum bypass flows from 40 cfs to 20 cfs in the west bypass channel and from 155 cfs to 40 cfs in the east bypass channel.
4. We understand that, with respect to the Stillwater Project, the modified fishway prescriptions outlined in Attachment A to the Lower Penobscot River Conceptual Agreement provide that PPL Maine will: develop and implement plans for the installation and operation of a new upstream eel fishway; continue to operate the existing downstream fish passage facilities; and reduce trashrack spacing to 1 inch. The modified prescriptions further provide that, upon the exercise of the expected option and the purchase of the Veazie, Great Works, and Howland Projects by the Purchasing Entity, PPL Maine will implement physical and operational changes to improve downstream fish passage but will not be subject to any additional requirements for upstream fish passage.

Letter to Scott D. Hall

March 12, 2004

Page 7

5. Please verify that there will be no in-stream construction work associated with the installation of new and higher flashboards.
6. Please verify that the increase in impoundment area resulting from the 1-foot increase in headpond elevation will be 7 acres (from an existing size of 184 acres to a new size of 191 acres).
7. Please state the increase in installed capacity that will result from the 1-foot increase in headpond elevation. We note that the project is currently licensed for an installed capacity of 1.95 MW.
8. We note that, as amended, the project will have flashboards ranging in height from 0.65 feet to 3 feet that will be designed to fail when overtopped by 1 foot of water (i.e., at elevation 95.64 feet), which is the same elevation at which the existing flashboards are designed to fail (when overtopped by 2 feet of water). Because of the limited turbine capacity and the small impoundment size, we do not have any concerns about the effects of flashboard failure in aquatic habitat.
9. The proposed installation of higher flashboards qualifies as the structural alteration of a hydropower project in ways that change water levels or flows above or below the project. All of the proposed amendments also constitute changes in project facilities and operation as previously approved by the DEP. Therefore, the proposed amendments must be approved under the Maine Waterway Development and Conservation Act (MWDCA) and Section 401 of the Clean Water Act. Please submit a completed Application for Project Approval (Form "Hydro.2") to the DEP, along with two copies of the final Application for Amendment of License as filed with FERC. This will also serve as an application to amend the Section 401 water quality certification previously issued by the DEP for the project (Order #L-16773-33-A-N dated December 29, 1992). Please note that public notice of the application must be given to the owners of all property adjacent to the impoundment area affected by the amendment.
10. The Application for Project Approval must be accompanied by the appropriate fee. For a capacity increase of up to 0.4 MW, the base fee is \$235.00. For a capacity increase of greater than 0.4 MW, the fee is \$590.00 per megawatt of additional capacity.

Orono Hydro Project, FERC No. 2710

1. We understand that the original FERC license for the Orono Project has expired and that the project has been operating under a self-renewing annual license since September 25, 1985.

Letter to Scott D. Hall
March 12, 2004
Page 8

2. We understand that, as part of the subsequent proposal by Bangor Hydro-Electric to construct the Basin Mills Dam, the Orono Project was to be decommissioned. As a consequence, no application for new license was ever filed for the project.
3. We understand that the project penstocks collapsed and were removed in 1996 by Bangor Hydro-Electric. The project has been inoperable since that time.
4. We understand that PPL Maine now proposes to rehabilitate the Orono Project and restore the project to operation at its previous capacity of 2.3 MW. PPL Maine also proposes to file an application for a new license for the project.
5. We understand that the proposed project rehabilitation includes: (a) installation of new penstocks; (b) rehabilitation of the concrete surge tank; (c) replacement of the wheelpit floors; (d) rehabilitation of the turbines; (e) removal of accumulated debris from the tailrace and turbine discharge flumes; (f) rehabilitation of the generators and associated ancillary equipment; (g) replacement of the generator controls and switchgear; and (h) rehabilitation of the powerhouse structure.
6. We understand that PPL Maine proposes to continue to operate the project in a run-of-river mode and to provide a 200 minimum flow in the project bypass reach.
7. None of the proposed rehabilitation activities appear to trigger the permitting requirements of the Maine Waterway Development and Conservation Act. However, the proposed relicensing of the Orono Project is subject to DEP approval under Section 401 of the Clean Water Act. Therefore, please submit a completed Application for Water Quality Certification (Form "Hydro.1") to the DEP, along with two copies of the final Application for New License as filed with FERC. Please note that public notice of the application must be given to the owners of all property adjacent to the dam, penstocks, and powerhouse.
8. The Application for Water Quality Certification must be accompanied by a fee of \$949.90 (2.3 MW x \$413/MW).

* * * * *

All of DEP's hydropower project application forms are available on-line at www.maine.gov/dep/blwq (click on Permits and Standards, then on Hydropower & Dams).

Thank you for this opportunity to comment. If you have any questions, please contact me (287-7784) or Mark Margerum (287-7842).

Letter to Scott D. Hall

March 12, 2004

Page 9

Sincerely,



Dana Paul Murch
Dams & Hydropower Supervisor

cc: Andy Fisk, DEP
Mark Margerum, DEP
Jay Clement, COE
Clem Fay, PIN
John Banks, PIN
Betsy Elder, SPO
Todd Burrowes, SPO
Bud Newell, DOC
Norm Dube, ASC
Pat Keliher, ASC
Steve Timpano, IF&W
Mike Smith, IF&W-Region F (Fisheries)
Kevin Stevens, IF&W-Region F (Wildlife)
Gordon Russell, USF&WS
Ron Kreisman, Esq.
Art Spiess, MHPC
Gail Wipplehuaser, DMR
Tom Squiers, DMR
Laura Rose Day, NRCM
John Burrows, ASF
Jeff Reardon, TU
Maureen Winters, Devine Tarbell & Associates



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2200

MAR 12 2004

Scott D. Hall
PPL, LLC
Davenport Street
P.O. Box 276
Milford, Maine 04461-0276

re: Draft License Amendment Applications

Dear Mr. Hall:

We are in receipt of your memoranda dated February 17, 2004 and February 25, 2004, as well as the draft license amendment applications attached thereto. The memoranda were directed to the parties involved in the Lower Penobscot River Conceptual Agreement, of which the National Marine Fisheries Service (NOAA Fisheries) was not a party. We appreciate your sending us a courtesy copy.

As you are aware, NOAA Fisheries has not been involved in the negotiation of this matter or in the development of the resultant Multiparty Settlement Agreement (MPA). Accordingly, we are not in a position to offer commentary on the draft applications, nor is the agency, for similar reasons, in a position to sign the MPA. NOAA Fisheries does, however, have significant interest in the aquatic resources of the Penobscot River. We intend to become involved in the imminent Federal Energy Regulatory Commission (FERC) post-filing application process and will provide comments in the usual course as set forth under the FERC's regulations. In developing our comments and modified Section 18 fishway prescription, NOAA Fisheries will take into full consideration the objectives of the MPA and actions proposed therein.

NOAA Fisheries recognizes the substantial efforts undoubtedly made by the involved parties in developing the Lower Penobscot River Conceptual Agreement and Multiparty Settlement Agreement. Further, the agency applauds as a general matter the restoration of free flowing riparian corridors and enhancement of long dormant diadromous fish habitat. NOAA Fisheries looks forward to working with you throughout the FERC license amendment process.

Sincerely,

Patricia Kurkul
Regional Administrator

cc: Gordon Russell, USFWS
Judy Stolfo, US Dept. of Interior
Andrew Titler, US Dept. of Interior



-----Original Message-----

From: Clem Fay [mailto:pinfish@penobscotnation.org]
Sent: Wednesday, March 17, 2004 4:16 PM
To: Hall, Scott D
Cc: John Banks
Subject: PIN's Technical Comments on Draft Amendments

Scott:

I decided that none of my technical comments merited inclusion in our formal support letter to come, and so I am submitting them now (attached) so that you can go ahead and address them sooner rather than later, and to save space/verbeage in our pending, more formal, "support" letter. Other than the one on land management at WE, these should all look familiar to you already as per our previous discussions.

I have also attached a revised (deleted last paragraph from original) "Bass Impact Assessment" as referred to in my WE comments.

John may have other comments that may need to be included in our pending formal comment and support letter, but this covers what I have right now from the "technical arm".

Please let me know if any questions/concerns.

Clem.

Clem Fay

Fisheries Manager

Penobscot Nation DNR

6 River Road, Indian Island

Old Town, ME 04468

PH: 207-827-7776, ext 7362

PH: 207-817-7362

FAX: 207-827-1137

email: pinfish@penobscotnation.org

PIN's (Clem Fay) Technical Comments on Draft Amendment Applications

Milford

1. Revise page ES-2 to reflect that Art 405 (D.O. Monitoring) is not being deleted. If any revision of language in 405 is proposed, provide opportunity for review prior to final PIN approval.

Stillwater

1. Insert language where appropriate that stipulates no effect, or if an effect, specify, as to impoundment increases and existing or proposed fishways at that project, with "sign off" from FWS.

West Enfield

1. Page E-5: Existing Fish Resources:

More of a curiosity than something critical needing revision, and recognizing that the source was FERC (1986), I know of no documented presence of brown trout in the WE impoundment now or ever, nor does DIFW. DIFW indicated that there was some stocking of browns long ago in the Mattawamkeag River, and in Side Pistol Lake in 1984, but that hardly seems basis for including them as a "resident species in the impoundment" in the context of a hydropower EA. Browns were not stocked in the Piscataquis until after 1992.

2. Page E-6, fourth line from top:

Add "physical" between "original/unaltered" and "habitat".

3. Page E-6, fifth line of SMB impact paragraph:

Extend the sentence that ends "on bass habitat." to "on bass habitat in the impoundment proper and the so-called "Merrill Brook Runaround" (Fay 2004)" and then delete rest of paragraph.

4. Substitute revised bass impact document (i.e. "new" Fay 2004; attached), for original document, and modify citation in reference list as needed to reflect revised doc.

5. Insert language as appropriate that indicates no effect, or if an effect, specify, as to impoundment increases and existing or proposed fishways at that project, with sign off from FWS.

6. I suggest section 6.1 of Exhibit E be updated to recognize that there are now more than "a few seasonal camps" on the shores of the impoundment. As you know, about 5 or 6 new year-round residences now on east shore of lower impoundment, at least one new

year-round residence at one of the new lots along the west shore, one new year-round residence on the north side of the runaround near the bridge (Ralph), an upgrade of an old/unoccupied residence to year-round residence on the west shore just up from the runaround bridge (Scott), and finally John York's year-round residence.

Medway

Insert language as appropriate that indicates no effect, or if an effect, specify, as to impoundment increases and existing or proposed fishways at that project, with sign off from FWS.

**Projected Impacts of Penobscot River Restoration Project
Phase I Energy Enhancements (Impoundment Elevation Increases)
at the Stillwater, West Enfield, and Medway Projects
(by C. Fay, Fisheries Manager, Penobscot Indian Nation DNR)
March 17, 2004**

Recognizing that, except for spawning activity, smallmouth bass in the Penobscot watershed use impounded habitat as readily as free-flowing reaches, then the increased impoundment elevations associated with the Penobscot River Restoration Project Phase 1 energy enhancements at Stillwater (SW), West Enfield (WE), and Medway (MW) projects (1 foot at each location) are judged to be at worst neutral, and at best, a net positive, with respect to general bass habitat quantity and quality. To the extent that bass spawning activity occurs or would occur in these impoundments (most spawning in the main stem Penobscot River occurs in free-flowing reaches), they should simply be shifted shoreward proportional to the depth increase at the location in question.

As far as angler access to bass fisheries, and navigational safety issues, in these impoundments, again, the Phase 1 energy enhancements should result in either neutral or net positive impacts at all three projects. Specifically at West Enfield, and recognizing that in some cases, new navigational hazards will be formed where there was none previously, the one foot increase should overall reduce the potential for larger power boats/outboards to hit one of the numerous submerged log and rock cribs that are scattered throughout the lowest river mile of the impoundment, and that currently rise to within 0.5-3.0 feet of the normal water surface elevation. This is particularly true for those cribs located well above the dam, which are generally closer to the surface, harder to distinguish, and where several instances of damaged outboard motor lower units have been observed in the recent past.



STATE OF MAINE
EXECUTIVE DEPARTMENT
MAINE STATE PLANNING OFFICE
38 STATE HOUSE STATION
AUGUSTA, ME 04333

JOHN ELIAS BALDACCI
GOVERNOR

MARTHA E. FREEMAN
DIRECTOR

March 17, 2004

Mr. Scott D. Hall
Manager, Environmental Services
PPL Maine, LLC
Davenport Street
P.O. Box 276
Milford, ME 04461-0276

BY FACSIMILE

RE: Draft Amendment Applications - Veazie Hydroelectric Project (FERC No. 2403), Stillwater Hydroelectric Project (FERC No. 2712), Milford Hydroelectric Project (FERC No. 2534), West Enfield Hydroelectric Project (FERC No. 2600), and Medway Hydroelectric Project (FERC No. 2666); and Draft Application for New License - Orono Project (FERC No. 2710)

Dear Scott:

I am writing to provide the comments of the Maine State Planning Office ("SPO"), Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources, and Atlantic Salmon Commission¹ (hereinafter collectively referred to as the "Maine resource agencies") on the above noted applications.

By letter dated February 17, 2004, PPL Maine, LLC ("PPL") submitted the above-referenced applications (hereinafter referred to collectively as "the applications") to the Maine resource agencies and requested comments in 30 days. Having reviewed the applications, the Maine resource agencies offer the following comments, which are made contingent on the anticipated execution of the Lower Penobscot River Multiparty Settlement Agreement ("MPA") that provides for the license amendments and new license requested in the applications.

I. Overview of changes proposed by the applications

This section summarizes the Maine resource agencies' understanding of changes requested under the applications.

A. Veazie Project

PPL requests the following license modifications:

¹ The Atlantic Salmon Commission's letter dated March 10, 2004, is incorporated herein by reference.

- Modify the fish passage requirements in the current FERC license to be consistent with Department of Interior's ("DOI") and National Marine Fisheries Service's ("NMFS") fishway prescriptions modified in the manner provided by Attachment A to the MPA; and
- Extend the deadline for filing and implementing a recreation plan.

B. Stillwater Project

PPL requests the following license modifications:

- Headpond increase of one foot;
- Minimum flow reductions of 40 cfs to 20 cfs in the west bypass channel and 155 cfs to 50 cfs in the east bypass channel;
- Modifications of various specified license articles to make the license's fish passage requirements consistent with DOI's and NMFS' fishway prescriptions modified in the manner provided by Attachment A to the MPA; and
- Monetary payments into a Contingent Mitigation Fund ("CMF") to fully mitigate for habitat impacts in the manner provided by Attachment B of the MPA in the event the Veazie and Great Works dams are not removed.

C. Milford Project

PPL requests the following license modifications:

- Inclusion of terms of an agreement among the Penobscot Indian Nation, PPL and DOI/Bureau of Indian Affairs in the manner provided in the MPA;
- Inclusion of appropriate article(s) to make fish passage requirements consistent with the DOI/NMFS modified fishway prescriptions in the manner provided by Attachment A of the MPA;
- Deletion of Article 405 (dissolved oxygen monitoring) and Article 410 (mitigation for unavoidable losses to Atlantic salmon due to passage inefficiencies).

D. West Enfield Project

Bangor-Pacific Hydro Associates ("BPHA")² requests the following license modifications:

- Headpond increase of one foot; Inclusion of the Penobscot Indian Nation Agreement;
- Inclusion of appropriate article(s) into the West Enfield Project License for purposes of making those requirements associated with upstream American eel passage consistent with Attachment A of the MPA; and

² PPL Maine, LLC is the indirect owner of the managing general partner of BPHA.

- Monetary payments into a CMF in the manner provided in Attachment B to the MPA to fully mitigate for habitat impacts in the event the Veazie and Great Works dams are not removed.

E. Medway Project

PPL requests the following license modifications:

- Headpond increase of one foot; and
- Monetary payments into a CMF in the manner provided in Attachment B of the MPA to fully mitigate for habitat impacts in the event the Veazie and Great Works dams are not removed.

F. Orono Project

PPL proposes to:

- Relicense and refurbish the Orono Project;
- Operate the facility in a run-of-river mode;
- Provide a flow of 200 cfs into the approximately 1,000 foot long bypass reach making about 250 units (one unit = 100 square yards) of salmon nursery habitat available;
- Provide upstream American eel passage and modified downstream fish passage measures consistent with Attachment A of the MPA and DOI/NMFS modified fishway prescriptions; and
- Make monetary payments into a CMF in the manner provided in Attachment B of the MPA to fully mitigate for habitat impacts in the event the Veazie and Great Works dams are not removed.

II. Comments

A. Floodplain management

In the event of any changes to a watercourse, regulations governing the National Flood Insurance Program ("NFIP") obligate the community in which the change occurs to notify the Federal Emergency Management Agency ("FEMA") (in Maine, via the state NFIP coordinator) and, depending on the nature of the change, a letter of map revision application to FEMA may be required. If, for example, one or more of the changes proposed under the applications would result in a change in the base flood elevation, revision of the pertinent flood hazard maps may be required under the NFIP regulations. At this stage, the Maine resource agencies suggest that PPL consult with Maine's NFIP coordinator Lou Sidell at SPO (207-287-3261) and pertinent communities to identify additional information needs, if any, and applicable floodplain management procedures.

B. Community effects

The Maine resource agencies encourage PPL to continue its efforts to coordinate with pertinent state and federal agencies, the Penobscot Indian Nation, and any municipalities, businesses, individuals or other

potentially affected entities to identify and address as appropriate adverse effects, if any, that may result from the changes to PPL's hydro power projects requested in the applications.

C. Coastal Zone Management

The Veazie project is located in Maine's designated coastal zone. By letter dated March 12, 2004, the Maine Department of Environmental Protection ("MDEP") has noted that the proposed changes do not trigger DEP license or permit requirements that serve as the pertinent enforceable policies of the Maine Coastal Program. The proposed license amendments concern timing of actions required under the current FERC license and authorized under an existing DEP approval and do not involve any construction or other physical alterations. Thus, the proposed application does not involve a federal license or permit action for which federal consistency review is required.

The Orono, Stillwater, Milford, West Enfield and Medway projects are not located in Maine's designated coastal zone. The proposed federal license or permit actions regarding these projects may affect coastal resources or uses related to diadromous fish. SPO anticipates that any issues regarding coastal resources or uses will be addressed through pertinent state license and permitting processes, as applicable.

D. Energy

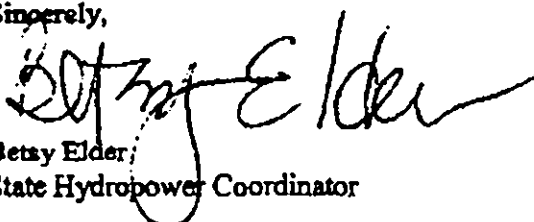
The Maine resource agencies support the increased energy generation capacity proposed by the applications as an important element of the MPA.

III. Conclusion

The Maine resource agencies offer no specific, additional substantial comments at this time regarding the license amendments for the Veazie, Stillwater, Milford, West Enfield, and Medway projects or the new license application for the Orono Project. The Maine resource agencies have participated in the development of the MPA and anticipate that it will appropriately address natural resources issues pertinent to their legal interests regarding the changes proposed by the applications. Consequently, the Maine resource agencies support PPL's request to waive the three-stage consultation requirements normally associated with applications for license amendment or a new license under the Commission's regulations. The Maine resource agencies intend to continue their involvement as appropriate in Commission as well as other related regulatory processes and may have additional, detailed comments as these processes move forward, as contemplated by the parties to the MPA.

We look forward to continued work with all stakeholders involved to realize the many and significant public benefits of the ambitious Penobscot River restoration effort pursuant to the MPA.

Sincerely,


Betsy Elder
State Hydropower Coordinator

cc:/

Dana Murch, DEP

Mark Margerum, DEP

Clem Fay, PIN

John Banks, PIN

Gail Wippelhauser, DMR

Tom Squiers, DMR

Betsy Elder, SPO

Todd Burrowes, SPO

Bud Newell, DOC

Norm Dube, ASC

Pat Kehiber, ASC

Steve Timpano, DIFW

Art Speise, MHPC

Gordon Russell, USFWS

Laura Rose Day, NRCM

Ron Kreisman, Esq.

Winters, Maureen

From: Hall, Scott D [shall@pplweb.com]
Sent: Wednesday, March 17, 2004 2:31 PM
To: Winters, Maureen
Subject: Two more slight edits

Maureen,

I just spoke to Clem at PIN and wanted to pass along two small items for revising the drafts.

- 1) Page E-10 in the Stillwater Application - the end of the second line under Bypass Reach minimum Flows should read, "... in the west channel and 50 cfs in the east..." It currently reads 70 cfs.
- 2) Page G-1 in the Milford Application - the first line should read, "The existing Exhibit G for the Milford Project..." It currently reads Medway.

That's it for now. Talk to you soon.

Scott

The information contained in this message is intended only for the personal and confidential use of the recipient(s) named above. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately, and delete the original message.



MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

JOHN ELIAS BALDACCI
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

March 15, 2004

Scott D. Hall
PPL Maine, LLC
Davenport St., P.O. Box 276
Milford, ME 04461-0276

Project: MHPC #0578A-01 - Milford Hydroelectric Project, Draft Amendment of License Application; FERC #2534
Location: Milford, ME

Dear Mr. Hall:

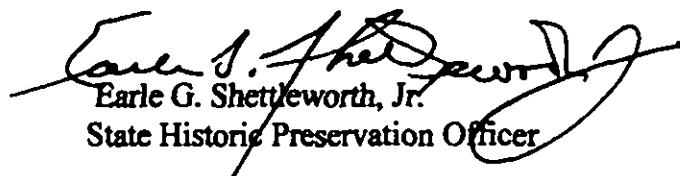
In response to your recent request, I have reviewed the information received February 19, 2004 to initiate consultation on the above referenced project. This project was reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

The Milford Project powerhouse and dam are listed in the National Register of Historic Places. Although you have stated on page E-1 that the license changes needed to satisfy the Lower Penobscot River Multi-Party Settlement Agreement (MPA) as it pertains to the Milford Project will not adversely effect the environmental resources described in Exhibit E of the 1997 FEIS, the Commission requests documentation to support this conclusion. Specifically, we ask that you provide us with a comparison between the fish passage requirements as they exist in the current license to those set forth in the MPA, along with a description of how the respective requirements in each scenario might be met through modifications to the historic property. The written analysis should include preliminary plans or other graphic material as appropriate. While you have indicated on page C-1 that consultation with agencies will occur for construction and operation of the fish passages, the Commission requires this material before issuing a finding of effect in accordance with the Advisory Council's regulations in 36 CFR Part 800.5.

In addition to the issue of fish passage at the Milford Project dam, we request clarification of the area subject to the proposed language change in Section E (Schedule for Implementation) on page ES-8. In particular, does this include the former Argyle Boom?

Please contact Mike Johnson of my staff if we can be of further assistance in this matter.

Sincerely,


Earle G. Shettleworth, Jr.
State Historic Preservation Officer

EGS/mj





MAINE HISTORIC PRESERVATION COMMISSION
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AUGUSTA, MAINE
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JOHN ELIAS BALDACCI
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

March 15, 2004

Scott D. Hall
PPL Maine, LLC
Davenport St., P.O. Box 276
Milford, ME 04461-0276

Project: MHPC #0411-97 - Medway Hydroelectric Project, Draft Amendment of
License Application; FERC #2666

Location: Medway, ME

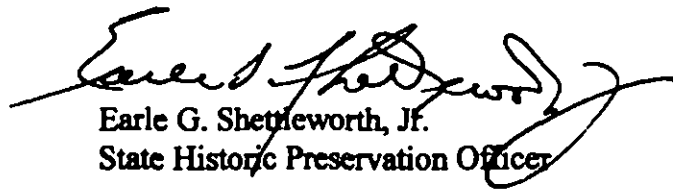
Dear Mr. Hall:

In response to your recent request, I have reviewed the information received February 19, 2004 to continue consultation on the above referenced project. This project was reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

Based on the location and scope of work, I have concluded that this project will have no effect upon historic properties [architectural or archaeological].

Please contact Mike Johnson of my staff if we can be of further assistance in this matter.

Sincerely,



Earle G. Shettleworth, Jr.
State Historic Preservation Officer

EGS/mj



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JOHN ELIAS BALDACC
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

March 15, 2004

Scott D. Hall
PPL Maine, LLC
Davenport St., P.O. Box 276
Milford, ME 04461-0276

Project: MHPC #0773-99 - Stillwater Hydroelectric Project, Draft Amendment of
License Application; FERC #2712
Location: Stillwater, ME

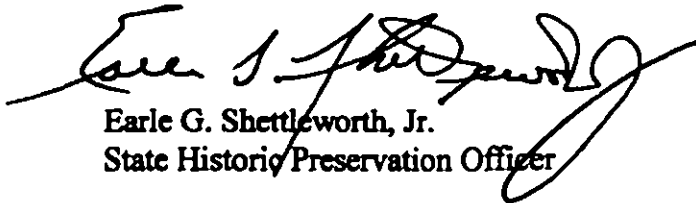
Dear Mr. Hall:

In response to your recent request, I have reviewed the information received February 19, 2004 to continue consultation on the above referenced project. This project was reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

Based on the location and scope of work, I have concluded that this project will have no effect upon historic properties [architectural or archaeological].

Please contact Mike Johnson of my staff if we can be of further assistance in this matter.

Sincerely,



Earle G. Shettleworth, Jr.
State Historic Preservation Officer

EGS/mj



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JOHN ELIAS BALDACCI
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

March 15, 2004

Scott D. Hall
PPL Maine, LLC
Davenport St., P.O. Box 276
Milford, ME 04461-0276

Project: MHPC #0598-04 - Orono Hydroelectric Project, (existing dam), Application for
New License; FERC #2710

Location: Orono, ME

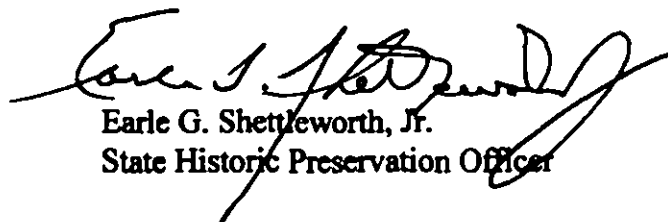
Dear Mr. Hall:

In response to your recent request, I have reviewed the information received February 19, 2004 to initiate consultation on the above referenced project. This project was reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

Based on the location and scope of work, I have concluded that this project will have no effect upon historic properties [architectural or archaeological].

Please contact Mike Johnson of my staff if we can be of further assistance in this matter.

Sincerely,



Earle G. Shettleworth, Jr.
State Historic Preservation Officer

EGS/mj



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MAINE HISTORIC PRESERVATION COMMISSION
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JOHN ELIAS BALDACCI
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

March 15, 2004

Scott D. Hall
PPL Maine, LLC
Davenport St., P.O. Box 276
Milford, ME 04461-0276

Project: MHPC #0381-99 - West Enfield Hydroelectric Project, Draft Amendment of
License Application; FERC #2600
Location: West Enfield, ME

Dear Mr. Hall:

In response to your recent request, I have reviewed the information received February 19, 2004 to continue consultation on the above referenced project. This project was reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

Based on the location and scope of work, I have concluded that this project will have no effect upon historic properties [architectural or archaeological].

Please contact Mike Johnson of my staff if we can be of further assistance in this matter.

Sincerely,


Earle G. Shettleworth, Jr.
State Historic Preservation Officer

EGS/mj



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JOHN ELIAS BALDACC
GOVERNOR

MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
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AUGUSTA, MAINE
04333

EARLE G. SHUTTLEWORTH, JR.
DIRECTOR

March 25, 2004

Scott D. Hall
PPL Maine, LLC
Davenport St., P.O. Box 276
Milford, ME 04461-0276

Project: MHPC #0772-99 - draft amendment of license application; FERC#2403;
Veazie Hydroelectric Project

Location: Veazie, ME

Dear Mr. Hall:

In response to your recent request, I have reviewed the information received February 26, 2004 to continue consultation on the above referenced project. This project was reviewed pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended.

Based on the location and scope of work, I have concluded that we will need to review design plans for the proposed fish passage in order to assess potential impacts to a National Register listed prehistoric archaeological site, which is adjacent to the Veazie Dam.

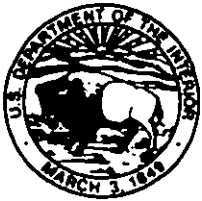
Once this information is received, we will forward a response regarding the results of our evaluation. Please contact Dr. Art Spiess of this office if we can be of further assistance in this matter.

Sincerely,

Earle G. Shuttleworth, Jr.
State Historic Preservation Officer

EGS/mj





United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
408 Atlantic Avenue - Room 142
Boston, Massachusetts 02210-3334

March 23, 2004

Mr. Scott D. Hall,
PPL Maine, LLC
Davenport St.
P.O. Box 276
Milford, ME 04461-0276

Re: THE LOWER PENOBSCOT RIVER MULTIPARTY SETTLEMENT AGREEMENT:
PROJECTS Nos. 2403, 2666, 2600, 2534, AND 2712,
Comments on Draft Applications to Amend Licenses; Project no. 2710, Comment on
Draft License Application.

Dear Mr. Hall:

The U. S. Department of the Interior (Department) is in receipt of PPL Maine's Draft Applications for the above-referenced projects, dated February 17 and 25, 2004, which have been submitted by you consistent with the terms of the Lower Penobscot River Multiparty Comprehensive Settlement Agreement (Agreement), to which the Department will be a signatory.

The Department has reviewed the Draft Applications to Amend License Articles and the Draft License Application for the above referenced projects, and has provided comments thereon. PPL Maine has thoroughly consulted with the Department regarding the proposed amendments. Based upon a significant administrative record, thorough consultation and negotiation, the Department supports the draft petitions for amendments, and waives any further consultation with the Department or its component Bureaus that may be required under the FPA or FERC regulations with regard to these Applications.

Thank you for your consideration.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer

RONALD A. KREISMAN
ATTORNEY AT LAW
25 PAGE STREET
HALLOWELL, MAINE 04347-1418

TELEPHONE: (207) 626-0248

FAX: (207) 626-0202

May 31, 2004

Mr. Scott Hall
PPL Maine, LLC
Davenport Street, P.O. Box 276
Milford, ME 04461

RE: Applications to FERC for Milford,
Orono, Stillwater, Veazie and West Enfield
Projects

Dear Scott:

I write on behalf of American Rivers, Atlantic Salmon Federation, Maine Audubon Society, Natural Resources Council of Maine, and Trout Unlimited (hereinafter, Conservation Interests), each a party that has negotiated and intends to sign in June 2004 the *Lower Penobscot River Multiparty Settlement Agreement* ("MPA"). As part of the PPL-initiated consultation process, the Conservation Interests have reviewed the following documents that you provided to them: (1) Application for Amendment of License, West Enfield Hydroelectric Project (FERC Project No. 2600); (2) Application for Amendment of License, Stillwater Hydroelectric Project (FERC Project No. 2712); (3) Application for Amendment of License, Veazie Hydroelectric Project (FERC Project No. 2403); (4) Application for Amendment of License, Milford Hydroelectric Project (FERC Project No. 2534); (5) Application for New License Major Water Power Project Under 5 MW – Existing Dam, Orono Hydroelectric Project (FERC Project No. 2710), all dated February 2004. The Conservation Interests understand the content of the documents and requests being made by PPL, both in terms of the substance of those requests and the consultation/licensing process that PPL is proposing.

Conditioned upon and subject to the execution by all signatories, including the Conservation Interests, of the MPA in a form and substance agreeable to all parties that have been negotiating the MPA (which I anticipate will happen in the first two weeks of June 2004), please consider this letter as representing the Conservation Interests' formal pre-filing indication of support for the various applications cited above. Also, please note that because of the particular circumstances surrounding the development of these applications, the Conservation Interests also are comfortable with, and do not object to, the pre-filing consultation process that PPL has utilized. Once filed at FERC, the Conservation Interests will file comments during the public comment process that FERC will establish.

Mr. Scott Hall
May 31, 2004
Page Two

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Kreisman", with a long horizontal flourish extending to the right.

Ronald A. Kreisman
Counsel to the Conservation Interests

cc: Laura Rose Day

PENOBSCOT NATION

DEPARTMENT OF
NATURAL RESOURCES

JOHN S. BANKS, DIRECTOR

June 02, 2004

Scott D. Hall
Director of Environmental Services
PPL Maine, LLC
P. O. Box 276
Milford, ME 04461



6 RIVER ROAD
INDIAN ISLAND
OLD TOWN, ME 04468
TEL: 207/827/7776
FAX: 207/827/1137

Re: Comments and Conditional Support for Proposed License Amendment Applications for PPL Maine, LLC's Veazie (FERC #2403), Milford (FERC #2534), Orono (FERC #2710), Stillwater (FERC #2712), West Enfield (FERC #2600) and Medway (FERC #2666) Hydropower Projects, located in the Penobscot River Basin, Maine.

Dear Scott:

The Penobscot Indian Nation (PIN) has reviewed PPL Maine, LLC's (PPL) Draft "Phase 1" Amendment Applications for their Veazie, Milford, Orono, Stillwater, West Enfield and Medway Hydropower Projects located in the Penobscot River Basin in Maine.

Subject to the final approvals of the " Lower Penobscot River Multiparty Settlement Agreement" by all the parties to that agreement, the PIN formally and fully supports all of the referenced applications. In addition, we specifically consent to PPL's request to waive consultation requirements normally associated with such applications [18 CFR Sec. 4.38(a)(5) and Sec. 16.8(e)(1), as is applicable in each case]. It is the PIN's understanding that consultation under section 106 of the National Historic Preservation Act will commence and is not waived.

Please feel free to contact John Banks (207-817-7330) or Clem Fay (207-817-7362) of our Department of Natural Resources, or Bonnie Newsom (207-827-4168) of our Cultural Resources Department, as appropriate, should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "John S. Banks", is written over the typed name and title.

John S. Banks, Director
Department of Natural Resources
Penobscot Nation



Devine Tarbell & Associates, Inc.
Consulting Engineers, Scientists, & Regulatory Specialists

Telephone Log

Date:	June 10, 2004
Contact Person:	Louis Sidell, Jr
Organization:	Maine State Planning Office/Maine Floodplain Management Program
Phone Number:	(207) 287-8063

Brief Details of Discussion:

I contacted Lou to discuss the pond level changes at Medway, Stillwater and West Enfield. In her March 17, 2004 letter to Scott Hall regarding the draft amendment applications. Betsy Elder of the MSPO had noted that PPL should consult with the Maine Floodplain Management Program if there may be changes in local flood levels. Lou had discussed these projects with Todd Burrows and understood that the new flashboard systems were being designed to fail so that there would be no change in water levels during high flow events. Lou was going to review Betsy's letter and may consult with FEMA/NFIP, but he did not see any issues requiring further action by PPL. He will follow up after he has reviewed Betsy' letter and followed up with FEMA (if warranted)

Follow-Up Actions:

<input type="checkbox"/> Notify _____ <input type="checkbox"/> Contact Core Team ASAP <input type="checkbox"/> Tickle for _____ <input type="checkbox"/> Return Call <input type="checkbox"/> Other (See Notes)	
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<i>Employee's Name</i>	Maureen Winters
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Organization of Amendment Application

This Amendment Application presents information and a discussion of those facilities and resources which will be affected by the proposed one-foot impoundment elevation increase, reduced bypass minimum flow and modified fish passage measures. Since the Amendment will only affect limited aspects of the Project, only relevant sections of the "Stillwater Hydroelectric Project, New License Application for Major Water Power Project 5 MW or Less" (Bangor Hydro-Electric Company [BHE] 1991) are presented herein. The previously filed Application for New License, and other relevant documents, including the 1997 "Lower Penobscot River Basin Final Environmental Impact Statement" (FERC 1997), are referenced for additional details, as appropriate.

This Amendment Application has been prepared in accordance with 18 CFR §4.201. Consistent with that subsection, and because the Stillwater Project has an installed capacity of 5 MW or less, this application includes an Initial Statement and Exhibits A, E, F and G, prepared pursuant to 18 CFR §4.61.

Exhibit A

Project Description

I. Project Facilities

A. Introduction

PPL Maine, LLC (PPL Maine) owns and operates the Stillwater Hydroelectric Project, which is licensed by the FERC as Project No. 2712. The project is located in the City of Old Town, Penobscot County, Maine on the Stillwater Branch of the Penobscot River. The Stillwater Branch is 10.5 miles long and is essentially a channel of the Penobscot River as it flows around the west side of Orson and Marsh islands. The Stillwater Dam spans the Stillwater Branch 2.4 miles upstream of its confluence with the mainstem of the Penobscot River in Orono. Figure A-1 presents a location map for the Stillwater Project. The Orono Hydroelectric Project (FERC No. 2710) is located on the Stillwater Branch just upstream from its confluence with the Penobscot River, 2.4 miles downstream of the Stillwater Project. The Gilman Falls Dam, a part of the Milford Hydroelectric Project (FERC No. 2534), is located approximately 3.1 miles upstream of the Stillwater Project.

The Stillwater Project facilities consist of a 1,712-foot-long concrete gravity dam, and one operating powerhouse integral with the dam. The remains of an older powerhouse, abandoned in 1942, are visible on the southeast portion of the dam. The operating powerhouse, located on the south side of the dam, has been generating electricity since its construction in 1932. The four existing turbine-generator units in the operating powerhouse pass a total flow of 1,700 cubic feet per second (cfs) and have a combined total installed capacity of 1,950 kilowatts (kW) at 18.0 feet of net head.

A detailed description of the Stillwater Hydroelectric Project can be found in Exhibit A of the Application for New License filed with FERC in 1991 (BHE 1991). In this section of the amendment application, the only changes to project structures that PPL Maine is proposing are to raise the height of the existing wooden flashboard system by one foot and to reduce the length of

Exhibit AProject Description

flashboards removed to provide minimum flows². Thus, only those sections of the existing Exhibit A which describe the existing and proposed flashboards (Exhibit A.I.B); project operations (Exhibit A.I.C); enhancement costs (Exhibit A.I.D); and anticipated changes to annual generation (Exhibit A.I.E) have been revised and presented herein. All other sections of Exhibit A remain unchanged. Table A-1 (located at the end of this Exhibit) summarizes the project data for those aspects of the project affected by the proposed changes.

Exhibit F contains updated plans depicting the dam and flashboards. Exhibit G contains maps, which have been revised to depict the proposed new project boundary at elevation 94.65³. All elevations contained herein are consistent with the National Geodetic Vertical Datum (NGVD), which is equivalent to the 1929 Mean Sea Level Datum (MSL), unless otherwise noted.

The Stillwater Project dam is classified as a low hazard structure and was exempted from Part 12 Independent Safety Inspections and Emergency Action Plan requirements by letter dated December 28, 1993. However, in preparing this Amendment Application, PPL Maine had existing engineering and flood studies reviewed in order to confirm that the impoundment raising will not affect project engineering or have flooding impacts. Memoranda discussing flooding impacts and engineering issues have been provided in the CEII volume. Additional information related to flooding impacts is discussed in Section C below.

B. Description of Project Structures Affected by Proposed Amendment

B.1 Existing Flashboards

The 1,712-foot-long Stillwater Dam consists of 13 separate structures with varying profiles, ranging in height from a few inches to 22 feet. The dam is of concrete gravity construction and

² In this Amendment Application PPL Maine is also proposing provisions related to fish passage consistent with the provisions of the MPA and the DOI modified fishway prescription dated June 2004. However, the proposed new license conditions will require submittal of plans, as a condition of the amended license, at a later time. Therefore, no design details for fish passage are reflected in this project description.

³ Consistent with the Commission's Critical Energy Infrastructure Information (CEII) regulations [18 CFR §388] Exhibits F and G are provided in a separate volume filed only with Commission staff. However, a description of the changes made to existing plans is provided in Exhibits F and G in this volume.

Exhibit AProject Description

is built primarily on ledge. It is a long, meandering structure that takes advantage of the ledge formations at the site. Its length is misleading given the overall size of the project site. The Stillwater Branch is only 300 feet wide, 100 yards upstream of the dam. The existing project is equipped with flashboards on three of the 13 sections, and currently operates with a normal water surface elevation of 93.65. The following is a description of the existing configurations of the three sections of the dam, which carry flashboards (C, F, and I). In addition, five other sections that will need to have flashboards added to maintain the new normal pond elevation of 94.65 are described below (D, E, G, H, and J). Five sections (A/B, K, L, M, and the abandoned powerhouse foundation) will not be affected by the proposed changes and are not discussed herein.

Section C Section C is located in the main thread of the river and is the major structure of the dam. It is 381 feet long with an ogee shape and varies in height from three feet to 22 feet. The average height is 20 feet and it is currently fitted with two-foot-high wooden flashboards supported by metal pins which raise the 91.65 foot permanent crest to 93.65. The current 155 cfs minimum flow for the east channel of the bypass reach is provided at the southerly end of Section C.

Section D Section D consists of a concrete leveling course about two feet wide and 2-1/2 feet high. Its total length is 85 feet. This non-overflow section does not currently carry flashboards and has a permanent crest of 93.65.

Section E Section E sits between two ledge outcrops on a small low profile island. It is 43 feet long. The section is a concrete sill on top of the ledge island and it does not currently carry flashboards.

Section F Section F is 174 feet long with an ogee shape and varies in height from four feet along the western third of the structure to 20 feet along the remaining two-thirds of the structure. This section of the dam currently includes two-foot-high wooden flashboards with metal pins on the crest of the structure. The permanent crest elevation is 91.65

Section G Section G is 52 feet long and has a maximum height of nine feet. Initially constructed with wooden flashboards, the structure has since been modified. The

Exhibit AProject Description

top few inches of the concrete crest were topped with a concrete curb 15 inches wide and 25 inches high with a permanent crest elevation of 93.8.

Section H Section H is 89 feet long and has an average upstream face height of five feet and an average downstream face height of six feet. This section does not currently carry flashboards and has a permanent crest elevation of 93.8.

Section I Section I is 42 feet long with an average height of four feet and a maximum height of eight feet. This section has a 10-foot-wide slot with a lower elevation of 90.85 feet. The remaining section has an elevation of 93.8 feet. The 10-foot-wide slot section is equipped with 2.8-foot-high wooden flashboards with metal pins. The current 40 cfs minimum flow for the west channel of the bypass reach is provided at Section I.

Section J Section J is 89.5 feet long with an average height of four feet. Its western edge abuts a rock outcropping. This section does not currently carry flashboards and has a permanent crest elevation of 93.8.

B.2 Proposed Flashboards

The existing Stillwater dam will remain unchanged except for adding flashboard height on eight sections to maintain the new normal pond elevation of 94.65, as described below.

Section C Section C, which currently has two-foot-high flashboards, will be fitted with a three-foot-high wooden flashboard system raising the normal pond to 94.65. The openings in the flashboards on this section will be modified to provide the new 50 cfs minimum flow for the east channel (4.4-foot opening).

Section D This section has a permanent crest elevation of 93.65. A 1.0-foot-high flashboard system will be added to raise the top elevation of this section from 93.65 to 94.65.

Section E The section does not currently carry flashboards. A 0.65-foot-flashboard system will be added to raise top elevation of this section from 94.0 to 94.65.

Section F Section F currently includes two-foot-high wooden flashboards, which will be replaced with a three-foot-high wooden flashboard system.

Exhibit AProject Description

- Section G The section does not currently carry flashboards. A 0.85-foot-flashboard system will be added to raise the top elevation of this section from 93.8 to 94.65.
- Section H The section does not currently carry flashboards. A 0.85-foot-flashboard system will be added to raise the top elevation of this section from 93.8 to 94.65.
- Section I Section I is currently equipped with one-foot-high wooden flashboards, which will be replaced with a flashboard system varying in height from 0.85 feet to 3.8 feet. The openings in the flashboards on this section will be modified to provide the new 20 cfs minimum flow for the west channel (1.6-foot opening).
- Section J This section does not currently carry flashboards. A 0.85-foot flashboard system will be added to raise the top elevation of this section from 93.8 to 94.65.

The above-listed modifications will result in a one-foot increase in the normal water surface elevation to 94.65. The new flashboard system will retain the metal pins and has been designed to allow failure when overtopped by one foot of water, whereas the existing boards are designed to fail when overtopped by two feet. Thus, by maintaining the same flashboard failure point, upon failure of the flashboards the dam's flood flow discharge capacity will be maintained, and there will be no change in upstream water levels during high-flow periods. Additionally, the flashboards will fail at a lower flow.

C. Mode of Operation

C.1 Existing Operations

The Stillwater Hydroelectric Project is operated as a run-of-river facility. It is an unmanned station that is monitored several times daily by a roving operator.

The existing hydraulic capacity of the turbines is approximately 1,700 cfs. This flow is exceeded approximately 62 percent of the time, based on average daily flows recorded by the Licensee between 1968 and 1990.

Exhibit AProject Description

The current normal impoundment elevation of 93.65 feet is maintained when river flows are at or below the hydraulic capacity of the units (1,700 cfs). The project impoundment created by the Stillwater dam extends upstream approximately 3.0⁴ miles at normal river flows. The present impoundment has a surface area of approximately 184 acres. When river flows exceed the hydraulic capacity of the units, water spills over the flashboards. When the water reaches a height of approximately two feet over the top of the flashboards, the boards begin to fail.

The Licensee is not able to replace the flashboards on the crest of the dam until the river flow is at or below the units' hydraulic capacity, when the impoundment can be drawn down to approximately the permanent crest elevation of 91.65 feet so that workers can safely install the flashboards.

The probable maximum flood (PMF) flow at the Stillwater Project has been calculated at 115,000 cfs, based on the proportionate flow to the Stillwater Branch. The spillway discharge capacity of the Stillwater Hydroelectric Project is approximately 25,000 cfs with the headwater at the top of the non-overflow sections (elevation 96.3 feet with the flashboards down). This value does not include flow through the powerhouse. This available capacity represents 22 percent of the 115,000 cfs PMF flow.

C.2 Proposed Operations

The proposed project enhancements and changes will not alter project operations. The normal impoundment elevation at the dam will be raised from 93.65 feet to 94.65 feet. Normal pond will continue to be maintained when river flows are at or below the hydraulic capacity of the units (1,700 cfs). The proposed one-foot increase in headpond elevation will result in minor changes to the length and area of the project impoundment. The shoreline of the Stillwater Project impoundment is predominantly steep sided, so the impoundment surface area of approximately 184 acres will be increased minimally by seven acres to approximately 191 acres.

⁴ In previous documents the impoundment area was listed as 300 acres and 3.1 miles long. It is believed those numbers were estimated based upon a rough measurement of the river and shoreline as depicted on topographic maps. Recent data obtained from a field reconnaissance survey and analysis of aerial photos indicates that the impoundment is 184 acres and 3.0 miles long.

Exhibit AProject Description

There are prominent hydraulic controls at the upstream end of the impoundment, so the length of the three-mile project impoundment is not expected to increase appreciably (see Field Reconnaissance Memorandum, Exhibit E, Appendix E-B).

The new flashboard system has been designed to allow failure when overtopped by one foot of water, whereas the existing boards are designed to fail when overtopped by two feet. Thus, by maintaining the same flashboard failure point, upon failure of the flashboards the dam's flood flow discharge capacity will be maintained, and there will be no change in upstream water levels during high-flow periods. Additionally, the flashboards will fail at a lower flow. The new flashboard system will be installed in the same manner as regular flashboard replacements and will not require any instream construction activity.

In its comments on the draft of this Application, the Maine State Planning Office (MSPO) noted that changes resulting from the increased headpond level could require adjacent communities to consult with the Federal Emergency Management Agency (FEMA) regarding impacts to the National Flood Insurance Program (NFIP) maps (letter dated March 17, 2004, Appendix ES-A, Consultation Documentation). The increased headpond elevation will not impact flood levels because the flashboards will still fail at flows that are less than flood stage. However, the applicant is consulting with the Maine's NFIP coordinator, as the MSPO requested (see Telephone Discussion Notes dated June 10, 2004 [Appendix ES-A]). Any additional information received will be filed with FERC upon receipt.

The proposed project changes also include a reduction in minimum flows to the bypass reach from 195 cfs to 70 cfs. As discussed above, bypass flows are provided by removing a portion of the flashboards from Sections C and I of the dam which are of a specified length capable of passing the required flows. The proposed flow of 50 cfs in the east channel will require removal of an 4.4-foot-long section of flashboards on Section C, and the 20 cfs west channel flow will require removal of 1.6-foot section of flashboards on Section I.

D. Estimated Annual Average Generation

D.1 Existing Estimated Annual Average Generation

Based on the Licensee's records, the average annual net generation between 1961 and 2003 has been 12,644 MWh/yr.

D.2 Proposed Estimated Annual Average Generation

PPL Maine estimates that the annual average generation increase that will result from the one-foot increase in headpond elevation will be approximately 965 MWh/yr.

The increase in generation from reduced bypass flows will be approximately 723 MWh/yr.

E. Estimated Cost of Project

E.1 Existing Estimated Cost of Project

The costs of the existing project are provided in Exhibit A.I.E of the Application for New License (BHE 1991).

E.2 Proposed Estimated Cost of Project

The costs for all proposed project improvements and changes will be financed through PPL Maine's normal operating budget. The costs associated with the modification of the existing flashboard system, including adjustments to accommodate the reduced minimum flow, are negligible. The capital and operating costs of the fish passages will be determined based upon the final passage design, after consultation with agencies.

II. Purpose of the Project

The power generated at the project will be used by the Applicant to supply capacity and energy to the New England region.

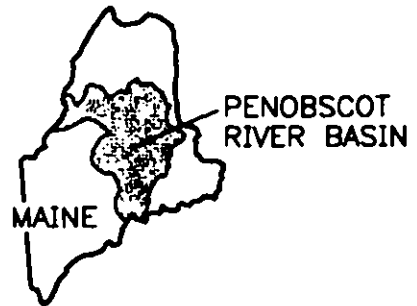
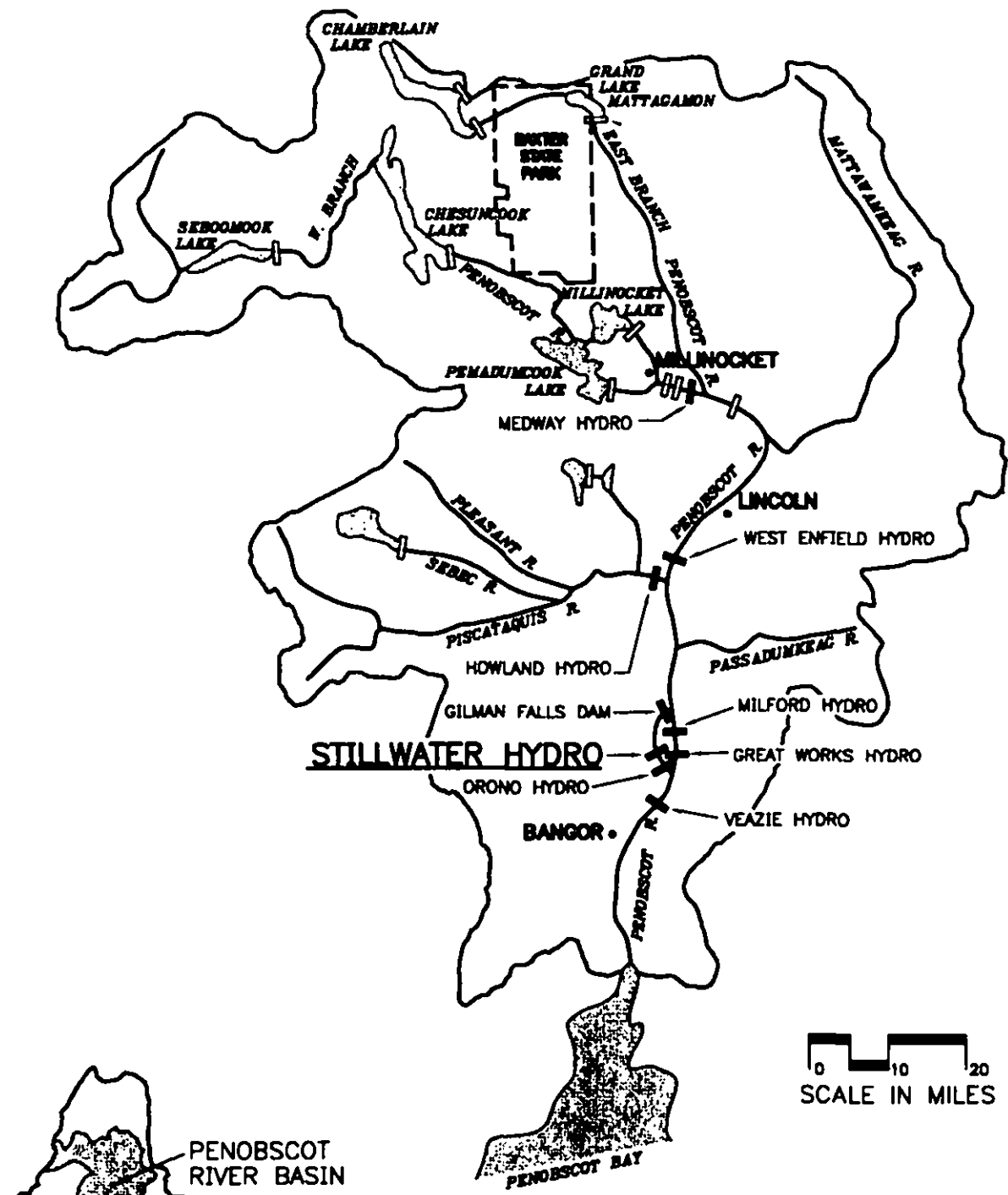
Exhibit A

Project Description

TABLE A-1
STILLWATER PROJECT
PROJECT DATA FOR AFFECTED FEATURES/STRUCTURES⁵

	Existing	Proposed
Estimated Average Head (feet)	18	19
Normal Impoundment El. W/ Flashboards	93.65	94.65
Reservoir Surface at Full Pond (acres)	184	191
Estimated Average Annual Generation (MWh)	12,644	14,333
Flashboards		
Height (feet)		
Section C	2	3
Section D	0	1.67
Section E	0	0.65
Section F	2	3
Section G	0	1.8
Section H	0	1.05
Section I	1	0.85 to 3.8
Section J	0	0.85

⁵ Only project data for features/structures affected by the proposed amendment are reflected here. Refer to Table A-1 of the prior application (BHE 1991) for complete table.



LOCATION PLAN

PPL MAINE, LLC
STILLWATER HYDROELECTRIC PROJECT
PROJECT LOCATION MAP
FIGURE A-1

Exhibit E

Environmental Report

A detailed description of the environmental resources present in the Project area has been presented in Exhibit E of "Stillwater Hydroelectric Project, New License Application for Major Water Power Project 5 MW or Less" (BHE 1991). In addition, the resources of the project area were analyzed in the "Lower Penobscot River Basin Final Environmental Impact Statement" (FERC 1997), and a limited field reconnaissance survey was conducted in the fall of 2003 (Exhibit E, Appendix E-B). This section discusses only those resources affected by the proposed project improvements and changes, including the impoundment raising, reduced bypass flows, and modified fish passage measures. The potentially affected resources include fisheries and wetlands.

I. General Description of Locale

A. Description of Existing Resources

The Stillwater Hydroelectric Project is located on the Stillwater Branch of the Penobscot River in the community of Stillwater, part of the city of Old Town, Maine. The Stillwater Branch is a 10.5-mile-long branch of the Penobscot River and the Stillwater Hydroelectric Project is located 2.4 miles upstream of the confluence of the Stillwater Branch and the mainstem of the Penobscot River in Orono. The Penobscot River and Stillwater Branch drainages above the project encompass approximately 7,602 square miles. The Penobscot River Basin's surface topography ranges from low hills and monadnocks to wide, flat river valleys. Surficial soils include ice-contact soils, out-wash sands, morainic silts, and clays. Bedrock is formed from a variety of metamorphosed sediments, and it is exposed near the river's surface along much of the river. A complete description of the Stillwater Project locale and geologic resources can be found in Exhibit E.I of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will not adversely affect geologic resources.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to geologic resources (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or the operations of the Stillwater Project are proposed that would adversely affect geologic resources, and no mitigation measures are proposed.

II. Botanical Resources

The Stillwater Project area cover types include predominantly hardwood (39 percent), softwood (22 percent) and mixed (19 percent) forests, with lesser amounts of agricultural land (14 percent) and wetlands (6 percent). A complete description of the Stillwater Project botanical resources can be found in Exhibit E.II of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997). Additional information was obtained during a 2003 field reconnaissance survey (Exhibit E, Appendix E-B). Discussed below are those resources that may be affected by the impoundment raising, including wetlands, and critical areas and threatened/endangered species.

A. Description of Existing Resources

1. Wetlands

Thirty-four acres of small, independent, wetlands are found within the project area: 23 acres of palustrine forested wetland, four acres of palustrine scrub-shrub wetland, and seven acres of riverine emergent wetland. These wetlands are concentrated in the mid to upper portion of the impoundment, with a few small forested wetlands in the lower impoundment.

2. Critical Natural Features and Rare, Threatened, and Endangered Plant Species

There are no registered critical areas and no state-listed or federally-listed threatened or endangered plants known to occur the vicinity of the project area. The project area does have a unique natural community, a Northern New England Riverside outcrop, located 2.8 miles upstream of the dam. Riverside outcrops are areas of exposed bedrock with vegetation rooted within crevices in the rock. Riverside outcrops can contain rare plants, but none have been found on the Stillwater Branch outcrop.

According to the Maine Natural Heritage Program, there are seven rare plant stations historically known to be located within the project area. Rare plant stations within the project area include

two occurrences of Orono sedge (*Carex oronensis*), which is on Maine's Special Concern Plant List, three locations for long-leaved bluet (*Hedyotis longifolia*), one pale green orchis (*Platantheria flava* var. *herbiola*), and one occurrence of shining ladies'-tresses (*Spiranthes lucida*), a state-listed threatened species. The *Spiranthes lucida* station within the project area was found over two miles upstream of the dam and is an historical record that has not been confirmed to be extant in modern times. Similarly, the Pale green orchis was found in 1933 in an area approximately one mile upstream of the dam, but has not been found recently. *Carex oronensis* is a sedge endemic to the Penobscot Valley region of Maine; one station for this species is found approximately two miles upstream of the dam, and another occurs less than a mile downstream of the dam. The exact status of this species in Maine is not known at this time. *Hedyotis longifolia* is found on three sites within the project area, one approximately one mile upstream of the dam, and the other two near the northern limits of the project area. None of these existing rare plant stations are believed to be located within the small area influenced by the impoundment raising.

In its 1997 FEIS, FERC determined that the continued operation of the Stillwater Project would not adversely affect any botanical resources, including any federally threatened/endangered or rare plant species.

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will not adversely affect botanical resources, including threatened and endangered species, in the Stillwater Project area. The increase in headpond elevation will have no material impact on wetlands within or adjacent to the project impoundment because these wetlands are concentrated in the mid to upper portion of the impoundment, where the increase in water level will be minimal (see Field Reconnaissance Memorandum, Exhibit E, Appendix E-B). None of the rare

plant stations are known to be located within the small area influenced by the impoundment raising.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to botanical resources (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or the operations of the Stillwater Project are proposed that would adversely affect botanical resources, and no mitigation measures are proposed.

III. Wildlife Resources

A. Description of Existing Resources

Wildlife habitats within the surrounding project area are predominantly riverine and hardwood forest, with lesser amounts of mixed and softwood forest, residential and disturbed areas, forested wetlands, and scattered shrub and emergent wetlands. In its 1997 FEIS, FERC determined that the continued operation of the Stillwater Project would not adversely affect any wildlife resources, including any federally threatened or endangered wildlife species. A complete description of the wildlife resources of the Stillwater Project area can be found in Exhibit E.III of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will not adversely affect wildlife resources, including threatened/endangered species, in the Stillwater Project area.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to wildlife resources (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or the operations of the Stillwater Project are proposed that would adversely affect wildlife resources, and no mitigation measures are proposed.

IV. Fish Resources

A. Existing Fish Resources

The Stillwater Project includes a shallow riverine impoundment that extends upstream to a point just below PPL Maine's Gilman Falls Dam. A small amount of riverine habitat exists downstream of the Stillwater Project in the multi-channeled reach between the dam and the Orono Project impoundment (FERC No. 2710). Resident riverine species found in the project waters include minnows, smallmouth bass, white perch, pickerel and hornpout (BHE 1992). There are no known threatened or endangered fish species in the Stillwater Project area.

A complete description of the fisheries resources of the Stillwater Project area can be found in Exhibit E.III of the Application for New License (BHE 1991). Additional information is available in the 1997 FEIS (FERC 1997) and the 1992 Water Quality Certification (Maine Department of Environmental Protection [MDEP] 1992). The fisheries resources potentially impacted by the project improvements and changes proposed in this Amendment Application, including the impoundment and bypass fishery habitats, and fish passage, are discussed below.

Stillwater Impoundment

The Stillwater Project impoundment is a shallow three-mile riverine segment of the Stillwater River with a maximum depth of approximately 31 feet. The majority of the deeper water (15 feet or greater) is in the lower impoundment. There are a variety of substrates, ranging from ledge, through cobble and gravel, to fines and clay. Shoreline slopes are flat to steep. Aquatic plants are not prolific and emergents predominate over submergents; however, there are several "pocket" weed beds and a wetland around one of the islands. There are a number of timber cribs, ledge outcrops and overhanging and downed trees at various locations, as well as the remains of an old bridge, all of which provide excellent cover for smallmouth bass. The lower and upper reaches of the impoundment have considerably more ledge, coarser substrates, steeper shoreline slopes, and less aquatic vegetation than the middle reach. However, the middle reach

does have an interspersed of coarse substrates, and the lower and upper coarser-substrate areas do have considerable fines and some areas of aquatic vegetation.

A fish resource survey conducted in 1992 (BHE 1992) documented minnows, smallmouth bass, sunfish and white sucker as the dominant species in the Stillwater impoundment. Coldwater species are present seasonally, but the area is not known as a coldwater fishery. The impoundment does not stratify thermally and dissolved oxygen concentrations are in the range of 7.3 to 8.4 ppm. Summer water temperature may approach 80°F during extended warm periods, outside suitability range for coldwater species such as Atlantic salmon and trout. However, there are no water quality characteristics that interfere with fisheries management or the attainment of agency fishery goals for warmwater species such as smallmouth bass.

Stillwater Bypass Reach

The bypass channel below the Stillwater dam is rather complex with several channels and islands. There are two channels below the spillway sections (referred to as the east channel and west channel), which join in a large pool. There is a runaround channel between this pool and the downstream Orono Project impoundment, and the main channel below the pool diverges with one channel joining the powerhouse tailrace. The approximately 3,900-foot east channel contains large deep pools, rifles, flat shallow pools, and backwater areas with varied substrates. The approximately 100-foot-long west channel contains generally shallow riffle habitats with coarse substrates. It is known that there is recreational fishing in the bypass, primarily for smallmouth bass, which are readily observed. Agency management goals are primarily for smallmouth bass.

Pursuant to the Order Amending License issued June 29, 2001 [95 FERC ¶62,292], current bypass flows are 40 cfs in the west channel and 155 cfs in the east channel.

Fish Passage

Anadromous species including Atlantic salmon and alewife are believed to utilize the Stillwater Branch as a secondary migratory route, and occur in the project area as dropdowns and migrants from upstream stocking on the mainstem of the Penobscot River. The catadromous American eel is present throughout the Penobscot Basin. While currently the license requires plans for upstream and downstream fish passage, the only provision for passage currently in place at the Stillwater Project, is a downstream bypass.

B. Anticipated Environmental Impacts and Enhancement Measures Proposed

1. Anticipated Environmental Impacts

Impoundment Raising

Smallmouth bass in the Penobscot watershed use impounded and free-flowing reaches equally, with the exception of spawning which occurs primarily in free-flowing stretches. To the extent that bass spawning activity might occur in the impoundment, the bass would be expected to shift shoreward proportional to the depth increase. Thus, the increased impoundment elevation proposed in the Amendment will have either no effect, or a net positive effect, on bass habitat (Fay 2004). Raising the Stillwater impoundment one foot will not appreciably affect the impoundment fishery habitat and will not adversely affect smallmouth bass management goals.

Bypass Reach Minimum Flows

PPL Maine is proposing to reduce current bypass minimum flows from 40 cfs in the west channel and 155 cfs in the east channel to 20 cfs in the west channel and 50 cfs in the east channel. The proposed minimum flows will continue to provide quality fisheries habitat, and will support agency management objectives, while increasing project generation by 723 MWh annually.

An instream flow study was conducted in 1991 in association with the project relicensing (BHE 1991). The weighted usable area (WUA) for target species and lifestages was determined for both channels, at various flows. Tables E.3-1 and E.3-2 provide the WUA estimates comparing leakage to the proposed flows in each channel.

**TABLE E.3-1
WEST BYPASS CHANNEL WUA AT LEAKAGE AND 20 CFS**

Species/Lifestage	Leakage	20 cfs
Atlantic salmon juvenile	0.0	17.6
Smallmouth bass spawning/incubation	3.3	2.1
Smallmouth bass young-of-year	14.1	8.9
Smallmouth bass juvenile	6.9	13.3
Smallmouth bass adult	2.4	2.3
Shad spawning/incubation	0.0	0.7
Shad larval	3.5	4.1
Total available WUA	30.2	49
Percent of maximum WUA	43.9%	71.2%

**TABLE E.3-2
EAST BYPASS CHANNEL WUA AT LEAKAGE AND 50 CFS**

Species/Lifestage	Leakage	50 cfs
Atlantic salmon juvenile	17.6	66.7
Smallmouth bass spawning/incubation	122.3	133.9
Smallmouth bass young-of-year	212.4	270.6
Smallmouth bass juvenile	317.8	367.6
Smallmouth bass adult	243.3	264.4
Shad spawning/incubation	18	27.7
Shad larval	249.3	277.1
Total available WUA	1180.7	1408.0
Percent of maximum WUA	67.2%	80.1%

The proposed minimum flows will provide 71 and 80 percent of total maximum WUA in the west and east channels, respectively. This flow equates to 2.4 WUA per cfs in the west channel and 28.2 WUA per cfs in the west channel.

PPL Maine's proposed minimum bypass reach flows are consistent with the interim flows approved by the MDEP in the 1992 Water Quality Certification for the Stillwater Project (MDEP 1992). These proposed flows will provide significant habitat for target species and lifestages and are consistent with the MPA.

Fish Passage

PPL Maine's proposal to implement the DOI modified fishway prescription, consistent with the MPA, will support agency fish management plans and objectives. The proposed one-foot increase in impoundment level and decrease in minimum bypass flows will not affect existing or proposed fish passage facilities or their operations.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures beyond those proposed in this Amendment Application have been requested by resource agencies to address impacts to fisheries resources (see Appendix ES-A, Consultation Documentation).

3. Enhancement Measures Proposed by the Licensee

PPL Maine's proposal to implement the DOI modified fishway prescription, consistent with Attachment A of the MPA and as described in the proposed license articles presented in the Executive Summary, will support agency fish management plans and objectives.

In order to fully mitigate for any potential habitat impacts associated with the requested modifications, parties to the MPA developed a Contingent Mitigation Fund (CMF) (Attachment B to the MPA), whereby it was agreed that the impacts will be fully mitigated by removal of the Veazie (FERC No. 2403) and Great Works (FERC No. 2312) dams. If those dams are not removed, then the MPA provides for the establishment of the CMF and requires PPL Maine to make monetary payments in certain circumstances, as specified in Attachment B to the MPA, to the CMF to fully mitigate for the habitat impacts.

V. Water Quantity and Quality

A. Description of Exiting Resources

The Stillwater River in the vicinity of the project is designated by the State of Maine as a Class B water. The Maine Department of Environmental Protection (MDEP) issued a Section 401 Water Quality Certification for the Stillwater Project in 1992, finding that the project, as then proposed for relicensing, would comply with applicable state water quality standards. By letter dated January 26, 2004, the MDEP stated that the amendments proposed in this application will have no measurable effect on water quality in the Stillwater Project area. PPL Maine has applied for Water Quality Certification for the project improvements and changes proposed in this Amendment Application (Exhibit E, Appendix E-A). A complete description of the water resources of the Stillwater Project area can be found in Exhibit E.V of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will have no measurable effect on water quality in the Stillwater Project area (MDEP 2004).

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to water quality (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or operations of the Stillwater Project are proposed that would have a measurable effect on water quality (MDEP 2004), and no mitigation measures are proposed.

VI. Land and Water Uses

A. Description of Existing Resources

The land bordering the Stillwater impoundment is predominantly forested, with smaller residential areas along the lower impoundment. There are no known domestic, irrigation or other consumptive uses of the river water in the project area. There are also no known industrial uses of the water nor any points of industrial wastewater discharge into the impoundment. A complete description of the land and water resources of the Stillwater Project area can be found in Exhibit E.VI of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will not adversely affect land and water uses in the Stillwater Project area. Due to the relatively small increase in impoundment water levels and steep topography of the shoreline, any affects along the impoundment will be negligible. In addition, because the flashboard system will be designed to have the same failure point, there will be no changes in upstream flooding impacts.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to land and water uses (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or operations of the Stillwater Project are proposed that would adversely affect land and water uses, and no mitigation measures are proposed.

VII. Recreation Resources

A. Existing Recreational Resources

Recreational facilities within the Stillwater Project area include a canoe launch, portage trail and fishing area below the dam (owned and operated by PPL Maine); and trails, fishing access, canoe launches, swimming areas and picnicking areas in the University of Maine Forest along the impoundment. A complete description of the Recreation resources of the Stillwater Project area can be found in Exhibit E.VII of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will not adversely affect the recreational resources in the Stillwater Project area. Whitewater boating that occurs downstream of the project will not be affected because this activity predominantly occurs in the spring when the flashboards are not in place. Kayaking and canoe use of the impoundment will not be affected by the higher impoundment elevation. None of the licensee supported University of Maine recreational facilities along the impoundment shoreline will be affected by the impoundment increase.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to recreational resources (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or operations of the Stillwater Project are proposed that would adversely affect recreational resources, and no mitigation measures are proposed.

VIII. Historical and Archaeological Resources

A. Description of Existing Resources

No historic or archaeological properties that are either listed or eligible for listing on the National Register of Historic Places are affected by the current operations of the Stillwater Project (FERC 1997). A complete description of the cultural resources of the Stillwater Project area can be found in Exhibit E.VII of the Application for New License (BHE 1991) and in the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

In association with the previous relicensing proceeding, Maine Historic Preservation Commission (MHPC) reported that there are no properties in the Stillwater Project area of prehistoric, historic or architectural archaeological significance that would be impacted by the project. PPL Maine consulted with the State Historic Preservation Officer (SHPO) and the Penobscot Indian Nation (PIN) Tribal Historic Preservation Officer (THPO) regarding the improvements and changes proposed in this Amendment Application to confirm that there are no additional historic or archaeological issues at this time. By letter dated March 15, 2004 (Executive Summary, Appendix ES-A), the SHPO stated that the Amendments to the Stillwater Project license proposed herein will have no effect on archaeological or architectural historic properties. Additional consultation with the SHPO and THPO will occur as necessary to address potential impacts from construction activity at the projects.

2. Measures Recommended by Resource Agencies

In association with the previous relicensing proceeding, the MHPC found that there are no properties in the project area of archaeological, historic or architectural significance, as defined by the National Historic Preservation Act of 1966 (as amended). PPL Maine consulted with the SHPO and THPO regarding the improvements and changes proposed in this Amendment Application, and no measures were recommended (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

Based upon consultation with the SHPO and THPO, no enhancement and mitigation measures were determined to be necessary.

IX. Scenic and Aesthetic Resources

A. Description of Existing Resources

The Stillwater Hydroelectric Project encompasses the Stillwater dam and powerhouse in Stillwater Village, the area immediately below the dam that encompasses several small islands, and an approximately 184-acre impoundment extending three miles upstream. The area on either side of the river, within a one-half mile radius of the dam, is a relatively heavily-developed residential area. The rest of the area surrounding the impoundment is either lightly developed or undeveloped. Much of the western shoreline remains farmland, including a large tract owned by the University of Maine. Along the eastern shore of the impoundment, almost ninety percent of the shoreline remains undeveloped, including the University of Maine Forest, which comprises about fifty percent of the shoreline. Aside from the natural scenery of the area, there are no prominent scenic features. A complete description of the scenic and aesthetic resources of the Stillwater Project area can be found in Exhibit E.IX of the Application for New License (BHE 1991) and the 1997 FEIS (FERC 1997).

B. Anticipated Environmental Impacts and Enhancement and/or Mitigation Measures Proposed

1. Anticipated Environmental Impacts

The project enhancements and changes proposed in this Amendment Application will not adversely affect scenic resources in the Stillwater Project area.

2. Studies/Measures Recommended by Resource Agencies

No additional studies or resource protection, mitigation, or enhancement measures have been requested by resource agencies to address impacts to scenic resources (see Appendix ES-A, Consultation Documentation).

3. Enhancement and/or Mitigation Proposed by Licensee

No changes to facilities or operations of the Stillwater Project are proposed that would adversely affect scenic resources, and no mitigation measures are proposed.

X. Literature Cited

Bangor Hydro-Electric Company. 1991. Stillwater Hydroelectric Project, New License Application for a Major Water Power Project 5 Megawatts or Less (Volumes I through V). BHE, Bangor, Maine.

———. 1992. Response to Additional Information Request May 8, 1992. BHE, Bangor, Maine.

Fay, C. 2004. Electronic Mail from Clem C. Fay, Penobscot Indian Nation Department of Natural Resources to Scott D. Hall, March 17, 2004 re: Projected Impacts of Penobscot River Restoration Project Phase I Energy Enhancements (Impoundment Elevation Increases) at the Stillwater, West Enfield, and Medway Projects. PIN DNR, Old Town, Maine.

Federal Energy Regulatory Commission. 1997. Final Environmental Impact Statement - Lower Penobscot River Basin, Maine (Basin Mills, Stillwater, and Milford Hydroelectric Projects - FERC Nos. 10981, 2712, and 2534, respectively). FERC, Washington, D.C.

Lower Penobscot River Multiparty Settlement Agreement. June 2004.

Maine Department of Environmental Protection. 1992. Water Quality Certification for the Stillwater Project. MDEP, Augusta, Maine.

———. 2004. Letter from Dana P. Murch to Scott D. Hall, January 26, 2004, re: Phase I Energy Enhancements Lower Penobscot River Conceptual Agreement. MDEP, Augusta, Maine.

APPENDIX E-A
401 WATER QUALITY CERTIFICATION APPLICATION

REQUIRED INFORMATION

1. Provide all the information requested by this application form.
2. If applicant is a registered corporation, provide either a *Certificate of Good Standing* (available from the Secretary of State) or a statement signed by a corporate officer affirming that the corporation is in good standing. (See Attachment A)
3. A signed Certification of Publication and a completed Notice of Intent to File an application for Water Quality Certification.

NOTE: All supporting documents summarized above must be attached to this form and sent to the DEP Office listed below:

Department of Environmental Protection
Bureau of Land and Water Quality
17 State House Station
Augusta, ME 04333
Tel: (207) 287-3901

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

DATE: 14 June 2004


SIGNATURE OF APPLICANT

(IF SIGNATURE IS OTHER THAN APPLICANT,
ATTACH LETTER OF AGENT AUTHORIZATION
SIGNED BY APPLICANT)

Scott D. Hall
Manager of Environmental Services

SECTION III
PUBLIC NOTICE

25. **PUBLIC NOTICE.** The Department requires that an applicant provide public notice describing the location and nature of the activity proposed for approval. The public notice requirements that apply to this application are described in the Certification of Publication below, which must be signed and dated by the applicant or authorized agent.

The following information must be submitted with this form:

- A copy of a completed Notice of Intent to File. (See Attachment C)
- A list of abutters to whom notice was provided. [For the purposes of public notice of this application, an "abutter" is any person who owns property that is both (1) adjoining and (2) within 1 mile of the delineated project boundary, including owners of property directly across a public or private right of way.] (See Attachment C)

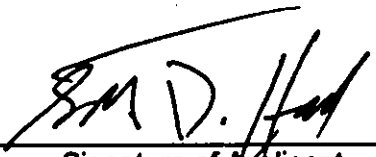
For the purposes of this application, abutters also include:

- A. The owners of all property adjacent to the location of any activity associated with the construction, reconstruction, or structural alteration of a hydropower project as described in this application (including properties adjacent to any proposed dredging, excavating, filling, transmission lines, or access roads); and
- B. Where a new impoundment would be created or the full-pond elevation of an existing impoundment would be raised or lowered, abutters shall also include the owners of all property adjacent to the new or existing impoundment; and
- C. Where a new or increased diversion of by-pass of flows from their existing channel would be created, abutters shall also include the owners of all property adjacent to the new or existing diversion or by-pass channel.

CERTIFICATION OF PUBLICATION

By signing below, the applicant (or authorized agent) certifies that he or she has:

1. Published a Notice of Intent to File once in a newspaper circulated in the area where the project site is located, within 30 days prior to filing the application;
2. Sent a completed copy of the Notice of Intent to File by certified mail or Certificate of Mailing to abutters, as determined by local tax records or other means, within 30 days prior to filing the application; and
3. Sent a copy of the Notice of Intent to File by certified mail or Certificate of Mailing and filed a duplicate of this application with the town clerk of the municipality(ies) where the project is located, within 30 days prior to filing the application.



Signature of Applicant

14 June 2004
Date

Scott D. Hall, Manager of Environmental Services
Name and title of applicant

If signature is other than that of the applicant, attach letter of agent authorization signed by the applicant.

PPL Maine, LLC

Davenport Street

PO Box 276

Milford, ME 04461-0276

Tel. 207.827.2247 Fax 207.827.4102

www.pplweb.com



14 June 2004

Dana P. Murch
Dams and Hydro Supervisor
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

**RE: LOWER PENOBSCOT RIVER MULTIPARTY SETTLEMENT
AGREEMENT, JUNE 2004**

**WATER QUALITY CERTIFICATION, MAINE WATERWAY
DEVELOPMENT AND CONSERVATION ACT, AND PROJECT
MODIFICATION APPLICATION FORMS**

**Medway - FERC NO. 2666 (WQC & MWDCA)
Stillwater - FERC NO. 2712 (WQC & MWDCA)
Milford - FERC NO. 2534 (Project Modification)
Orono - FERC NO. 2710 (WQC)
West Enfield - FERC NO. 2600 (WQC & MWDCA)**

Dear Mr. Murch:

In accordance with the *Lower Penobscot River Multiparty Settlement Agreement, June 2004* (MPA), PPL Maine, LLC has prepared various applications requesting approval for changes to the subject projects' water quality certifications and respective Federal Energy Regulatory Commission (FERC or Commission) licenses that are intended to implement the first phase of the MPA. The MPA is entirely consistent with the *Lower Penobscot River Conceptual Agreement, August 2003*, that we briefed the Department on several months ago. Please note that we expect to file the MPA, as well as all associated documents and requests with FERC, on or about 14 June 2004. Included in that filing, which will be copied to the Department, will be an explanatory statement that outlines the MPA and how the various requests for changes at our hydro projects fit within it.

We appreciate the Department's 12 March 2004 letter commenting on the draft applications. Without waiving any objections we may have as to provisions of State law that are preempted by the Federal Power Act, PPL Maine, LLC (and Bangor-Pacific Hydro Associates in the case of West Enfield) are submitting an original and one copy of each of the application forms for the above-referenced projects under the Maine Waterway Development and Conservation Act and Section 401 of the Clean Water Act. You will note that each application form cites applicable exhibits in the corresponding FERC application that will be filed soon hereafter. In the FERC applications we are requesting that the Commission use the revised license article provided by us to implement the requested changes and we also request that the Department, to the extent practicable, utilize the same language for changes to the water quality certification conditions.

Specifically, the enclosed application forms request changes to various projects as summarized below:

Medway Hydro Project, FERC No. 2666, Medway, Maine: increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards

Stillwater Hydro Project, FERC No. 2712, Old Town, Maine: increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards; modifying the minimum bypass flow requirements; and modifying the fish passage requirements to be consistent with the modified DOI/NMFS fishway prescription.

Milford Hydro Project, FERC No. 2534, Milford and Old Town, Maine: modifying the fish passage requirements to be consistent with the modified DOI/NMFS fishway prescription.

Orono Hydro Project, FERC No. 2710, Orono Maine: relicense and rehabilitate the Project to operate at its existing capacity of 2.3 MW; and modifying the fish passage requirements to be consistent with the modified DOI/NMFS fishway prescription.

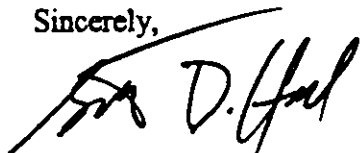
West Enfield Hydro Project, FERC No. 2600, Enfield and Howland, Maine: increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards, and incorporating the installation of upstream eel passage facilities.

As required by the Department's Chapter 2 rules, and certified within the enclosed respective application forms, please be advised that we have published a combined "Notice of Intent to File" (NOI) in the Bangor Daily News (2 June 2004) and we have sent a copy of the NOI to abutting property owners of the affected projects via certified mail. In addition, we have provided a copy of the NOI as well as copies of the enclosed application forms to the appropriate municipalities.

In addition, in accordance with the Department's 12 March 2004 letter commenting on the draft applications for the above-referenced projects, we have enclosed a check for \$1835.70 (combined total of \$235.00 for Medway; \$235.00 for Stillwater; \$109.00 for Milford; \$949.90 for Orono; and \$306.80 for West Enfield) to cover the application and processing fees.

Thank you for your attention to this filing. Please contact me at (207) 827-5364 with any questions.

Sincerely,



Scott D. Hall
Manager of Environmental Services

Enclosures

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MAINE D.E.P.

2004 JUN 14 P 2:43

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Bureau of Land and Water Quality
17 State House Station
Augusta, Maine 04333
Telephone: (207) 287-3901

FOR DEP USE

#L- _____
Fees Paid _____
Date Fees Received _____

**APPLICATION FOR PROJECT APPROVAL UNDER THE
MAINE WATERWAY DEVELOPMENT AND CONSERVATION ACT
AND
WATER QUALITY CERTIFICATION
(U.S. P.L. 92-500, SECTION 401)**

HYDROPOWER PROJECT CONSTRUCTION/RECONSTRUCTION

This form shall be used to request a state permit and Water Quality Certification for the proposed FERC licensing/relicensing and/or construction, reconstruction or structural alteration of a hydropower generating or storage project.

All required fees must be paid before application processing will begin. Please contact the Department for current fee schedule information. Fees are payable to Treasurer, State of Maine.

(Please Type or Print)

APPLICANT INFORMATION

Name of Applicant: **PPL Maine, LLC**
Mailing Address: **Davenport Street, P.O. Box 276 Milford, ME 04461**
Name of Contact or Agent: **Scott D. Hall**
Telephone: **(207)827-5364**

PROJECT INFORMATION

Name of Project: **Stillwater Project** FERC No. **2712**

Address (use "911" address, if available): **Free Street**

Name of Waterbody Affected: **Stillwater Branch of the Penobscot River**

Municipality or Township: **Old Town** County: **Penobscot**

GPS Coordinates, if known: **Not Known**

HYDROPOWER PROJECT CONSTRUCTION/RECONSTRUCTION

GENERAL INFORMATION

1. By submitting this application, an applicant requests approval under the Maine Waterway Development and Conservation Act (MWDCA) and the Federal Clean Water Act to undertake the construction, reconstruction, or structural alteration of a hydropower project.

The following types of activities, by way of example, are subject to the requirement for a permit:

- The construction of a new hydropower project, including a new water storage dam, or a new hydroelectric generating facility of any kind, whether utilizing a dam, a natural water feature, natural current velocities, or tidal action;
 - The reconstruction of a hydropower project;
 - The structural alteration of a hydropower project in ways which change water levels or flows above or below the dam, including, but not limited to:
 - The addition or alteration of flashboards; and
 - The installation of additional or enlarged turbines.
2. The purpose of this application form is to obtain from the applicant a thorough description of project facilities and operation and the impacts of the proposed construction, reconstruction or structural alteration on the environment.

The Department's Regulations provide that the applicant bears the burden of proof in the application process. This is the burden of presenting sufficient evidence for the Department to make the affirmative findings required by law regarding matters about which no questions are raised and the burden of presenting a preponderance of the evidence regarding matters about which questions are raised.

3. In order to grant an MWDCA permit, an applicant must demonstrate that seven specific criteria have been met (See Section 636 of the statute). These criteria address the following issues: financial capability and technical ability; public safety; public benefits; traffic movement; LURC zoning; environmental mitigation; and environmental and energy considerations.

In order to grant Water Quality Certification, the Department must conclude that there is a reasonable assurance that the continued operation of a hydropower generating or storage project will not violate applicable Water Quality Standards. These standards have been established in the State's Water Classification Program (Title 38 MRSA Sections 464-469). These standards designate the uses and related characteristics of those uses for each class of water and establish water quality criteria necessary to protect those uses and related characteristics.

4. Most proposals for the construction, reconstruction or structural alteration of a hydropower project will be subject to federal as well as state review and approval.

Any applicant for a FERC license must complete a three-stage consultation process with appropriate state and federal agencies. The purpose of this process is to identify and analyze the potential environmental and socioeconomic impacts of a project.

The consultation process requires an applicant to have either requested or obtained water quality certification at the time of filing with FERC. The process also requires that an applicant serve a copy of its FERC application, including any revisions, supplements or amendments thereto, on each of the agencies consulted.

Any applicant for a license, amendment of license, or exemption from the Federal Energy Regulatory Commission must complete a three-stage consultation process with appropriate state and federal agencies. The purpose of this process is to identify and analyze the potential environmental and socioeconomic impacts of a project.

FILING INSTRUCTIONS AND PROCEDURES

1. When filing, send an original plus one (1) copy of a completed Application for Project Approval to the Department, along with two (2) copies of any Application for Initial License or New License Amendment of License, or Exemption as has been or will be filed with FERC. The State filing can be made prior to or concurrent with the FERC filing.
2. The Department is required by law to assess fees for processing applications and for monitoring permit compliance. Application processing will not begin until all required fees have been paid. When filing, submit full fee payment (checks payable to: Treasurer of State) or request that a fee bill be sent.
3. A number of consulting agencies will be involved in the State review process of hydropower projects. Distribution of copies of the FERC application to these agencies may be coordinated by DEP or may be handled directly by the applicant. When filing, please notify the DEP staff to discuss distribution procedures.
4. Most information requested by this application form can be provided by making reference to the appropriate exhibit of the FERC license application. Space is provided on the form for such references.
5. Within 15 working days of receiving an application and all required fees, the DEP shall *determine whether the application as filed is acceptable for processing.*
6. Additional information may be required during the review process on any aspect of the project relating to compliance with applicable statutory criteria.

SECTION I PROJECT INFORMATION

State law requires that a permit be issued for the construction, reconstruction, or structural alteration of any hydropower project. This section is designed to obtain a thorough description of the proposed physical project, including all existing and proposed physical structures, construction activities, and project operation.

1. NATURE OF ACTIVITY. Check appropriate item:

☐ Construction of new hydropower project.

☒ Reconstruction or structural alteration of existing hydropower project.

IF THE PROPOSED PROJECT IS SUBJECT TO FERC JURISDICTION, A COPY OF A COMPLETED FERC APPLICATION FOR LICENSE OR EXEMPTION (THIRD STAGE CONSULTATION) MUST ACCOMPANY THIS FORM.

NOTE: A copy of any document revising, supplementing, amending, or correcting deficiencies in the application as originally filed with FERC must also be filed with D.E.P.

2. EXISTING ENVIRONMENT. Provide a description of the physical environment of the project site and its immediate vicinity. The project site includes all land and water areas affected by the proposed activity.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

3. PROJECT DESCRIPTION. Provide a detailed description of the existing project. A hydropower project includes all powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures that are part of the development. This description must include:

- A. The physical composition, dimensions, and general configuration of all project structures, whether existing or proposed;
- B. The normal maximum surface area and elevation, gross storage capacity, and usable storage capacity of any project impoundments, whether existing or proposed;
- C. The number, type, and rated capacity of any project turbines or generators, whether existing or proposed; and
- D. The number, length, and voltage of any primary project transmission lines, whether existing or proposed.

REFERENCE: FERC EXHIBIT(S) **Exhibit A**

4. CONSTRUCTION ACTIVITIES. Provide a detailed construction schedule and a description of all proposed construction activities, to include:

- A. Location and physical dimensions of any areas proposed to be temporarily or permanently dredged, excavated or filled (including cofferdam areas, spoils disposal areas, and access roads);

- B. Composition and quantity of any material proposed to be dredged, excavated, or placed as fill on a temporary or permanent basis (including cofferdam, dredged or excavated spoils, and access road materials); and
- C. Proposed commencement and completion dates of any construction, reconstruction or structural alteration of project structures, including any associated dredging, excavation, or filling activities.

REFERENCE: FERC EXHIBIT(S) **Not applicable**

5. **PROJECT OPERATION.** Provide a description of project operation, to include:

- A. The mode of project operation during low, mean, and high water years, including extent and duration of flow release and impoundment fluctuations;
- B. An estimate of the dependable capacity and average annual energy production, in kilowatt hours, of the project;
- C. An estimate of minimum, mean, and maximum flows, in cubic feet per second, at the project site, including a flow duration curve;
- D. An estimate of the maximum and minimum hydraulic capacities, in cubic feet per second, of any power plant; and
- E. A statement of the manner in which the power generated at the project is utilized.

REFERENCE: FERC EXHIBIT(S) **Exhibit B**

6. **PROJECT PLANS.** Provide general design drawings showing all major project structures, whether existing or proposed, in sufficient detail to provide a full understanding of the project, including:

- A. Plans (overhead view);
- B. Elevations (front view);
- C. Profiles (side view) and
- D. Sections.

REFERENCE: FERC EXHIBIT(S) **Exhibit F**

7. **PROJECT MAPS.** Provide maps of the project showing:

- A. The location of the project structures and features, with reference to local geographic features; and
- B. A project boundary enclosing all principal project structures and features.

REFERENCE: FERC EXHIBIT(S) **Exhibit G**

8. **TITLE, RIGHT OR INTEREST.** The Department's Regulations require that any applicant must possess sufficient title, right or interest in all project lands and waters in order to have standing to seek a permit, license or certification. Please complete the appropriate item(s) below establishing title, right or interest and attach a copy of the indicated document(s):

_____ Deed.

- ☐ Option to buy.
- ☐ Lease.
- ☐ Valid FERC Preliminary Permit.
- ☒ Valid FERC License (including all amendments/modifications). (**Attachment B**)
- ☐ Exercise of flowage rights through operation of the Mill Act (12 M.R.S.A. Section 651).
- ☐ Exercise of eminent domain under FERC license.

Section II Review Criteria

The statute requires that seven criteria be satisfied before a permit will be issued. This section is designed to obtain information on these criteria, which require consideration of the following issues; financial capability and technical ability; public safety; public benefits; traffic movement; LURC zoning; environmental mitigation; and specified environmental and energy considerations.

9. FINANCIAL CAPABILITY.

- A. Provide a statement of the estimated total cost of the project, as proposed in this application, and itemize major categories of expenditures, including estimated costs of activities to be devoted to minimizing or preventing adverse effects on the environment during construction and/or operation of this project.
- B. Provide a statement that details plans for the financing of the project. If project costs involve more than normal legal and surveying fees, submit one of the following documents in support of the financing plan or indicate why such documents are unavailable at the present time:
 - i. A letter from a financial institution, governmental agency, or other funding agency which states a funding commitment or an "intent to fund" specifying the amount of funds and the uses for which the funds may be utilized; or
 - ii. The most recent corporate annual financial report and any supporting material indicating the availability of sufficient funds to finance the project; or
 - iii. Copies of financial statements or other evidence indicating availability of funds when the developer will personally finance the project.

NOTE: The state hydro law provides that in the event that an applicant is unable to demonstrate financial capability at the time of filing an application, a conditional permit may be granted requiring a demonstration of financial capability prior to the start of project construction. 38 M.R.S.A. Section 636(1).

REFERENCE: FERC EXHIBIT(S) **Exhibit D**

10. TECHNICAL ABILITY.

- A. Provide a description of the applicant's prior experience and/or appropriate training related to the nature of the proposed activity.
- B. Provide a description of the qualifications of personnel to be employed to install and/or operate and/or maintain the project.

REFERENCE: PPL Maine LLC, a subsidiary of PPL Generation LLC, owns seven hydroelectric projects, and has a 50 percent indirect stock ownership in an eighth project, with a combined generating capacity of about 45 megawatts. PPL Maine has owned, operated and maintained these stations since 1999; key environmental and engineering staff has extensive experience with the daily operation of and license compliance at these stations.

11. PUBLIC SAFETY.

- A. Provide a description of the activities or physical environment anticipated during project construction and/or operation that may constitute a hazard to the safety of the general public.
- B. Provide a detailed description of any provisions proposed to protect the safety of the general public during project construction and/or operation.

REFERENCE: FERC EXHIBIT(S) No impact/Not applicable

12. PUBLIC BENEFITS

Provide a description of the economic benefits and economic costs to the public anticipated as a result of the proposed project.

REFERENCE: See Multiparty Settlement Agreement

- NOTE 1: See the DEP's Administrative Regulations for Hydropower Projects, Chapter 450, Section 5 for an interpretation of the public benefits criteria of the state hydro law and a definition of economic benefits and costs.
- NOTE 2: In the event that it is determined that a proposed project involving a new dam would result in substantial economic costs, then the applicant must also provide evidence comparing the benefits of the proposed project against the economic conditions that would otherwise result from any alternative source(s) of energy generation or conservation that might reasonably be pursued in the event that the project is not built. See Chapter 450 Regulations.

13. TRAFFIC MOVEMENT.

- A. Provide a description of the present condition of the existing condition of the existing public and private access routes to the proposed project area, including the type, condition, and width of road surfaces and number of travel lanes.
- B. Provide a description of the anticipated and other possible impacts, if any, of the proposed project on any existing access routes (e.g., location and lengths of any access routes to be flooded by the project).
- C. Provide a description of the traffic movement anticipated to be generated by the proposed project, including types and average daily number of vehicles, travel routes, and duration of traffic movement.

REFERENCE: FERC EXHIBIT(S) No impact/Not applicable

14. LURC ZONING.

For any portion of the proposed project which is located within an unorganized territory or organized municipality subject to the jurisdiction of the Land Use Regulation

Commission (LURC), provide a description of the applicable zoning designations and standards as adopted by LURC.

REFERENCE: FERC EXHIBIT(S) **Not applicable**

NOTE: In those instances where the project, or portions of the project, are prohibited uses under the zoning designation and standards in effect at the time of consideration, the applicant must file and obtain favorable action from LURC on a rezoning petition or must amend the project to avoid conflicts with LURC's zoning. See Chapter 450 Regulations.

15. ENVIRONMENTAL MITIGATION.

Provide a description of any provisions proposed to realize the environmental benefits of the project or to mitigate the adverse environmental impacts of the project.

REFERENCE: FERC EXHIBIT(S) **See Multiparty Settlement Agreement**

NOTE: In-kind or on-site mitigation measures will be preferred. Off-site or out-of-kind mitigation measures may be acceptable where in-kind or on-site measures are demonstrated not to be feasible or desirable. See Chapter 450 Regulations.

16. WATER QUALITY.

- A. Provide a description of the applicable water quality standards and classification for the upstream and downstream waters which are affected or will be affected by the project.
- B. Provide a description of the existing water quality of the waters which are or will be affected by the project, including a description of existing in-stream water uses.
- C. Provide a description of the anticipated and other possible impacts the proposed project on existing water quality.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

NOTE: See Maine Water Classification Program, 38 M.R.S.A Sections 464-470.

17. SOIL STABILITY.

- A. Provide a description of the soils in the project area, including soil types and locations.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on soil stability.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

18. COASTAL/INLAND WETLANDS.

- A. Provide a description of any coastal or inland wetlands located within the project area.
- B. Provide a description of the anticipated and other possible impacts of the proposed project on coastal or inland wetlands.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

19. NATURAL ENVIRONMENT.

A. Provide a description of the natural environment within the project area, including a description of existing land uses, geological and topographic features, botanical resources, and aesthetic character.

B. Provide a description of the anticipated and other possible impacts of the proposed project on the existing natural environment, including but not limited to impacts on existing land uses, geological and topographic features, botanical resources, and aesthetic character.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

20. FISH AND WILDLIFE RESOURCES.

A. Provide a description of the existing fish and wildlife resources within the project area.

B. Provide a description of the anticipated and other possible impacts of the proposed project on existing fish and wildlife resources.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

21. HISTORIC/ARCHAEOLOGICAL RESOURCES.

A. Provide a description of the existing historic and archaeological resources within the project area.

B. Provide a description of the anticipated and other possible impacts of the proposed project on existing historic and archaeological resources.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

22. PUBLIC ACCESS AND USES.

A. Provide a description of the existing public access to and use of the surface waters in the project area for navigation, fishing, fowling, recreation and other lawful public uses, including a description of any existing recreational resources and facilities.

B. Provide a description of the anticipated and other possible impacts of the proposed project on public rights of access to and use of the surface waters in the project area, including the impacts on recreational resources and facilities.

REFERENCE: FERC EXHIBIT(S) **Exhibit E**

23. FLOOD CONTROL.

A. Provide a description of existing floodways and flood conditions within the project area.

B. Provide a description of any existing flood control projects within the affected drainage basin.

- C. Provide a description of the anticipated and other possible flood control benefits or flood hazards of the proposed project.

REFERENCE: FERC EXHIBIT(S) **Exhibit B**

24. **ENERGY.** State the following:

	<u>Existing</u>	<u>Proposed</u>
A. Number of generating units:	4	4
B. Installed capacity, in kilowatts	1,700	1,700
C. Average annual energy output, in kilowatt hours	12,644	14,333

D.

- E. Identity of proposed purchaser or user of project power:

New England Region

- F. Amount of nonrenewable fuels anticipated to be replaced by the project power:

The estimated 1,688 MWh/yr of additional generation proposed will replace approximately 1420 tons of coal, 2,860 barrels of oil, or 20 million cubic feet of natural gas. The resulting total fossil fuel replacement value of the project power will be approximately 12,030 tons of coal, 24,300 barrels of oil, or 150 million cubic feet of natural gas.

ATTACHMENT A
CERTIFICATE OF GOOD STANDING



MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Information Summary

Subscriber activity report

This record contains information from the CEC database and is accurate as of: Thu Mar 25 2004 16:46:53. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
PPL MAINE, LLC	19990136FC	LIMITED LIABILITY COMPANY (FOREIGN)	GOOD STANDING
Filing Date	Expiration Date	Jurisdiction	
01/26/1999	N/A	DELAWARE	
Other Names		(A=Assumed ; F=Former)	

PENOBSCOT HYDRO, LLC F

Clerk/Registered Agent

C T CORPORATION SYSTEM
ONE PORTLAND SQUARE
PORTLAND, ME 04101

ATTACHMENT B
FERC LICENSE AND AMENDMENTS

Bangor Hydro-Electric Company, Project No. 2712-004

[61,105]

[¶61,038]

Bangor Hydro-Electric Company, Project No. 2712-004

Order Issuing New License

(Issued April 20, 1998)

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

On December 23, 1991, Bangor Hydro-Electric Company (Bangor Hydro) filed an application with the Federal Energy Regulatory Commission (Commission) under Part I of the Federal Power Act¹ (FPA) for a new license authorizing the continued operation and maintenance of the 1.95-megawatt (MW) Stillwater Hydroelectric Project No. 2712, located on the Stillwater Branch of the Penobscot River in the city of Old Town, Penobscot County, Maine.² The Commission issued an original license for this project to Bangor Hydro in 1978, effective April 1, 1962.³ The original license expired on December 31, 1993, and since then Bangor Hydro has operated the project under an annual license.

Bangor Hydro proposes no major construction or project modifications. For the reasons discussed below, we will issue a new license to Bangor Hydro for a period of 40 years.

Background

Notice of the application for the Stillwater Project was published.⁴ Four parties filed timely and unopposed motions to intervene in this proceeding: Maine FLOW, Maine State Planning Office, U.S. Department of the Interior (Interior), and the Penobscot Indian Nation (Penobscot Nation). These motions were granted automatically under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure.⁵ American Rivers' motion to intervene was opposed by Bangor Hydro. We are granting its motion.

Comments on the application were filed by the U.S. Fish and Wildlife Service (FWS), Atlantic Sea Run Salmon Commission, U.S. Army Corps of Engineers (Corps), Maine Department of Marine Resources, Maine Department of Environmental Protection (MDEP), U.S. Department of the Interior (Interior), Maine State Planning Office, National Marine Fisheries Service (NMFS), and the Penobscot Nation.

On November 15, 1994, the Commission's staff issued the Lower Penobscot River Basin Draft Environmental Impact Statement (Draft EIS), analyzing the Basin Mills, Milford, and Stillwater hydroelectric projects, and requesting public comment. The Commission received comment letters from Bangor Hydro; Atlantic Salmon Federation; Maine Council of Atlantic Salmon Federation; American Rivers, Inc.; Maine Audubon Society; Sportsman's Alliance of Maine; Trout Unlimited; Maine Council of Trout Unlimited; the Corps; Department of Commerce; Interior; U.S. Geological Survey; U.S. Environmental Protection Agency; Penobscot Nation; and the Penobscot River Coalition. The Commission's staff considered these comments in preparing

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the Final Environmental Impact Statement (Final EIS).

Concurrently with this order, we are issuing an order on Applications for New and Original Licenses, which discusses issues common to three projects on the Penobscot and Stillwater Rivers. The discussion in that order is incorporated by reference herein.

Project Description

The Stillwater Project's principal features are a meandering dam approximately 1,720 feet long, consisting of 13 sections, a concrete and wooden powerhouse, an impoundment about 3.1 miles long with a surface area of about 300 acres, and appurtenant facilities. The existing project has a total nameplate generator capacity of 1.95 MW and an average annual generation of about 13.1 gigawatt-hours (GWh). The maximum hydraulic capacity of the Stillwater Project is 1,700 cubic feet per second (cfs). Flows in the Stillwater Branch exceed the maximum hydraulic capacity of the project 60 percent of the time. A more detailed project description is contained in Ordering Paragraph B(2).

Water Quality Certification

Under Section 401(a)(1) of the Clean Water Act, 33 U.S.C. §1341(a)(1), the Commission may not issue a license for a hydroelectric project unless the state's certifying agency has issued a water quality certification for the project or has waived certification.⁶ On October 23, 1992, the Maine Department of Environmental Protection granted water quality certification for the project, subject to certain conditions. The water quality certification contains 11 conditions, which are attached in full as Appendix A to this order.

Applicant's Plans and Capabilities

In accordance with Sections 10(a)(2)(C) and 15(a) of the FPA, we have evaluated Bangor Hydro's record as a Licensee with respect to the following: (1) consumption improvement program; (2) compliance history and ability to comply with the new license; (3) safe management, operation, and maintenance of the project; (4) ability to provide efficient and reliable electric service; (5) need for power; (6) transmission services; (7) cost effectiveness of plans; and (8) actions affecting the public.

1. Consumption Improvement Program

Section 10(a)(2)(C) of the FPA, 16 U.S.C. §803(a)(2)(C), requires the Commission, in acting on a license application, to consider the extent of electricity consumption efficiency improvement programs in the case of license applicants primarily engaged in the generation or sale of electric power. Bangor Hydro submitted a comprehensive and detailed report, entitled "1988 Annual Narrative Energy Management Services," that covers programs designed to improve the consumption efficiency and to reduce peak demands of metered customers.

We have reviewed the report cited and conclude that Bangor Hydro has made in good faith a satisfactory effort to establish and maintain efficiency improvement and load management programs that comply with Section 10(a)(2)(c) of the FPA and to support the objectives of the Electric Consumers Protection Act of 1986.

2. Compliance History and Ability to Comply with the New License

We have reviewed Bangor Hydro's license application and its record of compliance with the existing license in an effort to judge its ability to comply with the articles, terms, and conditions of any license issued, and with other applicable provisions of this part of the FPA.

Based on our review of Bangor Hydro's compliance record, we find that Bangor Hydro has complied in good faith with all articles, terms, and conditions of its current license. As a result of our review of its compliance record and the license application, we believe Bangor Hydro can satisfy the conditions of a new license.

3. Safe Management, Operation, and Maintenance of the Project

Bangor Hydro ensures safe management, operation, and maintenance by holding periodic meetings for maintenance and management personnel to review and update safety procedures and maintain a comprehensive safety policy. This includes displaying warning signs and buoys and installing and maintaining safety equipment.

Although Stillwater is exempt from FERC's five-year inspections, Bangor Hydro retains an independent consultant to inspect the project facilities every five years. In addition, the facility is inspected annually, and remedial/monitoring programs are developed as necessary.

As a result of our review of Bangor Hydro's plans, we conclude that it will be able to manage, operate, and maintain the Stillwater Project in a safe manner.

4. Ability to Provide Efficient and Reliable Electric Service

We reviewed Bangor Hydro's plans and its ability to operate and maintain the project in a [61,107] manner most likely to provide efficient and reliable electric service.

Bangor Hydro evaluated four alternatives for the Stillwater Project, ranging from life extension of the original units to construction of a new powerhouse on the opposite side of the river. Bangor Hydro's economic analysis of the alternatives determined that none of the upgrade/expansion alternatives are presently feasible; therefore, Bangor Hydro is proposing no increase in either installed capacity or energy generation.

There are no personnel stationed at the project. Roving operators make a minimum of three trips to the plant during each shift for three shifts a day. During each of these plant visits, an operator takes water readings and makes adjustments to keep the impoundment level as constant as possible. The operator also checks the equipment, the plant, and its surrounding grounds including the substation and takes a full set of readings that are reported to the System Operator.

Bangor Hydro is refining the project operation to protect or enhance the project area's natural resources, such as passing minimum flows. Bangor Hydro also maintains and improves the project through various programs and refinements.

Based on our review of the information, we conclude that Bangor Hydro has been operating the project efficiently within the constraints of the existing license and that it would continue to provide efficient and reliable electric services in the future.

5. Need for Power

Bangor Hydro is an investor-owned electric utility serving more than 110,000 customers in the central and southern counties of Maine. As licensed herein, the Stillwater Project will generate an average of 13.1 gigawatt-hours (GWh) of energy annually for Bangor Hydro.

To assess the need for power, we reviewed not only Bangor Hydro's use and need for the project power, but also the needs in the operating region in which the project is located. The Stillwater Project is located in the New England Power Pool (NEPOOL) area of the Northeast Power Coordinating Council region of the North American Electric Reliability Council (NERC). NERC annually forecasts electrical supply and demand in the nation and the region for a ten-year period. NERC's most recent report⁷ on annual supply and demand projections indicates that, for the period 1995-2004, loads in the NEPOOL area will grow faster than planned capacity additions. The project displaces nonrenewable fossil-fired generation and contributes to diversification of the generation mix in the NEPOOL area. We conclude that the project's power, its low cost, its displacement of nonrenewable fossil-fired generation, and its contribution to a diversified generation mix will help meet a need for power in the NEPOOL area.

6. Transmission Service

We find that licensing the project to continue its current operations will have no significant effect on the licensee's existing or planned transmission system.

7. Cost Effectiveness of Plans

Bangor Hydro has no plans for making other significant project changes, except for those periodically required to ensure the project's safety. Based on the license application and past practice, we conclude that Bangor Hydro's plans for constructing fish and recreation facilities, as well as its continued operation of the project, will be achieved in a cost-effective manner.

8. Actions Affecting the Public

Constructing fish passage facilities and additional recreational facilities and releasing minimum flows will increase benefits to fisheries and recreation opportunities and, therefore, will benefit the public.

Fish Passage

Bangor Hydro contends that prescriptions filed by Interior and Commerce should not be given mandatory status, because they were filed after the deadline established in the public notice that the project was ready for environmental analysis.⁸

Interior and Commerce both filed requests that the Commission include in the license a reservation of their authority to prescribe fishways.⁹ Interior subsequently submitted a fishway prescription on February 17 and revised the prescription on June 22, 1995, and May 20, 1997; and Commerce submitted a prescription on February 16, 1995. A request for a reservation of prescription authority is

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not itself a prescription.¹⁰ And since the request is that a reservation of authority be included in the license, the reservation request cannot be invoked before the license is issued, and thus cannot make an untimely pre-license prescription timely.¹¹

In any event, the agencies' late prescriptions were analyzed in the EIS as recommendations pursuant to FPA Section 10(a) and, as described below, we adopt most of those recommendations.

Article 405 requires that Bangor Hydro construct, operate and maintain fishways for the design populations of the species specified by Interior and to provide personnel of the U.S. Fish and Wildlife Service access to the project site and pertinent project records for the purpose of inspecting the fishways to determine compliance with the fishway conditions of the license.¹²

Articles 406 (addressing downstream fishways)¹³ and 407 (addressing upstream fishways) require that the licensee install and operate fish passage facilities at the project. These articles specify the migration periods during which the facilities must be opened. These articles also require Bangor Hydro to file and implement fishway maintenance and operational plans and to modify the fishways if the effectiveness studies required by Article 408 indicate that modifications are needed.¹⁴

Article 408 requires Bangor Hydro to file and implement a plan to study the effectiveness of the fishways required by Articles 406 and 407. If the study indicates that changes in the project's structures or operations, including flow, are necessary, Article 408 requires Bangor Hydro to file and implement a plan to improve the effectiveness of the fishways.

Article 409 contains a reservation of authority for the prescriptions of fishways under Section 18 of the Federal Power Act by the Secretary of the Interior.¹⁵

Recommendations of Federal and State Fish and Wildlife Agencies

Section 10(j) of the FPA requires the Commission, when issuing a license, to include conditions based on *recommendations of federal and state fish and wildlife agencies submitted pursuant to the Fish and Wildlife Coordination Act*,¹⁶ to "adequately and equitably protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" affected by the project.

Pursuant to Section 10(j) of the FPA, we evaluated each recommendation of the federal and state fish and wildlife agencies for consistency with the purpose and requirements of Part I of the FPA or other applicable law. By executive order of the Governor of the State of Maine, the terms and conditions contained in Maine's 401 Water Quality Certifications represent the state's official recommendations regarding the application and supersede all preliminary recommendations by individual state agencies.

The draft EIS stated that Interior's recommendations concerning a recreation monitoring plan was an inappropriate fish and wildlife recommendation,¹⁷ and that a 230-cfs minimum flow in the Stillwater bypassed reach may be inconsistent with the balancing provisions of Sections 4(e) and 10(a) of the FPA.

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Under Section 10(j)(2) of the FPA, whenever the Commission believes that any recommendations of the federal and state fish and wildlife agencies may be inconsistent with the FPA or other applicable law, the Commission shall attempt to resolve such

inconsistencies. In a Section 10(j) meeting held on February 9, 1996, the Commission's staff requested that Interior consider specifying the habitat goals it sought and allow permanent flows to be within the range of 70 cfs, as specified in the water quality certification, up to 230 cfs, as originally sought by Interior. The required flow would be that amount sufficient to achieve the habitat goals after the term is modified. Interior's subsequently provided revised minimum flows are incorporated in Articles 402 and 404.

Comprehensive Plans

Section 10(a)(2) of the FPA requires the Commission to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project. Under Section 10(a)(2), federal and state agencies filed a total of 18 plans. Of these, we identified eight as relevant to the project.¹⁸ No conflicts were found.

Comprehensive Development

Sections 4(e) and 10(a)(1) of the FPA, 16 U.S.C. §§797(e) and 803(a)(1) require the Commission, in acting on applications for license, to give equal consideration to the power and development purposes and to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife, the protection of recreational opportunities, and the preservation of other aspects of environmental quality. Any license issued shall be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses. The decision to license this project, and the terms and conditions included herein, reflect such consideration.

The EIS analyzed the effects associated with the issuance of the new license for the Stillwater Project. It recommends a number of measures to protect and enhance environmental resources, which we adopt, as discussed herein. These measures will provide improved fish passage at the dam, protect fish and wildlife resources by requiring run-of-river operation, and enhance recreational resources in the project area.

In determining whether a proposed project will be best adapted to a comprehensive plan for developing a waterway for beneficial public purposes, pursuant to Section 10(a)(1) of the FPA, the Commission considers several public interest factors, including the economic benefits of project power.

Under the Commission's approach to evaluating the economics of hydropower projects, as articulated in *Mead Corporation, Publishing Paper Division*,¹⁹ the Commission employs an analysis that uses current costs to compare the costs of the project and likely alternative power with no forecasts concerning potential future inflation, escalation, or deflation beyond the license issuance date. The basic purpose of the Commission's economic analysis is to provide a general estimate of the potential power benefits and the costs of a project, and reasonable alternatives to project power. The estimate helps to support an informed decision concerning what is in the public interest with respect to a proposed license. In making its decision, the Commission considers the project power benefits both with the applicant's proposed mitigation and enhancement measures and with the Commission's proposed modifications and additions to the applicant's proposal.

In addition, certain economic factors related to project decommissioning impinge on the decision to issue a new license that are not present in the licensing of new projects. If an existing project is not issued a new license, or if the Licensee declines to accept the new license, the project probably will have to be retired in one form or another. This could range from simply removing the generator at the project to major environmental restoration varying from minor measures to dam removal.

As licensed by the Commission, the Stillwater Project will produce an average of about 12.208 GWh of energy, at an annual cost of about \$552,300 (45.2 mills/kWh). The current annual value of the project's power would be \$376,800 (30.9 mills/kWh). We base this value on the cost of alternative resources, which in this case is the cost of a new combined cycle combustion turbine plant and the regional cost

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of natural gas.²⁰ To determine whether the proposed project is currently economically beneficial, we subtract the project's cost from the value of the project's power. Thus based on current costs, the project, as licensed by the Commission would cost about \$175,500 (about 14.3 mills/kWh) more than the current cost of alternative power.

As described above, our evaluation of the economics of the project shows that the power it generates costs more than alternative power. However, as explained in *Mead*, the economic analysis is by necessity inexact, and project economics is only one of many public interest factors considered in determining whether or not, and under what conditions, to issue a license.²¹ Bangor Hydro is ultimately responsible and best able to determine whether continued operation of the existing project, with the conditions adopted herein, is a reasonable decision in these circumstances.

Based on our review of the comments on this project filed by agencies and the public, our review of the staff's evaluation of the environmental and economic effects of the proposed project and its alternatives, and our analysis pursuant to Sections 4(e) and 10(a)(1), we find that the Stillwater Project, with our mitigative and enhancement measures, will be best adapted to the comprehensive development of the Stillwater River for beneficial public uses.

License Term

Section 15(e) of the FPA specifies that any license issued under Section 15 shall be for a term that the Commission determines to be in the public interest, but not less than 30 years, nor more than 50 years. The Commission's policy is to establish 30-year terms for projects that propose little or no redevelopment, new construction, or new capacity; 40-year terms for projects that propose moderate redevelopment, new construction, or new capacity; and 50-year terms for projects that propose extensive redevelopment, new construction, or new capacity.

In our policy statement on cumulative impacts and license reopeners, we stated that we would endeavor to coordinate the expiration dates of licenses for projects located in the same river basin to the maximum extent feasible, consistent with our commitment to considering the cumulative impacts of projects in the same river basin collectively at relicensing.²² Issuing a license for the Stillwater Project with the same expiration date as for the Milford and Veazie Projects would further this policy by ensuring that these licenses expire simultaneously. Therefore, we will issue a license for a 40-year term for the Stillwater Project, effective the first day of the month in which this license is issued.

Summary of Findings

The EIS issued for this project includes background information, analysis of effects, discussion of enhancement measures, and support for related license articles. The project will not produce any major, long-term adverse environmental effects.

The design of this project is consistent with the engineering standards governing dam safety. The project will be safe if operated and maintained in accordance with the requirements of this license.

We conclude that the project will not conflict with any planned or authorized development and will be best adapted to the comprehensive development of the lower Penobscot River Basin for beneficial public uses.

The Commission orders:

(A) This license is issued to Bangor Hydro-Electric Company (Licensee) for a period of 40 years, effective the first day of the month in which this order is issued, to operate and maintain the Stillwater Hydroelectric Project. This license is subject to the terms and conditions of the Federal Power Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the Federal Power Act.

(B) The project consists of:

(1) All lands, to the extent of the Licensee's interest in those lands, enclosed by the project boundary shown by Exhibit G:

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Exhibit-G	FERC Drawing No.	Showing
1	2712-1001	Stillwater Hydro Project General Map--Project Area (sheet 1 of 4)
2	2712-1002	Stillwater Hydro Project Detail Map Reservoir (sheet 2 of 4)
3	2712-1003	Stillwater Hydro Project Detail Map Reservoir (sheet 3 of 4)
4	2712-1004	Stillwater Hydro Project Detail Map Reservoir (sheet 4 of 4)

(2) Project works consisting of:

(a) A main concrete gravity dam, totaling about 1,720 feet long, with a maximum height of 22 feet at crest elevation 91.65 feet National Geodetic Vertical Datum (NGVD), consisting of 13 sections: a non-overflow section, totaling 63 feet long, which serves as an abutment and wingwall, containing a 6-footwide unused stoplog sluice gate; a 381-foot-long primary spillway section, with a maximum height of 22 feet at a crest elevation of 91.65 feet NGVD, topped with 2.0-foot-high pin-supported flashboards; an 85-foot-long by 2-foot-wide by 2.5-foot-high leveling concrete course; a 43-foot-long concrete sill Section on top of a ledge island; a 174-foot-long ogee section, with varying heights from 4 to 20 feet, topped with 2.0-foot-high pin-supported flashboards; a 52-foot-long ogee section, with a maximum height of 9 feet, topped with a concrete curb, 15 inches wide by 25 inches high; a 105-foot-long spillway section, with an average height of 6 feet; a 42-foot-long spillway section, with a maximum height of 8 feet, topped with 1-foot-high pin-supported flashboards; a 73.5-foot-long abutment section, with an average height of 4 feet; a 187-foot-long non-overflow section, with varying heights from 3 to 12 feet, which abuts an abandoned powerhouse; a 63-foot-long non-overflow section, which is part of the abandoned powerhouse's foundation; a 197.5-foot-long section, with varying heights from 2 to 4 feet, abutting the old and existing powerhouses; and a 162.5-foot-long non-overflow section, with a downstream-facing earth backfill, having a maximum height of 12 feet, topped with a 2-foot-high concrete curb and a driveway on top of the earth backfill;

(b) A concrete and wooden powerhouse, about 83.5 feet long by 32 feet wide by 45 feet high, equipped with four horizontal hydroelectrical generating units: three of which are rated at 450-kilowatts (kW) each, with a net head of 18 feet and a hydraulic capacity range from 380 to 1,140 cubic feet per (cfs); and one rated at 600 kW, with a net head of 18 and a hydraulic capacity of 560 cfs; all totaling a rated capacity of 1,950 kW; a hydraulic capacity range from 380 to 1,700 cfs; an average annual generation of about 13,120,000 kWh; and each having a net head of 18 feet;

(c) An impoundment, about 3.1 miles long, having a surface area of about 300 acres (AC); a gross storage capacity of 3,040 acre-feet (AF); a negligible useable storage capacity; a normal headwater surface elevation of about 93.65 feet NGVD; and a normal tailwater surface elevation of about 73.65 feet NGVD; and

(d) Appurtenant facilities.

The project works generally described above are more specifically shown and described by those portions of Exhibits A and F shown below.

Exhibit A: The following sections of Exhibit A filed December 23, 1991:

Pages A-1 through A-11, including Table A-1 describing the existing mechanical, electrical and transmission equipment.

Exhibit F	FERC Drawing No.	Showing
P-1	2712-1005	Stillwater Hydro Project General Plan and Dam Sections.
F-2	2712-1006	Stillwater Hydro Project Power House Plan and Sections.

(3) All of the structures, fixtures, equipment, or facilities used to operate or maintain the project and located within the project boundary, all portable property that may be employed in connection with the project and located within or outside the project boundary, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) The Exhibits A, F, and G described above are approved and made part of the license.

(D) This license is subject to the articles set forth in Form L-3 (October 1975), entitled "Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters of the United States," and the following additional articles:

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Article 201. The Licensee shall pay the United States the following annual charges, effective as of the first day of the month in which this license is issued, for the purposes of reimbursing the United States for the costs of administering Part I of the Federal Power Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 1,920 kilowatts.

Article 202. Within 45 days of the date of issuance of the license, the licensee shall file an original set and two duplicate

sets of aperture cards of the approved drawings. The set of originals must be reproduced on silver or gelatin 35-mm microfilm. The duplicate sets are copies of the originals made on diazo-type microfilm. All microfilm must be mounted on type D (31/4" x 73/8") aperture cards.

Prior to microfilming, the FERC Drawing Number (2712-1001 through 2712-1006) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number must be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (*e.g.*, F-1, G-1, *etc.*), Drawing Title, and date of this license must be typed on the upper left corner of each aperture card.

The original and one duplicate set of aperture cards must be filed with the Secretary of the Commission, ATTN: DPCA/ERB. The remaining duplicate set of aperture cards shall be filed with the Commission's New York Regional Office.

Article 203. Pursuant to Section 10(d) of the FPA, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. The Licensee shall set aside in a project amortization reserve account at the end of each fiscal year one half of the project surplus earnings, if any, in excess of the specified rate of return per annum on the net investment.

To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year, the Licensee shall deduct the amount of that deficiency from the amount of any surplus earnings subsequently accumulated, until absorbed. The Licensee shall set aside one-half of the remaining surplus earnings, if any, cumulatively computed, in the project amortization reserve account. The Licensee shall maintain the amounts established in the project amortization reserve account until further order of the Commission.

The specified reasonable rate of return used in computing amortization reserves shall be calculated annually based on current capital ratios developed from an average of 13 monthly balances of amounts properly included in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rate for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 401. The Licensee shall operate the Stillwater Project in a run-of-river mode for the protection of fisheries resources and recreational opportunities in the Stillwater Branch of the Penobscot River. Except as temporarily modified by approved maintenance activities, inflows to the project area, or operating emergencies beyond the Licensee's control, the Licensee shall maintain water levels in the Stillwater impoundment within one foot of normal full pond elevation of 93.65 feet NGVD while flashboards are in place.

The Licensee shall at all times act to minimize the fluctuation of the reservoir surface elevation by maintaining a discharge from the project so that, at any point in time, outflows, as measured immediately downstream from the project tailrace, approximate the sum of inflows to the project reservoir.

Run-of-river operation may be temporarily modified if required by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee and the Maine Department of Environmental Protection. If the flow is so modified, the Licensee shall notify the Commission as soon as possible, but no later than 10 days after each such incident.

The Licensee shall prepare a plan in consultation with the Maine Department of Environmental Protection to monitor the water levels in Stillwater Impoundment and file the plan with the Commission, for approval, no later than 180 days after the issuance of this license. The Commission reserves the right to require changes to the water level monitoring plan. Upon Commission approval, the Licensee shall implement the plan, including any changes required by the Commission.

Article 402. The Licensee shall release from the Stillwater Project an interim minimum flow of 40 cubic feet per second (cfs) into the so-called west bypass channel and an interim minimum flow of 190 cfs into the so-called east

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bypass channel, as measured at a location determined in consultation with the Maine Department of Environmental Protection, the U.S. Department of the Interior, the U.S. Geological Survey, and the Penobscot Indian Nation, or inflow to the project reservoir, whichever is less, for the protection and enhancement of fish and wildlife resources, water quality, and

recreation opportunities on the Stillwater Branch of the Penobscot River.

This flow may be temporarily modified if required by operating emergencies beyond the control of the Licensee, and for short periods upon mutual agreement between the Licensee and the Maine Department of Environmental Protection. If the flow is so modified, the Licensee shall notify the Commission as soon as possible, but no later than 10 days after each such incident.

Article 403. The Licensee shall, in consultation with the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, the Atlantic Sea Run Salmon Commission, the U.S. Fish and Wildlife Service and the Penobscot Indian Nation, prepare a plan to make physical modifications to the gravel/cobble berm separating Sections 1 and 3 of the Stillwater bypassed reach to improve fish habitat availability. The Licensee shall file the plan with the Commission, for approval, no later than 180 days after issuance of this license.

The plan shall be reviewed by the state and federal fisheries agencies and the Maine Department of Environmental Protection Bureau of Land Quality Control. The Commission reserves the right to require changes to the berm modification plan. Activities shall not begin until the Licensee is notified by the Commission that these plans are approved. Upon Commission approval, the Licensee shall implement the plan, including any changes required by the Commission.

Article 404. The Licensee shall, in consultation with the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, the Atlantic Sea Run Salmon Commission, the U.S. Fish and Wildlife Service and the Penobscot Indian Nation, prepare a plan to study various minimum flow releases between leakage and 40 cfs in the west bypassed reach and between leakage and 190 cfs on the habitat in Sections 1, 2, and 3, of the east bypassed reach, following berm modification. The purpose of the study will be to determine the permanent minimum flow in the east and west channels of the Stillwater bypassed reach. The target habitat units of the combined areas of the east bypassed reach are an additional 80.6 salmon nursery habitat units, 176.6 smallmouth bass spawning/incubation habitat units, 268 smallmouth bass young-of-year habitat units, 434.9 smallmouth bass juvenile habitat units, 311.4 smallmouth bass adult habitat units, 60 shad spawning/incubation habitat units, and 328.2 shad larvae/juvenile habitat units. These target habitat units are to be attained with flows into the bypassed reach no greater than 230 cfs and no less than 70 cfs.

The plan shall be reviewed by the state and federal fisheries agencies and the Maine Department of Environmental Protection Bureau of Land Quality Control. The Licensee shall file the plan with the Commission, for approval, no later than 180 days after issuance of this license.

Results from the minimum flow study and the Licensee's plans for maintenance of the berm and long-term minimum flow releases that will adequately maintain fish habitat in Sections 1, 2, and 3 shall be submitted to the Maine Department of Environmental Protection Bureau of Land Quality Control and the Commission within 18 months of license issuance for the project.

The Commission reserves the right to require changes to the berm maintenance plan and minimum flow study. Activities shall not begin until the Licensee is notified by the Commission that these plans are approved. Upon Commission approval, the Licensee shall implement the plan, including any changes required by the Commission.

Article 405. Fishways shall be constructed, operated, and maintained at the Stillwater Project to provide effective (safe, timely, and convenient) passage for the mainstem Penobscot River design populations of Atlantic salmon, American shad, alewives, and unquantified numbers of blueback herring and American eels at the Licensee's expense. The quantified design populations for the mainstem Penobscot River for each target species is: 2.1 million Atlantic salmon; 250,000 American shad; up to 12,000 alewife. The fishways for the Stillwater Project should be sized appropriately for the migrating populations that use this portion of the river.

The Licensee shall provide personnel of the U.S. Fish and Wildlife Service, and other Service designated representatives, access to the project site and to pertinent project records for the purpose of inspecting the fishways to determine compliance with the fishway prescriptions.

Article 406. The Licensee shall install and operate permanent downstream fish passage facilities at the Stillwater Project. Fishways shall be maintained and operated to maximize fish passage effectiveness throughout fish migration period(s) as defined below. The downstream migration period is defined as April 1 to

June 30 for Atlantic salmon, July 1 to December 31 for American shad and alewife, August to December 31 for blueback herring, and August 15 to November 15 (or other time periods determined when adequate information is available, and during any spring run that may occur) for American eel. Downstream facilities are to operate whenever generation occurs during the downstream migration period. The Licensee shall keep the fishways in proper order and shall keep fishway areas clear of trash, logs, and material that would hinder passage. Anticipated maintenance shall be performed in sufficient time before a migratory period such that fishways can be tested and inspected and will operate effectively prior to and during the migratory periods.

Fishway maintenance and operational plans (including schedules) for all fish passage facilities shall be developed by the Licensee in consultation and cooperation with the U.S. Fish and Wildlife Service (FWS), the Penobscot Indian Nation (Penobscot Nation), and other fishery agencies (including the Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources, and the National Marine Fisheries Service). Functional design and final design plans for all fishways shall be developed in consultation and cooperation with the FWS, Penobscot Nation, and other fishery agencies.

Downstream fishways shall consist of installation of trashracks with 1" clear opening at the powerhouse turbine intake and gated surface and bottom bypasses discharging up to 70 cfs during the downstream migration period.

Within 180 days after the date of license issuance, the Licensee shall file, for Commission approval, detailed design drawings of the Licensee's proposed permanent downstream fish passage facilities. This filing shall include but not be limited to: (1) the location and design specifications of the passage facilities; (2) a schedule for installing the facilities; and (3) procedures for operating and maintaining the facilities.

The Licensee shall include with the filing documentation of consultation, copies of agency comments and recommendations on the drawings, plans, and schedule after they have been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the Licensee's facilities. The Licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the drawings, plans, and schedule with the Commission. If the Licensee does not adopt a recommendation, the filing shall include the Licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the proposed facilities and schedule. No construction of downstream fish passage facilities shall begin until the Licensee is notified by the Commission that the plan is approved. Upon Commission approval, the Licensee shall implement the proposal, including any changes required by the Commission.

Article 407. The Licensee shall install and operate permanent upstream fish passage facilities at the Stillwater Project. Fishways shall be maintained and operated to maximize fish passage effectiveness throughout fish migration period(s) as defined below. The upstream migration period is defined as April 15 to November for Atlantic salmon, May 1 to June 30 for American shad and alewife, June 1 to July 31 for blueback herring, and April 1 to November 30 for American eel. The Licensee shall keep the fishways in proper order and shall keep fishway areas clear of trash, logs, and material that would hinder passage. Anticipated maintenance shall be performed in sufficient time before a migratory period such that fishways can be tested and inspected and will operate effectively prior to and during the migratory periods.

Fishway design, maintenance and operational plans (including schedules) for all fish passage facilities shall be developed by the Licensee in consultation and cooperation with the U.S. Fish and Wildlife Service (FWS), the Penobscot Indian Nation (Penobscot Nation), and other fishery agencies (including the Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources, and the National Marine Fisheries Service). Functional design and final design plans for all fishways shall be developed in consultation and cooperation with the FWS, Penobscot Nation, and other fishery agencies. Upstream fishways must be designed to operate at mainstem Penobscot River flows up to 40,000 cfs (as measured for the Penobscot River at the U.S. Geological Survey gaging station at Eddington) during any upstream migration period designated herein. An attraction flow of up to 50 cfs at the fishway entrance shall be provided.

Within 180 days after the date of license issuance, the Licensee shall file, for Commission approval, detailed design drawings for permanent upstream fish passage facilities. This filing shall include but not be limited to: (1) the location and design specifications of the passage facilities; (2) a schedule for installing the facilities; and (3) procedures for operating and maintaining the facilities.

The Licensee shall include with the plan documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to

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the agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The Licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the Licensee does not adopt a recommendation, the filing shall include the Licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the proposed facilities and schedule. No land-disturbing or landclearing activities related to upstream fish passage shall begin until the Licensee is notified by the Commission that the plan is approved. Upon Commission approval, the Licensee shall implement the proposal, including any changes required by the Commission.

Article 408. Within 18 months after license issuance, the Licensee shall file with the Commission, for approval, a plan to monitor the effectiveness of all the facilities and flows provided pursuant to Articles 406 and 409 of this license that will enable the efficient and safe passage of anadromous fish migrating upstream and downstream. The results of these monitoring studies shall be submitted to the agencies listed below and shall provide a basis for recommending future structural or operational changes at the project.

The monitoring plan shall include a schedule for: (1) implementation of the plan; (2) consultation with the appropriate federal and state agencies concerning the results of the monitoring; and (3) filing the results, agency comments, and Licensee's response to agency comments with the Commission.

The Licensee shall prepare the monitoring plan after consultation with the U.S. Fish and Wildlife Service, Maine Department of Marine Resources, the Maine Department of Environmental Protection, the Penobscot Indian Nation, and the National Marine Fisheries Service.

The Licensee shall include with the plan documentation of agency consultation, copies of agency comments and recommendations on the plan after it has been prepared and provided to them, and specific descriptions of how the agencies' comments are accommodated by the Licensee's plan. The Licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the Licensee does not adopt a recommendation, the filing shall include the Licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the proposed plan. Upon Commission approval, the Licensee shall implement the plan, including any changes required by the Commission.

If the results of the monitoring indicate that changes in project structures or operations, including alternative flow releases, are necessary to protect fish resources, the Licensee shall first consult with the agencies listed above to develop recommended measures for amelioration and then file its proposal with the Commission, for approval. The Commission reserves its authority to require the Licensee to modify project structures or operations to protect and enhance aquatic resources.

Article 409. Authority is reserved by the Commission to require the Licensee to construct, operate, and maintain, or to provide for the construction, operation, and maintenance of, such fishways as may be prescribed by the Secretary of the Interior under Section 18 of the Federal Power Act.

Article 410. Within one year of license issuance, the Licensee shall construct and provide for the operation and maintenance of the following recreational facilities:

- (1) provide fencing around the parking area on the east bank of the Stillwater dam and signs warning against launching canoes and walking out on to the dam;
- (2) provide gravel fill to the University of Maine to be used to create parking areas and one hand-carry boat and canoe access site;
- (3) provide surfacing materials for handicapped access to the northern cove in the University Forest adjacent to the Stillwater impoundment; and

(4) designate a visitor parking area at the Stillwater powerhouse and continue to provide and maintain the portage trail around Stillwater dam, providing safety booms and hazard warning signs near the Stillwater dam, and assess the demand for additional recreational opportunities in conjunction with FERC Form 80 surveys.

The Licensee shall construct these facilities after consultation with the Maine Department of Conservation and the Maine Department of Environmental Protection Bureau Land Quality Control. These facilities shall be shown on the as-built drawings filed pursuant to this license.

The Licensee shall file a report with the as-built drawings, which shall include the entity responsible for operation and maintenance of the facilities, documentation of consultation, copies of comments and recommendations on the report after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the report. The Licensee shall allow a minimum of 30 days for the agencies to comment

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before filing the report with the Commission. If the Licensee does not adopt a recommendation, the filing shall include the Licensee's reasons, based on project-specific information.

Article 411. The Licensee, after consultation with the Town of Orono, National Park Service, Penobscot Indian Nation, Maine Department of Environmental Protection, and Maine Department of Conservation, shall monitor recreation and Indian cultural use of the project area to determine whether existing recreation facilities are meeting recreation and Indian cultural use needs. Monitoring studies shall begin within six years of the issuance date of this license. Monitoring studies, at a minimum, shall include collection of annual recreation use data.

Every six years during the term of the license, the Licensee shall file a report with the Commission on the monitoring results. This report shall include:

- (1) annual recreation and Indian cultural use figures;
- (2) a discussion of the adequacy of the Licensee's recreation facilities at the project site to meet recreation demand;
- (3) a description of the methodology used to collect all study data;
- (4) if there is need for additional facilities, the licensee's design of recreational facilities and how such design takes into account the national standards established by the Architectural and Transportation Barriers Compliance Board pursuant to the Americans with Disabilities Act of 1990;
- (5) documentation of agency consultation and agency comments on the report after it has been prepared and provided to the agencies; and
- (6) specific descriptions of how the agency comments are accommodated by the report.

The Licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations prior to filing the report with the Commission.

Article 412. The Licensee shall implement the "Programmatic Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the Maine State Historic Preservation Officer, for Managing Historic Properties That May Be Affected By A License Issuing To Bangor Hydro-Electric Company To Continue Operating The Stillwater Hydroelectric Project In Maine," executed on August 8, 1997, including but not limited to the Cultural Resources Management Plan for the Project. In the event that the Programmatic Agreement is terminated, the Licensee shall implement the provisions of its approved Cultural Resources Management Plan. The Commission reserves the authority to require changes to the Cultural Resources Management Plan at any time during the term of the license. If the Programmatic Agreement is terminated prior to Commission approval of the Cultural Resources Management Plan, the Licensee shall obtain Commission approval before engaging in any ground disturbing activities or taking any other action that may affect any historic properties within the Project's area of potential effect.

Article 413. (a) In accordance with the provisions of this license, the Licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project

lands and waters for certain types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this license. If a permitted use and occupancy violates any condition of this license or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this license is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and water for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement.

To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy

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of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction; (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site; and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline.

To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-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 (c) 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.

(d) 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

(d)(7) in any calendar year.

At least 60 days before conveying any interest in project lands under this paragraph (d), the Licensee must submit a letter to the Director, Office of Hydropower Licensing, 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.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(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.

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(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 insure 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 ice, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this license does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this license only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this license 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, proposals to exclude lands conveyed under this license from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) 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.

(E) The Licensee shall serve copies of any Commission filing required by this order on any entity specified in this order to be consulted on matters related to that filing. Proof of service on these entities must accompany the filing with the Commission.

(F) The motion to intervene filed by American Rivers is granted.

(G) This order is final unless a request for rehearing is filed within 30 days from the date of its issuance, as provided in Section 313(a) of the FPA. The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. The Licensee's failure to file a request for rehearing shall constitute acceptance of this license.

Appendix A

THEREFORE, the Department GRANTS certification that there is a reasonable assurance that the continued operation of the Stillwater Hydro Project, as described above, will not violate applicable water quality standards, SUBJECT TO THE

FOLLOWING CONDITIONS:

1. Interim Minimum Flows

A. Except as temporarily modified by operating emergencies beyond the applicant's control, as defined below, the facility shall be operated as run-of-river (outflow equals inflow) while passing an interim minimum flow of 20 cfs in the so-called west bypass channel and an interim minimum flow of 50 cfs in the east bypass channel.

B. Operating emergencies beyond the applicant's control include, but may not be limited to, equipment failure or other temporary abnormal operating condition, generating unit operation or interruption under power supply emergencies, and orders from local, state, or federal law enforcement or public safety authorities.

C. The applicant shall, in accordance with the schedule established in a new FERC license for the project, submit plans for providing and monitoring the minimum flow required by Part A of this condition. These plans shall be reviewed by and must receive approval of the DEP Bureau of Land Quality Control.

2. Berm Modification and Minimum Flow Study

A. The applicant shall make physical modifications to the gravel/cobble berm separating habitat Sections 1 and 3 and conduct a minimum flow study to determine habitat availability for the life stages of the target fish species previously evaluated.

B. The applicant shall, in consultation with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Atlantic Sea Run Salmon Commission, and the Penobscot Indian Nation, prepare a plan to make physical modifications to the gravel/cobble berm separating Section 1 and 3 as seen on Exhibit #3, and to conduct a study assessing the impact of various minimum flow releases between leakage and 190 cfs, on the habitat in Sections 1, 2, and 3. The plan shall be reviewed by and must receive approval of state and federal fisheries agencies and the DEP Bureau of Land Quality Control.

[61,119]

C. The results of the minimum flow study and the applicant's proposals for maintenance of the berm and long-term minimum flow releases that will adequately maintain fish habitat in Sections 1, 2, and 3 shall be submitted to the DEP Bureau of Land Quality Control within one full field season following the issuance of a new FERC license for the project. After reviewing the study results, the applicant's proposal, and agency comments, the Department shall order such continuation or modification of the interim minimum flow established by this approval as is deemed necessary to maintain adequate fish habitat in Section 1, 2, and 3 and in the west bypass channel.

3. Water Levels

A. Except as temporarily modified by normal maintenance activities or by inflows to the project area or by operating emergencies beyond the applicant's control, as defined below, water levels in the Stillwater impoundment shall be maintained within one foot of normal full pond elevation of 93.65 feet (NGVD) while flashboards are in place.

B. Operating emergencies beyond the applicant's control include, but may not be limited to, equipment failure or other temporary abnormal operating conditions, generating unit operation or interruption under power supply emergencies, and orders from local, state, or federal law enforcement or public safety authorities.

C. The applicant shall, in accordance with the schedule established in a new FERC license for the project, submit plans for providing and monitoring the water levels in the Stillwater impoundment as required in Part A of this condition. These plans shall be reviewed by and must be receive approval of the DEP Bureau of Land Quality Control.

4. Fish Passage Facilities

A. The applicant shall install and operate permanent upstream and downstream fish passage facilities at the Stillwater Project as proposed in the application.

B. The applicant shall, in accordance with the schedule established in a new FERC license for the project, submit

functional design drawings, a construction schedule, and operating and maintenance plans for all fish passage facilities required by Part A of this condition, prepared in consultation with state and federal fisheries agencies and the Penobscot Indian Nation. These submittals shall be reviewed by and must receive approval of state and federal fisheries agencies, FERC and the DEP Bureau of Land Quality Control prior to facilities construction.

5. Fish Passage Studies

A. The applicant shall, in consultation with state and federal fisheries agencies and the Penobscot Indian Nation, conduct a study to monitor and evaluate the effectiveness of all fish passage facilities constructed pursuant to Condition 4 of this certification.

B. The applicant shall, within 1 year following the issuance of a new FERC license for the project, submit a fish passage study plan and schedule, prepared in consultation with state and federal fisheries agencies and the Penobscot Indian Nation. This plan and schedule shall be reviewed by and must receive approval of state and federal fisheries agencies, FERC, and the DEP Bureau of Land Quality Control.

C. The applicant shall, in accordance with the schedule established in a new FERC license for the project, submit the results of the fish passage study, along with any recommendations for structural, operational changes, or additional fishways, based on the results of the study, to the DEP Bureau of Land Quality Control and to all consulting agencies. The Department reserves the right, after opportunity for hearing, and after reviewing the comments and recommendations for the consulting fishery agencies and the Penobscot Indian Nation, to require reasonable structural and/or operational changes to the existing fish passage facilities, or require additional fishways, as may be necessary to effectively pass anadromous fish through the project area. Any such changes or new fishways must also be approved by FERC.

6. Recreational Facilities and Access

A. The applicant shall: provide fencing around the parking area on the east bank of the Stillwater Dam and provide warning signs; provide gravel fill and surfacing materials as agreed to in the Memorandum of Understanding between the applicant and the University of Maine; designate a visitor's parking area at the Stillwater powerhouse; continue to maintain the portage trail around the Stillwater Dam; continue to provide safety booms and hazard warning signs in the vicinity of the Stillwater Dam; and continue to assess the demand for additional recreational opportunities.

B. The applicant shall, in accordance with the schedule established in a new FERC license for the project, submit a schedule for implementing Part A of this condition. This schedule shall be reviewed by the Department of Conservation and must receive approval of the DEP Bureau of Land Quality Control.

7. Limits of Approval

This approval is limited to and includes the proposals and plans contained in the application

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and supporting documents submitted and affirmed to by the applicant. All variances from the plans and proposals contained in said documents are subject to the review and approval of the Board or Department prior to implementation.

8. Compliance with All Applicable Laws

The applicant shall secure and appropriately comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements and orders required for the operation of the project.

9. Effective Date

This water quality certification shall be effective on the date of issuance of a new hydropower project license by the Federal Energy Regulatory Commission (FERC) and shall expire with the expiration of this FERC license.

— Footnotes —

[61,105]

¹ 16 U.S.C. §807.

² The Stillwater Branch of the Penobscot River is a navigable waterway of the United States. 1 FERC ¶61,104 (1977). Therefore the Stillwater Project is required to be licensed pursuant to §23(b)(1) of the FPA.

³ 4 FERC ¶61,157 (1978).

⁴ 58 Fed. Reg. 5,966 (January 25, 1993).

⁵ 18 C.F.R. §385.214 (c)(1) (1993).

[61,106]

⁶ Section 401(a)(1) requires an applicant for a federal license or permit to conduct any activity which may result in any discharge into navigable waters to obtain from the state in which the discharge originates certification that any such discharge will comply with applicable water quality standards.

[61,107]

⁷ NERC's Electricity Supply and Demand Database, Data set 1995-2004.

⁸ See 18 C.F.R. §4.43(b). As discussed in the lead order issued today in this proceeding, 83 FERC ¶61,039 (1998), we decline to address Bangor's arguments with respect to whether Interior is authorized to prescribe a fishway for the fish species at issue in this proceeding.

⁹ The notice that the Stillwater application was ready for environmental analysis set March 15, 1993, as the deadline for submitting Section 18 prescriptions.

[61,108]

¹⁰ See *Niagara Mohawk Power Corp.*, 83 FERC ¶61,036 (1998).

¹¹ This result is of limited import, as there remain the agencies' requests for reservation of their prescription authority, which we grant, pursuant to our policy. See *Niagara Mohawk*, *supra*.

¹² We have not included Interior's recommendation that all fishways be operational within three years as a condition of the license. Construction schedules are an element which must be included in the final design plans which Bangor Hydro must file with the Commission. Bangor Hydro must consult with Interior in preparing the design plans; however, the authority to determine the timing of the construction of project works, including fishways, rest exclusively with the Commission. See *Niagara Mohawk Power Corp.*, 67 FERC ¶61,300, at p. 62,039 (1994).

¹³ Article 406 also requires that Bangor Hydro install trashracks with a one-inch clear opening at the powerhouse turbine intake and gated surface and bottom bypasses discharging up to 70 cfs during the downstream migration period.

¹⁴ We have not adopted Commerce's recommendation prohibiting trapping and trucking as a permanent means of fish passage. We have also not adopted Commerce's recommendation to prohibit the inclusion of fish pumps in fish passage design. Commerce's objections to these measures can be addressed during consultation, if they are proposed. We do not believe it is appropriate to categorically exclude either of these measures from consideration.

¹⁵ Interior and Commerce recommended several alternative design types for the new fishways. Their preferences for the type of fishways to be constructed can be addressed during the consultation required during the design process or through the exercise of Interior's reservation of prescription authority contained in Article 409.

¹⁶ 16 U.S.C. §661 *et al.*

¹⁷ Recommendations that are not specific measures to protect, mitigate, or enhance fish and wildlife resources are not subject to the Section 10(j) process. These recommendations, however, have been evaluated under Section 10(a) of the FPA and are discussed in the final EIS for the project.

[61,109]

¹⁸ Strategic Plan for Management of Atlantic Salmon in the State of Maine, 1984, Atlantic Sea-Run Salmon Commission; Maine Rivers Study, 1982, Maine Department of Conservation and National Park Service; State Comprehensive River Management Plan, 1987, Maine State Planning Office; State Comprehensive Outdoor Recreation Plan, 1988, Maine State Planning Office; Penobscot River Alewife and American Shad Restoration Plan, 1984, Maine Department of Marine Resources; Inland Fisheries River Management Plan, 1982, Maine Department of Inland Fisheries and Wildlife; Species Assessments and Strategic Plans, 1991, Maine Department of Inland Fisheries and Wildlife; Gulf of Maine Rivers Ecosystem Plan, 1994, U.S. Fish and Wildlife Service.

¹⁹ 72 FERC ¶61,027 (1995).

[61,110]

²⁰ Our estimate of the value of power is more completely described in the EIS.

²¹ In analyzing public interest factors, we consider the fact that hydroelectric projects offer unique electric utility system operational benefits and that proposed projects may provide substantial benefits not directly related to utility operations, benefits that would be lost if a license were denied solely on economic grounds. See City of Augusta, *et al.*, 72 FERC ¶61,114, at p. 61,599, n.57 (1995).

²² Use of Reserved Authority in Hydropower Licenses to Ameliorate Cumulative Impacts, 59 *Fed. Reg.* 66718 (December 28, 1994), *FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996* ¶31,010, at p. 31,219 (1994). This policy is codified at 18 C.F.R. §2.23 (1996). See also *Central Maine Power Company*, 73 FERC ¶61,149, at p. 61,422 (1995); *Duke Power Company*, 73 FERC ¶61,335, at p. 61,940 (1995).

Bangor Hydro-Electric Company, Project No. 2712-012

[64,342]

[¶62,225]

Bangor Hydro-Electric Company, Project No. 2712-012

Order Amending License

(Issued March 22, 1999)

J. Mark Robinson, Director, Division of Licensing and Compliance.

On November 19, 1998, Bangor Hydro-Electric Company (Bangor), licensee for the Stillwater Project (FERC 2712) filed an application to amend its license.¹ The Stillwater Project is located on the Stillwater branch of the Penobscot River in Penobscot County, Maine.

Background

Bangor filed the application to correct the project's transformer high side voltage as shown in Exhibit A page A-7. The voltage approved in the license is 14,400 volts. The actual high-side voltage is actually 12,470 volts. This change is approved by this order.

The Director orders:

(A) The license for the Stillwater Project, FERC Project No. 2712 is amended as described below effective the issuance date of this order.

(B) The high-side voltage for the transformer describe on page A-7 of Exhibit A is revised to 12,470 volts.

[64,343]

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. §385.173.

— Footnote —

[64,342]

¹ 83 FERC ¶61,037, *Order Issuing New License*, issued April 20, 1998.

OD-ORDER, 87 FERC ¶62,001, Bangor Hydro-Electric Company and Penobscot Hydro, LLC, Projects Nos. 2403-013, 2534-021, 2666-009, 2710-011, 2712-015, 2721-015, 2727-059, (Apr. 01, 1999)

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Bangor Hydro-Electric Company and Penobscot Hydro, LLC, Projects Nos. 2403-013, 2534-021, 2666-009, 2710-011, 2712-015, 2721-015, 2727-059

[64,001]

[¶62,001]

Bangor Hydro-Electric Company and Penobscot Hydro, LLC, Projects Nos. 2403-013, 2534-021, 2666-009, 2710-011, 2712-015, 2721-015, 2727-059

Order Approving Transfer of Licenses

(Issued April 1, 1999)

J. Mark Robinson, Director, Division of Licensing and Compliance.

By application filed December 7, 1998, as amended January 22, 1999, Bangor Hydro-Electric Company (Bangor or transferor) and Penobscot Hydro, LLC (Penobscot or transferee) request Commission approval to transfer the licenses for the Veazie, Milford, Medway, Orono, Stillwater, Howland, and Ellsworth Hydroelectric Projects (Nos. 2403, 2534, 2666, 2710, 2712, 2721, and 2727, respectively) from Bangor to Penobscot.¹ The first five named projects are located on the Penobscot and Stillwater Rivers in Penobscot County, Maine; the sixth on the Piscataquis River in Penobscot County, Maine; and the seventh on the Union River in Hancock County, Maine.

Transfer of the licenses for these projects is requested in connection with the divestiture by Bangor of certain generation and other assets, pursuant to Maine Public Law 1997, ch. 316, 35-A §3204, *et seq.* (An Act to Restructure the State's Electric Industry).

As discussed below, the transfers will be approved.²

Background

Bangor holds original licenses for the Medway, Orono, and Howland Projects,³ and new licenses for the Veazie, Milford, Stillwater, and Ellsworth Projects.⁴

Bangor proposed to decommission the Orono Project No. 2710 (which is operating under an annual license) as part of its proposal to build the downstream Basin Mills Project No. 10981. However, by order issued April 20, 1998, the Commission denied Bangor's application for license for Project No. 10981.⁵ Bangor subsequently requested rehearing of the denial, which is pending before the Commission.

Penobscot will be succeeding to the interests of PP&L Global, Inc., under an Asset Purchase Agreement entered into between Bangor and PP&L Global, Inc., on September 25, 1998, pursuant to the noted Maine restructuring law, whereby Bangor agreed to sell certain generation and other assets to PP&L Global, Inc., including the seven subject hydroelectric projects, subject to Commission approvals. PP&L Global, Inc. is a wholly owned subsidiary of PP&L Resources, Inc., and is primarily engaged in the development, acquisition, ownership, and management of generation, transmission, and distribution facilities worldwide. Penobscot is a wholly owned subsidiary of PP&L Global, Inc.

On January 29, 1999, public notice of the amended transfer application was issued. A timely motion to intervene was filed by the Maine State Planning Office (requesting party status only).⁶ The U.S. Department of the Interior filed comments.

Discussion

Interior notes that it has reserved authority to prescribe fishways under Section 18 of the Federal Power Act (FPA) at the Ellsworth and Medway Projects. It describes Bangor's cooperation in developing fish passage measures at Ellsworth and eel passage measures at Medway, and urges the Commission to view with disfavor any transferee request for extensions

OD-ORDER, 87 FERC ¶62,001, Bangor Hydro-Electric Company and Penobscot Hydro, LLC, Projects Nos. 2403-013, 2534-021, 2666-009, 2710-011, 2712-015, 2721-015, 2727-059, (Apr. 01, 1999)

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[64,002]

of compliance deadlines based solely on the transfer.

The applicants request substitution of Penobscot for Bangor as applicant in the pending relicensing proceedings in Project Nos. 2666 and 2721 and waiver of the requirements of Section 16.9(d)(1) pertaining to the public notice requirements for material amendments relicensing applications.⁷

The public notice of the transfer application stated that the transfer would lead to the substitution of the transferee for the transferor as the applicant for new licenses for Project Nos. 2666 and 2721. This notice was published in the *Federal Register* and in the local newspaper once, and was served on federal and state resource agencies and Indian tribes, substantially as required by Section 16.9(d)(1).⁸ Adherence to the remaining notice requirements of Section 16.9(d)(1) would serve no useful public purpose, and those requirements are therefore waived.

Applicants request that the substitution be made contingent upon the consummation of the asset sale contemplated in the Asset Purchase Agreement and be made effective upon the "transfer date." Since the "transfer date" is unknown to the Commission until the date of the filing of transferee acceptance forms and conveyance documents (*see* Ordering Paragraph (C), below), substitution is approved as of the latter date.⁹

As noted in the public notice of the transfer application, the Commission's policy is to scrutinize transfer requests that are filed during the last five years of a license to determine if the transfer's primary purpose is to give the transferee an advantage in relicensing, such as when a transfer is intended to escape consideration of a transferor's poor compliance record.¹⁰ Here, the compliance record of the transferor is satisfactory, and the transfer will facilitate the continued operation and maintenance of the projects under the described transaction. Therefore, there is no basis for concluding that the transfer is intended to avoid a poor compliance record or otherwise give Penobscot an advantage in relicensing.

Conclusions

Bangor has satisfactorily complied with the terms and conditions of the licenses. Bangor has paid and agrees to continue to pay charges which accrue until the transfer is effective.¹¹

Penobscot is not a licensee of the Commission. Therefore, we have no hydroelectric compliance record to review. However, Penobscot intends to hire several employees of the transferor who have experience operating and maintaining the licensed projects. Penobscot is qualified to hold the licenses and to operate the properties under the licenses, and it has agreed to accept all the terms and conditions of the licenses, and to be bound by the licenses as if it were the original licensee. In the January 22, 1999 amendment to the transfer application, at p. 3, Penobscot states that it has not yet obtained, but will obtain, authority to conduct business in the State of Maine.

The proposed transfers are consistent with the Commission's regulations and are in the public interest.

The Director orders:

(A) Transfer of the licenses for Projects Nos. 2403, 2534, 2666, 2710, 2712, 2721, and 2727, the Veazie, Milford, Medway, Orono, Stillwater, Howland, and Ellsworth Hydroelectric Projects, from Bangor Hydro-Electric Company to Penobscot Hydro, LLC is approved.

[64,003]

(B) Bangor Hydro-Electric Company shall pay all annual charges that accrue up to the effective date of the transfer.

(C) Approval of the transfers is contingent upon: (1) transfer of title of the properties under license and delivery of all license instruments to Penobscot Hydro, LLC, which shall be subject to the terms and conditions of the licenses as though it were the original licensee; (2) Penobscot Hydro, LLC acknowledging acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheets [omitted in printing]; and Penobscot Hydro, LLC obtaining authorization to conduct business in the State of Maine. Within 60 days from the date of this order, Penobscot Hydro, LLC shall submit certified copies of all instruments of conveyance, the signed acceptance sheets, and the state authorization to

OD-ORDER, 87 FERC ¶62,001, Bangor Hydro-Electric Company and Penobscot Hydro, LLC, Projects Nos. 2403-013, 2534-021, 2666-009, 2710-011, 2712-015, 2721-015, 2727-059, (Apr. 01, 1999)

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conduct business.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. §385.713.

– Footnotes –

[64,001]

¹ The amendment substituted Penobscot Hydro, LLC for Penobscot Hydro, Inc., as the proposed transferee.

² On March 15, 1999, the Commission issued an order in Docket Nos. EC99-23-000 and ER99-1166-000, approving Bangor Hydro-Electric Company's related application for authority under Section 203 of the Federal Power Act for the sale of jurisdictional facilities and accepting for filing proposed agreements. *See Bangor Hydro-Electric Company*, 86 FERC ¶61,281.

³ 6 FERC ¶61,287 (1979), 1 FERC ¶61,104 (1977), 12 FERC ¶62,207 (1980).

⁴ 83 FERC ¶61,040 (1998), 83 FERC ¶61,037 (1998), 83 FERC ¶61,038 (1998), 41 FERC ¶62,304 (1987).

⁵ 83 FERC ¶61,039.

⁶ The motion to intervene was timely, unopposed, and accordingly granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. Section 385.214 (c) (1998).

[64,002]

⁷ Under Section 4.35(f)(4) of the Commission's regulations (18 C.F.R. §4.35 (f)(4) (1998)), the Commission treats a substitution of all of the original applicants for a license as a material amendment to the application. It changes the filing date of the application to the filing date of the amendment and reissues public notice of the application. *See Michigan Power Company and Indiana Power Company*, 57 FERC ¶61,227 (1991). Under Section 16.9(b)(3) of the Commission's relicensing regulations (18 C.F.R. §16.9 (b)(3)), Section 4.35 does not apply to a relicensing application, except that the Commission will reissue a public notice of the application in accordance with the Provisions of Section 16.9(d)(1), if an amendment described in Section 4.35(f) is filed.

⁸ Section 16.9(d)(1)(ii) and (iii) requires publishing notice once a week for four weeks and notifying appropriate federal, state, and interstate resource agencies and Indian tribes by mail of material amendments to relicensing applications.

⁹ Applicants also request that Penobscot be substituted for Bangor in the pending rehearing request, filed May 20, 1998, in the Veazie, Milford, Stillwater, and Basin Mills Projects Nos. 2403, 2534, 2712, and 10981.

¹⁰ *See Hydroelectric Relicensing Regulations Under the Federal Power Act*, 54 *Fed. Reg.* 23,756 (June 2, 1989); *FERC Statutes and Regulations, Regulations Preambles 1986-1990* ¶30,854, at p. 31,438 n.318 (May 17, 1989).

¹¹ As noted, Section 8 of the FPA provides that a transferee is subject to the conditions of the license as if it were the original licensee, and Section 9.3 of the Commission's regulations, 18 C.F.R. §9.3, states that the transferee shall be responsible for the payment of annual charges that accrue prior to the date of transfer. Based on these statutory and regulatory provisions, any delinquent annual charges are regarded as the responsibility of the transferee.

OD-ORDER, 93 FERC ¶62,076, Penobscot Hydro, LLC and PPL Maine, LLC, Project Nos. 2403-028, 2534-040, 2666-016, 2710-022, 2712-032, 2721-018, 2727-067 and 10981-006, (Oct. 31, 2000)

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Penobscot Hydro, LLC and PPL Maine, LLC, Project Nos. 2403-028, 2534-040, 2666-016, 2710-022, 2712-032, 2721-018, 2727-067 and 10981-006

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[¶62,076]

Penobscot Hydro, LLC and PPL Maine, LLC, Project Nos. 2403-028, 2534-040, 2666-016, 2710-022, 2712-032, 2721-018, 2727-067 and 10981-006

Order Amending Licenses¹

(Issued October 31, 2000)

Peter J. McGovern, Division of Hydropower Administration and Compliance.

Penobscot Hydro, LLC² has requested that its licenses for the Veazie Project, FERC No. 2403,³ Milford Project, FERC No. 2534,⁴ Midway Project, FERC No. 2666,⁵ Orono Project, FERC No. 2710,⁶ Stillwater Project, FERC No. 2712,⁷ Howland Project, FERC No. 2721,⁸ Ellsworth Project, FERC No. 2727,⁹ and the Basin Mills Project, FERC No. 10981,¹⁰ be

[64,121]

amended to reflect its new name PPL Maine, LLC. The licensee states that there is no change in the legal entity that is the licensee, and this is a change in name only. Project Nos. 2403, 2534, 2710, and 2712 are located on the Penobscot River, in Penobscot County, Maine, between the towns of Veazie and Old Town. Project No. 2666 is located on the Penobscot and Stillwater Rivers in Penobscot County, Maine. Project No. 2721 is located on the Piscataquis River in Penobscot County, Maine. Project No. 2727 is located on the Union River in Hancock, Maine.

The name change does not affect the licensee's qualifications to be a licensee under the Federal Power Act. The request to approve a change in the name of the licensee will, therefore, be approved.

The Director orders:

(A) The licenses for the for the Veazie Project, FERC No. 2403, Milford Project, FERC No. 2534, Midway Project, FERC No. 2666, Orono Project, FERC No. 2710, Stillwater Project, FERC No. 2712, Howland Project, FERC No. 2721, and the Ellsworth Project, FERC No. 2727 are amended to change the licensee's name from Penobscot Hydro, LLC to PPL Maine, LLC.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. §385.713.

— Footnotes —

[64,120]

¹ To reflect new name of licensee.

² On April 1, 1999, the Commission issued an Order Approving Transfer of Licenses for seven hydroelectric projects from Bangor Hydro-Electric Company to Penobscot Hydro, LLC (87 FERC ¶62,001).

³ 83 FERC ¶61,040 (1998).

⁴ 83 FERC ¶61,037 (1998).

OD-ORDER, 93 FERC ¶62,076, Penobscot Hydro, LLC and PPL Maine, LLC, Project Nos. 2403-028, 2534-040, 2666-016, 2710-022, 2712-032, 2721-018, 2727-067 and 10981-006, (Oct. 31, 2000)

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⁵ 6 FERC ¶61,287 (1979).

⁶ The Orono Project license expired on September 26, 1990. The relicense application for the Orono Project (part of the Basin Mills Project, FERC No. 10981 proposal) was issued on April 20, 1998 (83 FERC ¶61,039).

⁷ 83 FERC ¶61,038 (1998).

⁸ 12 FERC ¶62,207 (1980).

⁹ 41 FERC ¶62,304 (1987).

¹⁰ On April 20, 1998, the Commission issued an Order on Applications for New and Original Licenses, which among other things, denied the license application of Bangor Hydro-Electric Company (Bangor) for the Basin Mills Project No. 10981 (83 FERC ¶61,039). Bangor filed for rehearing and also requested that Penobscot Hydro, LLC be substituted for Bangor in the rehearing proceeding. On June 9, 1998, the Commission issued an Order Granting Rehearing For Further Consideration (Unpublished). Subsequently, the licensee and other parties filed a joint request asking the Commission to delay issuing its order on rehearing until or after February 2, 2001.

[64,121]

As the Commission has not acted on the substitution request for Basin Mills Project No. 10981, we cannot act on the amendment request as it relates to this project.

ATTACHMENT C

NOTICE OF INTENT TO FILE AND ABUTTER LIST

BANGOR DAILY NEWS | WEDNESDAY, JUNE 2, 2004 | D5

Legal Notices

NOTICE OF INTENT TO FILE

MAINE WATER QUALITY CERTIFICATION AND WATERWAY
DEVELOPMENT AND CONSERVATION ACT APPLICATIONS

Please take notice that PPL Maine, LLC and Bangor-Pacific Hydro Associates of Davenport Street, P.O. Box 276, Milford, Maine 04461, (207) 827-2247 are intending to file applications with the Maine Department of Environmental Protection for Water quality Certifications pursuant to the provisions of the Maine Waterway Development and Conservation Act and the Federal Clean Water Act, Section 401. The applications are for the following Projects and activities:

Milford Hydro Project, FERC No. 2534, Milford and Old Town, Maine: modifying the fish passage requirements to be consistent with the modified DOI/NMFS fishway prescription.

West Enfield Hydro Project, FERC No. 2600, Enfield and Howland, Maine: increasing the normal headpond evaluation by 1 foot by increasing the height of the existing flashboards, and incorporation the installation of upstream eel passage facilities.

Medway Hydro Project, FERC No. 2666, Medway, Maine: increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards.

Stillwater Hydro Project, FERC No. 2712, Old Town, Maine: increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards; modifying the minimum bypass flow requirements; and modifying the fish passage requirements to be consistent with the modified DOI/NMFS fishway prescription.

Orono Hydro Project, FERC No. 2710, Orono, Maine: relicense and rehabilitate the Project to operate at its existing capacity of 2.3 MW.

The applications will be filed on or about June 4, 2004 for inspection at the DEP's offices in Augusta during normal working hours. A copy of the applications may also be seen at the municipal offices in the above-referenced towns.

A request for a public hearing or a request that the Board of Environmental Protection assume jurisdiction over these applications must be received by the Department, in writing, no later than 20 days after the applications are found by the Department to be complete and are accepted for processing. Public comment on the applications will be accepted throughout the processing of the applications.

For Federally licensed, permitted, or funded activities in the Coastal Zone, review of these applications shall also constitute the State's consistency review in accordance with the Maine Coastal Program pursuant to Section 307 of the federal Coastal Zone Management Act.

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, 17 State House Station, Augusta, Maine 04333.

June 2, 2004

STILLWATER HYDROELECTRIC PROJECT FERC PROJECT NO. 2712 ABUTTERS LIST

ALEXANDER JOHN A & JANET M
1317 BENNOCH ROAD
OLD TOWN, ME 04468

BOSSE MICHAEL A & JAMES H
1216 COLLEGE AVENUE
60 POND DR
N. STONINGTON, CT 06359

BURKE MELVIN & JUNE
803 BENNOCH ROAD
OLD TOWN, ME 04468

CASSIDY JAMES W DEV OF
C/O FLEET BANK / TRUST DEPT
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BANGOR, ME 04401

CRONKITE LAWRENCE S II & CAROL T
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DEAL KENNETH L & MARIA E
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OLD TOWN, ME 04468

DEGRASSE EVERETT H JR & JULIE AJT
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OLD TOWN, ME 04468

DUBAY KEVIN J & SANDRA J
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DUTTON MADELINE (LIFE ESTATE)
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LIMAKKA ROBERT A & KAREN H
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MANZER MARGARET A
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MOULTON WESLEY M
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PAGE GERALD E & BLANCHE M
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PERKINS ELLEN E
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PERKINS HARRY C
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PETERSON LESLIE J
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ORONO, ME 04473

RUTHVEN DOUGLAS M & PATRICIA E
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SHANLEY KEVIN A
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SYLVESTER JOEL B & ARLENE M
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TALL DEBRA
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WHEELER JEFFREY M & TRINH D
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WHITE ALAN S & LUCINDA M
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BANGOR HYDRO-ELECTRIC CO
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May 25, 2004

APPENDIX E-B
2003 STILLWATER PROJECT FIELD
RECONNAISSANCE SURVEY



MEMORANDUM

TO: Scott Hall

FROM: Stephen W. Everett

DATE: February 12, 2004

SUBJECT: Stillwater and Medway Impoundments – Wetland Assessment

PURPOSE OF STUDY

The purpose of this study was to assess the potential impacts to wetland systems and wildlife habitat adjacent to the Stillwater and Medway impoundments resulting from a proposed one foot increase in headpond elevation to these impoundments.

WETLAND SYSTEMS OBSERVED

Wetland areas were observed and photo documented on December 4 - 5, 2003. Photo locations are shown on the figures entitled "Stillwater" and "Medway". Palustrine forested wetland, palustrine scrub-shrub wetlands, and riverine emergent wetlands as defined by Cowardin et. al. (1979) were observed along both Stillwater and Medway impoundments. Forested wetlands are dominated by northern white cedar, red maple, silver maple, and green ash, and typically have a sparse understory of sensitive fern, royal fern (Osmunda regalis) and cinnamon fern. The scrub wetland type includes sweet gale (Myrica gale), winterberry (Ilex verticillata), red maple, sheep laurel (Kalmia angustifolia), bog laurel (K. polifolia), alder, and willow (Salix spp.). Emergent wetlands are vegetated by typical marsh species such as cattail, (Typha latifolia), sedges and rushes (Cypereaceae), wapato (Sagittaria latifolia), pickerelweed (Pontedaria cordata), and yellow pond-lily (Nuphar variegatum)

STILLWATER

Assessment

On December 4, 2003 staff from Devine Tarbell & Associates (DTA) visited the Stillwater Impoundment. Surface water elevations were taken at the Stillwater dam at the water surface on the north and south shore. Elevations recorded were compared to the gauge reading at the dam. The water surface elevation on the north shore at the dam was 94.23 NGVD 29¹ and on the south shore of 94.01. The gauge reading at the time of the survey was noted at 94.35. The normal headpond elevation of the Stillwater impoundment is 93.65. Conditions observed at the impoundment were approximately 0.6 feet above the normal pool. DTA observed at least 0.5 feet spilling over the dam, indicating the gauge elevation and surveyed elevations appear to be accurate. An elevation of 94.8 was observed approximately 1 mile north on the west shore of the impoundment. This indicates that the surface water elevation of the impoundment under these conditions increased by approximately ½ foot in elevation per mile of distance.

The shoreline of the current Stillwater impoundment was digitized on an aerial photo based on the shoreline at the time of the photography (1998)² The proposed head pond limits were determined by field observations, noting that the observed head pond elevation was approximately ½ foot higher than the normal impoundment elevation of 93.65. The area of the Stillwater headpond is approx. 184 acres based on the (1998) photography. The approximate level of inundation from the proposed increase in headpond elevation was extrapolated based on visual field observations of adjacent topographic characteristics of the shoreline. The approximate location of the shoreline under the proposed conditions is shown on the aerial graphic entitled "Stillwater", in blue. The area of the Stillwater impoundment under proposed conditions was determined to be approximately 191 acres, an increase of approximately 7 acres.³

Conclusions

Seasonal and intermittent increases to the impoundment elevation occur on a regular basis depending on naturally occurring runoff and rain events. Under the proposed conditions the

¹ Unless otherwise noted, all elevations are NGVD 1929

water surface elevation over the lower 2/3rds of the impoundment will permanently increase ranging from one foot at the dam decreasing in elevation to approximately 2 miles upstream from the dam. The upstream limit of the impoundment is not expected to be affected. Wetland areas as shown on photos 15 and 16 are expected to experience a minimal permanent water surface increase. These forested wetland systems will alter slightly, in the near term, however, similar wetland systems will reestablish up gradient with little or no permanent affects to the current systems. A similar affect to the wetland systems closer to the dam are anticipated, with a longer duration, however, fewer wetlands are present in this area. Backwater wetland areas located in the upper reaches of the Stillwater impoundment are shown on photos 6-13. These are forested wetland areas that will be unaffected or only minimally affected by the proposed increase. Wetlands will not be affected under periods of high water flows as the proposed flashboard system will be designed to fail at the same elevation as the current flashboard system.

MEDWAY

Assessment

On December 5, 2003 DTA visited the Medway Impoundment. Water surface elevations were taken above the Medway dam at the water surface on the north shore. Water surface elevations were compared to the gauge reading at the dam to determine its accuracy. The elevation on the north shore at the dam was 259.1. The gauge reading at the time of the survey was noted at 259.29. The 0.2' difference is most likely due to affect of the intake to the powerhouse. Normal head pond elevation of the Medway impoundment is 259.3 feet. A water surface elevation of 262.2 was observed approximately 1000' southerly of the upstream Millinocket dam. This indicated that, under these conditions, there was an increase of approximately 1.8 feet in surface water elevation per mile of distance.

The shoreline of the Medway impoundment was digitized on an aerial photo based on the shoreline at the time of the photography (1998)². The proposed headpond limits were determined by field observations of shoreline topographic features. The area of the Medway head pond is approximately 98 acres, based on the 1988 photography. The approximate level of inundation from the proposed increase in headpond elevation was extrapolated based on visual field

² Surface water elevation on the photograph is unknown, but expected higher than the normal pond as water is spilling over the dam.

observations of adjacent topographic characteristics of the shoreline. The approximate location of the shoreline under proposed conditions is shown on the aerial figure entitled "Medway", in blue. The Medway impoundment under the proposed conditions was determined to be approximately 101.5 acres, an increase of approximately 3.5 acres.³

Wetland areas were observed and photo documented on December 5, 2003. Photo locations are shown on the figure mentioned above.

Conclusions

Naturally occurring seasonal and intermittent increases to the impoundment occur on a regular basis depending on spring runoff volumes and rain events. Overall increases of water surface elevation over the lower 2/3rds of the impoundment will permanently increase ranging from one foot at the dam decreasing in elevation to approximately 1.2 miles upstream from the dam.

Wetland areas shown on photos 18-24 will be unaffected due to steep shoreline topography and outside of the proposed impoundment increase. Wetland areas shown on photo 27 and 28 are a series of isolated small linear islands containing fringe emergent wetlands and scrub-shrub wetlands toward the center. These wetland areas will experience a slight permanent water surface increase. It is expected that there will be minimal impacts, in the near term, however, similar wetland systems will reestablish themselves up gradient with little or no permanent affects to the current systems. A similar affect to the wetland systems closer to the dam are anticipated, with a longer duration, however, fewer wetlands are present due to steeper topography. Wetlands will not be affected during periods of high water events as the proposed flash board system will be designed to fail at the same elevation as the current flashboard system.

³ Areas calculated are based on observations described in this report. No hydraulic modeling was performed for these determinations.



Medway Photo 18



Photo 19



Photo 20

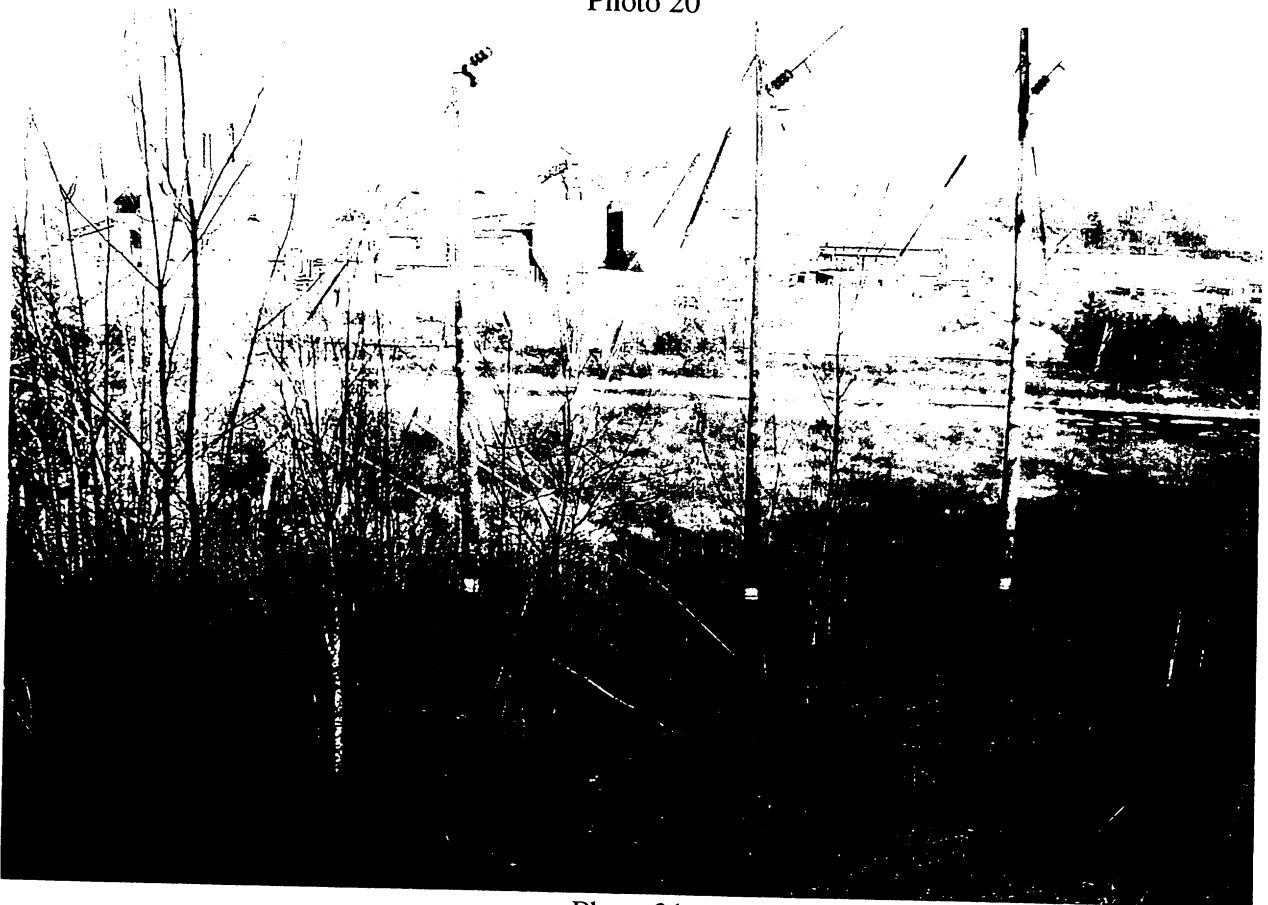


Photo 21



Photo 22



Photo 23



Photo 24

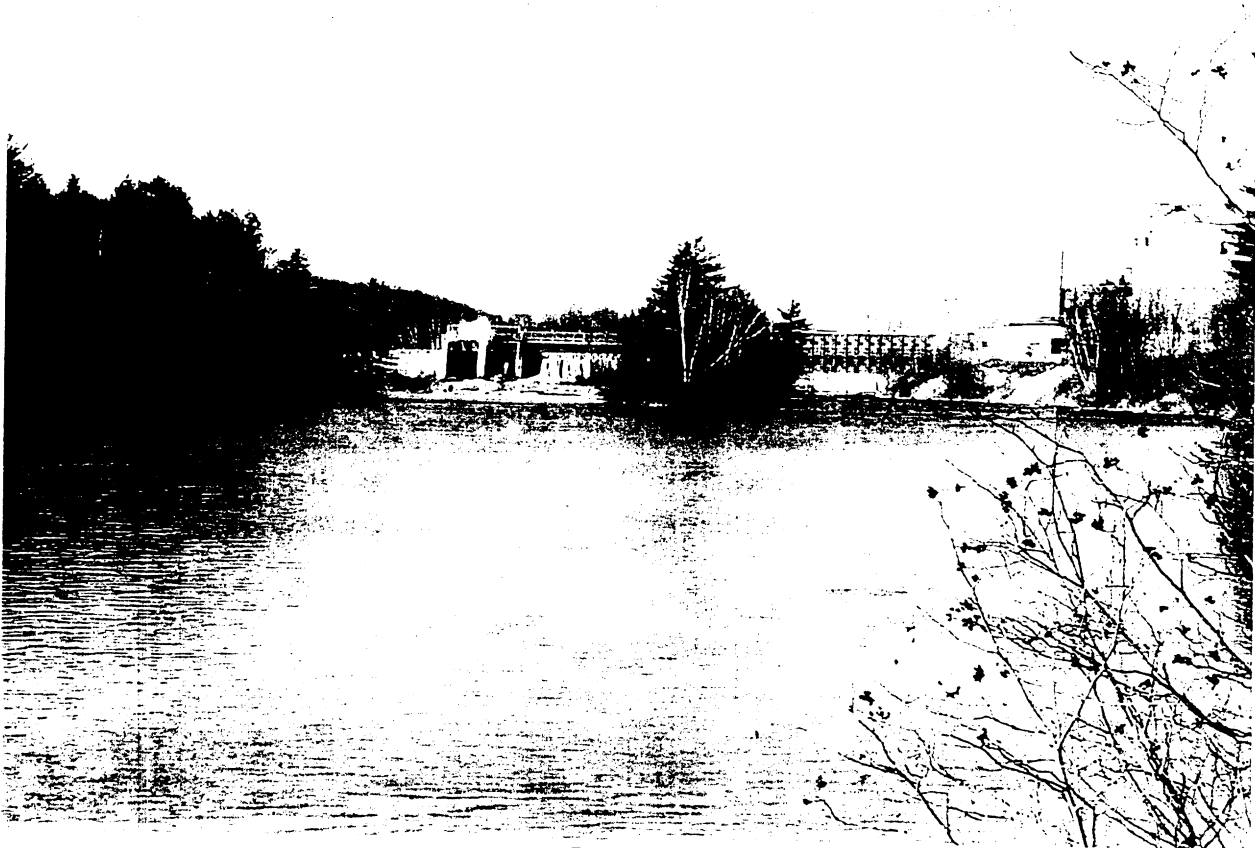


Photo 25



Photo 26



Photo 27



Photo 28



Photo 29

This graphic depicts **locations** of photos taken and elevations observed on December 4 & 5, 2003. Elevations shown here do not represent the actual elevations on the date the photos were taken.

PHOTO #12-13° PHOTO #9-10
• PHOTO #7-8
• PHOTO #6

PHOTO #15

• PHOTO #16

STILLWATER
SCALE=1,500

WS EL 942

WS EL 942



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13



Photo 15



Photo 16

Exhibit F

Project Drawings

The existing Exhibit F drawings for the Stillwater Project includes the following two plans:

- F-1 General Plan and Dam Sections (FERC 2712-0005)
- F-2 Powerhouse Plan and Section (FERC 2712-0007)

The proposed project improvements and changes will affect limited structures as depicted on Exhibit F-1 and F-2. Revised plans have been prepared which reflect the following changes:

- **F-1:**
 - New flashboard height reflected on cross sections of C, F, and I;
 - New flashboards added to cross sections of D, E, G, H, and J; and
 - New normal pond elevation of 94.65 feet reflected on all cross sections.
- **F-2:**
 - Headpond elevation on powerhouse cross section revised to 94.65 feet.

Because plans show details of project structures that are considered Critical Energy Infrastructure Information (CEII), and FERC regulations limit public distribution of such materials, the revised plan is being filed with FERC in a separate CEII volume. Procedures for obtaining access to CEII may be found at 18 CFR §388.133. Requests for access to CEII should be made to the Commission's CEII Coordinator.

Exhibit G

Project Maps

The existing Exhibit G for the Stillwater Project includes the following four maps:

- G-1 General Map of Project Area (FERC 2712-1001);
- G-2 Detail Map Reservoir (FERC 2712-1002);
- G-3 Detail Map Reservoir (FERC 2712-1003); and
- G-4 Detail Map Reservoir (FERC 2712-1004).

The proposed project improvements and changes will affect impoundment elevation references on all four Exhibit G maps. Revised maps have been prepared which reflect the following changes:

- Revised project boundary from elevation 93.65 to elevation 94.65;
- Revised normal pond from elevation 93.65 to elevation 94.65;
- Revised references to clearances from normal pond at Stillwater Avenue bridge; and
- Updated references to reflect PPL Maine as project owner.

Because the maps show details of project structures that are considered CEII, and FERC regulations limit public distribution of such materials, the revised maps are being filed with FERC in a separate CEII volume.⁶ Procedures for obtaining access to CEII may be found at 18 CFR §388.133. Requests for access to CEII should be made to the Commission's CEII Coordinator.

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June 15, 2004

⁶ The submitted Exhibit G maps have not been updated to conform to FERC's 2003 amended regulations for these maps. PPL Maine will submit conforming maps following FERC approval of this amendment application.