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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
JUN 25 P 2:43
FEDERAL ENERGY REGULATORY COMMISSION

**Re: Application For Amendment Of License
Milford Hydroelectric Project No. 2534 -- 068**

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 Milford Hydroelectric Project No. 2534 ("Project"). 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 over 5 MW. The Application was prepared in accordance with Section 4.201 of the Commission's regulations and includes Exhibits A, B, C, D, 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.

Honorable Magalie R. Salas
June 23, 2004
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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:

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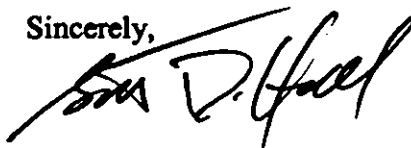
John A. Whittaker IV
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Phone: (202) 371-5766

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.

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

Sincerely,



Scott D. Hall
Manager of Environmental Services

cc: Ed Lee, FERC
Distribution List (attached)

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ORIGINAL

**APPLICATION FOR AMENDMENT OF LICENSE
MILFORD HYDROELECTRIC PROJECT
FERC PROJECT NO. 2534**

FILED
OFFICE OF THE
SECRETARY
2004 JUN 25 P 2:43
WASHINGTON, D.C. 20581

**PPL MAINE, LLC
Milford, Maine**

JUNE 2004



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APPLICATION FOR AMENDMENT OF LICENSE

MILFORD HYDROELECTRIC PROJECT

FERC PROJECT NO. 2534

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Acronym List

BHE	Bangor Hydro-Electric Company
Commission	Federal Energy Regulatory Commission
CMF	Contingent Mitigation Fund
DOI	Department of the Interior
FEIS	Final Environmental Impact Statement
FERC	Federal Energy Regulatory Commission
MDEP	Maine Department of Environmental Protection
MPA	Lower Penobscot River Multiparty Settlement Agreement
PIN	Penobscot Indian Nation
PPL Maine	PPL Maine, LLC
WQC	Water Quality Certification

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 Milford Hydroelectric Project (L.P. No. 2534), a major water power project greater than 5 MW, 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.
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Two North Ninth Street
Allentown, PA 18101
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John A. Whittaker, IV
Winston & Strawn, LLP
1400 L Street NW
Washington, D.C.
202-371-5766

- (3) The applicant is a domestic limited liability company licensee for the water power project, designated as Project No. 2534 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

Initial Statement

his own land, not exceeding one mile in length, and thereby divert from its natural 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 Milford Hydroelectric Project.
- (b) PPL Maine has applied to the Maine Department of Environmental Protection for amendment of the Water Quality Certification (WQC) for the Milford 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

Exhibit B - Operation and Resource Utilization

Exhibit C - Construction History and Proposed Schedule

Exhibit D - Statement of Costs and Financing

Exhibit E - Environmental Report

Exhibit F - Project Drawings

Exhibit G - Project Maps

Executive Summary

This application is being submitted in accordance with the provisions of Section IV of the MPA dated June 2004. 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 filed 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" (PIN Agreement) 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 requires 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 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 (Appendix ES-A).

Executive Summary

Description of Requested Modifications

PIN Agreement – In order to implement applicable provisions of the PIN Agreement as they relate to the Milford Project, PPL Maine requests that the Commission include the various modifications to existing articles and approvals, as well as the new license articles, as set out below (a revised Article 402, six new license articles, and modification of a previously-approved log removal plan).

Fish Passage – In order to implement the MPA, PPL Maine agrees to the inclusion of appropriate articles for purposes of incorporating into the license those requirements associated with the Milford Project 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 substitute articles).

In addition to the above requested modifications to the Milford Project license, PPL Maine requests that the Commission delete Article 410, pertaining to mitigation of unavoidable losses to Atlantic salmon. It should be noted that the consulted agencies, interested parties and Penobscot Indian Nation consented to this deletion in their letters of support (see Appendix ES-A) (and the parties to the MPA agreed to the deletion), because of the fish passage measures agreed to by PPL Maine. PPL Maine also requests that the time deadline specified in Article 305 for the submittal of design documents, etc. for fishways be revised as set forth below to reflect the fishway implementation schedule agreed to by the parties in the MPA.

Miscellaneous – In order to reflect the agreement of the parties in the MPA to defer installation of the additional turbine/generation unit at the project, PPL Maine requests modification of Article 301 as set forth below.

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:

Article 301: Replace with the following, "The licensee shall commence and complete construction of the additional turbine/generator unit authorized herein as ordered by the Commission."

Article 305: Replace the reference in the second sentence to "Within 90 days from the effective date of the license" in the second sentence therein with "as ordered by the Commission".

Article 402: Revise Article to read as follows (for PIN Agreement):

Article 402. The licensee shall operate the Milford Project in a run-of-river mode for the protection of fishery resources and recreational opportunities in the Penobscot River and the Stillwater Branch of the Penobscot River.

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, flows, 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 of time 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 and the Penobscot Indian Nation (PIN) as soon as possible, but no later than 10 days after each such incident.

The licensee shall immediately notify the United States Bureau of Indian Affairs (BIA) and the PIN Department of Natural Resources of emergencies at the project beyond the control of the licensee other than those referenced in the preceding paragraph, such as emergency maintenance activities and unusual operating conditions.

Executive Summary

Upon request, the licensee shall provide BIA and PIN with appropriate records regarding unscheduled outages, drawdowns of the project reservoir, and the powerhouse flows during such emergencies.

The licensee shall maintain a stream-flow gauge at Sunkhaze Rips on the Penobscot River and shall provide to BIA and PIN upon request flow data sufficient to demonstrate compliance with the run-of-river operation requirement of this article.

Add the following Articles (for PIN Agreement):

Article . (a) Within 180 days after the date an order is issued adding this article to the license, the licensee shall file, for Commission approval, a plan for it to stabilize on an ongoing basis the stream banks of the project impoundment with stream bank stabilization measures directed at those areas of the Penobscot Indian Nation (PIN) Reservation within the project impoundment most severely impacted by project operations, including, but not limited to, the area of Indian Island beginning at Sockalexis Arena and extending to the southern tip of Indian Island and the southeastern shore of Orson Island.

(b) The overall goal of the plan is to prevent further erosion. The plan shall be developed in consultation with PIN and the United States Bureau of Indian Affairs (BIA). The plan shall include: (1) a description of the licensee's proposal; (2) a proposed schedule for implementing the plan consistent with the requirements of paragraph (c) hereof; (3) documentation of consultation with PIN and BIA; (4) copies of comments and recommendations of PIN and BIA on the completed plan after it has been prepared and provided to PIN and BIA; and (5) specific descriptions of how the comments and recommendations of PIN and BIA are accommodated by the plan. The licensee shall allow a minimum of 30 days for PIN and BIA to comment and make recommendations on the plan before filing the plan with the Commission. If the licensee is unable to reach agreement with PIN and BIA on the appropriate stream bank stabilization measures to be included in the plan, it will utilize the dispute resolution procedures set forth in Section XIX of the June 2004 Comprehensive Settlement

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Agreement Between The Penobscot Indian Nation, PPL Maine, LLC, And The Bureau Of Indian Affairs Of The Department Of The Interior.

(c) The Commission reserves the right to require changes to the proposed plan. The licensee shall commence implementation of the stream bank stabilization measures included in the plan as approved by the Commission within 90 days following Commission approval of the plan, or within the first construction season following such approval, subject to any changes to such implementation schedule ordered by the Commission in approving the plan.

(d) Beginning one year after the date the above-referenced plan is filed with the Commission and continuing through the term of this license, the licensee shall annually survey the erosive effects of project operations on PIN Reservation lands within the project impoundment in order to ascertain whether unforeseen or new erosive conditions have occurred. Beginning three years after the date the above-referenced plan is filed with the Commission and continuing every three years thereafter through the term of this license, the licensee shall file with the Commission and provide copies to PIN and BIA a report on the results of the annual monitoring.

(e) Within 90 days of the filings of the three-year monitoring reports, the licensee shall consult with PIN and BIA to review the results of the annual monitoring and to determine if the approved stream bank stabilization plan should be revised. If the licensee, PIN, and BIA so agree, and subject to the dispute resolution procedures referenced in paragraph (b) hereof, the licensee shall thereafter promptly file, for Commission approval, revisions to the plan in accordance with the procedures set forth in paragraph (b) hereof.

(f) The Commission reserves the right to require changes to the proposed revisions. The licensee shall commence implementation of the stream bank stabilization measures included in the revisions as approved by the Commission within 90 days following Commission approval of the revisions, or within the first construction season following such approval, subject to any changes to such implementation schedule ordered by the Commission in approving the revisions.

Executive Summary

Article . Within 60 days of the date the withdrawal of all the requests for rehearing of the Commission's April 20, 1998 orders in Project Nos. 10981, 2403, 2534, 2710, and 2712 becomes effective and final, the licensee shall contribute \$20,000 to the Penobscot Indian Nation (PIN) for use by PIN for monitoring and other activities at the project and thereafter shall annually contribute \$20,000 (adjusted annually based on the Consumer Price Index for that current year) to PIN for use by PIN for such purposes for a nine-year period beginning on the one-year anniversary date of the initial \$20,000 contribution.

Article . The licensee shall promptly notify the Penobscot Indian Nation (PIN) and the United States Bureau of Indian Affairs (BIA) upon receipt of confirmation from the Commission that the Commission expects to perform an inspection of the project. The licensee shall allow representatives of the PIN Department of Natural Resources and BIA to participate in such inspections if they notify the licensee of their intent to participate following their receipt of the above-referenced notice. The licensee shall also afford PIN representatives, upon request, accompanied access to all project areas consistent with applicable safety and liability guidelines and Commission requirements.

Article . (a) The licensee, within five (5) years of the date the withdrawal of all the requests for rehearing of the Commission's April 20, 1998 orders in Project Nos. 10981, 2403, 2534, 2710, and 2712 becomes effective and final, and after consultation with the Penobscot Indian Nation (PIN) and the United States Bureau of Indian Affairs (BIA), shall acquire and convey to PIN clear title to a parcel or parcels of land consisting of 164 acres, or such other amount of land mutually agreeable to the licensee, PIN, and BIA, that are acceptable to PIN.

(b) The licensee, in lieu of acquiring and conveying to PIN any or all of the acreage referenced in (a) hereof, may, with the agreement of PIN, contribute funds to PIN to acquire land. The amount of such funds will be determined in consultation with the PIN Land Committee and in consideration of the fair market value of comparable parcels of riverfront or river access land along the Penobscot River north of Milford. If the licensee is unable to reach agreement with PIN on the appropriate amount of funding, it

Executive Summary

will utilize the dispute resolution procedures set forth in Section XIX of the June 2004 Comprehensive Settlement Agreement Between The Penobscot Indian Nation, PPL Maine, LLC, And The Bureau Of Indian Affairs Of The Department Of The Interior.

Article . (a) If the Veazie and Great Works dams are removed from the Penobscot River as contemplated by Section VI of the June 2004 Lower Penobscot River Multiparty Settlement Agreement, the licensee, within two (2) years from the date removal of both dams is completed, shall consult with the Penobscot Indian Nation (PIN), the United States Bureau of Indian Affairs (BIA), the City of Old Town, Maine (City), and other affected landowners regarding whether a canoe portage trail should be constructed by the licensee around the Milford Dam on the west shore of the Penobscot River and file with the Commission a report on such consultation. If it is concluded as a result of such consultation that such a canoe portage trail should be constructed, the licensee shall include in the report, for Commission approval, a plan to construct the trail.

(b) The plan shall be developed in consultation with PIN, BIA, the City, and other affected landowners, and shall include: (1) a description of the licensee's proposal; (2) a proposed schedule for implementing the proposal; (3) documentation of consultation with the above entities; (4) copies of comments and recommendations of such entities on the completed plan after it has been prepared and provided to them; and (5) specific descriptions of how the comments and recommendations of such entities are accommodated by the plan. The licensee shall allow a minimum of 30 days for such entities to comment and make recommendations on the plan before filing the plan with the Commission.

(c) 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.

Article . To the extent not otherwise required in any article of this license, the licensee shall include the Penobscot Indian Nation (PIN) and the United States Bureau of Indian Affairs (BIA) in all consultations associated with all post-licensing studies,

Executive Summary

reports or activities related to archaeological, cultural and historic resources, land and water resources, fisheries and wildlife, navigation, and recreation in the project area. The licensee shall provide any related draft reports to the PIN Department of Natural Resources and BIA and provide a minimum of 30 days for their comments and recommendations before filing them with the Commission. The licensee shall further address and incorporate all such comments and recommendations in any final reports filed with the Commission.

PPL Maine also requests in association with implementation of the PIN Agreement that FERC approve the following changes to the 1998 Log Removal Plan for Milford approved by FERC by order issued June 1, 1998 (87 FERC ¶62,245):

In Section B (Scope of Plan) thereof, delete the last two sentences in the third paragraph and insert in lieu thereof the following sentence: "Additional log removal shall be governed by the provisions of Section E hereof."

In Section D (Implementation Responsibility) thereof, add the following proviso at the end of the second sentence of the first paragraph: "*provided, however*, that the licensee will consider using a PIN tribal member for necessary log removal activities."

In Section E (Schedule for Implementation), delete the existing text of this section and insert in lieu thereof the following: "The licensee will work with the PIN Department of Natural Resources on an annual basis through the term of the existing Milford license to relocate semi-buoyant logs that PIN has determined to be navigational hazards within the Milford impoundment. The PIN Department of Natural Resources will contact the licensee on or before June 30 of each year to confirm its interest in either meeting to discuss and plan for removal of logs, or to confirm that no such navigational hazards are present and that log removals are not necessary for that calendar year."

Executive Summary

In Section F (Methods), delete the second sentence of the first paragraph, delete the second paragraph in its entirety, and replace the deleted paragraph with the following: "Identified logs shall be relocated to an area where they do not present a navigation hazard."

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 downstream fish passage facilities at the Milford Project. Fishways shall be maintained and operated to maximize fish passage effectiveness throughout fish migration period(s) as defined below. The downstream migration period shall be 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 design plans for all fishways shall be developed in consultation and cooperation with the FWS, PIN, and other fishery agencies.

Executive Summary

Downstream fishways shall consist of: (1) a downstream fishway as described in the licensee's filing dated January 12, 1990 (Response to FERC's Additional Information Request, Items 10 through 13); (2) outer trashracks with 1-inch clear bar spacing over the upper 12 feet of the rack (or 4-inch clear bar spacing on outer rack and 1-inch clear bar spacing on the inner trashracks with two additional entrance ports installed on the inner trashrack); (3) twin 4-foot-wide (8 feet total) weirs at the outer trashrack, capable of passing up to 280 cfs; the location of the weirs is to be west of the edge of the new generation unit (No. 2); (4) attraction flows to the downstream fishway of 280 cfs; (5) a gated bottom intake to the downstream migrant facilities for the downstream passage of American eels; and (6) a downstream migrant conduit designed so that the discharge jet does not impact on any vertical walls.

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 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 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 filing documentation of consultation, copies of agency and PIN comments and recommendations on the drawings, plans, and schedule after they have been prepared and provided to the agencies and PIN, and specific descriptions of 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 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.

Executive Summary

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.

Until the twin 4-foot-wide weirs at the outer trashracks above are installed, the licensee shall continue to operate the existing surface weir bypass facilities at the project.

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. The licensee shall install and operate permanent upstream fish passage facilities at the Milford 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 as April 15 to November 15 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 (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

Executive Summary

fishways shall be developed in consultation and cooperation with the FWS, PIN, and other fishery agencies.

During the first upstream eel migration season after a 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, upon approval by those entities of a proposed location, file, for Commission approval, a plan for the fishway. This plan 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.

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 "state of the art" upstream anadromous fish passage facilities specified in Attachment A to that Agreement. 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 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 preceding paragraphs, 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 PIN, and specific descriptions of how these 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 drawings, plan, and schedule with the Commission. If the licensee does not

Executive Summary

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 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 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. Within 12 months of the deadline established by Articles 407 and 408 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 407 and 408 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, if necessary.

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.

Executive Summary

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 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 411: Delete the existing Article 411 in its entirety and add the following new Article 411 in lieu thereof (for fish passage under MPA and DOI modified fishway prescriptions):

Article 411. 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.

APPENDIX ES-A
CONSULTATION DOCUMENTATION

APPENDIX A CONSULTATION DOCUMENT

MILFORD 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 P. 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 predict 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"

W

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

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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 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.

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
Environmental Protection
State House Station 17
Augusta, ME 04333

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

Ron Kreisman
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Hallowell, ME 04347

Todd Burrows
Maine State Planning Office
State House Station 38
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Kevin Mendick
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North Atlantic Region
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Bud Newell
Hydropower Coordinator
Bureau of Parks and Recreation
Maine Department of Conservation
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Augusta, ME 04333

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

Norm Dube
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Arthur Spicas
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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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Old Town, ME 04468

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

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

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

Judith M Stolfo
U.S. Department of Interior
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George LaPointe
Commissioner
Maine Dept. Marine Resources
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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
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41 State House Station
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Maine Historic Preservation
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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

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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
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Newton, MA 02458-2881

Andrew Tittler
U.S. Department of Interior
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Laura Rose-Day
Project Director
3 Wade Street
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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
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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
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John E. Baldacci
Governor

**STATE OF MAINE
ATLANTIC SALMON COMMISSION**

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Patrick C. Kellner
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.

Madawasky 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 Frisko, 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 BALDACCI
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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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

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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

March 12, 2004

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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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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

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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

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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 01930-2208

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 Tittler, 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 - Veezie 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. Veezie 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

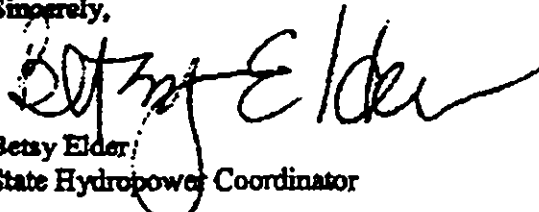
The Maine resource agencies support the increased energy generation capacity proposed by the applications as an important element of the MPA.

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 Wippelhaner, DMR
Tom Squiers, DMR
Betsy Elder, SPO
Todd Burrows, SPO
Bud Newell, DOC
Norm Dube, ASC
Pat Keliber, ASC
Steve Timpano, DIFW
Art Speiss, MHPC
Gordon Russell, USFWS
Laura Rose Day, NRCM
Ron Kreisman, Esq.

Winters, Maureen

From: Hall, Scott D [shall@ppweb.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





JOHN ELIAS BALDACCI
GOVERNOR

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

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

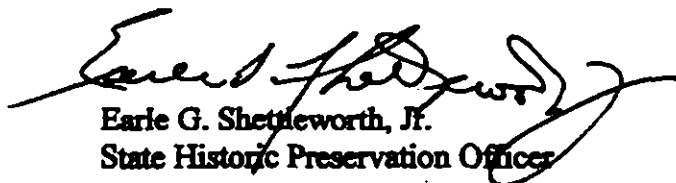
Dear Mr. Hall:

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





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

JOHN ELIAS BALDACCII
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

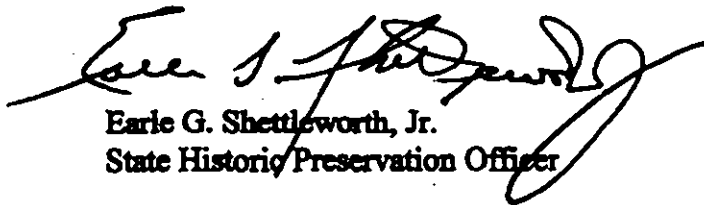
Dear Mr. Hall:

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



JOHN ELIAS BALDACCI
GOVERNOR

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

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

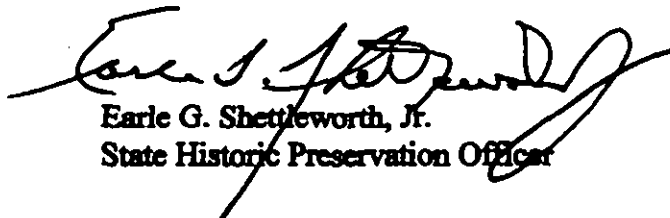
Dear Mr. Hall:

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





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 #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



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

JOHN ELIAS BALDACC
COMMISSIONER

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

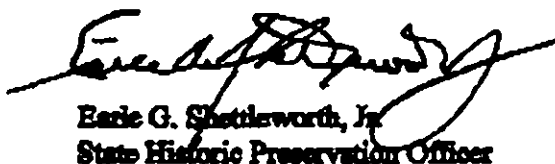
Dear Mr. Hall:

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

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

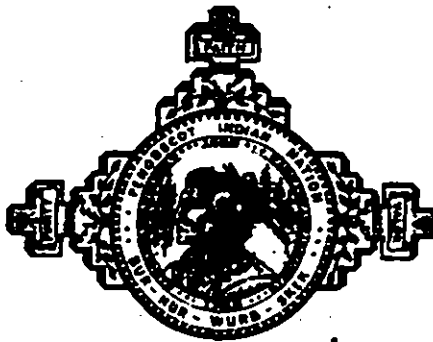
PENOBSCOT NATION

**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.

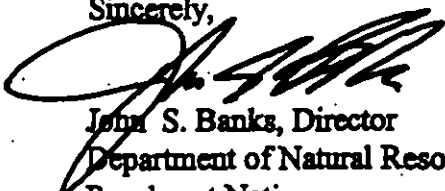
Dear Scott:

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,


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:

☐ Notify _____ ☐ Contact Core Team ASAP ☐ Tickle for _____ ☐ Return Call ☐ Other (See Notes)	
---	--

Employee's Name	Maurice Winters
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Organization of Amendment

This Amendment Application requests changes to the existing Milford Project license to incorporate conditions of the MPA, including the preliminary modified DOI fishway prescription dated June 2004, and the PIN Agreement. However, none of the proposed changes will adversely affect existing project structures, operations, or area environmental resources. Therefore, the following sections primarily provide references to relevant sections of the "Milford Hydroelectric Project New License Application for a major water power project" filed with FERC in 1988 (BHE 1988).

This Amendment Application has been prepared in accordance with 18 CFR §4.201. Consistent with that subsection, and because the Milford Project has an installed capacity greater than 5 MW, this application includes an Initial Statement and Exhibits A, B, C, D, E, F and G, prepared pursuant to 18 CFR §4.51.

Exhibit A

Project Description

A detailed description of the Milford Project structures can be found in Exhibit A of the Application for New License filed with FERC in 1988 (BHE 1988). Because the project improvements and license changes proposed in this Amendment Application will not affect any project structures described in the existing Exhibit A, no changes are necessary.

Exhibit B

Operation and Resource Utilization

A detailed description of the Milford Project operations can be found in Exhibit B of the Application for New License filed with FERC in 1988 (BHE 1988). Because the project improvements and license changes proposed in this Amendment Application will not appreciably affect the operations and resource utilization described in the existing Exhibit B, no changes are necessary.

Exhibit C

Construction History and Proposed Schedule

1.0 Construction History

The construction history of the Milford Project can be found in Exhibit C of the Application for New License (BHE 1988).

2.0 Proposed Construction and Schedule

This Amendment Application proposes incorporation of license articles for modified fish passage measures consistent with the preliminary modified DOI fishway prescription dated June 2004. The proposed new license conditions will require submittal of plans and implementation schedules. Thus, the final schedule for construction and operation of the fish passages at the Milford Project will be determined based upon consultation with agencies.

Exhibit D

Statement of Costs and Financing

1.0 Estimated Cost of Existing Project

The estimated cost of the existing Milford Project can be found in Exhibit D of the Application for New License (BHE 1988).

2.0 Estimated Cost of New Development

The costs for all proposed project improvements and changes will be financed through PPL Maine's normal operating budget. The capital and operating costs of the fish passage measures will be determined based upon the final passage design, after consultation with agencies.

Exhibit E

Environmental Report

A detailed description of the environmental resources present in the Milford Project area can be found in Exhibit E of the Application for New License filed with FERC in 1988 (BHE 1988). In addition, the resources of the project area were analyzed in the Final Environmental Impact Statement for the Lower Penobscot River Basin (FERC 1997). Because the project improvements and license changes proposed in this Amendment Application will not appreciably affect the environmental resources described in the existing Exhibit E, no changes are necessary.

PPL Maine consulted with all state and federal resource agencies, the Penobscot Indian Nation and other interested parties regarding impacts to environmental resources in the Milford Project area. Other than questions from the State Historic Preservation Officer (SHPO) described below, no issues related to environmental resources were raised and letters of support from the consulted parties can be found in Appendix ES-A.

In a letter dated March 15, 2004, the Maine SHPO explained that the Milford Project powerhouse and dam are listed in the National Register of Historic Places. The SHPO also requested that PPL Maine provide a comparison between 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.

In the MPA and DOI prescriptions (as reflected herein), the requested modifications to various license articles outline the fish passage requirements under various scenarios. When new or different fish passage facilities are called for, PPL Maine will make the necessary applications and fulfill the consultation requirements associated with obtaining the appropriate approvals from the state (including SHPO and THPO) and federal agencies and the Commission. In doing so, PPL Maine will provide the information requested by the SHPO for it to assess and issue its finding of effect in accordance with the Advisory Council's regulations in 36 CFR Part 800.5. In addition, as called for in the existing license, prior to any construction activities PPL Maine will

Exhibit EEnvironmental Report

consult with the SHPO to confirm there are no impacts associated with any fish passage facilities and will file any additional consultation documentation with the Commission.

Finally, regarding the SHPO's request for clarification of the area subject to the proposed language change in Section E (Schedule for Implementation) of the 1998 Log removal plan (87 FERC ¶62,245), this requested change to Section E will not alter the requirements of the Log Removal Plan as it pertains to the former Argyle Boom area, it simply changes the schedule of consultation and necessary relocation of semi-buoyant logs that pose navigational hazards from once every five years to annually.

1.0 Literature Cited

Bangor Hydro-Electric Company. 1988. Milford Hydroelectric Project, New License Application for a Major Water Power Project. BHE, Bangor, 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.

Penobscot Indian Nation, PPL Maine, LLC, and the Bureau of Indian Affairs of the Department of the Interior. 2004. Comprehensive Settlement Agreement Between the Penobscot Indian Nation, PPL Maine, LLC, and the Bureau of Indian Affairs of the Department of the Interior.

APPENDIX E-A
WATER QUALITY CERTIFICATION APPLICATION

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.

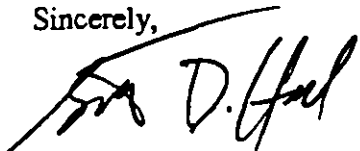
West Enfield Hydro Project, FERC No. 2600, Enfield and Howland, Maine: increasing the normal headpond elevation by 1 foot by increasing the height of the existing flashboards, and incorporating the installation of upstream eel passage facilities.

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

RECEIVED
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, ME 04333
Telephone: (207) 287-3901

FOR DEP USE

Fees Paid _____
Date Received _____

APPLICATION FOR PROJECT MODIFICATION
For Hydropower Projects

This form shall be used to request approval of minor changes to: (a) project design or operation; or (b) the conditions of a permit as previously approved by the Board or Department of Environmental Protection.

All required fees must be paid before application processing will begin. Please contact the DEP for current fee schedule information. Fees are payable to: Treasurer, State of Maine. Depending on the degree of review required, additional fees may be assessed. The Department will bill you if additional fees are needed.

If significant project changes are proposed, then a complete new or amendment application may be required by the Department.

(Please type or print)

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

LOCATION OF ACTIVITY

Name of Project: **Milford Project (FERC No. 2534)**
Address (use "911" address, if available): **Davenport Street, Milford, Maine**
Municipality or Township: **Milford** County: **Penobscot**
GPS Coordinates (if known): **Not known**

REQUIRED INFORMATION

1. Existing DEP permit number: **Order #L-16011-35-B-N, dated October 23, 1992**
2. Description of Proposed Change:
As described in cover letter, attached FERC Amendment Application and Multiparty Settlement Agreement

(Attach additional sheet(s), if necessary.)

3. Provide all documentation necessary to support the proposed change. This documentation shall include, as appropriate, revised site plans, construction drawings and technical data. (If you are unsure of what information to include, please contact the original DEP project manager, or the Division of Land Resource Regulation for assistance.)

NOTE: All supporting documents summarized above must be attached to this form and sent to the DEP Office located 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."


SIGNATURE OF APPLICANT

DATE: 14 June 2004

Scott D. Hall
PRINT OR TYPED NAME

Manager of Environmental Services
TITLE

Exhibit F

Project Drawings

The existing Exhibit F for the Milford Project includes the following plans:

- F-1 General Plan and Dam Sections (FERC 2534-1006)
- F-2 Powerhouse General Plan (FERC 2534-1007)
- F-3 Powerhouse Plan and Sections (FERC 2534-1008)
- F-4 Cutting Plans and Sector for Unit 2 (FERC 2534-1009)
- F-5 Fishway Plans Section and Detail (FERC 2534-010)
- F-6 Gilman Falls Dam Plan, Profile and Sections (FERC 2534-1011)

The proposed Amendment will not affect any structures depicted on the project plans, and no revised Exhibit F drawings are being submitted.

Exhibit G

Project Maps

The existing Exhibit G for the Milford Project includes the following plans:

- G-1 General Location Map (FERC 2534-1001)
- G-2 General Project Area Map (FERC 2534-1002)
- G-3 Project Boundary Map (FERC 2534-1003)
- G-4 Project Boundary Map (FERC 2534-1004)
- G-5 Project Boundary Map (FERC 2534-1005)

The proposed Amendment will not affect features depicted on the project area maps, and no revised maps are being submitted.

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MW/ek
June 8, 2004