EXHIBIT 6

Email from Bill Kavanaugh, Army Corps, to Brian Swan, DMR, and Bob Green, DEP, at 1, April 5, 2011, 10:15 a.m.

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Green, Robert

From: Kavanaugh, William M NAE [William.M.Kavanaugh@usace.army.mil]
Sent: Tuesday, April 05, 2011 10:15 AM
To: Swan, Brian; Green, Robert
Cc: O'Donnell, Edward G NAE; Levitt, Kenneth M NAE; Mackay, Joseph B NAE; Cappola, Valerie A NAE; Wippelhauser, Gail; Lamothe, Peter; Julie Crocker
Subject: RE: Kennebec River Dredge DMR Comments (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Brian,

A couple of points here:

As discussed with you at the meeting, we're all in agreement that August isn't the best month for dredging - in fact it probably can't get any worse relative to the Kennebec.

It is my hope, that everyone realizes that we all have the same goals in mind with regard to protecting the SNS but that we also have to each work within our authorities and constraints. In this area, our constraints are dictated by the Federal regulations and by the Endangered Species Act (ESA).

I'm not a fisheries biologist, but I have been involved enough with this project to know a little bit about the SNS. I think it's safe for me to say that we can assume that the SNS ARE going to be in the area in August.
Therefore, it's hard for me to understand the logic of how having, and monitoring for, tagged SNS will help us avoid takes, unless you mean (that); if one or more of the tagged SNS were detected in the area of the dredge, that your expectations would be that the operations would cease until it/they move away.

As I (and Ed) stated at the meeting, the mere presence of tagged SNS in the area of the dredge cannot dictate a stoppage of work as that could quickly become unmanageable from a contract standpoint (e.g. what if a SNS were detected and it decided to hang around for a few days or more - that would require that the dredge plant sit idle for that time). That said; obviously if we exceed the number in the NMFS Incidental Take Statement then we would
have to stop operations until NMFS could be consulted with. That's
essentially what happened in 2003 and how we determined that taking the screening (that was originally placed for monitoring of SNS parts) off the intake pipes allowed for the entrained SNS (whole ones) to pass freely into the hopper which may have afforded those fish a greater chance at survival,
post-entrainment.

At this time, we're way past the point of trying to involve BIW in this effort and although the DMR would like a grander scale effort, given the total uncertainty with Federal funding at the moment, we will need to focus an effort within the previously discussed and agreed upon constraints (i.e.
$5,000). As with the DMR's funding for tagging, our funding may, or may not be available come time of actually putting a dredge in the water so I'm requesting that the State consider carefully the choice of words used in any condition that might come in the WQC.

I think that we need to come to some consensus on how best that the $5,000 could be used to collect additional data on the SNS as encouraged by the ESA so that a plan can be developed and put in place should that money be available at the time of the work. In that vein, if Gail and Peter could provide the cost information, that would be a start.

Bill

-----Original Message-----
From: Swan, Brian [mailto:Brian.Swan@maine.gov]