

FEDERAL ENERGY REGULATORY COMMISSION

Washington, DC 20426

August 29, 2018

OFFICE OF ENERGY PROJECTS

Project No. 4784-095, Maine
Pejepscot Hydroelectric Project
Topsham Hydro Partners Limited
Partnership

Michael Pentony, Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2276

**Reference: Request for information for the Pejepscot Hydroelectric Project
study plan dispute.**

Dear Mr. Pentony:

On August 1, 2018, the National Oceanic and Atmospheric Administration's, National Marine Fisheries Service (NMFS) filed a Notice of Study Dispute to initiate the Federal Energy Regulatory Commission's (Commission's) formal study dispute resolution process, pursuant to 18 CFR § 5.14, in the licensing proceeding for the Pejepscot Hydroelectric Project No. 4784-095. On August 21, 2018, the Study Dispute Resolution Panel (Panel) convened with Dan Kircheis as the NMFS representative, James Lynch as the independent, third-party representative, and Monte TerHaar as the Commission representative and Panel chair.

The Panel has scheduled a technical conference for the purpose of clarifying the matters in dispute for Tuesday, September 11, 2018, via conference call. In reviewing the record, the Panel has identified several items which would be helpful in evaluating the study requested. Please provide the information as follows.

1. The Panel's recommendation must be based on information which is in the record for this proceeding. In your August 21, 2018 letter you recommend study methods similar to those outlined by Counihan et al., 2012. You also reference the Don Pedro Project No. 2299. Please

provide a copy of the information from these two sources which you wish to include in the record.

2. While you describe the goals of the study, you do not describe any details on the study design. You do not identify specific species to be studied, rather refer to “non-native predatory fish”, and “native anadromous species”. The Panel requests specific details on the study design including identifying the exact species of all target fish, procedures used, and timing and duration of study.
3. Please provide the most recent estimates of numbers of Atlantic salmon expected to occur in the project area. Provide any evidence you have that a sufficient number of Atlantic salmon exist in the project area to conduct the requested study.
4. You estimate the study would cost between \$15,000 and \$30,000. Please describe how these cost would be allocated, the level of effort to complete the study.
5. Criteria 5 for the content of a study request requires an explanation of any nexus between project operations and effects on the resource to be studied. It also requires an explanation of how the study results would inform the development of license requirements. Please provide specific examples of how the results of an impoundment mortality study would be used to inform a license requirement, and identify specific structures or operation changes which could be directed by the data collected. Give an example of a license article based on the information provided by the study results.
6. In the study request, you call attention to how the impoundment creates an ecosystem that is more lacustrine providing more favorable conditions to invasive species that may affect survival of native anadromous fish. Please provide any scientific-supported evidence that describe ways in which dam operations might be modified to minimize the effects of predation created by these conditions.
7. The licensee has proposed several telemetry-based passage studies to directly assess both upstream and downstream passage effectiveness for anadromous fish, and these studies have been approved. Please describe what information the proposed study would provide, and the potential mitigation measures, that would not be covered by the approved upstream/downstream passage studies.

The Panel requests that NMFS file these documents with the Secretary of the Commission no later than September 6, 2018. Please contact Monte TerHaar at (202) 502-6035 with any questions for the Panel regarding this request.

Sincerely,

Monte TerHaar
Chair, Pejepscot Hydroelectric Project
Dispute Resolution Panel

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