

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
September 26, 2018

OFFICE OF ENERGY PROJECTS

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

Mr. Randy Dorman
Brookfield Renewable
Topsham Hydro Partners Limited Partnership
150 Main St.
Lewiston, ME 04240

Subject: Study Dispute Determination

Dear Mr. Dorman:

Pursuant to 18 C.F.R. § 5.14(l) of the Commission's regulations, this letter contains the study dispute determination for the Pejepscot Hydroelectric Project (Pejepscot Project). This study dispute determination is based on: the study criteria set forth in section 5.9(b) of the Commission's regulations; applicable law; Commission policy and practice; the technical expertise of the dispute resolution panel; and the record of information.

Background

On July 3, 2018, the Commission issued a study plan determination for the Pejepscot Project based on Topsham Hydro Partners Limited Partnership's (Topsham Hydro) revised study plan filed on June 12, 2018, and comments filed thereon. On August 1, 2018, the National Marine Fisheries Service (NMFS) filed a timely Notice of Study Dispute pursuant to section 5.14(a) of the Commission's regulations. The dispute involved a predation study that was not adopted in the study plan determination. The requested predation study was intended to evaluate the effect of non-native predators on native anadromous fish species in the project impoundment. The predation study was not adopted because staff determined it was not likely to obtain the desired data, and would not inform the development of licensing requirements.

On August 21, 2018, the Commission issued a public notice convening a Dispute Resolution Panel (Panel) for the disputed study, and notified parties of a technical conference. Topsham Hydro filed comments on the dispute on August 24, 2018. On August 29, 2018, the Panel filed a letter requesting that NMFS submit additional information relevant to the study dispute. NMFS provided the information to the Panel on September 7, 2018. On September 11, 2018, the Panel held the technical conference via conference call. The conference included representatives from NMFS, Topsham Hydro, and the Commission.

Dispute Panel's Findings

On September 18, 2018, the Panel filed its findings with the Commission. The Panel determined that the headpond predation study would not inform the development of license conditions and that any study to evaluate predation losses in a manner that would provide useful information would likely far exceed the level of effort and cost estimated by NMFS. Therefore, the Panel recommended no changes to the Director's study plan determination for the headpond predation study.

Study Dispute Determination

I have considered the information provided by NMFS, and the findings and recommendations of the Panel and agree with its findings, which are consistent with the findings in the July 2018 study plan determination. Therefore, I am not requiring the study plan to be modified to incorporate the requested headpond predation study.

If you have any questions, please contact Ryan Hansen at (202) 502-8074.

Sincerely,

Terry L. Turpin
Director
Office of Energy Projects