

Appendix 4

Natural Resource Agency Coordination

Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if reinitiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

Information to Determine 4(d) Rule Compliance:	YES	NO
1. Does the project occur wholly outside of the WNS Zone ¹ ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency ² to determine if your project is near known hibernacula or maternity roost trees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

Agency and Applicant³: Lead Agency: FHWA. Submitting Agency :MaineDOT Environmental Office, Eric.Ham@maine.gov, 207-215-7356

Project Name: Frank J. Wood bridge (#2016) replacement, MaineDOT WIN 22603.00

Project Location: located at the Brunswick-Topsham line carrying Route 201 over the Androscoggin River.

Basic Project Description: MaineDOT proposes to construct a new bridge to replace the existing Frank J. Wood Bridge, which carries US 201/ME 24 over the Androscoggin River between the Towns of Brunswick and Topsham. After the new bridge is constructed, MaineDOT will remove the existing Frank J. Wood Bridge. Only 0.25 acres of clearing is anticipated.

General Project Information	YES	NO

¹ <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

² See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

³ If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.

Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion ⁴ ? (if yes, report acreage below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of forest conversion	~0.25	
If known, estimated acres ⁵ of forest conversion from April 1 to October 31		
If known, estimated acres of forest conversion from June 1 to July 31 ⁶		
Does the project include timber harvest? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of timber harvest		
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated wind capacity (MW)		

Agency Determination:

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.



Signature: _____ Date Submitted: 10-29-18

⁴ Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

⁵ If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

⁶ If the activity includes tree clearing in June and July, also include those acreage in April to October.



DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO
ATTENTION OF

Regulatory Division
CENAE-RDC

September 7, 2017

Kristen Chamberlain
Environmental Office
Maine Dept. of Transportation
16 State House Station
Augusta, Maine 04333

Dear Ms. Chamberlain:

This concerns the proposal by the Maine Dept. of Transportation (Maine DOT) to place fill and perform work in the Androscoggin River between Topsham and Brunswick, Maine in order to replace the existing deteriorated Frank J. Wood bridge. Although you are well aware of it, the following is an explanation of Corps jurisdiction as defined by Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

A permit is required under Section 10 for all work seaward of mean high water in navigable waters of the United States. In Maine, for purposes of Section 10, navigable waters of the United States are those subject to the ebb and flow of the tide and a few of the major waterways used to transport interstate or foreign commerce, specifically the Penobscot River to Medway, the Kennebec River to Moosehead Lake, and the portion of Lake Umbagog in Maine.

Permits are also required under Section 404 for discharges of dredged or fill material into all waters of the United States, including navigable waters, inland rivers, lakes, streams, and wetlands, as well as the excavation/grading within these waters/wetlands. On the coastline, our jurisdiction extends landward to the high tide line (i.e., the highest predictable tide) or to the landward limit of any wetlands, whichever is more extensive. In interior waters, our jurisdiction extends landward to the ordinary high water mark or to the landward limit of any adjacent wetlands, whichever is more extensive.

The term "wetlands" is defined by Federal regulations as "...those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions..." (Federal Register, November 13, 1986 33 CFR Part 328.3(b)). Wetlands generally include swamps, marshes, and bogs; however, forests and meadows that lack surface waters can also be wetlands. In addition, wetland delineations as determined for Federal, state, and local agencies might not be interchangeable.

Specific to this project and in response to your recent request, the proposed alignment and design of the replacement bridge, immediately upstream of the existing bridge, intersects both the high tide and the ordinary high water lines. As such, any bridge construction over tidal

waters will not require a Section 10 permit, it will be regulated by the US Coast Guard. Temporary or permanent fills placed below the ordinary high water line or below the high tide line or in adjacent freshwater or tidal wetlands in support of the bridge construction are still subject to Corps permitting pursuant to Section 404 however. This would include but not be limited to tidal or freshwater fills associated with abutments, support piers, riprap stabilization or scour protection, approach fills, and temporary access fills. Therefore, the application to the Corps will be limited to the fill component with reference to the Coast Guard's regulation of the bridge.

As you are aware, any application to the Corps pursuant to Section 404 must include an alternatives analysis that clearly and thoroughly documents the need for the fill, alternatives considered, and mitigation possibilities. Only the least environmentally damaging practicable alternative may be authorized.

If you have any questions regarding this letter, please contact me at 207-623-8367 at our Manchester, Maine Project Office.

Sincerely,


Jay L. Clement
Senior Project Manager
Maine Project Office

PEOCES —

PDF TO JOEL —



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

JUN - 2 2017

Joel Kittredge
Maine Department of Transportation
Bridge Program
16 State House Station
Augusta, ME 04333

WIN 22603.00

Re: NOAA Fisheries' comments on the analysis of alternatives for the proposed Frank J. Wood Bridge project.

Dear Mr. Kittredge:

On Wednesday, April 5, you held a public meeting in Brunswick, Maine regarding alternatives for improvements being considered to the Frank J. Wood Bridge that spans the Androscoggin River on the Brunswick-Topsham town line in Maine.

In your March 10, 2017, analysis of alternatives, you identified five potential alternatives as follows:

1. A new 800 ft. bridge on the existing alignment;
2. A new 835 ft. bridge on a curved alignment upstream of the existing bridge;
3. Rehabilitation of the existing bridge;
4. Rehabilitation of the existing bridge, including the addition of a sidewalk; and,
5. A new 800ft bridge on a parallel alignment downstream of the existing bridge.

The summary of alternatives document dismissed alternatives 5 due to water rise/flood concerns.

A number of federally-listed species occur in the Androscoggin River near the bridge site. This includes the endangered Gulf of Maine distinct population segment (DPS) of Atlantic salmon, endangered shortnose sturgeon, and the Gulf of Maine DPS of Atlantic sturgeon. Additionally, the project area is designated as critical habitat for Atlantic salmon. This portion of the river is also used for spawning and rearing of shortnose and Atlantic sturgeon. On June 3, 2016, the main stem of the Androscoggin River from the Brunswick Dam downstream approximately 10 kilometers to where the river discharges to Merrymeeting Bay was proposed for designation as critical habitat for Atlantic sturgeon (81 FR 35701). The final rule is expected in July 2017. More information on these species can be found on our webpage (<https://www.greateratlantic.fisheries.noaa.gov/protected/index.html>).

The existing Frank J. Wood Bridge is located immediately downstream of Brookfield White Pine Hydro, LLC's Brunswick Hydroelectric Project (FERC License No. P-2284). Upstream fish passage at the Brunswick Hydroelectric Project is provided via a vertical slot fishway, located adjacent to the project powerhouse on river left, looking upstream. On December 13, 2013, after



formal ESA consultation with us, the Federal Energy Regulatory Commission amended the license for the Brunswick Hydroelectric Project to include an Interim Species Protection Plan (ISPP). The ISPP included conditions that require Brookfield to study and adaptively manage up- and downstream passage at the Brunswick Project, in consultation with us, to protect migrating Atlantic salmon.

We expect that a consultation, pursuant to section 7 of the ESA, will be required given that any of the proposed alternatives may affect ESA listed species and designated critical habitat. More information on the section 7 process can be found at <https://www.greateratlantic.fisheries.noaa.gov/protected/section7/index.html>.

Based on the currently available information, we highlight the following issues for your consideration as you determine the preferred alternative:

1. Alternatives 1, 2, and 5, would involve construction of a new bridge. The effects of bridge design considerations, including, but not limited to, effects on shade, sound, and to river hydraulics due to pier design, placement, and orientation, could negatively impact the functionality of the existing fishway at the Brunswick Dam.
2. We understand that at this stage, the design renderings for each of the alternatives are preliminary. However, the preliminary design for alternative 2, included in your *Summary of Alternatives* (a curved alignment upstream of the existing bridge) would have bridge project structures, such as piers, within closer proximity to the Brunswick Dam, including the existing fishway, than the other alternatives under consideration. As such, the potential impacts upon the function of the existing fishway would likely be more significant. Furthermore, the design and placement of bridge piers under this alternative could significantly restrict future options for infrastructural improvements to enhance fish passage at the Brunswick Project for endangered salmon and other diadromous species, should information gathered under the ISPP indicate such improvements are necessary.
3. Because the proposed bridge replacement and rehabilitation alternatives involve in-water work, we are concerned about the effects of driving piles, adding fill, vessel traffic, and elevated turbidity for the new bridge, as well as the effects of the old bridge demolition, on listed species in the river. Whereas Atlantic salmon primarily use the lower Androscoggin for migration, Atlantic sturgeon and shortnose sturgeon have been documented spawning over the hard bottom- rubble substrate directly downstream of the dam. The consideration of alternatives should take into account potential temporary and permanent impacts to these species and their habitats.
4. We are also concerned about the duration of the project and its potential impact to the behaviors of listed species. Atlantic salmon migrate upstream through the project area in May, June, and July. Shortnose sturgeon spawn in the project area in April and June, and Atlantic sturgeon spawn in the same area in June and July. While Atlantic salmon and both anticipated sturgeon species are iteroparous, sturgeon are a long lived species that do not spawn annually and the loss of a spawning cohort can be highly detrimental to the species recovery and survival. Any aborted migration or deferred spawning by Atlantic

salmon has a deleterious effect on the species ability to develop into a self-sustaining population.

Essential Fish Habitat and Fish and Wildlife Coordination Act

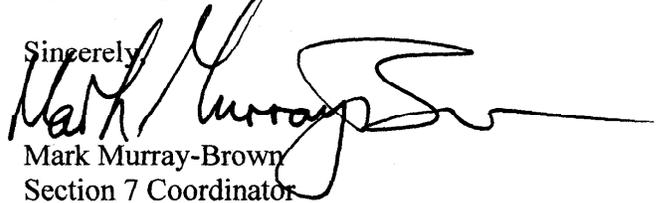
The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA) requires federal agencies to consult with one another on projects such as this. Insofar as a project involves Essential Fish Habitat (EFH), as this project does, this process is guided by the requirements of our EFH regulation at 50 CFR 600.920, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure.

The Androscoggin River and the Merrymeeting Bay are identified as EFH for Atlantic salmon. In addition to the federally-listed species discussed above, the area supports a number of other diadromous species including alewife, blueback herring, rainbow smelt, American shad, sea lamprey, American eel, and striped bass, and the Habitat Conservation Division consults under the Fish and Wildlife Coordination Act for these species. Many of these species are reported to pass through the fishway of the dam to reach upstream spawning or juvenile development habitat. In addition, some of these species serve as prey for federally-managed species, and are therefore considered a component of EFH. Lastly, a number of federally-managed species occur within the tidal waters downstream of the dam and may occur within the proximity of the proposed project, including winter flounder and windowpane flounder, bluefish, Atlantic mackerel, red hake, and white hake.

An EFH assessment that includes the effects of the various bridge alternatives being considered should be prepared for the proposed project, including evaluations of any temporary and permanent fish habitat impacts, especially potential alteration to habitats effecting migration for diadromous fish. In addition, the assessment should address adverse effects to fish species from underwater noise, turbidity, and other construction activities, as well as potential bridge shading and demolition activities.

Thank you for the opportunity to comment on the proposed alternatives; we look forward to continuing to work with you as the project moves forward. If you have any questions or need additional information regarding the Endangered Species Act, please contact Matt Buhyoff (Matt.Buhyoff@noaa.gov) at 207-866-4238 or Max Tritt (Max.Tritt@noaa.gov) at 207-866-3756. For questions or information regarding EFH or Fish and Wildlife Coordination Act consultations, please contact Michael Johnson (mike.r.johnson@noaa.gov) at 978-281-9130.

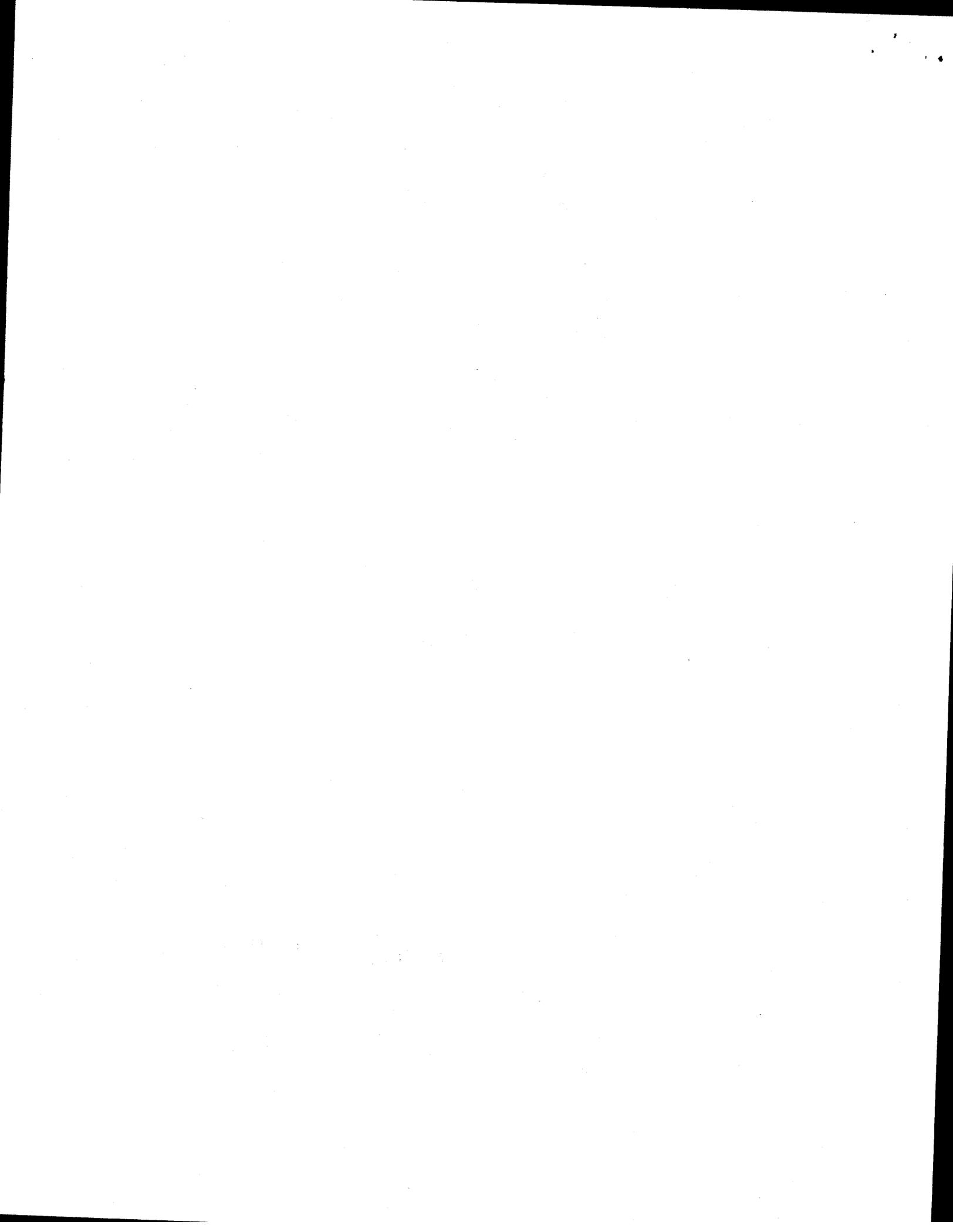
Sincerely,



Mark Murray-Brown
Section 7 Coordinator
for Protected Resources

H:\Section 7 Team\Section 7\Non-Fisheries\FHWA_State DOTs\TA Letters\FHWA\Brunswick Bridge

CC: MTritt, MBuhyoff, ZJyllka, MJohnson



Frank J Wood Bridge, Topsham Brunswick MaineDOT WIN 22603.00
Data provided by Gail Wippelhauser, Department of Marine Resources 5/12/2016

Shortnose sturgeon stage/spawn immediately below the Brunswick Dam from April 7 – June 11 (extent of spawning area approximated by yellow arrows).

Alewives generally migrate upstream at the Brunswick Dam throughout the month of May.

American shad and blueback herring probably spawn in the project area from May 21 – July 15.

Atlantic sturgeon stage/spawn immediately below Brunswick Dam from June 1 – July 31 (extent of spawning area approximated by yellow arrows). Eggs hatch in 4-6 days after deposition and yolk sac larval stage is completed in 8-12 days during which they move downstream.

