

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D. C. 20426

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OFFICE OF ENERGY PROJECTS

FEDERAL ENERGY  
REGULATORY COMMISSION

Project No. 5073-092—Maine  
Benton Falls Hydroelectric Project  
Benton Falls Associates

Richard A. Norman  
Benton Falls Associates  
c/o Essex Hydro Associates, L.L.C.  
55 Union Street, 4<sup>th</sup> Floor  
Boston, MA 02108

SEP -7 2010

Subject: Protection of federally listed Atlantic salmon, progress reporting

Dear Mr. Norman:

In your 2009 Fish Passage and Eel Passage Monitoring Report for the Benton Falls Hydroelectric Project, you stated that 2009 was the first year that Atlantic salmon and shad had been noted in the fish lift. You filed your fish passage report pursuant to the Federal Energy Regulatory Commission's (Commission) Order Approving Upstream Fish Passage Operation Plan and Effectiveness Study.<sup>1</sup>

Your 2010 monitoring results have not been compiled yet and are not due to be filed with the Commission until March 31, 2011.<sup>2</sup> However, as you may be aware, in December 2005, the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service, in coordination with the State of Maine, finalized a Recovery Plan for the Gulf of Maine, Distinct Population Segment of Atlantic salmon. The Recovery Plan identifies recovery actions needed to halt the decline of Atlantic salmon and to minimize threats. In June 2009, NOAA Fisheries and the FWS extended Endangered Species Act (ESA) protection to Atlantic salmon by adding fish in the Penobscot, Kennebec, and Androscoggin rivers, and their tributaries, to the endangered species list.

<sup>1</sup> See 116 FERC ¶ 62,038, issued July 18, 2006.

<sup>2</sup> See 90 FERC ¶ 62,199, issued March 21, 2000. Order Approving Change In Filing Date.

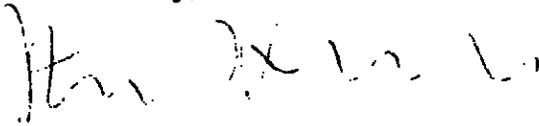
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In order for the Commission to remain informed on the issues concerning the protection of Atlantic salmon in Maine, we request that you assist us in this matter by ensuring that your annual Fish and Eel Passage Report<sup>3</sup> include a summary of any action you have implemented over the course of the previous year, or propose to implement, to protect Atlantic salmon at the Benton Falls Project. Your report should also include summaries and documentation of any consultation you had with the U.S. Fish and Wildlife Service or NOAA Fisheries concerning the effects of project operation on endangered Atlantic salmon.

Also, please inform us as soon as possible of any issues that emerge involving protection of federally-listed Atlantic salmon at the Benton Falls Project, as well as any immediate issues that arise concerning ESA consultation that the Commission should be aware of. This includes, but is not limited to, issues that may involve compliance with the license for the Benton Falls Project and identification of measures that may involve voluntary actions or necessitate amendments of the project license.

Thank you for your cooperation. If you have any questions regarding this letter, please contact Thomas LoVullo at (202) 502-8900.

Sincerely,



Steve Hocking  
Chief, Biological Resources Branch  
Division of Hydropower Administration  
and Compliance

c: Mary Colligan  
National Marine Fisheries Service  
Northeast Regional Office  
55 Great Republic Drive  
Gloucester, MA 01930-2276

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<sup>3</sup> See Commission letter dated May 19, 2008 that approved Benton Falls Associates' request to consolidate its fish lift report with its eel passage report.

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**Norm Dube**  
**Maine Department of Marine Resources**  
**21 State House Station**  
**Augusta, ME 04333-0021**

**Dana Murch**  
**Maine Department of Environmental Protection**  
**17 State House Station**  
**Augusta, ME 04333-0017**

**Richard Norman**  
**Benton Falls Associates**  
**55 Union Street, 4<sup>th</sup> Floor**  
**Boston, MA 02108**

**Frederic G. Seavey**  
**U.S. Fish and Wildlife Service**  
**1168 Main Street**  
**Old Town, ME 04468**

**Steve Timpano**  
**Maine Department of Inland Fish and Wildlife**  
**41 State House Station**  
**August, ME 04333-0041**