FINDING OF NO SIGNIFICANT IMPACT
Removing the Veazie Dam to restore access to Critical Habitat: A Key to Recovering Endangered Atlantic Salmon and Endangered Shortnose Sturgeon

National Marine Fisheries Service

In compliance with the National Environmental Policy Act (NEPA), a Memorandum for the Record has been prepared that adopts the Environmental Assessment (EA) for the Penobscot River restoration project. The EA was prepared by the Federal Energy Regulatory Commission (FERC) and finalized May 18, 2010. The FERC EA was developed to analyze the impacts of the surrender of the licenses for the Veazie, Great Works and Howland Dams on the Penobscot River. The FERC EA analyzed the effects of the license surrender, the removal of the Veazie and Great Works Dams, and the bypass channel construction around the Howland Dam. We hereby incorporate the EA and Memorandum for the record in their entirety.

We, the Office of Protected Resources, propose to issue NOAA Award # NA13NMF4000039 to the Maine Department of Marine Resources through the fiscal year 2013 Species Recovery Grants to States Program. This two-year award would provide a total of $1,027,753 in federal funding to support the removal of the Veazie Dam on the Penobscot River in Maine. Removal of this dam would eliminate the lower-most barrier to diadromous fish and open 100% of the historic habitat for endangered shortnose sturgeon and threatened Atlantic sturgeon. We have determined that funding this project will further the key purpose of the Species Recovery Grant Program - recovering species listed under the Endangered Species Act (ESA). As explained in the Adoption Memorandum, the work we propose to fund is within the scope and scale of the project analyzed in the FERC EA, which therefore requires no supplementation. After reviewing the information and analysis within the adopted EA, we determined that our proposed action will not cause significant environmental impacts as detailed in this Finding of No Significant Impact (FONSI).

NOAA's Administrative Order (NAO) 216-6 (May 20, 1999) contains criteria for determining the significance of impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) Regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1. Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?

> **Response:** No. The proposed action is not expected to cause substantial damage to the ocean and coastal habitats or designated EFH. The proposed action is to fund the removal of the Veazie Dam located on the Penobscot River in the town of Veazie, Maine. Removal of this dam is part of a larger project that included the removal of the Great Works Dam, which was removed in 2012, and the construction of a fish bypass channel

around the Howland Dam. Removal of the Veazie Dam, the lower-most dam on the river, will provide improved fish passage to 11 diadromous fish species and access to 100% of the historical habitat of shortnose and Atlantic sturgeon. The expected effects would also be beneficial for Atlantic salmon, the only species with designated EFH within the Penobscot River. FERC prepared an EFH Assessment and consulted with NOAA Fisheries Service. The result of the consultation was that no further consultation was required and no conservation recommendations were required for the proposed action.

2. Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g. benthic productivity, predator-prey relationships, etc.)?

Response: Impacts to biodiversity or ecosystem function will be short-term and insignificant adverse impacts and long-term beneficial impacts. The proposed action will enhance biodiversity by returning this stretch of river back to a free-flowing condition. This will decrease the water temperature, produce swift moving water and expose rapids and riffles, thus creating a more diverse habitat than is present in the impoundment. This will provide benefits by restoring self-sustaining populations of native sea-run fish species (e.g., alewife, blueback herring, American shad, American eel, sea lamprey and Atlantic salmon) as well as restoring access to historic habitat for Atlantic sturgeon, shortnose sturgeon, striped bass, rainbow smelt and Atlantic tomcod.

3. Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: No. The proposed action is expected to reduce potential impacts to public health and safety through the removal of the dam. Currently the impoundment is not utilized for recreational purposes due to lack of public access, private landownership around the impoundment, difficult terrain and the short impoundment length. The dam removal will open the area for increased use from both upriver and downriver areas.

Removal of the dam will also decrease the impacts from flooding and ice damming. By having a free flowing river, changes in river elevation can more easily be absorbed. Without a dam at this location, ice movement will not be impeded in this area.

4. Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: Yes, however, these adverse effects will not be significant and formal consultation was completed in order to resolve any adverse effects and take of listed species. The proposed action is designed to provide a beneficial effect to endangered and threatened species by allowing them to move freely up and down river and access habitat needed to support their recovery. The Gulf of Maine Distinct Population Segment (DPS) of Atlantic salmon is classified as endangered under the Endangered Species Act (ESA). The Penobscot River is also designated as critical habitat for the Atlantic salmon DPS. Shortnose sturgeon, listed as endangered, and several DPSs of Atlantic sturgeon, one

threatened and four endangered, are also present in the Penobscot River. Critical habitat has not been designated for these sturgeons. FERC requested consultation under the ESA and submitted a biological assessment of the effects of the proposed dam removal on Atlantic salmon and shortnose sturgeon. The National Marine Fisheries Service (NMFS) issued a biological opinion that found that the proposed action may adversely affect but is not likely to jeopardize the continued existence of Atlantic salmon, Atlantic sturgeon, or shortnose sturgeon. The biological opinion also found that the proposed action is not expected to result in the destruction or adverse modification of Atlantic salmon critical habitat. On November 29, 2012, NMFS completed the biological opinion and issued an incidental take statement, four reasonable and prudent measures and five terms and conditions to minimize and monitor the incidental take.

5. Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. The removal of the Veazie Dam along with hydropower-generation capacity will have an economic impact on the local economy. This was addressed in the 2004 Lower Penobscot River Basin Comprehensive Settlement Agreement (Settlement Agreement) through changes in generation capacity at other facilities within the region. A combination of increased number of turbines and increased impoundment water levels would allow greater power generation, replacing what would be lost at the Veazie project. The other loss in economic value would be through the removal of the facility from the tax base. The FERC EA addressed this and came to the conclusion that this may be made up through other means available to the town including the future value the town places on the property, adjustments to general purpose aid and state revenue sharing, and future town budgeting decisions.

There are no anticipated adverse social impacts and potentially greater but not significant social benefits through enhanced recreational access to the open river stretch created by the removal. The activities associated with the decommissioning of the dam would result in the temporary employment of construction workers within the area. The decommissioning would create an estimated 76 jobs equivalent to one year of full time employment with benefits. Using information from the Maine Department of Labor, these jobs would have a direct economic value of $3,344,000. The Proposed Action would have a moderate, beneficial, short term impact on employment within the project area.

6. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?

Response: No, we do not anticipate any effects on the human environment will be highly controversial. The project has been the subject of years of public discussion and review. The Penobscot River Restoration Trust (PRRT) held a series of meetings early in the conceptual phase of the project and has been continuing to meet with municipal officials, abutters, user groups, state and federal officials and interested parties. The PRRT has provided ample opportunities for the identification and discussion of issues. These

opportunities continued through the FERC NEPA process where comments were requested on the draft EA and addressed in the final EA. While there has not been unanimous agreement by all parties, there has been serious consideration of the issues before final decisions were made. Continued monitoring following dam removal will insure that any developing issues can be addressed quickly and appropriately. There is no substantial disagreement related to degradation of any element of the human environment, and impacts are predictable and not extraordinary in terms of type or intensity.

7. Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat or ecologically critical areas?

Response: No, the proposed actions are not expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat or ecologically critical areas. Impacts to historic or cultural resources are addressed in Item 10 below, and impacts to EFH and ocean/coastal habitat are addressed in Item 1 above. Other than the impacts discussed in Items 1 and 10, there are no anticipated impacts to other unique areas.

8. Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The techniques that will be used to accomplish the dam removal are the usual and necessary techniques for an in-water construction project of this size and magnitude. The construction will follow design specifications that have been developed by engineering consultants and evaluated by the funding and regulatory agencies involved in the review and permitting of the project, including NOAA. This extensive review has allowed for appropriate changes to be made to the designs allowing for greater project safety and reduced impacts to resources of the river and surrounding towns.

9. Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The proposed action is related to other actions: the already-completed removal of the Great Works Dam and the proposed future construction of a bypass channel to allow fish passage around the upriver Howland Dam. The impacts of these actions were evaluated in the FERC EA and found to be not significant. The FERC EA contained a Cumulative Effects Analysis that evaluated the effects of past actions, the proposed action and alternatives, other present actions, and reasonable foreseeable future actions. The EA concluded that the proposed action would not be expected to contribute to cumulative impacts. We conclude that the proposed action of issuing Award # NA13NMF4000039 would have cumulative beneficial impacts, but they would not be significant.

10. Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

Response: No, the proposed action is not likely to adversely affect National Register structures or result in the loss or destruction of significant scientific, cultural, or historical resources. The Veazie Project is located near the Eddington Bend on the Penobscot River, and was used for industrial purposes and was the location of the Veazie Lumber Company Mills, also known as Corporation Mills. The present dam was constructed in 1918 and modified over time. The history of the project was researched by to assess its eligibility for listing in the National Register, and a report on the findings was prepared and submitted to the Maine State Historic Preservation Office (SHPO) for a determination. The SHPO responded on June 22, 2007, that it determined that the Veazie Project and associated structures are not eligible for listing in the National Register.

An archaeological site, the Eddington Bend site, occurs within the project area. This site is considered to be one of the best-known prehistoric sites in Maine and is listed on the National Register. In order to address effects that would occur from the proposed undertaking, a Memorandum of Agreement (MOA) among FERC, and SHPO, with PRRT, the Penobscot Indian Nation, and NMFS as concurring parties was executed on January 14, 2010. The MOA sets forth measures to be carried out regarding the treatment of historic structures, treatment of archaeological sites, resolving disputes, and amending or terminating the agreement. Included among the measures are plans for avoiding adverse impacts to the site, curation of artifacts, funding, and monitoring.

11. Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

Response: No, this proposed action is not expected to introduce or spread any non-native species. One focus of the monitoring of dewatered areas within the former impoundment, however, will be the regrowth of vegetation along the shoreline. Of particular interest will be whether non-native vegetation takes advantage of the new conditions. Plans will be in place to prevent this occurrence and planting of native species will help to prevent this occurrence.

There have been concerns expressed about the project allowing northern pike to spread upriver in the watershed. Northern pike are found in parts of the Penobscot River and the concern is that improved fish passage may allow their movement upstream where they would feed on smaller prey. It is unlikely that Northern pike will move upstream because there are control structures upstream of the Veazie Dam that will prevent them from traveling upstream.

12. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: The proposed action is not likely to establish a precedent for future actions with significant effects or establish a decision in principle for future consideration. The proposed removal of the Veazie Dam and the construction of the fish bypass channel around the Howland Dam are already part of the Settlement Agreement. The Settlement Agreement included plans for purchase of the three dams, the removal of the Great Works and Veazie dams and the bypass channel around the Howland Dam. The Veazie Dam removal is the second of the three major actions.

13. Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?

Response: The proposed action is not expected to threaten a violation of any laws or requirements imposed for environmental protection. The project has undergone environmental reviews and will proceed in compliance with all permit requirements and mitigation measures resulting from that review. The recipient of the proposed funding has also been is aware that they are responsible for obtaining any necessary permits and complying with all laws.

14. Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No cumulative adverse or substantial effects on the target species or non-target species are anticipated. As described in the Adoption Memo and the FERC EA, the project will proceed in compliance with mitigation measures inserted in the FERC EA and any mitigation measures determined through the regulatory permit review. These measures will minimize any adverse impacts to protected species. Overall this project will have beneficial effects on diadromous fish resources and their habitats.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA prepared by FERC and our Adoption Memorandum, it is hereby determined that the funding of the removal of the Veazie Dam will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. Furthermore, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.

Donna S. Wieting

Donna S. Wieting
Director, Office of Protected Resources

JUL 25 2013

Date