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November 22, 2017

Michael J. Phinney, Chair  
Town Council  
75 South Street, Suite 1  
Gorham, ME 04038

Kimberly Pomerleau, Chair  
Town Council  
175 Northeast Road  
Standish, ME 04084

Dennis Welch, Chair  
Town Council  
8 School Road  
Windham, ME 04062



**RE: Presumpscot River Settlement Agreement**

Dear Chairs Phinney, Pomerleau, and Welch:

I am writing on behalf of the Maine Department of Marine Resources ("DMR") with regard to the November 15, 2016 Settlement Agreement (the "SA") for the Saccarappa Hydropower Project License Surrender. DMR was a party to the SA, along with S.D. Warren Company d/b/a Sappi North America (the owner of the dams involved in the SA) ("Sappi"); the United States Fish and Wildlife Service ("USFWS"); the Conservation Law Foundation ("CLF"); the Friends of the Presumpscot River ("FOPR"); and the City of Westbrook. You have previously received letters from Sappi, CLF, FOPR and USFWS providing background for the SA. DMR won't repeat those details in this letter, but agrees with the parties' positions and wishes to express its support for the SA separately.

DMR became involved in the negotiations leading to the SA after Sappi filed an application with FERC to surrender its license for the Saccarappa Project on December 2, 2015. DMR took an active role at that time because it believed the fish passage proposed in the surrender application was inadequate and would fail to pass fish in sufficient numbers to support restoration of anadromous fish species in the Presumpscot. Among its several concerns were issues with ongoing maintenance, effectiveness testing, post-construction adjustment, fish counting, and fishway design.

The SA's provisions will maximize the probability of installing effective fish passage at Saccarappa, ensure its ongoing maintenance and operation, and provide for regulatory oversight. DMR believes that effective passage at Saccarappa will open up substantial amounts of spawning habitat for shad, blueback herring and Atlantic salmon below Gambo. While fish passage requirements at Gambo and Dundee are deferred under the SA, DMR also believes that restoring the habitat and fish populations below Gambo and Dundee is far more important at this stage of the restoration effort on the Presumpscot, which is just beginning. Moreover, new fishway prescriptions could be issued for Gambo and Dundee at the time of re-licensure.

Conversely, absent effective fish passage such as provided for in the SA, it is unlikely the trigger numbers for Gambo and Dundee would ever be achieved. Even with the much improved fish passage anticipated by the SA, whether there will be fish in sufficient numbers to trigger fish passage at Gambo and Dundee during the term of the existing FERC licenses is uncertain.

I hope you find this information helpful, and ask that you please let me know if you have any questions or would like additional information.

Sincerely,



Mark Randlett, AAG  
Attorney for the Maine  
Department of Marine Resources

cc: Commissioner Patrick C. Keliher, DMR  
Gail Wippelhauser, DMR  
Lea Tyhach, Esq.  
Matt Manahan, Esq.  
Ronald Kreisman, Esq.  
Sean Mahoney, Esq.  
Scott Anderson, Esq.