

**LOWER PENOBSCOT RIVER
MULTIPARTY SETTLEMENT
AGREEMENT**

June 2004

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LOWER PENOBSCOT RIVER MULTIPARTY SETTLEMENT AGREEMENT

This Multiparty Settlement Agreement (the “Agreement”) is hereby entered into by PPL Maine, LLC (“PPL Maine”), PPL Great Works, LLC (“PPL Great Works”), PPL Generation, LLC (“PPL Generation”) (for the limited purposes set forth in Sections XIII(c) and XIV hereof); the Penobscot River Restoration Trust (the “Trust”); the Penobscot Indian Nation (“PIN”); the United States Department of the Interior acting through its bureaus the Fish and Wildlife Service (“FWS”), the Bureau of Indian Affairs (“BIA”), and the National Park Service (“NPS”) (collectively “DOI”); the Maine State Planning Office, the Maine Atlantic Salmon Commission, the Maine Department of Inland Fisheries and Wildlife, and the Maine Department of Marine Resources (collectively the “Maine Agencies”); American Rivers, Inc. (“AR”), the Atlantic Salmon Federation (“ASF”), the Maine Audubon Society (“MAS”), the Natural Resources Council of Maine (“NRCM”), and Trout Unlimited (“TU”) (AR, ASF, MAS, NRCM, and TU, hereinafter referred to collectively as the “Conservation Interests”); (except for PPL Generation, each a “Party” and collectively the “Parties”).

WHEREAS, PPL Maine (on behalf of itself, its parent corporation and PPL Great Works), PIN, DOI, the Maine Agencies, AR, ASF, NRCM, and TU entered into a Lower Penobscot River Conceptual Agreement (“CA”) in August, 2003 in which the designated negotiating representatives of those parties agreed to recommend the provisions of the CA to their respective principals and, upon receiving authorization, to proceed as promptly as possible to negotiate and finalize a comprehensive settlement agreement, as set forth in the CA, which provides that PPL Maine and PPL Great Works shall, in exchange for valuable consideration, grant a not-for-profit corporation an option to purchase and thereafter decommission and remove Veazie and Great Works and decommission and remove or alter Howland as provided herein

(collectively the “Designated Projects”), upon receipt of necessary regulatory approvals and otherwise in accordance with this Agreement;

WHEREAS, PPL Maine, PPL Great Works, PPL Generation and the Trust are executing among themselves a separate Lower Penobscot River Option Agreement (“Option Agreement”), a copy of which is attached as Exhibit 1, that establishes the terms of the Option;

WHEREAS, BIA, PIN, and PPL Maine are executing among themselves a separate settlement agreement (the “PIN Agreement”), a copy of which is attached as Exhibit 2, regarding (1) Milford and Milford’s impacts on PIN lands, resources, and other interests, and (2) the non-habitat impacts on PIN lands, resources, and other interests of the one-foot increase in the authorized maximum elevation of the reservoir at West Enfield contemplated in this Agreement;

WHEREAS, the Trust and PPL Great Works recognize that removal of the Great Works dam will influence certain operational aspects of the Georgia Pacific Corporation’s (“GPC”) paper mill that is located immediately adjacent to Great Works. The Trust and PPL Great Works will work with GPC to accomplish the removal of the Great Works dam in a manner consistent with legal obligations to GPC;

WHEREAS, the purchase price for the Designated Projects represents, in the view of the Parties, fair compensation for the economic value of the Designated Projects;

WHEREAS, implementation of this Agreement will significantly enhance fishery restoration efforts in the Penobscot River Basin and will resolve to the Parties’ satisfaction all pending fish passage issues associated with the Designated Projects and other hydroelectric projects in the Penobscot River Basin currently owned or operated by PPL Maine, while implementation of this Agreement and the separate PIN Agreement will resolve to the Parties’

satisfaction all issues raised in the requests for rehearing filed by PPL Maine's predecessor in interest, DOI, PIN, ASF, MAS, Maine Council of the Atlantic Salmon Foundation ("MCASF"), and TU of the Federal Energy Regulatory Commission's ("FERC") April 20, 1998 orders for Basin Mills, Veazie, Milford, Orono, and Stillwater;

WHEREAS, MCASF is a not-for-profit corporation which, in addition to ASF, MAS, and TU, filed a request for rehearing of certain aspects of FERC's above-mentioned April 20, 1998 orders, and has authorized ASF to withdraw its request for rehearing of said orders so long as ASF does the same;

WHEREAS, PPL Maine is the indirect owner of the managing general partner of Bangor Pacific Hydro Associates ("BPHA"), the licensee of West Enfield, and has obtained written authorization from the indirect owner of the only other general partner of BPHA to act on behalf of BPHA to file all applications and take all other actions required of BPHA in this Agreement in association with West Enfield;

WHEREAS, the Parties understand that: this Agreement is not related to the issue of whether the run of Atlantic salmon on the Penobscot River should be included within the Maine population of Atlantic salmon that is listed as endangered under the Endangered Species Act; by enhancing upstream and downstream fish passage and restoring habitat, the actions contemplated under this Agreement will improve significantly the prospect of recovery of Atlantic salmon, as well as other migratory fish populations, in the Penobscot River Basin; and implementation of this Agreement is unlikely to affect the responsibilities or rights of others if the Penobscot run of Atlantic salmon is included within the listed endangered population;

WHEREAS, this Agreement contains provisions to significantly enhance hydroelectric energy production at remaining facilities owned or operated by PPL Maine and

thereby replace substantially all of the hydroelectric energy lost through the removals or alterations of Great Works, Howland, and Veazie;

WHEREAS, the Parties have commenced and intend to continue to explore with affected communities, businesses, and other persons ways in which the benefits of the proposed removals or alteration can be maximized, and potential impacts minimized or mitigated;

WHEREAS, the Conservation Interests and PIN are committed to securing, with the appropriate coordination and support of the other Parties, funding necessary to carry out the purposes of this Agreement;

WHEREAS, the Parties believe that the provisions contained in this Agreement are in the best interests of the Parties, and DOI and the Maine Agencies believe (without pre-determining the outcome of notice and comment procedures) that such provisions are consistent with the missions, goals, and, where applicable, the statutory obligations of DOI and the Maine Agencies;

WHEREAS, the Conservation Interests, DOI, the Maine Agencies, and PIN (collectively, the “Restoration Interests”) recognize and commend PPL Generation, PPL Maine, and PPL Great Works for their environmental stewardship and commitment to restoration of fisheries of the Penobscot River, as evidenced by its willingness to execute this Agreement;

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

I. Definitions

- (a) **“Applicable Laws and Regulations”** means all duly promulgated federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or

administrative orders, permits and other duly authorized actions or legal requirements of any Governmental Authority.

- (b) **“Basin Mills”** means the dam and appurtenant property and facilities proposed by PPL Maine’s predecessor in interest under FERC Project No. 10981.
- (c) **“BPHA”** means Bangor Pacific Hydro Associates.
- (d) **“Closing”** means the transfer of all right, title and interest in the Designated Projects from PPL Maine and PPL Great Works to the Trust pursuant to the terms of the Option Agreement.
- (e) **“DEP”** means the Maine Department of Environmental Protection.
- (f) **“Effective Date”** means the date upon which the last Party executes this Agreement.
- (g) **“FERC”** means the Federal Energy Regulatory Commission.
- (h) **“FPA”** means the Federal Power Act, 16 U.S.C. § 791a *et seq.*
- (i) **“Great Works”** means the dam and appurtenant property and facilities owned by PPL Great Works under FERC Project No. 2312.
- (j) **“Governmental Authority”** means any federal, state, local or other governmental regulatory, legislative, or administrative agency, court, commission, department, board, or other governmental subdivision with jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and which is exercising, or is entitled to exercise, any authority over any of the Parties, their respective facilities, or the respective services they provide under the terms of this Agreement.
- (k) **“Howland”** means the dam and appurtenant property and facilities owned by PPL Maine under FERC Project No. 2721.

- (l) **“Medway”** means the dam and appurtenant property and facilities owned by PPL Maine under FERC Project No. 2666.
- (m) **“Milford”** means the dam and appurtenant property and facilities owned by PPL Maine under FERC Project No. 2534.
- (n) **“NEPA”** means the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*
- (o) **“Option”** means the option to purchase the Designated Projects as described in Section III(a)(1) of this Agreement.
- (p) **“Orono”** means the dam and appurtenant property and facilities owned by PPL Maine under FERC Project No. 2710.
- (q) **“PIN Agreement”** means the agreement, attached hereto as Exhibit 2, executed by PIN, BIA and PPL Maine regarding the impacts of operational changes at Milford and West Enfield.
- (r) **“Restoration Interests”** means collectively the Conservation Interests, DOI, the Maine Agencies, and PIN.
- (s) **“Regulatory Application”** means any application, petition, or other request for a license, permit, certification, or other regulatory approval or action filed by any Party with any Governmental Authority as required by this Agreement or by Applicable Laws and Regulations.
- (t) **“Stillwater”** means the dam and appurtenant property and facilities owned by PPL Maine under FERC Project No. 2712.
- (u) **“Veazie”** means the dam and appurtenant property and facilities owned by PPL Maine under FERC Project No. 2403.

- (v) “**West Enfield**” means the dam and appurtenant property and facilities owned by BPHA under FERC Project No. 2600.

II. Regulatory Approvals And Related Activities

(a) Each Party shall file all Regulatory Applications required of it by this Agreement and Applicable Laws and Regulations. Each Party also shall file with FERC, DEP, DOI, and any other Governmental Authority appropriate pleadings, as required of it by this Agreement, supporting the Regulatory Applications filed by other Parties; *provided, however*, that, on matters not specifically addressed in this Agreement, DOI and the Maine Agencies reserve the right to make specific comments and recommendations pursuant to their statutory and regulatory authorities that are consistent with the terms and intent of this Agreement.

(b) Attachment A hereto describes the Parties’ agreement as to PPL Maine and PPL Great Work's obligations regarding upstream and downstream fish passage measures at their hydroelectric projects during each phase of this Agreement. DOI shall submit to FERC at the times identified herein modifications of its prescriptions for fishways consistent with the provisions of Attachment A. In each instance where DOI so proposes to modify its prescriptions for fishways, consistent with the provisions of Attachment A, it shall (1) comply with its policy for notice and comment before submitting any modified prescriptions to FERC, and (2) thereafter file the modified prescriptions resulting from the notice and comment process for fishways with FERC for inclusion in the respective licenses.

III. Grant And Exercise Of Option

(a) PPL Maine, PPL Great Works, PPL Generation and the Trust shall, on the Effective Date, execute the Option Agreement attached hereto as Exhibit 1. As expressly set forth in the Option Agreement:

- (1) The Trust will receive an option from PPL Maine and PPL Great Works to purchase the Designated Projects (“Option”);
- (2) The Option may be exercised by the Trust for a period of five years, beginning on the Effective Date, by means of the Trust providing written notification to PPL Maine and PPL Great Works; *provided, however*, that the Trust may not exercise the Option unless final orders/approvals that are no longer subject to administrative or judicial appeal granting/approving the applications/requests set forth in Section IV have been issued and without alteration or change in any term or provision of the applications/requests that materially prejudices any Party, unless such alteration or change is deemed acceptable to the Parties in accordance with the provisions of Section XII;
- (3) Exercise of the Option shall contractually bind the Trust to purchase the Designated Projects, which PPL Maine and PPL Great Works shall sell to the Trust. The Trust and PPL Maine and PPL Great Works shall not be so bound if the conditions precedent to closing, as described Section V(d), are not achieved;
- (4) At any time prior to its exercise of the Option, the Trust may terminate the Option, upon written notification to PPL Maine and PPL Great Works of its intent to do so;
- (5) The purchase price for the Designated Projects shall be \$24 million if the Option is exercised before the end of its third year, \$25 million if the Option is exercised during its fourth year, and \$26 million if the Option is

exercised during its fifth year; *provided, however*, that, if Closing occurs more than one year after the written notification to exercise the Option is provided to PPL Maine and PPL Great Works, the purchase price shall be escalated by three (3) percent per annum, accrued and compounded daily, beginning on the day following such one-year period and continuing until Closing occurs; and

(6) The purchase price shall be paid by the Trust to PPL Maine and PPL Great Works at Closing.

(b) Closing shall occur within 60 days (unless extended by mutual agreement of PPL Maine, PPL Great Works, and the Trust) of the completion of the events described in Section V(d) of this Agreement.

(c) Subject to the unanimous approval of the Restoration Interests, the Trust may assign all of its rights and obligations under this Agreement and the Option Agreement to another not-for-profit corporation or governmental entity. Prior to any such assignment, the Restoration Interests and the Trust shall consult with PPL Maine and PPL Great Works regarding the proposed assignment.

IV. Actions After Execution Of The Agreement

Contemporaneously with the execution of this Agreement, the Parties shall take the following actions:

(a) The Parties shall make an initial joint filing at FERC explaining the overall structure of this Agreement and submitting a copy of this Agreement for informational purposes only. This initial joint filing at FERC shall also include the following Regulatory Applications requesting that FERC take the following actions:

- (1) Suspend the FERC relicensing proceedings, including the NEPA analyses, for Howland and Great Works until the Option has been exercised, has expired, or has been terminated; and
- (2) Extend, until the Option has been exercised and the Designated Projects are purchased, or the five-year Option period expires, or has been terminated, whichever is earlier, and for appropriate periods of time to permit the Parties to comply with the provision of Sections V, VI, and VII, the requirements (i) that PPL Maine initiate and complete the installation of an additional turbine/generating unit at Milford, including the requirement that PPL Maine file progress reports regarding the installation of the additional generating unit; and (ii) that PPL Maine submit a final recreation plan for Veazie.

(b) DOI shall submit to FERC modified fishway prescriptions for Veazie, Milford, Stillwater, and Orono consistent with the pertinent provisions of Attachment A, for inclusion in the licenses for such projects as articles. DOI shall inform FERC that the requirements contained in the modified fishway prescriptions for Milford, Stillwater and Veazie are to replace the fish passage related articles of the Milford (Articles 407, 408, and 409) and Stillwater (Articles 406, 407, and 408) licenses and modify the fish passage related articles of the Veazie (Articles 407, 408, and 409) license. These prescriptions shall address PPL Maine's responsibilities for fish passage (1) upon the Effective Date of this Agreement, and (2) upon acquisition of the Designated Projects by the Trust, all as defined in Attachment A.

(c) PPL Maine shall file (or shall cause BPHA to file, as appropriate) Regulatory Applications at FERC (1) requesting that FERC amend the appropriate articles of the licenses for

Milford, Stillwater, and West Enfield to incorporate the pertinent fish passage and minimum flow requirements as provided for in Attachment A, and (2) requesting an amendment to the licenses for Milford and West Enfield to implement the relevant provisions of the PIN Agreement, with the Restoration Interests filing supportive pleadings. The Regulatory Application to be filed at FERC hereunder with respect to Milford shall also include requests that FERC delete Article 410 from the license and modify the time deadlines specified in Articles 301 and 305 thereof to “as ordered by the Commission.” The Regulatory Applications to be filed at FERC hereunder with respect to Milford and Stillwater shall also include requests that FERC amend Article 411 of the Milford license and Article 409 of the Stillwater license by adding at the end of each thereof before the period the following: “that are consistent with the Lower Penobscot River Multiparty Settlement Agreement dated June 2004”.

(d) PPL Maine shall file (or shall cause BPHA to file, as appropriate) Regulatory Applications at FERC requesting (1) that the licenses for West Enfield, Stillwater, and Medway each be amended to increase the authorized maximum elevation of the project reservoir by one foot ("Headpond Increases"), and (2) requesting that FERC issue to PPL Maine a new 40-year license for Orono at its current authorized installed capacity of 2,332 kW incorporating the pertinent fish passage and minimum flow requirements provided for in Attachment A, with the Restoration Interests filing supportive pleadings. The Regulatory Application to be filed at FERC hereunder with respect to the new 40-year license for Orono shall also include a request that FERC limit any article reserving FERC’s authority to require the licensee to construct, operate, and maintain such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce under Section 18 of the FPA to fishways “that are consistent with the Lower Penobscot River Multiparty Settlement Agreement dated June 2004”. The Regulatory

Applications to be filed at FERC hereunder shall also include a request that FERC add to or include in each such license an article requiring the licensee to comply with the provisions of the Contingent Mitigation Fund contained in Attachment B hereto.

(e) PPL Maine shall file a Regulatory Application at FERC requesting that FERC modify the time deadlines specified in Articles 306 and 406 of the Veazie license to “as ordered by the Commission” and amend Article 410 of the Veazie license by adding at the end thereof before the period the following: “that are consistent with the Lower Penobscot River Multiparty Settlement Agreement dated June 2004”, with the Restoration Interests filing supportive pleadings.

(f) (1) PPL Maine and PPL Great Works shall file, and PPL Maine shall have BPHA file, with DEP any Regulatory Applications required by Applicable Laws and Regulations to be filed with DEP in association with the Regulatory Applications required by Section IV(a), (b), (c), (d), and (e), with the Restoration Interests filing supportive pleadings.

(2) Notwithstanding the requirement in the opening paragraph of this Section IV regarding contemporaneous filings, at the times determined appropriate by PPL Maine and PPL Great Works, PPL Maine and PPL Great Works shall file (or shall cause BPHA to file, as appropriate) any Regulatory Applications required by Applicable Laws and Regulations to be filed with any other Governmental Authority in association with the Regulatory Applications required by Section IV(a), (b), (c), (d), and (e), with the Restoration Interests filing supportive pleadings.

(g) If FERC, DEP, DOI, or any other Governmental Authority takes action in response to any Regulatory Application made in accordance with this Section IV in a manner that materially prejudices a Party and that Party elects to terminate this Agreement in accordance

with Section XII, all Regulatory Applications made in accordance with this Section IV shall be withdrawn by the Party making such application, or other appropriate action shall be taken by the Party making such application to rescind any approvals that may have been granted pursuant to any such Regulatory Application, and the provisions of this Agreement shall be void. Each Party submitting a Regulatory Application pursuant to this Section IV (a), (b), (c), (d), (e), and (f)(1) shall notify FERC and DEP that a failure by FERC or DEP to grant any of said Regulatory Applications will cause all such Regulatory Applications to be withdrawn and may result in the termination of this Agreement pursuant to Section XII.

(h) Within 30 days following the later of (1) issuance by FERC and DEP of a final order(s), that is no longer subject to administrative or judicial appeal approving all the Regulatory Applications filed pursuant to Section IV (a), (b), (c), (d), (e), and (f)(1) and incorporating as license articles/provisions those provisions requested as part of such Regulatory Applications, and any relevant provisions contained in the PIN Agreement, and (2) resolution of any administrative and judicial appeals of such orders in a manner that is no longer subject to appeal, all without alteration or change in any term or provision thereof in a manner that materially prejudices any Party, the following Parties shall take the following actions:

- (1) PPL Maine, DOI, PIN, ASF, MAS, and TU shall file with FERC notices of withdrawal of the requests for rehearing filed by such entities and MCASF (or their predecessors) of FERC's April 20, 1998 orders for Basin Mills, Veazie, Milford, Orono, and Stillwater; and
- (2) DOI shall file with FERC a notice withdrawing, without prejudice to its position, its asserted conditions/requests under Sections 4(e) and 10(e) of the FPA that it submitted for Milford.

The Parties agree that all issues relating to DOI's authority under Sections 4(e) and 10(e) of the FPA as to Milford shall be rendered moot as a result of the withdrawal referenced in Section IV(h)(2) above.

V. Actions After Exercise Of The Option

(a) As expressly set forth in the Option Agreement, and within thirty (30) days from the date the Trust delivers written notice to PPL Maine and PPL Great Works that the Option is being exercised, PPL Maine, PPL Great Works and the Trust shall file the following Regulatory Applications at FERC:

- (1) PPL Maine and the Trust shall file joint Regulatory Applications (i) requesting a transfer of the licenses for Howland and Veazie (pursuant to Part I of the FPA) and requesting a transfer of all jurisdictional transmission facilities included with such licenses (pursuant to § 203 of the FPA) from PPL Maine to the Trust and (ii) requesting that the Trust be substituted as the applicant on the pending application for a new license for Howland;
- (2) PPL Great Works and the Trust shall file joint Regulatory Applications (i) requesting a transfer of the license for Great Works (pursuant to Part I of the FPA) and requesting a transfer of all jurisdictional transmission facilities included with such license (pursuant to § 203 of the FPA) from PPL Great Works to the Trust and (ii) requesting that the Trust be substituted as the applicant on the pending application for a new license for Great Works;

(3) The Trust shall file a Regulatory Application requesting authority to either (i) surrender the licenses for the Designated Projects and for FERC authorization to decommission and remove them, with PPL Maine and PPL Great Works filing supporting pleadings; or (ii) surrender the licenses for Great Works and Veazie and for FERC authorization to decommission and remove them, and, in accordance with Section XI, to decommission Howland and construct a fish bypass system at Howland in accordance with Section XI, with PPL Maine and PPL Great Works filing a supportive pleading. The application to FERC pursuant to this subsection (3) shall also include (i) a notice of withdrawal of the pending applications for new licenses for Howland and Great Works effective upon issuance of FERC orders in accordance with the requests referenced in subsections (1), (2), and (3) hereof; and (ii) a statement of the financial resources that the Trust has or anticipates having to acquire, decommission and remove or alter the Designated Projects and the anticipated costs of these actions.

(b) Contemporaneously with the filing of the requests with FERC referenced in subsections (a) hereof, the Parties making such filings shall file with DEP and any other Governmental Authority all additional Regulatory Applications required by Applicable Laws and Regulations to implement the transfer and decommissioning (or decommissioning and construction) actions described in Section V(a), with PPL Maine or PPL Great Works, as appropriate, when not a requesting party, filing a supportive pleading.

(c) For all Regulatory Applications filed pursuant to Sections V(a) and (b), the Restoration Interests shall file timely supportive pleadings. In addition, for all Regulatory

Applications and supportive pleadings filed pursuant to Sections V(a) and (b), the Trust, PPL Maine or PPL Great Works, as appropriate, and the Restoration Interests shall all request the relevant Governmental Authority to consider the Regulatory Applications on an expedited basis; *provided, however*, that (1) no Party shall request that any such Governmental Authority waive any public notice or comment period in considering any such Regulatory Application and (2) the Maine Agencies shall not be required to request that any state or local Governmental Authority consider any Regulatory Application on an expedited basis.

(d) As expressly set forth in the Option Agreement, Closing shall occur within sixty (60) days (unless extended by mutual agreement of PPL Maine, PPL Great Works and the Trust), following the later of (1) issuance of final orders or approvals, that are no longer subject to administrative or judicial appeal, by FERC, DEP and any other Governmental Authority, approving the Regulatory Applications filed pursuant to Section V(a) and (b) of this Agreement; or (2) resolution of any administrative or judicial appeals of the final orders and approvals referenced herein in a manner that is no longer subject to appeal; all without alteration or change in any term or provision of the Regulatory Applications filed pursuant to Section V(a) and (b) in a manner that materially prejudices any Party, unless such alteration or change is deemed acceptable to the Parties in accordance with the provisions of Section XII. A FERC order approving a Regulatory Application filed pursuant to subsection (a)(1) or (2) that requires PPL Maine or PPL Great Works, as the case may be, to remain a co-licensee or to be directly or indirectly responsible for the decommissioning or removal of the Designated Projects or the costs thereof shall constitute material prejudice to PPL Maine or PPL Great Works under Section XII(a), and in such event Closing shall not occur and this Agreement shall terminate without PPL Maine or PPL Great Works, as the case may be, following the procedures set forth in Section

XII(a)(1) and (2), unless PPL Maine or PPL Great Works, as the case may be, in its sole discretion, notifies the other Parties to the contrary.

VI. Actions After Closing

After Closing the following Parties shall take the following actions:

(a) As expressly set forth in the Option Agreement, promptly after receipt of the instruments of conveyance (“Conveyance Documents”) for the Designated Projects, the Trust shall file the Conveyance Documents with FERC, together with any other document required by Applicable Laws and Regulations to be filed, accepting the licenses for the Designated Projects. The Trust shall make any filings with DEP and any other Governmental Authority that may be required by Applicable Laws and Regulations regarding notification of the transfer of the Designated Projects.

(b) At the earliest time practicable, consistent with this Agreement and all FERC, DEP, and other Applicable Laws and Regulations, the Trust shall (1) decommission and remove Veazie and Great Works; and (2) decommission and, according to the requirements in Section XI of this Agreement, either remove or alter Howland.

(c) In the event that PPL Maine pursues an energy enhancement specified in Section VI(d), PPL Maine shall remove and take ownership of the appropriate existing turbine/generating unit(s) associated with that energy enhancement from the powerhouses at Veazie and Great Works as expressly set forth in the Option Agreement.

(d) Subject to the conditions stated in Section VI(f) and (g) herein, as soon after Closing as it is reasonably able to do so PPL Maine shall file the following Regulatory Applications at FERC, with the Restoration Interests filing supportive pleadings:

- (1) A notification that it intends to proceed with the installation of the previously-authorized additional turbine/generating unit at Milford using a 1,500 kW turbine/generating unit removed from Veazie.
- (2) A request to amend the appropriate provisions of the Orono license to authorize PPL Maine to construct a second powerhouse containing four turbine/generating units removed from Great Works with a total installed capacity of approximately 5,277 kW, and to extend the term of the license to 50 years.
- (3) A request to amend the appropriate provisions of the Stillwater license to authorize PPL Maine to construct a second powerhouse containing four turbine/generating units removed from Great Works with a total installed capacity of approximately 2,720 kW, and to extend the term of the license to 50 years.
- (4) A request to amend the appropriate provisions of the Medway license to authorize PPL Maine to increase the installed capacity by approximately 700 kW through the installation of a turbine/generating unit removed from Veazie.
- (5) A request to amend the appropriate provisions of the Ellsworth license, Project No. 2727, to authorize PPL Maine to increase the installed capacity by approximately 500 kW through the addition at the Graham Lake development of a turbine/generating unit removed from Veazie.

(e) Contemporaneously with the filing at FERC of the Regulatory Applications referenced in subsection (d) hereof, PPL Maine shall file with DEP and any other Governmental

Authority, all Regulatory Applications required by Applicable Law and Regulations, with the Restoration Interests filing supportive pleadings.

(f) PPL Maine shall not be required to pursue an energy enhancement referenced in Sections VI(d)(1) and (4), notwithstanding PPL Maine's determination that these energy enhancements are currently economic and therefore would be constructed today, if PPL Maine determines that any such enhancement would be uneconomic because of significant changes in the regulatory and competitive conditions applicable to wholesale generators, the cost of construction, the prices of electricity, or other PPL Corporation capital commitments.

(g) PPL Maine shall not be required to pursue an energy enhancement referenced in Sections VI(d)(2), (3) and (5), notwithstanding PPL Maine's determination that these energy enhancements are currently economic and therefore would be constructed today, if PPL Maine determines, within three months of Closing, in its discretion, that such enhancement is no longer desirable because of changes in the regulatory and competitive conditions applicable to wholesale generators, the cost of construction, the prices of electricity, other PPL Corporation capital commitments, or other relevant factors. If PPL Maine makes such a determination not to pursue the energy enhancement(s), then PPL Maine shall promptly offer to third parties the opportunity to pursue such energy enhancement(s) on terms comparable to those that would have applied if PPL Maine had itself chosen to pursue such energy enhancement(s); *provided, however,* that any such third party must apply for and obtain all necessary regulatory approvals, including FERC approval, and must reach agreement with PPL Maine as to appropriate lease, water rights use, right-of-way and operating issues to permit both parties to reasonably and fairly operate together on the site of the energy enhancement. PPL Maine shall assist and support any such third party in obtaining the necessary regulatory approvals, including FERC approval, to

pursue such energy enhancement(s). Unless otherwise agreed to by PPL Maine and the third party, the agreement(s) between PPL Maine and a third party regarding the latter's construction and operation of an energy enhancement must be consistent with the following criteria:

- (1) PPL Maine shall be entitled to compensation for: any actual damages to its property and facilities resulting from the third party's construction and operation of the energy enhancement; any loss in the economic value of the existing generation at PPL Maine's project resulting from the third party's construction and operation of the energy enhancement; any increased operation, maintenance, and capital costs incurred by PPL Maine as a result of the third party's construction and operation of the energy enhancement; the fair market value of any property sold by PPL Maine to the third party; and a proportionate share of PPL Maine's operation, maintenances, and capital costs (including a reasonable rate of return on investment) of the PPL Maine project facilities jointly used by the third party's energy enhancement.
- (2) PPL Maine and the third party will provide each other with access rights over or through the other's property reasonably necessary for the entity to construct, operate, and maintain its project or energy enhancement and to comply with all Applicable Laws and Regulations, subject to reasonable restrictions regarding security and safety and commercially reasonable requirements regarding liability, insurance, and related matters.
- (3) PPL Maine and the third party will mutually agree on operating requirements that will permit PPL Maine's project and the energy

enhancement to operate in a coordinated manner to maximize the total economic generation at the site but subject to PPL Maine's right to determine when water available at the site may be used for generation purposes; *provided, however*, that PPL Maine shall not take any action regarding allocation of flows between the Main Stem and Stillwater branches of the Penobscot River which is inconsistent with subsection (h) below and the relevant provisions in Attachment A.

(h) Upon receipt by PPL Maine of all necessary approvals of the Regulatory Applications referenced in subsections (d) and (e) hereof, and consistent with any requirements contained in such approvals, PPL Maine shall implement the energy enhancements so approved. Upon construction of either or both of the second powerhouses at Orono and Stillwater by either PPL Maine or a third party, PPL Maine shall reallocate the flows between the Main Stem and Stillwater branches of the Penobscot River consistent with the provisions contained in Attachment A. PPL Maine hereby represents that it is the successor in interest to all of the parties to the decree allocating flows between the Main Stem and Stillwater branches issued in 1911 by the Circuit Court of the United States, District of Maine.

VII. Actions If the Trust Does Not Acquire The Designated Projects

If FERC, DEP, DOI, and all other Governmental Authorities take all actions requested by the Parties in Section IV in a manner which does not materially prejudice any Party as set forth in Section XII, and if the Trust thereafter either terminates or does not exercise the Option, or if, subsequent to exercise of the Option, the Trust does not acquire the Designated Projects:

(a) The following actions shall be taken:

- (1) The Parties shall jointly file a Regulatory Application at FERC requesting that the relicensing proceedings for Howland and Great Works be resumed;
- (2) DOI shall submit to FERC modified fishway prescriptions, consistent with the pertinent provisions of Attachment A;
- (3) PPL Maine, or PPL Great Works, as appropriate, and the other Parties shall file pleadings supporting DOI's modified fishway prescriptions submitted pursuant to subsection (2) above; and
- (4) Contemporaneously with the filing at FERC of supportive pleadings referenced in subsection (3) above, PPL Maine or PPL Great Works, as appropriate, shall file with DEP and any other Governmental Authority, all Regulatory Applications required by Applicable Laws and Regulations in order to implement the modified fishway prescriptions submitted pursuant to subsection (2) above, with the Restoration Interests filing supportive pleadings.

(b) Subject to the conditions agreed to in Attachment B (contingent mitigation fund), PPL Maine (and, as appropriate, BPHA) shall be entitled to operate West Enfield, Stillwater, and Medway consistent with the approved Headpond Increases and reduced minimum flows (as to Stillwater and Orono) and to operate Orono under the new license consistent with Section IV(c) and (d) and with Applicable Laws and Regulations. All other Parties hereto shall not challenge or contest such regulatory approvals, and agree not to request that FERC or any other Governmental Authority (1) reverse or overturn such Governmental Authority's prior authorization or approval of such operations or (2) limit or condition such prior approval or

authorization in a manner that would prevent PPL Maine from being able to operate the project economically.

VIII. Contingent Mitigation Fund

If the Option is not exercised or Veazie and Great Works are not decommissioned and removed by the Trust, a Contingent Mitigation Fund shall be established and funded for the purpose of providing monetary compensation to mitigate for the impacts to habitat that may be caused by PPL Maine's implementation of provisions in Attachment A governing minimum bypass flows at the Orono and Stillwater projects and the Headpond Increases at the Medway, West Enfield, and Stillwater projects, in accordance with Attachment B.

IX. Endangered Species Act ("ESA")

The following provisions describe ESA-related actions that certain Parties shall take or refrain from taking (1) upon execution of this Agreement and (2) in the event that the Option is exercised:

(a) Assurances to PPL Maine and BPHA from DOI. Upon exercise of the Option, DOI agrees to negotiate with PPL Maine (and BPHA, as appropriate) for an appropriate instrument under the ESA regulations, such as, but not limited to, an incidental take permit under § 10 of the ESA or a Candidate Conservation Agreement with Assurances, that recognizes the benefits to Atlantic salmon that shall be realized from PPL Maine's voluntary action in entering into and implementing this Agreement, and provides assurances that, if the Designated Projects are acquired in accordance with this Agreement, further actions shall not be required by PPL Maine at its remaining facilities on the Penobscot River, or by BPHA at West Enfield, in the event that the Penobscot run of Atlantic salmon is included in the listed endangered population in Maine. DOI's final approval of such an instrument depends upon compliance with Applicable

Laws and Regulations, including public notice and any environmental analysis that may be required under NEPA. The PIN, the Maine Agencies, and the Conservation Interests agree to support the application(s) of PPL Maine (and BPHA, as appropriate) for such an instrument.

(b) Other Assurances from DOI. DOI shall consider appropriate instrument(s) under the ESA regulations for individual property owners in the Penobscot basin who commit to take voluntary conservation measures to benefit Atlantic salmon. Such instruments may include assurances, if necessary and warranted, that participating property owners may engage in land uses that may involve incidental take of Atlantic salmon. The nature and terms of any such instruments shall depend on the specific circumstances of the individual property owner, and DOI's final approval of any such instrument depends upon compliance with Applicable Laws and Regulations, including public notice and any environmental analysis that may be required under NEPA. DOI shall provide technical assistance to property owners who lack resources or expertise to develop such instruments, and may assist or train property owners to implement conservation measures. After exercise of the Option, DOI would be willing to consider an application from interested State, Tribal, or local agencies regarding creation of umbrella programs under the ESA regulations for recognition of voluntary conservation measures to benefit Atlantic salmon taken by individual property owners in the Penobscot basin.

(c) Assurances to PPL Maine, PPL Great Works, and BPHA from the Conservation Interests. In the event that the Penobscot run of Atlantic salmon is added to the listed endangered population in Maine, the Conservation Interests agree that, until the occurrence of (1) the exercise of the Option and the acquisition of the Designated Projects; (2) the termination

