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May 27, 1998

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FACSIMILE 011 (49) 301 2022-6500DANIEL H. SQUIRE
DIRECT LINE (202) 663-6060BY HANDDavid P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 11G-1
Washington, D.C. 20426

032 030 028 024 033

Re: Offer of Settlement Regarding Edwards Manufacturing Co.
Project, No. 2389; Central Maine Power Co. Project Nos.
2552, 2322, and 2325; Merimil Limited Partnership
Project No. 2574; UAH-Hydro Kennebec Limited
Partnership Project No. 2611; Ridgewood Maine Hydro
Partners, L.P. No. 11472; and Benton Falls Associates
Project No. 5073

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OFFICE OF THE SECRETARY
98 MAY 28 AM 11:30
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Mr. Boergers:

Yesterday in Augusta, Maine, a comprehensive settlement agreement was signed by all parties that were actively involved in the relicensing of the Edwards Dam (FERC Project No. 2389) and involved in the FERC proceedings regarding fish passage at seven dams located on the Kennebec and Sebasticook Rivers and owned by members of the Kennebec Hydro Developers Group ("KHDBG") (FERC Project Nos. 2552, 2322, 2325, 2574, 2611, 11472 and 5073). With this letter, this Lower Kennebec River Comprehensive Hydropower Settlement Accord ("Comprehensive Settlement") is being submitted to the Commission for approval as an offer of settlement pursuant to 18 C.F.R. Sec. 385.602. This Comprehensive Settlement and related documents are intended to resolve all issues before FERC in the above-captioned proceedings. All Parties have agreed that this Comprehensive Settlement is fair and reasonable and in the public interest.

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If FERC approves this Comprehensive Settlement and related filings, this Comprehensive Settlement will accomplish the following: (1) a charitable donation of the Edwards Dam from Edwards Manufacturing Company to the State of Maine; (2) the removal of the Edwards Dam on the Kennebec River by the State of Maine in 1999; (3) contribution of \$7.25 million towards Edwards Dam removal and related activities, and towards other Kennebec River anadromous and catadromous fish restoration efforts, by Bath Iron Works Corporation and KHDG members; and (4) amendment of certain fish passage obligations at seven dams on the Kennebec and Sebasticook Rivers owned by KHDG members upstream of the Edwards Dam.

A copy of this letter and nine copies of the Comprehensive Settlement, its Explanatory Statement pursuant to FERC Rule 602(c), 18 C.F.R. Sec 385.602(c), and related pleadings are being submitted for filing with this letter in each of the above-captioned proceedings. The original of this letter and all documents except Exhibits J through M of the Comprehensive Settlement are being filed as one of the nine copies in the Edwards Manufacturing Co. proceeding (No. 2389). One of the nine copies being filed in the Central Maine Power Shawmut proceeding (No. 2322) includes the originals of Exhibits J through M.

Please note that Exhibits E through I of the Comprehensive Settlement are formal FERC pleadings in the Edwards Manufacturing Co. proceeding (No. 2389), and Exhibits J through M are formal FERC pleadings in all of the KHDG proceedings (Nos. 2552, 2322, 2325, 2574, 2611, 11472 and 5073). All Parties are treating this consolidated filing as sufficient filing for these associated pleadings.

With the filing in the Edwards Manufacturing Co. proceeding (No. 2389), we are also including a copy of all documents in electronic form on disk (in Word Perfect 6.0/6.1). Please deliver this disk to Joe Davis in the Office of Hydropower Licensing, who is Project Manager for the Edwards relicensing and several of the KHDG project relicensings.

In order for the objectives of the Comprehensive Settlement to be met, the Parties are respectfully requesting that the Commission provide expedited consideration of this offer of settlement and related pleadings, as further explained in Section

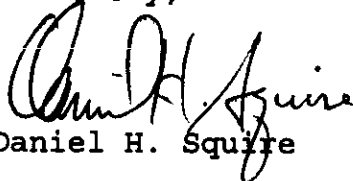
III of the Explanatory Statement. To facilitate this expedited consideration, we are hand delivering today the Comprehensive Settlement and related documents to all Commissioners and several persons in the Offices of General Counsel and Hydropower Licensing, as indicated below.

As provided for in 18 C.F.R. Sec. 385.602(d), a copy of this letter, the Comprehensive Settlement, its Explanatory Statement, and related pleadings are being served on each of the persons on the official service lists for all of the above-captioned proceedings.

If you have any questions regarding this filing, please address them to me by telephone at (202) 663-6000 or at the above address.

Thank you for your consideration in handling such a complex filing.

Sincerely,

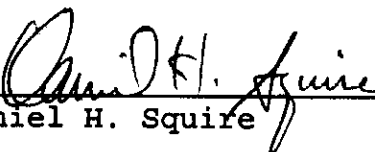


Daniel H. Squire

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of May, 1998, a copy of the foregoing "Submittal of Comprehensive Settlement and Explanatory Statement Pursuant to FERC Rule 602 and Request for Expedited Consideration" and all related pleadings and other documents was served by first class mail upon each person on the Official Service Lists in FERC Project Nos. 2389, 2552, 2322, 2325, 2574, 2611, 11472, and 5073.



Daniel H. Squire

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98 MAY 28 AM 11:32
FEDERAL ENERGY
REGULATORY COMMISSION

**LOWER KENNEBEC RIVER
COMPREHENSIVE
HYDROPOWER
SETTLEMENT ACCORD**

And Related Filings

May 26, 1998

EXECUTIVE SUMMARY

If FERC approves this Comprehensive Settlement and related filings, this Comprehensive Settlement will accomplish the following: (1) a charitable donation of the Edwards Dam from Edwards Manufacturing Company to the State of Maine; (2) the removal of the Edwards Dam on the Kennebec River by the State of Maine in 1999; (3) contribution of \$7.25 million towards Edwards Dam removal and related activities, and towards other Kennebec River anadromous and catadromous fish restoration efforts, by Bath Iron Works Corporation and Kennebec Hydro Developers Group members; and (4) amendment of certain fish passage obligations at seven dams on the Kennebec and Sebasticook Rivers owned by Kennebec Hydro Developers Group members upstream of the Edwards Dam.

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Lower Kennebec River Comprehensive Hydropower Settlement Accord

PARTIES

COMMITMENTS

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LIST OF EXHIBITS

- A. Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine
- B. Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service
- C. The Edwards Dam Removal Fund Agreement Among Bath Iron Works Corporation, National Fish and Wildlife Foundation, and the State of Maine
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98 MAY 28 AM 11:31
FEDERAL ENERGY
REGULATORY COMMISSION

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

EDWARDS MANUFACTURING COMPANY, INC.	)	Project No. 2389
and CITY OF AUGUSTA, MAINE	)	
	)	
BENTON FALLS ASSOCIATES	)	Project No. 5073
	)	
CENTRAL MAINE POWER COMPANY	)	Project No. 2552
	)	
CENTRAL MAINE POWER COMPANY	)	Project No. 2322
	)	
CENTRAL MAINE POWER COMPANY	)	Project No. 2325
	)	
MERIMIL LIMITED PARTNERSHIP	)	Project No. 2574
	)	
RIDGEWOOD MAINE HYDRO PARTNERS	)	Project No. 11472
	)	
UAH-HYDRO KENNEBEC LIMITED PARTNERSHIPS	)	Project No. 2611
	)	

SUBMITTAL OF COMPREHENSIVE SETTLEMENT AND
EXPLANATORY STATEMENT PURSUANT TO FERC RULE 602
AND REQUEST FOR EXPEDITED CONSIDERATION

Pursuant to Rule 602 of the Federal Energy Regulatory Commission ("FERC"), 18 CFR Sec. 385.602, the undersigned Parties submit to FERC the enclosed *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("the Comprehensive Settlement") (attached as Exhibit 2), which was executed by the undersigned Parties on May 26, 1998.¹ This Comprehensive Settlement is intended to resolve all issues before FERC in the Edwards Dam relicensing proceeding, FERC Project No. 2389, and all fish passage issues before FERC related to the Kennebec Hydro Developers Group ("KHDG") licenses or proposed licenses, FERC Project Nos. 2552, 2322, 2325, 2574, 2611, 5073, and 11472.²

¹This complete filing, including all related agreements and pleadings (with the exception of certain maps and exhibits), is also provided to the Commission in electronic form on disk.

²The records in the Edwards Dam FERC licensing proceeding and the fish passage proceedings for KHDG member licenses are incorporated herein by reference.

As represented in their respective underlying agreements, the undersigned Parties have entered into this Comprehensive Settlement with the intent of causing: (1) a charitable donation of the Edwards Dam to the State of Maine; (2) the removal of the Edwards Dam on the Kennebec River in Maine in 1999 in the most expeditious and cooperative fashion; (3) the restoration of numerous species of anadromous and catadromous fish to the Kennebec River; (4) the alteration of certain fish passage obligations at seven hydropower facilities on the Kennebec River upstream of the Edwards Dam; and (5) the elimination of the need for further administrative proceedings and litigation in both the Edwards and Kennebec Hydro Developers Group members' licenses.

The undersigned Parties agree that the Comprehensive Settlement is fair and reasonable and in the public interest. The Parties respectfully request that FERC approve this Comprehensive Settlement and the accompanying pleadings being filed today with FERC. Because timely, coordinated FERC action is required for implementation of this Comprehensive Settlement, and because without such action the Comprehensive Settlement will become null and void, the Parties respectfully request that FERC give expedited consideration to the terms of this Comprehensive Settlement and the pleadings filed today with FERC that seek to implement it.

EXPLANATORY STATEMENT PURSUANT TO 18 C.F.R. §385.602(c)

I. Parties

The Parties submitting this Comprehensive Settlement to FERC ("the Parties") are:

- A. *The City of Augusta, Maine* ("the City"), a co-licensee of the Edwards Hydroelectric Project, FERC Project No. 2389;
- B. *Edwards Manufacturing Company* ("Edwards"), owner of the Edwards Dam hydroelectric facility and a co-licensee of the Edwards Hydroelectric Project, FERC Project No. 2389;
- C. *The Kennebec Coalition*, an association comprised of the following member organizations, all of whom are or were intervenors in the FERC Edwards Dam proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, and the relicensing proceedings for Central Maine Power Company's Ft. Halifax and Weston Projects:
 - o American Rivers, Inc;
 - o The Atlantic Salmon Federation;
 - o Kennebec Valley Chapter of Trout Unlimited;
 - o The Natural Resources Council of Maine; and
 - o Trout Unlimited;

- D. Each member of the association known as the *Kennebec Hydro Developers Group* ("KHDG"), specifically:
- o Central Maine Power Company, owner of the following hydroelectric projects: Fort Halifax, FERC Project No. 2552; Shawmut, FERC Project No. 2322; and Weston, FERC Project No. 2325;
 - o Merimil Limited Partnership, owner of the Lockwood hydropower project, FERC Project No. 2574;
 - o UAH-Hydro Kennebec Limited Partnership, co-licensee/agent of the Hydro-Kennebec hydropower project, FERC Project No. 2611;
 - o Ridgewood Maine Hydro Partners, L.P., owner of Burnham hydropower project, FERC Project No. 11472;
 - o Benton Falls Associates, owner of Benton Falls hydropower project, FERC Project No. 5073;
- E. *The State of Maine* ("the State"), acting by and through the Governor of the State of Maine, the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, and the Maine State Planning Office, a state of the United States of America. The State is an intervenor in the FERC Edwards Dam proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, the original license proceeding for Ridgewood Maine Hydro Partners' Burnham Project, and the relicensing proceedings for Central Maine Power's Ft. Halifax and Weston Projects;
- F. *The US Department of Commerce, through the National Oceanic and Atmospheric Administration, National Marine Fisheries Service* ("NMFS"), which is or was an intervenor in the Edwards Dam FERC proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, and the relicensing proceedings for Central Maine Power's Ft. Halifax and Weston projects; and
- G. *The US Department of Interior, through the US Fish and Wildlife Service* ("USFWS"), which is or was an intervenor in the Edwards Dam FERC proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, and the relicensing proceedings for Central Maine Power's Ft. Halifax and Weston projects.

II. Background and Summary of Terms of Comprehensive Settlement

If FERC approves this Comprehensive Settlement and related filings, this Comprehensive Settlement will accomplish, by agreement of all Parties, the following: (1) transfer of the Edwards Dam from Edwards and the City of Augusta to the State of Maine, and removal of the

dam by the State; (2) contribution of \$7.25 million towards Edwards Dam removal and related activities, and towards other Kennebec River anadromous and catadromous fish restoration efforts, by Bath Iron Works Corporation and KHDG members; and (3) amendment of certain fish passage obligations at seven dams on the Kennebec and Sebasticook Rivers owned by KHDG members upstream of the Edwards Dam. Specifically:

A. Settlement of the Edwards Dam Proceeding

-----The Kennebec Coalition, the NMFS, the State of Maine, and the USFWS have been seeking, as parties in the Edwards Dam relicensing proceeding, the removal of the Edwards Dam in order to restore numerous anadromous and catadromous fish species to the Kennebec River. As represented in their respective underlying agreements, these parties to the pending FERC proceedings, plus Licensees the City and Edwards ("Licensees") desired to enter into a settlement of all outstanding disputes regarding the operation, licensing, relicensing, decommissioning and removal of the Edwards Dam project, in order to effect a charitable donation of the Edwards Dam by Edwards to the State of Maine and to avoid further administrative proceedings and litigation.

On May 15, 1998, the State of Maine and the Licensees finalized execution of a *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine* ("*Edwards Dam Agreement*") (attached to the Comprehensive Settlement as Exhibit A), in which Edwards and the City agree to transfer their Edwards Dam license to the State, effective January 1, 1999, and the State agrees to take over ownership of the Edwards Dam site and to remove the dam subject to several contingencies, including, but not limited to, the transfer of the FERC license for the Edwards Dam. As part of this license transfer, all licensing rights and responsibilities granted and imposed by FERC for FERC Project No. 2389 will be transferred to the State.

Under Section VII.A. of the *Edwards Dam Agreement*, the State commits to seek permitting approval for removal of the Edwards Dam. Upon receipt of FERC approval of the application for license transfer, the State will seek removal, in 1999, in a manner consistent with that described in the May, 1997 Report to FERC by the Oak Ridge National Laboratory and relied upon in FERC's *Final Environmental Impact Statement, Kennebec River Basin, Maine* (July, 1997). Upon receipt of these regulatory authorizations and fulfillment of related contingencies in the *Edwards Dam Agreement*, the State will remove the dam.

All other parties that were actively involved in the Edwards Dam relicensing proceeding - the Kennebec Coalition, the NMFS, and the USFWS -- support the *Edwards Dam Agreement*. They are co-signatories to the Comprehensive Settlement.

B. Settlement of Fish Passage Issues at KHDG Projects

The members of KHDG operate seven hydropower projects on the Kennebec and Sebasticook Rivers pursuant to legal obligations that currently require permanent fish passage

structures to be installed at these facilities in 1999 - 2001. The time frame for fish passage at many of the KHDG dams that was contemplated in 1987 (when these obligations were first agreed upon) was based on the assumption that there would be by the late 1980s permanent fish passage at Edwards Dam. The significant delay in deciding whether to remove Edwards Dam has delayed fish restoration for several of the targeted species in the Kennebec River, and thus has justified reconsideration of the KHDG fish passage deadlines.

The Kennebec Coalition, the NMFS, the State of Maine, and the USFWS believe that the most effective way to continue and accelerate the fish restoration program in the Kennebec River is both to remove the Edwards Dam as soon as possible and thereby allow certain fish species to present themselves at the upriver dams, and to fund certain activities related to the restoration of alewife, shad, and salmon. The Kennebec Coalition, the NMFS, the State of Maine, and the USFWS believe that certain extensions in the dates for construction of the KHDG fish passage structures are justified as part of a comprehensive settlement that addresses these and other anadromous and catadromous fish restoration objectives.³

On May 26, 1998, all parties that have been actively involved in proceedings before FERC regarding the need for, design of, and timing of fish passage facilities at KHDG members' hydropower projects signed an *Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service* ("KHDG Agreement") (attached to the Comprehensive Settlement as Exhibit B). These parties are all co-signatories to the Comprehensive Settlement.

In addition to resolving disputes regarding the need for, design of, and timing of fish passage facilities at the KHDG members' dams, the *KHDG Agreement* provides \$4,750,000 from KHDG members for anadromous fisheries restoration in the Kennebec River, including funding for restoration of alewife, shad, blueback herring, and salmon, certain eel studies, and costs incurred by the State in connection with removing Edwards Dam; and provides for the amendment of certain fish passage obligations at KHDG members' projects. This funding will facilitate removal of the Edwards Dam, finance other significant and necessary fish restoration activities in the river, and facilitate a settlement agreement that incorporates basin-wide considerations for fish restoration. These activities will speed restoration of certain target fish species, which is needed to ensure that KHDG fish passage structures will continue the restoration of the targeted species to their historic habitat. Thus, the funds provided by KHDG members and the other terms of the *KHDG Agreement* providing for both interim and permanent fish passage measures are intended to assist the State in meeting its restoration goals and objectives for the target species.

³ These conclusions are explained more fully in the KHDG Members' Application for Incorporation of Settlement Terms into Existing and Proposed Licenses, and the Joint Comments of the Kennebec Coalition, Federal Agencies and the State of Maine in Support of the KHDG Members' Application for Incorporation of Settlement Terms into Existing and Proposed Licenses (attached to the Comprehensive Settlement as Exhibits J and M, respectively).

C. *Additional Funding Arrangements Through Involvement of Other Entities Not Parties in FERC Proceedings*

The Bath Iron Works Corporation ("BIW"), a corporation organized and existing under the laws of the State of Maine, has applied for State of Maine and federal environmental permits as part of a major shipyard modernization project that requires BIW to fill or partially fill fifteen acres of the Kennebec River in Bath, Maine. In order to mitigate and compensate for the loss of anadromous fisheries habitat from that fill, on May 26, 1998 BIW signed *The Edwards Dam Removal Fund Agreement Among Bath Iron Works Corporation, National Fish and Wildlife Foundation, and the State of Maine* ("BIW Agreement") (attached to the Comprehensive Settlement as Exhibit C). This Agreement commits BIW to provide a total of \$2.5 million to a fund administered by the National Fish and Wildlife Foundation to pay for Edwards Dam removal once BIW receives permits for its modernization project from the US Army Corps of Engineers and the Maine Department of Environmental Protection. The funds from BIW are necessary to accomplish removal of Edwards Dam. The removal of Edwards Dam will restore river habitat important to fish species such as shortnose sturgeon. The Kennebec Coalition, the NMFS, the State of Maine, and the USFWS believe that this improved habitat more than compensates for the river habitat that will be lost as a result of BIW's expansion.

The National Fish and Wildlife Foundation ("NFWF"), a federally chartered not-for-profit corporation governed by the laws of the District of Columbia, wishes to assist the Parties in removing the Edwards Dam and restoring the anadromous and catadromous fish species in the Kennebec River. On May 26, 1998, NFWF, the State of Maine and other Parties signed the *BIW Agreement*, and *The Kennebec River Restoration Fund Agreement Among Members of the Kennebec Hydro Developers Group, National Fish and Wildlife Foundation, the US Fish and Wildlife Service, the National Marine Fisheries Service, the Kennebec Coalition and the State of Maine* (attached to the Comprehensive Settlement as Exhibits C and D, respectively), in which NFWF agrees to administer the funds deposited in special accounts with NFWF by KHDG members and BIW, with these funds being used for anadromous fisheries restoration in the Kennebec River, including funding for restoration of alewife, shad, blueback herring, and salmon, certain eel studies, and costs incurred by the State in connection with removing Edwards Dam. NFWF further agrees to administer other funds that may be secured for Kennebec River fish restoration activities. NFWF's role will ensure that funds are available when the State needs them for its committed activities.

In summary, pursuant to this Comprehensive Settlement, at least \$7.25 million will be deposited with NFWF by BIW and KHDG members to be used to finance removal of the Edwards Dam and related activities and other fish restoration efforts in the Kennebec River, with priority placed on dam removal.

III. Action Sought From FERC

The actions outlined in the Comprehensive Settlement are necessarily intertwined. All Parties recognize that fulfillment of these shared goals is dependent upon realization of the separate underlying settlement agreements among various Parties, and upon regulatory approval from FERC and other federal, state and local permitting agencies approving the activities anticipated in those agreements. Therefore the Parties agree to cooperate to secure expeditiously, and in no way hamper or interfere with, the issuance of the approvals addressed in the Comprehensive Settlement.

Implementation of this Comprehensive Settlement depends on several actions being taken by FERC. One fundamental action that the Parties are requesting through this document is that FERC approve this Comprehensive Settlement pursuant to FERC Rule 602. Certain additional events must occur sequentially for the goals of the Comprehensive Settlement to be met and for the terms of the Comprehensive Settlement and related agreements to remain in force. Many of these events relate to needed actions that are within the control of FERC, and require FERC approval and FERC oversight. To initiate these actions, nine filings are being made today with FERC concurrent with the filing of this Comprehensive Settlement: Five related to the Edwards Dam license transfer and four related to the seven hydropower projects owned by KHDG members. These are:

A. Regarding the Edwards Dam license transfer:

- (1) Edwards, the City of Augusta and the State of Maine are applying to transfer the Edwards Dam license to the State of Maine;
- (2) The Kennebec Coalition, the NMFS, and the USFWS are filing comments in support of this application;
- (3) Edwards, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS are moving to stay all decisions and obligations in the Edwards license proceeding pending FERC's action on the Edwards Dam license transfer application;
- (4) Edwards and the City of Augusta are filing a notice withdrawing their requests for rehearing and all other pending motions regarding licensing of the Edwards Dam effective upon the transfer of the license to the State; and
- (5) Edwards, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS are requesting that FERC hold a technical conference on dam removal.

B. *Regarding the KHDG license amendments:*

(1) The KHDG members are filing a joint application to incorporate the applicable terms of the *KHDG Agreement* into the existing or proposed licenses of the KHDG members;

(2) The Kennebec Coalition, the NMFS, the State of Maine and the USFWS are filing comments in support of this application;

(3) The Kennebec Coalition, KHDG members, the NMFS, the State of Maine, and the USFWS are moving to stay, pending FERC's decision on this application, current fish passage obligations in the licenses for the Ft. Halifax, Benton Falls, Lockwood, UAH-Hydro Kennebec, Shawmut and Weston licenses and any action on the fish passage aspects of Central Maine Power Company's Rehearing Request dated December 26, 1997 of FERC's Order Issuing New License for the Ft. Halifax Project; and

(4) KHDG members are filing a notice withdrawing all pending motions and appeals regarding KHDG fish passage obligations effective upon FERC's issuance of amended or proposed licenses for the seven hydropower projects owned by KHDG members.

The Parties respectfully request that FERC approve, on an expedited basis, four of these nine filings: The Edwards Dam license transfer application, the application relating to fish passage obligations of the KHDG projects, and the two stay motions. As discussed above, the Parties also request that FERC approve the Comprehensive Settlement. The Parties believe that FERC action must be taken in the order and on the schedule described below if the terms of the Comprehensive Settlement are to be met.⁴

Specifically, the Parties respectfully request:

First, that FERC rule on the two motions to stay on or before June 24, 1998. This ruling will serve to hold in abeyance all related actions pending FERC's decisions on the other motions. We respectfully request that FERC rule on these pleadings within thirty (30) days in order to allow due consideration of all other pleadings filed with this Comprehensive Settlement.

Second, that FERC approve the Comprehensive Settlement pursuant to FERC Rule 602 on or before September 1, 1998. This approval will ensure consolidated implementation of all related FERC actions. The requested September ruling deadline is based on the

⁴In order to illustrate the Parties' desired time schedule for FERC action on this Comprehensive Settlement, a proposed timeline for settlement-related actions is attached to this document as Exhibit 1.

need for prompt FERC action on the Edwards Dam license transfer application and the application regarding the KHDG members' licenses, discussed below. To ensure that FERC does not pre-judge the Edwards Dam license transfer application or the application regarding the KHDG members' licenses by approving the Comprehensive Settlement in advance, the Parties respectfully request that FERC rule on the Comprehensive Settlement, the Edwards Dam license transfer application and the application regarding the KHDG members' licenses at the same time.

Third, that FERC rule on the transfer of the Edwards Dam license from the Licensees to the State of Maine on or before September 1, 1998. For the license transfer to take effect, several events must occur either prior to FERC's approval of the license transfer application, or after FERC approval but before the license transfer takes effect on or immediately after January 1, 1999. These contingencies are discussed further in Section V of the Comprehensive Settlement and its Exhibit A. For the Comprehensive Settlement to accomplish the purposes intended by the Parties, it is critically necessary that FERC rule on this transfer application within a few months and significantly before January 1, 1999.

Fourth, that FERC rule on the KHDG members' application relating to fish passage obligations at the seven KHDG projects on or before September 1, 1998. Based on contingencies in the *Edwards Dam Agreement* and the *KHDG Agreement*, FERC's ruling on the application by the KHDG members must be made either contemporaneous with or soon after FERC's ruling on the Edwards Dam license transfer application, but before the Edwards Dam transfer takes effect on or immediately after January 1, 1999. Also on September 1, 1998, the Parties respectfully request that FERC rescind the Compliance Letter regarding KHDG member licenses issued March 26, 1998 by the Director of the Office of Hydropower Licensing. In the event that FERC does not approve the Edwards Dam license transfer application or the application regarding the KHDG members' licenses under conditions that are consistent with the terms of the *Edwards Dam Agreement* and the *KHDG Agreement* prior to June 1, 1999, then the *KHDG Agreement* becomes null and void, at which time it is anticipated that FERC would be required to resolve again the issues regarding the need for, design of, and timing of fish passage facilities at the KHDG members' projects.

The Parties are also requesting that any FERC orders and/or license terms issued pursuant to this Comprehensive Settlement should be worded, where possible, with language identical to or consistent with this Comprehensive Settlement and underlying agreements. If FERC issues a final order inconsistent with terms in the Comprehensive Settlement, contingency provisions of the Comprehensive Settlement and underlying agreements may make the underlying agreements and this Comprehensive Settlement null and void.

In addition to the actions discussed above, certain of the Parties will also be seeking action by FERC in reviewing and approving a dam removal plan that enables the Edwards Dam

to be removed in the summer of 1999. Those Parties are seeking to hold within thirty (30) days a technical conference with FERC to discuss steps necessary for FERC approval of a dam removal plan, as requested in the pleading attached to the Comprehensive Settlement as Exhibit I. The State of Maine will then be filing documents with FERC and other permitting agencies to obtain approval of a dam removal plan. Those Parties are committed to support the method of dam removal already extensively evaluated in studies by FERC and other parties to the Edwards Dam proceeding, described in the May, 1997 Report to FERC by the Oak Ridge National Laboratory, and relied upon by FERC staff in its recommendation for dam removal made in the *Final Environmental Impact Statement, Kennebec River Basin, Maine* (July, 1997). The State of Maine, supported by the Parties, will be seeking FERC approval of a license surrender application based on that plan.

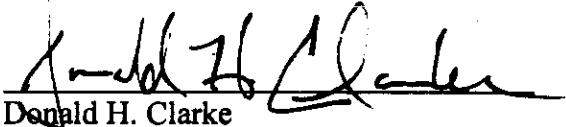
REQUEST FOR PUBLIC COMMENT

The Parties recognize that at least one of the FERC filings associated with this Comprehensive Settlement requires FERC to provide an opportunity for public comment, and that FERC may in its discretion provide such public comment opportunity for other FERC filings associated with this Comprehensive Settlement. To ensure coordinated public review of this Comprehensive Settlement, the Parties request that the Commission as soon as possible provide notice of a single thirty (30) day opportunity for public comment on the application to transfer the Edwards Dam license and the application regarding the KHDG members' licenses. To accommodate the Parties' request for expeditious release of these notices of public comment, draft notices are attached to these two applications.

CONCLUSION

The undersigned Parties respectfully request that the Commission: (1) provide a single thirty (30) day public comment opportunity on the Application for Approval of Transfer of License regarding the Edwards Project and the Application for Incorporation of Settlement Terms into Existing or Proposed Licenses of the KHDG members, attached to the Comprehensive Settlement as Exhibits E and J, respectively; (2) approve this Comprehensive Settlement; and (3) rule on the associated filings in an expedited and coordinated fashion.

Respectfully submitted this 26th day of May, 1998.



Donald H. Clarke

WILKINSON, BARKER, KNAUER & QUINN

2300 N Street NW

Suite 700

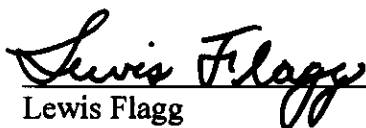
Washington, DC 20037

(202) 783-4141

Counsel for Licensees Edwards Manufacturing Co., Inc
and the City of Augusta



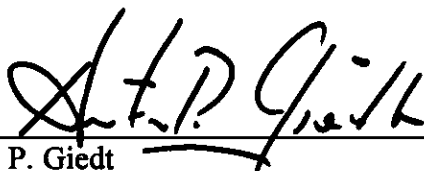
Mark Dworkin
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UNITED AMERICAN ENERGY
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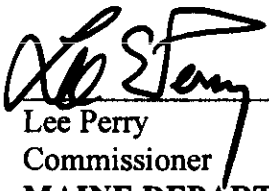
Lewis Flagg
Commissioner (Acting)
MAINE DEPARTMENT OF MARINE RESOURCES
21 State House Station
Hallowell Annex-Baker Building
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(207) 624-6550
For the Maine Department of Marine Resources



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President and Chief Executive Officer
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For Central Maine Power Company



Anton P. Giedt
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
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Gloucester, MA 01930-2298
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Counsel for National Marine Fisheries Service



Lee Perry

Commissioner

**MAINE DEPARTMENT OF INLAND
FISHERIES AND WILDLIFE**

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For the Maine Department of Inland Fisheries and Wildlife



Gerald C. Poulin

President

KENNEBEC HYDRO RESOURCES, INC.

General Partner, Merimil Limited Partnership

Edison Drive

Augusta, ME 04330

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For Merimil Limited Partnership



Evan Richert

Director

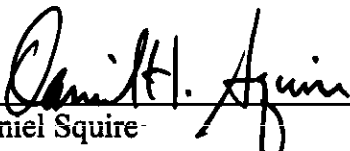
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38 State House Station

Augusta, Maine 04333

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For the Maine State Planning Office



Daniel Squire

WILMER, CUTLER & PICKERING

2445 M Street, NW

Washington, DC 20037-1420

(202) 663-6060

Counsel for the Kennebec Coalition



Judith Stolfo

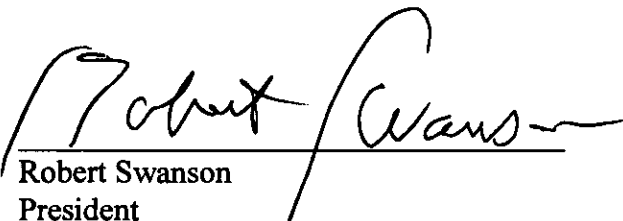
US DEPARTMENT OF THE INTERIOR

One Gateway Center, Suite 612

Newton, MA 02158

(617) 527-3400

Counsel for the US Fish and Wildlife Service



Robert Swanson

President

RIDGEWOOD MAINE HYDRO CORPORATION

General Partner

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Ridgewood, NJ 07450

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For Ridgewood Maine Hydro Partners, L.P.

Scott Thomas

HYDRA-CO ENTERPRISES

General Partner

Benton Falls Associates

c/o CMS Generation

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(313) 436-9403

For Benton Falls Associates

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c/o CMS Generation
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(313) 436-9403
For Benton Falls Associates

FILED
OFFICE OF THE SECRETARY
98 MAY 28 AM 11:31
FEDERAL ENERGY
REGULATORY COMMISSION

**SUBMITTAL OF COMPREHENSIVE SETTLEMENT
AND EXPLANATORY STATEMENT PURSUANT TO
FERC RULE 602 AND REQUEST FOR EXPEDITED
CONSIDERATION**

EXHIBIT 1

Proposed Timeline for Settlement-Related Actions

**SUBMITTAL OF COMPREHENSIVE SETTLEMENT AND EXPLANATORY
STATEMENT PURSUANT TO FERC RULE 602
AND REQUEST FOR EXPEDITED CONSIDERATION**

EXHIBIT 1

Proposed Timeline for Settlement-Related Actions

May 26, 1998	Parties sign <i>Lower Kennebec River Comprehensive Hydropower Settlement Accord</i>
May 27, 1998	Parties submit motions and other filings with FERC to begin implementation of the Comprehensive Settlement.
June 9, 1998	FERC orders a Technical Conference on dam removal to be convened on June 30, 1998.
June 15, 1998	Notice of public comment issued on Edwards Dam license transfer application and the application regarding KHDG members' licenses.
June 24, 1998	FERC approves stay of: (1) Edwards' obligations under the Order Denying New License and Requiring Dam Removal; (2) current KHDG fish passage obligations contained in the licenses for the Ft. Halifax, Benton Falls, Lockwood, UAH-Hydro Kennebec, Shawmut and Weston projects; and (3) Commission action on Requests for Rehearing in both proceedings.
June 30, 1998	FERC holds Technical Conference on dam removal.
July 13, 1998	1998 field season study plans finalized (if any additional studies needed).
July 15, 1998	Deadline for public comments on Edwards Dam license transfer application and the application regarding KHDG members' licenses.
September 1, 1998	FERC approves: (1) Comprehensive Settlement; (2) Edwards license transfer application (with contingencies); and (3) the application regarding fish passage obligations at the KHDG members' projects. FERC rescinds the Compliance Letter issued March 26, 1998 regarding KHDG licenses.
September 15, 1998	State submits: (1) license surrender application with dam removal plan to FERC (subject to FERC approving Edwards license transfer to the State); and (2) applications to the US Army Corps of Engineers, Maine Department of Environmental Protection, and the City of Augusta for permits to remove Edwards Dam.
October 1, 1998	Assuming that no requests for rehearing or other appeals are filed objecting to FERC's Orders, withdrawal of all KHDG motions and requests for rehearing becomes effective.
January 1, 1999	State submits letter to FERC informing FERC that all license transfer contingencies have been met. The Edwards license is transferred to the State of Maine. Withdrawal of all Edwards and City of Augusta motions and requests for rehearing becomes effective.
February-March, 1999	Permits for dam removal issued by the US Army Corps of Engineers, Maine Department of Environmental Protection, and the City of Augusta.
April 15, 1999	FERC issues license surrender order conditional on completion of dam removal and site remediation plan.
May-August, 1999	Dam removal and site remediation.
October 15, 1999	FERC issues final license surrender order.

**SUBMITTAL OF COMPREHENSIVE SETTLEMENT
AND EXPLANATORY STATEMENT PURSUANT TO
FERC RULE 602 AND REQUEST FOR EXPEDITED
CONSIDERATION**

EXHIBIT 2

**Lower Kennebec River Comprehensive
Hydropower Settlement Accord**

LOWER KENNEBEC RIVER COMPREHENSIVE HYDROPOWER SETTLEMENT ACCORD

In consideration of the commitments made by the parties in the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine, the Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service, the Edwards Dam Removal Fund Agreement Among Bath Iron Works Corporation, National Fish and Wildlife Foundation, and the State of Maine, and the Kennebec River Restoration Fund Agreement Among Members of the Kennebec Hydro Developers Group, National Fish and Wildlife Foundation, the US Fish and Wildlife Service, the National Marine Fisheries Service, the Kennebec Coalition and the State of Maine* (all attached hereto), and the commitments further made by the Parties in this *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), the undersigned Parties agree as follows:

PARTIES

- I. The Parties to this Comprehensive Settlement ("Parties") are:
- A. *The City of Augusta* ("the City"), the municipal government for the City of Augusta, Maine, chartered by the State of Maine, and a co-licensee of the Edwards Hydroelectric Project (FERC No. 2389);
 - B. *Edwards Manufacturing Company* ("Edwards"), a corporation organized under the laws of the State of Maine, owner of the Edwards Dam hydroelectric facility, and a co-licensee of the Edwards Hydroelectric Project (FERC No. 2389);
 - C. *The Kennebec Coalition*, an association comprised of the following member organizations, all of whom are or were intervenors in the Federal Energy Regulatory Commission ("FERC") Edwards Dam proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, and the relicensing proceedings for Central Maine Power Company's Ft. Halifax and Weston Projects:

1. *American Rivers*, a not-for-profit corporation organized under the laws of the District of Columbia;
 2. *The Atlantic Salmon Federation*, a not-for-profit corporation organized under the laws of the State of New York;
 3. *Kennebec Valley Chapter of Trout Unlimited*, a State of Maine member chapter of Trout Unlimited;
 4. *The Natural Resources Council of Maine*, a not-for-profit corporation organized under the laws of the State of Maine; and
 5. *Trout Unlimited*, a not-for-profit corporation organized under the laws of the State of Michigan;
- D. *The Kennebec Hydro Developers Group* ("KHDG"), an association comprised of the following members:
1. *Central Maine Power Company*, a corporation organized under the laws of the State of Maine, and owner of the Fort Halifax, Shawmut and Weston hydropower projects (FERC Nos. 2552, 2322, and 2325) that are affected by this Comprehensive Settlement;
 2. *Merimil Limited Partnership*, a partnership organized under the laws of the State of Delaware, and owner of the Lockwood hydropower project (FERC No. 2574) that is affected by this Comprehensive Settlement;
 3. *UAH-Hydro Kennebec Limited Partnership*, a partnership organized under the laws of the State of Maine, and co-owner/agent of the Hydro-Kennebec hydropower project (FERC No. 2611) that is affected by this Comprehensive Settlement;
 4. *Ridgewood Maine Hydro Partners, L.P.*, a partnership organized under the laws of the State of Delaware, and owner of the Burnham hydroelectric project (FERC No. 11472) that is affected by this Comprehensive Settlement; and
 5. *Benton Falls Associates*, a limited partnership and owner of the Benton Falls hydroelectric project (FERC No. 5073) that is affected by this Comprehensive Settlement;
- E. *The National Fish and Wildlife Foundation* ("NFWF"), a charitable, not-for-profit corporation established by the National Fish and Wildlife Foundation Establishment Act, P.L. 98-244, as amended (16 U.S.C. section 3701 *et seq.*);
- F. *The State of Maine* ("the State"), acting by and through the Governor of the State of Maine, the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, and the Maine State Planning Office, a state of the United States of America. The State is or was an intervenor in the FERC Edwards Dam proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, the original license proceeding for Ridgewood

Maine Hydro Partners' Burnham Project, and the relicensing proceedings for Central Maine Power's Ft. Halifax and Weston Projects;

- G. *The US Department of Commerce, through the National Oceanic and Atmospheric Administration, National Marine Fisheries Service ("NMFS")*, which is or was an intervenor in the Edwards Dam FERC proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, and the relicensing proceedings for Central Maine Power's Ft. Halifax and Weston projects; and
- H. *The US Department of Interior, through the US Fish and Wildlife Service ("USFWS")*, which is or was an intervenor in the Edwards Dam FERC proceeding, the KHDG members' Request to Amend License Conditions, dated April 1997, and the relicensing proceedings for Central Maine Power's Ft. Halifax and Weston projects.

COMMITMENTS

The Parties to this Comprehensive Settlement make the following commitments:

1. Edwards Dam License Transfer

- A. All Parties agree to support the transfer from Licensees Edwards Manufacturing Company and the City of Augusta ("Licensees") to the State of Maine, effective January 1, 1999, of all licensing rights and responsibilities granted and imposed by FERC for the Edwards Dam license (FERC No. 2389), consistent with the terms stated in the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine ("Edwards Dam Agreement")*, signed May 15, 1998. This Agreement is attached hereto as Exhibit A. The State agrees only to accept the gift of the Edwards Dam and related properties, and transfer of the license, if all licensing rights and responsibilities granted and imposed by FERC for FERC license No. 2389 in effect on the execution date of the *Edwards Dam Agreement* are transferred to the State. All other Parties agree not to object to this provision.
- B. To achieve license transfer, the following pleadings shall be filed with FERC by the Parties named below:
 - 1. Joint application to transfer the Edwards Dam license No. 2389 to the State of Maine, filed by Edwards, the City of Augusta and the State of Maine. This Application is attached hereto as Exhibit E.

2. Joint comments in support of the joint application of Edwards, the City of Augusta and the State of Maine to transfer the Edwards Dam license, filed by the Kennebec Coalition, the NMFS, and the USFWS. These Comments are attached hereto as Exhibit H.
 3. Joint motion to stay all decisions and obligations in the Edwards license proceeding pending FERC's action on the Edwards Dam license transfer application, filed by Edwards, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS. This motion is attached hereto as Exhibit F.
- C. Edwards and the City of Augusta agree to file with FERC a notice withdrawing their request for rehearing and all other pending motions regarding the Edwards Dam effective upon the transfer of the Edwards Dam license to the State consistent with the terms stated in the *Edwards Dam Agreement*. This Notice is attached hereto as Exhibit G.
- D. The State, Edwards and the City agree to file with FERC a motion for stay of the five year dam inspection requirement of the existing FERC license. If the motion is granted, the State will conduct a dam safety inspection of the Edwards Dam within ninety (90) days of the FERC order, pursuant to 37-B M.R.S.A. Secs. 1051, 1055. The State will file a copy of this inspection report with FERC within thirty (30) days of the completion of this inspection.
- E. Edwards, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS agree to file with FERC a request for a Technical Conference within thirty (30) days regarding Edwards Dam removal, as requested in the Motion attached as exhibit I.

II. Amendment of Fish Passage Obligations at Upstream Dams

- A. The KHDG members, the Kennebec Coalition, the NMFS, the State of Maine and the USFWS agree to seek and support an amendment of fish passage obligations in the existing or proposed licenses of the KHDG members' hydropower projects (FERC Nos. 2552, 2322, 2325, 2574, 2611, 5073, and 11472) in exchange for partial funding of anadromous fisheries restoration in the Kennebec River, including funding for restoration of alewife, shad, blueback herring, and salmon, certain eel studies, and costs incurred by the State in connection with removing Edwards Dam; and for certain other specified activities, consistent with the terms stated in the *Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service ("KHDG Agreement")*, signed May 26, 1998. This Agreement is attached hereto as Exhibit B.

- B. To achieve license conditions implementing the terms of the *KHDG Agreement*, the following pleadings shall be filed with FERC by the Parties named below:
1. Application for Incorporation of Settlement Terms into Existing and Proposed Licenses, signed by KHDG members to amend the current license conditions regarding fish passage obligations in the Ft. Halifax, Benton Falls, Lockwood, UAH-Hydro Kennebec, Shawmut and Weston licenses and to recommend license conditions regarding fish passage obligations for the original license for the Burnham Project. This Application is attached hereto as Exhibit J.
 2. Joint Comments in Support of the aforementioned KHDG Members' Application for Incorporation of Settlement Terms into Existing and Proposed Licenses, signed by the Kennebec Coalition, the NMFS, the State of Maine and the USFWS. These Comments are attached hereto as Exhibit M.
 3. Joint Motion for Continued Stay of Action, pending FERC's decision on the aforementioned KHDG members' application to incorporate applicable terms of the *KHDG Agreement* into existing and proposed KHDG licenses, of existing KHDG fish passage obligations and of FERC action related to fish passage aspects of Central Maine Power Company's Request for Rehearing dated December 26, 1998 regarding the Commission's Order Issuing New License for the Ft. Halifax Project, signed by the Kennebec Coalition, KHDG members, the NMFS, the State of Maine, and the USFWS. This Motion is attached hereto as Exhibit K.
- C. KHDG members agree to file with FERC a notice withdrawing all pending motions and appeals regarding KHDG fish passage obligations effective upon FERC's issuance of orders for the KHDG projects that are consistent with the *KHDG Agreement*. This Notice is attached hereto as Exhibit L.

III. Removal of Edwards Dam

- A. Consistent with the terms of the *Edwards Dam Agreement*, the State of Maine agrees to take all reasonable steps to seek permitting approval for removal of the Edwards Dam. Upon receipt of all necessary permits, and consistent with the terms of the *Edwards Dam Agreement*, the State of Maine agrees to remove in an expedited fashion the Edwards Dam in compliance with all licensing rights and responsibilities granted and imposed by FERC for FERC Project No. 2389.
- B. The City of Augusta, the Kennebec Coalition, the NMFS, and the USFWS all agree to use their best efforts and take all reasonable steps necessary and

appropriate to ensure the State of Maine's dam removal permit applications are processed and approved on an expedited basis, and otherwise fully assist and cooperate with, and in no way hinder, the State of Maine in its efforts to accomplish dam removal in as expeditious a manner as possible. All other Parties to this Comprehensive Settlement agree to cooperate reasonably, and in no way hamper or interfere, with other Parties' efforts to facilitate these proceedings. KHDG members agree to publicly and actively support removal of Edwards Dam, as recommended in the *Final Environmental Impact Statement, Kennebec River Basin, Maine* (July, 1997) prepared by FERC in the Edwards Dam proceeding ("*Kennebec River FEIS*"), including stating such support in filings to FERC and other governmental agencies with responsibility for granting regulatory removal.

- C. The Kennebec Coalition and the State of Maine agree to support before FERC, the US Army Corps of Engineers, the City of Augusta, the Maine Department of Environmental Protection, and any other governmental agency a method of dam removal consistent with that described in the May, 1997 Report to FERC by the Oak Ridge National Laboratory and relied upon in the *Kennebec River FEIS*. To the extent it is consistent with their obligations and determinations under applicable law, including the Endangered Species Act, the NMFS and the USFWS agree to support before FERC, the US Army Corps of Engineers, the City of Augusta, the Maine Department of Environmental Protection, and any other governmental agency a method of dam removal consistent with that described in the May, 1997 Report to FERC by the Oak Ridge National Laboratory and relied upon in the *Kennebec River FEIS*. All other Parties to this Comprehensive Settlement agree either to offer similar support or not to object to this method of dam removal.

IV. Dam Removal Financing

- A. Commencing on January 15, 1999, the KHDG members agree to provide \$4,750,000 in installments, the amount and timing of which are governed by the *KHDG Agreement*, into a separate account established by the National Fish and Wildlife Foundation for anadromous fisheries restoration in the Kennebec River, including funding for restoration of alewife, shad, blueback herring, and salmon, certain eel studies, and costs incurred by the State in connection with removing Edwards Dam, with priority placed on dam removal.
- B. In accordance with permits for its shipyard modernization project from the US Army Corps of Engineers and the Maine Department of Environmental Protection, Bath Iron Works ("BIW"), a corporation organized under the laws of the State of Maine, will be providing a total of \$2.5 million into a separate account established by NFWF to pay for Edwards Dam removal, consistent with the terms of *The Edwards Dam Removal Fund Agreement Among Bath Iron*

Works Corporation, National Fish and Wildlife Foundation, and the State of Maine ("BIW Agreement"). This Agreement is attached hereto as Exhibit C. The funds from BIW are necessary to accomplish removal of Edwards Dam, and are therefore being used to mitigate anadromous fisheries habitat impacted by the BIW modernization project.

- C. NFWF agrees to administer the funds deposited in special accounts with NFWF by KHDG members and BIW, consistent with the terms of *The Kennebec River Restoration Fund Agreement Among Members of the Kennebec Hydro Developers Group, National Fish and Wildlife Foundation, the US Fish and Wildlife Service, the National Marine Fisheries Service, the Kennebec Coalition and the State of Maine*, and the *BIW Agreement*. These Agreements are attached hereto as Exhibits D and C, respectively. These funds shall be used for anadromous fisheries restoration in the Kennebec River, including funding for restoration of alewife, shad, blueback herring, and salmon, certain eel studies, and costs incurred by the State in connection with removing Edwards Dam. NFWF shall also administer other funds that may be secured for Kennebec River fish restoration activities.

V. Contingencies

- A. The Parties agree that the following events must occur before the transfer of the Edwards Dam license to the State of Maine becomes effective:
1. FERC's approval, with terms consistent with the *Edwards Dam Agreement*, of the Licensees' and State's application to transfer all licensing rights and responsibilities granted and imposed by FERC for the Edwards Dam license (FERC No. 2389).
 2. FERC's receipt of a written notice from the State of Maine that BIW has deposited \$2.5 million in the Edwards Dam Removal Fund, or that the State has in its sole discretion waived this precondition.
 3. FERC's receipt of a written notice from the State of Maine that the State has received confirmation that the title to the real property or interests therein to be conveyed by Edwards to the State, including easements, have insurable title, or that the State has in its sole discretion waived this precondition.
 4. FERC's approval of the KHDG members' application to incorporate applicable terms of the *KHDG Agreement* into the Ft. Halifax, Benton Falls, Lockwood, UAH-Hydro Kennebec, Shawmut licenses and into the original license for the Burnham Project consistent with the *KHDG Agreement*, unless this condition is waived by the State of Maine.

5. FERC's receipt of a written notice from the State of Maine that the State has determined pursuant to Section IX.B.5 of the *Edwards Dam Agreement* that there is adequate funding available to meet the State's obligations under that Agreement, or that the State has in its sole discretion waived this precondition.
 6. FERC's receipt of a written notice from the State of Maine that the State has received from Licensees all environmental and property disclosures outlined in Section VIII of the *Edwards Dam Agreement*, or that the State has in its sole discretion waived this precondition.
 7. FERC's receipt of a written notice from the State of Maine that the transfer of property set forth in Section IV of the *Edwards Dam Agreement* has been completed, or that the State has in its sole discretion waived this precondition.
 8. The transfer cannot occur prior to January 1, 1999.
- B. The Parties agree that the *KHDG Agreement* regarding amendment of fish passage obligations will become null and void upon the occurrence of any of the events outlined in Section III.C. of that Agreement, unless otherwise agreed to in writing by the parties to that Agreement.

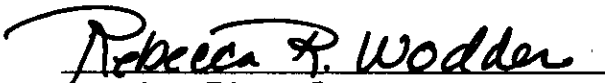
VI. Effect of this Comprehensive Settlement

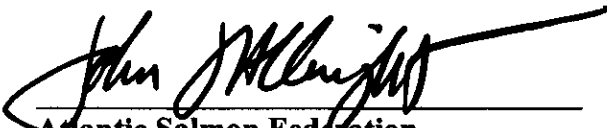
- A. This Comprehensive Settlement constitutes a negotiated settlement of all issues in the Edwards Dam relicensing proceeding (FERC No. 2389), and of all fish passage issues regarding the KHDG members' hydropower projects (FERC Nos. 2552, 2322, 2325, 2574, 2611, 5073, and 11472). Each provision of this Comprehensive Settlement represents consideration for all other provisions and is a necessary part of the entire Comprehensive Settlement.
- B. All Parties agree that this Comprehensive Settlement is fair and reasonable and in the public interest.
- C. In the event that FERC chooses to alter or prohibit execution of any term or condition contained in this Comprehensive Settlement that is considered essential by any affected Party, then unless all affected Parties agree to amend this Comprehensive Settlement, this Comprehensive Settlement shall become null and void.

VII. Commitment to Expedition

- A. All Parties agree that to meet the Parties' shared goal of removing Edwards Dam in 1999, all actions outlined in the Comprehensive Settlement must be undertaken in a prompt and timely fashion.
- B. All Parties agree to encourage, or to cooperate reasonably, and in no way directly or indirectly hamper, expedited processing of motions and applications before FERC, the Maine Department of Environmental Protection, the US Army Corps of Engineers, the City of Augusta, or other government agencies.
- C. All Parties agree to take action to oppose, or to cooperate reasonably with other Parties' actions in opposing, any efforts to try to stop, delay or alter the implementation of the terms of the Comprehensive Settlement.
- D. Notwithstanding Section VII.A. above, if any Party seeks to delay the implementation of obligations imposed by FERC pursuant to the provisions of this Comprehensive Settlement or the underlying settlement agreements and related motions of the Parties, it must demonstrate to FERC that all reasonable efforts were made to reach consensus with all other Parties; that all reasonable efforts were made to avoid or minimize the delay; and that the delay does not fundamentally alter the terms of this Comprehensive Settlement.

SIGNED this 26th day of May, 1998, by:


American Rivers, Inc.
By: Rebecca Wodder
Its: President


Atlantic Salmon Federation
By: John Albright
Its: Vice President, Conservation Programs

Benton Falls Associates

By: Scott Thomas

Its: Vice President, US Operations

Hydra-Co Enterprises

General Partner, Benton Falls Associations



Central Maine Power Company

By: David T. Managan

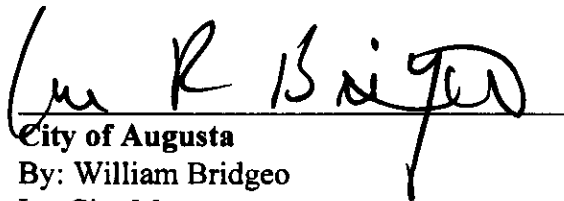
Its: President and Chief Executive Officer



City of Augusta

By: John Bridge

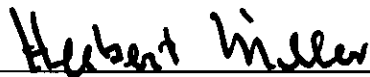
Its: Mayor



City of Augusta

By: William Bridgeo

Its: City Manager



Edwards Manufacturing Co., Inc

By: Herbert A. Miller

Its: President



Kennebec Valley Chapter of Trout Unlimited

By: Bruce Bowman

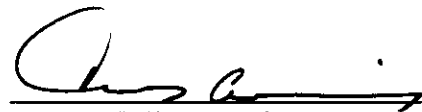
Its: President

City of Augusta

By: William Bridgeo

Date:

Its: City Manager



Benton Falls Associates

By: Thomas A. McNish

Date: May 26, 1998

Its: Secretary and Treasurer

Hydra-Co Enterprises

General Partner, Benton Falls Associations

Central Maine Power Company

By: David T. Flanagan

Date:

Its: President and Chief Executive Officer

Kennebec Valley Chapter of Trout Unlimited

By: Bruce Bowman

Date:

Its: President

Edwards Manufacturing Co., Inc

By: Mark Isaacson

Date:

Its: Vice-President

National Fish and Wildlife Foundation

By: Amos S. Eno

Date:

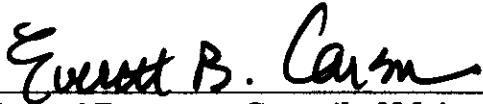
Its: Executive Director



National Fish and Wildlife Foundation

By: Amos S. Eno

Its: Executive Director



Natural Resources Council of Maine

By: Everett B. Carson

Its: Executive Director



Merimil Limited Partnership

By: Gerald C. Poulin

President, Kennebec Hydro Resources

General Partner, Merimil Limited Partnership

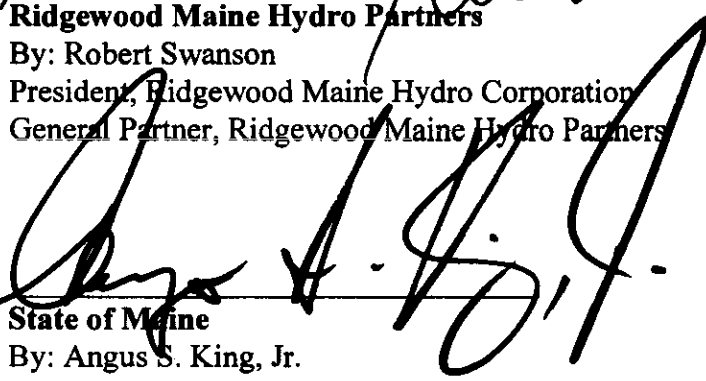


Ridgewood Maine Hydro Partners

By: Robert Swanson

President, Ridgewood Maine Hydro Corporation

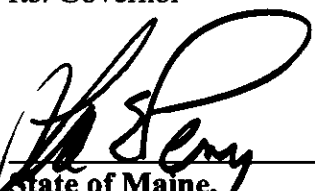
General Partner, Ridgewood Maine Hydro Partners



State of Maine

By: Angus S. King, Jr.

Its: Governor



State of Maine,

Department of Inland Fisheries and Wildlife

By: Lee Perry

Its: Commissioner



State of Maine,

Department of Marine Resources

By: Lewis Flagg

Its: Commissioner (Acting)



State of Maine, State Planning Office

By: Evan D. Richert

Its: Director



Trout Unlimited

By: Charles Gauvin

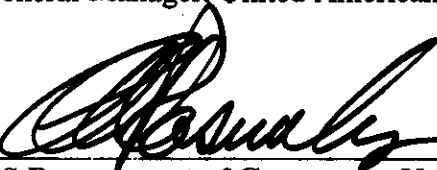
Its: Chief Executive Officer and President



UAH-Hydro Kennebec Limited Partnership

By: Mark Dworkin

General Manager, United American Energy



US Department of Commerce, National Oceanic

and Atmospheric Administration, National

Marine Fisheries Service

By: Andrew A. Rosenberg, PhD

Its: Regional Administrator



US Department of Interior, US Fish and Wildlife Service

By: Michael Bartlett

Its: Supervisor, New England Field Office

LOWER KENNEBEC RIVER COMPREHENSIVE HYDROPOWER SETTLEMENT ACCORD

LIST OF EXHIBITS

- A. *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine, signed May 15, 1998.*
- B. *Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service, signed May 26, 1998.*
- C. *The Edwards Dam Removal Fund Agreement Among Bath Iron Works Corporation, National Fish and Wildlife Foundation, and the State of Maine, signed May 26, 1998.*
- D. *The Kennebec River Restoration Fund Agreement Among Members of the Kennebec Hydro Developers Group, National Fish and Wildlife Foundation, the US Fish and Wildlife Service, the National Marine Fisheries Service, the Kennebec Coalition and the State of Maine, signed May 26, 1998.*
- E. *Application for Approval of Transfer of License, signed by Edwards, the City of Augusta and the State of Maine to transfer the Edwards Dam license No. 2389 to the State of Maine.*
- F. *Joint Motion by Licensees, State and Federal Agencies, and the Kennebec Coalition for Continued Stay of Action, signed by Edwards, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS to stay all decisions and obligations in the Edwards license proceeding pending FERC's action on the Edwards Dam license transfer application.*
- G. *Notice of Withdrawal of Request for Rehearing and All Other Pending Motions, signed by Edwards and the City of Augusta withdrawing their request for rehearing and all other motions pending before FERC regarding Edwards Dam effective upon transfer of the Edwards license to the State of Maine.*
- H. *Joint Comments of the Kennebec Coalition and Federal Agencies in Support of the Application of Licensees and the State of Maine to Transfer the Edwards Dam License No. 2389, signed by the Kennebec Coalition, the NMFS and the USFWS.*

- I. Joint Motion Requesting a Technical Conference to Address Removal of Edwards Dam, signed by Edwards, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS.
- J. Application for Incorporation of Settlement Terms into Existing and Proposed Licenses, signed by KHDG members to amend existing licenses, or to incorporate into original licenses, fish passage obligations that are consistent with the *KHDG Agreement*.
- K. Joint Motion by Licensees, State and Federal Agencies, and the Kennebec Coalition for Continued Stay of Action, signed by KHDG members, the Kennebec Coalition, the NMFS, the State and the USFWS, seeking a stay pending FERC's decision on the aforementioned application attached hereto as Exhibit J of existing KHDG fish passage obligations and FERC action on Central Maine Power Company's Request for Rehearing dated December 26, 1997 regarding the Commission's Order Issuing New License for the Ft. Halifax Project.
- L. Notice of Withdrawal of Request for Rehearing and any Other Pending Motions, signed by Central Maine Power Company.
- M. Joint Comments of the Kennebec Coalition, Federal Agencies and the State of Maine in Support of the KHDG Members' Application for Incorporation of Settlement Terms into Existing and Proposed Licenses, signed by the Kennebec Coalition, the NMFS, the State of Maine, and the USFWS supporting license amendments consistent with the *KHDG Agreement*.

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT A

***Settlement Agreement Among Edwards
Manufacturing Co., Inc., the City of Augusta and the State of Maine
Concerning the Edwards Dam in Augusta, Maine***

**SETTLEMENT AGREEMENT
AMONG EDWARDS MANUFACTURING CO., INC.,
THE CITY OF AUGUSTA AND THE STATE OF MAINE
CONCERNING THE EDWARDS DAM
IN AUGUSTA, MAINE**

May 8 , 1998

I. Parties

The parties to this Settlement Agreement are the State of Maine, by and through the State Planning Office, the Department of Inland Fisheries and Wildlife, and the Department of Marine Resources ("the State of Maine") and the Licensees of the Edwards Hydroelectric Project site ("Licensees"), including Edwards Manufacturing Co., Inc., its successors and assigns ("Edwards"), the City of Augusta, and any other ownership interests.

II. Purpose

The purpose of this Settlement Agreement is to effect a charitable transfer of property to the State of Maine and to provide for the amicable resolution of contested administrative proceedings pending before the Federal Energy Regulatory Commission ("FERC") concerning Project No. 2389 by means of transfer of the ownership of and controlling FERC license for the Edwards Hydroelectric Project Site and related property to the State of Maine in order to enable the State of Maine to remove the Edwards Dam.

III. Definitions

A. "City of Augusta" is the municipality of Augusta, located in the County of Kennebec, State of Maine.

B. "Edwards Hydroelectric Project site" shall mean the Edwards Dam in Augusta, the underlying riverbed, and the adjoining riparian parcels located on the western shore of the Kennebec River and the southerly sideline of Water Street, Northern Avenue and Washington Avenue, as generally depicted with heavy black lines in Exhibits A and C and described in Exhibit B, attached and incorporated herein by reference, as well as all related structures and appurtenances, and associated riparian rights and flowage rights and easements, all as further defined in Section IV. A, B and C below.

C. "Edwards Manufacturing Co., Inc." is a corporation incorporated in the State of Maine with a primary place of business in Augusta, Maine.

D. "Environmental Cleanup Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 et seq., the Oil Discharge

Edwards Dam Agreement
May 8, 1998

Law, 38 M.R.S.A. section 541 et seq., the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq., the Maine Uncontrolled Hazardous Substance Sites Law, 38 M.R.S.A. section 1361 et seq., or the Maine Hazardous Matter Law, 38 M.R.S.A. section 1317 to 1318B.

E. "FERC" is the Federal Energy Regulatory Commission.

F. "Licensees" shall mean Edwards Manufacturing Co., Inc., the City of Augusta, and any other party with a proprietary interest in the FERC license that authorizes operation of the Edwards Dam in Augusta, Maine as FERC Project Number 2389.

G. "State of Maine" is the State of Maine of the United States of America, with its State capitol located in Augusta, Maine.

IV. Transfer of Ownership of the Edwards Dam Site to the State of Maine

On January 1, 1999, Edwards will transfer by Quitclaim Deed with Covenant in the form of a deed of gift under 2 M.R.S.A. section 5, to the State of Maine or to an appropriate State of Maine agency as determined by the Governor, certain property rights to the Edwards Hydroelectric Project site, as follows:

A. Upland and Other Rights on West Side of River

Edwards agrees to transfer title to a certain lot or parcel of land lying on the westerly side of the Kennebec River as generally depicted with heavy black lines on Exhibit A and described in Exhibit B, and being a portion of the deed from Augusta Development Corporation to Edwards Manufacturing Company, Inc., dated January 5, 1989 and recorded in the Kennebec County Registry of Deeds in Book 3493, Page 310.

Edwards' Deed to the State of Maine shall also include all riparian rights appurtenant to the property conveyed. To the extent the Kennebec River, lying easterly of the upland, is tidal, such riparian rights shall extend to the low water mark; and to the extent the Kennebec River is nontidal, such riparian rights shall extend to the thread of the River. Regardless, it is the parties intent to transfer all riparian rights to the State of Maine, together with any new upland which may be created by changes in the River's water level.

Edwards also agrees to convey to the State of Maine all flowage rights which may be associated with Edwards Dam operations or which may be appurtenant to the lot or parcel described in this Section A whether or not recorded in the Kennebec County Registry of Deeds; and all rights and easements appurtenant to the lot or parcel described in this Section A, and all structures, fixtures, appurtenances and improvements located thereon.

Edwards' deed to the State shall include a provision for a future interest or other mechanism to transfer title to the upland-only portion of the premises located along the westerly bank of the Kennebec River as described in Exhibits A & B, to the City of Augusta or its designee upon completion of dam removal and certain site restoration as described in Section V,

Edwards Dam Agreement

May 8, 1998

subject to a permanent right of access to the State of Maine for purposes of dam removal and long-term monitoring, and subject to conditions necessary to satisfy any requirements of the Maine Department of Environmental Protection or the United States Environmental Protection Agency for use as a public park, including, but not limited to, restrictions on wells, residential use and breach or excavation of the remediation soil cap without notice to and monitoring by the Maine Department of Environmental Protection.

The City of Augusta retains the discretion to decline this gift at the time the future interest or other title transfer mechanism is triggered.

The transfer to the City will specifically except and reserve riparian and flowage rights, which rights will be retained by the State of Maine.

The transfer to the City will reserve to the State the right to demolish and remove such dam-related structures and to convey an altered parcel boundary from that depicted on Exhibit A and described in Exhibit B in order to reflect any alterations in the parcel boundary that may occur as a result of dam removal.

The City will agree to release its right to purchase the dam and hydroelectric project as recorded in Book 4036, Page 44 at the time of transfer to the State.

The transfer to the City will not contain any covenants of title.

B. Dam and Underlying Riverbed

Edwards agrees to transfer title to the structure known as the "Edwards Dam" as depicted generally with heavy black lines on the plan entitled "Detailed Map of Project Area" attached as Exhibit C, provided, however, that if the dam as constructed or reconstructed varies from that shown on Exhibit C, then title to the dam as actually constructed or reconstructed shall be transferred.

Edwards also agrees to transfer title to the riverbed below the footprint of the dam, together with any riparian rights, flowage rights, or easements which may be associated with or appurtenant to said dam and any rights acquired by adverse possession or occupation.

Edwards also agrees to convey to the State of Maine the "gravel road" sketched in black on the easterly end of the dam as shown on Exhibit C.

C. East Side of River

Edwards holds title to the following parcels along the easterly side of the River: Book 829, Page 1 (Parcel 2); Book 829, Page 1 (Parcel 3); Book 829, Page 1 (Parcel 5); and right of way, Book 845, Page 453. Edwards agrees to convey to the State of Maine the following rights in and/or appurtenant to the land it intends to retain along the easterly side of the River:

Edwards Dam Agreement
May 8, 1998

1. Edwards agrees to transfer to the State all riparian rights appurtenant to or associated with the above parcels, but subject to a sewer discharge easement to "Tree Free", its successor, or the appropriate fee owner as determined by further title work. The riparian rights will be transferred subject to the right in Tree Free or its successor or the appropriate fee owner to extend said sewer discharge pipe in the event the Kennebec River's water level is lowered.
2. All flowage rights held by Edwards will be transferred to the State, including those associated with or appurtenant to the property described in Section (C) 1, above.
3. Edwards will provide the State with temporary rights of access across the Eastern shore parcels for all purposes associated with demolition of the dam, including use as a staging and/or storage area, until dam removal is complete.
4. Edwards will provide the State with temporary rights of access across those easements benefiting Edwards for access to the Eastern shore property, such access to be in common with others and only for the duration of the dam removal project.
5. Edwards will permit the State to demolish such structures owned by Edwards on the Easterly end of the dam, including the head gates, as are necessary to dam demolition. The State shall be permitted to utilize the canal located easterly of the dam as necessary to de-water the impoundment. Provided, however, that following any demolition pursuant to this section, debris shall be removed and Edwards' property left in reasonably neat condition.

D. Conditions Applicable to all Property Conveyed.

As to all the property (whether real or personal) or rights in such property transferred pursuant to this Agreement, Edwards agrees as follows:

1. All property shall be transferred free from liens and encumbrances other than easements acceptable to the State.
2. Taxes on all real and personal property for the City of Augusta fiscal year 1998-1999 will be fully paid by Edwards.

E. Edwards and the State of Maine will agree on the valuation of the gift in a letter of valuation and the State of Maine will execute an IRS Form 8283 acknowledging receipt of that gift.

F. At the time of transfer from Licensees to the State of Maine of the FERC license applicable to the Edwards Dam and FERC Project No. 2389, Licensees will transfer, or cause to be transferred, all additional access, water, flowage and other rights owned or held by Licensees associated with the FERC license or otherwise associated with the dam, which rights were not

Edwards Dam Agreement
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previously transferred to the State of Maine under Section IV.B above, and which rights may be necessary or useful for the State to effectuate dam removal, including, but not limited to, any rights or interests in the area between high and low water marks upstream or downstream from the dam. This transfer shall not include Edwards' rights and obligations pursuant to its interest in Kennebec Water Power or other similar water level or flow regime agreements or orders pertaining to non-Edwards Hydroelectric Project site locations. Simultaneously with transfer to the State of Maine, Licensees shall terminate any agreements with each other or third parties governing interests in the Edwards Hydroelectric Project site.

G. At the time of transfer of title to the Edwards Hydroelectric Project site to the State of Maine, the State will assume responsibility for the transferred site for the purpose of demolition and removal of the dam, buildings and equipment and site restoration. After transfer, in order to expedite the dam removal process, minimize removal costs to be incurred by the State, and facilitate the conversion of the site for recreational purposes, Edwards, at its own expense, shall remove such structures, equipment, flashboards and other personal property and fixtures from the Edwards Hydroelectric Project site as it may choose upon its sole discretion. Edwards and the State shall agree upon a schedule for removal by Edwards of all such personal property and fixtures, subject to a requirement that the schedule accommodate dam safety, the migration of alewives prior to dam removal, dewatering the impoundment as part of the dam removal process, and all license conditions or orders imposed by FERC or other regulatory agencies.

H. From the date of transfer to the State until the date of dam removal, the State will not generate power at the Edwards Hydroelectric Project site.

I. Upon receipt of all necessary regulatory approvals, the State or its designee will remove the dam and undertake all mitigation required pursuant to those regulatory approvals and subject to the conditions in Section IX of this Agreement.

J. Edwards remains responsible and liable for operation and maintenance of all real and personal property in the Edwards Hydroelectric Project site adjacent to the dam site until the time of transfer of ownership to the State. Edwards shall maintain all insurance policies in effect on the date of execution of this Agreement until the date of transfer.

K. Edwards will allow appropriate State officials or their designees to access the Edwards Hydroelectric Project site as necessary to perform tests and surveys and all other purposes consistent with the purpose of this Agreement, and use of Edwards' adjoining eastern shore property as necessary to complete dam removal and any related restoration.

L. Licensees and any other ownership interests will cooperate reasonably with the State to obtain necessary regulatory approvals and permits to transfer ownership of the Edwards Hydroelectric Power site to the State, and to effectuate dam removal and other activities contemplated by this Agreement.

Edwards Dam Agreement
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V. Dam Removal and Site Restoration

A. Except as provided in Section VII below, after Licensees have relinquished the necessary title and rights as provided in this Agreement. Licensees are not required to contribute money for dam removal, post-removal mitigation costs as determined pursuant to Section IV.I, fisheries restoration, or restoration of the real property located on the western shore of the Edwards Hydroelectric Project site as described in paragraph B below.

B. Subject to the terms of any applicable permits, licenses or other regulatory requirements, the State will provide the following, all on land on the western shore of the Edwards Hydroelectric Project site:

1. Demolition of Gate House, No. 4 Wheel House, No. 7 Wheel House, No. 8 Wheel House, Forebay House, and pre-engineered warehouse (unless the City wishes to save any of the above, in which case it would take sole responsibility for their future use and maintenance). Granite retaining walls and structures will remain in place;
2. Removal of equipment from these structures and disposal of such equipment not removed by Edwards;
3. Filling of the existing canal and forebay;
4. Removal of the penstock and related backfilling;
5. Excavation, earthwork, loaming and seeding of the site after demolition, with foundations left in place where they are below final grade (unless salvaged by the State or Edwards under Section VI).
6. Mitigation of environmental conditions identified by the Maine Department of Environmental Protection in its Environmental Site Assessment dated March 1998, as well as any other conditions requiring remediation under Environmental Cleanup Laws which are reasonably determined to have existed prior to March 1998, to standards based upon specifications by the Maine Department of Environmental Protection, but in no event shall those standards be more stringent than those appropriate for a recreational park. The environmental mitigation and final loaming of the site will not occur until the year 2000, allowing the City of Augusta adequate time to prepare a Master Plan for redeveloping the site. It is understood and acknowledged that: the State plans to undertake and has reserved funds for mitigation and final loaming and seeding based on reuse of the site as a recreational park; that up to this amount is reserved for this purpose; and that the City's master plan will not require mitigation expenses to the State in excess of this sum. Any additional site work planned by the City shall be carried out in a manner consistent with section V.C below. Between the time that the State takes title to the property and the time that environmental mitigation occurs, the State will take reasonable steps to secure the site, and the City will take reasonable steps to patrol the site to prevent unsafe use of the site. Within sixty (60) days of the Execution of this Agreement, the State will

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consult with the City in order to prepare a schedule that, provided all necessary permits and licenses are received, will accomplish the tasks itemized in this section and accommodate the City's master plan.

C. If the City of Augusta accepts title to the land on the western shore of the Edwards Hydroelectric Project site pursuant to Section IV.A above, and if the City of Augusta seeks to undertake any additional excavation work at the site, the City has the following obligations:

1. The City shall obtain, or shall require the developer of the site to obtain, insurance from an insurer and in an amount acceptable to the State of Maine and Edwards for the benefit of the State of Maine, Edwards, its shareholders, officers and directors, as well as the City of Augusta. The insurance policy shall insure against any liabilities, including but not limited to, all removal and response costs including environmental study, monitoring and cleanup costs, expenses and natural resources damages, as well as attorneys fees and costs of defense, that may arise under Environmental Cleanup Laws, as well as third party action sounding in tort or contract, for discharges and releases of hazardous substances at, on or under the parcel conveyed to the City during the term of ownership by Edwards, the State of Maine or the City of Augusta.

2. The City shall not be required to provide the insurance outlined in paragraph V.C.1 above if, after approval by and consistent with any specifications provided by the Maine Department of Environmental Protection, the City undertakes minor excavations which are finished by burying of any excavation spoils and resealing of the excavated area under clean cover consistent with the original remediation condition when completed by the State of Maine. This exclusion is intended to encompass only such minor excavations as digging of trenches for utility lines or other public services for a recreational park.

D. At the City of Augusta's request, the State will assist the City in obtaining: (1) a \$10,000 planning grant from the Community Development Block Grant Program in that program's 1999 program year to assist in the preparation of an application for Community Development Block Grant funds for the redevelopment of the site; and (2) a set aside, in the amount of \$500,000, from the federal Community Development Block Grant program, from that program's 2000 program year that contributes to the implementation of a qualified project in accordance with a master plan that includes the redevelopment of the cleared and graded site. Consistent with its other duties, the State will support, but cannot guarantee, acceptance or funding of such applications.

E. The State of Maine and the City of Augusta agree to work cooperatively for the redevelopment of Augusta's riverfront, as follows:

1. The State Planning Office, under the direction of its Director, will provide a senior planner to assist the City of Augusta's City Manager for an average of two days per week over a period of two years, starting in the fall of 1998 and ending in the fall of 2000, in efforts to redevelop the Augusta riverfront. The services of the senior planner will include, by way of example: grant writing; acting as a liaison with state

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agencies to cooperatively solve problems or implement plans identified by the City Manager to contribute to the economic and environmental betterment of the riverfront within Augusta; and assistance in recruiting tourist and other river-oriented businesses to the riverfront.

2. The State of Maine and the City of Augusta agree to pursue the joint establishment and maintenance of a Capital Riverfront Improvement District to accrue to the mutual benefit of both entities. A task of the senior planner assigned to assist the City Manager on riverfront redevelopment will be the investigation of the feasibility, cost, duties and responsibilities, and implementation requirements of such a District.

F. Edwards shall donate One Hundred Thousand Dollars (\$100,000) to the City of Augusta at the time of transfer of title to the State of Maine, to be used toward the master planning and redevelopment of the former Edwards Manufacturing site and the adjacent Water Street corridor. Further, if the City of Augusta determines that a Business Improvement District in the vicinity of the site and extending southward toward downtown Augusta is desirable for the implementation of redevelopment plans for this area of the City, and if such a district includes other properties owned by Edwards, its shareholders, officers or directors, such shareholders, officers or directors agree to support the creation of the district and to participation within the district so long as they own property within the district.

VI. Salvage Rights

Except for structures, personal property and fixtures removed by Edwards under Section IV.G, the State may utilize any and all gravel and other materials salvaged as a result of dam removal and demolition of the other structures, except the rock fill and timbers in the dam which Edwards may elect to salvage, consistent with the provisions of this section. With respect to any materials not used by the State and any dam rock fill and timbers, Edwards will designate which materials it has an interest in salvaging. The State and Edwards, and their contractors, shall cooperatively develop a salvage plan designed to facilitate both the removal of the dam and the salvage of materials in a cost-efficient manner which does not unreasonably delay or impede the dam removal process or unreasonably impair the value of the salvaged materials. Any costs relating exclusively to the salvaging of materials for the benefit of Edwards shall be assumed exclusively by Edwards. The salvage materials will be deposited by the State on the Edwards Hydroelectric Project site, and shall become the property of Edwards. The State shall have no further responsibility for or ownership of these materials after deposited on the adjoining parcel for processing and pickup.

VII. Withdrawals of Motions, No Initiation of Legal Actions by Licensees, and Release from Certain Preexisting Liabilities

A. Licensees and the State will file a joint motion with FERC: (1) requesting that FERC approve the transfer from the Licensees to the State, effective January 1, 1999, of all licensing, rights and responsibilities granted and imposed by FERC for FERC Project No. 2389, with said

Edwards Dam Agreement
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transfer contingent upon and only occurring after the conditions listed in Section IX.B have been fulfilled; and (2) stating that, upon the approval of the motion to transfer, the Licensees withdraw any and all requests, motions, appeals or other actions filed by Licensees relating to the Edwards Hydroelectric Project and pending before FERC. Licensees will state in this motion that they have reached a full and complete settlement of all outstanding licensing matters in FERC Project No. 2389. Similar actions by Licensees and the State seeking dismissal must be taken with other federal and state regulatory agencies, including, but not limited to, the Maine Department of Environmental Protection.

Upon the filing of the joint motion to transfer the dam license, the State and Licensees will file a Joint Motion for Stay of Action on Order Denying New License and Requiring Dam Removal. In this motion the movants will seek a stay of all obligations on Licensees established in the FERC's November 25, 1997 Order, and a deferral of all actions on the requests for rehearing pending before FERC in Project No. 2389, for a period of time to run until FERC rules on the joint motion to transfer. The State and Licensees also shall seek a stay of the five year dam inspection requirements of the existing FERC license.

Upon approval by FERC of the license transfer, the State will take all appropriate actions before FERC and other regulatory agencies to obtain the necessary approvals to remove the dam.

If the State of Maine does not secure necessary FERC approval on the motion for transfer of license to the State after completion of all administrative and judicial appeal proceedings, or if the Agreement becomes null and void for any other reason, the Licensees and the State will submit a joint motion to extend the compliance date of Licensees' obligations for dam removal pursuant to the November 25, 1997 Order for the same period of time that lapsed between the filing of the motion for transfer and the FERC's decision on the transfer. Licensees then may pursue their request for rehearing or other appropriate challenge to FERC's November 25, 1997 Order, at FERC or the U.S. Court of Appeals.

B. Licensees agree to file all necessary pleadings and other documents with FERC and other regulatory agencies to fully effectuate transfer as outlined in Sec. VII.A, and fully support and not in any way hamper or interfere with State efforts to gain the necessary regulatory approvals for dam removal from federal, state, and local agencies, including the City of Augusta. Licensees will not undertake or support collateral actions or actions by others (legislative, administrative, or judicial) that seek to stop or burden dam removal by the State. The State will have primary responsibility for drafting of all FERC filings, subject to approval by Licensees, and the State shall assume all further expenses relating to regulatory approval for the transfer and removal of the Edwards Dam, and site restoration, but such expenses shall not include payment of independent counsel fees or other costs for Licensees or for other ownership interests in the Edwards Hydroelectric Project site.

C. Subject to the provisions of paragraph VII.E below, Edwards agrees to release and hold the State harmless from all claims, causes of action, losses or other liabilities of Edwards, its owners, officers and directors accruing or resulting from Edwards' conveyance of the Edwards Hydroelectric Site to the State or City of Augusta, or from related Maine DEP or FERC

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proceedings, including, but not limited to, claims for compensation or taking of property except as such claims may arise from or relate to enforcement of this agreement. Subject to the provisions of paragraph VII.E below, the City of Augusta agrees to release and hold the State harmless from all claims, causes of action, losses or other liabilities of the City of Augusta, accruing or resulting from the conveyance of the Edwards Hydroelectric Site to the State or City of Augusta, or from related Maine DEP or FERC proceedings, including, but not limited to, claims for compensation or taking of property except as such claims may arise from or relate to enforcement of this agreement.

D. Licensees will not undertake any legal action seeking compensation for transfer and removal of the dam or otherwise in connection with the actions contemplated hereby, except to the extent that such legal actions are for the purpose of enforcing this agreement or seeking damages for the breach thereof.

E. The State of Maine will indemnify and hold Edwards, its shareholders, officers and directors, as well as the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties, harmless for any liabilities, including but not limited to all removal and response costs including environmental study, monitoring and cleanup costs, expenses, and natural resources damages, as well as attorneys fees and costs of defense, that may arise under the Environmental Cleanup Laws for discharges and releases of hazardous substances at, on, or under the Edwards Hydroelectric Project site during Edwards ownership prior to the date of transfer to the State, except as otherwise provided under this paragraph and in regard to the City of Augusta under paragraph V.C.1. The State of Maine also will indemnify Edwards, its shareholders, officers or directors, as well as the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties, for any liabilities which may be associated with the removal of the dam and resulting environmental impacts, including, but not limited to, claims by upstream or downstream owners concerning water level changes, release of contaminants in the impoundment area or river, or harm to fish or wildlife as a result of the removal process, except as otherwise provided under this paragraph and in regard to the City of Augusta under paragraph V.C.1. This indemnification shall not include any liabilities which are covered by insurance available to Edwards, its shareholders, officers or directors, the State of Maine or the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties, and the State of Maine reserves the right to rely upon any insurance assigned to the State by Edwards or available from any other source, including Section V.C above, to defend against or pay such claims. This indemnification shall not include any third party action against Edwards, its shareholders, officers or directors, or against the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties, sounding in tort or contract, or arising under federal, state or local law for actions or omissions by Edwards or the City of Augusta during the term of their ownership or FERC licensee status, which are not related to the removal of the dam or any resulting release of contaminants. This indemnification shall not include any liability of Edwards, its shareholders, officer or directors, or any liability of the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties under Environmental Cleanup Laws that may arise from transport or arranging for disposal of hazardous substances at

Edwards Dam Agreement
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or to any location other than at the Edwards Hydroelectric Project site. This indemnification shall not include any governmental enforcement action against Edwards, its shareholders, officers and directors, or the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties, for environmental license or other non-Environmental Cleanup Law statutory violations during the term of ownership, or in the case of the City, during the term of its co-licensee status under the FERC license. Edwards, its shareholders, officers and directors, and the City of Augusta and its elected and appointed officials and employees acting within the scope of their respective official duties, may not assign or transfer the indemnification rights provided under this section, except that the indemnification rights shall apply to the estate and heirs of Edwards' shareholders, officers and directors. This indemnification shall not include any action against the City of Augusta should the City choose to develop the site for any purpose other than a recreational park or should the City choose to excavate the site under Section V.C.1 above. The indemnifications provided under this section are independent contractual obligations of the State, and their enforcement is not dependent on any other act or obligation of any part under this Agreement other than the transfer of property under paragraphs IV A, B and C.

F. As a condition of this section, Edwards shall wind up its business affairs and dissolve its corporate existence as soon as possible, but in no event any later than the completion of the dam removal anticipated by this Agreement. If Edwards has not made royalty payments due under Section 5.2b of the December 13, 1991 Agreement Between the City of Augusta and Edwards Manufacturing Co., Inc., the State of Maine shall advance payments of up to \$130,000, with reimbursement by the City to the State upon receipt of payment by Edwards and for payments advanced in excess of royalty payments due. If Edwards has not made property tax payments payable to the City by March 31, 1999 on the parcels to be conveyed to the State, the State shall advance payments of up to \$47,500 to the City, with reimbursement by the City upon receipt of payment by Edwards. Such advance payments by the State does not relieve Edwards of its obligations to make payments due the City under the December 13, 1991 Agreement Between the City of Augusta and Edwards Manufacturing Co., Inc., or any amendment thereto, or under Section IV of this Agreement.

VIII. Disclosures

A. Within thirty days of the execution of this Agreement, Edwards will provide the State of Maine and the City of Augusta with any existing and available surveys, title opinions or title insurance policies applicable to the Edwards Hydroelectric Project site, which show or reference property at the site and relevant deed citations, including the dam, underlying riverbed, real estate parcels and associated flowage and riparian rights and easements, as well as any other property interests Edwards proposes to transfer to the State of Maine.

B. Prior to the execution of this Agreement, Licensees shall provide the State of Maine with a listing of all water level or flow regime agreements, orders or binding arrangements of any kind to which Edwards or the City of Augusta is a party and which are applicable to the Edwards Hydroelectric Project site or its operation or management.

Edwards Dam Agreement
May 8, 1998

C. Upon the termination of any agreements between themselves, as required by Sec. IV.F, Licensees shall provide written notice thereof to the State of Maine.

D. Prior to the execution of this Agreement, Licensees and any other party with an ownership interest in the Edwards Hydroelectric Project site will provide full disclosure of any actual knowledge of dam safety issues or any known waste issues (including, without limitation, current or past presence of hazardous or special waste or petroleum products on, in, or at the Edwards Hydroelectric Project site) that would require remediation or special handling by the State as part of their ownership of the Edwards Hydroelectric Project site and removal of the dam. Prior to the execution of this Agreement, Licensees and any other party with an ownership interest in the Edwards Hydroelectric Project site also will provide to the State full disclosure of any actual knowledge of any action, cause of action, or claim pertaining to their prior ownership or operation of the dam or Edwards Hydroelectric Project site.

E. At the time of transfer of ownership of the Edwards Hydroelectric Project site to the State, Edwards shall certify in writing that there has been no material change in the condition of the site following the completion of the Environmental Site Assessment by the Maine Department of Environmental Protection in March 1998.

F. Within thirty days after execution of this Agreement, Edwards shall disclose the existence of any known existing and previously purchased liability insurance policies owned by Edwards, its shareholders, officers and directors, available to address Environmental Cleanup Law liabilities or other environmental site liabilities or any other matters for which the State has agreed to indemnify Edwards, its shareholders, officers and directors under this Agreement. Edwards, its shareholders, officers and directors shall assign, if possible, such policies to the State of Maine prior to the time of transfer of the Edwards Hydroelectric Project site or any portion thereof on the condition that Edwards, its shareholders, officers and directors are named insureds on the policy. Edwards shall purchase any reasonably priced "tail" policy for "claims made" policies in effect during the period of Edwards' ownership, if any, and assign their rights under same to the State of Maine in the event of future claims or actions against Edwards that might be covered under the policy.

IX. Settlement Agreement

A. At a mutually agreeable time, the parties shall notify FERC that the matter has been resolved by settlement and that additional motions required by this Agreement will be filed.

B. The parties acknowledge that this Agreement, including the transfer of the Edwards Hydroelectric Project site to the State and dam removal, is subject to and contingent upon the following conditions:

1. FERC's approval of the transfer of the dam license from the Licensees to the State consistent with this Agreement and on terms satisfactory to the parties.

Edwards Dam Agreement
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2. The State's entry into a final agreement with the Kennebec Hydro Developers Groups ("KHDG"), pursuant to which KHDG will contribute funds toward dam removal and fisheries or habitat restoration on the Kennebec River; and FERC's approval of the conditions contained in the KHDG agreement relating to the deferral of certain fish passage obligations at KHDG hydro facilities.
3. A contribution by Bath Iron Works ("BIW") of \$2.5 million toward dam removal and fisheries or habitat restoration on the Kennebec River.
4. Title to the real property or interests therein to be conveyed by Edwards to the State of Maine, including easements, shall have insurable title.
5. The availability of adequate funding, whether from donated sources or appropriation by the Legislature, that in the sole discretion of the State, is satisfactory to the State to meet the State's obligations under this Agreement.

If the condition contained in paragraph IX.B.1 does not occur, this agreement shall become null and void. If any of the four conditions contained in paragraphs IX.B.2, IX.B.3, IX.B.4 or IX.B.5 does not occur before transfer of title under Section IV above, this agreement shall become null and void unless the State unilaterally chooses to waive the need for completion of the non-occurring condition.

X. Good Faith Efforts

The Licensees and the State agree to undertake all reasonable and appropriate steps in good faith to satisfy, facilitate, or otherwise ensure the occurrence of these conditions on an expedited basis.

XI. Integration Clause

This document contains the entire Agreement of the parties, and no party shall be bound by any statement or representation not contained herein. No waiver or amendment of the Agreement provisions shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party or the amending parties. The failure of any party to insist in any instance upon strict performance of any provision of this Agreement, or to exercise any option or election under the Agreement, shall not be construed as a waiver or relinquishment of such provision, option or election, and such provision, option or election shall continue in full force and effect. Any waiver by any party of any provision, option or election under the Agreement shall not be deemed to be a waiver of any prior or subsequent right or remedy under this Agreement or at law.

XII. Governing Law

This Agreement shall be governed in all respects by the laws, statutes and regulations of the State of Maine and the United States of America. Any legal proceeding against the State

Edwards Dam Agreement
May 8, 1998

regarding this Agreement shall be brought in a State of Maine administrative or judicial forum or the appropriate FERC administrative or related judicial forum.

Signed:

Herbert Miller
EDWARDS MANUFACTURING CO., INC. DATE:
BY: ITS PRESIDENT
HERBERT A. MILLER

Mark Isaacson 5/8/98
EDWARDS MANUFACTURING CO., INC. DATE:
BY: ITS VICE-PRESIDENT
MARK ISAACSON

William R. Bridge 5/15/98
CITY OF AUGUSTA DATE:
BY: ITS CITY MANAGER
WILLIAM BRIDGEO

John Bridge 15 May 98
CITY OF AUGUSTA DATE:
BY: ITS MAYOR
JOHN BRIDGE

Evan D. Richert
STATE OF MAINE DATE: 5/8/98
STATE PLANNING OFFICE
BY: ITS DIRECTOR
EVAN D. RICHERT

Lewis N. Flagg May 8 1998
STATE OF MAINE DATE
DEPARTMENT OF MARINE RESOURCES
BY: ITS COMMISSIONER (ACTING)
LEWIS FLAGG

Lee Perry 5-11-98
STATE OF MAINE DATE
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
BY: ITS COMMISSIONER,
LEE PERRY

State of Maine
County of

Dated May 11, 1998

Then personally appeared the above named Herbert A. Miller, President, Edwards Manufacturing Co., Inc., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Edwards Manufacturing Co., Inc.

Before me,

Rosemarie D. Smith
Notary Public
ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

State of Maine
County of Kennebec, ss

Dated May 8 1998

Then personally appeared the above named Mark Isaacson, Vice-President, Edwards Manufacturing Co., Inc., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Edwards Manufacturing Co., Inc.

Before me,

Linda S. Alden
Notary Public
LINDA S. ALDEN
Notary Public, Maine
My Commission Expires January 18, 2002

State of Maine
County of Kennebec, ss

Dated 5-15-98

Then personally appeared the above named William Bridgeo, City Manager, City of Augusta, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Augusta.

Before me,

Rosemarie D. Smith
Notary Public
ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

State of Maine
County of Kennebec, ss

Dated 5-15-98

Then personally appeared the above named John Bridge, Mayor, City of Augusta, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Augusta.

Before me,

Rosemarie D. Smith
Notary Public

ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

State of Maine
County of Kennebec, ss

Dated May 8 1998

Then personally appeared the above named Evan D. Richert, State of Maine, State Planning Office, its Director, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the State of Maine State Planning Office.

Before me,

Linda S. Alden
Notary Public
LINDA S. ALDEN
Notary Public, Maine
My Commission Expires January 18, 2002

State of Maine
County of Kennebec, ss

Dated May 8 1998

Then personally appeared the above named Lewis Flagg, State of Maine Department of Marine Resources, its Acting Commissioner, and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of the State of Maine Department of Marine Resources.

Before me,

Linda S. Alden
Notary Public
LINDA S. ALDEN
Notary Public, Maine
My Commission Expires January 18, 2002

State of Maine
County of Kennebec, ss

Dated May 11 1998

Then personally appeared the above named Lee Perry, State of Maine Department of Inland Fisheries and Wildlife, its Commissioner, and acknowledged the foregoing instrument to be his free act and deed in his capacity and the free act and deed of the State of Maine Department of Inland Fisheries and Wildlife.

Before me,

Rosemarie D. Smith
Notary Public

ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

EXHIBIT B

(1) A certain lot or parcel of land, together with the buildings thereon, situated in said Augusta, on the westerly side of the Kennebec River, more particularly bounded and described as follows:

Beginning at a point on the easterly line of Water Street where the center or thread of Bond Brook intersects the same; thence northerly along said easterly line of Water Street and the easterly line of Northern Avenue to a concrete monument at the southwest corner of land conveyed by Edwards to Augusta Water District by deed dated May 2, 1935, recorded in Kennebec County Registry of Deeds, Book 710, Page 119; thence extending easterly, northerly and westerly by the southerly, easterly and northerly boundaries of land of Augusta Water District to a concrete monument set in the easterly line of Northern Avenue; thence northerly 66 feet along the easterly line of Northern Avenue to the easterly line of Washington Street; thence northerly along the easterly line of Washington Street to the southwest corner of land conveyed by Edwards to Aime Casavant, et al, by deed dated May 24, 1916, recorded in said Registry, Book 558, Page 211; thence easterly along the southerly line of land of said Casavant, et al, 152 feet, more or less, to the southeast corner thereof; thence northeasterly along land of said Casavant, et al, to the southeasterly corner of land now or formerly of Hilaire Poulin, being lot #7 on plan entitled "Map of Water Power and Real Estate at Augusta Belonging to the A.&W. Sprague Manufacturing Company Surveyed and Plotted by Cushing & DeWitt October 1866", a copy of which plan is filed in the Kennebec Registry of Deeds; thence northerly along the easterly line of said lot #7 to York Street and across York Street to the northerly line of said York Street at the southerly line of land conveyed by Edwards to Joseph Couture by deed dated November 10, 1919, recorded in said Registry, Book 580, Page 156; thence easterly along the southerly line of land of said Couture to the southeast corner thereof; thence northerly along the easterly line of said Couture's land and land conveyed by Edwards to Herode Labbe by deed dated November 10, 1919, recorded in said Registry, Book 580, Page 217, to the southerly line of Waldo Street; thence westerly along the southerly line of Waldo Street to the easterly line of lot #22 as shown on said Plan extended southerly across said Waldo Street; thence across Waldo Street and along said easterly line of lot #22 to the northeast corner thereof at the southerly line of land conveyed by Edwards to Henri L. Dostie by deed dated August 26, 1924, recorded in said Registry, Book 621, Page 187; thence easterly along the southerly line of land now or formerly of said Dostie to an iron pin on the west line of Canal Street; thence northerly along the west line of Canal Street 102 feet, more or less, to an iron pin in the northerly line of said Dostie's land; thence westerly along the northerly line of land now or formerly of said Dostie about 140 feet to an iron pin at the northwest corner thereof and at the northeast corner of lot #19 as shown on said Plan; thence northerly across Basin Street and the easterly line of lot #25 to the northeast corner thereof, as shown on said Plan, at the southeast corner of land conveyed by Edwards to Alfred J. Toulouse, et al, by deed dated May 7, 1928, recorded in said Registry, Book 651, Page 486; thence northerly along the easterly line of land now or formerly of said Toulouse, et al., 50 feet to the northeast corner thereof; thence northerly 171 feet parallel with and 100 feet distant easterly from the easterly line of Washington Street to the southeast corner of land conveyed by Edwards to Joseph A. Lessard by deed dated December

28, 1929, recorded in said Registry, Book 668, Page 271; thence northerly along the easterly line of land now or formerly of said Lesser 50 feet to the northeast corner thereof; thence northerly parallel with and 100 feet distant easterly from the easterly line of Washington Street 173 feet, more or less, to the southeast corner of lot #101 as shown on said Plan and at the southwest corner of lot #136 shown on said Plan; thence easterly along the southerly line of said lot #136 and in continuation thereof 125 feet to a point; thence northerly at right angles to the last described course 150 feet, more or less, to a point in the southerly line of Cumberland Street, which point is 75 feet distant easterly from the northeast corner of said lot #136; thence easterly along the southerly line of Cumberland Street projected easterly to a point where said line intersects a contour line 32 feet above mean sea level (U.S.G.S. Datum); thence northerly along said contour line to the northerly line of Parcel #1 conveyed by Zacharian Chaffee, Trustee, to Isaac T. Burr by deed dated September 11, 1882, recorded in said Registry, Book 339, Page 415; thence easterly along the northerly line of land of Edwards to the Kennebec River; thence southerly along the Kennebec River to Bond Brook, so called; thence northerly along said Brook to the easterly line of Water Street at the point of beginning.

The above described premises are a portion of the premises conveyed by Zachariah Chaffee, Trustee, to Isaac T. Burr by deed dated September 11, 1882, recorded in Kennebec County Registry of Deeds, Book 339, Page 415; a portion of the premises conveyed to Edwards by Isaac T. Burr by his deed dated September 26, 1882, recorded in said Registry, Book 333, Page 522, and a portion of the premises conveyed by John P. Ryan to Edwards by deed dated September 28, 1888, recorded in said Registry, Book 368, Page 260.

Excepting from the above described premises the right and easement of Central Maine Power Company, its successors and assigns, to construct, operate, repair, replace and maintain its pole line and substation lot along the location described in a deed from Edwards to Central Maine Power Company, dated September 4, 1945, recorded in said Registry, Book 819, Page 597. Reference is hereby made to said instrument and the recording thereof for a more particular description of the rights and easements granted.

Also excepting from the above described premises the right and easement of the Augusta Water District, its successors and assigns, to construct, erect, repair, replace and maintain its water pipes or lines as the same are located across the above described premises.

Meaning and intending to convey all of the property now owned by Edwards Manufacturing Company northerly of the intersection of the low water mark of Bond Brook and Water Street between the bank of the Kennebec River and Northern Avenue and Washington Street all as shown on Exhibit A attached hereto and made a part hereof; being the same parcel described as Parcel (1) of "Exhibit A" attached to the deed from the Economic Development Corporation of Augusta to the Augusta Development Corporation dated Feb. 9, 1973 and recorded in Book 1614, Page 269 of

the Kennebec County Registry of Deeds at Augusta, to which deed reference is hereby made for a more particular description.

DAMON/98046R

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT B

***Agreement Between Members of the Kennebec Hydro Developers
Group, the Kennebec Coalition, the National Marine Fisheries
Service, the State of Maine, and the US Fish and Wildlife Service***

**AGREEMENT BETWEEN
MEMBERS OF THE KENNEBEC HYDRO DEVELOPERS GROUP,
THE KENNEBEC COALITION,
THE NATIONAL MARINE FISHERIES SERVICE,
THE STATE OF MAINE
AND
THE U.S. FISH AND WILDLIFE SERVICE**

I. Parties.

This Agreement (hereinafter "Agreement") is by and between:

A. each member of the association known as the Kennebec Hydro Developers Group ("KHDBG"), to wit:

1. Central Maine Power Company, owner of the following hydroelectric facilities that are the subject of this Agreement: Fort Halifax (Federal Energy Regulatory Commission ("FERC") Project No. 2552); Shawmut (FERC Project No. 2322); and Weston (FERC Project No. 2325);

2. Kennebec Hydro Resources, Inc., on behalf of Merimil Limited Partnership, owner of the following hydropower facility that is the subject of this Agreement: Lockwood (FERC Project No. 2574) ;

3. UAH-Hydro Kennebec Limited Partnership, owner/agent of the following hydropower facility that is the subject of this Agreement: Hydro-Kennebec (FERC Project No.2611);

4. Ridgewood Maine Hydro Partners, L.P., owner of the following hydropower facility that is the subject of this Agreement: Burnham (FERC Project No. 11472);

5. Benton Falls Associates, owner of the following hydropower facility that is the subject of this Agreement: Benton Falls (FERC Project No. 5073);

B. each member of the association known as the Kennebec Coalition, to wit: American Rivers, Inc; the Atlantic Salmon Federation; Kennebec Valley Chapter of Trout Unlimited; the Natural Resources Council of Maine; and Trout Unlimited;

C. the National Marine Fisheries Service, U.S. Department of Commerce;

D. the following agencies of the State of Maine:

Maine Department of Inland Fisheries and Wildlife; Maine Department of Marine Resources; and the Maine State Planning Office; and

E. the United States Fish and Wildlife Service, U.S. Department of the Interior.

In this Agreement, reference to "the resource agencies" hereinafter is understood to mean the following parties: the Maine Department of Inland Fisheries and Wildlife, Maine Department of Marine Resources, Maine Atlantic Salmon Authority, National Marine Fisheries Service and United States Fish and Wildlife Service.

II. Purposes.

This Agreement is intended to accomplish the following purposes: to achieve a comprehensive settlement governing fisheries restoration, for numerous anadromous and catadromous species, that will rapidly assist in the restoration of these species in the Kennebec River after the termination on December 31, 1998 of the existing agreement between the State of Maine and the Kennebec Hydro Developers Group; to avoid extensive litigation over fish passage methodologies, timetables and funding; to assist in achieving the removal of the Edwards dam; and to fund the next phase of a restoration program for these species on the Kennebec River.

III. Elements that apply to all parts of this agreement:

A. Effective Date.

This Agreement will become effective upon:

1. signature by all parties of it; and
2. signature by all parties to this Agreement, and signature of Edwards Manufacturing Company, the City of Augusta, Maine, and the National Fish and Wildlife Foundation of appropriate settlement documents to be submitted to FERC pursuant to 18 C.F.R. §385.602.

B. Required Filings with Regulatory Agencies

The parties agree that, immediately after this Agreement and the Lower Kennebec River Comprehensive Hydropower Settlement Accord become effective, they will make joint, formal filings to FERC requesting that FERC:

1. incorporate all applicable terms of this Agreement into existing or proposed FERC licenses for hydropower facilities owned by KHDG

members;

2. only issue amended or new licenses for the KHDG facilities incorporating all applicable terms of this Agreement if, and at the same time as, FERC approves the transfer of the FERC license for the Edwards Dam from Edwards Manufacturing Company and the City of Augusta to the State of Maine;
3. defer action on the motion by Central Maine Power Company for rehearing of the Fort Halifax license, issued by FERC in November 1997, pending FERC's decision on both the transfer of the FERC license for the Edwards Dam to the State of Maine and FERC's incorporation of the applicable terms of this Agreement into existing or proposed FERC licenses for hydropower facilities owned by KHDG members;
4. allow Central Maine Power Company to withdraw its motion for rehearing of the Fort Halifax license in the event that FERC incorporates all of the applicable terms of this Agreement into existing or proposed FERC licenses for hydropower facilities owned by KHDG members; and
5. stay action on fish passage installation obligations at the Fort Halifax, Benton Falls, Lockwood and UAH-Hydro Kennebec facilities pending its decision on transfer of the FERC license for the Edwards Dam and incorporation of applicable terms of this Agreement into existing or proposed KHDG licenses.

The parties also agree that, immediately after the two aforementioned agreements become effective, they will make joint, formal filings to the Maine DEP requesting that the Maine DEP immediately incorporate all applicable terms of the final settlement Agreement into existing or proposed water quality certifications for the hydropower facilities owned by KHDG members.

~~KHDG members shall withdraw all motions and appeals upon the issuance of final non-appealable orders from FERC and the Maine DEP incorporating the terms of this Agreement into KHDG licenses.~~

C. Failure to Achieve Timely Approvals.

1. In the event that FERC or Maine DEP choose to alter or prohibit execution of any term and condition contained in this Agreement considered essential to any party (including all dates for performance) or have not issued final, non-appealable, FERC licenses and DEP water quality certifications (amended or new) for all KHDG projects by June 1, 1999; or

2. in the event that FERC does not approve the transfer of the FERC license for the Edwards Dam from Edwards Manufacturing Company and the City of Augusta to the State of Maine, or has not ruled on said transfer request by June 1, 1999, or FERC approves amendments or new licenses for the KHDG facilities prior to approving the transfer of the Edwards license,

then unless all parties agree to amend this Agreement to incorporate any changes made by FERC or the Maine DEP or agree to extend the final approval and transfer dates beyond June 1, 1999 or agree to waive the need for FERC approval of the transfer of the FERC license for the Edwards Dam, then this Agreement becomes null and void and all payments made by KHDG pursuant to paragraph III of this Agreement will be returned to KHDG, except for \$140,000.00, to be used by the State to pay for trapping and trucking of alewife during 1999.

Notwithstanding the foregoing, in the event that either FERC or Maine DEP has not issued a final, non-appealable license or water quality certification for the Burnham Project by June 1, 1999, this Agreement shall not become null and void so long as: FERC and Maine DEP have issued final, non-appealable licenses and water quality certifications to all the other KHDG projects incorporating the applicable terms of this Agreement; Maine DEP has issued a letter to the owner of the Burnham Project guaranteeing that any water quality certificate issued for the Project will incorporate the applicable terms of this Agreement and will not impose conditions regarding fish passage that are inconsistent with the applicable terms of this Agreement; and the Kennebec Coalition and the resource agencies have issued letters to Maine DEP and FERC supporting the incorporation of the applicable terms of this Agreement into the license and water quality certificate for the Burnham Project.

If this Agreement shall become null and void due to one of the aforementioned events, the parties agree that KHDG may submit, and the other parties to this Agreement will support, a motion to FERC seeking to extend the compliance dates for installation of permanent upstream fish passage in the Lockwood, Fort Halifax, UAH-Hydro Kennebec and Benton Falls licenses for the same period of time that lapsed between the date of filing of the joint motion to amend licenses and the date whereby this Agreement became null and void. In the event that KHDG seeks to extend the compliance dates for installation of permanent upstream fish passage for a period of time beyond the lapsed time, the other parties to this Agreement reserve the right to oppose extension of these compliance dates for any period beyond the aforementioned lapsed time.

D. Term of Agreement

If by December 2014 the biological triggers for permanent upstream passage

facilities discussed herein have not been met at one or more of the dams covered by this agreement, the parties will meet to assess the progress in restoring species covered by this agreement (alewife, American shad, blueback herring, Atlantic salmon, and American eel), and will attempt to reach consensus on future fish passage measures. Any disputes will be handled through the FERC process.

E. Consultation process

The functional and final design of any interim or permanent upstream or downstream fish passage or collection facility discussed herein must be approved in writing by the resource agencies prior to filing that design with the Federal Energy Regulatory Commission and Maine Department of Environmental Protection. Any disputes will be handled through the FERC process.

F. Effectiveness studies

KHDG dam owners will conduct effectiveness studies of all newly constructed interim and permanent upstream and downstream fish passage facilities at project sites. Study plans for these effectiveness studies will be filed with FERC and Maine DEP no later than the date on which passage at a particular project becomes operational, and will be subject to a consultation process with, and written approval from the resource agencies. In the event that effectiveness studies show that passage at individual projects is less than the targeted passage efficiency goals, KHDG dam owners will make a good faith effort to achieve these goals through modification of facilities and/or operations, following consultation with the resource agencies. In the event that studies show that, subsequent to said modifications, passage at individual projects continues to be less than the targeted efficiency goals, resource agencies may seek continued funding for trap and truck or other programs, or other mitigation from KHDG dam owners. Any disputes will be handled through the FERC process.

G. For American eel at all projects:

1. KHDG dam owners and DMR, in consultation with NMFS and USFWS, and subject to approval by FERC, shall undertake a three-year research project designed to determine: (a) the appropriate placement of upstream passage for American eel at each of the seven KHDG facilities based upon field observations of where eel are passing or attempting to pass upstream at each facility; and (b) appropriate permanent downstream fish passage measures, based upon radio telemetry and other tracking mechanisms, and field observation. Consultation between KHDG and the resource agencies to design and coordinate the research project shall begin no later than June 1, 1998. Performance of the studies shall begin during the 1998 migration

season if possible, but in no case later than the 1999 migration season. The studies shall be in effect for three complete migration seasons, and shall be completed, including data compilation and analysis, by December 31, 2001.

2. The studies shall be supervised by DMR, based upon objectives and methods agreed to by KHDG and the resource agencies, and subject to approval by FERC. The studies shall cost no more than \$427,000, and shall be paid for by DMR.
3. Based on the results of these studies and beginning no later than January 1, 2002 and ending no later than June 30, 2002, KHDG dam owners and the resource agencies shall engage in consultation to attempt to reach agreement on the appropriate location of upstream eel passage at each facility, and the appropriate permanent downstream passage measures to apply to each facility.
 - a. Upstream passage. KHDG dam owners agree that, if agreement is reached on the location of upstream eel passage at each facility, KHDG dam owners will install said passage at each facility during 2002. The cost to KHDG dam owners of materials for each upstream eel passage facility shall not exceed \$10,000 and the total cost of materials to KHDG dam owners per dam shall not exceed \$20,000, in the event that construction of more than one upstream passage facility is required per dam. The parties shall jointly request FERC to amend licenses and insert the agreed-upon terms and conditions for upstream eel passage.
 - b. Downstream passage. If agreement is reached at consultation on the appropriate downstream passage measures, the parties shall jointly request FERC to amend licenses and insert the agreed-upon terms and conditions for downstream eel passage.

If consensus is not reached on either upstream passage location or downstream passage measures by June 30, 2002, any party shall be free to petition FERC to amend any license to insert appropriate terms and conditions.

4. In the event that, during the course of the eel tracking studies, it is revealed that certain interim downstream measures are needed to avoid significant downstream turbine injury and/or mortality (immediate or delayed) at a particular site, KHDG dam owners will consult with the resource agencies and agree to undertake cost-effective measures designed to minimize

mortality at that site.

5. In the event that DMR does not receive the necessary appropriation or legislative spending authorization required to fund the studies discussed in paragraph III.G.1. & 2. above, the provisions in this Agreement governing American eel, found in paragraphs III.G.1 through III.G. 4, are null and void, but all other provisions of this Agreement remain in full force and effect. In the event that paragraphs III.G.1 through III.G.4 become null and void, any party may petition FERC to amend any license regarding upstream and downstream passage of eel.

H. Reporting.

Continuous progress assessments will be undertaken through annual reports which will be filed with FERC by KHDG dam owners, consistent with current practice by KHDG dam owners.

I. Support on Edwards removal.

KHDG dam owners agree to publicly and actively support removal of Edwards dam, as recommended in the Kennebec River Basin Maine FEIS, including stating such support in filings to FERC and other governmental agencies with responsibility for granting regulatory approval of the removal. Other activities in support of removal of the Edwards dam will be undertaken if mutually agreed upon by parties.

J. Successors, Assignees or Purchasers; notification

KHDG dam owners agree that the terms and conditions contained in this Agreement shall bind and inure to the benefit of all entities that might become successors, assignees or purchasers of any licensee. Each KHDG dam owner agrees to provide notice of the existence of this Agreement, and a copy thereof, to any prospective buyer of its hydropower facility.

K. Termination of all prior agreements

The parties agree that this Agreement supercedes and terminates all prior agreements, whether written or oral, including specifically the *Agreement Between the State of Maine and Kennebec Hydro Developers Group*, dated January 22, 1987, relating to the subject matter herein. In the event that this Agreement becomes null and void pursuant to Paragraph III.C. of this Agreement, then the aforementioned *Agreement Between the State of Maine and Kennebec Hydro Developers Group* shall remain in effect pursuant to its terms and conditions, with

the exception that the obligation for installation of permanent upstream fish passage facilities at Lockwood, Fort Halifax, UAH-Hydro Kennebec and Benton Falls shall be extended as provided in Paragraph III.C. of this Agreement.

IV. Terms and conditions for specific projects:

A. BIOLOGICAL ASSESSMENT PROCESS FOR LOCKWOOD, UAH-HYDRO KENNEBEC, SHAWMUT AND WESTON

The schedule described herein for installing permanent upstream fishways at Lockwood, UAH-Hydro Kennebec, Shawmut and Weston projects is based primarily on the anticipated growth in the population of American shad in the Kennebec River. However, the State of Maine's goal is to restore anadromous species (with the exception of lamprey) to their historic range. This means restoring other anadromous species above Lockwood, UAH-Hydro Kennebec, Shawmut and Weston including Atlantic salmon, alewife, and blueback herring. The resource agencies will continue to assess the status and growth of the population of shad and other anadromous fish populations in the Kennebec River, as is being done on the Saco River and elsewhere in Maine. Should the growth of salmon or river herring runs make it necessary to adopt an alternative approach for triggering fishway installation (i.e., one not based on the project specific, biologically-based trigger number for shad), the resource agencies will meet with the licensee(s) to attempt to reach consensus on the need, timing and design of permanent upstream fish passage facilities at the Lockwood, Hydro-Kennebec, Shawmut, and Weston projects. Disputes will be handled through the FERC process.

B. LOCKWOOD AND UAH-HYDRO KENNEBEC

1. Interim upstream fish lift.

At the Lockwood facility, licensee shall install an interim trap, lift, and transfer facility for American shad, river herring, and Atlantic salmon at the powerhouse, to be operational by May 1, 2006. Licensee recognizes and acknowledges that the success of the resource agencies' and Kennebec Coalition's efforts to restore shad, and to begin the restoration of Atlantic salmon to the Kennebec River Basin and achieve established fisheries management goals is dependent upon: (a) the State's ability to collect sufficient quantities of healthy shad brood stock from the Sebasticook River at the Fort Halifax dam, and from the Kennebec River at the Lockwood dam to use in DMR's Waldoboro hatchery and for stocking in upstream waters; and (b) the resource agencies' and other interested

organizations' ability to collect available brood stock of Atlantic salmon from the Sebesticook River at the Fort Halifax dam, and from the Kennebec River at the Lockwood dam, to initiate a Kennebec River salmon hatchery operation. Licensee further recognizes and acknowledges that, assuming the prior removal of the Edwards dam, installation of an interim fish lift at the Lockwood dam in 2006 is needed, and Licensee will not seek to eliminate or defer this installation requirement before FERC or other regulatory bodies.

A part of the interim passage design and construction would include mechanisms (e.g., video monitoring) to allow operators and resource agencies to assess the effectiveness of the interim facility in trapping all species that seek passage. The interim lift shall be designed to empty into a trap and truck collection facility with adequate capacity for "holding" large quantities of fish, and not designed to discharge into the canal area.

In the event that the Edwards Dam has not been removed by May 1, 2006, any party to this Agreement retains the right to petition FERC to establish a new date for installation of an interim trap, lift, and transfer facility at Lockwood for American shad, Atlantic salmon and river herring. It is understood that this ability to petition for a new date in the event that Edwards has not been removed applies only to the installation of interim fish passage at Lockwood, and permanent fish passage at Fort Halifax, as specified at paragraph IV.E.1.d.2. herein.

2. Permanent upstream passage.

Permanent upstream passage at Lockwood and UAH-Hydro Kennebec shall be operational 2 years following the earlier to occur of either of the following biological triggers. In no event shall permanent upstream fish passage be required to be operational before May 1, 2010.

- a. 8000 American shad in any single season captured at the interim trap, lift, and sort facility at Lockwood; or
- b. a biological assessment trigger initiated for Atlantic salmon, alewife or blueback herring, as described in IV-A above.

3. Downstream passage at Lockwood

- a. Interim passage beginning upon the effective date of this Agreement:

(1) Generally. Licensee will continue and where needed improve

existing interim operational measures (e.g. controlled spills, temporary turbine shutdowns, sluiceways), to diminish entrainment, allow downstream passage of out-migrating alewife, Atlantic salmon, blueback herring and American shad, and eliminate significant injury or mortality (immediate or delayed) to out-migrating species. Licensee agrees to consult with state and federal agencies to develop an approved plan for interim downstream passage facilities and/or operational measures to minimize impacts on downstream migrating fish, with evaluation based on qualitative observations.

(2) Passage through turbines. Licensee and the resource agencies agree that fish passage by means of sluiceways and/or controlled spills are the first and preferred approach to interim downstream fish passage at Lockwood. In the event that fish passage using these methods is not successful¹, and to the extent that licensee desires to achieve or continue interim downstream passage of out-migrating alewife, and/or juvenile Atlantic salmon or shad by means of passage through turbine(s), licensee must demonstrate, through site-specific qualitative studies designed and conducted in consultation with the resource agencies, that passage through turbine(s) will not result in significant injury and/or mortality (immediate or delayed). If, after three years of such studies, the resource agencies, based on good cause shown, do not believe that the qualitative studies conclusively demonstrate that turbine passage is not resulting in significant injury and/or mortality, and licensee desires to achieve interim downstream passage of these species through turbine(s), licensee must demonstrate through site-specific quantitative studies that turbine passage will not result in significant injury and/or mortality (immediate or delayed). The quantitative studies shall be designed and conducted in consultation with the resource agencies.

In the event that adult shad and/or adult Atlantic salmon begin to inhabit the impoundment above the Lockwood project, and to the extent that licensee desires to achieve interim downstream passage of out-migrating adult Atlantic salmon and/or adult shad by means of passage through turbine(s), licensee must first demonstrate, through site-specific quantitative studies designed and conducted in consultation with the resource agencies, that passage through

¹ Construction of new diversionary structures to achieve success is not required by this Agreement.

turbine (s) will not result in significant injury and/or mortality (immediate or delayed). In no event shall licensee be required to make this quantitative demonstration for adult shad and adult Atlantic salmon before May 1, 2006.

Licensee shall conduct studies (designed in consultation with the resource agencies) prior to the date by which permanent downstream passage facilities are to be operational to determine the effectiveness of various downstream passage techniques in preparation for the design and installation of permanent downstream facilities.

- b. Permanent passage: Permanent downstream facilities will be operational on the date that permanent upstream passage is operational. Licensee will be permitted to install permanent downstream passage at an earlier date if it so chooses.

4. Downstream passage at UAH-Hydro Kennebec

- a. Interim passage beginning upon the effective date of this Agreement:

(1) Generally. Licensee will continue and where needed improve existing interim operational measures (e.g. controlled spills, temporary turbine shutdowns), to diminish entrainment, allow downstream passage of out-migrating alewife, Atlantic salmon, blueback herring and American shad, and eliminate significant injury or mortality (immediate or delayed) to out-migrating species. Licensee agrees to consult with state and federal agencies to develop an approved plan for interim downstream passage facilities and/or operational measures to minimize impacts on downstream migrating fish, with evaluation based on qualitative observations.

(2) Passage through turbines. To the extent that licensee desires to achieve or continue interim downstream passage of out-migrating alewife, and/or juvenile Atlantic salmon or shad by means of passage through turbine(s), licensee must demonstrate, through site-specific qualitative studies designed and conducted in consultation with the resource agencies, that passage through turbine(s) will not result in significant injury and/or mortality (immediate or delayed). In the event that adult shad and/or adult Atlantic salmon begin to inhabit the impoundment above the UAH-

Hydro Kennebec project, and to the extent that licensee desires to achieve interim downstream passage of out-migrating adult Atlantic salmon and/or adult shad by means of passage through turbine(s), licensee must first demonstrate, through site-specific quantitative studies designed and conducted in consultation with the resource agencies, that passage through turbine (s) will not result in significant injury and/or mortality (immediate or delayed). In no event shall licensee be required to make this quantitative demonstration before May 1, 2006.

Licensee shall conduct studies (designed in consultation with the resource agencies) prior to the date by which permanent downstream passage facilities are to be operational to determine the effectiveness of various downstream passage techniques in preparation for the design and installation of permanent downstream facilities.

- b. Permanent passage: Permanent downstream facilities will be operational on the date that permanent upstream passage is operational. Licensee will be permitted to install permanent downstream passage at an earlier date if it so chooses.

5. Applicability of this Agreement to FERC Relicensing of Lockwood.

The resource agencies and the Kennebec Coalition stipulate that the terms and conditions contained herein that are relevant to the relicensing at Lockwood (e.g., type of fish passage, dates for installation) will be the same terms and conditions that will be sought during relicensing, including the water quality certification process. Certain issues not covered in this Agreement (e.g. boat ramps, access, minimum flows) will still need to be resolved during the relicensing process.

C. SHAWMUT

- 1. Permanent upstream passage at Shawmut shall be operational 2 years following the earlier to occur of either of the following biological triggers. In no event shall permanent upstream fish passage be required to be operational before May 1, 2012.
 - a. ~~15,000~~ American shad passed in any single season in the permanent passage facility at UAH-Hydro Kennebec; or
 - b. a biological assessment trigger initiated for Atlantic salmon,

alewife or blueback herring as described in IV -A above.

2. Downstream passage:

a. Interim passage beginning upon the effective date of this Agreement:

(1) Generally. Licensee will continue and where needed improve existing interim operational measures (e.g. controlled spills, temporary turbine shutdowns, sluiceways), to diminish entrainment, allow downstream passage of out-migrating alewife, Atlantic salmon, blueback herring and American shad, and eliminate significant injury or mortality (immediate or delayed) to out-migrating species. Licensee agrees to consult with state and federal agencies to develop an approved plan for interim downstream passage facilities and/or operational measures to minimize impacts on downstream migrating fish, with evaluation based on qualitative observations.

(2) Passage through turbines. Licensee and the resource agencies agree that fish passage by means of sluiceways and/or controlled spills are the first and preferred approach to interim downstream fish passage at Shawmut. In the event that fish passage using these methods is not successful², and to the extent that licensee desires to achieve or continue interim downstream passage of out-migrating alewife, and/or juvenile Atlantic salmon or shad by means of passage through turbine(s), licensee must demonstrate, through site-specific qualitative studies designed and conducted in consultation with the resource agencies, that passage through turbine(s) will not result in significant injury and/or mortality (immediate or delayed). If, after three years of such studies, the resource agencies, based on good cause shown, do not believe that the qualitative studies conclusively demonstrate that turbine passage is not resulting in significant injury and/or mortality, and licensee desires to achieve interim downstream passage of these species through turbine(s), licensee must demonstrate through site-specific quantitative studies that turbine passage will not result in significant injury and/or mortality (immediate or delayed). The quantitative studies shall be designed and conducted in consultation with the resource agencies.

² Construction of new diversionary structures to achieve success is not required by this Agreement.

In the event that adult shad and/or adult Atlantic salmon begin to inhabit the impoundment above the Shawmut project, and to the extent that licensee desires to achieve interim downstream passage of out-migrating adult Atlantic salmon and/or adult shad by means of passage through turbine(s), licensee must first demonstrate, through site-specific quantitative studies designed and conducted in consultation with the resource agencies, that passage through turbine (s) will not result in significant injury and/or mortality (immediate or delayed). In no event shall licensee be required to make this quantitative demonstration for adult shad and adult Atlantic salmon before May 1, 2006.

Licensee shall conduct studies (designed in consultation with the resource agencies) prior to the date by which permanent downstream passage facilities are to be operational to determine the effectiveness of various downstream passage techniques in preparation for the design and installation of permanent downstream facilities.

- b. Permanent passage: Permanent downstream facilities will be operational on the date that permanent upstream passage is operational. Licensees will be permitted to install permanent downstream passage at an earlier date if it so chooses.

D. WESTON

- 1. Permanent upstream passage at Weston shall be required to be operational 2 years following the earlier to occur of either of the following biological triggers. In no event shall permanent upstream fish passage be required to be operational before May 1, 2014.
 - a. 35,000 American shad captured in any single season in the permanent upstream facility at Shawmut; or
 - b. a biological assessment trigger initiated for Atlantic salmon, alewife or blueback herring as described in IV-A above.
- 2. Downstream passage:
 - a. Interim passage beginning upon the effective date of this Agreement:

(1) Generally. Licensee will continue and where needed improve existing interim operational measures (e.g. controlled spills, temporary turbine shutdowns, sluiceways), to diminish entrainment, allow downstream passage of out-migrating alewife, Atlantic salmon, blueback herring and American shad, and eliminate significant injury or mortality (immediate or delayed) to out-migrating species. Licensee agrees to consult with state and federal agencies to develop an approved plan for interim downstream passage facilities and/or operational measures to minimize impacts on downstream migrating fish, with evaluation based on qualitative observations.

(2) Passage through turbines. Licensee and the resource agencies agree that fish passage by means of sluiceways and/or controlled spills are the first and preferred approach to interim downstream fish passage at Weston. In the event that fish passage using these methods is not successful³, and to the extent that licensee desires to achieve or continue interim downstream passage of out-migrating alewife, and/or juvenile Atlantic salmon or shad by means of passage through turbine(s), licensee must demonstrate, through site-specific qualitative studies designed and conducted in consultation with the resource agencies, that passage through turbine(s) will not result in significant injury and/or mortality (immediate or delayed). If, after three years of such studies, the resource agencies, based on good cause shown, do not believe that the qualitative studies conclusively demonstrate that turbine passage is not resulting in significant injury and/or mortality, and licensee desires to achieve interim downstream passage of these species through turbine(s), licensee must demonstrate through site-specific quantitative studies that turbine passage will not result in significant injury and/or mortality (immediate or delayed). The quantitative studies shall be designed and conducted in consultation with the resource agencies.

In the event that adult shad and/or adult Atlantic salmon begin to inhabit the impoundment above the Weston project, and to the extent that licensee desires to achieve interim downstream passage of out-migrating adult Atlantic salmon and/or adult shad by means of passage through turbine(s), licensee must first demonstrate, through site-specific quantitative studies designed and conducted

³ Construction of new diversionary structures to achieve success is not required by this Agreement.

in consultation with the resource agencies, that passage through turbine (s) will not result in significant injury and/or mortality (immediate or delayed). In no event shall licensee be required to make this quantitative demonstration for adult shad and adult Atlantic salmon before May 1, 2006.

Licensee shall conduct studies (designed in consultation with the resource agencies) prior to the date by which permanent downstream passage facilities are to be operational to determine the effectiveness of various downstream passage techniques in preparation for the design and installation of permanent downstream facilities.

- b. Permanent passage: Permanent downstream facilities will be operational on the date that permanent upstream passage is operational. Licensee will be permitted to install permanent downstream passage at an earlier date if it so chooses.

E. SEBASTICOOK RIVER DAMS

1. FORT HALIFAX

- a. Purpose in establishing new dates for installation of permanent fish passage.

Licensee recognizes and acknowledges that the success of the resource agencies' and Kennebec Coalition's efforts to restore shad to the Kennebec River Basin and achieve established fisheries management goals is dependent upon the State's ability to collect sufficient quantities of healthy shad brood stock from the Sebasticook River and the Kennebec River below the Lockwood dam, to use in DMR's Waldoboro hatchery and for stocking in upstream waters. Licensee further recognizes and acknowledges that, assuming the continued operation of the Fort Halifax dam and the prior removal of the Edwards dam, permanent fish lift capable of passing, unharmed, sufficient quantities of alewife, shad, and Atlantic salmon to meet stated fisheries management goals shall be operational at Fort Halifax in 2003. Licensee further recognizes and acknowledges that resources agencies and the Kennebec Coalition are

agreeing to allow licensee to delay installation of such a lift until 2003⁴ in order to allow licensee sufficient time to decide if continued operation of the Fort Halifax dam is economically viable, and that the schedule of time for such decisionmaking allowed under this Agreement is sufficient for this decisionmaking.

b. Temporary Fish Pump for Alewife.

By no later than May 1st of the first migration season following the removal of the Edwards Dam, anticipated to be removed in 1999, licensee shall install and have fully operational a temporary fish pump and trap and transport facility, effective in safely capturing upstream migrating alewife in quantities sufficient to meet DMR's restoration goals for alewife. If at any time the temporary fish pump at Fort Halifax is not successfully passing alewife in quantities sufficient to meet these restoration goals, licensee agrees to undertake emergency interim measures (e.g., seining) to capture alewife and otherwise take immediate corrective actions.

In the event that the Edwards Dam is not removed in 1999 and river herring continue to be trapped at Edwards, the temporary fish pump at Fort Halifax shall be installed and operational prior to the first spring migration season for river herring following the removal of the Edwards Dam.

c. Temporary Capture of Shad

By no later than May 1st of the first migration season following the removal of the Edwards Dam, anticipated to be removed in 1999, licensee shall install, have fully operational and maintain and operate below the Fort Halifax dam all measures except for construction of permanent upstream passage facilities, necessary to capture shad unharmed⁵ in sufficient quantities to satisfy the needs of DMR for hatchery spawning of shad at its Waldoboro shad hatchery, so long as populations of shad have been sighted in the waters below the Fort Halifax dam.

d. Permanent Upstream Fish Passage

(1). Installation of Permanent Passage. Unless licensee has

⁴ Assuming licensee does not choose to remove or partially remove the dam.

⁵ KHDG and the resource agencies will evaluate whether measures such as installation of floating weir(s), angling, dip netting, seining, and gill netting are capable of capturing shad unharmed.

surrendered its FERC license at Fort Halifax and FERC has ordered the dam to be decommissioned by summer 2003, licensee shall, by May 1, 2003, remove the temporary fish pump and all temporary shad collection mechanisms, and install and have fully operational a lift facility capable of successfully trapping and trucking and passing upstream American shad and river herring in quantities sufficient to meet established fishery management goals, and Atlantic salmon in quantities sufficient to meet the Atlantic Salmon Commission's goals. Licensee will not seek to eliminate or defer beyond 2003 the requirement to provide permanent fish passage (whether by permanent fish lift, removal, or partial removal) before FERC or other regulatory bodies, except as provided in paragraph IV.E.1.d (2) below.

(2). Reopener if Edwards Dam Not Removed. In the event that the Edwards Dam has not been removed by 2001, any party to this Agreement retains the right to petition FERC to establish a new date for installation of permanent upstream fish passage at Fort Halifax for American shad, Atlantic salmon and river herring. It is understood that this ability to petition for a new date in the event that Edwards has not been removed applies only to the installation of permanent fish passage at Fort Halifax and interim fish passage at Lockwood, and as specified herein at paragraph IV.B.1.

2. BENTON FALLS

Permanent upstream passage capable of passing sufficient quantities of alewife, shad and Atlantic salmon to meet stated fisheries management goals shall be constructed one year following the occurrence of all of the following events: (1) passage upstream at Fort Halifax (by temporary or permanent mechanisms, including trapping, sorting and trucking) of alewife; and (2) installation of alewife fish passage, and/or the removal of dams, at all of the following four locations: the Newport Dam; the outlet of Sebasticook Lake; the outlet of Plymouth Lake at the head of Martin Stream in the town of Plymouth; and below the outlet of Pleasant Pond on Stetson Stream in the town of Stetson. In no event shall permanent upstream passage be required to be operational before May 2002.

3. BURNHAM

a. **Upstream Passage.** Permanent upstream passage capable of passing sufficient quantities of alewife, shad and Atlantic salmon to meet stated fisheries management goals shall be constructed one year following the occurrence of all of the following events: (1) passage upstream at Fort Halifax (by temporary or permanent mechanisms, including trapping, sorting and trucking) of alewife; and (2) installation of alewife fish passage, and/or the removal of dams, at all of the following four locations: the Newport Dam; the outlet of Sebasticook Lake; the outlet of Plymouth Lake at the head of Martin Stream in the town of Plymouth; and below the outlet of Pleasant Pond on Stetson Stream in the town of Stetson. In no event shall permanent upstream passage be required to be operational before May 2002.

b. **Downstream Passage.** Permanent downstream fish passage at the Burnham project shall be operational the second year following issuance of a FERC license. Beginning on the effective date of this Agreement in 1998 and continuing until the installation of permanent downstream passage, licensee shall install or otherwise undertake additional interim downstream passage measures needed to eliminate significant downstream injury or mortality (immediate or delayed) of river herring during downstream migration, upon direction by DMR based upon observation of downstream mortality. These interim measures are similar to interim measures undertaken at the dams at Damariscotta Mills and Pumpkin Hill.

V. Funds for Fisheries Restoration of the Kennebec.

KHDG dam owners will pay \$4,750,000 to the State of Maine, c/o the National Fish and Wildlife Foundation ("NFWF"), pursuant to an agreement entered into between NFWF and the State of Maine, at scheduled payment intervals listed below. KHDG dam owners' payments to the State will be used only for anadromous fisheries restoration in the Kennebec, including funding for restoration of alewife, shad, blueback herring, and salmon; the eel studies described herein; and costs incurred by the State in connection with removing the Edwards Dam.

The schedule of payments by KHDG dam owners to the NFWF is: \$2,375,000.00, received by NFWF on or before January 15, 1999; \$935,000.00, received by NFWF on or before January 15, 2000; and \$180,000.00 per year, received by NFWF on or before January 15, for each of the years beginning January 15, 2003 and continuing up to and including January 15, 2010.

KHDG dam owners that are signatories to this Agreement are jointly and severally liable for all payments listed herein.

VI. Enforceability

The parties to this Agreement acknowledge that there may be no adequate remedy at law for any breach of the terms of this Agreement and, therefore, that any party shall be entitled to obtain specific performance of any other party's breach hereof, in addition to and without waiver of any other available remedy should such relief be determined to be appropriate.

SEEN AND AGREED TO THE DAY OF , 1998, by:

Central Maine Power Company

By: 
Its: *President*
Dated: *26 May 98*

**Kennebec Hydro Resources, Inc.
on behalf of:
Merimil Limited Partnership**

By: 
Its: *President*
Dated: *26 May 98*

UAH-Hydro Kennebec Limited Partnership

By: 
Its: *General Manager*
Dated: *MAY 26, 1998*

Ridgewood Maine Hydro Partners, L.P.

By: _____

Its:

Dated:

Benton Falls Associates

By: _____

Its:

Dated:

American Rivers, Inc.

By: _____

Its:

Dated

The Atlantic Salmon Federation

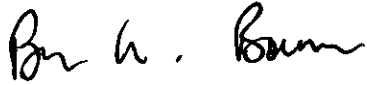
By: 

Its:

Dated

*V.P. Conservation Programs
May 26, 1998*

Kennebec Valley Chapter of Trout Unlimited

By: 

Its:

Dated

*President
May 18, 1998*

Ridgewood Maine Hydro Partners, L.P.

By: *Robert Evans*

Its:

Dated:

Benton Falls Associates

By: _____

Its:

Dated:

American Rivers, Inc.

By: *Rebecca P. Wadden*

Its: *PRESIDENT*

Dated *MAY 18, 1998*

The Atlantic Salmon Federation

By: _____

Its:

Dated

Kennebec Valley Chapter of Trout Unlimited

By: _____

Its:

Dated

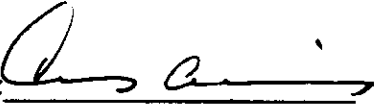
Ridgewood Maine Hydro Partners, L.P.

By: _____

Its:

Dated:

Benton Falls Associates

By:  _____

Thomas A. McNish

Its: Secretary and Treasurer

Dated: May 26, 1998

American Rivers, Inc.

By: _____

Its:

Dated

The Atlantic Salmon Federation

By: _____

Its:

Dated

Kennebec Valley Chapter of Trout Unlimited

By: _____

Its:

Dated

Natural Resources Council of Maine

By: Emmett B. Carr

Its: Exec. Dir.

Dated May 26, 1998

Trout Unlimited

By: [Signature]

Its: President/CEO

Dated 5/26/98

National Marine Fisheries Service, U.S. Department of Commerce

By: [Signature]

Its:

Dated: 5/26/98

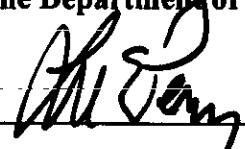
State Planning Office, State of Maine

By: [Signature]

Its: Director

Dated: 5/26/98

Maine Department of Inland Fisheries and Wildlife

By: 

Its: *Commissioner*

Dated: *5/26/98*

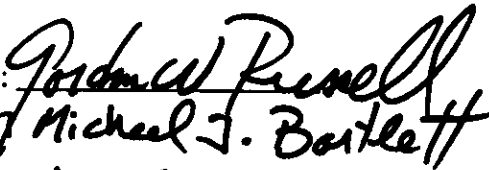
Maine Department of Marine Resources

By: *Lewis M. Filagg*

Its: *COMMISSIONER*

Dated: *5/26/98*

United States Fish and Wildlife Service, U.S. Department of the Interior

By: 

Its: *New England Field Office Supervisor*

Date: *5/26/98*

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT C

***The Edwards Dam Removal Fund Agreement
Among Bath Iron Works Corporation, National Fish and Wildlife
Foundation, and the State of Maine***

EDWARDS DAM REMOVAL FUND**AGREEMENT AMONG
BATH IRON WORKS,
NATIONAL FISH AND WILDLIFE FOUNDATION,
AND THE STATE OF MAINE**

This Agreement ("Annex Agreement") by and among Bath Iron Works ("BIW"), the National Fish and Wildlife Foundation ("NFWF") and the State of Maine by and through the Maine State Planning Office, the Maine Department of Inland Fisheries and Wildlife and the Maine Department of Marine Resources ("State") (collectively the "Parties") entered into as of this 26th day of May, 1998.

WITNESSETH

WHEREAS, the State of Maine and NFWF entered into a Memorandum of Understanding dated May 1, 1998, regarding cooperation between the State and NFWF and wildlife conservation and restoration projects (the "Memorandum of Understanding"); and

WHEREAS, the parties hereto desire to establish the Edwards Dam Removal Fund (the "Fund") as contemplated thereby, for the purposes described herein; and

WHEREAS, the parties hereto desire that this Annex Agreement be considered an annex to such Memorandum of Understanding.

NOW, THEREFORE, the parties hereto agree as follows:

I. Purpose and Objectives.

A. The Parties enter into this Annex Agreement for the purpose of creating the Fund to support the State of Maine's effort to remove the Edwards Dam located in Augusta, Maine and to enable BIW to fulfill the anticipated mitigation requirements of environmental licenses to be issued in connection with the BIW Project in Bath, Maine. The Agreement provides clear guidance concerning the time, method and manner of payment of mitigation funds by BIW, the management of those funds by the NFWF, and the manner of disbursement of those funds by NFWF for the benefit of the Edwards Dam Removal Project, or alternative mitigation project, consistent with environmental permit conditions imposed on the BIW modernization project.

B. It is the intention of the Parties that the BIW Mitigation Funds be used to fund the removal of the Edwards Dam in Augusta, Maine consistent with the May 15, 1998 "Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta, and the State of Maine Concerning the Removal of Edwards Dam," attached hereto as Attachment 1 ("Edwards Dam Removal Agreement"). However, the Parties hereto

acknowledge that the Environmental Permits to be issued for the BIW Project may contain alternate mitigation projects for implementation in the event that the Edwards Dam Removal Project is not feasible. Therefore, this Agreement contains contingency provisions to accommodate these possible alternate permit conditions.

II. Definitions.

When used in this Annex Agreement, the following phrases shall be defined as follows:

- A. "Account" means the Edwards Dam Removal Account.
- B. "ACE" means the Army Corp of Engineers.
- C. "Bath Iron Works" is a Maine corporation with its primary place of business in Bath, Maine.
- D. "BIW Mitigation Funds" means the \$2,500,000 to be paid by BIW pursuant to Section V.A hereof.
- E. "BIW Project" means the proposed Land Level Transfer Facility, dry dock and related facilities and capital improvements.
- F. "Contingent Mitigation Plan" means alternate mitigation plan(s) as such may be authorized and/or required by the Environmental Permits for the BIW Project in the event that the State determines that implementation of the Preferred Dam Removal Mitigation Plan is not feasible.
- G. "DEP" means the Maine Department of Environmental Protection.
- H. "Edwards Dam Removal Account" means a segregated account in the Fund into which NFWF shall deposit the BIW Mitigation Funds.
- I. "Edwards Dam Removal Project" means the State's implementation of the Edwards Dam Removal Agreement, including but not limited to, the costs of engineering, environmental, or other studies required to support the State of Maine's application for permission from the Federal Energy Regulatory Commission (FERC) to remove the Edwards Dam in Augusta, Maine.
- J. "Environmental Permits" means all final, non-appealable federal, state and local permits to be issued by ACE, DEP or the City of Bath with respect to the BIW Project.
- K. "National Fish and Wildlife Foundation" is a private charitable, non-profit corporation established by the National Fish and Wildlife Foundation Establishment Act, P.L. No. 98-244, as amended (16 U.S.C. Section 3701 *et seq.*).

L. "Preferred Dam Removal Mitigation Plan" means the State of Maine's plan to remove the Edwards Dam in Augusta, Maine consistent with the Edwards Dam Removal Agreement.

M. "State of Maine" is the State of Maine of the United States of America with its capital in Augusta, Maine.

III. Authority.

NFWF is authorized by its enabling legislation to encourage, accept and administer private gifts for the benefit of, or in connection with, the activities and services of the U.S. Fish and Wildlife Service, and to undertake and conduct such activities as will further the conservation and management of the fish, wildlife and plant resources of the United States for the present and future generations of Americans. NFWF has been duly authorized to enter into this Annex Agreement and to accept and administer the BIW Mitigation Funds pursuant to the terms of this Annex Agreement.

The State of Maine, by and through the Maine State Planning Office, the Maine Department of Inland Fisheries and Wildlife and the Maine Department of Marine Resources, is duly authorized to enter into this Annex Agreement and to perform the obligations imposed on the State hereunder.

BIW is duly authorized to enter into this Annex Agreement and to perform the obligations imposed on it hereunder.

IV. Term of Annex Agreement.

This Annex Agreement will become effective upon being executed by BIW, NFWF and the State. This Annex Agreement shall remain in effect for a term of five years, unless modified or terminated consistent with Section X hereof.

V. BIW Rights and Obligations.

To the extent authorized or required by the Environmental Permits, BIW will have the following obligations under the terms of this Annex Agreement:

A. BIW shall pay Two Million Five Hundred Thousand Dollars (\$2,500,000) to NFWF to be administered under the terms of this Annex Agreement for the sole purpose of fulfilling the mitigation provisions of the Environmental Permits. The BIW Mitigation Funds shall be payable on the following schedule:

(1) BIW shall pay Two Hundred Fifty Thousand Dollars (\$250,000) within thirty days of executing of this Annex Agreement to NFWF for deposit into the Account. These funds shall be disbursed by NFWF at the direction of the State for the purpose of reimbursing the cost of the State's implementation of the Edwards Dam Removal Agreement (Attachment 1), including, but not limited to, the costs of engineering, environmental, or other studies required to support the State of Maine's application for permission from the Federal Energy Regulatory Commission (FERC) to

remove the Edwards Dam in Augusta, Maine. These funds shall be payable regardless of whether a permit has been issued and regardless of the mitigation provisions ultimately included in the BIW Environmental Permits. If funds are required for the purposes described above in excess of Two Hundred Fifty Thousand Dollars (\$250,000), but not to exceed Four Hundred Thousand Dollars (\$400,000), prior to the second BIW payment described in subparagraph (2) below, BIW will pay up to an additional One Hundred Fifty Thousand Dollars (\$150,000) to NFWF for deposit into the Account; provided, however, that the State shall reimburse the Account within 120 days of disbursement in an amount equal to the amount advanced by BIW, up to One Hundred Fifty Thousand Dollars (\$150,000).

(2) BIW shall pay the remaining Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) (as such amount may be reduced by the additional \$150,000 payment, or so much thereof as may have been paid by BIW under subsection (1) above) to NFWF for deposit into the Account within thirty days of receipt of the Environmental Permits. These funds shall be disbursed by NFWF at the direction of the State only for the purpose of reimbursing the cost of the Preferred Dam Removal Mitigation Plan or the Contingent Mitigation Plan as the case may be.

B. BIW shall notify ACE and DEP concerning the existence of this Annex Agreement within ten days of execution by the Parties and shall expressly request that ACE and DEP authorize payment of the BIW Mitigation Funds required by the Environmental Permits to NFWF for deposit into the Account for administration under the terms of this Annex Agreement.

D. BIW shall surrender all claim or right, interest, or entitlement to the funds paid to NFWF under this Agreement, except as necessary to enforce the terms of this Agreement.

E. BIW shall notify NFWF and the State of Maine as soon as possible after BIW receives the Environmental Permits.

F. BIW shall not be required or requested by the State of Maine or any of its departments or agencies pursuant to this Annex Agreement or otherwise to contribute more than Two Million Five Hundred Thousand Dollars (\$2,500,000) to the Edwards Dam Removal Project. In the event that additional funds are required to complete the Edwards Dam Removal Project, the State agrees that it will complete the project without any further demand for funds from BIW.

G. The Parties hereto acknowledge that Bath Iron Works Corporation's sole obligations to the Edwards Dam Removal Project relate to its funding obligations herein and that this Agreement shall in no way be interpreted to create an agency relationship between Bath Iron Works Corporation and the State.

VI. NFWF Rights and Obligations.

NFWF has the following rights and obligations in the event that BIW makes payments to NFWF under the terms of this Annex Agreement:

A. NFWF shall accept, upon delivery, the sums paid by BIW under this Annex Agreement and place those funds in the Account to be expended in accordance with the criteria outlined in Section V.A., Section VII.A., and Section VIII herein.

B. NFWF shall hold the funds paid by BIW under this Annex Agreement in secure investments in order to assure the preservation of the principal paid by BIW, while maximizing the interest earned consistent with the secure principal investment goal. NFWF shall credit all interest earned on BIW Mitigation Funds paid under this Annex Agreement to the Account.

C. NFWF shall receive a lump sum management fee of 3% of the Two Million Five Hundred Thousand Dollars (\$2,500,000) principal amount paid by BIW under this Annex Agreement, totaling Seventy-five Thousand Dollars (\$75,000) payable in three equal installment payments of Twenty Five Thousand Dollars (\$25,000) each on August 31, 1999, August 31, 2000, and August 31, 2001. NFWF shall effect payment of the management fee by deducting the amount payable on August 31 of 1999, 2000 and 2001 from the Account, unless earlier authorized in writing by the State. NFWF shall be entitled to the management fee only if the funds are actually paid by BIW.

D. NFWF shall convene quarterly meetings on the status of the Edwards Dam Removal Project, or the Contingent Mitigation Plan required by the Environmental Permits, inviting BIW, the State, and other interested federal, state and local agencies or private entities. NFWF's sole obligation under this Section VI.D shall be to schedule the meetings, distribute the agenda prepared by the State of Maine or BIW for the meeting, chair the meeting, and prepare and distribute meeting minutes sufficient to meet the BIW reporting requirements of its Environmental Permits.

E. NFWF shall prepare quarterly account summaries on the Fund and provide those fiscal summaries to the State and BIW at the quarterly meetings.

F. Within thirty (30) days of its being completed, NFWF shall provide the State of Maine and BIW a copy of its independent corporate audit for NFWF fiscal years 1998, 1999 and 2000, and any additional year that the Account remains active.

G. NFWF shall pay any invoices no later than 30 days after receipt by NFWF so long as the invoice has been authorized for payment by the State under the Preferred Dam Removal Plan, or alternatively, by BIW under the Contingent Mitigation Plan, consistent with the criteria outlined in Sections V.A., VII.A, and VIII of this Annex Agreement.

H. NFWF shall have no responsibility for implementation of either the Preferred Dam Removal Mitigation Plan or the Contingent Mitigation Plan other than as prescribed in this Agreement.

VII. State of Maine Rights and Obligations.

The State has the following rights and obligations in the event that BIW makes payments to NFWF under the terms of this Annex Agreement:

A. The State may request NFWF to disburse up to Two Hundred Fifty Thousand Dollars (\$250,000) from the Account at the State's sole discretion immediately following payment of that amount by BIW to NFWF under Section V.A.1 of this Annex Agreement. Any funds disbursed by NFWF under this paragraph must be used for the sole purpose of defraying the cost of the State's implementation of the Dam Removal Agreement (Attachment 1), including but not limited to, the costs of engineering, environmental, or other studies required to support the State of Maine's application for permission from the Federal Energy Regulatory Commission (FERC) to remove the Edwards Dam in Augusta, Maine. The State shall have the right to use these funds as provided regardless of whether a permit has been issued and regardless of the mitigation provisions ultimately included in the BIW Environmental Permits. The State shall have no obligation to reimburse the Edwards Dam Removal Fund for such disbursements even if the State fails to acquire the Edwards Dam under the provisions of the Edwards Dam Removal Agreement (Attachment 1) or if, subsequent to the State's acquisition of the Edwards Dam, it is determined that removal of the dam is not feasible. If funds are required in excess of Two Hundred Fifty Thousand Dollars (\$250,000), but not to exceed Four Hundred Thousand Dollars (\$400,000), prior to the second BIW payment under Section V.A.2 above, BIW will pay up to an additional One Hundred Fifty Thousand Dollars (\$150,000) to NFWF for deposit to the Account. The State shall reimburse the Account within 120 days of disbursement in an amount equal to the amount advanced by BIW, up to One Hundred Fifty Thousand Dollars (\$150,000).

B. The State shall be responsible for the removal of the Edwards Dam consistent with the provisions of the May 15, 1998 Edwards Dam Removal Agreement. The State shall be responsible for procuring all necessary environmental and other governmental authorizations to perform the removal work. The State shall be solely responsible for the actual removal of the dam, including hiring and oversight of contractors to perform the work. The State shall be solely responsible for any post-removal remediation work.

C. The State shall indemnify NFWF for any claims arising out of the State's removal of the dam, including, but not limited to, any third party claims sounding in tort or contract for damages incurred as a result of the State's actions to remove the dam. This indemnification shall not include any claim by BIW or the State of Maine to enforce the terms of this Annex Agreement.

D. The State of Maine may authorize NFWF to disburse funds from the Account solely for work performed by State of Maine agencies or by independent contractors on behalf of the State of Maine for the purpose of implementing the State's obligations under the May 15, 1998 Edwards Dam Removal Agreement. NFWF shall pay the approved invoice to the party designated by the State of Maine within 30 days of receipt. Notwithstanding anything to the contrary, the State shall not request disbursement of any funds paid by BIW pursuant to Section V.A.2 of this Annex Agreement until such time as the State notifies BIW in writing that removal of Edwards Dam is feasible and the State will undertake such removal.

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT A

***Settlement Agreement Among Edwards
Manufacturing Co., Inc., the City of Augusta and the State of Maine
Concerning the Edwards Dam in Augusta, Maine***

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT D

***The Kennebec River Restoration Fund Agreement
Among Members of the Kennebec Hydro Developers Group,
National Fish and Wildlife Foundation, the US Fish and Wildlife
Service, the National Marine Fisheries Service, the Kennebec
Coalition and the State of Maine***

KENNEBEC RIVER RESTORATION FUND

**AGREEMENT
AMONG THE MEMBERS OF
THE KENNEBEC HYDRO DEVELOPERS GROUP,
NATIONAL FISH AND WILDLIFE FOUNDATION,
THE UNITED STATES FISH AND WILDLIFE SERVICE,
THE NATIONAL MARINE FISHERIES SERVICE,
THE KENNEBEC COALITION AND
THE STATE OF MAINE**

This Agreement ("Annex Agreement") by and among the members of the Kennebec Hydro Developers Group members ("KHDG members"), the United States Fish and Wildlife Service ("USFW"), the National Marine Fisheries Service ("NMFS"), the National Fish and Wildlife Foundation ("NFWF"), the Kennebec Coalition and the State of Maine ("State") (collectively the "Parties") entered into this twenty-sixth day of May, 1998:

WITNESSETH

WHEREAS, the State of Maine and NFWF entered into a Memorandum of Understanding dated May 1, 1998, regarding cooperation between the State and NFWF concerning fisheries conservation and restoration projects (the "Memorandum of Understanding"); and

WHEREAS, the Parties hereto desire to establish the Kennebec River Restoration Fund (the "Fund") for the fisheries restoration purposes described further below; and

WHEREAS, the Parties hereto desire that this Annex Agreement be considered an annex to such Memorandum of Understanding.

NOW, THEREFORE, the Parties hereto agree as follows:

I. Purpose and Objectives

A. The Parties enter into this Annex Agreement for the purpose of creating a Fund to support the State of Maine's implementation of the May 26, 1998 Lower Kennebec River Comprehensive Hydropower Settlement Accord, including the underlying May 8, 1998 "Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta, and the State of Maine Concerning the Edwards Dam in Augusta, Maine," attached hereto as Attachment 1 ("Edwards Dam Removal Agreement") and the May 26, 1998 Agreement Between the Members of the Kennebec

Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the United States Fish and Wildlife Service, attached hereto as Attachment 2 ("KHDG Agreement"). It is the purpose of the Parties to provide financial support for the restoration of anadromous and catadromous fisheries to the Kennebec River, including the costs incurred by the State in connection with removing the Edwards Dam.

B. The Agreement provides clear guidance concerning the time, method and manner of payment of restoration funds by KHDG members, the management by the NFWF of those funds and any other funds that may be contributed to the Kennebec River Restoration Fund from other sources, and the manner of disbursement of those funds by NFWF.

C. The Annex Agreement also contains contingency provisions to reflect the possibility of termination of the KHDG members' obligations consistent with the provisions of the May 26, 1998 KHDG Agreement and the May 26, 1998 Lower Kennebec River Comprehensive Hydropower Settlement Accord.

II. Definitions

When used in this Annex Agreement, the following phrases shall be defined as follows:

A. "Kennebec Coalition" means an association comprised of the following member organizations:

1. American Rivers, a not-for-profit corporation organized under the laws of the District of Columbia;
2. The Atlantic Salmon Federation, a not-for-profit corporation organized under the laws of the State of New York;
3. Kennebec Valley Chapter of Trout Unlimited, a State of Maine member chapter of Trout Unlimited;
4. The Natural Resources Council of Maine, a not-for-profit corporation organized under the laws of the State of Maine; and
5. Trout Unlimited, a not-for-profit corporation organized under the laws of the State of Michigan;

B. "The Kennebec Hydro Developers Group" ("KHDG") means an association comprised of the following members:

1. Central Maine Power Company, a corporation organized under the laws

of the State of Maine, and owner of the Fort Halifax, Shawmut and Weston hydropower projects (FERC Nos. 2552, 2522, and 2325);

2. Merimil Limited Partnership, a partnership organized under the laws of the State of Delaware and owner of the Lockwood hydropower project (FERC No. 2574);

3. UAH-Hydro Kennebec Limited Partnership, a partnership organized under the laws of the State of Maine, and co-owners/agent of the Hydro-Kennebec hydropower project (FERC No. 2611);

4. Ridgewood Maine Hydro Partners, L.P., a partnership organized under the laws of the State of Delaware, and owner of the Burnham hydroelectric project (FERC No. 11472); and

5. Benton Falls Associates, a limited partnership and owner of the Benton Falls hydroelectric project (FERC No. 5073.

C. "National Fish and Wildlife Foundation" ("NFWF"), a federally chartered not-for-profit corporation governed by the laws of the District of Columbia;

D. "State of Maine" ("the State"), acting by and through the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, and the Maine State Planning Office, a state of the United States of America.

E. "The US Department of Commerce, through the National Oceanic and Atmospheric Administration, National Marine Fisheries Service" ("NMFS"), is a federal agency; and

F. The US Department of Interior, through the US Fish and Wildlife Service is a federal agency ("USFWS").

III. Term of Annex Agreement

This Annex Agreement will commence upon being executed by the Parties and shall remain in effect until December 31, 2010, or until modified or terminated consistent with Section XII hereof by consent of the Parties.

IV. KHDG Members Rights and Obligations

KHDG members will have the following rights and obligations under this Agreement if FERC approves incorporation of the terms of the KHDG Agreement into their respective existing or proposed licenses in a manner consistent with the terms of the May 26, 1998 KHDG Agreement (Attachment 2):

A. KHDG members shall pay to the State of Maine, in care of the NFWF, a total of Four Million Seven Hundred Fifty Thousand Dollars (\$4,750,000) to the Kennebec River Restoration Fund for the purpose of satisfying its obligations under the May 26, 1998 KHDG Agreement and for the purposes outlined in detail in Section IX below. As provided in the KHDG Agreement, these restoration funds shall be payable on the following schedule:

(1) On or before January 15, 1999, KHDG members shall pay Two Million Three Hundred Seventy Five Thousand Dollars (\$2,375,000.00) to NFWF;

(2) On or before January 15, 2000, KHDG members shall pay Nine Hundred Thirty Five Thousand (\$935,000) to NFWF; and

(3) Commencing on January 15, 2003 and annually thereafter ending on January 15, 2010, KHDG members shall make an additional contribution of One Million Four Hundred Forty Thousand Dollars (\$1,440,000), payable in eight installment payments of One Hundred Eighty Thousand Dollars (\$180,000.00) each to NFWF.

B. KHDG members' sole rights under this Annex Agreement shall be to attend the quarterly meetings convened by the NFWF, to receive financial reports distributed by the NFWF and to provide advice and counsel to the State of Maine concerning the State's implementation of the fish restoration plans outlined in Section IX of this Agreement and in Section V of the underlying May 26, 1998 KHDG Agreement.

C. KHDG members expressly acknowledge that the State of Maine, after consultation with the KHDG members and the other Parties, shall have sole responsibility and authority to make final decisions on expenditures from the Kennebec River Restoration Fund and the underlying fisheries restoration activities.

D. KHDG members shall surrender all claim or right, interest or entitlement to the funds paid to NFWF under this Annex Agreement, except as provided in Section III.C of the underlying May 26, 1998 KHDG Agreement and except as necessary to enforce the terms of this Annex Agreement.

V. NFWF Rights and Obligations

NFWF has the following rights and obligations upon the receipt of the KHDG members' funds under this Annex Agreement:

A. NFWF shall accept, upon delivery, the sums paid by KHDG members under this Annex Agreement and place all but One Hundred Thousand Dollars (\$100,000) of those funds in an account designated as the "Kennebec River Restoration Fund Account" to be expended in accordance with the criteria outlined in Section X below. NFWF shall place the remaining One Hundred Thousand Dollars (\$100,000) in an account designated

as the "Kennebec River Collaboration Fund," to be expended in accordance with the criteria outlined in sub-paragraph J below.

B. NFWF shall hold the funds paid by KHDG members under this Annex Agreement or by any other contributing party in secure investments in order to assure the preservation of the principal paid by KHDG members and other contributing parties, while maximizing the interest earned consistent with the secure principal investment goal. NFWF shall credit all interest earned on KHDG members funds paid under this Annex Agreement to the Kennebec River Restoration Fund Account.

C. NFWF shall receive a one-time lump sum management fee of 5% of the principal amounts actually paid by KHDG members under this Annex Agreement, payable on the following schedule. Upon receipt of the KHDG members January 15, 1999 and January 15, 2000 payments totaling Three Million Three Hundred Ten Thousand Dollars (\$3,310,000), NFWF shall be entitled to a management fee totaling One Hundred Sixty Five Thousand Dollars (\$165,500), payable in three equal installment payments of Fifty Five Thousand One Hundred Sixty Seven Dollars (\$55,167) each on August 31, 1999, August 31, 2000, and August 31, 2001. NFWF shall effect payment of the management fee by deducting the amount payable on August 31, 1999, August 31, 2000, and August 31, 2001 from the Kennebec River Restoration Fund Account. NFWF shall be entitled to a management fee of 5% on each of the eight subsequent annual contributions by KHDG members actually paid to the Kennebec River Restoration Fund Account commencing January 15, 2003 and terminating on January 15, 2010. NFWF shall effect payment of the management fee by deducting the amount payable on the August 31 following the January 15 payment by KHDG members from the Kennebec River Restoration Fund Account (e.g. NFWF shall deduct a management fee of Nine Thousand Dollars (\$9,000) on August 31, 2003 for the January 15, 2003 KHDG members payment of One Hundred Eighty Thousand (\$180,000.00)). NFWF shall be entitled to a management fee only if the funds are actually paid by KHDG members.

D. NFWF shall convene quarterly meetings on the status of the Edwards Dam Removal Projects, inviting the Parties under this Annex Agreement. NFWF's sole obligation under this sub-paragraph shall be to schedule the meetings, distribute the agenda prepared by the State of Maine for the meeting, chair the meeting, and prepare and distribute meeting minutes.

E. NFWF shall prepare quarterly account summaries on the Kennebec River Restoration Fund Account and share those fiscal summaries at the quarterly meetings.

F. NFWF shall share a copy of its independent corporate audit for each NFWF fiscal year during the term of this Agreement with the State of Maine promptly following audit completion.

G. NFWF shall pay any invoices no later than 30 days after receipt by NFWF of a signed invoice authorized for payment by the State under this Agreement, consistent with the criteria outlined in Section IX of this Annex Agreement.

H. NFWF shall accept additional monies for deposit to the Kennebec River Restoration Fund from governmental or private entities for expenditure consistent with the Edwards Dam Removal Agreement and this Annex Agreement. No monies contributed directly by federal entities shall be used to pay for the physical removal of the Edwards Dam. NFWF also shall redirect the One Hundred Thousand Dollar (\$100,000) grant previously issued to the Natural Resources Council of Maine for Kennebec River fisheries restoration to this Kennebec River Restoration Fund to generate additional matching monies.

I. NFWF shall assist in raising additional funds to reimburse the State for the full costs of the Kennebec River Restoration Project, outlined in Attachment 3. NFWF and the State of Maine will have a fundraising goal of Three Million Dollars (\$3,000,000) to be pledged and collected by January 1, 2002. NFWF and the State shall cooperate in developing and implementing a fundraising plan to reach this goal.

J. NFWF shall issue one grant of One Hundred Thousand Dollars (\$100,000) from the Kennebec River Collaboration Fund to the Kennebec Coalition, payable to the Natural Resources Council of Maine as its fiscal agent, to fund the continued participation of the Kennebec Coalition or individual member organizations in the development and implementation of the fisheries restoration plan for the Kennebec River. Notwithstanding the provisions of Paragraph G above, payment of the One Hundred Thousand Dollar (\$100,000) grant shall be made on January 31, 1999, as a lump sum, direct disbursement to the Kennebec Coalition, and may be used to reimburse the Kennebec Coalition for costs incurred for said participation beginning on the date of execution of this Annex Agreement.

K. NFWF shall have no responsibility for implementation of the May 26, 1998 KHDG Agreement or any other contingency restoration plan developed under this Annex Agreement, other than the financial disbursement, project meeting coordination, and fundraising efforts outlined in this Section. In light of this limited function, NFWF is provided the limited indemnification by the State of Maine detailed in Section VI below.

VI. State of Maine Rights and Obligations

The State has the following rights and obligations upon NFWF's receipt of the KHDG members' funds under this Annex Agreement:

A. The State may request NFWF to disburse any available funds in the Kennebec River Restoration Fund Account at the State's sole discretion consistent with the purposes outlined in Section I of this Annex Agreement. Any funds disbursed to the State under this paragraph must be used for the sole purpose of implementing the May

26, 1998 Accord, and for reimbursing the State for the costs of implementation of the Edwards Dam Removal Agreement (Attachment 1) and the May 26, 1998 KHDG Agreement (Attachment 2). The State shall have no obligation to reimburse the Account for such disbursements even if the State later determines that removal of the dam is not feasible due to failure to obtain necessary approvals or due to unanticipated contingencies, except that termination of the May 26, 1998 KHDG Agreement shall require reimbursement of KHDG members in accordance with Section III.C of that KHDG Agreement.

B. The State or its agents shall be solely responsible for the removal of the Edwards Dam consistent with the provisions of the Edwards Dam Removal Agreement. The State or its agents shall be responsible for procuring all necessary environmental and other governmental authorizations to perform the removal work. The State or its agents shall be solely responsible for the actual removal of the dam, including hiring and oversight of contractors to perform the work. The State or its agents shall be solely responsible for any post-removal remediation work.

C. The State shall indemnify NFWF for any claims arising out of the State's removal of the dam, including, but not limited to, any third party claims sounding in tort or contract for damages incurred as a result of the State's actions to remove the dam. This indemnification shall not include any claim by the Parties to enforce the terms of this Annex Agreement.

D. The State of Maine shall provide a signed invoice to NFWF in order to authorize any payments from the Account.

E. The State of Maine may authorize NFWF to disburse funds from the Kennebec River Restoration Fund Account for dam removal or fisheries restoration on a schedule or in amounts that differ from those outlined in Attachment 3 to this Annex Agreement, but only after consultation with the other Parties, and only if the State, in its sole discretion, determines that the alteration is needed in order to assure successful implementation of Edwards Dam Removal Agreement or to comply with the terms of licenses and permits.

VII. Rights and Obligations of NMFS and USFW

NMFS and USFW have the following rights and obligations upon NFWF's receipt of the KHDG members' funds under this Annex Agreement:

A. NMFS and the USFW are Parties to this Annex Agreement through their mandatory authority under Section 18 of the Federal Power Act in order to assure that the Services have a consultative role in the Kennebec River Restoration Fund use and to better assure coordination of federal and state fisheries management and planning for the Kennebec River.

B. The sole rights of NMFS and USFW under this Annex Agreement shall be to attend the quarterly meetings convened by the NFWF, to receive financial reports distributed by the NFWF and to provide advice and counsel to the State of Maine concerning the State's implementation of the fish restoration plans outlined in Section IX of this Agreement and in Section V of the underlying May 26, 1998 KHDG Agreement.

C. NMFS and USFW expressly acknowledge that the State of Maine, after consultation with NMFS and USFW and the other Parties, shall have sole responsibility and authority to make final decisions on expenditures from the Kennebec River Restoration Fund and the underlying fisheries restoration activities.

D. NMFS and USFW shall surrender all claim or right, interest or entitlement to the funds paid to NFWF under this Agreement, except as necessary to enforce the terms of this Agreement.

VIII. Rights and Obligations of the Kennebec Coalition

The Kennebec Coalition has the following rights and obligations upon NFWF's receipt of the KHDG members' funds under this Annex Agreement:

A. The Kennebec Coalition is a Party to this Annex Agreement in order to assure that the Kennebec Coalition and its members organizations have a consultative role in the use of the Kennebec River Restoration Fund and to participate in the fisheries restoration planning and implementation process.

B. The sole rights of the Kennebec Coalition and its member organizations under this Annex Agreement shall be to attend the quarterly meetings convened by the NFWF, to receive financial reports distributed by the NFWF, to provide advice and counsel to the State of Maine concerning the State's implementation of the fish restoration plans outlined in Section IX of this Agreement and in Section V of the underlying May 26, 1998 KHDG Agreement and to receive the grant funds discussed in Section V.J of this Annex Agreement.

C. The Kennebec Coalition and its member organizations expressly acknowledge that the State of Maine, after consultation with NMFS and USFW and the other Parties, shall have sole responsibility and authority to make final decisions on expenditures from the Kennebec River Restoration Fund and the underlying fisheries restoration activities.

D. The Kennebec Coalition and its member organizations shall surrender all claim or right, interest or entitlement to the funds paid to NFWF under this Agreement, except as necessary to enforce the terms of this Agreement.

IX. Criteria for Disbursement of Funds

The funds paid by KHDG members and other contributors to the Kennebec Restoration Fund Account shall be disbursed by NFWF for the purpose of paying for the costs of implementation of the Edwards Dam Removal Agreement (Attachment 1) and of fulfilling the purposes of the May 26, 1998 KHDG Agreement (Attachment 2). It is the preference of the Parties that dam removal expenditures be limited to Two Million One Hundred Sixty Thousand Dollars (\$2,160,000) or less, and that all fish restoration activities and expenditures be consistent with the purposes of this Agreement, outlined in Section V of the underlying May 26, 1998 KHDG Agreement, and as further detailed in Section I and Attachment 3 of this Annex Agreement.

The Parties acknowledge that the State of Maine, after consultation with the Parties, shall have sole responsibility and authority to expend more than Two Million One Hundred Sixty Thousand Dollars (\$2,160,000) for dam removal and to expend funds on a schedule or in amounts that differ from those outlined in Attachment 3, if the State, in its sole discretion, determines that the alteration is needed in order to assure successful implementation of the Edwards Dam Removal Agreement or to comply with licenses and permits.

X. Contingency Provisions

A. In the event that the May 26, 1998 KHDG Agreement is terminated pursuant to the provisions of that Agreement, the funds paid by KHDG members to the Account shall be returned to KHDG members in the manner provided by Section III.C of May 26, 1998 KHDG Agreement. NFWF shall not disburse these funds to KHDG members without receipt of a written release by the State, or before convening a meeting of the Parties to discuss possible alternative restoration plans for the Kennebec River Restoration Fund Account monies. The State of Maine shall provide such a written release if the May 26, 1998 KHDG Agreement provisions become null and void pursuant to Section III.C of the KHDG Agreement.

B. In the event of termination of this Annex Agreement under the prior paragraph, and in the event that any additional monies have been paid into the Kennebec River Restoration Fund from parties other than KHDG members, NFWF and the State of Maine shall enter into a new Annex Agreement to provide for continued administration of those funds. After consultation with the Parties, the State of Maine shall complete a modified plan for Kennebec River Fisheries Restoration using these non-KHDG members contributions. NFWF shall disburse such additional contributions consistent with the new Plan.

XI. Controlling Law

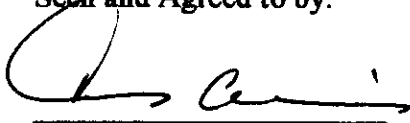
This Annex Agreement shall be construed under the provisions of State of Maine law.

**KENNEBEC RIVER RESTORATION FUND
AGREEMENT AMONG THE KENNEBEC HYDRO DEVELOPERS GROUP, THE
NATIONAL FISH AND WILDLIFE FOUNDATION, THE NATIONAL MARINE
FISHERIES SERVICE, THE U.S. FISH AND WILDLIFE SERVICE, THE
KENNEBEC COALITION AND THE STATE OF MAINE**

May 26, 1998

Signature Page for Benton Falls Associates

Seen and Agreed to by:

A handwritten signature in black ink, appearing to read 'Tom McNish', is written over a horizontal line.

**Thomas A. McNish
Hydra-Co Enterprises
General Partner
Benton Falls Associates**

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT A

***Settlement Agreement Among Edwards
Manufacturing Co., Inc., the City of Augusta and the State of Maine
Concerning the Edwards Dam in Augusta, Maine***

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT B

***Agreement Between Members of the Kennebec Hydro Developers
Group, the Kennebec Coalition, the National Marine Fisheries
Service, the State of Maine, and the US Fish and Wildlife Service***

**KENNEBEC RIVER ANADROMOUS FISHERIES RESTORATION BUDGET
1999-2010
MAINE DEPARTMENT OF MARINE RESOURCES**

I. Restoration of American Shad Through Significantly Expanded Hatchery¹

A. Capital expansions

1. During the year 1999: \$100,000
 - Increase number of spawning tanks
 - Upgrade water supply
 - Switch from egg take to tank spawning
 - Install backup power supply (generator)
2. Beginning in 2003 (to be operational spring 2004): \$477,621²
 - expand hatchery capacity to 10 million fry
 - Construction of new building to house increased number spawning tanks

B. O&M:

- I. 1999 - 2003 -- Cost per year of \$124,630 (1997 dollars) (slightly less than experienced in 1997 because of switch from Connecticut River egg take to tank spawning local stocks). With a 3% inflation figure, the total yearly O&M budget comes to:

1999	\$128,369
2000	132,220
2001	136,187
2002	140,272
2003	144,480

¹ Program originally initiated in 1997 with production capacity of 5 million fry. The 1997 year is the basis for budget projections. Expenses:

Egg take, Connecticut River	\$30,000
Facility lease, Utilities,	20,000
Staffing	<u>80,000</u>
Total expenses	\$130,000

² Capital cost for expansion beginning 2003 is \$400,000 in 1997 dollars, with 3% per year inflation escalator.

2. Beginning in 2004 and continuing to 2010: O&M budget increases due to expanded staff (2 additional part time employees) plus the current project leader and part time assistant, continued facility lease, expanded utilities, expanded operating expenses and equipment repair

2004	\$217,688	and each year thereafter projected with 3% inflation
2005	224,218	
2006	230,945	
2007	237,873	
2008	245,009	
2009	252,360	
2010	259,360	

II. Trap and transit of alewife and other species

A. Past Experience

Budget is based on 10 years of experience with KHDG program with work on Phase I waters. The 1997 budget was:

Personnel:	\$118,610
O&M	11,560
Materials & supplies	5,375
DMR indirect cost (2%)	2,711
Total expenses	\$138,256 in 1997 dollars.
This forms the basis for future budgets with 3% inflation figure added annually.	

B. 1999 - 2003 O&M, Phase I & II lakes Trap & Transit at Fort Halifax

1999	\$140,000
2000	144,200
2001	148,526
2002	142,982
2003	157,571

- C. In the year 2003 -- capital expenditure of \$68,658 for new truck (based on \$57,500 in 1997 dollars plus 3% per year inflation).
- D. 2004 & 2005 -- free swim passage available to most Phase I major waters in Seabasticook drainage, T&T will be to Phase II waters only. O&M budget decreases.

2004	\$95,524
2005	98,390

E. 2006 -2010, staffing expands to include:

-Project Scientist	½ time
-Fisheries technician	Full time
-2 Fisheries aids	½ time
-3 Interns	¼ time

-materials, equipment & supplies, leading to an operational budget of \$202,462 in 2006 dollars, with 3% inflation added thereafter.

2006	\$202,462
2007	208,535
2008	214,791
2009	221,235
2010	227,872

III. American Eel passage evaluations

A three year research program to determine the appropriate placement of upstream and downstream eel passage at each KHDG facility. Studies will be undertaken based on field observations, radio telemetry, and other tracking mechanism.

Budget:

Year 1: (anticipate 1999)

Staff:	-Project leader	
	-Technician	
	-4 seasonal aids	
	total	\$ 80,165
	Vehicles & transport	11,952
	Equipment & supplies	174,925
	Year 1 total:	\$ 267,042

Each of Years 2 & 3: (anticipate 2000, 2001)

Staff:	-Project leader	
	-Technician	
	total	\$58,085
	Vehicles & transport	5,700
	Equipment & supplies	16,125
	Each of Years 2 & 3 total:	\$79,910

IV. Atlantic salmon

Project leader ½ time biologist budgeted at \$25,000 in 1997 dollars (with 3% inflation figure annually) beginning in 1999.

V. Construction of fish passage into 4 Phase I lakes

Hopefully in the year 2000, construction of permanent upstream passage for alewife at the following four locations in the upper Sebasticook drainage: Sebasticook Lake Outlet, Newport Dam, Pleasant Pond outlet, Plymouth Pond outlet. USFWS engineers have visited the sites and estimated cost of passage. Total anticipated cost for all four dams in 1997 dollars: \$510,000.

VI. Staffing, Oversight by DMR of Kennebec Anadromous Fisheries Restoration Project

One-half time Project Leader/Administrator budgeted at \$25,000 in 1997 dollars (with 3% inflation figure annually) beginning in 1999. Responsibilities include project oversight, coordination, administration, and fund raising (grant preparation).

Summary of Stated Expenses

3% Inflation per year

Year	#1 above		#2 above		#3 above	#4 above	#5 above	#6 above	Total
	American shad hatchery	Hatchery capital	Trap & Truck Program	T&T Capital	American eel	Atlantic salmon	Phase I upstream	Project Leader	
1998	\$124,630		\$138,256						
1999	\$128,369	\$100,000	\$140,000		\$267,000	\$26,523		\$26,523	\$688,415
2000	\$132,220		\$144,200		\$80,000	\$27,319	\$510,000	\$27,319	\$921,057
2001	\$136,187		\$148,526		\$80,000	\$28,138		\$28,138	\$420,989
2002	\$140,272		\$152,982			\$28,982		\$28,982	\$351,219
2003	\$144,480	\$477,621	\$157,571	\$68,658		\$29,852		\$29,852	\$908,034
2004	\$217,688		\$95,524			\$30,747		\$30,747	\$374,707
2005	\$224,218		\$98,390			\$31,670		\$31,670	\$385,948
2006	\$230,945		\$202,462			\$32,620		\$32,620	\$498,646
2007	\$237,873		\$208,535			\$33,599		\$33,599	\$513,606
2008	\$245,009		\$214,791			\$34,606		\$34,606	\$529,014
2009	\$252,360		\$221,235			\$35,645		\$35,645	\$544,884
2010	\$259,930		\$227,872			\$36,714		\$36,714	\$561,231

Total (1999 - 2010)

\$6,697,750

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT E

**Application for Approval of Transfer of License
(Edwards)**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

EDWARDS MANUFACTURING CO., INC.
and THE CITY OF AUGUSTA, MAINE

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)
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Project No. 2389

APPLICATION FOR APPROVAL OF TRANSFER OF LICENSE

- (1) Edwards Manufacturing Company and the City of Augusta, Maine, ("Transferors") licensees for the Edwards Dam Project, No. 2389, issued in 1964, and
- (2) The State of Maine ("State" or "Transferee").
- (3) Hereby jointly and severally apply pursuant to 18 C.F.R. 9.1 *et seq.*, for the written approval by the Federal Energy Regulatory Commission ("FERC") of the transfer of the aforesaid license and all licensing rights and responsibilities granted and imposed thereon by FERC from the Transferors to the Transferee. Transferors and Transferee request that FERC approve this license transfer, but order that the transfer shall become effective by operation of law only upon the occurrence of all of the following events:
 - (a) FERC's receipt of a written notice from the State of Maine that the Bath Iron Works Corporation has deposited \$2.5 million for Edwards Dam removal in the appropriate trust fund at the National Fish and Wildlife Foundation, or that the State in its sole discretion has waived this precondition;
 - (b) FERC's approval of the Kennebec Hydro Developers Group ("KHDG") license amendment application containing conditions consistent with the *Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service* ("KHDG Agreement") (signed May 26, 1998)¹ relating to the rescheduling of certain fish passage obligations at KHDG hydro facilities, unless this condition is waived by the State of Maine;
 - (c) FERC's receipt of a written notice from the State of Maine that the State has received confirmation that the title to the real property or interests therein to be

¹This Agreement was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

conveyed by Edwards to the State, including easements, have insurable title, or that the State in its sole discretion has waived this precondition;

- (d) FERC's receipt of a written notice from the State of Maine that the State has determined pursuant to Section IX.B.5 of the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine* ("Edwards Dam Agreement") (signed May 15, 1998)² that there is adequate funding available to meet the State's obligations under the *Edwards Dam Agreement*, or that the State in its sole discretion has waived this precondition;
- (e) FERC's receipt of a written notice from the State of Maine that the State has received from Transferors all environmental and property disclosures outlined in Section VIII of the *Edwards Dam Agreement*, or that the State in its sole discretion has waived this precondition.
- (f) FERC's receipt of a written notice from the State of Maine that the transfer of property set forth in Section IV of the *Edwards Dam Agreement* has been completed, or that the State in its sole discretion has waived this precondition.
- (g) The transfer cannot occur prior to January 1, 1999.

(4) This Application for Approval of Transfer of License is filed pursuant to terms of the *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), signed May 26, 1998 by Transferors, Transferee, and other parties,³ and to the terms of the agreements attached thereto, including the *Edwards Dam Agreement*, and the *KHDG Agreement*. These agreements reflect a full and complete settlement of all outstanding licensing matters regarding the Edwards Dam project. Transferors and Transferee request that the Commission rule on this application consistent with the terms and timelines established in these agreements.

In support thereof, Transferors and Transferee show to the Commission as follows:

- (5) The said Transferee is a State of the United States of America;
- (6) This license transfer is for the purpose of allowing the Transferee to remove the Edwards Dam. To that end, Transferee has contractually committed not to produce or sell any power from

²This Agreement was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

³This Comprehensive Settlement was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

the Edwards Dam facility. Because of the Transferee's commitment not to produce or sell power, there are no applicable state hydroelectric power laws with which it must comply. The Transferee shall file a request with the Maine Department of Environmental Protection (pursuant to the Maine Waterways Development and Conservation Act) for such permits as are necessary under state law to accomplish the actions which are necessary to remove the Edwards Dam;

(7) The Transferee will submit certified copies of all instruments of conveyance whereby title to the project properties is conveyed to it, upon the completion of such conveyance, if and when the Commission shall have given its approval to the proposed transfer and upon completion of conditions set forth in paragraph 3 of this Application;

(8) If and when the Commission shall have given its approval to the proposed transfer, and upon completion of both the conditions set forth in paragraph 3 of this Application and the conveyance of the project properties to the Transferee, the Transferors will deliver to the Transferee and the Transferee will accept and permanently retain all license instruments and all maps, plan, specifications, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating to the original project and to all additions thereto and betterments thereof;

(9) The Transferors certify that they have fully complied with the terms and conditions of their license, as amended, and that they have fully satisfied and discharged all of their liabilities and obligations thereunder to the date hereof, and obligate themselves to pay all annual charges accrued under the license to the date of transfer;

(10) Contingent upon the final written approval by the Commission of the transfer of the license and upon completion of conditions set forth in paragraph 3 of this Application, the Transferee accepts all the terms and conditions of the said license and the Act and all orders imposed thereon by FERC, and agrees to be bound to the same extent as though it were the original licensee thereunder;

(11) The name, title and post office address of the person or persons to whom notice or correspondence in regard to this application shall be addressed as follows:

If to the Transferors:

EDWARDS MANUFACTURING CO.
P.O. Box 97
Lisbon Falls, Maine 04252
(207) 846-3991
Attention: Mark Isaacson, Vice-President

CITY OF AUGUSTA

16 Cony Street

Augusta, 04330-5298

(207) 626-2310

Attention: William Bridgeo, City Manager

If to the Transferee:

MAINE STATE PLANNING OFFICE

38 State House Station

Augusta, Maine 04333

(207) 287-8050

Attention: Evan Richert, Director

OFFICE OF THE GOVERNOR

1 State House Station

Augusta, Maine 04333-0001

(207) 287-3531

Attention: Elizabeth Butler

(12) The Transferors and Transferee request that the Commission provide a thirty (30) day public comment period on this Application, and that the notice include a reference to the 30 day public comment notice, issued at the same time, concerning the application regarding modification of fish passage deadlines at KHDG members' projects, filed today with FERC. A suggested draft of this notice is attached as Exhibit 1.

In witness whereof the Transferor Edwards Manufacturing Co. has caused its name to be hereunto signed by Herbert A. Miller, its President, this 26th day of May, 1998; and the Transferor City of Augusta has caused its name to be hereunto signed by John Bridge, its Mayor, and William Bridgeo, its City Manager, this 26th day of May, 1998; and the Transferee State of Maine has caused its name to be hereunto signed by Evan Richert, its Director of State Planning Office, this 26th day of May, 1998.

EDWARDS MANUFACTURING CO., INC.

Transferor

By: Herbert A. Miller

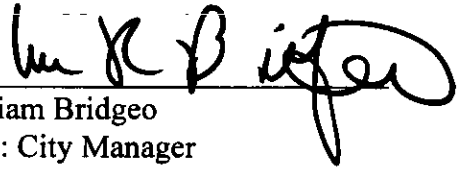
Herbert A. Miller

Title: President

CITY OF AUGUSTA,
Transferor

By: 
John Bridge
Title: Mayor

CITY OF AUGUSTA,
Transferor

By: 
William Bridgeo
Title: City Manager

STATE OF MAINE,
Transferee

By: 
Evan Richert
Title: Director, State Planing Office

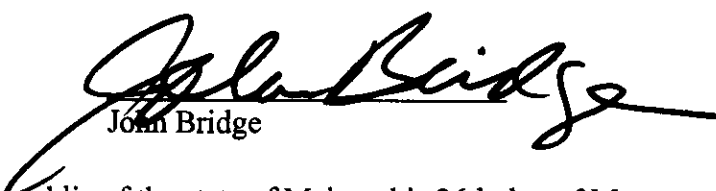
Attest:



ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

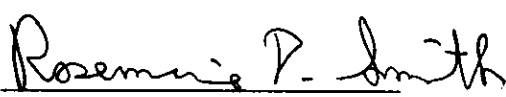
**State of Maine
Kennebec County**

John Bridge, being duly sworn, deposes and says: that I am the Mayor of the City of Augusta, one of the applicants for approval of the transfer of license; that I have read the foregoing application and know the contents thereof; and that the same are true to the best of my knowledge and belief.


John Bridge

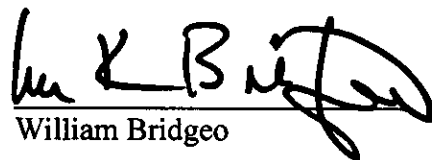
Subscribed and sworn to before me, a notary public of the state of Maine, this 26th day of May, 1998.

ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002


Notary Public

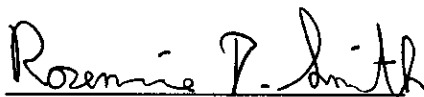
**State of Maine
Kennebec County**

William Bridgeo, being duly sworn, deposes and says: that I am the City Manager of the City of Augusta, one of the applicants for approval of the transfer of license; that I have read the foregoing application and know the contents thereof; and that the same are true to the best of my knowledge and belief.


William Bridgeo

Subscribed and sworn to before me, a notary public of the state of Maine, this 26th day of May, 1998.

ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002


Notary Public



**State of Maine
Kennebec County**

Herbert A. Miller, being duly sworn, deposes and says: that I am the President of the Edwards Manufacturing Company, one of the applicants for approval of the transfer of license; that I have read the foregoing application and know the contents thereof; and that the same are true to the best of my knowledge and belief.

Herbert Miller
Herbert A. Miller

Subscribed and sworn to before me, a notary public of the state of Maine, this 26th day of May, 1998.

ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

Rosemarie D. Smith
Notary Public

**State of Maine
Kennebec County**

Evan Richert, being duly sworn, deposes and says: that I am the Director of the State Planning Office of the State of Maine, one of the applicants for approval of the transfer of license; that I have read the foregoing application and know the contents thereof; and that the same are true to the best of my knowledge and belief.

Evan Richert
Evan Richert

Subscribed and sworn to before me, a notary public of the state of Maine, this 26th day of May, 1998.

ROSEMARIE D. SMITH
Notary Public, Maine
My Commission Expires January 6, 2002

Rosemarie D. Smith
Notary Public

APPLICATION FOR APPROVAL OF TRANSFER OF LICENSE**Exhibit 1****-- DRAFT--****UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION****NOTICE OF APPLICATION FILED WITH THE COMMISSION****(June 15, 1998)**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. Type of Application: Joint Application for Transfer of License
- b. Project No.: 2389
- c. Date Filed: May 27, 1998
- d. Applicants: Edwards Manufacturing Company, the City of Augusta, Maine, and the State of Maine
- e. Name of Project: Edwards Project
- f. Location: The lower most dam on the Kennebec River, in Kennebec County, Maine.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a) - 825(r).
- h. Contact: Evan Richert, Director
Maine State Planning Office
38 State House Station
Augusta, Maine 04333
207/287-8050
(fax) 207/287-6489
- i. FERC contact:
- j. Comment Date: JULY 15, 1998
- k. Description of the Proposed Action: The licensees, Edwards Manufacturing Company and the City of Augusta, Maine, seek to transfer the project license to the State of Maine. This transfer is pursuant to a settlement among parties reached in this and related matters

whereby the State of Maine will remove the dam with funds from outside parties. The *Lower Kennebec River Comprehensive Hydropower Settlement Accord* was filed with FERC in this matter on May 27, 1998. A public notice is also being issued today concerning the application regarding modification of fish passage deadlines on seven dams on the Kennebec and Sebasticook Rivers owned by Kennebec Hydro Developers Group members upstream of the Edwards Dam. This application for license amendment is also made pursuant to the *Lower Kennebec River Comprehensive Hydropower Settlement Accord*.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.
 - B. Comments, Protests, or Motions to Intervene – Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR §§ 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.
 - C1. Filing and Service of Responsive Documents – Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Motions to Intervene must also be served upon each representative of the applicant specified in the particular application.
 - D2. Agency Comments – The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

David Boergers
Acting Secretary

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT F

**Joint Motion by Licensees, State and Federal Agencies, and the
Kennebec Coalition for Continued Stay of Action
(Edwards)**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

EDWARDS MANUFACTURING COMPANY, INC.
and CITY OF AUGUSTA, MAINE

Project No. 2389

**JOINT MOTION BY LICENSEES, STATE AND FEDERAL AGENCIES,
AND THE KENNEBEC COALITION FOR CONTINUED STAY OF ACTION**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.212, for the reasons stated herein the undersigned parties hereby move that the Commission grant a stay, until the Commission rules on the application for transfer of the Edwards Dam license and said license transfer takes effect, of the following: (1) all obligations on Licensees established in the Commission's November 25, 1997, "Order Denying New License and Requiring Dam Removal" except for obligations contained in the project's Annual License; (2) all action on the requests for rehearing pending before the Commission in the above-captioned matter; and (3) all obligations related to the Commission's five year inspection of the Edwards Dam project.

BACKGROUND

On November 25, 1997, the Commission issued an "Order Denying New License and Requiring Dam Removal" in the Edwards Dam relicensing proceeding. This order also required licensees Edwards Manufacturing Company and the City of Augusta ("Licensees") to file with the Commission by November 25, 1998 a plan to retire the Edwards Hydroelectric Project and remove the Edwards Dam. On December 29, 1997, requests for rehearing of the Commission's Order were filed by Licensees, as well as by intervenors the National Hydropower Association, the American Public Power Association, the Edison Electric Institute, the American Forest and Paper Association, and the City of Tacoma ("Industry Intervenors").¹ On January 14, 1998, the Commission granted rehearing for further consideration of these rehearing requests.²

On March 31, 1998, and again on May 4, 1998, the undersigned parties filed joint motions with the Commission to stay action for 30 days in the Edwards Dam proceeding due to ongoing settlement negotiations. In letters from Carol Sampson, Director of FERC's Office of Hydropower Licensing, dated April 9 and May 6, 1998, Commission action on the pending

¹Industry Intervenors were granted late intervenor status on January 14, 1998.

²The January 14 order also denied Licensees' request for a stay of the license order pending action on rehearing. That stay request was denied "at this time." Order Granting Rehearing for Further Consideration, Granting Late Intervention, and Denying Stay at 1 (Jan. 14, 1998).

rehearing requests was stayed until June 10, 1998, but in the May 6, 1998 letter Ms. Sampson clarified that all conditions in the November 25, 1997 order remain in effect.

Settlement has been reached in the Edwards Dam proceeding. Pursuant to this settlement, Licensees and the State of Maine are today filing motions seeking Commission approval to transfer the Edwards Dam to the State of Maine. The State will then proceed with removal of Edwards Dam. When the license transfer takes effect, Licensees will withdraw their Request for Rehearing of the Commission's November 25, 1997 order.

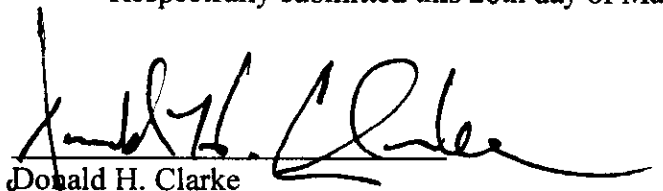
If this motion for stay is granted, the settlement also commits the State of Maine to conduct a dam safety inspection of the Edwards Dam within 90 days of the FERC order, pursuant to 37-B M.R.S.A. Secs. 1051, 1055. The State will file a copy of this inspection report with FERC within thirty (30) days of the completion of this inspection.

These and other settlement terms are set forth in the *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), signed May 26, 1998, and associated agreements, which is being submitted today to the Commission for approval as an offer of settlement pursuant to 18 C.F.R. 385.602.³ This request for stay is part of a series of coordinated filings that seek Commission approval of actions contemplated by the Comprehensive Settlement. This stay will allow the Commission time to rule in a coordinated fashion on these filings.

CONCLUSION

The undersigned parties hereby move that the Commission grant a stay, until the Commission rules on the application for transfer of the Edwards Dam license and said license transfer takes effect, of the following: (1) all obligations on Licensees established in the Commission's November 25, 1997, "Order Denying New License and Requiring Dam Removal" except for obligations contained in the project's Annual License; (2) all action on the requests for rehearing pending before the Commission in the above-captioned matter; and (3) all obligations related to the Commission's five year inspection of the Edwards Dam project.

Respectfully submitted this 26th day of May, 1998,



Donald H. Clarke
WILKINSON, BARKER, KNAUER & QUINN
2300 N Street NW
Suite 700
Washington, DC 20037
Counsel for Licensees
(202) 783-4141

³This Comprehensive Settlement and associated agreements are incorporated by reference herein.



Anton P. Giedt

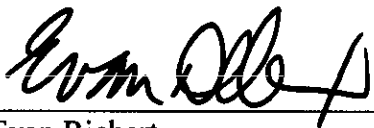
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

One Blackburn Drive

Gloucester, MA 01930-2298

(978) 281-9289

Counsel for National Marine Fisheries Service



Evan Richert

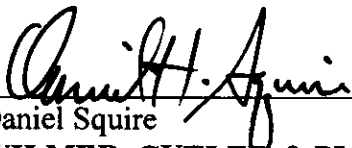
DIRECTOR, MAINE STATE PLANNING OFFICE

38 State House Station

Augusta, Maine 04333

(207)287-6077

For the State of Maine



Daniel Squire

WILMER, CUTLER & PICKERING

2445 M Street, NW

Washington, DC 20037-1420

(202) 663-6060

Counsel for the Kennebec Coalition



Judith Stolfo

US DEPARTMENT OF THE INTERIOR

One Gateway Center, Suite 612

Newton, MA 02158

(617) 527-3400

Counsel for the US Fish and Wildlife Service

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT G

**Notice of Withdrawal of Request for Rehearing
and All Other Pending Motions
(Edwards)**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

EDWARDS MANUFACTURING CO., INC.,
and THE CITY OF AUGUSTA, MAINE

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Project No. 2389

**NOTICE OF WITHDRAWAL OF REQUEST FOR REHEARING
AND ALL OTHER PENDING MOTIONS**

Pursuant to Rule 216 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.216, licensees Edwards Manufacturing Company and the City of Augusta ("Licensees") hereby withdraw their pending request for rehearing of the Commission's November 25, 1997 "Order Denying New License and Requiring Dam Removal," and all other pending requests, motions, appeals or other actions filed by Licensees relating to the Edwards Hydroelectric Project. This withdrawal shall become effective upon final approval by the Commission of Licensees' and the State of Maine's "Application for Approval of Transfer of License," and completion of all conditions set forth in paragraph 3 of that Application.¹ If the Commission fails to approve said license transfer application or, for any reason said license transfer fails to take effect, this notice of withdrawal shall become null and void.

BACKGROUND

On November 25, 1997, the Commission issued an "Order Denying New License and Requiring Dam Removal" in this Edwards Dam relicensing proceeding. On December 29, 1997, a Request for Rehearing of the Commission's Order was filed by the Licensees.

The Licensees, the State of Maine and other parties have reached a settlement regarding the Edwards Dam licensing proceeding reflected in the *Lower Kennebec River Comprehensive Hydropower Settlement Accord*, signed May 26, 1998 ("Comprehensive Settlement"),² and the agreements cited therein, including the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta*,

¹This Application was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

²This Agreement was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

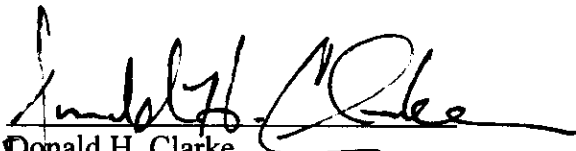
Maine, signed May 15, 1998.³ These agreements reflect a full and complete settlement of all outstanding licensing matters regarding the Edwards Dam Project.

The Comprehensive Settlement provides, among other things, that: (1) Licensees will seek Commission approval to transfer license No. 2389 to operate Edwards Dam to the State of Maine; (2) Licensees will withdraw their Request for Rehearing upon transfer of the license; and (3) the State of Maine will proceed with the removal of Edwards Dam.

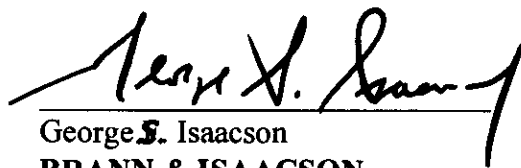
CONCLUSION

Pursuant to the Comprehensive Settlement, the undersigned parties hereby withdraw their Request for Rehearing of the Commission's November 25, 1997 "Order Denying New License and Requiring Dam Removal," and all other pending requests, motions, appeals or other actions filed by Licensees relating to the Edwards Hydroelectric Project. This withdrawal shall take effect at the same time that the transfer of the Edwards Dam license No. 2389 to the State of Maine becomes effective. If the Commission fails to approve said license transfer application or, for any reason said license transfer fails to take effect, this notice of withdrawal shall become null and void.

Respectfully submitted this 26th day of May, 1998,



Donald H. Clarke
WILKINSON, BARKER, KNAUER & QUINN
2300 N Street, NW
Suite 700
Washington, D.C. 20037
(202) 783-4141
Counsel for Licensees



George S. Isaacson
BRANN & ISAACSON
184 Maine Street
Lewiston, ME 04240
(207) 786-3566
Counsel for Licensee Edwards Manufacturing Company

³This Agreement was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT H

**Joint Comments of the Kennebec Coalition and Federal Agencies
in Support of the Application of Licensees and the State of Maine
to Transfer the Edwards Dam License No. 2389**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

EDWARDS MANUFACTURING CO., INC.,
and THE CITY OF AUGUSTA, MAINE

Project No. 2389

**JOINT COMMENTS OF THE KENNEBEC COALITION AND FEDERAL AGENCIES
IN SUPPORT OF THE APPLICATION OF LICENSEES
AND THE STATE OF MAINE TO TRANSFER THE EDWARDS DAM LICENSE**

The Kennebec Coalition,¹ the National Marine Fisheries Service ("NMFS"), and the United States Fish and Wildlife Service ("USFWS") submit these comments in support of the "Application for Approval of Transfer of License" filed today in the above-captioned proceeding by the State of Maine and licensees Edwards Manufacturing Company and the City of Augusta ("Licensees"). All undersigned parties are intervenors and active participants in the Edwards licensing proceeding.

The Kennebec Coalition, the NMFS, and the USFWS have been seeking, as parties in the Edwards Dam relicensing proceeding, the removal of the Edwards Dam in order to restore numerous anadromous and catadromous fish species to the Kennebec River. On November 25, 1997, the Commission issued in this proceeding an "Order Denying New License and Requiring Dam Removal." This order denied Licensees' request for a new license and required Licensees to file with the Commission by November 25, 1998 a plan to retire the Edwards Hydroelectric Project and remove the Edwards Dam. On December 29, 1997, requests for rehearing of the Commission's Order were filed by Licensees, as well as by other industry intervenors.

The Licensees, the Kennebec Coalition, the NMFS, the State of Maine, the USFWS and other parties have reached a settlement regarding the Edwards Dam licensing proceeding. This settlement is reflected in the *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), signed May 26, 1998, and the agreements cited therein, including the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine*, signed May 15, 1998.² The Kennebec Coalition, the NMFS, and the USFWS participated in the development of this settlement and are signatories to the Comprehensive Settlement.

¹The Kennebec Coalition consists of American Rivers, The Atlantic Salmon Federation, The Natural Resources Council of Maine, and Trout Unlimited and its Kennebec Valley Chapter.

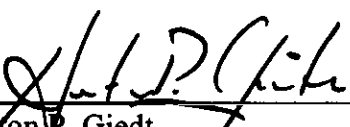
²This Comprehensive Settlement and the associated agreements were filed with FERC today in the above captioned matter. This full filing, including the explanatory statement to the Comprehensive Settlement, is incorporated by reference herein.

The Comprehensive Settlement provides, among other things, that Licensees will seek Commission approval to transfer Edwards Dam license No. 2389 to the State of Maine, and the State of Maine will proceed with the removal of Edwards Dam.

Pursuant to this Comprehensive Settlement, Licensees and the State of Maine have filed today an "Application for Approval of Transfer of License" regarding the Edwards Dam license. This application is an integral part of the Comprehensive Settlement, which will result in removal of Edwards Dam and restoration of healthy anadromous and catadromous fish populations in the Kennebec River.

With this filing, the Kennebec Coalition, the NMFS, and the USFWS express support for this license transfer application conditioned on two events: (1) that the license is transferred with all licensing rights and responsibilities granted and imposed by FERC for FERC license No. 2389 in effect on the execution date of the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine*, signed May 15, 1998; and (2) that FERC rule on this Application and the application of Kennebec Hydro Developers Group members for incorporation into project licenses conditions to reschedule fish passage obligations in a manner consistent with the Comprehensive Settlement. Based on these two conditions, the undersigned parties urge the Commission to act in an expedited fashion to approve this Application.

Respectfully submitted this 26th day of May, 1998,


Anton P. Giedt

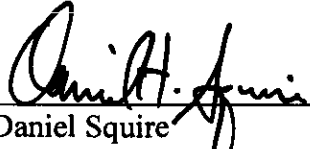
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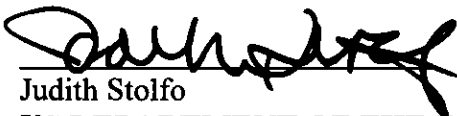
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**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT I

**Joint Motion Requesting a Technical Conference
to Address Removal of Edwards Dam**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

EDWARDS MANUFACTURING CO., INC.,
and THE CITY OF AUGUSTA, MAINE

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Project No. 2389

**JOINT MOTION REQUESTING A TECHNICAL CONFERENCE
TO ADDRESS REMOVAL OF EDWARDS DAM**

(1) Pursuant to Rule 601 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.601, Edwards Manufacturing Company, the City of Augusta, the Kennebec Coalition,¹ the National Marine Fisheries Service ("NMFS"), the State of Maine, and the U.S. Fish and Wildlife Service ("USFWS") hereby request that the Federal Energy Regulatory Commission ("FERC") staff hold a Technical Conference within thirty (30) days in the above captioned proceeding to discuss steps that need to be taken to accomplish removal of Edwards Dam.

(2) The undersigned Parties request that this Technical Conference be convened with the express condition that all actions discussed are premised on FERC approving the "Application for Approval of Transfer of License" filed today in the above-captioned proceeding by the State of Maine and licensees Edwards Manufacturing Company and the City of Augusta.² with conditions consistent with the *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), signed May 26, 1998³, and that in the event that FERC does not approve the "Application for Approval of Transfer of License" with terms consistent with the Comprehensive Settlement, all communications and representations made at the Technical Conference will be disregarded.

BACKGROUND

(3) On November 25, 1997, the Commission issued in this proceeding an "Order Denying New License and Requiring Dam Removal." This order denied the application by licensees Edwards Manufacturing Company and the City of Augusta ("Licensees") for a new license and required Licensees to file with the Commission by November 25, 1998 a plan to retire the

¹The Kennebec Coalition consists of American Rivers, The Atlantic Salmon Federation, The Natural Resources Council of Maine, and Trout Unlimited and its Kennebec Valley Chapter.

²This Application is incorporated by reference herein.

³This Comprehensive Settlement is incorporated by reference herein.

Edwards Hydroelectric Project and remove the Edwards Dam. The order also required FERC staff to hold a technical conference regarding steps needed to accomplish dam removal. FERC staff held a Technical Conference on February 24, 1998 where the primary objective was identification of studies that needed to be completed in order for Licensees to prepare a dam removal plan. Due to pending requests for rehearing of the November 25, 1997 order, progress made at that Conference was limited.

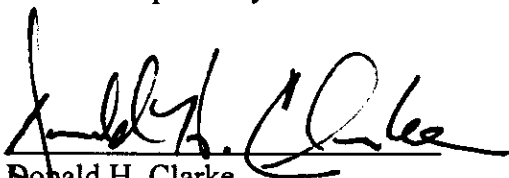
(4) Since then, Licensees, the Kennebec Coalition, the NMFS, the State of Maine, the USFWS and other parties have reached a settlement regarding the Edwards Dam licensing proceeding and other matters, reflected in the Comprehensive Settlement described above. The Comprehensive Settlement provides, among other things, that Licensees will seek Commission approval to transfer Edwards Dam license No. 2389 to the State of Maine, and the State of Maine will proceed with the removal of Edwards Dam. The Comprehensive Settlement sets as a goal the removal of Edwards Dam in the summer of 1999.

(5) This Comprehensive Settlement has created a need for a second Technical Conference to discuss the steps that now need to be taken to accomplish dam removal by 1999. The process for dam removal needs to be clarified soon in order for appropriate action to be taken to obtain necessary regulatory approvals by early 1999. In particular, if any additional field studies need to be conducted in 1998, identification and scoping of those studies need to be finalized within the next 45 days.

CONCLUSION

(6) The undersigned parties hereby request that FERC staff hold a Technical Conference within thirty (30) days in the above captioned proceeding to discuss steps that need to be taken to accomplish removal of Edwards Dam, under the conditions described in paragraph (2) above.

Respectfully submitted this 26th day of May, 1998,



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Evan Richert

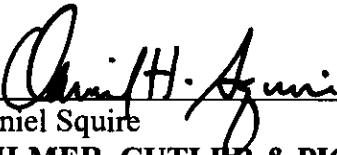
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For the State of Maine



Daniel Squire

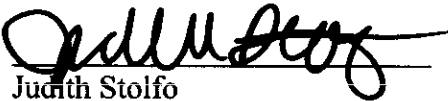
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**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT J

**Application for Incorporation of Settlement Terms
Into Existing and Proposed Licenses
(KHDG)**

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Central Maine Power Company	)	Project Nos. 2322, 2325
Merimil Limited Partnership	)	2552, 2574, 5073, 2611
Benton Falls Associates	)	and 11472
UAH Hydro Kennebec Limited Partnership	)	
Ridgewood Maine Hydro Partners, L.P.	)	

**APPLICATION FOR INCORPORATION OF TERMS OF SETTLEMENT
AGREEMENT INTO EXISTING AND PROPOSED LICENSES**

Introduction

On November 25, 1997, the Commission issued subsequent licenses for Central Maine Power Company's Weston and Ft. Halifax licenses (Project Nos. 2325 and 2552). The new licenses contain conditions for the provision of fish passage facilities consistent with the 1987 Agreement between the State of Maine and the Kennebec Hydro Developers Group (hereinafter the "1987 Agency Agreement"). The existing licenses for Merimil Limited Partnership's Lockwood Project (No. 2574), Central Maine Power Company's Shawmut Project No. (No. 2322), Benton Falls Associates' Benton Falls Project (No. 5073) and UAH/Hydro-Kennebec Limited Partnership's Hydro-Kennebec Project (No. 2611) also contain conditions for provision of fish passage facilities consistent with the 1987 Agency Agreement. Finally, the Commission has recommended in the Final Environmental Assessment for Hydropower License, dated November 1, 1996, similar conditions for Ridgewood Maine Hydro Partners' Burnham Project (No. 11472).¹

The licensees and the applicant for the above-referenced projects hereby request the Commission to amend the license conditions relating to fish passage for Project Nos. 2325, 2552, 2574, 2322, 2611, and 5073 and to incorporate into the original license for the Burnham Project (Project No. 11472) the fish passage provisions contained in the *Agreement Between the Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine and the U.S. Fish and Wildlife Service*, dated May 26, 1998 (hereinafter "the KHDG Agreement" and attached hereto as Exhibit 1).

Background

¹ Ridgewood has filed an application for original license for the Burnham Project. The Commission has not yet issued a license for that project. Similarly, the Maine Department of Environmental Protection (hereinafter "MDEP") has not yet issued a water quality certificate for the project. MDEP expects to issue the water quality certificate within the next twelve months.

The 1987 Agency Agreement is a settlement agreement that addresses the restoration of three anadromous fish species to the mainstem of the lower Kennebec River and the Sebasticook River. It was executed in 1987 between the State of Maine and the individual entities making up the Kennebec Hydro Developers Group (hereinafter "KHDG")². The 1987 Agency Agreement provides for the restoration of alewives, shad and salmon through KHDG members' funding through December 31, 1998 in the amount of \$1.86 million for trap and truck programs, and for fishery studies. The Agreement also calls for the installation of permanent upstream and downstream fish passage facilities at the KHDG members' dams between 1999-2001.

The 1987 Agency Agreement is based upon the Lower Kennebec River Anadromous Fish Restoration Plan and Inland Fisheries Management Overview, dated August 1986 (the "Plan"). As indicated in the Plan, the installation of fish passage facilities at KHDG members' projects is premised on the installation of permanent fish passage facilities at the lowermost dam on the Kennebec River--the Edwards dam-- by the mid to late 1980s.³ The State of Maine reasoned that if there were permanent fish passage provided at the Edwards dam by the late 1980s, then by 1999-2001, the alewife, shad and salmon restoration programs would have advanced enough to trigger the need for fish passage facilities at the KHDG members' projects.

However, permanent fish passage was not provided at Edwards dam by the late 1980s and consequently, the restoration program for at least shad and Atlantic salmon has not progressed as anticipated in the Plan.⁴ Therefore, in April 1997, the KHDG members filed with the Commission a Request for Amendment of License Conditions.⁵ In June 1997, the State of Maine filed a Motion to Intervene, Protest and Comments objecting to the KHDG members' request and urging the Commission to deny the request.⁶ The Kennebec Coalition and the National Marine Fisheries Service, in conjunction with the U.S. Fish and Wildlife Service made similar filings.⁷

² The KHDG members are the five entities submitting this Application.

³ The 1987 Agreement and the Plan have been previously submitted to the Commission in the Application for New Licenses for the Weston and Ft. Halifax Projects, dated November 1991 and in the KHDG members' previous Request for Amendment of License Conditions, dated April 1997.

⁴ The licensees of Edwards did install an interim fish pump at the project in 1989 that has allowed the State to meet its interim goals for passage of alewives. Additionally, the permanent downstream fish passage facilities installed at the Benton Falls and Ft. Halifax projects have been effectively and safely passing the vast majority of adult and juvenile alewives past those projects. Thus, the State of Maine has been able to trap and truck alewives at levels exceeding the interim goals stated in the Plan.

⁵ KHDG members' arguments and the evidence to support them are contained in its filing dated April 1997 as well as its Response to Comments made by the State of Maine dated July 1997. Both filings are incorporated herein by reference.

⁶ The State's Motion containing its arguments and the evidence to support them are in its filing dated June 13, 1997 and are incorporated herein by reference.

⁷ The Kennebec Coalition's comments containing its arguments and the evidence to support them are in its filing dated June 1996 and are incorporated herein by reference. The federal agencies' comments

On September 26, 1997, the Commission dismissed the KHDG members' request. The Commission concluded that it would be inappropriate to consider amending the Weston and Ft. Halifax licenses so close to their expiration and to a decision on the applications for new license. Accordingly, the Commission denied the request as to all six projects without prejudice to its being refiled after issuance of the two new licenses. See Central Maine Power Company, 80 FERC P 61, 377.

As noted above, on November 25, 1997, the Commission issued the new licenses for the Weston and Ft. Halifax projects. The new licenses contained conditions requiring installation of permanent fish passage facilities at the dams between 1999-2001 i.e. in accordance with the schedule contained in the 1987 Agency Agreement. On the same day, the Commission issued its Order Denying New License and Requiring Dam Removal for the Edwards Project (Project No. 2389).⁸ The Commission directed the licensees of the Edwards dam to file and plan to decommission the hydroelectric generating facilities and remove the project dam within one year of the date of the Order.

With regard to the new license for Ft. Halifax, the Commission rejected Central Maine Power Company's arguments for alternative fish restoration measures on the basis that "Installation and operation of these facilities at the Fort Halifax Project is, as we have already discussed, an element of Maine DEP's water quality certification and is supported by Interior as well. If Developers Group and the state and federal fisheries agencies agree to achieve restoration goals through alternatives to installation of the fish passage facilities according to the existing provisions of the KHDG agreement, the requirements can be modified through an amendment of the license."⁹

Subsequently, Central Maine Power timely filed a petition for rehearing of the Ft. Halifax license, and in particular, the conditions regarding installation of permanent upstream fish passage facilities in 1999.¹⁰ The Commission has not yet acted upon the Petition for Rehearing.

containing its arguments and evidence to support them are in its filings dated May 6, 1997 and June 12, 1997 and are incorporated herein by reference.

⁸ The record before the Commission in the Edwards Dam--Project No. 2389--relicensing proceeding is incorporated herein by reference. The Kennebec River Basin Final Environmental Impact Statement, July 1997 is also incorporated herein by reference.

⁹ The Commission came to the identical conclusion in the New License for the Weston Project.

¹⁰ Central Maine did not file a similar Petition for the Weston Project. The fish passage facilities at Weston were not required to be installed until 2001. Central Maine reasoned that it would follow the Commission's suggestion in the September 26, 1997 Order to file an amendment to the license at a later date. Since the permanent facilities at Ft. Halifax were required by 1999, Central Maine did not feel that it had the luxury of time to file an amendment request. In addition, Ft. Halifax may be an uneconomic project, in part as a result of the fish passage requirement. What the Ft. Halifax license would ultimately contain for fish passage measures would be a significant factor in Central Maine's decision whether to accept the new license. Central Maine Power Company's arguments and the evidence to support them are in its Rehearing Request and are incorporated herein by reference.

In 1997, the State of Maine, the Kennebec Coalition, the federal fishery agencies, and the KHDG members began discussion to attempt to resolve the aforementioned issues without the need for further adversarial proceedings before the Commission. After several months of negotiations, the parties ultimately did reach agreement on an alternative restoration program and on May 26, 1998 executed the *Agreement Between the Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine and the U.S. Fish and Wildlife Service*. The KHDG Agreement was filed with the Commission on May 27, 1998 as an attachment to the Submittal of Comprehensive Settlement and Explanatory Statement Pursuant to FERC Rule 602 and Request for Expedited Consideration.¹¹

KHDG members are now requesting the Commission to incorporate the applicable provisions of the KHDG Agreement into its existing or proposed licenses. As evidenced by the Agreement itself and the Comments attached hereto as Exhibit 2, this Application is supported by the Kennebec Coalition, the State of Maine, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service.¹²

As referenced above, on November 25, 1997, the Commission also issued its Order Denying New License and Requiring Dam Removal for the Edwards dam. A number of entities, including the licensees of Edwards, timely filed Petitions for Rehearing of said Order.¹³ Those Petitions for Rehearing are also pending. In early 1998, the State of Maine, the Kennebec Coalition, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service and the Edwards' licensees began discussions to attempt to reach settlement regarding removal of the dam. On May 15, 1998, the State of Maine, Edwards Manufacturing Company and the City of Augusta, Maine executed an agreement providing for the transfer of the Edwards dam to the State of Maine effective January 1, 1999 and the subsequent removal of the dam, desired for the summer of 1999. The KHDG members support the removal of Edwards dam, as recommended in the Kennebec River Basin, Maine Final Environmental Impact Statement, dated July 1997.

¹¹ Parties to the Submittal include the KHDG members, the Kennebec Coalition, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the State of Maine, Edwards Manufacturing Corp. and the City of Augusta, Maine.

¹² Concurrent with this Request, Central Maine is filing with the Commission a Request for the Commission to defer action on the Petition for Rehearing of the Ft. Halifax license pending the Commission's decision on both the transfer of the license for the Edwards dam to the State of Maine and the Commission's incorporation of the applicable terms of this Agreement into existing or proposed licenses for the hydropower facilities owned by KHDG members. Central Maine is also filing a Request to Withdraw the Petition for Rehearing of the Ft. Halifax license, subject to the incorporation by the Commission of all the applicable terms of the Agreement into existing or proposed licenses for the hydropower facilities owned by KHDG members.

¹³ The members of KHDG are intervenors in the Edwards licensing proceedings. However, they did not request Rehearing of the Commission's Order Denying New License and Requiring Dam Removal.

The Edwards agreement and the KHDG agreement are inextricably interdependent. As later explained in more detail, the provisions of the KHDG Agreement remain legally effective and indeed only make sense if the Commission approves the plan for the removal of the Edwards dams. Therefore, KHDG members request that the Commission only issue amended or original licenses for the KHDG facilities incorporating all applicable terms of the KHDG Agreement if, and at the same time as, the Commission approves the transfer of the license for the Edwards dam from its current licensees to the State of Maine.¹⁴

The KHDG Agreement

Procedural Provisions

The KHDG Agreement is a comprehensive settlement agreement, which is intended to accomplish several purposes. First, it is intended to achieve a comprehensive settlement governing fisheries restoration for numerous anadromous and catadromous species that will rapidly assist in the restoration of these species after the termination of the existing 1987 Agency Agreement on December 31, 1998. Second, this KHDG Agreement is intended to avoid extensive litigation over fish passage methodologies, timetables and funding. Third, it is intended to assist in achieving the removal of the Edwards dam. Finally, it is intended to fund the next phase of a restoration program for these species on the Kennebec River.

The KHDG Agreement becomes effective upon signature of it by all parties to the Agreement and upon signature by all parties to the KHDG Agreement, the licensees of the Edwards Dam and the National Fish and Wildlife Foundation of appropriate settlement documents to be filed with the Commission pursuant to 18 C.F.R. 385.602.¹⁵ However, in the event that the Commission does not approve the transfer of the Edwards license to the State of Maine by June 1, 1999 or does not approve the Request for Amendment of License Conditions by June 1, 1999, then unless the parties to the KHDG Agreement agree to amend it, the Agreement becomes null and void.¹⁶ Consequently, in order to achieve the removal of

¹⁴ The licensees and the State of Maine are filing on this day a joint Request for Transfer of License to the State of Maine, effective January 1, 1999.

¹⁵ Said parties executed the Lower Kennebec River Comprehensive Hydropower Settlement Accord and the Submittal of Comprehensive Settlement and Explanatory Statement Pursuant to FERC Rule 602 and Request for Expedited Consideration on May 26, 1998.

¹⁶ As noted above, KHDG members are requesting amendment of license conditions for the Weston, Ft. Halifax, Shawmut, Lockwood, Hydro-Kennebec and Benton Falls Projects. The application for original license and for the water quality certification for the Burnham Project is pending. If Maine DEP does not issue a water quality certification for the Burnham Project that is consistent with the terms of this Agreement well in advance of June 1, 1999 and thereby preventing the Commission from issuing the original license for Burnham by such date, the parties have agreed that the KHDG Agreement will not become null and void so long as amended licenses have been issued by the Commission for the other five projects; the Maine DEP has issued a letter to the owner of the Burnham Project guaranteeing that any water quality certificate issued for the Project will incorporate the applicable terms of this Agreement and

Edwards dam in 1999 and commence the next phase of the restoration program, the KHDG members urge the Commission act upon its Application as expeditiously as possible. A suggested timeline for Commission action on this Application, as well as the Joint Application for Approval of Transfer of License for the Edwards dam is attached as Exhibit 2 to the Submittal of Comprehensive Settlement.

The parties have also agreed that, if the Agreement becomes null and void, the KHDG members may submit and the other parties to the Agreement will support a motion to the Commission seeking to extend the compliance dates for installation of upstream fish passage at the Lockwood, Ft. Halifax, UAH-Hydro Kennebec and Benton Falls projects for the same period of time that lapsed between the date of filing of this Request to Amend Licenses and the date whereby the Agreement became null and void.¹⁷

Substantive Provisions

The parties believe that the most effective way to continue and accelerate the fish restoration program in the Kennebec River is both to remove Edwards Dam as soon as possible and thereby allow certain fish species to freely pass to the upriver projects owned by the KHDG members and to fund the restoration of anadromous and catadromous fish species. Thus the KHDG members have agreed to contribute \$4.75 million to the National Fish and Wildlife Foundation as trustee for the State of Maine in order to assist in the accomplishment of both these purposes.¹⁸ Specifically, the State of Maine will use the KHDG members' monies, combined with other funds, for Kennebec River restoration activities such as the expansion of the State's shad hatchery in order to produce adequate supplies of adult shad brood stock, for construction of fish passage facilities at dams blocking passage to important alewife stocking lakes on the headwaters of the Sebasticook River¹⁹, for continuation of the existing trap and truck program until permanent fish passage facilities are installed at the KHDG members' projects, for certain eel studies and for costs incurred by the State in connection with removing Edwards

will not imposed conditions regarding fish passage that are inconsistent with the applicable terms of this Agreements; and the Kennebec Coalition and the resource agencies have issued letters to Maine DEP and FERC supporting the incorporation of the applicable terms of the Agreement into the license and water quality certificate for the Burnham Project.

¹⁷ The current license conditions for these four projects require installation of permanent fish passage facilities by May 1, 1999. A similar provision is not necessary for the Weston, Shawmut and Burnham Projects because the current schedule requires installation in 2000-2001. In the event that the Agreement becomes null and void, these project owners can still install the facilities in a timely fashion. In the event that the KHDG Agreement becomes null and void the KHDG members have preserved the right to request the Commission for an alternative restoration program and the Kennebec Coalition, the State of Maine and the federal fishery agencies have reserved those parties' rights to oppose such a request.

¹⁸ The \$4.75 million is allocated among the seven KHDG projects as follows: Lockwood (3.16%), UAH-Hydro Kennebec (29.47%), Shawmut (24.43%), Weston (33.19%), Ft. Halifax (5.01%), Benton Falls (3.16%) and Burnham (1.58%).

¹⁹ Said dams are not subject to the Commission's jurisdiction.

Dam. In order to ensure that the funds are used for specifically for anadromous and catadromous fish restoration on the lower Kennebec and Sebasticook Rivers, the funds will be held by the National Fish and Wildlife Foundation, a federally chartered not-for-profit corporation governed by the laws of the District of Columbia in trust for the benefit of the State of Maine.²⁰

In addition, KHDG members have agreed to install fish passage facilities at their respective dams pursuant to a schedule that is based upon a combination of specific dates and trigger numbers. The details of this schedule are provided below.

The lower Kennebec River mainstem

Rationale

The Lockwood, UAH-Hydro Kennebec, Shawmut and Weston projects are located on the mainstem of the lower Kennebec River starting approximately 17 miles above the Edwards dam. The parties have agreed to a schedule for installation of fish passage facilities at these projects that is based primarily upon the anticipated growth of the population of American shad in the Kennebec River.²¹ This schedule is primarily based on the anticipated size of the shad population. Shad are expected to be the most rapidly expanding species in this segment of the Kennebec River and design of upstream passage for shad will also accommodate the anticipated size of the run of the other species, including salmon and river herring. Thus, the parties have agreed that the most appropriate schedule for requiring permanent fish passage facilities on the mainstem is one that is based upon a project-specific, biologically-based trigger number for shad.²²

Assuming Commission approval of the transfer of the Edwards license to the State of Maine, the State anticipates that the Edwards dam will be removed in 1999. Based on the State's prior stocking efforts, the State also anticipates that the numbers of shad returning to the Kennebec mainstem could be between 1,500 and 2000 in the year 2000 and will increase thereafter.²³ By the year 2006, there should be sufficient numbers of adult shad returning, some of which can then be

²⁰ The Agreement between the State of Maine and the National Fish and Wildlife Foundation is attached to the Comprehensive Settlement Offer as Exhibits C and D.

²¹ The State of Maine's goals and objectives for the restoration of shad are found in its Plan, which is on file in the licensing proceedings earlier referenced.

²² The State of Maine's goals for the mainstem also include the restoration of other anadromous species (with the exception of lamprey) to their historic range. This means restoring other species such as salmon, alewife and blueback herring past these four dams. The parties have agreed that should the growth of salmon or river herring runs make it necessary to adopt an alternative approach for triggering installation of fish passage facilities, the parties will attempt to reach consensus on the need, timing and design of permanent facilities at the projects. The parties have further agreed that if the parties can not reach consensus, disputes will be handled through the FERC process.

²³ See Motion to Intervene, Protest, and Comments of the State of Maine, dated June 13, 1997. This Motion was filed in response to the April 1997 request by KHDG members to amend the fish passage installation dates.

collected at the Lockwood interim passage facility in order for use as adult brood stock at the State's shad hatchery.

The parties recognize that future growth of the shad population on the mainstem Kennebec hinges on the ability to expand the shad fry hatchery in Waldoboro, Maine. Previous filings made by both the State and the KHDG members show that, in addition to the lack of passage for shad at the Edwards dam, the inability to collect shad brood stock from the Kennebec and from other sources, has inhibited the advancement of shad restoration efforts.²⁴ Consequently, the KHDG members' monetary contributions to a fund that will in part be used for expansion of said hatchery and in part for Edwards dam removal will provide more effective advancement of the restoration effort for shad than would installation of permanent fish passage facilities on the original schedule.

Lockwood

Pursuant to Paragraph IV (B)(1) of the KHDG Agreement, Merimil Limited Partnership, owner of the Lockwood Project, has agreed to install an interim trap, lift and transfer facility at the project powerhouse by May 1, 2006.²⁵ An interim facility is needed in order to allow the State the ability to collect sufficient quantities of healthy shad brood stock from the Kennebec to use in the State's shad hatchery in Waldoboro, Maine and the ability to collect available brood stock from Atlantic salmon to initiate a Kennebec River salmon hatchery operation.

The terms and conditions for permanent upstream and downstream fish passage are governed by paragraph IV (B)(2) of the KHDG Agreement. More specifically, the parties have agreed that in no event shall permanent fish passage be required to operational before May 1, 2010. This date is based on the anticipation that the Edwards dam will be removed before 2001 and the subsequent growth of the shad population. Merimil has also agreed to provide interim downstream passage as specified in Paragraph IV (B)(3) of the KHDG Agreement.

UAH-Hydro Kennebec

Pursuant to Paragraph IV (B)(2) of the KHDG Agreement, UAH-Hydro Kennebec, an owner of the UAH-Hydro Kennebec project has agreed to install permanent upstream and downstream fish passage facilities on the same schedule

²⁴ Since 1987, KHDG and the State of Maine have annually filed with the Commission progress reports detailing the status of the restoration efforts. The 1997 Report, for instance, states that the State has been unable since the inception of the 1987 Agency Agreement to stock its goal of 2,500 shad annually. The State therefore revised its goal to stock 1000 shad annually unless new sources of shad become available. See Kennebec Hydro Developers Group, 1997 Annual Report, Appendix III, dated March 26, 1998.

²⁵ The Agreement also provides for contingencies at Lockwood in the event that the Edwards dam is not removed by 2006.

as the permanent facilities for Lockwood. The parties reasoned that permanent facilities will be necessary at both projects simultaneously because there is little distance and limited shad habitat available between the two projects. Thus, in order to continue the advancement of shad restoration on the mainstem, it is necessary to move shad above both Lockwood and UAH-Hydro Kennebec within the same timeframe.

Pursuant to Paragraph IV (B)(4), UAH-Hydro Kennebec has also agreed to provide interim downstream passage. Because of different project specifics, such as the configuration of the turbines, the Agreement requires different methods for achieving interim downstream passage and demonstrations regarding those methods from the owners of Lockwood and UAH-Hydro Kennebec.

Shawmut and Weston

Pursuant to Paragraph IV(C)(1) of the KHDG Agreement, Central Maine has agreed to provide permanent upstream and downstream fish passage facilities at the Shawmut Project. The Agreement provided that in no event shall such facilities required to be operational prior to May 1, 2012. Additionally, pursuant to Paragraph IV (D)(1) of the KHDG Agreement, Central Maine has agreed to provide permanent upstream and downstream passage at the Weston Project. The parties have agreed that in no event shall facilities required to be operational prior to May 1, 2014.

Finally, pursuant to Paragraphs IV(C)(2) and IV (D)(2), Central Maine has agreed to provide interim downstream passage at its Shawmut and Weston Projects in accordance with the same provisions for interim downstream passage at Merimil's Lockwood Project.

The Sebasticook River

Rationale

There are three KHDG members' projects located on the Sebasticook River. In order from the most downstream they are Central Maine's Ft. Halifax Project, Benton Falls Associates' Benton Falls Project and finally Ridgewood Maine Hydro Partners' Burnham Project. Central Maine and Benton Falls Associates have installed permanent downstream fish passage facilities at the Ft. Halifax and Benton Falls projects.

The State's primary restoration objectives for the Sebasticook focus on the restoration of alewives to certain outlet lakes upstream of the KHDG dams with a

secondary emphasis on shad restoration.²⁶ The Agreement recognizes that provision of fish passage at some of the outlet dams currently blocking access to the upstream lakes is a necessary component to a successful expansion of the alewife restoration program. Pursuant to the Plan, the State's objectives are to eventually provide permanent fish passage at these dams in order for alewives to access a significant portion of their spawning habitat. It is contemplated that the KHDG members' contributions to a restoration fund will be used to assist in the financing of permanent fish passage facilities at some of these outlet dams or in their removal and will be more effective in advancing the alewife restoration program than installation of permanent facilities in 1999-2001 at the Ft. Halifax, Benton Falls and Burnham projects.

KHDG members' contributions will also be used to assist the funding of a continued trap and truck program on the Sebasticook. Until there is permanent passage at some of the outlet dams, alewives will be trucked from the fish pump to be installed at Ft. Halifax and to the extent necessary from the permanent fish lift, to be installed by May 1, 2003 and trucked to the upstream lakes. Additionally, shad will be collected at Ft. Halifax via interim measures and subsequently the permanent fish lift, and will be used in the State's shad hatchery and for stocking in upstream waters. Again, assistance in funding a continuing trap and truck program will advance the restoration of shad and alewives to the Sebasticook more effectively than will the installation of permanent facilities in 1999-2001.

Ft. Halifax

Pursuant to Paragraph IV (E)(1) of the KHDG Agreement, Central Maine has agreed, as an interim measure, to install by May 1 of the first migration season after the Edwards dam has been removed a fish pump at the Ft. Halifax dam capable of passing alewives in quantities sufficient to meet the State's restoration goals for alewives. In addition, Central Maine has also agreed to implement certain interim measures for the upstream passage of shad. Finally, Central Maine has agreed to provide permanent upstream passage at Ft. Halifax by May 1, 2003.²⁷

Benton Falls and Burnham

²⁶ There are small non-jurisdictional dams at many of these outlet lakes that block access to important alewife spawning habitat.

²⁷ As noted in the Petition for Rehearing as well as the Commission Order Issuing New License, the Ft. Halifax project under its new license may not be economic. It is possible that Central Maine may decide to surrender the license and decommission the project. The Agreement provides that unless Central Maine has surrendered its license and the Commission has ordered the dam to be decommissioned by summer 2003, then Central Maine shall have operational by May 1, 2003 a permanent fish lift facility, with trapping capability, at the dam. The Agreement also provides for contingencies at Ft. Halifax in the event that the Edwards dam is not removed by 2001.

Pursuant to Paragraphs IV (E)(2) and (3) of the KHDG Agreement, Benton Falls Associates and Ridgewood Maine Hydro Partners Limited, the owners of the Benton Falls and Burnham projects respectively, have agreed to construct permanent upstream fish passage facilities at their respective projects in accordance. In no event, however, shall fish passage facilities be required to be operational prior to May 1, 2002.

Pursuant to Paragraph IV (E)(3), Ridgewood Maine Hydro Partners has also agreed to have permanent downstream passage operational at the Burnham Project the second year following issuance of a FERC license and to undertake additional interim downstream passage measures upon direction by the State.

American Eel

The parties to the Agreement recognize that passage of American eel upstream and downstream of the KHDG members' dams is an important component of a successful restoration program on the Kennebec River. However, the parties also recognize that more information is necessary regarding effective passage measures for American eel at the KHDG members' dams. Pursuant to Paragraph III (G), the parties have agreed to a comprehensive resolution of issues relating to upstream and downstream passage measures for American eel.

Request for Public Notice

At the same time that the KHDG members are filing this Application, the State of Maine and the Licensees of Edwards Dam are filing a Joint Application for Approval of Transfer of the Edwards Dam from the Licensees to the State of Maine. KHDG members recognize that the Application for Approval of Transfer requires the Commission to provide an opportunity for public comment, and that the Commission may in its discretion provide an opportunity for public comment on this Application for Incorporation of Settlement Terms. To ensure coordinated review of the two applications, KHDG members request that the Commission as soon as possible provide notice of a single thirty-day opportunity for public comment on the two applications. A draft public notice of the KHDG members' Application is attached hereto.

Specific Action Requested by the KHDG Members

The KHDG members request the Commission to take the following actions, if and at the same time as the Commission approves the Application for Transfer of the License for the Edwards Dam from Edwards Manufacturing Company and the City of Augusta, Maine to the State of Maine:

1. Amend the conditions relating to fish passage in Merimil's Lockwood license (No. 2574), UAH-Hydro Kennebec's license (No. 2611), Central Maine's Shawmut, Weston and Ft. Halifax licenses (Nos. 2322, 2325 and 2552 respectively) and Benton Falls Associates' Benton Falls license (No. 5073) to incorporate the applicable terms of the KHDG Agreement.
2. Issue an original license for Ridgewood Maine Hydro Partners' Burnham project (No. 11472) with conditions regarding fish passage to incorporate the applicable terms of the Agreement.
3. To the extent that the Commission deems it necessary to include KHDG members' monetary contributions to a restoration fund in the project licenses, allocate said monetary contributions to the seven project licenses in the following percentages: Lockwood (3.16%), UAH-Hydro Kennebec (29.47 %), Shawmut (24.43%), Weston (33.19%), Ft. Halifax (5.01%), Benton Falls (3.16%) and Burnham (1.58%).
4. To incorporate into the existing or proposed licenses for each of the seven projects provisions regarding a required consultation process regarding fish passage designs, effectiveness studies of all newly constructed fish passage facilities, and the filing of annual progress reports concerning the restoration program, as contained in Paragraphs III (E), (F) and (G) of the KHDG Agreement.
5. To provide a single 30-day comment opportunity on this Application and the Application for Approval of Transfer of the Edwards Dam, filed May 27th, 1998.

CONCLUSION

The 1987 Agreement and the current licenses for six of the seven KHDG projects²⁸ require installation of permanent fish passage facilities at the dams in 1999-2001. KHDG members' funding called for by the 1987 Agency Agreement ceases December 31, 1998.²⁹ The Annual Progress Reports filed by the KHDG members and the State of Maine over the past eleven years demonstrate successful advancement of the State's goals for restoration of anadromous fish as called for in the Plan particularly with regard to alewives and to a lesser extent shad. However, those Reports, along with many other filings made by the KHDG members, the State, the Kennebec Coalition and the federal fishery agencies also demonstrate that lack of permanent passage at the Edwards dam has impeded restoration efforts, particularly with regard to shad and Atlantic salmon.

²⁸ As referenced earlier, Burnham Project has a pending application for an original license on file with the Commission.

²⁹ The funding has been used to fund the State's trap and truck programs on the Kennebec and Sebasticook Rivers.

The KHDG Agreement executed on May 26, 1998 calls for substantial monetary contributions to the State c/o the National Fish and Wildlife Federation by the KHDG members to assist in achieving the removal of Edwards dam and to assist in funding of the next phase of an anadromous and catadromous fish restoration program on the Kennebec and Sebasticook Rivers. These measures will ensure far more successful restoration of anadromous and catadromous fish species to the lower Kennebec River basin than would the installation of fish passage facilities at the KHDG members' dams in 1999-2001.

Respectfully submitted this 27th day of May 1998.



David T. Flanagan
President and CEO
Central Maine Power Company
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207-623-3521

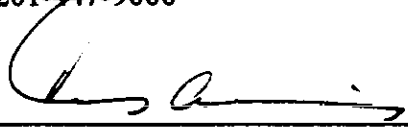


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General Manager
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Robert E. Swanson
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Thomas A. McNish
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Benton Falls Associates
C/o CMS Generation
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313-436-9403

CERTIFICATE OF SERVICE

I hereby certify that this 27th day of May, 1998, a copy of the foregoing
"Application for Incorporation of Settlement Terms" was served by first class mail upon
each person on the Official Service List, as identified below.



Robert E. Swanson

President

Ridgewood Maine Hydro Corporation,

General Partner

Ridgewood Maine Hydro Partners, L.P.

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Ridgewood, New Jersey 07450

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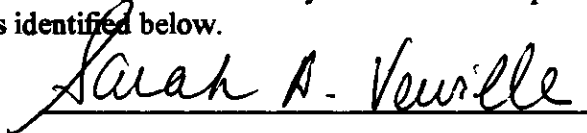
330 Town Center Drive

Dearborn, MI 48126

313-436-9403

CERTIFICATE OF SERVICE

I hereby certify that this 27th day of May, 1998, a copy of the foregoing
"Application for Incorporation of Settlement Terms" was served by first class mail upon
each person on the Official Service List, as identified below.



**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT B

***Agreement Between Members of the Kennebec Hydro Developers
Group, the Kennebec Coalition, the National Marine Fisheries
Service, the State of Maine, and the US Fish and Wildlife Service***

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT M

**Joint Comments of the Kennebec Coalition, Federal Agencies
and the State of Maine in Support of the KHDG Members'
Application for Incorporation of Settlement Terms
Into Existing and Proposed Licenses**

**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT K

**Joint Motion by Licensees, State and Federal Agencies,
and the Kennebec Coalition for Continued Stay of Action
(KHDG)**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Central Maine Power Company	)	Project Nos. 2322, 2325
Merimil Limited Partnership	)	2552, 2574, 5073, 2611
Benton Falls Associates	)	
UAH-Hydro Kennebec Limited Partnership	)	

**JOINT MOTION BY LICENSEES, STATE AND FEDERAL AGENCIES,
AND THE KENNEBEC COALITION FOR CONTINUED STAY OF ACTION**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.212, for the reasons stated herein the undersigned parties hereby move that the Commission grant a stay, until the Commission rules on the KHDG members' Application for Incorporation of Settlement Terms, filed on May 27, 1998, of the following: (1) all obligations relating to fish passage on Central Maine Power Company established in the Commission's November 25, 1997, "Orders Issuing New Licenses" for the Weston and Ft. Halifax Projects; (2) all obligations relating to fish passage established in the Commission's October 22, 1992 "Order Amending Licenses" for Central Maine Power Company's Shawmut Project; Merimil Limited Partnership's Lockwood Project; UAH-Hydro Kennebec's Hydro Kennebec Project; and Benton Falls Associates' Benton Falls Project; (3) all action on Central Maine Power Company's pending Request for Rehearing on the Ft. Halifax Project to the extent that such Request relates to fish passage obligations; and (4) all obligations imposed on the above-captioned licensees by the Director of the Office of Hydropower Licensing in its Compliance Letter dated March 26, 1998.

BACKGROUND

On November 25, 1997, the Commission issued its "Orders Issuing New Licenses" for the Ft. Halifax and Weston Projects. The Orders imposed on the licensee Central Maine Power Company fish passage obligations for the 1999-2001 timeframe. These obligations originally were established in the 1987 *Agreement Between The Kennebec Hydro Developers Group and The State of Maine*.

On October 22, 1992, the Commission issued Order Amending Licenses for the Lockwood, Hydro-Kennebec, Shawmut and Benton Falls Projects.¹ This Order also imposed fish

¹ The October 22, 1992 Order also imposed fish passage obligations on the Ft. Halifax and Weston Project licenses. Subsequently, the original licenses for those projects expired on December 31, 1993 and the Commission issued new licenses on November 25, 1997. The fish passage obligations imposed in the Orders Issuing New Licenses are virtually identical to the fish passage obligations imposed in the Order Amending Licenses.

passage obligations on the Licensees of these projects that were originally established in the 1987 *Agreement Between The Kennebec Hydro Developers Group and The State of Maine*.² Finally, on March 26, 1998, the Office of Hydropower Licensing (hereinafter "OHL") issued a Letter (hereinafter "Compliance Letter") to the Licensees of the Lockwood, UAH-Hydro Kennebec, Ft. Halifax and Benton Falls projects directing them to take certain actions regarding fish passage by May 11, 1998 or risk being found in non-compliance with their licenses.

On December 26, 1997, Central Maine Power Company filed a Request for Rehearing of the Ft. Halifax license objecting to several conditions imposed in the New License, including conditions regarding fish passage. Subsequently, the Commission timely issued an Order Granting Rehearing Pending Further Consideration. Consequently, as of May 27, Central Maine Power Company's Request for Rehearing of the new license for the Ft. Halifax Project is still pending.

Additionally, on May 8, 1998, the undersigned parties filed a joint motion with the Commission to stay action for 30 days on the OHL Compliance Letter due to ongoing settlement negotiations regarding amendment of the fish passage obligations.

On May 26, 1998, the undersigned parties signed the *Agreement Between The Members of The Kennebec Hydro Developers Group, The Kennebec Coalition, The National Marine Fisheries Service, The State of Maine and The U.S. Fish and Wildlife Service*. Among other things, this Agreement achieves a comprehensive settlement among the parties that will rapidly assist in the restoration for anadromous and catadromous fish species in the Kennebec River after the termination on December 31, 1998 of the 1987 Agreement. Pursuant to this settlement, the undersigned parties are today filing motions seeking Commission approval to incorporate the applicable terms of the new Agreement into the licenses for the seven projects owned by the KHDG members. Also, today, the Licensees of the Edwards Project and the State of Maine are filing a motion to transfer the Edwards project to the State of Maine in connection with a settlement reached in the Edwards relicensing proceeding. Assuming Commission approval of the Motion to Transfer and the occurrence of other conditions, the State will then proceed with removal of Edwards Dam.

All settlement terms are set forth in more detail in the *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), signed May 26, 1998, and associated agreements, which is being submitted today to the Commission for approval as an offer of settlement pursuant to 18 C.F.R. 385.602.³ This request for stay is part of a series of coordinated filings that seek Commission approval of actions contemplated by the

² The Kennebec Hydro Developers Group has five members who own seven hydropower projects. Four of those members (Central Maine Power Company, Merimil Limited Partnership, UAH-Hydro Kennebec, and Benton Falls Associates are parties to this Motion for Stay. The fifth member, Ridgewood Associates, has filed an application for original license for its Burnham Project. That application is pending before the Commission. Ridgewood Associates is not a party to this Motion since it does not currently have any fish passage obligations that have been imposed by the Commission.

³ The Offer of Settlement and associated agreements has been filed on May 27, 1998 and are incorporated herein by reference.

Comprehensive Settlement and its associated agreements. This stay will allow the Commission time to rule in a coordinated fashion on the filings made today.

CONCLUSION

The undersigned parties hereby move that the Commission grant a stay, until the Commission rules on the KHDG members' Application for Incorporation of Settlement Term filed May 27, 1998, of the following: (1) all obligations relating to fish passage on Central Maine Power Company established in the Commission's November 25, 1997, "Orders Issuing New Licenses" for the Weston and Ft. Halifax Projects; (2) all obligations relating to fish passage established in the Commission's October 22, 1992 "Order Amending Licenses" for Central Maine Power Company's Shawmut Project; Merimil Limited Partnership's Lockwood Project; UAH-Hydro Kennebec's Hydro Kennebec Project; and Benton Falls Associates' Benton Falls Project; (3) all action on Central Maine Power Company's pending Request for Rehearing on the Ft. Halifax Project to the extent that such Request relates to fish passage obligations; and (4) all obligations imposed on the above-captioned licensees by the Director of the Office of Hydropower Licensing in its Compliance Letter dated March 26, 1998.

Respectfully submitted this 27th day of May 1998.



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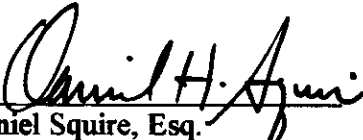


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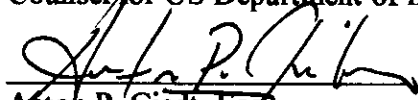
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Counsel for National Marine Fisheries Service

CERTIFICATE OF SERVICE

I hereby certify that this 27th day of May, 1998, a copy of the foregoing "Joint Motion by Licensees, State, and Federal Agencies, and the Kennebec Coalition for Continued Stay of Action" was served by first class mail upon each person on the Official Service List, as identified below.



**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT L

**Notice of Withdrawal of Request for Rehearing
and any Other Pending Motions
(KHDG)**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Central Maine Power Company)

Project No. 2552

**NOTICE OF WITHDRAWAL OF REQUEST FOR REHEARING
AND ANY OTHER PENDING MOTIONS**

Pursuant to Rule 216 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.216, Central Maine Power Company hereby withdraws its pending Request for Rehearing of the Commission's November 25, 1997 "Order Issuing New License" as said Request relates to fish passage obligations and any other pending requests, motions, appeals or other actions filed by Central Maine Power Company relating to the Ft. Halifax Project. This withdrawal shall become effective only upon the issuance of final non-appealable Orders incorporating the applicable terms of the Agreement Between The Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine and the U.S. Fish and Wildlife Service (hereinafter the "KHDG Agreement") into the existing or proposed licenses for Project Nos. 2322, 2325, 2552, 2574, 5073, 2611 and 11472 and upon the Commission's approval of the Application for Transfer of License for Project No. 2389.¹ If the Commission fails to approve said application to incorporate applicable terms of the KHDG Agreement in a manner consistent with the KHDG Agreement; or fails to approve said license transfer application; or for any reason the KHDG Agreement becomes null and void; or for any reason said license transfer fails to take effect, this notice of withdrawal shall become null and void.

BACKGROUND

On November 25, 1997, the Commission issued an "Order Issuing New License" for the Ft. Halifax Project. On December 26, 1997, Central Maine Power Company filed a Request for Rehearing of the Commission's Order. Central Maine Power Company objected to several license conditions contained in the new license including conditions relating to fish passage obligations.

Central Maine Power, the State of Maine and other parties have reached a settlement regarding the fish passage obligations contained in the license for the Ft. Halifax Project and

¹ The owners of said projects, also known as the KHDG members, are filing with the Commission on this date an Application to Incorporate the applicable terms of said Agreement into their existing or proposed licenses. The State of Maine and the licensees of the Edwards Hydroelectric Facility (Project No. 2389) are also filing with the Commission on this date an Application to Transfer the Edwards project from the licensees, Edwards Manufacturing Company and City of Augusta to the State of Maine.

reflected in the *Lower Kennebec River Basin Comprehensive Hydropower Settlement Accord*, signed May 26, 1998 ("Comprehensive Settlement"),² and the agreements cited therein, including the KHDG Agreement, signed on May, 1998.³ These agreements reflect a full and complete settlement of all fish passage obligations at the Ft. Halifax project and the six other hydroelectric facilities owned by the KHDG members.

The Comprehensive Settlement provides, among other things, that: (1) Licensees of the Edwards Project will seek Commission approval to transfer license No. 2389 to operate Edwards Dam to the State of Maine; (2) Licensees of the Edwards Project will withdraw their Request for Rehearing upon transfer of the license; (3) the KHDG members will file an application with FERC to incorporate the applicable terms of the KHDG Agreement into existing or proposed licenses; (4) the KHDG members will file requests with the Commission to stay current fish passage obligations pending the Commission's decision on the aforementioned applications; (5) to the extent that there are pending Requests for Rehearing, the KHDG members will file notices of their withdrawal; (6) commencing January 15, 1999, the KHDG members will make monetary contributions to the State of Maine c/o the National Fish and Wildlife Foundation for dam removal and anadromous fish restoration efforts; and (7) the State of Maine will proceed with the removal of Edwards Dam.

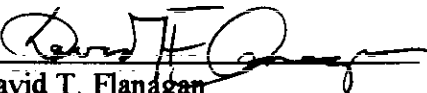
CONCLUSION

Pursuant to the Comprehensive Settlement, Central Maine Power Company hereby withdraws its Request for Rehearing of the Commission's November 25, 1997 "Order Issuing New License" as said Request relates to fish passage obligations, and withdraws any other pending requests, motions, appeals or other actions filed by Central Maine Power Company relating to the Ft. Halifax Project. This withdrawal shall become effective only upon the issuance of final non-appealable Orders incorporating the applicable terms of the Agreement Between The Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine and the U.S. Fish and Wildlife Service (hereinafter the "KHDG Agreement") into the existing or proposed licenses for Project Nos. 2322, 2325, 2552, 2574, 5073, 2611 and 11472 and upon the Commission's approval of the Application for Transfer of License for Project No. 2389. If the Commission fails to approve said application to incorporate applicable terms of the KHDG Agreement in a manner consistent with the KHDG Agreement; or fails to approve said license transfer application; or for any reason the KHDG Agreement becomes null and void; or for any reason said license transfer fails to take effect, this notice of withdrawal shall become null and void.

Respectfully submitted this 26th day of May, 1998,

²This Agreement was filed with FERC today in the above captioned matter, and is incorporated by reference herein.

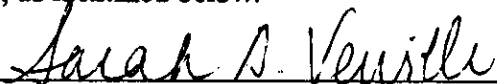
³This Agreement was filed with FERC today in the above captioned matter, and is attached to the Comprehensive Settlement.



David T. Flanagan
Presidents and CEO
Central Maine Power Company
Edison Drive
Augusta, Maine 04330
207-623-3521

CERTIFICATE OF SERVICE

I hereby certify that this 27th day of May 1998, a copy of the foregoing "Notice of Withdrawal of Request for Rehearing and All Other Pending Motions" was served by first class mail upon each person on the Official Service List, as identified below.



**LOWER KENNEBEC RIVER
COMPREHENSIVE HYDROPOWER
SETTLEMENT ACCORD**

EXHIBIT M

**Joint Comments of the Kennebec Coalition, Federal Agencies
and the State of Maine in Support of the KHDG Members'
Application for Incorporation of Settlement Terms
Into Existing and Proposed Licenses**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Central Maine Power Company	)	Project Nos. 2322, 2325
Merimil Limited Partnership	)	2552, 2574, 5073, 2611
Benton Falls Associates	)	and 11472
UAH Hydro Kennebec Limited Partnership	)	
Ridgewood Maine Hydro Partners, L.P.	)	

**JOINT COMMENTS OF THE KENNEBEC COALITION,
FEDERAL AGENCIES AND THE STATE OF MAINE
IN SUPPORT OF THE KHDG MEMBERS' APPLICATION
FOR INCORPORATION OF SETTLEMENT TERMS INTO
EXISTING AND PROPOSED LICENSES**

The Kennebec Coalition,¹ the National Marine Fisheries Service ("NMFS"), the U.S. Fish and Wildlife Service ("USFWS") and the State of Maine submit these comments in support of the "Application for Incorporation of Settlement Terms" filed today for the above-captioned projects by the members of the Kennebec Hydro Developers Group ("KHDG").

The Kennebec Coalition, the NMFS, the USFWS and the State of Maine have been seeking, as parties in the Edwards Dam relicensing proceeding (FERC Project No. 2389), the removal of the Edwards Dam in order to restore numerous anadromous and catadromous fish species to the Kennebec River. On November 25, 1997, the Commission issued in that proceeding an "Order Denying New License and Requiring Dam Removal" that denied Licensees' request for a new license and required Licensees to remove the Edwards Dam. The undersigned parties have also been parties to proceedings regarding timing of fish passage obligations in the above-captioned projects owned by KHDG members.

The KHDG members, Edwards Manufacturing Company, the City of Augusta, the Kennebec Coalition, the NMFS, the State of Maine, the USFWS and other parties have reached a settlement regarding fish passage issues in the above-captioned proceedings as well as licensing and dam removal issues in the Edwards Dam relicensing proceeding. This settlement is reflected in the *Lower Kennebec River Comprehensive Hydropower Settlement Accord* ("Comprehensive Settlement"), signed May 26, 1998, and the agreements cited therein, which was filed today in the above-captioned proceedings. The Kennebec Coalition, the NMFS, the State of Maine and the USFWS participated in the development of this settlement and are signatories to the Comprehensive Settlement.

¹ The Kennebec Coalition consists of American Rivers, The Atlantic Salmon Federation, the Natural Resources Council of Maine, and Trout Unlimited and its Kennebec Valley Chapter.

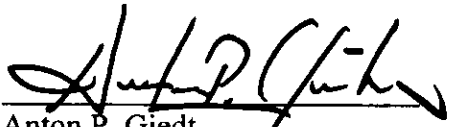
The Comprehensive Settlement provides, among other things, that: (1) KHDG members will provide \$4.75 million for partial funding of anadromous fisheries restoration in the Kennebec River, including funding for restoration of alewife, shad, blueback herring, and salmon, certain eel studies, and costs incurred by the State in connection with removing Edwards Dam; (2) KHGD members will seek, and other parties will support, a rescheduling of fish passage obligations in existing and proposed KHDG licenses; (3) Edwards Manufacturing Company and the City of Augusta will seek Commission approval to transfer Edwards Dam license No. 2389 to the State of Maine, and (4) the State of Maine will remove Edwards Dam.

This Comprehensive Settlement is based, in part, on the *Agreement Between Members of the Kennebec Hydro Developers Group, the Kennebec Coalition, the National Marine Fisheries Service, the State of Maine, and the US Fish and Wildlife Service*, signed May 26, 1998 and attached to the Comprehensive Settlement ("*KHDG Agreement*"). The *KHDG Agreement* sets forth the agreed upon terms with respect to the above-captioned KHDG projects that will best serve the goals of the Comprehensive Settlement.

The undersigned parties believe that reconsideration of the fish passage obligations, requirements and responsibilities at the above-captioned KHDG projects is justified to accomplish both the goals of Edwards Dam removal and effective anadromous fish restoration in the Kennebec River. Justification for this conclusion is included in the *KHDG Agreement*, the Comprehensive Settlement and associated Explanatory Statement, and the Application for Incorporation of Settlement Terms, all filed today in the above-captioned matters and incorporated by reference herein.

With this filing, the Kennebec Coalition, the NMFS, the USFWS and the State of Maine express support for the KHDG members' Application for Incorporation of Settlement Terms conditioned on two events: (1) that the Edwards project license is transferred with all licensing rights and responsibilities granted and imposed by FERC for FERC license No. 2389 in effect on the execution date of the *Settlement Agreement Among Edwards Manufacturing Co., Inc., the City of Augusta and the State of Maine Concerning the Edwards Dam in Augusta, Maine*, signed May 15, 1998; and (2) that FERC rule on the KHDG members' Application for Incorporation of Settlement Terms in a manner consistent with the Comprehensive Settlement and *KHDG Agreement*. Based on these two conditions, the undersigned parties urge the Commission to act in an expedited fashion to approve the KHDG members' Application for Incorporation of Settlement Terms.

Respectfully submitted this 26th day of May, 1998,



Anton P. Giedt

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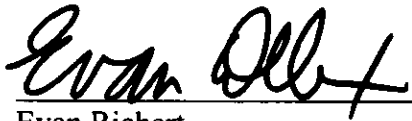
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For the State of Maine

CERTIFICATE OF SERVICE

I hereby certify that this 27th day of May, 1998, a copy of the foregoing "Joint Comments of the Kennebec Coalition, Federal Agencies and the State of Maine in Support of the KHDG members' Application for Incorporation of Settlement Terms" was served by first class mail upon each person on the Official Service List, as identified below.

Sarah A. Verville

Document Content(s)

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