UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

March 21, 2025

MEMORANDUM FOR: John Catena
Northeast and Great Lakes Regional Supervisor
Office of Habitat Conservation
NOAA Restoration Center

FROM: Julie Crocker for Jennifer Anderson JULIA.CROCKER 2025.03.21 15:40:02 -04'00'
Assistant Regional Administrator
for Protected Resources

SUBJECT: ESA Section 7 Consultation for Woodland Dam Fishway Construction on the St. Croix River, Baileyville, ME

We have completed consultation under section 7 of the Endangered Species Act (ESA) in response to your letter received March 14, 2025 regarding the above-referenced project. We have reviewed your consultation request and Biological Assessment. Based on our knowledge, expertise, and your materials, we concur with your determination that the proposed action is not likely to adversely affect (NLAA) any ESA-listed species. As noted in your letter, the St. Croix River is not within the range of the endangered Gulf of Maine distinct population segment (DPS) of Atlantic salmon; as such, we do not expect that any ESA listed Atlantic salmon would occur in the action area. Please note that our determination of NLAA for shortnose sturgeon or any DPS of Atlantic sturgeon is based on a determination that exposure of individuals of any sturgeon to effects of the action are extremely unlikely to occur and therefore, effects are discountable. As noted in your letter, there is no designated critical habitat for any species under NMFS jurisdiction in the action area.

This consultation addresses actions proposed by NMFS, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers; you have communicated to my staff that the Restoration Center is acting as the lead Federal agency for this consultation and that role was coordinated with the other action agencies, consistent with 50 CFR 402.07.

As described in the submitted materials, the Applicant will adhere to a set of identified best management practices (BMPs). Our concurrence is based on our understanding that all the measures described in the BA are incorporated into the proposed action. Based on this analysis, we concur that the proposed action is not likely to adversely affect the subject listed species and as all effects will be insignificant or discountable.

As explained in the BA, use of the fishway by ESA listed species is not expected; we agree that based on the best available information, this is extremely unlikely to occur. In the unexpected event that an ESA listed species is detected in the fishway, NMFS staff should be contacted immediately so that safe-handling instructions can be provided. We anticipate that notification

procedures will be developed in cooperation with Maine DMR and Woodland. In the event that unanticipated capture or collection, including capture or collection in the fishway without injury, occurs, additional coordination with NMFS would be necessary to determine if additional coordination under ESA section 7 or section 10 is required to ensure that appropriate exemptions for otherwise prohibited take are secured.

This concludes consultation pursuant to section 7 of the ESA for the proposed Federal actions. Re-initiation of consultation is required and shall be requested by you or us, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (a) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in the consultation; (b) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the consultation; or, (c) if a new species is listed or critical habitat designated that may be affected by the identified action. No take of listed species is anticipated or exempted. If there is any incidental take, reinitiation would be required. We have considered recent changes to the regulations governing interagency consultations and affirm that the substantive analysis and conclusions articulated in this letter of concurrence would not have been any different under the 2024, 2019, or pre-2019 regulations.

We look forward to continuing to work with you and your staff on issues related to federally protected species in Maine. Should project plans change or new information becomes available that changes the basis for this determination, or if you have any questions or concerns about these comments, please contact David Bean (david.bean@noaa.gov) or Rory Saunders (rory.saunders@noaa.gov).

ec: Bean, Saunders - GAR PRD
Bernier - NOAA RC
Ledwin, - MDMR
Normile – USACE
Cross - USFWS

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