



U.S. Department
of Transportation
**Federal Highway
Administration**

Maine Division

November 19, 2024

40 Western Ave, Rm 614
Augusta, ME 04330
207-622-8350

In Reply Refer To:
HDA-ME

Bruce Van Note
Commissioner
Maine Department of Transportation
16 State House Station
Augusta, ME 04333

Subject: Dike Bridge, Route 1, Machias, Maine – NEPA

Dear Commissioner Van Note:

This is in response to your letter dated September 12, 2024, requesting action from the Federal Highway Administration (FHWA) regarding National Marine Fisheries' (NMFS) Essential Fish Habitat (EFH) Review of the above reference project. In your letter, you requested we elevate and conclude EFH consultation with NMFS and publish the draft environmental assessment (EA) for public comment.

In the NMFS letter dated June 14, 2024, they indicated the proposed project would result in “*significant adverse impacts*” to managed species, their designated EFH, as well as a number of NOAA trust resources that fall under the consultation responsibilities of the Fish and Wildlife Coordination Act (FWCA). Under 23 CFR 771.119(i), “*if at any point in the EA process, the Administration [FHWA] determines that an action is likely to have a significant impact on the environment, the preparation of an environmental impact statement (EIS) will be required.*” Therefore, FHWA is unable to issue a draft EA at this time.

In additional FHWA discussions with NMFS, they maintained their position that the project, as submitted, would result in significant adverse impacts. Absent new analysis or mitigation for those significant adverse impacts, the class of action for this project is likely to be an EIS. Additional EFH consultation will be needed for the project.

If you have questions, please reach out to me or Gary Scholze at Gary.Scholze@dot.gov.

Sincerely,

Todd D. Jorgensen
Division Administrator

cc: Joyce Taylor, MaineDOT
David Gardner, MaineDOT